

## **EXPLANATORY STATEMENT**

### **Issued by authority of the Treasurer**

#### *Competition and Consumer Act 2010*

#### *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024*

The *Competition and Consumer Act 2010* (the Act) enhances the welfare of Australians through the promotion of competition and fair trading, and provision for consumer protection.

Section 172 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part IIIAA of the Act establishes and regulates the Australian Energy Regulator (AER). Subsection 44AI(1) allows a State/Territory energy law to confer functions or powers, or impose duties, on the AER for the purposes of that law. However, subsection 44AI(3) provides that the AER cannot perform a duty or function, or exercise a power, under a State/Territory energy law, unless the conferral or imposition is in accordance with an agreement between the Commonwealth and the State or Territory concerned.

Subsection 4(1) of the Act provides that regulations may prescribe provisions of a law of a State or Territory that relate to energy to be a State/Territory energy law. Those prescribed laws are set out in regulation 7A of the *Competition and Consumer Regulations 2010*.

The *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024* (the Regulations) amend regulation 7A of the *Competition and Consumer Regulations 2010*, to prescribe the *Energy (Renewable Transformation and Jobs) Act 2024* (Qld) (the Queensland Act) and any regulations and directions made under it as a State/Territory energy law, for the purposes of the Act.

The Queensland Act provides the legislative framework to support delivery of the Queensland Energy and Jobs Plan (the Plan). The Plan sets out a pathway to transform Queensland's electricity system to achieve clean, reliable and affordable power for generations. The Queensland Act establishes new frameworks for priority transmission investments in Part 5 of the Act and renewable energy zones in Part 6 of the Act. These Parts also confer various powers and functions on the AER.

The purpose of the Regulations is to authorise the Queensland Act (and any regulations and directions made under it) to confer functions or powers, or impose duties, on the AER.

This authorisation enables the AER to perform those functions or duties, or exercise those powers, so long as the conferral or imposition is in accordance with an agreement between the Commonwealth and Queensland.

The Regulations are necessary to give effect to certain provisions in the Queensland Act, which confer an advisory function on the AER and provide for powers to make regulations that may require particular action be taken by the AER.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

Consultation was undertaken with the Department of Climate Change, Energy, the Environment and Water and the Queensland Department of Energy and Climate. No changes were made to the Regulations or explanatory material as a result of this consultation.

No public consultation was undertaken because the Regulations are only a small mechanical amendment to the *Competition and Consumer Regulations 2010*, to give effect to the Queensland Act.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*, and therefore subject to disallowance by Parliament.

The Regulations are subject to the automatic repeal process under section 48A of the *Legislation Act 2003*, because the only legal effect of the Regulations is to amend another legislative instrument (regulation 7A of the *Competition and Consumer Regulations 2010*), without making any application, saving or transitional provisions relating to that amendment. By virtue of subparagraph 48A(2)(a)(i) of the *Legislation Act 2003*, the Regulations are automatically repealed on the day after their commencement. Once repealed, the sunseting regime set out in Part 4 of Chapter 3 of the *Legislation Act 2003* is no longer relevant to the Regulations.

The *Competition and Consumer Regulations 2010* are not subject to sunseting in accordance with table item 16(e) in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. They were exempted from sunseting by the *Legislation (Exemptions and Other Matters) Amendment (Sunsetting Exemptions) Regulations 2017*, because they give effect to a number of intergovernmental agreements, including the Intergovernmental Agreement for the Australian Consumer Law, the Competition Principles Agreement, the Conduct Code Agreement, and the Australian Energy Market Agreement. It is appropriate that the *Competition and Consumer Regulations 2010* are exempt from sunseting, as they are integral to the operation of the various intergovernmental schemes that establish the Australian Consumer Law.

The Regulations commenced on the day after they were registered on the Federal Register of Legislation.

Details of the Regulations are set out in [Attachment A](#).

A statement of Compatibility with Human Rights is at [Attachment B](#).

The Office of Impact Analysis has been consulted (ref: OIA24-07412) and agreed that an Impact Analysis is not required. The measure has no impact on compliance costs.

**Details of the *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024***

**Section 1 – Name**

This section provides that the name of the regulations is the *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024* (the Regulations).

**Section 2 – Commencement**

Schedule 1 to the Regulations commenced the day after the instrument was registered on the Federal Register of Legislation.

**Section 3 – Authority**

The Regulations are made under the *Competition and Consumer Act 2010* (the Act).

**Section 4 – Schedule**

This section would provide that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Item 1**

Item 1 inserts *Energy (Renewable Transformation and Jobs) Act 2024* (Qld) and any regulations and directions made under the Act as new table item 4.1B in regulation 7A the *Competition and Consumer Regulations 2010*.

This has the effect of prescribing the *Energy (Renewable Transformation and Jobs) Act 2024* (Qld) and any regulations and directions made under the Act as a State/Territory energy law, for the purposes of the *Competition and Consumer Act 2010*. This allows the *Energy (Renewable Transformation and Jobs) Act 2024* (Qld) to confer functions or powers, or impose duties, on the AER for the purposes of that law.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2024* (the Regulations) amend regulation 7A of the *Competition and Consumer Regulations 2010* to prescribe the *Energy (Renewable Transformation and Jobs) Act 2024* (Qld) and any regulations and directions made under that Act as a ‘State/Territory energy law’, for the purposes of the *Competition and Consumer Act 2010*.

The purpose of the Regulations is to authorise the *Energy (Renewable Transformation and Jobs) Act 2024* (Qld), and any regulations and directions made under that Act, to confer functions or powers, or impose duties, on the Australian Energy Regulator.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.