



Electrical Safety Act 2002

Current as at 23 October 2017

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Queensland

Electrical Safety Act 2002

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Electrical Safety Act 2002

An Act about electrical safety, and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Electrical Safety Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act binds all persons

- (1) This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) The State, Commonwealth and other States are liable for an offence against this Act.

Division 2 Purpose of Act

4 Purpose

- (1) This Act is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.

- (2) Accordingly, the purpose of this Act is to establish a legislative framework for—
- (a) preventing persons from being killed or injured by electricity; and
 - (b) preventing property from being destroyed or damaged by electricity.

5 How purpose of Act is to be achieved

The purpose of this Act is to be achieved in the following ways—

- (a) imposing duties on persons who may affect the electrical safety of others by their acts or omissions;
- (b) establishing benchmarks for industry and the community generally through—
 - (i) making regulations, ministerial notices and codes of practice about achieving electrical safety; and
 - (ii) introducing safety management systems for particular electricity entities;
- (c) providing for the safety of all persons through licensing and discipline of persons who perform electrical work;
- (d) providing for protection for consumers against failures of persons who perform electrical work to properly perform and complete the work;
- (e) providing for the appointment of a commissioner for electrical safety to advise the Minister on electrical safety matters and to manage the activities of the Electrical Safety Board and its committees;
- (f) establishing the Electrical Safety Board and its committees to—
 - (i) allow industry and the community to participate in developing strategies for improving electrical safety; and

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- (ii) participate in developing requirements for the licensing and discipline of persons who perform electrical work; and
 - (iii) promote community awareness about electrical safety; and
 - (iv) participate in developing requirements for the electrical safety of electrical equipment.

Division 3 Application of Act

6 Application of Act to mines, petroleum plant and GHG storage plant

- (1) An excluded provision does not have application at a mine, petroleum plant or GHG storage plant.
- (2) Also, a regulation under this Act has application at a mine, petroleum plant or GHG storage plant—
 - (a) only to the extent it is made other than for the purposes of an excluded provision; and
 - (b) only to the extent the regulation provides.
- (3) In this section—

excluded provision means—

 - (a) part 2; or
 - (b) part 3; or
 - (c) part 4, to the extent it relates to electrical contractor licences.

GHG storage plant means private plant or an electrical installation that is operated under the *Greenhouse Gas Storage Act 2009* and subject to inspection under the *Petroleum and Gas (Production and Safety) Act 2004*.

mine means—

- (a) a coal mine under the *Coal Mining Safety and Health Act 1999*; or

- (b) a mine under the *Mining and Quarrying Safety and Health Act 1999*.

petroleum plant means private plant or an electrical installation that is operated under the *Petroleum and Gas (Production and Safety) Act 2004* and subject to inspection under that Act.

private plant means equipment used for generating electricity, other than equipment used by an electricity entity under an authority or special approval under the Electricity Act.

7 Application of Act to railways and light rail

Provisions of this Act, other than part 2, relating to the design of electrical equipment do not apply in relation to electrical equipment forming part of an electrical installation or electricity entity works—

- (a) providing, or intended to provide, electrical traction on a railway or light rail; or
- (b) used for signalling purposes on a railway or light rail.

Division 4 Interpretation

8 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

10 Meanings of ***electrical risk***, ***electrically safe*** and ***electrical safety***

- (1) ***Electrical risk*** means—
- (a) in relation to a person, the risk to the person of death, shock or injury caused directly by electricity or originating from electricity; or
- (b) in relation to property, the risk to the property of—

-
- (i) damage caused by a cathodic protection system; or
 - (ii) loss or damage caused directly by electricity or originating from electricity.
- (2) ***Electrically safe*** means—
- (a) for a person or property, that the person or property is free from electrical risk; and
 - (b) for electrical equipment or an electrical installation, that all persons and property are free from electrical risk from the equipment or installation; and
 - (c) for the way electrical equipment, an electrical installation or the works of an electricity entity are operated or used, that all persons and property are free from electrical risk from the operation or use of the equipment, installation or works; and
 - (d) for the way electrical work is performed, that all persons are free from electrical risk from the performance of the work; and
 - (e) for the way a business or undertaking is conducted, that all persons are free from electrical risk from the conduct of the business or undertaking; and
 - (f) for the way electrical equipment or an electrical installation is installed or repaired, that all persons are free from electrical risk from the installing or repairing of the equipment or installation.
- (3) ***Electrical safety***, for a person or property, means the person or property is electrically safe.
- (4) In this section—
- free from electrical risk***, for a person or property, means that—
- (a) electrical risk to the person or property has been eliminated, so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate electrical risk to the person or property, the risk has been minimised so far as is reasonably practicable.

