

# Essential Services Legislation (Dispute Resolution) Bill

## As Sent Print

### EXPLANATORY MEMORANDUM

#### General

This Bill is part of the Victorian Government's commitment to establish the Essential Services Ombudsman (ESO) to provide a customer dispute handling mechanism for utility industries that is independent, fair and cost effective.

The Bill gives the Office of Regulator-General (ORG) a key role in overseeing the effectiveness of the complaints handling scheme. In particular, the legislation imposes direct scheme membership obligations for those water authorities not licensed by ORG, while reinforcing existing scheme membership obligations as part of the licence conditions for licensed energy and metropolitan water businesses.

ORG will be required to approve the scheme for each utility industry, once ORG is satisfied that the scheme meets a number of specific criteria relating to the scheme's accessibility, independence, fairness, accountability, efficiency and effectiveness. Specifically, the scheme will have to be—

accessible and free to consumers;

- independent from its members;

fair and seen to be fair;

accountable, through the requirement that the scheme publish its decisions and information about complaints it receives; and

operationally efficient and effective, through the requirement that the scheme undertakes regular reviews of its performance.

## Clause Notes

- Clause 1 sets out the purpose of the Bill.
- Clause 2 provides for the commencement of the Bill.
- Clause 3 amends the **Electricity Industry Act 1993** to impose a legislative requirement that the retail and distribution licences for electricity businesses under ORG's existing licensing framework include a condition requiring membership of an external customer dispute resolution scheme approved by ORG.

The clause retains scope for alternative external customer dispute resolution schemes to be developed, where these are considered by ORG to be effective. Therefore, the legislation is not intended to restrict the definition of an effective customer dispute resolution scheme to either the Essential Services Ombudsman or the Energy Industry Ombudsman of Victoria.

In approving the customer dispute resolution scheme, the clause also amends the **Electricity Industry Act 1993** to require ORG to have independent oversight of the ESO by certifying that the customer dispute resolution scheme operates in manner consistent with the specific criteria listed in proposed new section 163AAB(2).

- Clause 4 amends the **Gas Industry Act 1994** to impose a legislative requirement that the retail and distribution licences for gas businesses under ORG's existing licensing framework include a condition requiring membership of an external customer dispute resolution scheme approved by ORG.

The clause retains scope for alternative external customer dispute resolution schemes to be developed, where these are considered by ORG to be effective. Therefore, the legislation is not intended to restrict the definition of an effective customer dispute resolution scheme to either the Essential Services Ombudsman or the Energy Industry Ombudsman of Victoria.

In approving the customer dispute resolution scheme, the clause also amends the **Gas Industry Act 1994** to require ORG to have independent oversight of the ESO by certifying that the customer dispute resolution scheme operates in a manner consistent with the specific criteria listed in proposed new section 48FA(2).

Clause 5 amends the **Water Industry Act 1994** to impose a legislative requirement on all licence holders under that Act to enter into an external customer dispute resolution scheme approved by ORG.

The clause retains scope for alternative external customer dispute resolution schemes to be developed, where these are considered by ORG to be effective. Therefore, the legislation is not intended to restrict the definition of an effective customer dispute resolution scheme to either the Essential Services Ombudsman or the Energy Industry Ombudsman of Victoria.

In approving the customer dispute resolution scheme, the clause also amends the **Water Industry Act 1994** to require the ORG to have independent oversight of the ESO by certifying that the customer dispute resolution scheme operates in a manner consistent with the specific criteria listed in proposed new section 11A(3).

The clause also provides that participation by a licence holder in a dispute resolution scheme will not affect any right of review a person may have under the **Water Industry Act 1994**.

Clause 6 amends the **Water Act 1989** to impose on non-metropolitan urban water authorities and rural water authorities (which do not currently operate under a licensing regime) an express statutory obligation to be members of an external customer dispute resolution scheme approved by ORG.

To allow a reasonable time for the water authorities to comply with this obligation (to agree to arrangements for membership of the ESO with energy businesses), the clause allows for this obligation to be complied with by a date to be determined by the Treasurer.

The clause retains scope for alternative external customer dispute resolution schemes to be developed, where these are considered by ORG to be effective. Therefore, the legislation is not intended to restrict the definition of an effective customer dispute resolution scheme to either the Essential Services Ombudsman or the Energy Industry Ombudsman of Victoria.

In approving the customer dispute resolution scheme, the clause also amends the **Water Act 1989** to require ORG to have independent oversight of the ESO by certifying that the customer

dispute resolution scheme operates in a manner consistent with the specific criteria listed in proposed new section 110A(3).

The clause also provides that participation by a water authority in a dispute resolution scheme will not affect any right of review a person may have under the **Water Act 1989**.

Clause 7 amends the **Melbourne Water Corporation Act 1992** to impose on the Melbourne Water Corporation (the Corporation), which does not currently operate under a licensing regime, an express statutory obligation to be a member of an external customer dispute resolution scheme approved by ORG.

To allow a reasonable time for the Corporation to comply with this obligation (to agree to arrangements for membership of the ESO with energy businesses), the clause allows for this obligation to be complied with by a date to be determined by the Treasurer.

The Bill retains scope for alternative external customer dispute resolution schemes to be developed, where these are considered by ORG to be effective. Therefore, the legislation is not intended to restrict the definition of an effective customer dispute resolution scheme to either the Essential Services Ombudsman or the Energy Industry Ombudsman of Victoria.

In approving the customer dispute resolution scheme, the clause also amends the **Melbourne Water Corporation Act 1992** to require ORG to have independent oversight of the ESO by certifying that it operates in a manner consistent with the specific criteria listed in proposed new section 16A(3).

The clause also provides that participation by the Corporation in a dispute resolution scheme will not affect any right of review a person may have under the **Melbourne and Metropolitan Board of Works Act 1958**.