

Consultation paper

Review of the *Electricity Supply Industry Act 1995*



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Attachment – Administration of the *Electricity Supply Industry Act 1995*

About the review

The Government is committed to delivering secure and reliable electricity supply and lower power prices through the 'Restoring Tasmania's Energy Advantage' strategy.

Key outcomes of the strategy are improving the efficiency of the electricity supply industry in Tasmania to ensure Tasmanians are getting the most affordable and reliable energy sector possible, as well as securing maximum opportunities for growth.

As part of the strategy, the Department of State Growth, and the departments of Treasury and Finance and Justice have been tasked with reviewing the *Electricity Supply Industry Act 1995* (ESI Act).

The review will consider the ESI Act in the context of changing operations, technologies and markets to ensure it remains appropriate for its intended purpose and ensure the security of supply for electricity customers.

Background

The *Electricity Supply Industry Act 1995* (ESI Act) aims to promote efficiency and competition in the electricity supply industry, and to provide for a safe and efficient system of electricity generation, transmission, distribution and supply.

The ESI Act was introduced following the Council of Australian Governments (COAG) national competition reforms aimed at developing a competitive national electricity market with greater customer choice and improved services.

The ESI Act provided a new economic and regulatory framework for the electricity supply industry. The Act provides the regulatory framework following the disaggregation of the Hydro-Electric Commission (HEC) into three businesses and removed the monopoly held by the HEC for electricity generation in Tasmania. It set out the regulatory frameworks for generation, transmission, distribution and supply of electricity, as well as wholesale electricity pricing, contracts and licensing within the industry.

The Act also sets out systems for land use and access, electricity infrastructure, the role of electricity officers and their powers, emergency restrictions of electricity, and enforcement powers.

Parts of the ESI Act have been progressively transferred to the *Electricity Industry Safety and Administration Act 1997* and the *Occupational Licensing Act 2005*. These particularly relate to electrical work and electrical equipment standards.

The Department of State Growth has primary responsibility for administering the ESI Act, however, the Department of Treasury and Finance (Treasury) and the Department of Justice (to a lesser extent) have oversight of certain sections of the Act (see Attachment).

Purpose of the review

The review will consider the ESI Act (as well as all attendant Regulations and Codes) in the context of changing operations, technologies and markets to ensure it remains appropriate for its intended purpose.

The ESI Act commenced prior to Tasmania's entry into the National Energy Market (NEM). Since this time there have been significant changes to the energy market such as increasing levels of renewable generation and distributed energy resources, improvements in battery storage, introduction of advanced metering technology, and the advent of consumer energy contribution to the grid.

The NEM is undergoing a fundamental transformation because of these changes, and it is necessary to ensure that Tasmania's legislative framework is reflective of the current electricity industry and provides a complementary regulatory environment to adapt to market innovation, changing technologies, and to ensure continued security of supply for electricity customers.

In 2015, the Tasmanian Government released its Energy Strategy 'Restoring Tasmania's Energy Advantage' which set out the Government's approach to the future of the energy sector.

The review of the ESI Act is an action under the strategy, however this review will not revisit issues raised during the development of the strategy, or structural competition issues reviewed previously by the Tasmanian Electricity Supply Industry Expert Panel.

The Department of Justice has also recognised that electrical safety matters are spread across different Acts, Ministers and Departments, which can increase 'red-tape' and inefficiencies. The Department of Justice is simultaneously reviewing electrical safety legislation which will include consolidation of some aspects currently contained within the ESI Act.

Energy policy objectives

The Government's vision, as outlined initially in its Tasmanian Energy Strategy, is to restore energy as a competitive advantage for Tasmania by:

- empowering consumer choice
- delivering affordable energy at competitive and predictable prices that are amongst the lowest in Australia
- ensuring an efficient energy sector that is customer focussed
- utilising energy to facilitate state growth, and
- Maximising Tasmania's renewable energy opportunities.

These elements will be further continued in the development of the government's Tasmania-First energy plan.

The Tasmanian Energy Security Taskforce (TEST) Final Report recommended a review of the *Electricity Supply Industry Act 1995* and how it relates to energy security matters to modernise and streamline arrangements with a number of other reform considerations outlined in the Final Report.

A review of the *Energy Planning and Coordination Act 1995*, including the role of the Director of Energy Planning, is also being undertaken as recommended by the TEST Final Report.