11 Meaning of *serious electrical incident*

A *serious electrical incident* is an incident involving electrical equipment if, in the incident—

- (a) a person is killed by electricity; or
- (b) a person receives a shock or injury from electricity, and is treated for the shock or injury by or under the supervision of a doctor; or
- (c) a person receives a shock or injury from electricity at high voltage, whether or not the person is treated for the shock or injury by or under the supervision of a doctor.

12 Meaning of *dangerous electrical event*

A *dangerous electrical event* is any of the following—

- (a) the coming into existence of circumstances in which a person is not electrically safe, if—
 - (i) the circumstances involve high voltage electrical equipment; and
 - (ii) despite the coming into existence of the circumstances, the person does not receive a shock or injury;
- (b) the coming into existence of both of the following circumstances—
 - (i) if a person had been at a particular place at a particular time, the person would not have been electrically safe;
 - (ii) the person would not have been electrically safe because of circumstances involving high voltage electrical equipment;
- (c) an event that involves electrical equipment and in which significant property damage is caused directly by electricity or originates from electricity;

-
- (d) the performance of electrical work by a person not authorised under an electrical work licence to perform the work;
 - (e) the performance of electrical work by a person if, as a result of the performance of the work, a person or property is not electrically safe;

Examples for paragraph (e)—

- the connection of electrical equipment to a source of supply involving incorrect polarity or other incorrect connection
 - the performance of electrical work as a result of which an exposed wire is left in circumstances in which it can be energised by the operation of a switch or circuit breaker or the insertion of a fuse
- (f) the discovery by a licensed electrical worker of electrical equipment that has not been marked as required under this Act.

13 Meaning of *appliance*

- (1) An *appliance* is a device that consumes electricity at a voltage greater than extra low voltage and in which the electricity is converted into heat, motion or another form of energy or is substantially changed in its electrical character.
- (2) Although a light fitting, including its bulb or tube, is an appliance, the bulb or tube, taken alone, is not an appliance.

14 Meaning of *electrical equipment*

- (1) Electrical equipment means any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that—
 - (a) is used for controlling, generating, supplying, transforming or transmitting electricity at a voltage greater than extra low voltage; or
 - (b) is operated by electricity at a voltage greater than extra-low voltage; or

- (c) is part of an electrical installation located in an area in which the atmosphere presents a risk to health and safety from fire or explosion; or
 - (d) is, or is part of, a cathodic protection system.
- (2) Electrical equipment does not include any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that is part of a vehicle if—
- (a) the equipment is part of a unit of the vehicle that provides propulsion for the vehicle; or
 - (b) the electricity source for the equipment is a unit of the vehicle that provides propulsion to the vehicle.

Examples of things that, under subsection (2), are not electrical equipment—

- the headlights of a vehicle
- ignition spark plugs of a motor vehicle
- the interior lighting system of a vehicle, if powered from a battery charged by the engine that drives the vehicle or by the vehicle's movement

Examples of things that are not prevented by subsection (2) from being electrical equipment—

- interior lighting or a socket outlet in a caravan, if the lighting or outlet is operated by a low voltage generating set or connected to low voltage supply
- a refrigeration unit in a food delivery vehicle operating at low voltage from a source separate from the propulsion unit for the vehicle

15 **Meaning of *electrical installation***

- (1) An electrical installation is a group of items of electrical equipment that—
- (a) are permanently electrically connected together; and
 - (b) can be supplied with electricity from the works of an electricity entity or from a generating source; and
 - (c) do not include items that are works of an electricity entity.

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- (2) An item of electrical equipment may be part of more than 1 electrical installation.
- (3) In subsection (1)(a)—
- (a) an item of electrical equipment connected to electricity by a plug and socket outlet is not ***permanently electrically connected***; and
 - (b) connection achieved through using works of an electricity entity is not a consideration in determining whether or not electrical equipment is ***electrically connected***.

