



New South Wales

Energy Legislation Amendment Bill 2021

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the following Acts—

- (a) *Electricity Supply Act 1995*,
- (b) *Energy and Utilities Administration Act 1987*,
- (c) *Forestry Act 2012*,
- (d) *Gas Supply Act 1996*,
- (e) *Pipelines Act 1967*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Electricity Supply Act 1995 No 94

Cyber security

Schedule 1[16] extends the power of the Premier to declare an electricity supply emergency if there is a cyber security incident that affects electricity supply. A *cyber security incident* means acts, events or circumstances involving, or likely to involve, 1 or more of the following—

- (a) unauthorised access to computer data or a computer program,

- (b) unauthorised modification of computer data or a computer program,
- (c) unauthorised impairment of electronic communication to or from a computer,
- (d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.

Schedule 1[20] enables the Minister for Energy and Environment (the *Minister*) to direct a network operator, electricity generator or other prescribed person to take certain action to respond to or prevent a cyber security incident.

Schedule 1[25] enables the regulations to provide for the adoption and implementation, by a network operator, electricity generator or other prescribed person, of cyber security policies and procedures. **Schedule 1[17]–[19] and [21]–[24]** make consequential amendments.

Energy security safeguard

Schedule 1[34]–[71] amend the provisions setting out the energy savings scheme. **Schedule 1[72]–[93]** amend the provisions setting out the peak demand reduction scheme. The amendments relate to the following matters—

- (a) extending the energy savings scheme to other forms of energy, other than electricity and gas,
- (b) amending the accreditation of certificate providers under both schemes,
- (c) recovery by the Secretary of the Department of Planning, Industry and Environment of the costs of audits carried out in relation to scheme participants and accredited certificate providers under both schemes,
- (d) civil penalties for offences under both schemes,
- (e) information sharing arrangements between the Scheme Administrator and government agencies under both schemes,
- (f) the appointment of compliance officers, the powers of compliance officers and the issuing of penalty notices for offences under both schemes.

Schedule 1[26] makes further provision for proceedings for offences under both schemes.

Miscellaneous amendments

Schedule 1[1] updates the definition of *distribution system* to include a regulated stand-alone power system.

Schedule 1[3] enables a distributor to operate a distribution system for the purpose of conveying electricity to a person prescribed by the regulations. **Schedule 1[2]** makes a consequential amendment.

Schedule 1[5] and [6] allow a council to agree to a shorter consultation period in relation to a network operator proposing to carry out work to erect or modify electricity works.

Schedule 1[7]–[10] make further provision about the obstruction of electricity works, including in relation to a network operator modifying or removing structures that are damaging electricity works and the recovery of associated costs.

Schedule 1[11] extends the existing power of the Secretary of the Department of Planning, Industry and Environment to direct a distributor to remove an electricity transmission or distribution structure or a structure used for public lighting to include a structure for the storage or generation of electricity.

Schedule 1[12] and [13] provide that certain provisions relating to serious electricity works accidents do not apply to an accident involving a motor vehicle accident on land not owned or controlled by a network operator if—

- (a) a fault or failure in electricity works did not contribute to the motor vehicle accident, and
- (b) electricity did not contribute to an injury or death.

Schedule 1[14] updates the prohibition on diverting or using electricity unless authorised by a wholesale supply agreement or a customer retail contract to also allow the regulations to prescribe other contracts, agreements or arrangements that may authorise the use of electricity. **Schedule 1[15]** makes a consequential amendment.

Schedule 1[28] provides that regulations may be made to prevent a network service provider recovering charges under a distribution determination or a transmission determination under the *National Electricity (NSW) Law* from a person who buys electricity to produce green hydrogen.

Schedule 1[30]–[33] extend the existing power of a metering coordinator to enter customer premises to also apply to metering providers.

Schedule 1[4], [27] and [29] omit redundant provisions.

Schedule 1[94] inserts a savings provision.

Schedule 1[95] inserts and amends relevant definitions.

Schedule 2 Amendment of Energy and Utilities Administration Act 1987 No 103

Energy supply emergencies

Schedule 2[2] enables the Premier to declare, by written order, an energy supply emergency, instead of the Governor declaring an emergency by proclamation. The grounds on which the Premier may declare an energy supply emergency will include a cyber security incident. The Minister will be able to give directions during an energy supply emergency, including in relation to cyber security incidents. The Minister will be able to direct a network operator to take certain action to respond to or prevent a cyber security incident. A *cyber security incident* means acts, events or circumstances involving, or likely to involve, 1 or more of the following—

- (a) unauthorised access to computer data or a computer program,
- (b) unauthorised modification of computer data or a computer program,
- (c) unauthorised impairment of electronic communication to or from a computer,
- (d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.

Schedule 2[2] also enables the Minister to require a person to provide information in relation to energy supply and cyber security incidents. The Minister must keep the information confidential, except in certain circumstances.

Schedule 2[6] enables the Minister to direct a person to discontinue the supply of energy, if the person is convicted of failing to comply with a direction given during an energy supply emergency.

Schedule 2[3]–[5] and [7] make consequential amendments.

Schedule 2[1] inserts relevant definitions.

Miscellaneous

Schedule 2[8] increases the maximum penalties payable for the offence of obstructing an inspector.

Schedule 2[10] provides for the Minister to make an order exempting a person who buys electricity for the production of green hydrogen from a requirement made by a licensed distributor that the person make a payment towards the licensed distributor's annual contribution to the Climate Change Fund. **Schedule 2[9]** makes a consequential amendment.

Schedule 3 Amendment of Forestry Act 2012 No 96

Schedule 3 enables the construction and operation of renewable energy infrastructure in certain forestry areas.

Schedule 4 Amendment of Gas Supply Act 1996 No 38

Cyber security

Schedule 4[15] enables the Minister to direct a network operator to take certain action to respond to or prevent a cyber security incident. A *cyber security incident* means acts, events or circumstances involving, or likely to involve, 1 or more of the following—

- (a) unauthorised access to computer data or a computer program,
- (b) unauthorised modification of computer data or a computer program,
- (c) unauthorised impairment of electronic communication to or from a computer,
- (d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.

Schedule 4[14] enables the regulations to provide for the adoption and implementation by a network operator of cyber security policies and procedures.

Reticulator authorisations and distributor licences

Schedule 4[2] and [7] make clear the Minister may determine an application for a reticulator's authorisation or distributor's licence by granting the authorisation or licence with modifications.

Schedule 4[5] and [10] enable the Minister to determine the annual fees for the holder of a reticulator's authorisation and a distributor's licence. Currently the fees must be equivalent to the amount estimated by the Treasurer as the cost to the State of administering the *Gas Supply Act 1996* in relation to the holder of the authorisation or licence.

Schedule 4[3] and [8] extend the actions the Minister may take if the holder of a reticulator's authorisation or a distributor's licence has knowingly contravened a requirement of the *Gas Supply Act 1996*, the regulations under that Act or the conditions of the authorisation or licence. If the holder is a corporation, the Minister will, in certain circumstances, be able to impose a monetary penalty not exceeding \$50,000 on a person who is a director of, or concerned in the management of, the corporation.

Increased penalties

Schedule 4[1], [4], [6], [9], [12], [13] and [16] increase the maximum penalties payable for certain offences under the *Gas Supply Act 1996*.

Other

Schedule 4[11] makes further provision about the obstruction of gas works, including in relation to modifying or removing structures that are damaging gas works and the recovery of associated costs.

Schedule 4[17] inserts transitional provisions.

Schedule 4[18] inserts and amends relevant definitions.

Schedule 5 Amendment of Pipelines Act 1967 No 90

Pipeline licences

Schedule 5[2] provides that an order by the Minister requiring a specified pipeline to be licensed under the *Pipelines Act 1967* takes effect on the date specified in the order or the date on which the order is published in the Gazette. Currently an order takes effect no earlier than 12 months after the order is published.

Schedule 5[13] enables the Minister to determine the annual fees for a pipeline licence. Currently the fees are tied to a prescribed amount related to the length of the pipeline.

Cyber security

Schedule 5[6] enables the Minister to direct a pipeline licensee to take certain action to respond to or prevent a cyber security incident. A *cyber security incident* means acts, events or circumstances involving, or likely to involve, 1 or more of the following—

- (a) unauthorised access to computer data or a computer program,
- (b) unauthorised modification of computer data or a computer program,
- (c) unauthorised impairment of electronic communication to or from a computer,
- (d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.

The regulations will be able to provide for the adoption and implementation by a pipeline licensee of cyber security policies and procedures. It will be a condition of the pipeline licence that the licensee comply with the requirements of the regulations and with a direction given by the Minister. **Schedule 5[1] and [5]** make consequential amendments.

Increased penalties

Schedule 5[3], [4], [8]–[12] and [14]–[18] increase the maximum penalties payable for certain offences under the *Pipelines Act 1967*.

Other

Schedule 5[7] removes the requirement for the Registrar-General to notify the Minister of the charges incurred by the Registrar-General in relation to the registration and recording of certain planning documents relating to the area of a pipeline licence.



New South Wales

Energy Legislation Amendment Bill 2021

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Electricity Supply Act 1995 No 94	3
Schedule 2	Amendment of Energy and Utilities Administration Act 1987 No 103	29
Schedule 3	Amendment of Forestry Act 2012 No 96	35
Schedule 4	Amendment of Gas Supply Act 1996 No 38	36
Schedule 5	Amendment of Pipelines Act 1967 No 90	42



New South Wales

Energy Legislation Amendment Bill 2021

No. , 2021

A Bill for

An Act to amend various Acts administered by the Minister for Energy and Environment concerning the supply of energy to the State; and for related purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Energy Legislation Amendment Act 2021*.

3

2 Commencement

4

This Act commences on a day or days to be appointed by proclamation.

