

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Competition and Consumer Act 2010

Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2021

Section 172 of the *Competition and Consumer Act 2010* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 44AI(3) of the Act provides for the Australian Energy Regulator (AER) to perform a duty or function, or exercise a power, under a State or Territory energy law only if it is in accordance with an agreement between the Commonwealth and the relevant States or Territories. The Commonwealth and NSW Governments have signed an agreement consenting to the AER performing the functions of a regulator under the *Electricity Infrastructure Investment Act 2020* (NSW) (the NSW Act). This intergovernmental agreement is titled the ‘Conferral of functions on the Australian Energy Regulator under the Electricity Infrastructure Investment Act 2020 (NSW)’.

The *Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2021* (the Regulations) give effect to the intergovernmental agreement. The Regulations prescribe the NSW Act as a State/Territory energy law, and provide for the AER to administer the NSW Act.

Consultation was undertaken with the AER and the NSW Government. Public consultation was not undertaken given the machinery nature of the instrument.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations commence the day after registration. The Regulations apply from the day of commencement.

The Office of Best Practice Regulation considered that the proposal was unlikely to have a more than minor regulatory impact. The preparation of a Regulation Impact Statement was not required.

A statement of Compatibility with Human Rights is at [Attachment A](#).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Competition and Consumer Amendment (State/Territory Energy Law) Regulations 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument gives effect to the intergovernmental agreement titled ‘Conferral of functions on the Australian Energy Regulator under the *Electricity Infrastructure Investment Act 2020* (NSW)’ between the Commonwealth Government and the NSW Government. The instrument provides for the Australian Energy Regulator to administer the New South Wales *Electricity Infrastructure Investment Act 2020*.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.