

# **Electricity (Disconnection and Low Fixed Charges) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The purpose of this Bill is to enhance the regulation-making powers in the Electricity Act 1992 in relation to—

- the disconnection of electricity for domestic consumers; and
- the Low Fixed Charge (LFC) tariff options for domestic consumers.

The Bill's amendments in relation to disconnection improve the ability to regulate for—

- arrangements about the process for disconnections following non-payment of accounts, reconnection, billing information and processes, and alternative payment options such as smoothed payments and redirection of income;
- the process for identifying consumers who would be at risk if their electricity were disconnected;
- mandatory terms and conditions for the supply of electricity or line function services by electricity retailers or distributors.

The Bill's amendments in relation to the Low Fixed Charge tariff options for domestic consumers recognise different average electricity consumption levels in different regions. Analysis of recent average consumption data identified that an adjustment to the LFC eligibility threshold of 8 000 kWh per year is warranted in order to address the wide disparity in LFC tariff coverage around the country. For example, relatively few consumers in Dunedin are eligible for the tariff compared with Auckland.

The second LFC policy change is a minor amendment to extend the Minister of Energy's ability to grant an exemption to electricity distributors or retailers from the application of the LFC regulations to cover small isolated networks that are not connected to the national grid. This change is required because the compliance requirements and business costs of administering the LFC tariff on small networks that are not connected to the grid can be excessive, and have the potential to affect the economic viability of small isolated networks.

### Clause by clause analysis

*Clause 1* indicates the Bill's title.

*Clause 2* provides a commencement date for the Bill.

*Clause 3* provides that the Bill amends the Electricity Act 1992.

*Clause 4* amends section 172B, which is about the provision of a low fixed charge for domestic consumers. *Clause 4(1)* replaces the definition of low-use consumer, so that the term will mean a domestic consumer who has an electricity-use profile of a type specified in the regulations. Section 172B(3) is therefore amended to allow the regulations to specify which domestic consumers have an electricity-use profile that makes them low-use consumers. For example, the types may vary according to the particular area of New Zealand in which the domestic premises are situated, or according to whether the domestic premises are the domestic consumer's principal place of residence.

Section 172B(3) is amended by replacing paragraph (e) to allow the Minister to exempt electricity providers, or electricity providers in relation to particular areas, from the application of the regulations if, in the opinion of the Minister, the providers would incur a significant or unreasonable cost to comply with the regulations (*clause 4(3)*).

*Clause 5* amends section 172D(1). These amendments empower regulations—

- providing for the terms and conditions on which electricity retailers must provide domestic consumers with billing and payment options (*new paragraph (22A)*);
- providing for the terms and conditions on which electricity retailers must provide domestic consumers with information about overdue accounts and disconnection processes (*new paragraph (22B)*);

- providing for the proactive provision by electricity retailers of information about a particular domestic consumer or a particular domestic consumer's account to both the consumer and, with the consumer's authorisation, to Government agencies (*new paragraph (24A)*);
- providing the terms and conditions on which electricity retailers may and may not disconnect prescribed classes of domestic consumers (*new paragraph (25A)*);
- providing for the terms and conditions on which electricity retailers must reconnect a domestic consumer's electricity after a disconnection (*new paragraph (25B)*);
- providing for the terms and conditions for the supply of electricity or line function services to domestic consumers by electricity retailers or electricity distributors (*new paragraph (25C)*).

*New paragraph (24A)* does not override the Privacy Act 1993 (as provided in *new section 172D(3A)*).

## **Regulatory impact statement (disconnection)**

### *Executive summary*

The proposal responds to concerns about the disconnection practices of electricity retailers, particularly in relation to vulnerable consumers. It is designed to ensure that the Government can, if necessary, regulate the content of voluntary disconnection guidelines that have recently been developed by the Electricity Commission.

The proposal consists only of regulation-making powers that are a measure of last resort if all other options fail.

### *Adequacy statement*

The Ministry of Economic Development (**MED**) confirms that the proposal complies with the Code of Good Regulatory Practice. MED has assessed the regulatory impact statement and considers it to be adequate.

### *Status quo and problem*

The status quo means that the Government is unable to adequately regulate (if necessary) the process for identifying consumers who

would be at risk if their electricity were disconnected, or arrangements regarding the process for disconnections following non-payment of accounts, reconnection, billing information and processes, alternative payment options, and debt recovery. The performance of retailers relies on their compliance with voluntary guidelines.

