

ENERGY LEGISLATION FURTHER AMENDMENT BILL

Statement of compatibility

Mr BATCHELOR (Minister for Energy and Resources) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Energy Legislation Further Amendment Bill 2007.

In my opinion, the Energy Legislation Further Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of bill

The Energy Legislation Further Amendment Bill 2007 (the bill) amends the Electricity Industry Act 2000, the Gas Industry Act 2001, the Gas Pipelines Access (Victoria) Act 1998 and the Gas and Fuel Corporation (Heatane Gas) Act 1993 to:

enable the transfer of customer information from a failed energy retailer to improve arrangements for security of supply;

extend the sunseting of the energy consumer safety net provisions from 31 December 2007 to 31 December 2008 and reduce the publication requirement for retail safety net tariffs from 60 to 30 days;

make amendments consequent to the recent review of the Victorian Energy Networks Corporation (VENCorp);

repeal redundant provisions in relation to the Port Campbell underground gas storage facility;

make minor statute law revisions; and

clarify the effect of an order made under the Gas and Fuel Corporation (Heatane Gas) Act 1993 relating to the transfer of ownership of the Heatane gas pipeline extending from Dandenong to Hastings, Long Island Point and Crib Point.

Human rights issues

1. Human rights protected by the charter that are relevant to the bill

The bill provides, in certain circumstances, for the transfer of information which includes private information such as a person's name and address. Accordingly, section 13(1) of the Charter of Human Rights and Responsibilities Act 2006, which provides that a person has the right not to have his or her information privacy unlawfully or arbitrarily interfered with, has been considered.

The bill provides that, in the event of a disorderly exit of an energy retailer, the failed retailer or its insolvency official is obliged to transfer information about its customers to a

retailer replacing the failed retailer ('a retailer of last resort'). A disorderly exit of an energy retailer would arise where the failed retailer has ceased to be licensed under the Gas Industry Act 2001 or the Electricity Industry Act 2000 or otherwise ceases trading activities. These circumstances would be exceptional and would place at risk the continued supply of the essential service of electricity or gas to the failed retailer's customers. The purpose for which the transfer of information under the bill may occur would be to ensure the continuity of energy supply to a failed retailer's customers.

The scope of information that may be transferred is defined in the bill. This information is confined to that which is necessary to identify a failed retailer's customers and their gas or electricity supply needs and billing details, so that a retailer of last resort may supply gas or electricity to those customers and obtain payment for electricity or gas supplied.

The bill provides for an appropriately transparent process for the transfer of information. A notice issued by either a retailer of last resort or the Essential Services Commission (the independent Victorian regulator of the gas and electricity industries) must specify the information to be transferred and detail the circumstances that give rise to such a notice.

For the reasons outlined I consider that the bill does not unlawfully or arbitrarily interfere with the right to privacy and therefore the bill is compatible with the Charter of Human Rights and Responsibilities.

PETER BATCHELOR, MP
Minister for Energy and Resources

Second reading

Mr BATCHELOR (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The government is committed to ensuring an efficient and secure energy system, reliable and safe delivery of energy services and access to energy at affordable prices. As part of the government's commitments, this bill is making miscellaneous amendments to the Electricity Industry Act 2000, Gas Industry Act 2001 the Gas Pipelines Access (Victoria) Act 1998 and the Gas and Fuel Corporation (Heatane Gas) Act 1993.

Parts 2 and 3 of the bill make amendments to the existing Victorian arrangements designed to ensure the continuity of gas and electricity supply to customers following the disorderly exit of a retailer. These arrangements provide for another retailer to replace a failed retailer and are referred to as 'retailer of last resort' schemes. Consistent with recommendations made by the Essential Services Commission following extensive consultation, the bill requires a failed retailer or its insolvency official to provide customer information to the retailer of last resort for the purposes of the retailer of last resort: