



## **Express law** *fast track information for clients*

7 July 2005

### **Commencement of new national electricity legislation**

**The new National Electricity Law, Rules and Regulations commenced on 1 July 2005.**

**This legislation amends the cooperative scheme for electricity which establishes a wholesale exchange for participants in the National Electricity Market and an open access regime for transmission and distribution networks.**

#### ***The old scheme***

---

The old scheme for electricity market regulation came into operation in December 1998.

- The lead legislation is the *National Electricity (South Australia) Act 1996* of South Australia.
- The old National Electricity Law (NEL) was a schedule to that Act.
- The old National Electricity Code was in force under the NEL, and provided the detail of the regulatory regime.
- The NEL was picked up and applied by Application Acts in each of the other participating jurisdictions, namely New South Wales, Victoria, Queensland, and the Australian Capital Territory.

#### ***The new scheme***

---

A [new NEL](#), which commenced operation on 1 July 2005, replaces the old NEL. The new NEL has been substantially revised in this process. [New National Electricity Rules](#) replace the old Code, though the new Rules are in much the same form as the old Code. The new NEL and Rules confer functions on two new statutory bodies, the Australian Energy Market Commission and the Australian Energy Regulator.

#### **Australian Energy Market Commission (AEMC)**

- The AEMC is established by the [Australian Energy Market Commission Establishment Act 2004](#) of South Australia.
- The AEMC will be responsible for making and amending the National Electricity Rules, taking over the role previously exercised by the National Electricity Code Administrator.
- The inaugural Chair of the AEMC is Dr John Tamblyn and the two other commissioners are Ms Liza Carver and Mr Ian Woodward.

#### **Australian Energy Regulator (AER)**

- The AER is a Commonwealth regulator established by [amendments to the Trade Practices Act 1974](#).

- The AER will take over the economic regulatory functions previously exercised by the Australian Competition and Consumer Commission and the market rule enforcement functions previously exercised by the National Electricity Code Administrator, under the old NEL and Code.
- The inaugural Chair of the AER is Mr Steve Edwell and the two other members are Mr Geoffrey Swier and Mr Edward Willett.

### **Commonwealth will be a participating jurisdiction**

Also for the first time, the Commonwealth will be a participating jurisdiction in the National Electricity Market. The Commonwealth will pick up and apply the new NEL, Rules and Regulations as laws of the Commonwealth in the offshore 'adjacent areas'. Tasmania has also joined the scheme.

### **Associated regulations for existing access undertakings**

To coincide with these changes to national electricity legislation, the [Australian Energy Market Regulations 2005](#) have also been made under the Commonwealth *Australian Energy Market Act 2004*. These Regulations confirm the continued operation of existing access undertakings given by electricity network service providers under section 44ZZA of the *Trade Practices Act 1974*.

### ***More reforms to come***

---

These reforms are part of broader reforms being made to national energy regulation as set out in the Council of Australian Governments' *Australian Energy Market Agreement 2004* (AEMA). In due course, the reforms will also confer functions on the AER and AEMC in relation to gas, and make changes to electricity retail regulation. You can obtain a copy of the AEMA or further information about energy reform (and subscribe to regulator email bulletins on energy reform) at the [Ministerial Council on Energy website](#).

AGS was closely involved in advising the Department of Industry, Tourism and Resources on formulating the new national electricity legislation, and continues to advise on energy reform.

*For further information please contact:*

Robert Orr QC  
Deputy General Counsel  
T 02 6253 7129 F 02 6253 7304  
[robert.orr@ags.gov.au](mailto:robert.orr@ags.gov.au)

Tim Gordon  
Lawyer  
T 02 6276 1009 F 02 6276 7110  
[tim.gordon@ags.gov.au](mailto:tim.gordon@ags.gov.au)

Graeme Hill  
Senior Lawyer  
T 02 6253 7080 F 02 6253 7303  
[graeme.hill@ags.gov.au](mailto:graeme.hill@ags.gov.au)

---

**Important: The material in *Express law* is provided to clients as an early, interim view for general information only, and further analysis on the matter may be prepared by AGS. The material should not be relied upon for the purpose of a particular matter. Please contact AGS before any action or decision is taken on the basis of any of the material in this message.**

This message may contain confidential or legally privileged information. Only the addressee has the right to use or disseminate this information. If you think it was sent to you by mistake, please delete all copies and advise the sender. For the purposes of the *Spam Act 2003*, this email is authorised by AGS. Find out more about AGS at <http://www.ags.gov.au>.

If you do not wish to receive similar messages in the future, please reply to: <mailto:unsubscribe@ags.gov.au>