5

Schedule 1	Amendment of Electricity Supply Act 1995 No 94	1
[1] Section 12A		2
	Insert before section 13—	3
12A Meaning of “distribution system”		4
(1)	In this Act—	5
	<i>distribution system</i> means—	6
(a)	the electricity power lines and associated equipment and electricity structures used to convey and control the conveyance of electricity—	7
(i)	to the premises of wholesale and retail customers, up to the connection point for the premises, whether or not the connection point is on the building or land comprising the premises, or	8
(ii)	to, from and along the rail network electricity system operated by, for or on behalf of Sydney Metro, Sydney Trains, Transport Asset Holding Entity of New South Wales or Transport for NSW, or	9
(b)	a regulated stand-alone power system.	10
(2)	A distribution system does not include the following—	11
(a)	a transmission system,	12
(b)	any of the following excluded by the regulations—	13
(i)	specified electricity power lines,	14
(ii)	specified electricity structures,	15
(iii)	specified equipment.	16
[2] Section 16 Distributors to convey electricity for certain persons only		17
	Omit “its”. Insert instead “a”.	18
[3] Section 16(c)		19
	Insert at the end of section 16(b)—	20
	, or	21
(c)	a person prescribed by the regulations, or a member of a class of persons prescribed by the regulations.	22
[4] Part 4, Division 5 Determinations by Tribunal		23
	Omit the Division.	24
[5] Section 45 Erection and placement of electricity works		25
	Insert “written” before “notice” in section 45(4)(a).	26
[6] Section 45(4)(b)		27
	Insert “, or a shorter period agreed to in writing by the council” after “was given”.	28
[7] Section 49 Obstruction of electricity works		29
	Omit section 49(2). Insert instead—	30
(2)	The network operator may serve a written notice on the person having control of the structure or thing requiring the person to—	31
(a)	modify or remove the structure or thing, or	32

(b)	do either of the following—	1
(i)	modify or remove the structure or thing,	2
(ii)	engage an accredited service provider to move the electricity works away from the structure or thing.	3
(2A)	Work undertaken in accordance with a requirement in a notice served under subsection (2) is at the expense of the person served with the notice.	5
(2B)	The network operator may, in an emergency, modify or remove the structure or thing itself, instead of serving a notice under subsection (2).	6
[8]	Section 49(3)	9
	Omit “subsection (2)(a)”. Insert instead “subsection (2)”.	10
[9]	Sections 49(5)	11
	Omit “The costs”.	12
	Insert instead “If the network operator carries out the work after issuing a notice under subsection (2), the costs”.	13
[10]	Section 49(8)	15
	Omit the subsection. Insert instead—	16
(8)	Subsection (5) does not enable the network operator to recover costs from a person referred to in subsection (7) if the structure or thing was lawfully placed in its present position—	17
(a)	before the installation of the electricity works, or	18
(b)	with the agreement of the operator, or	19
(c)	in the case of electricity works to which section 53 applies—before 26 May 2006.	20
[11]	Section 63K Secretary may direct distributor to remove structure	21
	Omit section 63K(3). Insert instead—	22
(3)	In this section—	23
	<i>electricity structure</i> means a structure erected or maintained by a distributor for 1 or more of the following purposes—	24
(a)	the generation of electricity,	25
(b)	the storage, transmission or distribution of electricity,	26
(c)	public lighting.	27
[12]	Section 63R Notification of serious electricity works accidents	28
	Insert after section 63R(3)—	29
(4)	This section does not apply to a serious electricity works accident involving a motor vehicle accident on land not owned or controlled by a network operator if—	30
(a)	a fault or failure in electricity works did not contribute to the motor vehicle accident, and	31
(b)	electricity did not contribute to an injury or death.	32
[13]	Section 63U Interference with site of serious electricity works accident	33
	Insert at the end of the section—	34

(2)	This section does not apply to a serious electricity works accident involving a motor vehicle accident on land not owned or controlled by a network operator if—	1
		2
		3
(a)	a fault or failure in electricity works did not contribute to the motor vehicle accident, and	4
		5
(b)	electricity did not contribute to an injury or death.	6
[14]	Section 64 Theft of electricity	7
	Omit section 64(1). Insert instead—	8
(1)	A person must not divert or use electricity from a generating, transmission or distribution system unless authorised to do so by 1 or more of the following—	9
		10
(a)	a wholesale supply agreement,	11
(b)	a customer retail contract,	12
(c)	a contract, agreement or other arrangement prescribed by the regulations.	13
		14
	Maximum penalty—	15
(a)	for a corporation—2,000 penalty units, or	16
(b)	for an individual—100 penalty units or 5 years imprisonment, or both.	17
[15]	Section 75	18
	Omit the section. Insert instead—	19
	75 Court may order payment	20
	If the Local Court finds a person guilty of an offence under section 64, the Court may make an order directing the person to pay the amount the Court considers appropriate for the electricity diverted or used in the commission of the offence.	21
		22
		23
		24
[16]	Section 94A Declaration of electricity supply emergency	25
	Insert at the end of section 94A(1)(b)—	26
	, or	27
(c)	there is a cyber security incident that affects or is likely to affect 1 or more of the following that is responsible for a significant supply of electricity to all or part of the State—	28
		29
		30
(i)	a distribution system,	31
(ii)	a distributor,	32
(iii)	an electricity generator,	33
(iv)	a transmission operator,	34
(v)	a transmission system, or	35
(d)	there is a cyber security incident of a type prescribed by the regulations.	36
[17]	Section 94A(5)	37
	Insert after section 94A(4)—	38
(5)	Subsection (4) does not apply to an electricity supply emergency declared under subsection (1)(c) or (d).	39
		40

[18] Section 94B Electricity supply emergency directions	1
Insert before section 94B(1)—	2
(1A) This section applies to an electricity supply emergency declared by the Premier under section 94A(1)(a) or (b).	3 4
[19] Section 94B(1)	5
Insert “to which this section applies” after “an electricity supply emergency”.	6
[20] Section 94BA	7
Insert after section 94B—	8
94BA Electricity supply emergency—cyber security directions	9
(1) While the declaration of an electricity supply emergency under section 94A(1)(c) or (d) is in force, the Minister may, by written order, give a direction (a <i>cyber security direction</i>) to a relevant person requiring the person to take the action the Minister considers reasonably necessary to—	10 11 12 13
(a) respond to the impact of the incident on the person’s information technology systems, or	14 15
(b) prevent the incident having an impact on the person’s information technology systems.	16 17
(2) A cyber security direction—	18
(a) has effect for the period specified in the direction, and	19
(b) may be varied or revoked by a subsequent direction under this section.	20
(3) The Minister’s written order under subsection (1) must include a copy of the Premier’s declaration of the electricity supply emergency under which the cyber security direction is given.	21 22 23
(4) A person given a cyber security direction must comply with the direction.	24
Maximum penalty—	25
(a) for a corporation—2,000 penalty units, or	26
(b) for an individual—100 penalty units.	27
(5) In this section—	28
<i>relevant person</i> means the following—	29
(a) a network operator,	30
(b) an electricity generator,	31
(c) a person who is a member of a class of persons prescribed by the regulations.	32 33
[21] Section 94D Requirement to provide information in connection with electricity supply emergency	34 35
Insert after section 94D(1)(a)—	36
(a1) to determine whether there is, or is likely to be, a cyber security incident affecting the supply of electricity to all or any part of the State,	37 38
[22] Section 94D(2)(a1)	39
Insert after section 94D(2)(a)—	40
(a1) information about 1 or more of the following—	41

	(i) a cyber security incident reasonably believed to affect the person,	1
	(ii) the person's plan to respond to cyber security incidents,	2
	(iii) the actions the person has taken, or intends to take, in response to a cyber security incident,	3 4
[23]	Section 94E Disclosure of information provided to Minister	5
	Insert at the end of section 94E(1)(e)—	6
	, or	7
	(f) to a person prescribed by the regulations for the purposes of this section.	8
[24]	Section 94H Powers of authorised officers	9
	Insert "or a cyber security direction" after "direction" wherever occurring in section 94H(1) and (3).	10 11
[25]	Section 181A	12
	Insert after section 181—	13
181A	Cyber security requirements	14
	(1) The regulations may make provision for the following—	15
	(a) the adoption and implementation by a relevant person of policies and procedures for managing cyber security risks and responding to cyber security incidents,	16 17 18
	(b) the external review and accreditation of a relevant person's policies and procedures for managing cyber security risks and responding to cyber security incidents.	19 20 21
	(2) Without limiting subsection (1), the regulations may require a relevant person's policies and procedures to address the following matters—	22 23
	(a) notifying the Secretary of cyber security incidents,	24
	(b) the process for auditing the relevant person's implementation and compliance with the policies and procedures and the reporting of the audit result to the Secretary.	25 26 27
	(3) In this section—	28
	<i>relevant person</i> means the following—	29
	(a) a network operator,	30
	(b) an electricity generator,	31
	(c) a person who is a member of a class of persons prescribed by the regulations.	32 33
[26]	Section 185 Proceedings for offences	34
	Insert after section 185(3)—	35
	(3A) Proceedings for an offence under Schedule 4A or a regulation made under Schedule 4A may be commenced at any time within 2 years after the date on which evidence of the alleged offence first came to the attention of the Scheme Administrator or the Scheme Regulator.	36 37 38 39
	(3B) If subsection (3A) is relied on for the purpose of commencing proceedings for an offence, the court attendance notice or application must contain particulars of the date on which evidence of the offence first came to the attention of the	40 41 42

	Scheme Administrator or Scheme Regulator and need not contain particulars of the date on which the offence was committed.	1 2
	(3C) The date on which evidence first came to the attention of the Scheme Administrator or Scheme Regulator is the date specified in the court attendance notice or application, unless the contrary is established.	3 4 5
[27]	Section 191 Regulations	6
	Omit section 191(1A)(k).	7
[28]	Section 192	8
	Insert after section 191—	9
192	Recovery of distribution and transmission charges from green hydrogen producers	10 11
	(1) The regulations may provide for limitations on the recovery by a network service provider of charges from a person who buys electricity to produce green hydrogen that the network service provider is otherwise entitled to recover from the person under a determination.	12 13 14 15
	(2) The regulations may modify the application of, or disapply, a provision of the <i>National Electricity (NSW) Law</i> or the <i>National Electricity Rules</i> to the extent reasonably necessary to give effect to regulations made under subsection (1).	16 17 18
	(3) The regulations may not have the effect of reducing the total revenue earned by a network service provider under a determination.	19 20
	(4) The regulations may make further provision in relation to whether electricity is taken to be used to produce green hydrogen.	21 22
	(5) In this section—	23
	<i>determination</i> means a distribution determination or transmission determination under the <i>National Electricity (NSW) Law</i> .	24 25
	<i>green hydrogen</i> means hydrogen produced using renewable energy.	26
	<i>network service provider</i> means a distribution network service provider or transmission network service provider within the meaning of the <i>National Electricity Rules</i> .	27 28 29
[29]	Section 195 Review of solar bonus scheme by Minister	30
	Omit the section.	31
[30]	Section 196, heading	32
	Omit “co-ordinator”. Insert instead “coordinator and metering provider”.	33
[31]	Section 196(1)	34
	Omit “co-ordinator”. Insert instead “coordinator or metering provider”.	35
[32]	Section 196(3)	36
	Omit “co-ordinator”. Insert instead “coordinator or metering provider”.	37
[33]	Section 196(4)	38
	Omit the subsection. Insert instead—	39
	(4) In this section—	40