Examples of an electrical installation—

- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shop in a shopping centre
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a house or residential unit
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shopping centre. The electrical installation for the shopping centre generally includes the electrical installations for the individual shops
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a residential unit complex. The electrical installation for the residential unit complex generally includes the electrical installations for the individual residential units
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected within a caravan

16 Meaning of ***electric line***

- (1) An ***electric line*** is a wire or conductor or associated equipment used for transmitting, transforming, or supplying electricity at a voltage greater than extra low voltage.
- (2) However, an ***electric line*** does not include—
- (a) a wire or conductor directly used in converting electricity into another form of energy; or
 - (b) a wire or conductor within the internal structure of a building.

Examples of things that are not electric lines—

- a cord for connecting an air conditioning unit, computer, lamp, television or toaster to a supply of electricity
- a power or lighting circuit within a building

17 Meaning of *associated equipment* for electric line

Associated equipment, for an electric line, means something ordinarily found in association with the electric line, especially for the purpose of protecting, insulating or supporting, or supporting the operation of, the electric line.

Examples of associated equipment—

- a bracket, casing, coating, covering, duct, frame, insulator, pillar, pipe, pole, tower or tube enclosing, surrounding or supporting a wire or conductor
- an air break, circuit breaker, switch, transformer or other apparatus connected to a wire or conductor

18 Meaning of *electrical work*

(1) *Electrical work* means—

- (a) connecting electricity supply wiring to electrical equipment or disconnecting electricity supply wiring from electrical equipment; or
- (b) manufacturing, constructing, installing, removing, adding, testing, replacing, repairing, altering or maintaining electrical equipment or an electrical installation.

Examples of electrical work—

- installing low voltage electrical wiring in a building
- installing electrical equipment into an installation coupler or interconnector
- replacing a low voltage electrical component of a washing machine
- maintaining an electricity entity's overhead distribution system

(2) *Electrical work* does not include the following—

- (a) work that involves connecting electrical equipment to an electricity supply by means of a flexible cord plug and socket outlet;
- (b) work on a non-electrical component of electrical equipment, if the person carrying out the work is not exposed to an electrical hazard;

Examples for paragraph (b)—

- painting electrical equipment covers
- repairing hydraulic components of an electrical motor
- replacing a drive belt on a washing machine

- (c) replacing electrical equipment or a component of electrical equipment if that task can be safely performed by a person who does not have expertise in carrying out electrical work;

Examples for paragraph (c)—

- replacing a fuse
- replacing a light bulb in a light fitting

- (d) assembling, making, modifying or repairing electrical equipment in a workplace under the *Work Health and Safety Act 2011* that is prescribed under a regulation for this paragraph, if that is the principal manufacturing process at the workplace, and arrangements are in place, and are detailed in written form, for ensuring that—
 - (i) the work is done safely and competently; and
 - (ii) the equipment is tested to ensure compliance with relevant standards;
- (e) building or repairing ducts, conduits or troughs (channels) where electrical wiring will be or is installed, if—
 - (i) the channels are not intended to be earthed; and
 - (ii) wiring installed in the channels is not energised; and
 - (iii) the work is done under the supervision of a person licensed to perform electrical installation work;

- (f) locating or mounting electrical equipment, or fixing electrical equipment in place, if this task is not performed in relation to the connection of electrical equipment to an electricity supply;
- (g) assisting a licensed electrical worker to carry out electrical work, on electrical equipment under the direct supervision of the electrical worker, if the assistance does not involve physical contact with any energised electrical equipment;
- (h) carrying out electrical work, other than work on energised electrical equipment, in order to meet eligibility requirements in relation to becoming a licensed electrical worker and only if the work is prescribed under a regulation for this paragraph;
- (i) building, under the supervision of an electricity entity, an overhead electric line on structures that do not already carry an energised overhead electric line;
- (j) laying, cutting or sealing underground cables that are part of the works of an electricity entity before the initial connection of the cables to an electricity source;
- (k) recovering underground cables that are part of the works of an electricity entity after disconnection from an electricity source;
- (l) altering, repairing, maintaining or recovering an overhead electric line that is part of the works of an electricity entity, if the work is performed under the entity's supervision and—
 - (i) if the line is not on supports supporting another electric line—the line has been isolated from an electricity source so that the closure of a switch can not energise the section of the line where work is being done; or
 - (ii) if the line is on supports supporting another electric line—both lines have been isolated from an electricity source so that the closure of a switch can not energise the section of the line where the work

is being done or an adjacent section of the other line;

