



Government of **Western Australia**  
Department of **Mines, Industry Regulation and Safety**  
**Energy Policy WA**

# Electricity Industry Amendment (DER) Bill – Consultation paper

Energy and Governance Legislation Reforms (Project Eagle)

April 2023

Working together for a **brighter** energy future.

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*An appropriate citation for this paper is: Electricity Industry Amendment (DER) Bill – Consultation paper*

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# Glossary

Term	Definition
Access Code	Electricity Networks Access Code 2004
AEMO	Australian Energy Market Operator
Amending Bill	Electricity Industry Amendment (DER) Bill 2023
Authority	Economic Regulation Authority
Board	Western Australian Electricity Review Board
Coordinator	Coordinator of Energy
DER	Distributed Energy Resources
EI Act	Electricity Industry Act 2004
EPWA	Energy Policy WA
ERA	Economic Regulation Authority
ESMR	Electricity System and Market Rules
ETS Stage 2	Energy Transformation Strategy Stage 2: 2021-25
NEO	National Electricity Objective
SEO	State Electricity Objective
SWIS	South West Interconnected System
TDOWG	Transformation Design and Operation Working Group
WEM	Wholesale Electricity Market
WEM Rules	Wholesale Electricity Market Rules, or 'market rules'

# 1. Background

Enabling amendments to the *Electricity Industry Act 2004* (the EI Act) are being progressed through the [Energy and Governance Legislation Reforms](#), also referred to as 'Project Eagle'.

The current legislative and regulatory framework underpinning the governance of the South West Interconnected System (SWIS) is now nearly two decades old. Changes are necessary to keep pace with a rapidly transitioning power system, adapting to the efficient integration of new technologies at the same time as having regard to the environment, including electricity sector emissions.

These reforms are focused on introducing enabling amendments to the EI Act and other legal instruments (including subsidiary legislative instruments under the EI Act) to progress the [Energy Transformation Strategy Stage 2: 2021-2025 \(ETS Stage 2\)](#).

The amendments, the first of which is the subject of the current stakeholder consultation, have three primary goals:

1. Introduce an overarching objective in the EI Act.
2. Expand the scope of the Wholesale Electricity Market (WEM) Rules, proposed to be referred to in the Amending Bill as the 'Electricity System and Market Rules'.
3. Improve arrangements to address new subject matter.

A draft Electricity Industry Amendment (Distributed Energy Resources) Bill 2023 has now been prepared for stakeholder comment.

## 1.1. Consultation

The opportunity to provide feedback on the draft Amending Bill is the next phase of ongoing consultation on the reforms being progressed through Project Eagle. Specifically, comment is sought from interested stakeholders on the efficacy of the proposed drafting contained in the Amendment Bill, rather than the policy initiatives it seeks to enable which will be progressed as part of ETS Stage 2.

Please note that consultation on legislation reforms relating to proposed [Alternative Electricity Services](#) framework was undertaken in April 2023. These changes are being progressed in parallel to the proposed amendments covered in this paper.

Information about public consultation on the reforms to date (including previous consultation and information papers) is available on Energy Policy WA's (EPWA) [website](#). EPWA will continue to engage on the ongoing implementation of reforms progressed under Project Eagle and ETS Stage 2, including through release of information papers and meetings of the [Transformation Design and Operation Working Group](#).

EPWA is seeking stakeholder feedback on the draft Amending Bill which can be sent to [EPWA-Submissions@dmirs.wa.gov.au](mailto:EPWA-Submissions@dmirs.wa.gov.au).

## 2. Draft content of the Amending Bill

An exposure draft of the proposed Amending Bill is provided as an attachment to this paper.

The following section outlines the content and rationale relating to the amendments provided in the proposed Amending Bill.

## 2.1. Introduce an overarching objective

A new State Electricity Objective (SEO) will introduce a single, overarching objective to apply to the whole Act.

### 2.1.1. A new State Electricity Objective

The SEO is intended to result in a reduction of barriers to the timely and efficient investment in lower-emission technologies while retaining a focus on the long-term interests of consumers with respect to the price, quality, reliability, security, and safety of electricity.

It is a deliberate feature of the proposed drafting that the limbs of the ‘energy trilemma’ of affordability, sustainability, and reliability as reflected in the proposed SEO exist in tension. This permits decision makers to address the three limbs in the manner most appropriate to serve the long-term interests of consumers of energy within the specific circumstances of their decision-making.

