

This fact sheet is current as at April 2023.

## Fact sheet: Guide to the application of the National Electricity Law and National Electricity Rules in the Northern Territory

**The National Electricity Law (NEL) and National Electricity Rules (NER) that apply and operate in the Northern Territory are different to those that apply in other participating jurisdictions.**

**This fact sheet explains how the Northern Territory's NEL and NER apply, and the key differences between the regulatory electricity regime that applies in the Northern Territory as compared to other participating jurisdictions.**

### 1. The Northern Territory's adoption of the National Electricity Law

#### Introduction

In 2015, the Northern Territory Parliament passed the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (National Electricity (NT) Act)*, with the purpose of adopting the NEL<sup>1</sup> to achieve greater alignment with the national electricity framework.<sup>2</sup>

Accordingly, the NEL as set out in the Schedule to the *National Electricity (South Australia) Act 1996 (National Electricity (SA) Act)* applies as a law of the Northern Territory (subject to modifications) and may be referred to as the National Electricity (NT) Law.<sup>3</sup>

#### Modifications

Schedule 1 of the National Electricity (NT) Act modifies certain parts of the NEL that relate to the applicability of the Australian Energy Market Commission's (**AEMC's**) functions and rule making powers<sup>4</sup> in the Northern Territory.

Two key modifications include expanding existing provisions to require the AEMC to consider one or more local electricity systems<sup>5</sup> and, creating new provisions to allow the AEMC to make differential rules.<sup>6</sup>

#### *Local electricity systems*

Clause 3 of Schedule 1 to the National Electricity (NT) Act inserts a new definition "local electricity system" into section 2 of the NEL as it applies in the Northern Territory.

Local electricity system means:

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<sup>1</sup> The Northern Territory adopted the NEL using a three-stage process which ran from 1 July 2015 until 1 July 2019.

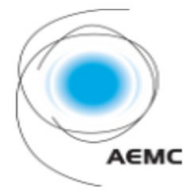
<sup>2</sup> The National Electricity (NT) Act transferred economic regulation of the Northern Territory's prescribed electricity networks from the Utilities Commission to the Australian Energy Regulator.

<sup>3</sup> Section 6 of the National Electricity (NT) Act.

<sup>4</sup> Section 32 and 34 of the NEL.

<sup>5</sup> Section 32A, 34(1)(a)(ia), (iii), 34(3)(ba), (bb) of the NEL as it applies in the Northern Territory.

<sup>6</sup> Section 87, 88AA, 91A(2), 99(2)(a)(ia), 102(2)(a)(ia) of the NEL as it applies in the Northern Territory.



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- an electricity system declared by the National Electricity (NT) Act to be a local electricity system; and
- the generating systems and other facilities owned, controlled or operated in the Northern Territory connected to that electricity system.

This includes the apparatus, electric lines, equipment, plant and buildings used to convey or control the conveyance of electricity.

Schedule 2 of the National Electricity (NT) Act sets out the local electricity systems of the Northern Territory energy market. These are the Darwin region, Katherine region, Tennant Creek region and Alice Springs region.

The interconnected national electricity system in the other participating jurisdictions (i.e. NSW, SA, Victoria, Queensland) is not physically connected to the local electricity systems in the NT. The National Electricity (NT) Act modifications enable the AEMC to make rules with respect to regulating the operation of the local electricity systems, as opposed to just the interconnected national electricity system.<sup>7</sup> The modifications also require the AEMC to regard the reference to the national electricity system in the National Energy Objective (NEO) as a reference to a local electricity system, where appropriate in the circumstances.

#### *Differential rules*

Clause 14 of Schedule 1 to the National Electricity (NT) Act inserts two new definitions “differential rule” and “uniform rule” into section 87 of the NEL as it applies in the Northern Territory.

A uniform rule is a rule that:

- does not vary in its terms between the national electricity system and one or more, or all, of the local electricity systems, and
- has effect with respect to all of those systems.

This means the AEMC may make a rule that applies the same way in all participating jurisdictions, including the Northern Territory.