- (m) erecting structures for the support of electrical equipment;

Examples of structures—

- electric poles and towers
- (n) locating, mounting or fixing in place electrical equipment, other than—
- (i) making or terminating electrical connections to the equipment; or
 - (ii) installing supply conductors that will connect the equipment to a supply of electricity;
- (o) maintaining the structural parts of the electrical traction system on a railway, other than overhead electric lines, that forms part of the works of an electrical entity, if the work is structural work performed under a safe system of work.

19 Types of electrical work for this Act

- (1) ***Electrical installation work*** is electrical work associated with an electrical installation, but does not include the following electrical work—
- (a) testing, repairing or maintaining electrical equipment included in the electrical installation;
 - (b) electric line work associated with the electrical installation.

Examples of electrical installation work—

- installing or altering wiring or fixed appliances in a building
 - installing or altering a switchboard
- (2) ***Electric line work*** is electrical work associated with an electric line.

Examples of electric line work—

- erecting an aerial conductor that is part of the works of an electricity entity or of an electrical installation
- installing or maintaining street lighting circuits
- testing an overhead electrical line to ensure it is correctly connected

- (3) ***Electrical equipment work*** is electrical work other than electrical installation work or electric line work.

Examples of electrical equipment work—

- repairing substation electrical equipment
- repairing an electric range, whether or not it is part of an electrical installation
- installing, jointing or terminating covered cables

20 Meanings of *electrical work licence* and *electrical contractor licence*

- (1) An ***electrical work licence*** is a licence authorising an individual to perform electrical work.
- (2) An ***electrical contractor licence*** is a licence authorising a person to perform electrical work as part of a business or undertaking.

21 Meaning of *person conducting a business or undertaking*

- (1) For this Act, a person conducts a business or undertaking—
- (a) whether the person conducts the business or undertaking alone or with others; and
- (b) whether or not the business or undertaking is conducted for profit or gain.
- (2) A business or undertaking conducted by a person includes a business or undertaking conducted by a partnership or an unincorporated association.
- (3) If a business or undertaking is conducted by a partnership (other than an incorporated partnership), a reference in this

Act to a person conducting the business or undertaking is to be read as a reference to each partner in the partnership.

- (4) A person does not conduct a business or undertaking to the extent that the person is engaged solely as a worker in, or as an officer of, that business or undertaking.
- (5) An elected member of a local government does not in that capacity conduct a business or undertaking.
- (6) A regulation may state the circumstances in which a person may be taken not to be a person who conducts a business or undertaking for the purposes of this Act or any provision of this Act.
- (7) A volunteer association does not conduct a business or undertaking for the purposes of this Act.
- (8) In this section, *volunteer association* means a group of volunteers working together for 1 or more community purposes where none of the volunteers, whether alone or jointly with any other volunteers, employs any person to carry out work for the volunteer association.

22 Meaning of *worker*

- (1) A person is a *worker* if the person carries out work in any capacity for a person conducting a business or undertaking, including work as—
 - (a) an employee; or
 - (b) a contractor or subcontractor; or
 - (c) an employee of a contractor or subcontractor; or
 - (d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking; or
 - (e) an outworker; or
 - (f) an apprentice or trainee; or
 - (g) a student gaining work experience; or
 - (h) a volunteer; or

- (i) a person of a prescribed class.
- (2) For this Act, a police officer is—
 - (a) a worker; and
 - (b) at work throughout the time when the officer is on duty or lawfully performing the functions of a police officer, but not otherwise.
- (3) The person conducting the business or undertaking is also a **worker** if the person is an individual who carries out work in that business or undertaking.

24 Meaning of *person in control* of electrical equipment

- (1) The *person in control*, of electrical equipment, is the person who controls the electrical equipment.
- (2) A person who is the occupier of a place where electrical equipment is located would ordinarily be the *person in control* of the equipment.