Not all retailers have fully complied with the guidelines prepared in 2005 by the Electricity Commission and the guidelines themselves did not deal adequately with arrangements relating to the disconnection of vulnerable consumers.

### *Objectives*

The Electricity Commission has developed a revised guideline on arrangements to assist low-income and vulnerable consumers. The guideline puts in place an enhanced process around disconnection for non-payment, including a range of requirements that retailers must meet before a disconnection can take place.

Retailers are being given the opportunity to address the problem voluntarily through compliance with the revised guideline, and the objective of the proposal is to enable the Government to regulate for all or parts of the guideline if the self-regulatory approach fails to deliver.

### *Alternative options*

The status quo and the proposal are the only two options considered. Under the Electricity Act, regulations (or rules) can only be made by the Minister to implement a recommendation from the Electricity Commission and must not differ from the recommendation in any material way. The Act requires the Commission to identify all reasonably practicable options for achieving its objective before making a recommendation to the Minister. The Commission must publish a statement of the proposal that includes the options and the costs and benefits of each option.

### *Preferred option*

The preferred option is to amend the regulation-making powers in the Electricity Act to improve the ability to regulate for—

- arrangements regarding the process for disconnections following non-payment of accounts, reconnection, billing information and processes, alternative payment options such as

- smoothed payments, redirection of income, and debt recovery; and
- the process for identifying consumers who would be at risk if their electricity was disconnected; and
  - mandatory terms and conditions for the supply of electricity and line function services by electricity retailers and distributors.

The proposal consists only of regulation-making powers. It does not alter any of the existing processes or requirements in the Act relating to the making of regulations.

### ***Implementation and review***

The proposal will be implemented via the Electricity (Disconnection and Low Fixed Charges) Amendment Bill. Regulations will only be made if all other self-regulatory options fail. Any proposal for regulations will also be subject to a rigorous regulatory impact assessment at the time (including both the statement of proposal, as required by the Electricity Act (discussed above), and the regulatory impact analysis requirements).

### ***Consultation***

Consultation took place with the Ministries of Social Development and Health and the Electricity Commission. All supported the proposal and raised no significant issues. The Department of the Prime Minister and Cabinet and the Treasury were informed. The Ministry of Justice and the Privacy Commission were consulted on the draft Bill.

## **Regulatory impact statement (low fixed charge)**

### ***Executive summary***

The Government has identified that the existing Electricity (Low Fixed Tariff Option for Domestic Consumers) Regulations 2004 has disparate coverage nationwide, which is inconsistent with the policy intent to benefit low-income consumers with less than average consumption.

This problem has arisen because the application of a single uniform threshold of 8 000 kWh (which is the national average for domestic consumption) has caused low coverage in the middle and lower

South Island, where average consumption is higher than the national average.

Changing the threshold to one that more closely reflects regional consumption averages will reduce the magnitude of this disparity.

### *Adequacy statement*

MED confirms that the proposal complies with the Code of Good Regulatory Practice. MED has assessed the regulatory impact analysis and regulatory impact statement and considers both to be adequate.

### *Status quo and problem*

The status quo would be to keep the existing uniform 8 000 kWh threshold for the LFC tariff. This would retain the disparate coverage observed around the country and would fail to meet the requirement to enable low-income consumers in the lower South Island to benefit from a LFC tariff.

### *Objectives*

The objective of the proposed changes is to introduce regional variation in coverage of the low fixed charge tariff in order to better benefit low-use consumers in regions where average consumption exceeds the national average.

### *Alternative options*

The decision to develop regional averages for the LFC tariff option was directed by CBC Min (06) 20/17. This proposal is concerned only with the implementation of this decision, in terms of how many regions to use, and not with options to the policy. Options considered within the scope of regionalisation were largely limited to the number of regions or subdivisions necessary to provide regionalisation. Analysis indicated that using a greater number of regions could not be justified due to insufficient differentiation between average consumption patterns.

### *Preferred option*

The preferred option is to adjust the threshold for application of the LFC tariff by raising the lower South Island threshold to more closely reflect the local regional average.

No material additional compliance costs to Government, or to the Electricity Commission, which monitors and enforces these regulations, are anticipated from this change.

