

## CLAUSE NOTES

### *Petroleum Reporting (Miscellaneous Amendments) Bill 2026*

#### PART 1 - PRELIMINARY

**Clause 1      Short title**

This clause provides that the short title of the Act will be the Petroleum Reporting (Miscellaneous Amendments) Act 2026.

**Clause 2      Commencement**

This clause provides that the Act will commence on Royal Assent.

**Clause 3      Repeal of Act**

This clause provides that the Act will be repealed 12 months after it commences. This is because the amendments in the amending Act will be incorporated into the amended Acts and Regulations, and the amending Act can then be repealed.

#### **PART 2 – AUSTRALIAN CONSUMER LAW (TASMANIA) Act 2010 AMENDED**

**Clause 4      Principal Act**

This clause provides that in Part 2, the *Australian Consumer Law (Tasmania) Act 2010* is the Principal Act.

**Clause 5      Section 38A inserted – Failure to comply with prescribed code of practice**

This clause inserts a new section 38A. This will provide that if a prescribed code of practice imposes a mandatory obligation on a person, the person must comply with that obligation. A mandatory obligation in a code of practice is a thing that the code says a person 'must' do. Under section 10A of the *Acts Interpretation Act 1931*, the word 'must' is construed as mandatory.

This penalty provision addresses a gap between the Tasmanian Act and other jurisdictions, as there is no fine currently available in Tasmania for failure to comply with a code of practice.

The penalty provided is a maximum fine of 1000 penalty units for a body corporate and a maximum fine of 200 penalty units for an individual. This is the same as the penalty in section 29 of the Act.

Under the usual sentencing principles, if a person is charged and found to have committed an offence, the court applies a penalty at the

appropriate amount within the range set by the maximum, taking into account the circumstances of the offence and the offender.

**Clause 6      Section 39 amended (Contravention of prescribed code of practice)**

This clause amends section 39 to clarify that applications under section 39 can be made regardless of whether or not a penalty has been imposed.

This is because section 39 of the Act currently provides a power for the Director to apply to a Magistrate for an order to cease contravening a code of practice and rectify any consequence of the failure. This is an important power that may be preferable to, or additional to, charging the person with the offence of failure to comply with the code of practice – depending on the circumstances.

**Clause 7      Section 47 amended (Regulations)**

This clause amends the Regulation making power.

New subsection 47(1A) provides that regulations that prescribe a code of practice may also contain other provisions on the same matter that are not part of the code of practice. It also provides that the consultation requirements provided in section 37 for codes of practice do not apply in these circumstances.

This is because section 37 has several requirements for a code of practice, including that that they be prepared by the Tasmanian Chamber of Commerce and Industry, and be endorsed by both Houses of Parliament before the regulations are made. Section 38 has similar consultation and review requirements for amending a code of practice.

New subsection 47(1A) responds to the issue that other requirements on the same matter as an existing code of practice may have to be prescribed, potentially in urgent circumstances. Such regulations will be made in the normal way for regulations, including consultation periods and subsequent review by the Subordinate Legislation Committee. All regulations can also be subject to disallowance motions by the Parliament.

New subsection 5A is inserted to provide that regulations may authorise any matter to be determined, applied, approved or regulated by a person specified in the regulations. This is a feature of regulatory schemes where appropriate, as is the case here. For example, a regulation may prescribe that the Director of Consumer Affairs may specify the form and manner in which information under a regulation is to be provided.

Subsection 47(9)(b) is substituted with a new provision. Currently, that subsection provides the maximum penalty for an offence under the regulations is 100 penalty units and a further penalty of 10 penalty units for each day the offence continues. The new subsection provides for a maximum body corporate penalty of 1000 penalty units, 200 penalty units for an individual, and 10 penalty units for each day the offence continues.

This reflects the key maximum penalty levels in the current section 29, and the new offence for breaching a code of practice. This allows a maximum penalty for an offence in the regulations to be prescribed at the appropriate level depending on the type of offence, up to those maximum levels.

### **PART 3 – AUSTRALIAN CONSUMER LAW (TASMANIA) INFRINGEMENT REGULATIONS 2021 AMENDED**

#### **Clause 8 Principal Regulations**

This clause provides that in Part 3, the Australian Consumer Law (Tasmania) Infringement Regulations 2021 are the Principal Regulations

#### **Clause 9 Regulation 4 inserted – Infringement offence for breach of code of practice**

This clause inserts new regulation 4. The effect of this is that failure to comply with a code of practice will be an infringement offence. Section 25 of the Principal Act provides for infringement offences in the usual way, in that an authorised officer can issue an infringement notice under the *Monetary Penalties and Enforcement Act 2005* for an offence, and at the penalty level, listed in regulations under the Act. Section 25 also allows different infringement penalties for body corporates.