A differential rule is a rule that:

- varies in its term as between the national electricity system and one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems.<sup>8</sup>

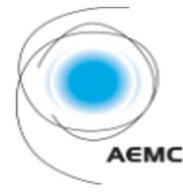
This means the AEMC may make a rule that differs in how it applies between the local electricity systems in the Northern Territory and the national electricity system in the other participating jurisdictions.<sup>9</sup>

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<sup>7</sup> Generating systems and facilities owned, controlled or operated in the participating jurisdictions connected to the interconnected national electricity system, meaning the interconnected transmission and distribution network used to convey and control conveyance of electricity (section 2 of the NEL). This definition would not cover the Northern Territory.

<sup>8</sup> However, a differential rule does not include a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of section 91(8) of the NEL.

<sup>9</sup> A differential rule may be needed due to the different physical characteristics of the Northern Territory’s network. For example, a system is not interconnected.



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The National Electricity (NT) Act modifications enable the AEMC to make a differential rule if it's satisfied that, having regard to any Ministerial Council on Energy statement of policy principles, the rule will or is likely to better contribute to the achievement of the NEO than a uniform rule.<sup>10</sup> The modifications also allow the AEMC to make a more preferable rule that is a differential rule, whether or not the market initiated proposed rule proposed the making of a differential rule.<sup>11</sup>

## 2. The Northern Territory's adoption of the National Electricity Rules

### Introduction

The Northern Territory has adopted (or adopted a modified version of) various provisions of the NER with effect from 1 July 2019, and certain other provisions with effect from the date that the Northern Territory adopts the National Energy Retail Law (**NERL**) as a law.

As at the date of this fact sheet, the version of the NER that applies in the Northern Territory is version 101.<sup>12</sup> This consolidated version reflects the current version of the NER (version 196) as amended by the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016 (**NT Modification Regulations**) made under section 13(2)(c) of the National Electricity (NT) Act.

### Regulations

The regulations in force under Part 4 of the National Electricity (SA) Act apply (subject to modifications) as regulations for the purpose of the National Electricity (NT) Law and may be referred to as the National Electricity (NT) Regulations.<sup>13</sup>

The Administrator<sup>14</sup> has the power to make regulations that modify the operation of the NER<sup>15</sup> for the purpose of those rules having the force of law in the Northern Territory. These are known as modification instruments<sup>16</sup> and can include modifications to facilitate the transition to the application and operation of the National Electricity (NT) Law and the NER.<sup>17</sup> As soon as practicable after a modification instrument is made, the Minister must notify the AEMC.<sup>18</sup>

In 2016, the NT Modification Regulations were made. Schedules 2, 3 and 4 set out the modifications to the NER, which commence on different dates. Certain regulations expire at a specific date, for example, on 1 July 2024 or when the NERL is applied as a law of the

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<sup>10</sup> Section 88AA(2) of the NEL as it applies in the Northern Territory.

<sup>11</sup> Section 91A(2) of the NEL as it applies in the Northern Territory.

<sup>12</sup> Version 99 commenced on 20 January 2023. The current and historical versions are available on the AEMC's [website](#).

<sup>13</sup> Section 7 of the National Electricity (NT) Act.

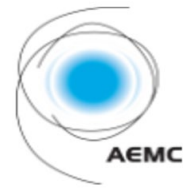
<sup>14</sup> The Administrator is appointed by the Governor-General and has a similar role to a State Governor.

<sup>15</sup> Section 13 of the National Electricity (NT) Act.

<sup>16</sup> Section 9A(3) of the National Electricity (NT) Act.

<sup>17</sup> See Chapter 11A of the Northern Territory NER. These transitional arrangements are intended to address the differences between the Northern Territory's electricity networks and other participating jurisdictions such as not being physically connected to the national electricity system.

<sup>18</sup> Section 9A(1) of the National Electricity (NT) Act.



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Northern Territory.<sup>19</sup> A number of subsequent regulations have been made<sup>20</sup> that amend the NT Modification Regulations to assist the Northern Territory in their progressive application of the NER.

