

House of Assembly—No 127

As laid on the table and read a first time, 5 May 2021

South Australia

**Emergency Management (Electricity Supply
Emergencies) Amendment Bill 2021**

A BILL FOR

An Act to amend the *Emergency Management Act 2004*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Amendment provisions

Part 2—Amendment of *Emergency Management Act 2004*

- 3 Amendment of section 27A—Interpretation
- 4 Amendment of section 27C—Minister's power to give directions
- 5 Amendment of section 27E—Obligation to preserve confidentiality
- 6 Amendment of section 27F—Manner of giving directions or requirements

Schedule 1—Expiry of provisions of *COVID-19 Emergency Response Act 2020*

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Emergency Management (Electricity Supply Emergencies) Amendment Act 2021*.

2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Emergency Management Act 2004*

10 3—Amendment of section 27A—Interpretation

- (1) Section 27A(1)—after the definition of *AEMO* insert:

designated person means—

- (a) AEMO;
- (b) any person who engages in generation of electricity;
- 15 (c) any person who engages in retailing of electricity;
- (d) any person who engages in transmission or distribution of electricity;
- (e) a third party energy service provider;
- (f) a metering coordinator;
- (g) an end user;

- 20 *end user* has the same meaning as in the National Electricity Law;

- (2) Section 27A(1), definition of *market participant*—delete the definition and substitute:

metering coordinator has the same meaning as in the National Electricity Rules;

- (3) Section 27A(1)—after the definition of *spot market* insert:

third party energy service provider means a person or body that controls 1 or more devices that use or generate electricity on behalf of the owner of the device;

4—Amendment of section 27C—Minister's power to give directions

- (1) Section 27C(1)—delete "market participants" and substitute:

designated persons, or class of designated persons (or both),

- (2) Section 27C(2)(b)—delete paragraph (b) and substitute:

(b) require a designated person to give any directions of a kind that the designated person may lawfully give (which may include, for example, requiring a designated person to give directions to, or to exercise authority over, another person or body, whether or not that other person or body is also a designated person);

- (3) Section 27C—after subsection (2) insert:

(2a) A direction to a designated person may—

- (a) require the performance of specific acts or omissions; or
(b) require the exercise of specific powers or functions; or
(c) require specific outcomes or performance standards.

(2b) For the avoidance of doubt—

- (a) a designated person may satisfy a direction or requirement given to or imposed on the designated person under this section by giving directions to, or exercising its authority over, another person or body, whether or not the direction or requirement given to or imposed on the designated person expressly requires the giving of such directions or exercise of such authority by the designated person; and
(b) for the purposes of section 32(1)(b), a reference to a direction or requirement given or imposed, or purportedly given or imposed, in accordance with this Act includes a reference to directions given to, or authority exercised over, another person or body by a designated person under this section.

- (4) Section 27C(4)—delete subsection (4) and substitute:

(4) If the Minister proposes to give a direction under this section to a particular designated person, the Minister must, to the extent that it is reasonably practicable to do so in all the circumstances (and having regard to the urgency of the situation) consult with the designated person the subject of the proposed direction before giving the direction.

(5) Section 27C—after subsection (6) insert:

(6a) If a direction applies to a class of designated persons, the Minister may exempt (conditionally or unconditionally) any person or class of persons from the direction.

(6b) A person who contravenes a condition of an exemption granted to the person under this section is guilty of an offence.

Maximum penalty:

(a) in the case of a natural person—\$20 000; or

(b) in the case of a body corporate—\$100 000.

5—Amendment of section 27E—Obligation to preserve confidentiality

Section 27E(1)(a)—delete "market participant" and substitute:

designated person

6—Amendment of section 27F—Manner of giving directions or requirements

(1) Section 27F—before its present contents as amended by this section (now to be designated as subsection (2)) insert:

(1) A direction under section 27C relating to a class of designated persons must be given by notice published on a website determined by the Minister and, for the purposes of this Act, the designated persons to whom the direction applies will be taken to have been given the notice at the time at which it is published on the website.

(2) Section 27F—after "direction" insert:

(other than a direction of a kind referred to in subsection (1))

Schedule 1—Expiry of provisions of *COVID-19 Emergency Response Act 2020*

Paragraphs (fa) to (fc) (inclusive) of Schedule 2 Part 1 clause 1 of the *COVID-19 Emergency Response Act 2020* will, on the commencement of Part 2 of this Act, be taken to have expired under section 6 of that Act (if they have not previously expired in accordance with that Act).