Stakeholders provided comment on the drafting of the SEO in March 2023. This feedback has been incorporated into the Amendment Bill. A summary of the feedback is available on the [EPWA website](#).

Note that following consultation, definitions for relevant terms included in the SEO have been added to section 3(1).

**Table 1 – Introducing a State Electricity Objective**

Intended reform	Corresponding amendment
Introduce an objective (the SEO) for the EI Act that is to apply to all matters regulated by or under the EI Act.  The SEO will promote the long-term interests of consumers of electricity, in relation to reliability, price, and environmental considerations.	Section 3A(1) added
The Minister, Economic Regulation Authority (ERA), Coordinator of Energy and the Electricity Review Board (Board), must have regard for the SEO in carrying out functions, but may give weight to the objective limbs flexibly.	Section 3A(2) and (3) added
Existing objectives under the EI Act should be replaced by the SEO, including the: <ul style="list-style-type: none"><li>the WEM objectives,</li><li>the Pilbara electricity objective, and</li><li>the Electricity Networks Access Code objective.</li></ul>	Section 122(2) removed Section 119(2) amended Section 104 removed Schedule 2A (1) added
Ensure that specific methods of meeting the SEO can be prescribed in: <ul style="list-style-type: none"><li>the regulations; and</li><li>the Electricity System and Market Rules.</li></ul>	Section 124(1) amended Section 124(2)(a) added
Include definitions for quality, reliability, safety and security.	Section 3(1) additions
Include a definition for electricity services.	Section 3A(4) added

## 2.2. Expanding the scope of the WEM Rules

The EI Act will be amended so that the current WEM Rules may also address matters currently dealt with under a range of subordinate legislative instruments.

To reflect this change, the WEM Rules will be renamed the Electricity System and Market Rules (ESMR).

The ESMR will continue to address the operation of the WEM and SWIS, and will largely retain the existing governance and change management framework.

In addition, the scope of the ESMR will be expanded to address matters contained in:

- the Electricity Networks Access Code 2004 (Access Code), made under Part 8 of the EI Act;
- Western Power’s Technical Rules, made under Chapter 12 of the Access Code;
- the Electricity Industry (Metering) Code 2012, made under Part 2 of the EI Act;
- the *Electricity Act 1945* (as it relates to network voltage limits); and
- the Electricity Industry (Network Quality and Reliability of Supply) Code 2005 (NQRS Code), made under Part 2 of the EI Act.

The Amending Bill introduces the heads of power to incorporate these instruments. In other words, the proposed legislative amendments are enabling only. The content of these instruments will be incorporated within the ESMR through a deliberate, staged approach over coming years.

This approach will see the development of policy positions and a consultative drafting process including industry consultation and working groups, comparable to the process followed as part of the first phase of the Energy Transformation Strategy. The intended process was outlined in a high level in an [information paper](#) on the reforms released in late-2022. Arrangements for consultation and stakeholder engagement will be developed in coming months and communicated publicly.

Transitional arrangements are required to ensure that the relevant instruments remain fit-for-purpose. This means that existing instruments may be modified as required in advance of their content being incorporated within the ESMR. Additionally, provisions in each subsidiary instrument will remain in effect until the commencement of the relevant portion of the ESMR.

The content included in some of these instruments currently apply outside of the WEM and SWIS. For example, the Metering and NQRS Codes are incorporated into the state-wide licencing framework, and the voltage limits outlined in the *Electricity Act 1945*, apply to all networks. Consequently, the ESMR will have state-wide application.

### 2.2.1. Electricity System and Market Rules

The ESMR are empowered by regulations. That is, amendments to the EI Act will ensure the regulations may provide for, or prescribe, all matters to be addressed through the ESMR.