No material additional compliance costs are expected for distributors and retailers who operate in the central North Island and Upper North Island where the proposed threshold will not change from the current value of 8 000 kWh.

Distributors and retailers in the lower South Island will face a one-off revision to tariff structures. This compliance cost is expected to be smaller than the original costs of introducing the tariff.

Lower-use consumers who are on low incomes in the lower South Island, who have to date not benefited from the LFC tariff regime, will now have the potential to reduce their electricity costs and therefore be rewarded for energy conservation.

The preferred option will require a change to the Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 and a change to the definition of an LFC consumer in the Electricity Act.

### ***Implementation and review***

An amendment to the Electricity Act 1992 will be included in the Electricity (Miscellaneous Matter) Amendment Bill. This bill is category 4 on the legislative programme for 2007. The amendment is expected to be passed in early 2008.

The proposal will also involve a minor modification to the existing low fixed charge regulations, which are monitored and enforced by the Electricity Commission. The Electricity Commission's role will remain unchanged after the proposal.

The Electricity Commission collates yearly statistics on retailer and distributor compliance and on customer numbers eligible for the LFC tariff. These statistics will be used for monitoring and evaluating the effect of the proposal.

### ***Consultation***

Consultation with industry and consumers has been through consideration of prior submissions and letters from stakeholders requesting changes and modification to the existing regulations, and by direct consultation with the Electricity Commission's Retail Market

Advisory group (RMAG), which is an industry and consumer advisory group to the Commission on electricity retail issues.

There was consultation with the Electricity Commission, the Energy Efficiency and Conservation Authority, the Treasury, and the Ministry of Consumer Affairs. In addition, DPMC have been informed of the paper.

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*Hon David Parker*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Electricity (Disconnection and Low Fixed Charges) Amendment Act **2007**.
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent. 5
- 3 Principal Act amended**  
This Act amends the Electricity Act 1992.
- 4 Low fixed charge tariff option for domestic consumers**
  - (1) Section 172B(2) is amended by repealing the definition of **low-use consumer** and substituting the following definition: 10  
“**low-use consumer** means a domestic consumer who has an electricity-use profile of a type specified in the regulations.”
  - (2) Section 172B(3) is amended by inserting the following paragraph after paragraph (a): 15

- “(ab) specifying which domestic consumers have an electricity-use profile that makes them low-use consumers (these types of consumer may, for example, vary according to the particular area of New Zealand in which the domestic premises are situated, or according to whether the domestic premises are the domestic consumer’s principal place of residence):” 5
- (3) Section 172B(3) is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) specifying criteria for the Minister to exempt electricity providers, or electricity providers in relation to particular areas, from the application of the regulations if, in the opinion of the Minister,— 10
- “(i) the electricity providers materially comply with the objective of this section; or 15
- “(ii) the electricity providers would incur a significant or unreasonable cost to comply with the regulations.”
- 5 Electricity governance regulations**
- (1) Section 172D(1) is amended by inserting the following paragraphs after paragraph (22): 20
- “(22A) providing for the terms and conditions on which electricity retailers must provide domestic consumers with billing and payment options (for example, smoothed payments and redirection of income): 25
- “(22B) providing for the terms and conditions on which electricity retailers must provide domestic consumers with information about overdue accounts and disconnection processes:”
- (2) Section 172D(1) is amended by inserting the following paragraphs after paragraph (24): 30
- “(24A) providing for electricity retailers to proactively provide information about a particular domestic consumer or a particular domestic consumer’s account— 35
- “(a) to the consumer; and
- “(b) with the consumer’s authorisation, to Government agencies:”

- (3) Section 172D(1) is amended by inserting the following paragraphs after paragraph (25):
- “(25A) providing for the terms and conditions on which electricity retailers may and may not disconnect prescribed classes of domestic consumers: 5
  - “(25B) providing for the terms and conditions on which electricity retailers must reconnect a domestic consumer’s electricity after a disconnection:
  - “(25C) providing for the terms and conditions for the supply of electricity or line function services to domestic consumers by electricity retailers or electricity distributors:”. 10
- (4) Section 172D is amended by inserting the following subsection after subsection (3): 15
- “(3A) **Subsection (1)(24A)** does not override the Privacy Act 1993.”