



New South Wales

Electricity Infrastructure Investment Amendment (Governance and Fees) Regulation 2022

under the

Electricity Infrastructure Investment Act 2020

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Infrastructure Investment Act 2020*.

MATTHEW KEAN, MP
Minister for Energy

Explanatory note

The object of this Regulation is to make provision about the following—

- (a) the information required for calculating firm capacity,
- (b) the recovery of amounts payable under contribution orders,
- (c) the functions of the consumer trustee, the financial trustee and the infrastructure planner,
- (d) access schemes and fees for access schemes.

This Regulation also moves an existing provision dealing with the authorised officers who are able to issue penalty notices.

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1 Name of Regulation

This Regulation is the *Electricity Infrastructure Investment Amendment (Governance and Fees) Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Electricity Infrastructure Investment Regulation 2021

[1] Clause 3 Definitions

Insert in alphabetical order—

declaration, for an access scheme, means the declaration made under the Act, section 24 for the scheme.

[2] Clause 3A

Insert after clause 3—

3A Penalty notices—authorised officers

- (1) This clause applies if the AER is appointed as the regulator.
- (2) For the Act, section 76(6), definition of *authorised officer*, the AER is prescribed.

[3] Clause 15 Additional information for calculating firm capacity—the Act, Dictionary, definition of “firm capacity”

Omit “as specified in” from clause 15(4).

Insert instead “including the major constraints specified in”.

[4] Clause 37 Recovery of amounts payable under contribution orders—the Act, s 58(6)

Insert after clause 37(2)—

- (2A) Subclause (2)(a) ceases to apply to an exempt customer 10 years after 1 July in the reference year.

[5] Clauses 42A–42C

Insert after clause 42—

42A Functions of consumer trustee—the Act, s 60(4)

- (1) The consumer trustee has the functions set out in subclause (2) in relation to an access scheme if—
 - (a) the declaration for the access scheme provides for situations in which the infrastructure planner may grant or increase an access right based on a recommendation from the consumer trustee, or
 - (b) the infrastructure planner requests the consumer trustee to conduct a competitive tender in relation to the granting or increasing of access rights under the access scheme.
- (2) The consumer trustee must—
 - (a) make rules, in consultation with the infrastructure planner, about the conduct of a competitive tender in relation to the granting or increasing of access rights, and
 - (b) conduct a competitive tender in accordance with the rules, and
 - (c) make recommendations to the infrastructure planner based on the outcome of the competitive tender.

42B Functions of financial trustee—the Act, s 61(2)(c)

- (1) The financial trustee must report to the regulator on the activities of the scheme financial vehicle during a financial year.

- (2) The report must be included as part of the report provided by the financial trustee to the regulator under the Act, section 70(1).
- (3) The financial trustee may request information from the scheme financial vehicle for the purposes of preparing the report.
- (4) In this clause—
activities do not include activities referred to in clause 32(2)(e).

42C Functions of infrastructure planner—the Act, s 63(4)(d)

- (1) The infrastructure planner may request the consumer trustee to conduct a competitive tender in relation to the granting or increasing of access rights—
 - (a) under an access scheme, and
 - (b) in accordance with the declaration for the access scheme.
- (2) The infrastructure planner must exercise other functions for an access scheme as set out in the declaration for the access scheme if directed to do so by the Minister in the declaration or otherwise.

[6] Part 10

Omit the Part. Insert instead—

Part 10 Access schemes

55 Declaration for access scheme—the Act, s 24(5)(f)

For the Act, section 24(5)(f), a declaration for an access scheme may specify the functions in relation to the scheme that the Minister will direct the infrastructure planner to exercise.

56 Fees for access schemes—community purposes—the Act, s 26

- (1) For the Act, section 26(2), a component of a fee is taken to be used for a community purpose if it used to provide one or more of the following benefits to the relevant local community—
 - (a) public or community services or infrastructure,
 - (b) health services or infrastructure,
 - (c) accommodation or housing,
 - (d) local or regional energy programs or infrastructure,
 - (e) environmental programs or infrastructure,
 - (f) parks and recreation infrastructure,
 - (g) education programs or research,
 - (h) arts or cultural programs,
 - (i) tourism programs or infrastructure,
 - (j) services, programs or infrastructure for First Nations people,
 - (k) other services, programs or infrastructure that benefit the relevant local community.
- (2) For the Act, section 26(3)—
 - (a) the minimum proportion for the component of the annual access fee for a participant is—

- (i) if the participant's annual access fee is \$2,600 per megawatt or more—\$1,700 per megawatt, or
 - (ii) otherwise—60%, and
- (b) the maximum amount for the component of the annual access fee for a participant is—
 - (i) during the term of the access scheme—no maximum is prescribed, or
 - (ii) otherwise—\$0.
- (3) In this section—

relevant local community means the local community in the geographic area that forms the renewable energy zone to which the access scheme applies.

57 Fees for access schemes—employment purposes—the Act, s 26

- (1) For the Act, section 26(4), a component of a fee is taken to be used for an employment purpose if it used to provide for one or more of the following to relevant employees—
 - (a) employment programs and associated services and facilities,
 - (b) skills and training programs and associated services and facilities,
 - (c) a program, service or facility that supports the relevant employees to gain employment skills or experience relevant to employment.
- (2) For the Act, section 26(5)—
 - (a) the minimum proportion for the component of the annual access fee for a participant is—
 - (i) if the participant's annual access fee is \$2,600 per megawatt or more—\$600 per megawatt, or
 - (ii) otherwise—20%, and
 - (b) the maximum amount for the component of the annual access fee for a participant is—
 - (i) during the term of the access scheme—no maximum is prescribed, or
 - (ii) otherwise—\$0.
- (3) In this section—

relevant employee means an employee who is—

 - (a) in the geographic area that forms the renewable energy zone to which the access scheme applies, and
 - (b) affected by changes in electricity generation in the State.