**Table 2 – establishing Electricity System and Market Rules**

Intended reform	Corresponding amendment
Permit the regulations to provide for electricity system regulation in any part of the State.	Section 121A
Retain the ability for regulations to establish the WEM in the SWIS.	Section 122
Allow regulations to be made that rename the ‘market rules’ as ‘Electricity System and Market Rules’.	Section 123 Consequential naming changes throughout
Establish a list of all matters the ESMR may address. (Further information is provided in section 2.3 below).	Section 123(1A) Schedule 2A

Intended reform	Corresponding amendment
Ensure the ESMR, established under the regulations, can apply generally to electricity systems (i.e. outside the WEM-SWIS), and also specifically to the WEM-SWIS.	Section 122, 123
Dis-apply the <i>Interpretation Act 1984</i> 43(6) for penalties up to \$1,000, as the ESMR has its own penalty regime.	Section 123(2)
Remove the general privative mechanisms in 116/120T.	Section 116 removed Section 120T removed

## 2.2.2. Electricity Networks Access Code

At present, matters relating to access to covered electricity networks are addressed in Part 8 of the EI Act. In order to give effect to the decision to move the content of the Access Code into the ESMR, the Amending Bill will provide for the ESMR to address access and covered networks in the same way.

Note that the transfer of Access Code provisions into the ESMR will happen through a deliberate and phased process, and will include considerable public consultation, as discussed in section 2.2, above.

Other related amendments include the removal of section 102 of the EI Act, which refers to the purposes of Part 8. This section is made obsolete by the introduction of the SEO, which will facilitate access consistent with the efficient operation of networks in the long-term interests of consumers.

Note that, following the future transition of Access Code provisions into the ESMR, coverage decisions relating to access will be made under the ESMR, not the Access Code. However, no changes will be made to the mechanism through which light regulation is determined to apply to a covered Pilbara network (under Part 8A).

**Table 3 – Incorporating access in the Electricity System and Market Rules**

Intended reform	Corresponding amendment
Require the regulations to provide for ESMR which include provisions in relation to access to services of network infrastructure facilities. <ul style="list-style-type: none"> <li>The replacement of section 104, which establishes the Access Code.</li> </ul>	Sections 104, 104A, 104B, 105, 106 amended
Remove the requirement for an Access Code, and instead have the ESMR deal with the same content as the Access Code.	Section 104A amended
Remove 'the purposes' of Part 8, which are served by the SEO (i.e. the promotion of the long-term interests of consumers).	Section 102 removed

**Table 4 – Consequential amendments for access**

Intended reform	Corresponding amendment
Remove provisions relating to the Access Code, which are replaced by mechanisms for the status and amendment of the ESMR, including: <ul style="list-style-type: none"> <li>• s107 - Code is subsidiary legislation</li> <li>• s108 - Public comment on amendment or replacement of Code</li> <li>• s109 - Exception to section 108</li> <li>• s110 - Consultation with network service providers on amendment or replacement of Code</li> <li>• s111 - Review of Code.</li> </ul>	Sections 107 to 111 removed
Provide for the Minister for Energy to decide whether a network is covered under the ESMR.	Section 3(1) definition of covered network
Ensure the application of the civil penalty regime occurs generally within the ESMR, not specifically to the Access Code.	Section 118 removed

### 2.2.3. Technical Rules

Western Power’s Technical Rules (also referred to as the ‘technical code’) are currently empowered under section 104B(m) of the EI Act and are made (under the existing Access Code) for the purpose of access to services.

Under the amendments, section 104B(m) will be removed and the ESMR empowered to deal with matters dealt with by the Technical Rules.

**Table 5 – Technical Rules**

Intended reform	Corresponding amendment
Remove the requirement for Technical Rules to be formulated, and for the content of the Technical Rules to instead be addressed by the ESMR.	Section 104B(m) removed Schedule 2A outlines content to be included in the ESMR

### 2.2.4. Enforcement

The current EI Act includes a range of enforcement provisions to ensure compliance, including in relation to the WEM Rules. To retain these powers, provisions relating to potential contravention of the ESMR are included in drafting.

As the ESMR will incorporate relevant matters relating to access, some enforcement provisions in the EI Act relating to access (in Part 8) are made redundant. Drafting therefore includes the removal of civil proceedings for the Code, criminal proceedings, and regulations to enforce the Code. However, enforcement provisions relating to hindering or preventing access are retained.

In addition to access, enforcement provisions have been added (in sections 124F and 124G) to ensure that contraventions of the ESMR are subject to penalties.

This also sees the criminal proceedings provisions under section 120T (relating to the Pilbara) consolidated under 124H.

**Table 6 - Enforcement**

Intended reform	Corresponding amendment
Removal of relevant clauses referring to the Access Code.	Sections 116 – 118 removed
Insertion of relevant clauses under Division 5: <ul style="list-style-type: none"> <li>Penalties for contravening access</li> <li>Penalties for contravention of the ESMR</li> <li>Criminal proceedings</li> </ul>	Section 115 retained Section 124G added Section 124H added

### 2.2.5. Network quality and reliability of supply

Currently, the requirements that guide the operation of the power system and the level of reliability of the electricity network are spread across a range of instruments including the NQRS Code.