### Modifications

Schedule 1 of the National Electricity (NT) Act modifies several provisions of the NEL that relate to the applicability of the AEMC's rule making powers and functions in the Northern Territory in connection with the NT Modification Regulations.

A key modification is that the AEMC must publish and maintain on its website, and make available to the public for inspection, an up-to-date copy of the NER as in force from time to time as modified by a modification instrument.<sup>21</sup> This means that the AEMC must publish the Northern Territory version of the NER.

### Northern Territory NER

There are a number of Chapters of the current NER that have not been adopted in the Northern Territory's version of the NER as at the date of this fact sheet.<sup>22</sup> The table below summarises the Chapters that do not apply in the Northern Territory.

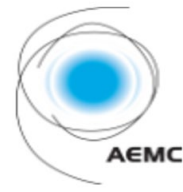
<b>Chapters of the current NER that do not apply in the Northern Territory NER</b>	<b>What does this Chapter regulate?</b>
Chapter 2 – Registered Participants and Registration	Establishes the various categories of Registered Participants and the registration requirements for each category, including eligibility criteria and unit classification requirements.  Also contains provisions on the registration process, transfer of registration, ceasing to be a Registered Participant, and how the Australian Energy Market Operator (AEMO) is to determine participant fees.
Chapter 2A – Regional Structures	Part A provides a framework for applicants to propose changes to the regions of the National Electricity Market (NEM) to address congestion problems, and for the AEMC to make changes to these regions, including consider and consult on proposed changes and make determinations.

<sup>19</sup> Regulation 11 of the NT Modification Regulations.

<sup>20</sup> For further information, see the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Amendment Regulations 2017, National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Amendment Regulations 2018, National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Amendment Regulations 2019 and National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Amendment Regulations 2021.

<sup>21</sup> Clause 9C of Schedule 1 of the National Electricity (NT) Act inserts a new requirement in Section 46 of the NEL as it applies in the Northern Territory.

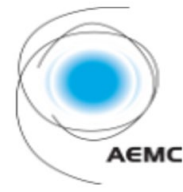
<sup>22</sup> Regulation 5A of the NT Modification Regulations also lists specific rules or clauses that are deemed to have no effect in the Northern Territory.



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	Part B sets out procedures for the implementation or regional changes by AEMO.
Chapter 3 – Market Rules	<p>Contains rules that govern the operation and administration of the NEM, including:</p> <ul style="list-style-type: none"> <li>• market design principles</li> <li>• establishment and operation of the spot market</li> <li>• network losses and constraints</li> <li>• determination of prices and settlement of payments</li> <li>• acquisition of ancillary services</li> <li>• market intervention and compensation</li> <li>• provision of market and participant information by AEMO and to AEMO e.g. existing and proposed generation projects, distributed energy resources, network congestion, available capacity</li> </ul>
Chapter 4 – Power System Security	Provides the framework for achieving and maintaining a secure power system and specifies the conditions under which AEMO can intervene in the processes of the spot market and issue directions to Registered Participants in order to maintain or re-establish a secure and reliable power system.
Chapter 6A – Economic Regulation of Transmission Services	Deals with the classification and economic regulation of transmission services and the obligations of the AER to make transmission determinations.
Chapter 6B – Retail Markets	Deals with retail support obligations between distributors and retailers in respect of shared retail customers e.g. billing, tariffs, disputes, credit support regimes.
Chapter 7 – Metering <sup>23</sup>	<p>Provides a detailed regime for the administration of metering installations and the disclosure and use of metering data, including:</p> <ul style="list-style-type: none"> <li>• the roles and responsibilities of participants and AEMO</li> <li>• the appointment of a metering coordinator</li> <li>• disclosure of NMI information</li> <li>• security of, and rights to access, metering installations</li> <li>• the business-to-business (B2B) framework</li> </ul>

<sup>23</sup> Chapter 7A 'Metering' of the Northern Territory NER applies in substitution for Chapter 7 of the NER (which establishes the metering framework that applies in the other participating jurisdictions). Chapter 7A operates as a transitional framework until Chapter 7 takes effect in this jurisdiction.



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