

Legislative Update: Energy Consumer Protection Act, 2010

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By Catherine Powell

Ontario Bill 235 received Royal Assent on 18 May 2010. As its name indicates, the purpose of the new legislation is to provide safeguards for energy consumers, in particular with respect to the following:

(i) **Electricity and gas contracts.** The Act retains for customers the right to sue in the Ontario Superior Court, even if the contract they have entered into states otherwise. The Act also sets out requirements for a contract to be valid (such as disclosure requirements), and reserves for customers the right to terminate the contract without incurring charges and penalties that are not specifically permitted by the Act or the regulations thereunder. Importantly, the Act states that the principle of *contra proferentem* shall apply with respect to electricity and gas contracts.

(ii) **Suite metering.** A suite meter provider may install suite meters for certain prescribed classes of units. However, if a suite meter provider enters into a procurement process, contract or arrangement in relation to suite metering, the procurement process, contract or arrangement shall meet any criteria or requirements that may be prescribed by regulation or mandated by a code issued by the Ontario Energy Board or by an order of the Ontario Energy Board.

Part IV of the new legislation reserves broad regulation-making powers to the Lieutenant Governor in Council.

As a result of the Act, several other statutes have also been amended, including: the *Consumer Protection Act, 2002*; the *Electricity Act, 1998*; the *Ontario Energy Board Act, 1998*; and the *Residential Tenancies Act, 2006*.

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