The drafting includes provisions to include reliability requirements in the regulations or ESMR, and removal of relevant provisions empowering the current NQRS Code.

Noting these requirements apply to licence holders across the State, proposed amendments will ensure the obligations specified in the regulations or ESMR can apply to all relevant licenses.

**Table 7 – Reliability provisions**

Intended reform	Corresponding amendment
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>Reliability;</li> <li>Security;</li> <li>Quality; and</li> <li>Safety.</li> </ul>	Section 124A(1) added (a) (b) (c) (d)
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>Obligations for licence holders to comply with the above; and</li> <li>Compensation to customers if licence holders fail to comply.</li> </ul>	Section 124A(1) added (e) (f)
Removal of equivalent provisions creating the NQRS Code.	Section 39(2)(d) & (da) removed
Consequential amendments referring to section 39 amended to instead refer to the regulations or ESMR for: <ul style="list-style-type: none"> <li>'Service standards' relevant to the Pilbara; and</li> <li>'RPC standards' applying to Horizon Power.</li> </ul>	129D(4), 129N(5) amended Section 39A(1) amended

### 2.2.6. Voltage and frequency limits

At present, network voltages are prescribed in primary legislation (*Electricity Act 1945*), which is overly prescriptive, inflexible and no longer meets current Australian and international standards for voltage.

Provisions in the *Electricity Act 1945* relating to prescription of voltage will be repealed, and the regulations and ESMR empowered to deal with prescribing voltage.

**Table 8 – Voltage**

Intended reform	Corresponding amendment
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>The system voltage or frequency at which network operators supplies electricity to the premises of a consumer; and</li> <li>The maintenance of system voltage within specified limits.</li> </ul>	Section 124B added
Removal of the specification of network voltages in primary legislation	Section 135, 136 (which repeals <i>Electricity Act 1945</i> section 25(1)(d))
Specification for distribution and transmission system voltages in regulations.	Section 3(1) definitions

### 2.2.7. Transitional arrangements

Transitional provisions within the amended EI Act (and other primary legislation as necessary) will permit parts of each instrument to be imported in part or in full at different times as policy development and consultation is completed. This will permit existing instruments to continue to be modified and remain in effect until they are incorporated within the ESMR.

The detail of the transitional arrangements will be determined through regulations, which will be empowered to outline how existing instruments will operate following passage of the Amending Bill, their transition to the ESMR, and their eventual revocation. The Minister will be required to identify and publish the relevant dates for transition in the Gazette.

Drafting also ensures that references to the WEM Rules or ‘market rules’ are deemed to be a reference to the ‘Electricity System and Market Rules’.

**Table 9 – Transitional arrangements**

Intended reform	Corresponding amendment
The regulations may provide, or authorise the ESMR to provide, for the regulation of matters of a savings, transitional or supplementary nature.	Division 11 added (ss 129AB-129AG)
Transitional arrangements can permit Minister to determine by order in the Gazette how any matter in progress is to be treated (for the purposes of the ESMR)	Section 105(2)

## 2.3. Addressing new subject matter

The third focus of the reforms being implemented under ETS Stage 2 is to enhance the electricity regulatory framework’s ability to address emerging challenges and the integration of new technologies. Primarily, areas of focus relate to regulation of distribution matters, including Distributed Energy Resources (DER), microgrids, embedded networks and stand-alone power systems (SPS).

At present, the regulatory framework established under the EI Act is extremely limited in its ability to address a range of critical matters relating to lower-voltage distribution systems, including technical standards for distribution network-connected assets and visibility of those assets, and the monitoring and compliance frameworks for those requirements. Historically, the planning, monitoring, and visibility of these lower-voltage systems (and equipment connected to them) was not seen as likely to materially impact on overall power system security. With changes to customer behaviour, service offerings, grid configurations, and the ongoing uptake of DER (which may be

aggregated into larger ‘facilities’), this assumption is no longer correct and the scope and powers of existing regulatory instruments are inadequate.

The proposed changes will introduce the heads of power to address the above issues, primarily through the future development of regulations and the ESMR.