	<i>metering coordinator</i> has the same meaning as in the <i>National Electricity Rules</i> .	1
		2
	<i>metering provider</i> has the same meaning as in the <i>National Electricity Rules</i> .	3
[34]	Schedule 4A Energy security safeguard schemes	4
	Insert in alphabetical order in clause 2(1)—	5
	<i>compliance officer</i> means a compliance officer appointed under clause 71A.	6
	<i>green hydrogen</i> means hydrogen produced using renewable energy.	7
	<i>recognised form of energy</i> means the following—	8
	(a) electricity,	9
	(b) a type of gas,	10
	(c) a form of energy prescribed by the regulations.	11
[35]	Schedule 4A, clause 9, note	12
	Omit “electricity or gas or both electricity and gas”.	13
	Insert instead “a recognised form of energy”.	14
[36]	Schedule 4A, clause 13, note	15
	Omit “electricity or gas or both electricity and gas”.	16
	Insert instead “a recognised form of energy”.	17
[37]	Schedule 4A, clause 22(3) and (3A)	18
	Omit clause 22(3). Insert instead—	19
	(3) The Minister may grant an exemption under this clause only if satisfied that the electricity is used—	20
	(a) in connection with an industry or activity that is both emissions intensive and trade exposed, or	21
	(b) to produce green hydrogen.	22
	(3A) The Minister may grant an exemption under this clause only if satisfied that the exemption is otherwise generally consistent with the objects of this Part.	23
		24
		25
		26
[38]	Schedule 4A, clause 24	27
	Omit the clause. Insert instead—	28
	24 Grounds on which electricity load may be exempt	29
	(1) The regulations may make further provision with respect to the determination of whether—	30
	(a) an industry or activity is emissions intensive or trade exposed, and	31
	(b) electricity is taken to be used to produce green hydrogen.	32
	(2) Subject to the regulations, the Minister may determine the basis on which—	33
	(a) an industry or activity is considered to be emissions intensive or trade exposed, and	34
	(b) electricity is taken to be used to produce green hydrogen.	35
		36
		37
[39]	Schedule 4A, clause 30(1), (2) and (4)(a)	38
	Omit “electricity or gas” wherever occurring. Insert instead “a recognised form of energy”.	39

[40] Schedule 4A, clause 32(2)	1
Omit “electricity or the certificate conversion factor for gas or both the certificate conversion factor for electricity and the certificate conversion factor for gas”.	2 3
Insert instead “the recognised form of energy”.	4
[41] Schedule 4A, clause 33, heading	5
Insert “—electricity” after “factor”.	6
[42] Schedule 4A, clause 33(1)	7
Omit the subclause. Insert instead—	8
(1) Subject to this clause, the certificate conversion factor for a year for electricity is 1.06.	9 10
[43] Schedule 4A, clause 33A	11
Insert after clause 33—	12
33A Certificate conversion factor—forms of energy other than electricity	13
(1) The certificate conversion factor for a form of energy other than electricity for a year is the factor prescribed by the regulations for the form of energy.	14 15
(2) If the regulations do not prescribe a certificate conversion factor for a year for a type of gas, the certificate conversion factor for a year for the type of gas is 0.39.	16 17 18
[44] Schedule 4A, clause 34(1) and (2)	19
Omit clause 34(1)–(3). Insert instead—	20
(1) An energy savings certificate for energy savings arising from a recognised energy saving activity may be created no later than 6 months after the energy savings occur.	21 22 23
(2) An energy savings certificate is not created until an application is made under clause 46 for registration of the certificate.	24 25
[45] Schedule 4A, clause 38(2)	26
Omit “electricity or gas”.	27
Insert instead “a recognised form of energy”.	28
[46] Schedule 4A, clause 42	29
Omit the clause. Insert instead—	30
42 Amendment of accreditation	31
(1) An accredited certificate provider may apply to the Scheme Administrator to amend the provider’s accreditation by—	32 33
(a) varying the activities for which the provider is accredited, or	34
(b) varying or revoking a condition of the accreditation imposed by the Scheme Administrator.	35 36
(2) Subclause (1)(b) does not apply to a condition imposed by this Act or the regulations.	37 38
(3) The Scheme Administrator must determine an application to amend a provider’s accreditation by—	39 40

(a)	granting the application, or	1
(b)	refusing the application.	2
(4)	The regulations may make provision for the amendment of a provider's accreditation, including by requiring an application fee to be paid to the Scheme Administrator for an application to amend an accreditation.	3 4 5
(5)	The Scheme Administrator may refuse an application to amend a provider's accreditation on grounds specified in the regulations.	6 7
(6)	In addition to an application fee referred to in subclause (4), the Scheme Administrator may recover from an accredited certificate provider the costs reasonably incurred by the Administrator in investigating and determining an application to amend the provider's accreditation.	8 9 10 11
[47]	Schedule 4A, clause 45(2)	12
	Omit "(on the balance of probabilities on the basis of an audit conducted under this Act or the regulations or of information otherwise obtained by the Administrator under this Act or the regulations)".	13 14 15
	Insert instead ", on the balance of probabilities,".	16
[48]	Schedule 4A, clause 45(3)	17
	Omit "equivalent to". Insert instead "no more than".	18
[49]	Schedule 4A, clause 55(4)	19
	Omit the subclause. Insert instead—	20
(4)	The Scheme Regulator may delegate the exercise of its functions under this Part, other than this power of delegation, to—	21 22
(a)	with the approval of the Minister—another person or body, and	23
(b)	a person who is a member of a class of persons approved by the Minister.	24 25
[50]	Schedule 4A, clause 57(4)	26
	Omit the subclause. Insert instead—	27
(4)	The Scheme Administrator may delegate the exercise of its functions under this Part, other than this power of delegation, to—	28 29
(a)	with the approval of the Minister—another person or body, and	30
(b)	a person who is a member of a class of persons approved by the Minister.	31 32
[51]	Schedule 4A, clause 58(3) and (4)	33
	Omit the subclauses.	34
[52]	Schedule 4A, clause 58A	35
	Insert after clause 58—	36
58A	Cost of audits	37
(1)	Each scheme participant and accredited certificate provider must pay to the Secretary the audit fee for an audit conducted under this Part in relation to the participant or provider by or for the Scheme Regulator or Scheme Administrator.	38 39 40 41

(2)	An audit fee under this clause may be recovered by the Secretary in a court of competent jurisdiction as a debt due to the Crown.	1 2
(3)	In this clause— <i>audit fee</i> means—	3 4
(a)	the fee prescribed by the regulations or calculated in accordance with the regulations, or	5 6
(b)	if the regulations do not prescribe a fee or a method for calculating a fee—the reasonable cost, certified by the Scheme Regulator or Scheme Administrator, of carrying out the audit.	7 8 9
[53]	Schedule 4A, clause 59(4)	10
	Omit the subclause. Insert instead—	11
(4)	An individual has a reasonable excuse for the purposes of subclause (3) if complying with the notice or answering the question might tend to incriminate the individual or make the individual liable to any forfeiture or penalty.	12 13 14
[54]	Schedule 4A, clause 62A	15
	Insert after clause 62—	16
62A	Identity of person providing information to be confidential	17
(1)	This clause applies if a person (an <i>information provider</i>) provides information to the Scheme Regulator or Scheme Administrator about another person’s non-compliance with an obligation under this Part.	18 19 20
(2)	The Scheme Regulator or Scheme Administrator must ensure that the identity of an information provider, and anything that may reasonably identify the information provider, is not disclosed to any person except—	21 22 23
(a)	with the consent of the information provider, or	24
(b)	if ordered by a court or tribunal, or	25
(c)	if required by another law.	26
(3)	If the identity of an information provider cannot be disclosed under subclause (2), the information provided by the information provider cannot be used as evidence in proceedings against another person for an offence under this Act.	27 28 29
(4)	Subclause (3) does not prevent the Scheme Regulator or Scheme Administrator using information, including in proceedings for an offence under this Act, obtained as a result of the information received from an information provider.	30 31 32 33
[55]	Schedule 4A, Division 11A	34
	Insert after clause 63—	35
	Division 11A Civil penalties	36
63A	Definitions	37
	In this Division—	38
	<i>civil penalty order</i> —see clause 63B.	39
	<i>civil penalty provision</i> means a provision prescribed by the regulations as a civil penalty provision.	40 41
	<i>scheme entity</i> means—	42

(a)	the Scheme Administrator, or	1
(b)	the Scheme Regulator.	2
63B	Monetary penalty	3
(1)	If a person has contravened a civil penalty provision, a scheme entity may, by written order (a <i>civil penalty order</i>), require the person to pay a monetary penalty of no more than the penalty notice amount for the provision.	4 5 6
(2)	If a corporation is liable to a monetary penalty under this clause, each of the following persons may be ordered to pay a monetary penalty if the person knowingly authorised or permitted the contravention—	7 8 9
(a)	a director of the corporation,	10
(b)	a person concerned in the management of the corporation.	11
63C	Process	12
(1)	A scheme entity may not issue a civil penalty order to a person unless—	13
(a)	the scheme entity has given the person notice of the proposed order and the reasons for it, and	14 15
(b)	the person has been given a reasonable opportunity to make a submission about the proposed order, and	16 17
(c)	the scheme entity has considered a submission made by the person, and	18
(d)	the scheme entity is satisfied on the balance of probabilities that the person—	19 20
(i)	contravened the relevant civil penalty provision, or	21
(ii)	knowingly authorised or permitted the contravention.	22
(2)	A scheme entity must provide written reasons for a decision to issue a civil penalty order to the person.	23 24
(3)	A civil penalty order must be issued within 3 years after the date on which evidence of the alleged offence first came to the attention of the scheme entity.	25 26
(4)	A civil penalty order must include the date, not less than 28 days after the date the order is issued, by which the monetary penalty imposed by the order must be paid.	27 28 29
63D	Double jeopardy	30
(1)	A scheme entity may not issue a civil penalty order to a person if—	31
(a)	another civil penalty order has been issued to a person for the contravention, or	32 33
(b)	the person has been found guilty, whether a conviction is recorded or not, of an offence under this Act or the regulations for the contravention.	34 35
(2)	If criminal proceedings are taken against a person for a contravention after the person pays the monetary penalty imposed by a civil penalty order, a court that finds the person guilty of an offence must discount any penalty imposed by the court by the civil penalty amount paid by the person.	36 37 38 39
63E	Payment not an admission of guilt or liability	40
	The payment of a monetary penalty under this Division cannot be taken to be an admission of—	41 42
(a)	a breach of a civil penalty provision, or	43

	(b) liability for civil or criminal proceedings arising from substantially the same conduct.	1 2
63F	Withdrawal of order	3
	(1) A scheme entity may withdraw a civil penalty order by written notice to the person the subject of the order.	4 5
	(2) A civil penalty order may be withdrawn under this clause at any time before it is complied with.	6 7
	(3) A civil penalty order issued to a person is automatically withdrawn on the commencement against the person of criminal proceedings for the contravention.	8 9 10
	(4) A civil penalty order withdrawn under this clause may, subject to clause 63D, be reissued.	11 12
63G	Internal review of order	13
	(1) A person who is the subject of a civil penalty order may apply to the scheme entity that issued the order for a review of—	14 15
	(a) the decision to issue the order, or	16
	(b) the monetary penalty imposed by the order.	17
	(2) An application must be made within 28 days of the issuing of the order.	18
	(3) A person issued a civil penalty order is not required to pay the monetary penalty imposed by the order while an application is being considered.	19 20
	(4) The scheme entity's decision on the application must be given to the applicant—	21 22
	(a) by written notice that includes the reasons for the decision, and	23
	(b) within 90 days of the making of the application.	24
	(5) If the written notice of the scheme entity's decision is not given to the applicant within 90 days of the making of the application, the application is taken to have been refused.	25 26 27
	(6) If the scheme entity affirms the decision to issue the civil penalty order, including with a different monetary penalty, the written notice of the decision must include the date, not less than 28 days after the date of the notice, by which the monetary penalty must be paid.	28 29 30 31
63H	External review of order	32
	(1) A person who is not satisfied with the result of an internal review under clause 63G may make an application to the Civil and Administrative Tribunal under the <i>Administrative Decisions Review Act 1997</i> for administrative review of the internal review decision.	33 34 35 36
	(2) The <i>Administrative Decisions Review Act 1997</i> , section 53 does not apply to a decision under clause 63G that may be reviewed by the Tribunal.	37 38
63I	Recovery of monetary penalty	39
	The monetary penalty imposed by a civil penalty order may be recovered by a scheme entity in a court of competent jurisdiction as a debt owing to the Crown.	40 41 42

