



New South Wales

# Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015 No 36

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New South Wales

# **Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015 No 36**

Act No 36, 2015

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An Act to amend energy legislation with respect to retail energy pricing; and for other purposes.  
[Assented to 2 November 2015]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedule 6 commences on a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of National Energy Retail Law (Adoption) Act 2012 No 37**

### **Schedule 1 New South Wales changes and additions to National Energy Retail Law**

Omit “voluntary transitional pricing arrangement” from section 37C (2), as inserted by item [17].

Insert instead “voluntary pricing agreement”.

## **Schedule 2      Amendment of National Energy Retail Law (Adoption) Regulation 2013**

**[1]    Clause 27 Credits under solar bonus scheme**

Insert “former” before “regulated”.

**[2]    Clause 44 Voluntary pricing agreements for gas**

Omit “voluntary transitional pricing arrangement” from clause 44 (1).

Insert instead “voluntary pricing agreement”.

**[3]    Clause 44 (2) and (3)**

Omit “arrangement” wherever occurring. Insert instead “agreement”.

**[4]    Clause 52 References to regulated offer customers**

Insert “in relation to the supply of electricity” after “other instrument” wherever occurring.

### **Schedule 3 Amendment of Electricity Supply Act 1995 No 94**

**[1] Section 15A Distribution network service providers to allow small renewable energy generators to feed-in to network**

Omit “regulated offer customer” wherever occurring in section 15A (3).

Insert instead “former regulated offer customer or small customer”.

**[2] Section 15A (5), (6) (a) and (8G)**

Omit “regulated offer customer” wherever occurring.

Insert instead “former regulated offer customer”.

**[3] Section 15A (7)**

Omit “regulated offer customers” wherever occurring.

Insert instead “former regulated offer customers or small customers”.

**[4] Section 15A (8H)**

Insert after section 15A (8G):

(8H) In this section:

*former regulated offer customer* means a person who was, immediately before 1 July 2014, a regulated offer customer within the meaning of this Act.

**[5] Section 43EA Referrals for determinations**

Omit the section.

**[6] Section 43EB Tribunal to determine regulated retail tariffs and regulated retail charges**

Omit the section.

**[7] Section 43EE Powers of Tribunal and conduct of special reviews**

Omit “regulated offer” from section 43EE (3).

**[8] Section 43EF Provision of information, documents and evidence**

Omit “regulated offer” from section 43EF (1).

**[9] Section 43EJ Provisions to cease to have effect**

Omit section 43EJ (1).

**[10] Section 43EJ (2)**

Omit “(other than sections 43EA–43EC)”.

**[11] Section 87 Licence auditing functions of Tribunal**

Omit section 87 (1). Insert instead:

(1) The functions of the Tribunal under this Division are to monitor, and report to the Minister on, the extent to which network operators comply, or fail to comply, with the conditions imposed on licences held by them.

**[12] Section 87 (2A)**

Omit the subsection.

**[13] Section 87A Cost of audit**

Omit “or retailer” wherever occurring in section 87A (1).

**[14] Section 87B Provision and maintenance of information, documents and evidence**

Omit “or retailer” wherever occurring in section 87B (2).

**[15] Section 88 Annual reports**

Omit section 88 (1). Insert instead:

- (1) As soon as practicable after 30 June (but on or before 31 October) in each year, the Tribunal must prepare and forward to the Minister a report on the extent to which network operators have complied, or failed to comply, with the conditions imposed on the licences held by them during the 12 months ending on 30 June in that year.

**[16] Section 96A Review of certain decisions under energy ombudsman scheme**

Omit section 96A (7). Insert instead:

- (7) In this section:  
*regulated offer customer* has the same meaning as in the *Gas Supply Act 1996*.  
*small customer* includes a small customer within the meaning of the *Gas Supply Act 1996*.

**[17] Section 96B Energy ombudsman scheme**

Omit “or regulated offer customers” from section 96B (1A) (c).

**[18] Section 96B (1A) (e)**

Omit the paragraph. Insert instead:

- (e) without limiting paragraph (d), disputes and complaints between regulated offer customers and retailers or reticulors relating to regulated offer prices or pricing agreements under the *Gas Supply Act 1996* or the *National Energy Retail Law (NSW)*,

**[19] Section 96B (8)**

Omit the subsection. Insert instead:

- (8) In subsections (2) and (5):  
*regulated offer customer* has the same meaning as in the *Gas Supply Act 1996*.  
*retailer* includes a regulated offer retailer or a reticulor within the meaning of the *Gas Supply Act 1996*.  
*small customer* includes a small customer within the meaning of the *Gas Supply Act 1996*.

**[20] Section 96C Licence conditions relating to approved energy ombudsman scheme**

Omit “or regulated offer customer” from section 96C (b).

**[21] Section 179A Compensation not payable**

Insert “former” before “regulated offer” in section 179A (1A) (d).

**[22] Section 179A (1A) (d)**

Insert “within the meaning of section 15A” after “complying generators”.

**[23] Section 195 Review of solar bonus scheme by Minister**

Insert “former” before “regulated offer” in section 195 (1).

**[24] Schedule 6 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015**

**Definition**

In this Part:

*amending Act* means the *Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015*.

**Licence auditing**

The Tribunal is to continue to carry out its functions under sections 87 (1) (b) and 88 (1) (b), as in force before the repeal of those paragraphs by the amending Act, in respect of any period before those repeals and this Act applies to those functions as if the amending Act had not commenced.

