

Queensland



Subordinate Legislation 1998 No. 17

Electricity Act 1994

**ELECTRICITY LEGISLATION AMENDMENT
REGULATION (No. 1) 1998**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Electricity Legislation Amendment Regulation (No. 1) 1998*.

PART 2—AMENDMENT OF ELECTRICITY REGULATION 1994

Regulation amended in pt 2

2. This part amends the *Electricity Regulation 1994*.

Replacement of ch 4, pt 5 (Contestable customers)

3. Chapter 4, part 5—

omit, insert—

‘PART 5—CONTESTABLE CUSTOMERS

‘Division 1—Large consumption customers

‘Meaning of “approved supply”

‘248T. In this division, an “**approved supply**” means a supply of electricity to a customer’s premises by a supplier if, before 1 July 1997, the supplier—

- (a) supplied electricity to the premises; and
- (b) charged, or had agreed to charge, the customer for the supply on the basis of the combined consumption of electricity at more than 1 connection.

‘Meaning of “connection” and “approved connections”

‘248TA.(1) In this division, a **“connection”** for the supply of electricity to a customer at the customer’s premises, means—

- (a) if a customer is supplied directly from a transmission entity’s¹ transmission network—the place at which the electricity last leaves the transmission entity’s transmission network before being supplied to the premises; or
- (b) if a customer is not supplied directly from a transmission entity’s transmission network—the place at which the electricity last leaves the distribution entity’s supply network before being supplied to the premises.

‘(2) Subsection (1) applies whether the electricity leaves through single or multiple electrical lines.

‘(3) In this division, **“approved connections”** are the connections that formed the basis of the combined consumption of electricity at more than 1 connection for an approved supply.

‘(4) In this section—

“distribution entity” means the distribution entity in whose distribution area the connection for the supply is located.

“supply network” does not include facilities or works owned or operated by a person other than the distribution entity through which the electricity passes.

“transmission network” does not include facilities or works owned or operated by a person other than the transmission entity through which the electricity passes.

‘More than 40 GWh in a consumption period

‘248TB.(1) A customer is declared to be a contestable customer for the customer’s premises if the total consumption for the premises in a consumption period is more than 40 GWh.

¹ Section 29 (Transmission entities) of the Act defines a transmission entity as “a person who holds a transmission authority”.

‘(2) During the first year from the commencement of this section, the declaration only takes effect—

- (a) if a customer has given signed notice to the Minister before the commencement that the customer elects to become a contestable customer—on 29 March 1998; or
- (b) if a customer gives signed notice to the Minister on or after the commencement but on or before 29 March 1998 that the customer elects to become a contestable customer—on 29 March 1998; or
- (c) if a customer gives signed notice to the Minister after 29 March 1998 that the customer elects to become a contestable customer—on the later of—
 - (i) the day the customer gives the notice; or
 - (ii) the day stated in the notice.

‘(3) If the declaration has not already taken effect under subsection (2), it takes effect on the later of the following—

- (a) the end of the consumption period mentioned in subsection (1);
- (b) 1 year from the commencement.

‘(4) The declaration continues even if total consumption in a later consumption period is less than 40 GWh.

‘(5) In this section—

“**consumption period**” means any period of 1 year that began or begins on any day from 1 July 1996.

“**total consumption**” means the electricity, decided by a person authorised by the Minister, taken by the premises as follows—

- (a) if the premises had only 1 connection—the connection;
- (b) if the premises had more than 1 connection and the supply of electricity was an approved supply—the approved connections.

‘Data used to measure consumption

‘248TC. For section 248TB, electricity taken from a connection by the

premises must be worked out from data collected from a meter for the connection.

‘Estimated future consumption more than 40 GWh

‘248TD.(1) A customer is declared to be a contestable customer for a premises if the estimated total consumption for the premises in a future consumption period is more than 40 GWh.

‘(2) During the first year from the commencement of this section—

- (a) if a customer has given signed notice to the Minister before the commencement that the customer elects to become a contestable customer—on 29 March 1998; or
- (b) if a customer gives signed notice to the Minister on or after the commencement but on or before 29 March 1998 that the customer elects to become a contestable customer—on 29 March 1998; or
- (c) if a customer gives signed notice to the Minister after 29 March 1998 that the customer elects to become a contestable customer—on the later of—
 - (i) the day the customer gives the notice; or
 - (ii) the day stated in the notice.

‘(3) If the declaration has not already taken effect under subsection (2), it takes effect on the later of the following—

- (a) the start of the future consumption period mentioned in subsection (1);
- (b) 1 year from the commencement.