The drafting introduces new concepts into the EI Act, including definitions relating to distribution systems, DER equipment and aggregated facilities, microgrids, and embedded networks. It also allows for the identification of responsible parties, their roles, relationships and obligations.

The EI Act will be amended to permit the regulations and ESMR to deal with requirements relating to technical standards, operation, visibility and control, and connection and metering.

It will also introduce the heads of power to create, govern and operate a distribution system market.

As an example, the proposed changes can give life to the operation and participation of an aggregated DER (‘connected facility’), and the potential development of a distribution system market and market operator. Note that these matters are still subject to policy development through completion of Project Symphony, and the continued work program to identify and specify DER Roles and Responsibilities being progressed as part of the implementation of the DER Roadmap. In other words, the proposed changes to the EI Act are necessary as an enabler to facilitate the future regulation of DER.

### 2.3.1. Introduction of defined terms

The amendments introduce definitions into the EI Act for a range of concepts that are already widely used in the electricity industry. These definitions are also relevant to the development of [Alternative Electricity Services](#) (which are being progressed through parallel drafting). The new definitions are referred to in section 3(1), with further definition in section 124D.

The definition of distribution systems will be expanded to explicitly include embedded networks or microgrids (s124D(1)), as well as stand-alone power systems.

Connected facilities are also to be introduced in the EI Act – as a DER facility that is connected to the distribution system or a thing that manages flows to or from the distribution system.

The effect of introducing these concepts is that the ESMR will be able to regulate lower-voltage distribution systems and the connection of DER to the network. For example, the amendments will facilitate the introduction of technical standards that DER must meet at the time of connection and on an ongoing basis.

Lastly, at present, the transmission system is defined using a hard-coded nominal voltage of at least 66 kilovolts. Proposed amendments will remove this specific definition, and permit this boundary to be prescribed by regulations.

**Table 10 – changes to definitions**

Intended reform	Corresponding amendment
Introduce terminology in the EI Act for: <ul style="list-style-type: none"> <li>• Embedded networks</li> <li>• Microgrids.</li> </ul>	Section 3(1) definition to refer to Section 124D
Introduce a definition of ‘connected facilities’ as a facility connected to the distribution system that manages or controls the flow of electricity to or from the distribution system.	Section 3(1)
Differentiation between distribution and transmission systems to be prescribed in regulation.	Section 3(1), definition of ‘transmission system’

Intended reform	Corresponding amendment
Introduce the role of the Coordinator, defined as the Coordinator of Energy referred to in the <i>Energy Coordination Act 1994</i> .	Section 3(1)

### 2.3.2. Distribution roles

In addition to the introduction of distribution system entities defined above, the proposed drafting will also introduce the heads of power to establish a distribution system market (including its governance and operation). Although not required immediately, the enabling amendments are future-focused to allow the contemplation of improvements as technology and the market evolves.

The roles of the Distribution System Operator (DSO), as an extension of Wester Power’s current role, and Distribution Market Operator (DMO), as an extension of AEMO’s current role, are critical to enabling the secure and efficient participation of aggregated DER in the power system. Importantly, the policy positions to define these roles, responsibilities and relationships are still under development, primarily through EPWA DER Roadmap implementation (in relation to the [DER Roles and Responsibilities](#) work stream). However, the intent of the drafting is to empower these expanded roles in the regulations and ESMR, once they are defined.

The functions of the DSO will require improved visibility which is essential to enabling DER participation in the power system in a coordinated manner. As DER participation increases in the lower-voltage distribution system, the DSO needs to be sufficiently empowered to define alternative methods for ensuring it is managed securely. The DMO’s role will also need to expand, facilitating the formal participation of DER in the provision of system-wide services in the WEM and reflection of localised services in dispatch and market settlement. Aggregators (such as Synergy) will not only require increased visibility of DER, to ensure the appropriate delivery of services, but will need to be able to effectively coordinate those services to provide the best value for customers and the power system.

The following roles and responsibilities apply to distribution systems or connected facilities, which also includes embedded networks, microgrids, and SPS.