[56] Schedule 4A, clause 64(1)(c)	1
Insert after clause 64(1)(b)—	2
(c) a register of persons who have applied for and been refused accreditation as accredited certificate providers.	3 4
[57] Schedule 4A, clause 65(3)	5
Omit the subclause. Insert instead—	6
(3) The register of accredited certificate providers must be published on the Scheme Administrator’s website.	7 8
[58] Schedule 4A, clause 65A	9
Insert after clause 65—	10
65A Register of persons refused accreditation as accredited certificate providers	11
The register of persons who have applied for and been refused accreditation as an accredited certificate provider must contain the following information about each person—	12 13 14
(a) the name of the person and, if the person is a corporation, the corporation’s ACN,	15 16
(b) the reasons the person’s application was refused,	17
(c) other information required to be included in the register by this Part or the regulations.	18 19
[59] Schedule 4A, clause 66(2)	20
Omit the subclause. Insert instead—	21
(2) The register of energy savings certificates must be published on the Scheme Administrator’s website.	22 23
[60] Schedule 4A, clause 69A	24
Insert after clause 69—	25
69A Information sharing	26
(1) The Scheme Administrator may enter into an arrangement (an <i>information sharing arrangement</i>) with a relevant agency for the purposes of sharing or exchanging information about the following held by the Scheme Administrator or the agency—	27 28 29 30
(a) offences and alleged offences under this Part, including investigations,	31
(b) the administration of the energy savings scheme,	32
(c) other matters of a type prescribed by the regulations.	33
(2) Under an information sharing arrangement, the Scheme Administrator and the relevant agency are, despite any other Act or law of the State, authorised—	34 35
(a) to request and receive information held by the other party to the arrangement, and	36 37
(b) to disclose information to the other party.	38
(3) In this clause—	39
<i>relevant agency</i> means the following—	40

(a)	a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> ,	1
		2
(b)	another person or body prescribed by the regulations.	3
[61]	Schedule 4A, clause 70(2)	4
	Omit the subclause. Insert instead—	5
(2)	A rule may make provision for a matter by applying, adopting or incorporating the provisions of an Act or statutory rule or another publication as follows—	6
		7
(a)	with or without modification,	8
(b)	as in force on a particular day or from time to time.	9
[62]	Schedule 4A, Division 13A	10
	Insert after clause 71—	11
	Division 13A Compliance officers and penalty notices	12
71A	Appointment of compliance officers	13
(1)	The Scheme Administrator may, in accordance with any guidelines in force under this clause, appoint compliance officers for the purposes of this Part.	14
		15
(2)	The Minister may, by written order, issue guidelines for the appointment of compliance officers.	16
		17
(3)	An order under this clause must be published on the Scheme Administrator’s website and takes effect on—	18
		19
(a)	the day on which it is published, or	20
(b)	a later day specified in the order.	21
71B	Powers of compliance officers	22
(1)	The powers of a compliance officer may be exercised for the purposes of investigating an accredited certificate provider’s compliance with the following—	23
		24
		25
(a)	this Part,	26
(b)	the regulations,	27
(c)	the scheme rules,	28
(d)	a condition of the provider’s accreditation.	29
(2)	A compliance officer may at a reasonable time enter—	30
		31
(a)	premises that are used in connection with an energy savings activity for which a certificate has been created, and	32
		33
(b)	the principal place of business of an accredited certificate provider.	33
(3)	A compliance officer may not enter a part of premises used only for residential purposes without the permission of the occupier of the premises.	34
		35
(4)	A compliance officer may, at premises lawfully entered, do anything that, in the opinion of the authorised officer, is necessary to be done for the purposes of the investigation, including the following—	36
		37
		38
(a)	examine and test plant or equipment on the premises,	39
(b)	take photographs, films, audio, video and other recordings,	40
(c)	take copies of records or documents on the premises,	41

(d)	seize anything the authorised officer believes on reasonable grounds is connected with an offence under this Part.	1 2
(5)	A person must not hinder or obstruct a compliance officer in the exercise of a power. Maximum penalty—	3 4 5
(a)	in the case of a corporation—200 penalty units, or	6
(b)	for an individual—50 penalty units.	7
(6)	A person is not guilty of an offence under subclause (5) unless it is established that the authorised officer identified themselves as a compliance officer.	8 9
71C	Penalty notices	10
(1)	A compliance officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.	11 12
(2)	A penalty notice offence is an offence in this Part, or a regulation under this Part, that is prescribed by the regulations as a penalty notice offence.	13 14
(3)	The <i>Fines Act 1996</i> applies to a penalty notice issued under this clause. Note. The <i>Fines Act 1996</i> provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.	15 16 17 18 19
(4)	The amount payable under a penalty notice issued under this clause is the amount prescribed for the alleged offence by the regulations, which must not exceed the maximum amount of penalty that could be imposed for the offence by a court.	20 21 22 23
(5)	This clause does not limit the operation of another provision of, or made under, this or another Act relating to proceedings that may be taken for offences.	24 25
[63]	Schedule 4A, clause 73(5)	26
	Insert after clause 73(4)—	27
(5)	A person who, under a scheme rule, is approved by the Scheme Administrator to undertake a function and who is aggrieved by a decision of the Scheme Administrator to revoke the person's approval may apply to the Civil and Administrative Tribunal for an administrative review of the decision under the <i>Administrative Decisions Review Act 1997</i> .	28 29 30 31 32
[64]	Schedule 4A, clause 74A	33
	Insert after clause 74—	34
74A	Ancillary offences	35
(1)	This clause applies to a person who, for an offence under this Part or the regulations under this Part—	36 37
(a)	causes or permits another person to commit the offence, or	38
(b)	aids, abets, counsels or procures another person to commit the offence, or	39 40
(c)	conspires with another person to commit the offence.	41
(2)	A person to whom this clause applies is guilty of the offence and is liable to the same penalty applicable to an offence against the other provision.	42 43

[65] Schedule 4A, clause 75	1
Omit the clause. Insert instead—	2
75 Personal liability	3
(1) A protected person is not personally subject to any liability for anything done—	4
(a) in good faith, and	5
(b) for the purpose of exercising functions under this Act or another Act.	6
(2) The liability instead attaches to the Crown.	7
(3) In this clause—	8
<i>done</i> includes omitted to be done.	9
<i>liability</i> means civil liability and includes action, claim or demand.	10
<i>protected person</i> means—	11
(a) the Scheme Regulator, or	12
(b) the Scheme Administrator, or	13
(c) a member or officer of, or a person acting under the direction of, the Scheme Regulator or Scheme Administrator, or	14
(d) a compliance officer.	15
[66] Schedule 4A, clause 76(1)	16
Omit “(but on or before 31 July)” and “and forward to the Minister”.	17
[67] Schedule 4A, clause 76(1A)	18
Insert after clause 76(1)—	19
(1A) The report must be forwarded to the Minister on or before—	20
(a) the date prescribed by the regulations, or	21
(b) if the regulations do not prescribe a date—31 August in the same year.	22
[68] Schedule 4A, clause 76(2)(d) and (e)	23
Omit “electricity and gas savings” wherever occurring.	24
Insert instead “savings in each recognised form of energy”.	25
[69] Schedule 4A, clause 78A	26
Insert after clause 78—	27
78A Exchange of information	28
(1) Despite another provision of this Act, the Scheme Administrator may keep the following information—	29
(a) information about offences or alleged offences under this Part,	30
(b) information collected in the administration of this Act.	31
(2) The Scheme Administrator may give the information kept under this clause to the following—	32
(a) a person or body undertaking functions, similar to those undertaken by the Scheme Administrator, in another State or Territory or for the Commonwealth,	33
	34
	35
	36
	37
	38
	39

	(b) a a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> .	1 2
[70]	Schedule 4A, clause 79(5) and (6) Omit the subclauses.	3 4
[71]	Schedule 4A, clause 80A Insert after clause 80—	5 6
80A	Termination of scheme—regulations	7
	(1) On termination of the scheme under clause 79 or 80, regulations may be made about the effect of the termination on rights conferred or obligations imposed under this Part.	8 9 10
	(2) Without limiting subclause (1), the regulations may—	11
	(a) prohibit scheme participants from carrying forward an energy savings shortfall, or part of an energy savings shortfall, for a year to the following year, and	12 13 14
	(b) specify other conditions that must be complied with following the termination.	15 16
[72]	Schedule 4A, clause 81 Omit the definition of <i>green hydrogen</i> . Insert in alphabetical order— <i>compliance officer</i> means a compliance officer appointed under clause 136B. <i>green hydrogen</i> means hydrogen produced using renewable energy.	17 18 19 20
[73]	Schedule 4A, clause 112(3) Omit “clause 31”. Insert instead “clause 111”.	21 22
[74]	Schedule 4A, clause 115 Omit the clause. Insert instead—	23 24
115	Amendment of accreditation	25
	(1) An accredited certificate provider may apply to the Scheme Administrator to amend the provider’s accreditation by—	26 27
	(a) varying the activities for which the provider is accredited, or	28
	(b) varying or revoking a condition of the accreditation imposed by the Scheme Administrator.	29 30
	(2) Subclause (1)(b) does not apply to a condition imposed by this Act or the regulations.	31 32
	(3) The Scheme Administrator must determine an application to amend a provider’s accreditation by—	33 34
	(a) granting the application, or	35
	(b) refusing the application.	36
	(4) The regulations may make provision for the amendment of a provider’s accreditation, including by requiring an application fee to be paid to the Scheme Administrator for an application to amend an accreditation.	37 38 39
	(5) The Scheme Administrator may refuse an application to amend a provider’s accreditation on grounds specified in the regulations.	40 41

(6)	In addition to an application fee referred to in subclause (4), the Scheme Administrator may recover from an accredited provider the costs reasonably incurred by the Administrator in investigating and determining an application to amend the provider's accreditation.	1 2 3 4
[75]	Schedule 4A, clause 117(2)	5
	Omit "based on an audit under this Act or other information obtained by the Administrator under this Act".	6 7
[76]	Schedule 4A, clause 117(3)(a)	8
	Omit "equivalent to". Insert instead "no more than".	9
[77]	Schedule 4A, clause 124(4)	10
	Omit the subclause. Insert instead—	11
	(4) The Scheme Regulator may delegate the exercise of its functions under this Part, other than this power of delegation, to—	12 13
	(a) with the approval of the Minister—another person or body, and	14
	(b) a person who is a member of a class of persons approved by the Minister.	15 16
[78]	Schedule 4A, clause 126(4)	17
	Omit the subclause. Insert instead—	18
	(4) The Scheme Administrator may delegate the exercise of its functions under this Part, other than this power of delegation, to—	19 20
	(a) with the approval of the Minister—another person or body, and	21
	(b) a person who is a member of a class of persons approved by the Minister.	22 23
[79]	Schedule 4A, clause 127(2) and (3)	24
	Omit the subclauses.	25
[80]	Schedule 4A, clause 127A	26
	Insert after clause 127—	27
127A	Cost of audits	28
	(1) Each scheme participant and accredited certificate provider must pay to the Secretary the audit fee for an audit conducted under this Part in relation to the participant or provider by or for the Scheme Regulator or Scheme Administrator.	29 30 31 32
	(2) An audit fee under this clause may be recovered by the Secretary in a court of competent jurisdiction as a debt due to the Crown.	33 34
	(3) In this clause—	35
	<i>audit fee</i> means—	36
	(a) the fee prescribed by the regulations or calculated in accordance with the regulations, or	37 38
	(b) if the regulations do not prescribe a fee or a method for calculating a fee— the reasonable cost, certified by the Scheme Regulator or Scheme Administrator, of carrying out the audit.	39 40 41