‘(4) The declaration continues even if actual total consumption in a consumption period after the future consumption period is less than 40 GWh.

‘(5) In this section—

“estimated total consumption” means the electricity, estimated by a person authorised by the Minister, likely to be taken by the premises as follows—

- (a) if the premises had only 1 connection—the connection;
- (b) if the premises had more than 1 connection and the supply of electricity was an approved supply—the approved connections.

“future consumption period” means any period of 1 year, whether beginning before, on or after the commencement, that has not ended.

‘Division 2—Contestable customers in NorthPower’s area

‘Contestable customers in NorthPower’s area

‘248TE.(1) A customer is declared to be a contestable customer for premises of the customer if—

- (a) the premises are within NorthPower’s area; and
- (b) the customer would, if the premises were in New South Wales, be a ‘non-franchise customer’ under any order in force under the *Electricity Supply Act 1995* (NSW), section 92(1).²

‘(2) For the purpose of deciding whether a person is a contestable customer under subsection (1), a function or power under an order may be exercised by—

- (a) a person given a corresponding function or power under the Act;
or
- (b) if no person has a corresponding function or power under the Act—the Minister or a person appointed by the Minister.

² The *Electricity Supply Act 1995* (NSW), section 92(1) provides—

‘(1) The Minister may, by order published in the Gazette, declare any specified person, or any specified class of persons, to be non-franchise customers for the purposes of this Act.’.

‘Division 3—Other contestable customers

‘Sun Metals Corporation Pty Ltd

‘248TF. Sun Metals Corporation Pty Ltd (ACN 074241982) is declared to be a contestable customer at the Townsville zinc smelter.

‘Division 4—Resolving disputes about contestability

‘Dispute resolution

‘248TG.(1) This section applies if there is dispute, about whether a customer is a contestable customer under this part.

‘(2) The customer may ask the Minister, or a person appointed by the Minister, (the **“dispute resolver”**) to resolve the dispute.

‘(3) The dispute resolver may—

- (a) give instructions about procedures the parties to the dispute must follow to attempt to resolve the dispute before the dispute resolver attempts to resolve it; or
- (b) require a party to give the dispute resolver information the dispute resolver considers necessary to enable the dispute to be resolved.

‘(4) The dispute resolver must give each party a reasonable opportunity to make representations before making the decision.

‘(5) After considering any representations, the dispute resolver must decide whether the customer is a contestable customer.

‘(6) The dispute resolver must inform the parties of the decision by written notice stating the—

- (a) decision; and
- (b) reasons for the decision.

‘Dispute resolver may seek advice or information

‘248TH.(1) This section applies if, under section 248TG(2), a dispute resolver has been asked to resolve a dispute.

‘(2) To help resolve the dispute, the dispute resolver may seek advice or information from any other person.

Example—

If there is a dispute under section 248TE(1)(b) about whether the customer would be a non-franchise customer under the New South Wales law mentioned in that section, the dispute resolver may seek advice or information to help resolve the dispute from—

- (a) the department; or
- (b) a department of government of New South Wales that administers the New South Wales law.

‘(3) The dispute resolver may take the advice or information into account in deciding whether the customer is a contestable customer.

‘(4) If the dispute resolver seeks information or advice or takes into account advice or information the dispute resolver has been given for any other dispute, the dispute resolver must—

- (a) if the advice or information is written—give a copy of it to the parties; or
- (b) if the advice or information is oral—disclose the substance of the advice to the parties.

‘Parties to maintain secrecy of advice or information

‘**248TL(1)** This section applies if under section 248TH(4) the dispute resolver gives advice or information, or discloses the substance of the advice or information, to a person who is a party to the dispute.

‘(2) The person must not disclose the advice or information to another person unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

‘(3) It is a reasonable excuse for a person to disclose the advice or information if the disclosure is for—

- (a) the resolution of the dispute; or
- (b) an appeal against the dispute resolver’s decision on the dispute.

‘Decision binding

‘**248TJ.(1)** The dispute resolver’s decision under section 248TH binds each party to the dispute.

‘**(2)** A party may not apply for a review of, or appeal against, the order other than under the *Judicial Review Act 1991*.’

**PART 3—REPEAL OF ELECTRICITY AMENDMENT
REGULATION (No. 8) 1997****Repeal**

4. The *Electricity Amendment Regulation (No. 8) 1997* is repealed.

ENDNOTES

1. Made by the Governor in Council on 26 February 1998.
2. Notified in the gazette on 27 February 1998.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Mines and Energy.