**Table 11 – Distribution Roles and Responsibilities**

Intended reform	Corresponding amendment
Authorise the regulations to address, or allow the ESMR to provide for relevant roles, obligations and relationships relating to the distribution system. The regulations or ESMR may provide for:	Section 123(1A) added Schedule 2A
<ul style="list-style-type: none"> <li>• Operation of a distribution system or connected facility</li> </ul>	Section 124C(a)
<ul style="list-style-type: none"> <li>• Identification of a system or facility operator</li> <li>• Obligations on transparency and control</li> </ul>	Section 124C(b), (c)
<ul style="list-style-type: none"> <li>• Creation, governance and operation of a distribution system market</li> <li>• Establishing rights and functions on relevant entity in relation to operation of that market</li> </ul>	Section 124C(d), (e)
<ul style="list-style-type: none"> <li>• Defining relationships between system or facility operators, the distribution market and WEM operators, and any other participant.</li> </ul>	Section 124C(f)

### 2.3.3. Distribution technical standards

The EI Act will be amended to permit the regulations and the ESMR to deal with requirements relating to technical standards, operation, visibility and control, and connection and metering.

Generally, the regulations will be empowered through section 121A, through which it can provide for the operation of electricity systems across the State. However, the introduction of technical standards is intended to occur primarily through the ESMR (section 123).

A list of the matters the ESMR may address is provided in Schedule 2A.

In addition to matters already addressed under Western Power’s Technical Rules (which will be progressively transferred to the ESMR – see part 2.2.3 of this paper), the drafting also empowers the ESMR to address a range of technical standards in relation to distribution systems, including monitoring, control and measurement requirements.

**Table 12 – Distribution technical standards**

Intended reform	Corresponding amendment
Allow the ESMR to provide for relevant technical requirements relating to distribution systems (or other connected facilities) relating to supply of electricity through the distribution system and the transfer of electricity in and out of it.	Section 123(1A)(b) added Schedule 2A added
Allow the ESMR to provide for relevant technical requirements relating to remote monitoring, data capture and meter reading, remote disconnection and reconnection and other aspects of remote control.	Section 123(1A)(b) added Schedule 2A added

### 2.3.4. Distribution compliance

As DER and the distribution network plays an increasingly prominent role in our power system, the regulatory framework must be able to impose the above standards and obligations, in the long term interests of consumers. However, to ensure that these standards and obligations are met at the time of connection (and continue to be met), a new framework for monitoring, compliance and enforcement is required.

At present, compliance with distribution system requirements is loosely addressed through contractual arrangements and standards contained in instruments subsidiary to the EI Act (such as Western Power’s Technical Rules developed under the Access Code). Under the heads of power provided within the current EI Act, these instruments, there are limited options available to manage non-compliance.

The proposed amendments will permit network service providers, to ensure the safety of supply or electricity system operations, to direct non-compliant persons to rectify non-compliance. Further, if this direction is not followed, network service providers will be empowered to take actions to rectify the non-compliance.

To ensure that consumers retain protections in relation to potential directions, drafting also empowers the regulations to provide for applications to the State Administrative Tribunal.

**Table 13 – Distribution monitoring, compliance**

Intended reform	Corresponding amendment
Network service provider may be given the power to direct a person who has failed to comply with the EI Act, regulations or ESMR to rectify non-compliance (or, if not rectified, take action to rectify).	Section 124C(1)
A person may apply to the State Administrative Tribunal for a review of such a direction.	Section 124C(2)

## 2.3.5. Horizon Power provision of stand-alone power systems

Stand-alone power systems (SPS) can provide a more cost-effective, safer, and more reliable alternative to traditional network infrastructure, particularly in regional or remote locations where cost of supply is high.

In 2020, amendments to the EI Act facilitated the provision of SPS by Western Power in the SWIS (and Horizon Power in some circumstances). This was accompanied by changes to the Access Code, *Electricity Corporations Act 2005*, and the creation of Electricity Industry (Stand-alone Power Systems) Regulations 2021.

Primarily, the above changes empower Western Power to

- provide SPS in its function as network operator;
- access land for the purposes of SPS deployment; and
- be regulated with respect to SPS under the Access Code.

The provision of SPS by Western Power is facilitated by powers in the *Energy Operators (Powers) Act 1979*.

Importantly, the provision of SPS is also regulated. Presently, this occurs through s105(1)(cb).

However, Horizon Power (referred to as the Regional Power Corporation in legislation), is not granted equivalent powers to access land to deploy SPS. Further, much of Horizon Power's service area is outside networks covered under Parts 8 or 8A of the EI Act.

In order to ensure cost-effective SPS can be deployed by Horizon Power, both within covered networks, and in areas outside covered networks, the drafted amendments introduce powers to access land (which are equivalent to those granted to Western Power).