**Review of decisions**

- (1) A person who was a regulated offer customer for the supply of electricity immediately before 1 July 2014 may make an application under section 96A in respect of any decision made before that day for which an application could have been made under an energy ombudsman scheme before that day. Section 96A continues to apply to any such application.
- (2) The provisions of an energy ombudsman scheme approved under section 96B and applicable to regulated offer customers for the supply of electricity immediately before 1 July 2014 continue to apply to a dispute or complaint between the regulated offer customer and a retailer about a matter that occurred before that day.

**[25] Dictionary**

Omit “regulated offer” from paragraph (a1) of the definition of *distribution system*.

Insert instead “former regulated offer customers or small”.

**[26] Dictionary, definitions of “regulated retail charge” and “regulated retail tariff”**

Omit the definitions.



## **Schedule 4 Amendment of Electricity Supply (General) Regulation 2014**

- [1] **Clause 11 Persons who may apply to energy ombudsman**  
Omit “regulated pricing arrangement under the Act,” from clause 11 (1) (d).  
Insert instead “regulated pricing agreement under”.
- [2] **Clause 61 Reporting and provision of information**  
Omit “regulated offer customer or other” from clause 61 (8) (d).
- [3] **Clause 65 Saving of rights of solar bonus scheme applicants who applied for connection to distribution network before 29/4/2011 and were connected on or before 30/6/2012**  
Omit “regulated offer customer or other” from clause 65 (2).
- [4] **Clause 71 Date on which Division 5 of Part 4 of the Act ceases to have effect**  
Omit “section 43EJ (1) and (2)”. Insert instead “section 43EJ (2)”.

## **Schedule 5 Amendment of Gas Supply Act 1996 No 38**

**[1] Section 28A Division to cease to have effect**

Omit the section.

**[2] Section 75A Regulatory functions of Tribunal**

Omit “voluntary transitional pricing arrangement” wherever occurring in section 75A (3A), (3B) and (3C) (b).

Insert instead “voluntary pricing agreement”.

**[3] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provision consequent on enactment of Energy  
Legislation Amendment (Retail Electricity and Gas  
Pricing) Act 2015**

**Revival of gas pricing orders provisions**

Division 3 of Part 2 of this Act (other than section 28A), as in force immediately before 30 June 2013, has effect on and from the date of assent to the *Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015* as if section 28A (1) as then in force had not been enacted.

## **Schedule 6 Amendments relating to retail gas price deregulation**

### **6.1 Gas Supply Act 1996 No 38**

**[1] Section 11A Authorisation conditions relating to energy ombudsman scheme**

Omit “or a regulated offer customer” from section 11A (1) (b).

**[2] Part 2, Division 3 Gas pricing orders**

Omit the Division.

**[3] Section 75A Regulatory functions of Tribunal**

Omit section 75A (3A)–(3C). Insert instead:

- (3C) As soon as practicable after 30 June (but on or before 31 October) in each year, the Tribunal must prepare and forward to the Minister a report on the extent to which holders of authorisations or licences have complied, or failed to comply, with the conditions imposed on the authorisations or licences held by them during the 12 months ending on 30 June in that year.

**[4] Section 83 Regulations**

Omit “(other than fees, charges and payments of the kind for which orders may be made under section 27)” from section 83 (2) (1).

**[5] Schedule 2 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering:

### **Part Further provisions consequent on enactment of Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015**

#### **Definition**

In this Part:

*amending Act* means the *Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015*.

#### **Licence auditing**

The Tribunal is to continue to carry out its functions under section 75A (3A), as in force before the repeal of that subsection by the amending Act, in respect of any period before that repeal and this Act applies to those functions as if the amending Act had not commenced.

#### **Review of decisions**

- (1) A person who was a regulated offer customer for the supply of gas immediately before the repeal of Division 3 of Part 2 of this Act by the amending Act may make an application under section 96A of the *Electricity Supply Act 1995* in respect of any decision made before that repeal for which an application could have been made under an energy ombudsman scheme before that repeal. Section 96A of that Act continues to apply to any such application.

- (2) The provisions of an energy ombudsman scheme approved under section 96B of the *Electricity Supply Act 1995* and applicable to regulated offer customers for the supply of gas immediately before that repeal continue to apply to a dispute or complaint between the regulated offer customer and a retailer about a matter that occurred before that repeal.

**[6] Dictionary**

Omit the definition of *gas pricing order*.

**6.2 Electricity Supply Act 1995 No 94**

**[1] Section 96A Review of certain decisions under energy ombudsman scheme**

Omit “or regulated offer customer” from section 96A (1).

**[2] Section 96A (3)**

Omit “or regulated offer customers”.

**[3] Section 96A (7)**

Omit the definition of *regulated offer customer*.

**[4] Section 96B Energy ombudsman scheme**

Omit “or regulated offer customers” from section 96B (1A) (d).

**[5] Section 96B (1A) (e)**

Omit the paragraph.

**[6] Section 96B (2) (d) and (g)**

Omit “, regulated offer customers” wherever occurring.

**[7] Section 96B (2) (f)**

Omit “and regulated offer customers”.

**[8] Section 96B (8)**

Omit the definition of *regulated offer customer*.

**[9] Section 96B (8)**

Omit “a regulated offer retailer or” from the definition of *retailer*.

**[10] Section 96D Obligations of retailers under energy ombudsman scheme**

Omit “or regulated offer customer” from section 96D (1) (b).

[Second reading speech made in—  
Legislative Assembly on 13 October 2015  
Legislative Council on 20 October 2015]