[81] Schedule 4A, clause 128(4)	1
Omit the subclause. Insert instead—	2
(4) An individual has a reasonable excuse for the purposes of subclause (3) if complying with the notice or answering the question might tend to incriminate the individual or make the individual liable to any forfeiture or penalty.	3 4 5
[82] Schedule 4A, clause 131A	6
Insert after clause 131—	7
131A Identity of person providing information to be confidential	8
(1) This clause applies if a person (an <i>information provider</i>) provides information to the Scheme Regulator or Scheme Administrator about another person's non-compliance with an obligation under this Part	9 10 11
(2) The Scheme Regulator or Scheme Administrator must ensure that the identity of an information provider, and anything that may reasonably identify the information provider, is not disclosed to any person except—	12 13 14
(a) with the consent of the information provider, or	15
(b) if ordered by a court or tribunal, or	16
(c) if required by another law.	17
(3) If the identity of an information provider cannot be disclosed under subclause (2), the information provided by the information provider cannot be used as evidence in proceedings against another person for an offence under this Act.	18 19 20
(4) Subclause (3) does not prevent the Scheme Regulator or Scheme Administrator using information, including in proceedings for an offence under this Act, obtained as a result of the information received from an information provider.	21 22 23 24
[83] Schedule 4A, Division 10A	25
Insert after clause 132—	26
Division 10A Civil penalties	27
132A Definitions	28
In this Division—	29
<i>civil penalty order</i> —see clause 132B.	30
<i>civil penalty provision</i> means a provision prescribed by the regulations as a civil penalty provision.	31 32
<i>scheme entity</i> means—	33
(a) the Scheme Administrator, or	34
(b) the Scheme Regulator.	35
132B Monetary penalty	36
(1) If a person has contravened a civil penalty provision, a scheme entity may by written order (a <i>civil penalty order</i>) require the provider to pay a monetary penalty of no more than the penalty notice amount for the provision.	37 38 39
(2) If a corporation is liable to a monetary penalty under this clause, each of the following persons may be ordered to pay a monetary penalty if the person knowingly authorised or permitted the contravention—	40 41 42

	(a) a director of the corporation,	1
	(b) a person concerned in the management of the corporation.	2
132C	Process	3
(1)	A scheme entity may not issue a civil penalty order to a person unless—	4
	(a) the scheme entity has given the person notice of the proposed order and the reasons for it, and	5 6
	(b) the person has been given a reasonable opportunity to make a submission about the proposed order, and	7 8
	(c) the scheme entity has considered a submission made by the person, and	9
	(d) the scheme entity is satisfied on the balance of probabilities that the person—	10 11
	(i) contravened the relevant civil penalty provision, or	12
	(ii) knowingly authorised or permitted the contravention.	13
(2)	A scheme entity must provide written reasons for a decision to issue a civil penalty order to the person.	14 15
(3)	A civil penalty order must be issued within 3 years after the date on which evidence of the alleged offence first came to the attention of the scheme entity.	16 17
(4)	A civil penalty order must include the date, not less than 28 days after the date the order is issued, by which the monetary penalty imposed by the order must be paid.	18 19 20
132D	Double jeopardy	21
(1)	A scheme entity may not issue a civil penalty order to a person if—	22
	(a) another civil penalty order has been issued to a person for the contravention, or	23 24
	(b) the person has been found guilty, whether a conviction is recorded or not, of an offence under this Act or the regulations for the contravention.	25 26
(2)	If criminal proceedings are taken against a person for a contravention after the person pays the monetary penalty imposed by a civil penalty order, a court that finds the person guilty of an offence must discount any penalty imposed by the civil penalty amount paid by the person.	27 28 29 30
132E	Payment not an admission of guilt or liability	31
	The payment of a monetary penalty under this Division cannot be taken to be an admission of—	32 33
	(a) a breach of a civil penalty provision, or	34
	(b) liability for civil or criminal proceedings arising from substantially the same conduct.	35 36
132F	Withdrawal of order	37
(1)	A scheme entity may withdraw a civil penalty order by written notice to the person the subject of the order.	38 39
(2)	A civil penalty order may be withdrawn under this clause at any time before it is complied with.	40 41
(3)	A civil penalty order issued to a person is automatically withdrawn on the commencement against the person of criminal proceedings for the contravention.	42 43 44

(4)	A civil penalty order withdrawn under this clause may, subject to clause 132D, be reissued.	1 2
132G	Internal review of order	3
(1)	A person who is the subject of a civil penalty order may apply to the scheme entity that issued the order for a review of—	4 5
(a)	the decision to issue the order, or	6
(b)	the monetary penalty imposed by the order.	7
(2)	An application must be made within 28 days of the issuing of the order.	8
(3)	A person issued a civil penalty order is not required to pay the monetary penalty imposed while an application is being considered.	9 10
(4)	The scheme entity's decision on the application must be given to the applicant—	11 12
(a)	by written notice that includes the reasons for the decision, and	13
(b)	within 90 days of the making of the application.	14
(5)	If the written notice of the scheme entity's decision is not given to the applicant within 90 days of the making of the application, the application is taken to have been refused.	15 16 17
(6)	If the scheme entity affirms the decision to issue the civil penalty order, including with a different monetary penalty, the written notice of the decision must include the date, not less than 28 days after the date of the notice, by which the monetary penalty must be paid.	18 19 20 21
132H	External review of order	22
(1)	A person who is not satisfied with the result of an internal review under clause 132G may make an application to the Civil and Administrative Tribunal under the <i>Administrative Decisions Review Act 1997</i> for administrative review of the internal review decision.	23 24 25 26
(2)	The <i>Administrative Decisions Review Act 1997</i> , section 53 does not apply to a decision under clause 132G that may be reviewed by the Tribunal.	27 28
132I	Recovery of monetary penalty	29
	The monetary penalty imposed by a civil penalty order may be recovered by a scheme entity in a court of competent jurisdiction as a debt owing to the Crown.	30 31 32
[84]	Schedule 4A, clause 133(1)(c)	33
	Insert after clause 133(1)(b)—	34
(c)	a register of persons who have applied for and been refused accreditation as accredited certificate providers.	35 36
[85]	Schedule 4A, clause 134A	37
	Insert after clause 134—	38
134A	Register of persons refused accreditation as accredited certificate providers	39
	The register of persons who have applied for and been refused accreditation as an accredited certificate provider must contain the following information about each person—	40 41 42

(a)	the name of the person and, if the person is a corporation, the corporation's ACN,	1
(b)	the reasons the person's application was refused,	2
(c)	other information required to be included in the register by this Part or the regulations.	3
		4
		5
[86]	Schedule 4A, clause 136A and Division 11A	6
	Insert after clause 136—	7
136A	Information sharing	8
(1)	The Scheme Administrator may enter into an arrangement (an <i>information sharing arrangement</i>) with a relevant agency for the purposes of sharing or exchanging information about the following held by the Scheme Administrator or the agency—	9
(a)	offences and alleged offences under this Part, including investigations,	10
(b)	the administration of the peak demand reduction scheme,	11
(c)	other matters of a type prescribed by the regulations.	12
(2)	Under an information sharing arrangement, the Scheme Administrator and the relevant agency are, despite any other Act or law of the State, authorised—	13
(a)	to request and receive information held by the other party to the arrangement, and	14
(b)	to disclose information to the other party.	15
(3)	In this clause—	16
	<i>relevant agency</i> means the following—	17
(a)	a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> ,	18
(b)	another person or body prescribed by the regulations.	19
		20
		21
		22
		23
		24
		25
		26
		27
136B	Appointment of compliance officers	28
(1)	The Scheme Administrator may, in accordance with any guidelines in force under this clause, appoint compliance officers for the purposes of this Part.	29
(2)	The Minister may, by written order, issue guidelines for the appointment of compliance officers.	30
(3)	An order must be published on the Scheme Administrator's website and takes effect on—	31
(a)	the day on which it is published, or	32
(b)	a later day specified in the order.	33
		34
		35
136C	Powers of compliance officers	36
(1)	The powers of a compliance officer may be exercised for the purposes of investigating an accredited certificate provider's compliance with the following—	37
(a)	this Part,	38
(b)	the regulations,	39
(c)	the scheme rules,	40
		41
		42

(d)	a condition of the provider’s accreditation.	1
(2)	A compliance officer may at a reasonable time enter—	2
(a)	premises that are used in connection with an energy savings activity for which a certificate has been created, and	3
(b)	the principal place of business of an accredited certificate provider.	4
(3)	A compliance officer may not enter a part of premises used only for residential purposes without the permission of the occupier of the premises.	5
(4)	A compliance officer may, at premises lawfully entered, do anything that, in the opinion of the authorised officer, is necessary to be done for the purposes of the investigation, including the following—	6
(a)	examine and test plant or equipment on the premises,	7
(b)	take photographs, films, audio, video and other recordings,	8
(c)	take copies of records or documents on the premises,	9
(d)	seize anything that the authorised officer believes on reasonable grounds is connected with an offence under this Part.	10
(5)	A person must not hinder or obstruct a compliance officer in the exercise of a power.	11
	Maximum penalty—	12
(a)	in the case of a corporation—200 penalty units, or	13
(b)	for an individual—50 penalty units.	14
(6)	A person is not guilty of an offence under subclause (5) unless it is established that the authorised officer identified themselves as a compliance officer.	15
136D	Penalty notices	16
(1)	A compliance officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.	17
(2)	A penalty notice offence is an offence in this Part, or a regulation under this Part, that is prescribed by the regulations as a penalty notice offence.	18
(3)	The <i>Fines Act 1996</i> applies to a penalty notice issued under this clause.	19
	Note. The <i>Fines Act 1996</i> provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.	20
(4)	The amount payable under a penalty notice issued under this clause is the amount prescribed for the alleged offence by the regulations, which must not exceed the maximum amount of penalty that could be imposed for the offence by a court.	21
(5)	This clause does not limit the operation of another provision of, or made under, this or another Act relating to proceedings that may be taken for offences.	22
[87]	Schedule 4A, clause 137(2)	23
	Omit the subclause. Insert instead—	24
(2)	A rule may make provision for a matter by applying, adopting or incorporating the provisions of an Act or statutory rule or another publication as follows—	25
(a)	with or without modification,	26
(b)	as in force on a particular day or from time to time.	27

