

National Energy Retail Law (Queensland) (Transitional) Regulation 2015

Explanatory notes for SL 2015 No. 34

made under the

National Energy Retail Law (Queensland) Act 2014

General Outline

Short title

National Energy Retail Law (Queensland) (Transitional) Regulation 2015

Authorising law

Section 29 of the *National Energy Retail Law (Queensland) Act 2014* (NERLQ Act)

Policy objectives and the reasons for them

The policy objective of the *National Energy Retail Law (Queensland) (Transitional) Regulation 2015* (the Transitional Regulation) is to preserve the current legislative requirement with respect to the payment of the regulated solar feed-in tariff (FiT) in Queensland.

Currently, retailers in South East Queensland (SEQ) can offer a voluntary FiT to eligible solar customers and are not required to pay the regulated rate determined by the Queensland Competition Authority. The obligation to pay the regulated FiT only applies to Ergon Energy Queensland Pty Ltd (Ergon) for regional Queensland, and Origin Energy Electricity Ltd (Origin), in respect of its small retail area around Goondiwindi.

For the purpose of the Transitional Regulation, the relevant provisions pertaining to the retailer obligation to pay the regulated FiT are contained in sections 92 and 55DBA of the *Electricity Act 1994* (the Electricity Act).

Section 50A of the *Electricity Competition and Protection Legislation Amendment Act 2014* (ECPLA Act) amends section 92 of the Electricity Act to insert new definitions with respect to the solar FiT. Section 29A of the ECPLA Act also makes consequential amendments to section 55DBA of the Electricity Act to reflect the new terms. The purpose of these amendments is to ensure consistency with the NERLQ Act and maintain the current approach to the regulated solar FiT.

As a result of the Queensland Government decision to delay the commencement of retail electricity price deregulation in SEQ for 12 months, section 29A(2) and parts of sections 50A and 97 of the ECPLA Act will also be deferred. This will be achieved via an amendment to the proclamation for the ECPLA Act. Additionally, to preserve the current legislative approach to the payment of the regulated solar FiT, a transitional regulation will be made. The purpose of the Transitional Regulation is to prescribe the retail entities that are obliged to pay the regulated FiT to eligible solar customers under section 92 of the Electricity Act, namely Ergon Energy and Origin Energy, in respect of its small retail area around Goondiwindi. This approach maintains consistency with the retail entities prescribed in section 30AC of the *Electricity Regulation 2006*.

Achievement of policy objectives

The Transitional Regulation will achieve the policy objective by preserving the current legislative approach to the payment of the regulated solar FiT and ensuring consistency with the NERLQ Act, which commences on 1 July 2015.

Consistency with policy objectives of authorising law

The Transitional Regulation is consistent with the policy objectives of the NERLQ Act.

Inconsistency with policy objectives of other legislation

The Transitional Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternate means to achieve the policy objectives effectively.

Benefits and costs of implementation

The Transitional Regulation maintains the current approach to payment of the regulated FiT and does not increase the regulatory burden on industry.

There will be no new or additional costs to Government due to the Regulation.

Consistency with fundamental legislative principles

The Transitional Regulation is generally consistent with the Fundamental Legislative Principles (FLP) outlined in the *Legislative Standards Act 1992*. A potential FLP breach is addressed below.

The Transitional Regulation potentially breaches the principle that legislation should have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992*, subsection 4(2)(b).

Section 29(1) of the NERLQ Act provides a transitional regulation-making power.

The Transitional Regulation is considered to have sufficient regard to the institution of Parliament as the proposed clauses are limited to the facilitation of a transitional arrangement to preserve the current legislative approach to the payment of the regulated FiT under sections 92 and 55DBA of the Electricity Act. The transitional regulation will expire in one year.

Consultation

No consultation has been undertaken with the community or industry stakeholders in relation to the Transitional Regulation.

Consultation has occurred with the Office of Best Practice Regulation (OBPR) in the Queensland Competition Authority. The OBPR has advised a Regulatory Impact Statement is not required, as the Transitional Regulation is consequential in nature.