



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

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### **National Energy Retail Law to commence on 1 July 2012**

**The new national arrangements for the retail supply of electricity and gas will commence in Tasmania and the Australian Capital Territory on 1 July 2012 (they will also apply in the offshore area of each State and Territory under Commonwealth law).**

The National Retail Energy Law (NERL) is part of a cooperative Commonwealth, State and Territory regime known as the National Energy Customer Framework (the NECF), under which the non-economic distribution and retail regulation of gas and electricity will come under the national energy institutional framework and regulatory arrangements.

The NERL is the third national applied law regime in the energy sector and, along with the National Electricity Law (NEL) and the National Gas Law (NGL), completes the major reform of Australia's national energy market set out in the Council of Australian Governments' Australian Energy Market Agreement (2004 as amended).

#### ***National Energy Customer Framework***

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The NECF legislative package consists of the following 9 instruments:

- the *National Energy Retail Law (South Australia) Act 2011 (SA)*, which contains as its schedule the NERL
- the *Statutes Amendment (National Energy Retail Law) Act 2011 (SA)*, which contains consequential amendments to the NEL and the NGL
- the *National Energy Retail Rules*
- the *National Electricity (National Energy Retail Law) Amendment Rule 2012*
- the *National Gas (National Energy Retail Law) Amendment Rule 2012*
- the *National Energy Retail Regulations 2012*
- the *National Electricity (South Australia) (National Energy Retail Law) Variation Regulations 2012*
- the *National Gas (South Australia) (National Energy Retail Law) Variation Regulations 2012*
- the *National Gas Retail Market Amendment Procedure 2012*.

The primary aims of the NECF (including the NERL) are to streamline regulatory requirements relating to the retail sale and supply of energy; increase efficiency through regulatory harmonisation; and maintain best-practice consumer protection. The NERL will also provide for a national retailer authorisations framework and a national Retailer of Last Resort framework.

## Differential commencement of the NECF

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The NECF will commence in Tasmania and the Australian Capital Territory on 1 July 2012. It will also commence in the offshore area of each State and Territory under Commonwealth law on that date. Other jurisdictions (with the exception of Queensland, which is yet to consider the matter) remain committed to maintaining the NECF package as originally agreed and introducing it as soon as practical, as announced in the Standing Council on Energy and Resources meeting communiqué of 8 June 2012 (see further: <http://www.scer.gov.au/meetings/>).

The framework for the NECF has been designed for the contingency that not all jurisdictions would be ready to apply the new national regime from a uniform commencement date.

Some key features allowing for a differential application of the NERL (and the NECF more broadly), as between jurisdictions, include:

- despite being the lead legislator jurisdiction, South Australia is able to apply the NECF at a time later than other jurisdictions due to specific provisions in the *National Energy Retail Law (South Australia) Act 2011* (SA) which provide for that outcome
- the national subordinate instruments (rules, regulations and procedures) have been made by South Australia to enable other jurisdictions to apply the NECF, even though South Australia as the lead legislator jurisdiction is yet to do so
- the NECF (including the NERL and key amendments to the NEL and NGL regimes) will be applied by the later starting jurisdictions ‘as amended from time to time’. In the case of the national Rules, those jurisdictions will apply the rules ‘as amended’ (if at all) by the national rule-making body, the Australian Energy Market Commission, in the interim period
- the national regulator, the Australian Energy Regulator, will become responsible for regulating energy retailers in each jurisdiction as from the date it applies the NECF.

## Application legislation

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The application Acts for each jurisdiction that has applied the NERL can be found at the following links:

- **Tasmania** – see the *National Energy Retail Law (Tasmania) Act 2012* (Tas) at: [http://www.parliament.tas.gov.au/bills/Bills2012/10\\_of\\_2012.htm](http://www.parliament.tas.gov.au/bills/Bills2012/10_of_2012.htm)
- **Australian Capital Territory** – see the *National Energy Retail Law (ACT) Act 2012* (ACT) at: <http://www.legislation.act.gov.au/a/2012-31/default.asp>
- **Commonwealth** – see the *Australian Energy Market Act 2004* (Cth) as amended by the *Australian Energy Market Amendment (National Energy Retail Law) Act 2011* (Cth) at: <http://www.comlaw.gov.au/Details/C2011C00892>

For relevant bills of the other jurisdictions see also:

- **New South Wales** – see the *National Energy Retail Law (Adoption) Act 2012* at: <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+37+2012+cd+0+N>
- **South Australia** – see the *National Energy Retail Law (South Australia) (Implementation) Amendment Bill 2012* at: [http://www.legislation.sa.gov.au/LZ/B/CURRENT/NATIONAL%20ENERGY%20RETAIL%20LAW%20\(SOUTH%20AUSTRALIA\)%20\(IMPLEMENTATION\)%20AMENDMENT%20BILL%202012.aspx](http://www.legislation.sa.gov.au/LZ/B/CURRENT/NATIONAL%20ENERGY%20RETAIL%20LAW%20(SOUTH%20AUSTRALIA)%20(IMPLEMENTATION)%20AMENDMENT%20BILL%202012.aspx)
- **Victoria** – see the *National Energy Retail Law (Victoria) Bill 2012* at: <http://www.parliament.vic.gov.au/static/www.legislation.vic.gov.au-bills.html>

AGS was closely involved with the Department of Resources, Energy and Tourism in the development of the NECF legislative package, the Commonwealth's application legislation and related regulations, and the NECF implementation project.

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