[88] Schedule 4A, clause 139(5)	1
Insert after clause 139(4)—	2
(5) A person who, under a scheme rule, is approved by the Scheme Administrator to undertake a function and who is aggrieved by a decision of the Scheme Administrator to revoke the person’s approval may apply to the Civil and Administrative Tribunal for an administrative review of the decision under the <i>Administrative Decisions Review Act 1997</i> .	3 4 5 6 7
[89] Schedule 4A, clause 140A	8
Insert after clause 140—	9
140A Ancillary offences	10
(1) This clause applies to a person who, for an offence under this Part or the regulations under this Part—	11 12
(a) causes or permits another person to commit the offence, or	13
(b) aids, abets, counsels or procures another person to commit the offence, or	14 15
(c) conspires with another person to commit the offence.	16
(2) A person to whom this clause applies is guilty of the offence and is liable to the same penalty applicable to an offence against the other provision.	17 18
[90] Schedule 4A, clause 141(3), definition of “protected person”	19
Insert at the end of the definition, paragraph (c)—	20
, or	21
(d) a compliance officer.	22
[91] Schedule 4A, clause 142(1) and (1A)	23
Omit clause 142(1). Insert instead—	24
(1) As soon as practicable after 1 March in each year, the Scheme Regulator must prepare a report on the extent to which scheme participants have complied, or failed to comply, with individual certificate targets during the previous year.	25 26 27
(1A) The report must be forwarded to the Minister on or before—	28
(a) the date prescribed by the regulations, or	29
(b) if the regulations do not prescribe a date—31 August in the same year.	30
[92] Schedule 4A, clause 144A	31
Insert after clause 144—	32
144A Exchange of information	33
(1) Despite another provision of this Act, the Scheme Administrator may keep the following information—	34 35
(a) information about offences or alleged offences under this Part,	36
(b) information collected in the administration of this Act.	37
(2) The Scheme Administrator may give the information kept under this clause to the following—	38 39

(a)	a person or body undertaking functions, similar to those undertaken by the Scheme Administrator, in another State or Territory or for the Commonwealth,	1 2 3
(b)	a a government sector agency within the meaning of the <i>Government Sector Employment Act 2013</i> .	4 5
[93]	Schedule 4A, clause 147	6
	Insert after clause 146—	7
147	Termination of scheme—regulations	8
(1)	On termination of the scheme under clause 145 or 146, regulations may be made about the effect of the termination on rights conferred or obligations imposed under this Part.	9 10 11
(2)	Without limiting subclause (1), the regulations may—	12
(a)	prohibit scheme participants from carrying forward a shortfall, or part of a shortfall, for a year to the following year, and	13 14
(b)	specify other conditions that must be complied with following the termination.	15 16
[94]	Schedule 6 Savings, transitional and other provisions	17
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	18
Part	Provisions consequent on enactment of Energy Legislation Amendment Act 2021	19 20
	Energy savings certificates	21
	Schedule 4A, clause 34, as amended by the Energy Legislation Amendment Act 2021, does not apply to an energy savings certificate created before the commencement of the amendment.	22 23 24
[95]	Dictionary	25
	Omit the definitions of <i>customer</i> and <i>distribution system</i> .	26
	Insert in alphabetical order—	27
	<i>customer</i> includes the following—	28
(a)	a retail customer,	29
(b)	a regulated SAPS customer,	30
(c)	a wholesale customer.	31
	<i>cyber security direction</i> —see section 94BA	32
	<i>cyber security incident</i> means acts, events or circumstances involving, or likely to involve, 1 or more of the following—	33 34
(a)	unauthorised access to computer data or a computer program,	35
(b)	unauthorised modification of computer data or a computer program,	36
(c)	unauthorised impairment of electronic communication to or from a computer,	37 38
(d)	unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.	39 40
	<i>distribution system</i> —see section 12A.	41

regulated SAPS customer means a person to whose premises a distributor conveys electricity from a regulated stand-alone power system.

1
2

regulated stand-alone power system has the same meaning as in the *National Electricity (NSW) Law*.

3
4

Schedule 2	Amendment of Energy and Utilities Administration Act 1987 No 103	1
		2
[1] Section 23 Definitions		3
	Omit the definition of <i>proclaimed form of energy</i> . Insert in alphabetical order—	4
	<i>AEMO</i> means the Australian Energy Market Operator Limited ACN 072 010 327.	5
	<i>cyber security incident</i> means acts, events or circumstances involving, or likely to involve, 1 or more of the following—	6
	(a) unauthorised access to computer data or a computer program,	7
	(b) unauthorised modification of computer data or a computer program,	8
	(c) unauthorised impairment of electronic communication to or from a computer,	9
	(d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.	10
	<i>declared form of energy</i> means a form of energy or energy resources specified in an order under section 24.	11
	<i>form of energy or energy resources</i> means a form of energy or energy resources other than electricity.	12
	<i>supply</i> includes the following—	13
	(a) distribution, provision, sale, storage and transport of energy or energy resources,	14
	(b) production or extraction of energy or energy resources.	15
	<i>use</i> of energy includes consumption of energy.	16
[2] Sections 24–27A		17
	Omit sections 24–27. Insert instead—	18
24 Declaration of energy supply emergency		19
(1)	The Premier may, by written order, declare an energy supply emergency if satisfied that—	20
	(a) the supply of a form of energy or energy resources to the State or part of the State is disrupted to a significant degree, or	21
	(b) the supply of a form of energy or energy resources to the State or part of the State is at risk of disruption to a significant degree, or	22
	(c) due to a cyber security incident the operations of a person that supplies a form of energy within the State—	23
	(i) are disrupted to a significant degree, or	24
	(ii) are at risk of disruption to a significant degree.	25
(2)	A declaration under this section has effect from the date specified in the order.	26
(3)	A declaration under this section remains in force—	27
	(a) for the period specified in the order, or	28
	(b) if the order does not specify a period in which the declaration remains in force—until revoked by the Premier by written order.	29
(4)	As soon as practicable after making or revoking a declaration under this section, other than a declaration made because of a cyber security incident, the Premier must arrange for the declaration or revocation to be—	30

- (a) made publicly available in the way the Premier considers appropriate, and 1
 - (b) published in the Gazette. 2
- 25 **Direction during energy supply emergency** 4
- (1) While a declaration under section 24(1)(a) or (b) is in force, the Minister may by order give directions the Minister considers reasonably necessary to respond to the energy supply emergency including directions for the following matters— 5
 - (a) to control, direct, restrict or prohibit the supply or use of a declared form of energy, whether generally or for a purpose specified in the direction, 6
 - (b) to direct a person who supplies a declared form of energy to supply it to a person specified in the direction, 7
 - (c) to direct a person to comply with the terms and conditions determined by the Minister for the supply of a declared form of energy, 8
 - (d) to direct a person to whom a declared form of energy is supplied to accept the declared form of energy, 9
 - (e) other matters the Minister considers necessary to give effect to— 10
 - (i) the declaration, or 11
 - (ii) a recommendation made by a qualified person under section 28. 12
- (2) A direction may— 13
- (a) operate throughout the whole of the State or in a specified part of the State, and 14
- (b) operate for a specified period, time or occasion, and 15
- (c) be of general operation or have limited operation according to a time, place, circumstance, condition or restriction specified in the direction, and 16
- (d) authorise a specified person to enter land or a building or structure, used for or in connection with the supply of the declared form of energy, and 17
- (e) authorise a specified person to take possession or control of or use property, a business or an undertaking used for or in connection with the supply of the declared form of energy. 18
- (3) A direction may be revoked by the Minister. 19
- (4) A direction or revocation of a direction— 20
- (a) must be published in the Gazette and on publication is taken to have been served on or brought to the notice of all persons concerned or affected by it, and 21
- (b) without affecting the application of paragraph (a)—may, if it applies to a specified person, be given to the person verbally or in writing. 22
- (5) If a direction or the revocation of a direction is given verbally under subsection (4)(b), written confirmation of the direction or revocation must be given to the person as soon as practicable. 23
- 26 **Cyber security directions** 24
- (1) While a declaration under section 24(1)(c) is in force, the Minister may, by written order, give a direction (a *cyber security direction*) to a person requiring the person to take the action the Minister considers reasonably necessary to— 25

(a)	respond to the impact of the incident on the person's information technology systems, or	1 2
(b)	prevent the incident having an impact on the person's information technology systems.	3 4
(2)	The Minister's written order under subsection (1) must include a copy of the Premier's declaration of the energy supply emergency under which the cyber security direction is given.	5 6 7
(3)	A cyber security direction—	8
(a)	has effect for the period specified in the direction, and	9
(b)	may be varied or revoked by a subsequent direction under this section.	10
27	Requirement to provide information	11
(1)	The Minister may, by written notice (an <i>information notice</i>), require a person to provide information for 1 or more of the following purposes—	12 13
(a)	to determine whether the supply of a form of energy or energy resources to the State or any part of the State has been, or is likely to be, disrupted to a significant degree,	14 15 16
(b)	to determine whether there is, or is likely to be, a cyber security incident affecting the effective supply of a form of energy or energy resources to the State or any part of the State,	17 18 19
(c)	to plan and prepare for the exercise of powers under this Part if the supply of a form of energy or energy resources is disrupted to a significant degree,	20 21 22
(d)	the administration or execution of this Part.	23
(2)	Without limitation, an information notice given to a person may require the person to provide the following information to the Minister—	24 25
(a)	information about a cyber security incident that the Minister reasonably believes affects the person,	26 27
(b)	the person's plan to respond to cyber security incidents,	28
(c)	information about the actions the person has taken, or intends to take, in response to a cyber security incident.	29 30
(3)	An information notice must specify—	31
(a)	the way the information must be provided, and	32
(b)	the reasonable time in which the information must be provided.	33
(4)	An information notice may be given whether or not a declaration of an energy supply emergency is in force.	34 35
(5)	A person must not—	36
(a)	without lawful excuse fail to comply with an information notice given to the person, or	37 38
(b)	provide information, in purported compliance with an information notice, that is false or misleading in a material respect.	39 40
	Maximum penalty—	41
(a)	for a corporation—2,000 penalty units, or	42
(b)	for an individual—100 penalty units.	43
(6)	In addition to service under section 43A, an information notice may be given to a person by—	44 45