Scope of consultation

The Department of State Growth will lead the review of the ESI Act in consultation with the departments of Treasury and Finance and Justice. The Department of Justice intends to remove the electricity safety matters from the ESI Act and to consolidate these in a new Electricity Safety Bill. The development of new safety legislation will be subject to a separate consultation.

Within the ESI Act the Treasurer is primarily responsible for pricing matters and market design, including the establishment of the Regulator.

The areas that Treasury has responsibility for will be reviewed separately. However officers from State Growth, Treasury and the Department of Justice will form a Working Group to ensure coordination with all three areas of the Act that are under review by the relevant departments.

Although specific departments may not have the direct administrative responsibility for certain sections of the ESI Act, consequential effects of any alterations to each section will be considered.

Consultation process

The Department of State Growth will undertake detailed and targeted consultation with market participants which will include generators, network service providers, retailers, other market participants, consumer groups, and major energy consumers with direct market exposure.

The Tasmanian Economic Regulator, the national market bodies, other Tasmanian Government agencies, and other parties will also be consulted as appropriate.

Submissions are invited, with specific reference to the matters outlined below.

The closing date for submissions is Friday, 23 August 2019.

Unless the author of the submission requests confidentiality in relation to the submission (or any part of the submission), submissions may be published on the Department of State Growth's website.

Once considered by the Government proposed changes will be subject to a period of further consultation with market participants and relevant stakeholders to obtain views and comments in relation to the potential impact of any proposed changes, and to ensure that the implementation of these changes is as smooth as possible.

The review will consider the following matters:

1. Whether the ESI Act is still relevant and meeting current objectives and expectations.
2. Whether the ESI Act is effective, current and fit for purpose in terms of promoting efficiency and competition in the electricity supply industry.
3. Whether the current ESI Act, as a regulatory instrument, is capable of effectively reflecting the significant changes in terms of new technology and changes in the NEM that have occurred in recent times and are likely to occur in the future and what, if any, areas of the Act require change.
4. Whether there are any areas of overlap or duplication between state-based energy legislation and other laws.
5. Whether other legislation and policy which may be affected by possible changes to the ESI Act?
6. The key role of the state-based regulatory regime and options to improve its effectiveness and efficiency.
7. The entities and activities that should be subject to a state-based regulatory regime.
8. Whether the current arrangements for electricity entities to access private and public land to carry out work on or access their infrastructure/assets are appropriate and adequate?
9. Which operational departments are most appropriate to administer the functions currently contained in the ESI Act?
10. What provisions are required in the ESI Act for ensuring the security of electricity supply for customer's in Tasmania given the recent amendments to the *Energy Planning and Coordination Act 1995*?
11. How the Government could improve the regulation of the Tasmanian electricity market.
12. Any other matters raised by stakeholders?

Making a submission

Submission should address the above consultation questions and be addressed to:

**The ESI Act Review
Office of Energy Planning
Department of State Growth**

via email to:
esireview@stategrowth.tas.gov.au

or by mail to:
**GPO Box 536
HOBART TAS 7001 Australia**

Submissions close on Friday, 23 August 2019.

Enquiries can be made on 1800 030 688 or via esireview@stategrowth.tas.gov.au

Attachment – Administration of the *Electricity Supply Industry Act 1995*¹

Department of State Growth

- All except Part 2 and Divisions 3, 4, 4A, 5, 5A, 6 and 10 of Part 3 and in so far as it relates to contestable customers, price regulation and contracts, and the making of regulations under section 122 in so far as those regulations relate to that Part, those Divisions and those matters.

Treasury

- Part 2 – Administration
- Part 3 – The Electricity Supply Industry
 - Divisions 3 – Special provisions relating to Hydro-Electric Corporation
 - Division 4 – Retailing of electricity to certain customers
 - Division 4A – Wholesale electricity pricing and contracts
 - Division 5 – Restrictions on re-supply
 - Division 5A – Feed-in tariffs
 - Division 6 – Disputes
 - Division 10– Miscellaneous
- In so far as it relates to contestable customers, price regulation and contracts and the making of regulations under section 122, in so far as those regulations relate to that Part.

Department of Justice

- Part 8 Enforcement

¹ As per Administrative Arrangement Orders 2018



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