To complement these amendments, drafting also ensures that the deployment of SPS by Horizon Power may be regulated under the ESMR.

**Table 14 – Stand-alone Power Systems and Horizon Power**

Intended reform	Corresponding amendment
Horizon Power able to deploy SPS in covered networks, Pilbara networks, and outside covered networks.	Section 3A(1) added
Horizon Power is able to access land in order to deploy and operate SPS.	Section 144, 145 (amending the <i>Energy Operators (Powers) Act 1979</i> )
Authorise the regulations, and allow the ESMR to regulate Horizon Power's deployment of SPS in covered networks, Pilbara networks, and outside covered networks.	Section 105(1)(cb) Section 139 (amending the <i>Electricity Corporations Act 2005</i> )

## 2.3.6. Other matters

### Statutory immunity

At present, the EI Act provides for immunities under Part 8A (relating to the Pilbara), and Part 9 (for the SWIS).

The statutory immunity provisions will be extended to the Minister, the ERA and the Coordinator, who will not face civil monetary liability for actions taken in good faith (relating to functions under the regulations or ESMR).

**Table 15 – Immunities**

Intended reform	Corresponding amendment
Minister, the ERA and the Coordinator, and their officers are not liable if undertaking an act in good faith in performance of a function under the EI Act, regulations or ESMR.	Section 126(1A), (1B)
Participants (under s121(2)(b) & (c)) and their personnel are do not incur civil monetary liability if undertaking an act in good faith, in performance of a system management function.	Section 126(2)

## Review of market operation

The drafting will bring WEM operation reviews that are currently the responsibility of the ERA within the remit of the Coordinator. The reviews will continue to be held on an approximately three-yearly basis, and will have the purpose of assessing the extent to which the SEO is being met. Amendments to s128 give effect to this change.

**Table 16 – Reviews**

Intended reform	Corresponding amendment
Give the Coordinator the requirement to review the WEM on a three-yearly basis and provide it to the Minister for Energy.	Section 128(1)-(4),(6), Section 129 amended
Regulations or ESMR empowered to provide for: <ul style="list-style-type: none"> <li>the Coordinator to appoint panels to provide assistance in conducting a review</li> <li>the recovery of costs of any panel.</li> </ul>	Section 129AA (a)  (b)

## Energy data

Energy data and platforms are not currently addressed in the EI Act. Energy data is the information relating to electricity services, consumption, suppliers, and consumers, and energy data platforms are the systems to collect store and process this information. Energy data services relate to the gathering, distribution and processing of the data (including the operation of the data platforms).

In the proposed amendments this data, and the related platform and systems are introduced as defined terms. The ESMR are empowered to introduce requirements relating to energy data, including confidentiality, cyber-security and the data rights of consumers.

**Table 17 – Energy data**

Intended reform	Corresponding amendment
Introduce defined terms for energy data, energy data platforms, and energy data services.	Section 3(1) definitions added
Allow the ESMR to provide for relevant standards and requirements for platforms and services.	Section 123(1A)(b) added Schedule 2A(6) added

## Role of the ERA

The ERA ('the Authority') will remain responsible for monitoring, investigating and enforcing compliance with the ESMR (s124I). It also retains its functions with respect to network access and pricing, with the exception of its role in approving the Technical Rules. As the Technical Rules are to be transitioned into the ESMR, with its own change management process, the ERA will no longer have a direct approval role. Rather, changes to these rules will be managed in the same manner as rules relating to the operation of the WEM.

## Other consequential amendments

Finally, several legislative instruments, including other Acts, will require amendment to reflect the latest drafting in the EI Act. Some, like the changes to the Electricity Corporations Act 2005 and the *Electricity Act 1945*, reflect policy positions (i.e. regarding SPS or voltage limits) and have been discussed above.

Other amendments include changes update other legislation, by:

- Removing reference to the Access Code;
- Removing reference to the 'market rules'; and
- Incorporating relevant definitions.

The relevant Acts are outlined in the below table.

**Table 18 – Consequential amendments**

Intended reform	Corresponding amendment
<i>Electricity Corporations Act 2005</i> .	Sections 137 - 141
<i>Electricity Transmission and Distribution Systems (Access) Act 1994</i> .	Sections 142 - 143
Energy Operators (Power) Act 1979	Sections 144 - 145

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