(a)	email, to an email address specified by the person for the giving of information notices, or	1 2
(b)	another method authorised by the regulations for the giving of information notices.	3 4
27A	Disclosure of information provided to Minister	5
(1)	The Minister must not disclose information provided to the Minister under section 27 except—	6 7
(a)	with the consent of the person who provided the information, or	8
(b)	if the Minister is satisfied that the information is not confidential in nature, or	9 10
(c)	in connection with the administration or execution of this Act, or	11
(d)	to AEMO, or	12
(e)	to a person prescribed by the regulations for the purposes of this section, or	13 14
(f)	in accordance with a requirement under an Act or law.	15
(2)	The Minister may give a direction to a person to whom the Minister has given information under subsection (1) prohibiting or restricting the person from disclosing the information if the Minister is satisfied that it is appropriate to give the direction because of the confidential nature of the information.	16 17 18 19
(3)	A person must comply with a direction given to the person under subsection (2).	20 21
	Maximum penalty—	22
(a)	for a corporation—2,000 penalty units, or	23
(b)	for an individual—100 penalty units.	24
[3]	Section 28 Appointment of qualified person to investigate certain industrial matters	25
	Omit “an order is in force under section 26” from section 28(2).	26
	Insert instead “a declaration is in force under section 24”.	27
[4]	Section 28(2)(a)–(c)	28
	Omit the paragraphs. Insert instead—	29
(a)	the supply of a declared form of energy,	30
(b)	persons engaged in the supply of a declared form of energy,	31
(c)	the use of a declared form of energy.	32
[5]	Section 28(3)	33
	Omit “order under section 26”. Insert instead “declaration under section 24”.	34
[6]	Sections 29 and 30	35
	Omit the sections. Insert instead—	36
29	Disruption of supply	37
(1)	If a person is convicted of failing to comply with a direction given by the Minister under section 25, the Minister may direct the person to discontinue the supply of the declared form of energy.	38 39 40
(2)	A direction under subsection (1) ceases to have effect—	41

	(a) on the date determined by the Minister, or	1
	(b) when the relevant direction made by the Minister under section 25 ceases to have effect.	2 3
30	Failure to comply with Minister’s direction	4
	A person must not fail to comply with a direction given by the Minister under section 25, 26 or 29.	5 6
	Maximum penalty—	7
	(a) for a corporation—2,000 penalty units, or	8
	(b) for an individual—100 penalty units.	9
[7]	Section 32 Functions of inspectors	10
	Omit section 32(1). Insert instead—	11
	(1) The functions of an inspector under this section may be exercised only—	12
	(a) if a declaration of an energy supply emergency is in force under section 24, and	13 14
	(b) for the form of energy specified in the declaration.	15
[8]	Section 33 Obstruction etc of inspectors	16
	Omit the penalty provision from section 33(1). Insert instead—	17
	Maximum penalty—	18
	(a) for a corporation—200 penalty units, or	19
	(b) for an individual—50 penalty units.	20
[9]	Section 34H Payments out of Climate Change Fund	21
	Omit “hydrogen energy” wherever occurring in section 34H(1)(d1)(i) and (ii).	22
	Insert instead “hydrogen”.	23
[10]	Section 34N	24
	Insert after section 34M—	25
34N	Exemptions for electricity used by green hydrogen producers	26
	(1) A licensed distributor to which a contributions order applies must not recover charges from a person who buys electricity exempted under this section for the purpose of paying the annual contributions under a contributions order.	27 28 29
	(2) The Minister may, by order published in the Gazette, grant an exemption for electricity—	30 31
	(a) used by a specified person or class of persons, or	32
	(b) used in connection with a specified activity or class of activities.	33
	(3) The Minister may grant an exemption for electricity only if satisfied that the electricity is used to produce green hydrogen.	34 35
	(4) An exemption must specify whether it is a full or partial exemption.	36
	(5) If an exemption is a partial exemption, the order granting the exemption must specify, as a percentage or otherwise, the proportion of the electricity used by the person or class of persons, or in connection with the activity or class of activities, that is exempt.	37 38 39 40

- | | | |
|-----|---|--------------|
| (6) | The regulations may provide for— | 1 |
| (a) | the making of an application for an exemption, including the matters required to be addressed or included in an application, and | 2
3 |
| (b) | the matters the Minister must consider in determining whether to grant an exemption. | 4
5 |
| (7) | The regulations may make further provision in relation to whether electricity is taken to be used to produce green hydrogen. | 6
7 |
| (8) | Subject to the regulations, the Minister may determine the basis on which electricity is taken to be used to produce green hydrogen for the purposes of this section. | 8
9
10 |
| (9) | In this section— | 11 |
| | green hydrogen means hydrogen produced using renewable energy. | 12 |

Schedule 3 Amendment of Forestry Act 2012 No 96

[1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

renewable energy infrastructure means infrastructure for the generation and storage of energy from renewable sources, and includes associated transmission and distribution infrastructure.

[2] Section 59 Objectives of land manager of forestry area

Insert after section 59(1)—

- (1A) If the Corporation is the land manager of a forestry area used for forestry operations with trees of exotic coniferous species, the Corporation may facilitate the construction and operation of renewable energy infrastructure in the forestry area.

[3] Section 60 Forest permits for non-forestry uses

Omit section 60(1). Insert instead—

- (1) The land manager of a forestry area may, on payment of the fee determined by the land manager, issue a forest permit authorising the holder of the permit to use the area for—
- (a) the purposes specified in the permit, including recreational, sporting or commercial activities, and
 - (b) if the area is used for forestry operations with trees of exotic coniferous species—the construction and operation of renewable energy infrastructure.

Schedule 4	Amendment of Gas Supply Act 1996 No 38	1
[1] Section 5 Prohibition of unauthorised gas reticulation		2
Omit the penalty provision from section 5(1).		3
Insert instead—		4
Maximum penalty—5,000 penalty units.		5
[2] Section 9 Determination of applications		6
Omit section 9(1). Insert instead—		7
(1) The Minister may determine an application for an authorisation by—		8
(a) granting the application, or		9
(b) granting the application with the modifications the Minister considers appropriate, or		10
(c) refusing the application.		11
(1A) The Minister may determine an application for the transfer of an authorisation by—		12
(a) granting the application, or		13
(b) refusing the application.		14
(1B) When granting an application under subsection (1), with or without modifications, or subsection (1A), the Minister may impose conditions under section 11(1)(b).		15
		16
		17
		18
		19
[3] Section 13		20
Omit the section. Insert instead—		21
13 Enforcement of authorisations by the Minister		22
(1) If the Minister is satisfied that the holder of an authorisation has knowingly contravened a requirement of this Act, the regulations or the conditions of the authorisation, the Minister may do 1 or more of the following—		23
(a) impose a monetary penalty not exceeding \$250,000 on the holder of the authorisation,		24
(b) if the holder of the authorisation is a corporation, impose a monetary penalty not exceeding \$50,000 on a person who is a director of or concerned in the management of the corporation, but only if the Minister is satisfied that the person knowingly authorised or permitted the contravention,		25
(c) cancel the authorisation.		26
(2) Nothing in this section prevents an authorisation from being cancelled at the request of the authorisation holder.		27
		28
		29
		30
		31
		32
		33
		34
		35
[4] Section 13A Enforcement of authorisations by Tribunal		36
Omit “\$10,000” from section 13A(6). Insert instead “\$20,000”.		37
[5] Section 15		38
Omit the section. Insert instead—		39

15 Annual authorisation fees	1
(1) It is a condition of an authorisation that the holder of the authorisation must pay an annual authorisation fee determined by the Minister.	2 3
(2) The annual authorisation fee must be paid by the holder of the authorisation by the date and in the way specified by the Minister by written notice to the holder.	4 5 6
[6] Section 34 Prohibition of unlicensed distribution of LPG and other gases	7
Omit the penalty provision. Insert instead—	8
Maximum penalty—5,000 penalty units.	9
[7] Section 38 Determination of applications	10
Omit section 38(1). Insert instead—	11
(1) The Minister may determine an application for a licence by—	12
(a) granting the application, or	13
(b) granting the application with the modifications the Minister considers appropriate, or	14 15
(c) refusing the application.	16
(1A) The Minister may determine an application for the transfer of a licence by—	17
(a) granting the application, or	18
(b) refusing the application.	19
(1B) When granting an application under subsection (1), with or without modifications, or subsection (1A), the Minister may impose conditions under section 40(1)(b).	20 21 22
[8] Section 42	23
Omit the section. Insert instead—	24
42 Enforcement of licences by the Minister	25
(1) If the Minister is satisfied that the holder of a licence has knowingly contravened a requirement of this Act, the regulations or the conditions of the licence, the Minister may do 1 or more of the following—	26 27 28
(a) impose a monetary penalty not exceeding \$250,000 on the holder of the licence,	29 30
(b) if the licence holder is a corporation—impose a monetary penalty not exceeding \$50,000 on a person who is a director of or concerned in the management of the corporation, but only if the Minister is satisfied that the person knowingly authorised or permitted the contravention,	31 32 33 34
(c) cancel the licence.	35
(2) Nothing in this section prevents a licence from being cancelled at the request of the licence holder.	36 37
[9] Section 42A Enforcement of licences by Tribunal	38
Omit “\$10,000” from section 42A(6). Insert instead “\$20,000”.	39
[10] Section 44	40
Omit the section. Insert instead—	41

44 Annual licence fees	1
(1) It is a condition of a licence that the holder of the licence must pay an annual licence fee determined by the Minister.	2 3
(2) The annual licence fee must be paid by the holder of the licence by the date and in the way specified by the Minister by written notice to the holder.	4 5
[11] Sections 50–50AB	6
Omit section 50. Insert instead—	7
50 Obstruction of gas works	8
(1) This section applies if a network operator has reasonable cause to believe that—	9 10
(a) a structure or thing situated in, on or near the operator’s gas works is destroying, damaging or interfering with the gas works, or	11 12
(b) there is a material risk that a structure or thing situated in, on or near the operator’s gas works could destroy, cause damage to, or interfere with the gas works.	13 14 15
(2) The network operator may—	16
(a) give written notice to the person having control of the structure or thing requiring the person to modify or remove the structure or thing, or	17 18
(b) in an emergency—	19
(i) modify or remove the structure or thing itself, or	20
(ii) move the gas works away from the structure or thing.	21
(3) A notice under subsection (2)(a)—	22
(a) must specify—	23
(i) the work to be carried out, and	24
(ii) a reasonable time within which the work must be carried out, and	25
(b) may allow the person to elect to have the network operator move the gas works away from the structure or thing.	26 27
(4) If a person given a notice under subsection (2)(a) fails to carry out the work in accordance with the notice, the network operator may carry out the work.	28 29
(5) A network operator may apply for an injunction to prevent a structure or thing being placed in, on or near the operator’s gas works.	30 31
50AA Responsibility to pay for removing obstruction of gas works	32
(1) Work undertaken by the person having control of the structure or thing in accordance with a notice given under section 50(2)(a) must be carried out at the expense of the person.	33 34 35
(2) If the network operator carries out work under section 50(4) or following an election under section 50(3)(b), the cost of carrying out the work and repairing any damage caused to the operator’s gas works by the structure or thing may be recovered by the operator in a court of competent jurisdiction as a debt owing to the operator by the person in control of the structure or thing.	36 37 38 39 40
(3) Despite subsection (2), a network operator may not recover costs associated with work carried out under section 50—	41 42
(a) if the structure or thing was—	43