The current Principal Regulations list many offences in the *Australian Consumer Law (Tasmania)* as being infringement offences, and prescribes penalty levels ranging from 1-10 penalty units. Regulation 4 adds the new offence in section 38A of failure to comply with a code of practice, and provides the penalty level is 50 penalty units for a body corporate, and 10 penalty units for a person.

### **PART 4 – ENERGY CO-ORDINATION AND PLANNING ACT 1995 AMENDED**

#### **Clause 10 Principal Act**

This clause provides that in Part 4, the *Energy Co-ordination and Planning Act 1995* is the Principal Act.

**Clause 11      Section 9A inserted – Director may compel information in certain circumstances**

This clause inserts new section 9A. The new section provides that the Director may compel information in certain circumstances, and is broader than the current power of the Director to require information in section 9.

The new section 9A applies where the Minister notifies the Director that there is a serious risk in respect of the supply of energy to the State or within the State. The Director can then require a person to provide information that is required for the specified purposes (such as the Director's functions, or the Minister co-ordinating provision of energy) and the Director has reasonable grounds for believing the person can provide the information.

This information may relate to the production, supply, storage, distribution, transportation, sale, purchase, use or consumption of the energy to which the requirement relates.

Subclause 3 provides the requirements such a request is to meet, such as specifying the time that the request has to be complied with.

**Clause 12      Section 10 amended (Trade secrets)**

This clause inserts a new subsection 10(3A). It provides that, for the avoidance of doubt, that section 10 does not apply to a requirement of the Director under section 9A.

Section 10 provides that if a person receives a request under the current section 9, they may object to the Minister that it involves the disclosure of trade secrets, and the Minister can choose whether to exempt the person from that requirement.

Given the heightened threshold for the new power under section 9A, which applies when the Minister has determined there is a serious risk in respect of the supply of energy to the State or within the State, the amendment means that this process will not apply to such a request.

**Clause 13      Section 11 amended (Obligation to comply with request or requirement)**

Section 11 currently sets out the penalties for not complying with requirements under section 9, or providing false or misleading information, being a maximum of 200 penalty units for a body corporate and 50 penalty units for a person.

This clause inserts a new subsection 11(3) and 11(4) with penalties for not complying with a requirement under the new section 9(A), or giving false or misleading information. The maximum penalty is 1000 penalty units for a body corporate and 100 penalty units for a person. This reflects the greater seriousness of not complying with the new power.

This penalty is consistent with penalties in the *Petroleum Products Emergency Act 1994*.

## **PART 5 – PETROLEUM PRODUCTS EMERGENCY ACT 1994 AMENDED**

### **Clause 14 Principal Act**

This clause provides that in Part 5, the *Petroleum Products Emergency Act 1994* is the Principal Act.

### **Clause 15 Section 5 amended (Declaration of periods of emergency restriction and rationing periods)**

This clause amends section 5 to extend the time periods that apply in relation to declared periods of emergency. The periods will now be that the Governor can declare a period of up to 28 days as a period of emergency restriction throughout the State in relation to petroleum products, instead of the current 14 day period.

This emergency periods can be extended for successive periods of up to 28 days, and the total period cannot exceed 60 days. Currently, the Act provides for extensions of up to 7 days, for a maximum of 28 days.

This means that shorter periods can still be declared by the Governor, but the Governor may also utilise the longer periods if appropriate.

### **Clause 16 Section 6 amended (Directions in relation to petroleum products)**

Section 6 of the Act provides that during an emergency period declared by the Governor, the Minister (if considering it is in the public interest) may give directions in relation to the production, supply, storage, distribution, transportation, sale, purchase, use or consumption of the petroleum products in respect of which the period of emergency restriction is in force. There is a penalty for non-compliance. Such directions have no effect after the emergency period and can be revoked by the Minister at any time.

This clause inserts new subsection 1A. This is an avoidance of doubt clause, providing that a direction under section 6 may include a direction that specifies the maximum price that petroleum products, or a type of petroleum product may be sold as specified in the direction and for the period specified in the direction.

