

LEGISLATIVE COUNCIL

ENERGY LEGISLATION AMENDMENT (ENERGY FAIRNESS) BILL 2021

(Amendments to be proposed in Committee by Mr RICH-PHILLIPS)

1. Clause 1, line 6, omit "prohibit" and insert "regulate".
2. Clause 5, line 16, omit "**and 40EB**" and insert "**to 40EC**".
3. Clause 5, page 3, lines 19 to 31, pages 4 to 8, and page 9, lines 1 to 21, omit all words and expressions on these lines and insert—

"40EA Prohibition on commission or incentive payments for door-to-door sales and cold-calling

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition prohibiting the retailer from—

- (a) giving an employee or agent of the retailer a commission or an incentive payment; or

- (b) engaging an agent who receives a commission or an incentive payment other than from the retailer—

for specified sales work which results in a domestic customer entering into a supply and sale contract with the retailer.

- (2) A supply and sale contract entered into as a result of specified sales work performed by an employee or agent of the retailer who receives a commission or an incentive payment for that work is of no effect.

- (3) In this section—

domestic customer has the same meaning as in section 41;

specified sales work means—

- (a) calling on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or

- (b) telephoning a domestic customer for the purpose of negotiating a supply and sale contract, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call.

40EB Direct sales contracts to be lodged with the Commission

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition requiring the retailer to provide the Commission a

copy of the supply and sale contract (a *direct sales contract*) that the retailer intends to offer to domestic customers by—

- (a) calling on a domestic customer at the domestic customer's ordinary place of residence; or
 - (b) telephoning a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call; or
 - (c) requiring or permitting an employee or agent of the retailer to do a thing referred to in paragraph (a) or (b).
- (2) A direct sales contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the Commission has not approved the form and content of the direct sales contract before the contract is offered to the domestic customer.
- (3) The Commission must approve or reject the form and content of a direct sales contract provided by a retailer.
- (4) If the Commission rejects the form and content of a direct sales contract provided by a retailer, it must advise the retailer—
- (a) what part or parts of the direct sales contract resulted in the rejection; and
 - (b) what changes would be required to the form and content of the direct sales contract for the Commission to approve it.
- (5) In this section—
- domestic customer* has the same meaning as in section 41.

40EC Requirement for membership of approved peak body for cold-calling or door-to-door sales

- (1) Without limiting the generality of section 20(2) or (3), or 21, the conditions to which a licence to sell electricity held by a retailer is subject include a condition requiring the retailer, or an agent of the retailer, to be a member of a peak body approved by the Commission, if the retailer—
- (a) calls on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
 - (b) telephones a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call, for the purpose of negotiating a supply and sale contract; or
 - (c) requires or permits the agent or an employee of the retailer to do a thing referred to in paragraph (a) or (b).
- (2) A supply and sale contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the retailer or agent, as the case requires, was not a member of an approved peak body at the time the contract was entered into.

(3) For the purposes of this section, the Commission may approve a peak body which sets standards or guidelines in relation to cold-calling or door-to-door sales practices.

(4) In this section—

domestic customer has the same meaning as in section 41;

peak body means an entity established to represent the interests of retailers."!

4. Clause 19, line 15, omit "**and 48DB**" and insert "**to 48DC**".

5. Clause 19, page 51, lines 18 to 30 and pages 52 to 57, omit all words and expressions on these lines and insert—

"48DA Prohibition on commission or incentive payments for door-to-door sales and cold-calling

(1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition prohibiting the gas retailer from—

(a) giving an employee or agent of the gas retailer a commission or an incentive payment; or

(b) engaging an agent who receives a commission or an incentive payment other than from the gas retailer—

for specified sales work which results in a domestic customer entering into a supply and sale contract with the gas retailer.

(2) A supply and sale contract entered into as a result of specified sales work performed by an employee or agent of the gas retailer who receives a commission or an incentive payment for that work is of no effect.

(3) In this section—

domestic customer has the same meaning as in section 48E;

specified sales work means—

(a) calling on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or

(b) telephoning a domestic customer for the purpose of negotiating a supply and sale contract, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call.

48DB Direct sales contracts to be lodged with the Commission

(1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition requiring the gas retailer to provide the Commission a copy of the supply and sale contract (a *direct sales contract*) that the gas retailer intends to offer to domestic customers by—

- (a) calling on a domestic customer at the domestic customer's ordinary place of residence; or
 - (b) telephoning a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call; or
 - (c) requiring or permitting an employee or agent of the gas retailer to do a thing referred to in paragraph (a) or (b).
- (2) A direct sales contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the Commission has not approved the form and content of the direct sales contract before the contract is offered to the domestic customer.
- (3) The Commission must approve or reject the form and content of a direct sales contract provided by a gas retailer.
- (4) If the Commission rejects the form and content of a direct sales contract provided by a gas retailer, it must advise the gas retailer—
- (a) what part or parts of the direct sales contract resulted in the rejection; and
 - (b) what changes would be required to the form and content of the direct sales contract for the Commission to approve it.
- (5) In this section—
- domestic customer* has the same meaning as in section 48E.

48DC Requirement for membership of approved peak body for cold-calling or door-to-door sales

- (1) Without limiting the generality of section 28(2) or (3), or 29, the conditions to which a licence to sell gas by retail held by a gas retailer is subject include a condition requiring the gas retailer, or an agent of the gas retailer, to be a member of a peak body approved by the Commission, if the gas retailer—
- (a) calls on a domestic customer at the domestic customer's ordinary place of residence for the purpose of negotiating a supply and sale contract; or
 - (b) telephones a domestic customer, irrespective of whether the domestic customer is at their ordinary place of residence at the time of the telephone call, for the purpose of negotiating a supply and sale contract; or
 - (c) requires or permits the agent or an employee of the gas retailer to do a thing referred to in paragraph (a) or (b).
- (2) A supply and sale contract entered into as a result of conduct described in subsection (1)(a), (b) or (c) is of no effect if the gas retailer or agent, as the case requires, was not a member of an approved peak body at the time the contract was entered into.

- (3) For the purposes of this section, the Commission may approve a peak body which sets standards or guidelines in relation to cold-calling or door-to-door sales practices.
 - (4) In this section—
 - domestic customer* has the same meaning as in section 48E;
 - peak body* means an entity established to represent the interests of gas retailers."!
6. Clause 33, omit this clause.
 7. Clause 34, lines 13 to 30, omit all words and expressions on these lines.