(i)	lawfully placed or constructed before the installation of the gas works, or	1 2
(ii)	placed or constructed with the consent of the network operator, or	3
(b)	if the work was undertaken due to a material risk that a structure or thing situated in, on or near the operator's gas works could destroy, cause damage to, or interfere with those works, and the structure or thing was lawfully placed or constructed—	4 5 6 7
(a)	after the installation of the gas works, and	8
(b)	before the commencement of section 50(1)(b) as inserted by the <i>Energy Legislation Amendment Act 2021</i> .	9 10
50AB	Responsibility to pay for repairs to gas works	11
(1)	A person issued with a notice under section 50(2)(a) must pay the reasonable costs incurred by the network operator to repair damage to the gas works caused by—	12 13 14
(a)	the structure or thing, and	15
(b)	the removal or modification of the structure or thing.	16
(2)	If a network operator takes action under section 50(2)(b) to modify or remove a structure or thing, the person having control of the structure or thing must pay the reasonable costs incurred by the network operator to repair damage to the gas works caused by the structure or thing.	17 18 19 20
(3)	Despite subsections (1) and (2), a network operator may not recover the cost of repairing damage to the operator's gas works—	21 22
(a)	if the structure or thing was—	23
(i)	lawfully placed or constructed before the installation of the gas works, or	24 25
(ii)	placed or constructed with the consent of the network operator, or	26
(b)	if the work is undertaken due to a material risk that a structure or thing situated in, on or near the operator's gas works could destroy, cause damage to, or interfere with those works, and the structure or thing was lawfully placed or constructed—	27 28 29 30
(a)	after the installation of the gas works, and	31
(b)	before the commencement of section 50(1)(b) as inserted by the <i>Energy Legislation Amendment Act 2021</i> .	32 33
(4)	The costs payable under this section may be recovered by the operator in a court of competent jurisdiction as a debt owing to the operator by the person in control of the structure or thing.	34 35 36
[12]	Sections 65, 67, 68, 69, 70 and 71	37
	Omit the penalty provision wherever occurring.	38
	Insert instead—	39
	Maximum penalty—	40
(a)	for a corporation—2,000 penalty units, or	41
(b)	for an individual—100 penalty units.	42
[13]	Section 72 Obstruction of inspectors	43
	Omit the penalty provision.	44
	Insert instead—	45

Maximum penalty—	1
(a) for a corporation—500 penalty units, or	2
(b) for an individual—50 penalty units.	3
[14] Section 72A	4
Insert after section 72—	5
72A Cyber security requirements	6
(1) The regulations may make provision for the following—	7
(a) the adoption and implementation by a network operator of policies and procedures for managing cyber security risks and responding to cyber security incidents,	8 9 10
(b) the external review and accreditation of a network operator’s policies and procedures for managing cyber security risks and responding to cyber security incidents.	11 12 13
(2) Without limiting subsection (1), the regulations may require a network operator’s policies and procedures to address the following matters—	14 15
(a) notifying the Secretary of cyber security incidents,	16
(b) the process for auditing the network operator’s implementation and compliance with the policies and procedures, including reporting the audit result to the Secretary.	17 18 19
[15] Section 76A	20
Insert after section 76—	21
76A Cyber security directions	22
(1) The Minister may, by written order, give a direction (a <i>cyber security direction</i>) to a network operator requiring the operator to take the action the Minister considers reasonably necessary to—	23 24 25
(a) respond to the impact of a cyber security incident on the operator’s information technology systems, or	26 27
(b) prevent a cyber security incident having an impact on the operator’s information technology systems.	28 29
(2) A copy of the Minister’s written order under subsection (1) must be given to each network operator to whom the direction applies.	30 31
(3) A cyber security direction—	32
(a) operates for the period specified in the direction, and	33
(b) may be varied or revoked by a subsequent direction under this section.	34
(4) A person given a cyber security direction must comply with the direction.	35
Maximum penalty—	36
(a) in the case of a corporation—2,000 penalty units, or	37
(b) for an individual—100 penalty units.	38
[16] Section 83 Regulations	39
Omit section 83(6). Insert instead—	40
(6) A regulation may create an offence punishable by a penalty not exceeding—	41
(a) for a corporation—10,000 penalty units, or	42

(b)	for an individual—5,000 penalty units.	1
[17]	Schedule 2 Savings, transitional and other provisions	2
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	3
	Part Provisions consequent on enactment of Energy Legislation Amendment Act 2021	4
	Definition	6
	In this Part—	7
	<i>amending Act</i> means the <i>Energy Legislation Amendment Act 2021</i> .	8
	Applications for authorisation or transfer of authorisation	9
	Section 9, as amended by the amending Act, applies to an application for an authorisation or transfer of an authorisation made, but not finally determined, before the commencement of the amendment.	10 11 12
	Applications for licence or transfer of licence	13
	Section 38, as amended by the amending Act, applies to an application for a licence or transfer of a licence made, but not finally determined, before the commencement of the amendment.	14 15 16
[18]	Dictionary	17
	Omit the definition of <i>natural gas</i> .	18
	Insert in alphabetical order—	19
	<i>cyber security incident</i> means acts, events or circumstances involving, or likely to involve, 1 or more of the following—	20 21
	(a) unauthorised access to computer data or a computer program,	22
	(b) unauthorised modification of computer data or a computer program,	23
	(c) unauthorised impairment of electronic communication to or from a computer,	24 25
	(d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.	26 27
	<i>natural gas</i> means a substance prescribed by the regulations for the purposes of this definition.	28 29

Schedule 5	Amendment of Pipelines Act 1967 No 90	1
[1] Section 3 Definitions		2
	Insert in alphabetical order in section 3(1)—	3
	<i>cyber security incident</i> means acts, events or circumstances involving, or likely to involve, 1 or more of the following—	4
	(a) unauthorised access to computer data or a computer program,	5
	(b) unauthorised modification of computer data or a computer program,	6
	(c) unauthorised impairment of electronic communication to or from a computer,	7
	(d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.	8
[2] Section 5A Minister may require certain pipelines to be licensed		9
	Omit section 5A(3). Insert instead—	10
	(3) An order under subsection (2) takes effect on—	11
	(i) the date specified in the order, or	12
	(ii) if the order does not specify a date—the date the order is published in the Gazette.	13
[3] Sections 5B(3), 48(2) and 49(2)		14
	Omit the penalty provision wherever occurring.	15
	Insert instead—	16
	Maximum penalty—	17
	(a) for a corporation—2,000 penalty units, or	18
	(b) for an individual—400 penalty units.	19
[4] Sections 11, 26 and 27		20
	Omit the penalty provision wherever occurring.	21
	Insert instead—	22
	Maximum penalty—	23
	(a) for a corporation—2,000 penalty units, or	24
	(b) for an individual—400 penalty units.	25
[5] Section 15 Conditions of licence		26
	Omit section 15(1). Insert instead—	27
	(1) A licence is subject to the following conditions—	28
	(a) the conditions imposed by this Act and the regulations,	29
	(b) conditions, not inconsistent with conditions imposed under paragraph (a), imposed on the licence by the Minister.	30
[6] Sections 16–16B		31
	Insert after section 15—	32
	16 Cyber security requirements	33
	(1) The regulations may make provision for the following—	34

(a)	the adoption and implementation by a licensee of policies and procedures for managing cyber security risks and responding to cyber security incidents,	1 2 3
(b)	the external review and accreditation of a licensee’s policies and procedures for managing cyber security risks and responding to cyber security incidents.	4 5 6
(2)	Without limiting subsection (1), the regulations may require a licensee’s policies and procedures to address the following matters—	7 8
(a)	notifying the Secretary of cyber security incidents,	9
(b)	the process for auditing the licensee’s implementation and compliance with the policies and procedures, including reporting the audit result to the Secretary.	10 11 12
16A	Cyber security directions	13
(1)	The Minister may, by written order, give a direction (a <i>cyber security direction</i>) to a licensee requiring the licensee to take action the Minister considers reasonably necessary to—	14 15 16
(a)	respond to the impact of a cyber security incident on the licensee’s information technology systems, or	17 18
(b)	prevent a cyber security incident having an impact on the licensee’s information technology systems.	19 20
(2)	A cyber security direction—	21
(a)	has effect for the period specified in the direction, and	22
(b)	may be varied or revoked by a subsequent direction under this section.	23
(3)	A person given a cyber security direction must comply with the direction.	24
	Maximum penalty—	25
(a)	for a corporation—2,000 penalty units, or	26
(b)	for an individual—100 penalty units.	27
16B	Licence conditions—cyber security	28
	It is a condition of a licence that the licensee must—	29
(a)	adopt and implement policies and procedures that comply with the regulations made under section 16, and	30 31
(b)	comply with a cyber security direction given under section 16A.	32
[7]	Section 20 Plan to be lodged with Registrar-General	33
	Omit “and in the instrument specify the charges and expenses incurred by the Registrar-General in relation to the registration of the plan and the recording of the instruments” from section 20(2)(b).	34 35 36
[8]	Section 21A Extinguishment of easements etc after variation of licence area	37
	Omit “10 penalty units” from the penalty provision in section 21A(3).	38
	Insert instead “20 penalty units”.	39
[9]	Section 23 Directions as to the conveyance of substances	40
	Omit the penalty provision from section 23(6). Insert instead—	41
	Maximum penalty—	42

	(a) for a corporation—1,000 penalty units, or	1
	(b) for an individual—200 penalty units.	2
[10]	Section 24 Ceasing to operate pipeline	3
	Omit the penalty provision from section 24(1). Insert instead—	4
	Maximum penalty—	5
	(a) for a corporation—1,000 penalty units, or	6
	(b) for an individual—200 penalty units.	7
[11]	Sections 28(3) and 35(4)	8
	Omit “40 penalty units” wherever occurring. Insert instead “\$250,000”.	9
[12]	Section 31B Evidence at inquiry	10
	Omit the penalty provision wherever occurring in section 31B(3) and (4). Insert instead—	11
	Maximum penalty—	12
	(a) for a corporation—2,000 penalty units, or	13
	(b) for an individual—400 penalty units.	14
[13]	Section 37 Licence fees	15
	Omit section 37(1). Insert instead—	16
	(1) It is a condition of a licence that the licensee must pay an annual licence fee determined by the Minister.	17 18
[14]	Section 46 True consideration to be shown	19
	Omit the penalty provision. Insert instead—	20
	Maximum penalty—	21
	(a) for a corporation—2,000 penalty units, or	22
	(b) for an individual—400 penalty units.	23
[15]	Section 59 Inspectors	24
	Omit “2 penalty units” from section 59(3). Insert instead “10 penalty units”.	25
[16]	Section 60A Stop notices	26
	Omit the penalty provision. Insert instead—	27
	Maximum penalty—	28
	(a) for a corporation—150 penalty units, or	29
	(b) for an individual—30 penalty units.	30
[17]	Section 68 Prosecution of offences	31
	Omit section 68(1) and (2). Insert instead—	32
	(1) This section applies to the following offences under this Act—	33
	(a) an offence punishable by a maximum fine of—	34
	(i) for a corporation—more than 100 penalty units, or	35
	(ii) for an individual—more than 50 penalty units,	36
	(b) an offence punishable by a fine for each day on which the offence continues.	37 38

- (2) The maximum fine the Local Court may impose for an offence to which this section applies is—
 - (a) for a corporation—100 penalty units, or
 - (b) for an individual—50 penalty units.

[18] Section 69 Regulations

Omit section 69(2). Insert instead—

- (2) The regulations may create an offence punishable by a penalty not exceeding—
 - (a) for a corporation—10,000 penalty units or 10,000 penalty units for each day on which the offence occurs, or
 - (b) for an individual—5,000 penalty units or 5,000 penalty units for each day on which the offence occurs.