

Energy and Water Ombudsman (Prescribed Energy Entities) Amendment Regulation 2021

Explanatory notes for Subordinate Legislation 2021 No.182

made under the

Energy and Water Ombudsman Act 2006

General Outline

Short title

Energy and Water Ombudsman (Prescribed Energy Entities) Amendment Regulation 2021

Authorising law

Sections 7, 67, 68, 69A and 83 of the *Energy and Water Ombudsman Act 2006*.

Policy objectives and the reasons for them

The first policy objective of the amendment regulation is to prescribe identified 'exempt sellers', 'exempt network operators', and 'individual exemption holders' (who sell electricity to residential embedded network customers) as 'prescribed energy entities' for the purposes of the *Energy and Water Ombudsman Act 2006* (the EWO Act). Once this occurs, residential customers of 'exempt sellers', 'exempt network operators', and 'individual exemption holders' will be able to access the free, energy-specific dispute resolution services provided by the Energy and Water Ombudsman Queensland (EWOQ).

The second policy objective of the amendment regulation is to clarify that entities who have been granted a retailer authorisation from the Australian Energy Retailer (AER) allowing them to on-sell electricity to embedded network customers in Queensland (note: they are not 'exempt sellers', 'exempt network operators' or 'individual exemption holders'), are considered to be 'scheme participants' for the purposes of the EWO Act by prescribing them as 'prescribed energy entities' for the purposes of the EWO Act. This amendment will remove the ambiguity that currently exists in the legislation and will ensure that customers of a retailer that is authorised to on-sell electricity to customers in an embedded network can access the services of the EWOQ.

The third policy objective of the amendment regulation is to prescribe the fees payable by the 'prescribed energy entities' to EWOQ and ensure the fees payable reflect the 'prescribed energy entity's' ability to pay.

Achievement of policy objectives

The amendment regulation achieves the policy objectives by prescribing 'prescribed energy entities' and the associated fee schedule for these entities in the *Energy and Water Ombudsman (Prescribed Energy Entities) Regulation 2007*.

For those 'prescribed energy entities' who have 2,000 or fewer residential customers, the fees will be set at \$0 for at least the first 12 months so that EWOQ can monitor and collect data to support a future fee scheme.

For 'prescribed energy entities' who have more than 2,000 residential customers, or, who have been granted retailer authorisation from the AER allowing them to on-sell electricity to residential embedded network customers in Queensland, the participation fees will be equivalent to the fees payable by standard EWOQ scheme participants.

For 'prescribed energy entities' who have more than 2,000 residential customers, or, who have been granted retailer authorisation from the AER allowing them to on-sell electricity to residential embedded network customers in Queensland, the user-pays fees have been set at \$0 for at least the first 12 months so that EWOQ can monitor and collect data to support a future fee scheme.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the EWO Act, which is to ensure all residential energy customers have access to the free, independent, energy-specific dispute resolution services provided by EWOQ.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Prescribing 'prescribed energy entities' and relevant fees in the *Energy and Water Ombudsman Regulation 2007* is the only way for the policy objectives to be achieved.

Benefits and costs of implementation

Implementation of the amendment regulation is not expected to incur additional costs for government departments. The amendment regulation will not substantially increase the financial burden on the community.

A more detailed cost benefit analysis can be found in the *Dispute resolution for residential embedded network customers: Regulatory impact statement – September 2021*.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

A regulation is the more appropriate regulatory vehicle to ensure the scope of the Energy and Water Ombudsman's jurisdiction remains flexible and adaptable because:

- the level of detail that may be required to prescribe a new scheme participant is likely to be of a technical or detailed nature that is unsuitable for parliamentary consideration; and
- given the rapid rate of change in commercial and technological advances in the energy sector, it is important that new categories of scheme participant can be prescribed in a timely and efficient manner to ensure Queensland consumers remain protected.

Consultation

In October 2019, the government released a Consultation Regulatory Impact Statement (consultation RIS) to seek stakeholder feedback on an appropriate fee structure for 'exempt sellers' that would allow Queensland residential embedded network customers access to the dispute resolution services of the Energy Ombudsman.

All interested parties were invited to make a submission in response to the consultation RIS. The consultation period was open from 25 October 2019 until 31 January 2020 when the submission period closed. Twenty-one submissions were received from a range of stakeholders, including EWOQ, embedded network peak bodies, consumer groups and individuals.

The Office of Best Practice Regulation was consulted and assessed the decision RIS as being compliant with the requirements under the *Queensland Government Guide to Better Regulation*.

In September 2021, the decision RIS was published on the Department of Energy and Public Works and the Queensland Treasury website.

The EWOQ was consulted on the proposed amendment regulation.