Examples—

- A manufacturer that owns a factory building used for the manufacturer's business would ordinarily be the person in control of all electrical equipment at the building.
 - The body corporate for a community titles scheme would ordinarily be the person in control of electrical equipment located on common property for the scheme.
 - A person who occupies a lot in a community titles scheme would ordinarily be the person in control of electrical equipment located within the lot.
- (3) If there is in place a contract or other arrangement to the effect that a person other than the occupier of a place where electrical equipment is located is to control the electrical equipment, the other person is the *person in control* of the equipment.

Examples—

- If a manufacturer occupies a factory building under a lease, and the lease provides that the lessor keeps responsibility for the maintenance and repair of particular electrical equipment at the

building, the lessor is the person in control of the particular electrical equipment.

- If the body corporate for a community titles scheme enters into a contract under which a licensed electrical contractor assumes responsibility for the repair and maintenance of electrical equipment located on common property for the scheme, the electrical contractor is the person in control of the electrical equipment.
 - If the lessee under a retail shop lease occupies retail premises in a shopping centre under a lease, and the lease provides that the shopping centre management keeps responsibility for particular electrical equipment in the retail premises, the shopping centre management is the person in control of the particular electrical equipment.
 - If the lessee under a retail shop lease occupies retail premises in a shopping centre under a lease, and the lease provides that the lessee may interfere with particular electrical equipment at the retail premises only with the consent of the shopping centre management, both the lessee and the shopping centre management are persons in control of the electrical equipment.
- (4) Despite subsections (1) to (3), if premises are occupied as a residence other than by the owner of the premises, the owner is the *person in control* of electrical equipment located at the premises if it—
- (a) forms part of, or is supplied for use at, the premises; and
 - (b) is owned by the owner of the premises.
- (5) For subsection (1), a person does not control electrical equipment only because the electrical equipment—
- (a) is the subject of electrical work performed by the person or directed or supervised by the person; or
 - (b) is used for the carrying out of work—
 - (i) performed by the person as a worker; or
 - (ii) directed or supervised by the person.
- (6) In this section—
- control*, electrical equipment, includes having responsibility for the maintenance and repair of the electrical equipment.

25 Meaning of *works* of an electricity entity

Works, of an electricity entity, means the electrical equipment, and electric line associated equipment, controlled or operated by the entity to generate, transform, transmit or supply electricity.

Example of works of an electricity entity—

an overhead distribution system of a distribution entity, including transformers and switches

Example of what is not works of an electricity entity—

appliances or fixed wiring in an electricity entity's workshop or offices

Part 2 Electrical safety duties

Division 1 Introductory

Subdivision 1 Principles that apply to duties

26 Principles that apply to duties

This subdivision sets out the principles that apply to all duties that persons have under this Act.

27 Duties not transferable

A duty can not be transferred to another person.

27A Person may have more than 1 duty

A person can have more than 1 duty by virtue of being in more than 1 class of duty holder.

27B More than 1 person can have a duty

(1) More than 1 person can concurrently have the same duty.

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- (2) Each duty holder must comply with that duty to the standard required by this Act even if another duty holder has the same duty.
 - (3) If more than 1 person has a duty for the same matter, each person—
 - (a) retains responsibility for the person's duty in relation to the matter; and
 - (b) must discharge the person's duty to the extent to which the person has the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

Subdivision 2 What is reasonably practicable

28 What is *reasonably practicable* in ensuring electrical safety

In this Act, *reasonably practicable*, in relation to a duty to ensure electrical safety, means that which is, or was at a particular time, reasonably able to be done in relation to ensuring electrical safety, taking into account and weighing up all relevant matters including—

- (a) the likelihood of the hazard or the risk concerned happening; and
- (b) the degree of harm that might result from the hazard or the risk; and
- (c) what the person concerned knows, or ought reasonably to know, about—
 - (i) the hazard or the risk; and
 - (ii) ways of eliminating or minimising the risk; and
- (d) the availability and suitability of ways to eliminate or minimise the risk; and

- (e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

Division 2 Duties of care

29 Duty of electricity entity

- (1) An electricity entity has a duty to ensure that its works—
 - (a) are electrically safe; and
 - (b) are operated in a way that is electrically safe.
- (2) Without limiting subsection (1), the duty includes the requirement that the electricity entity inspect, test and maintain the works.

30 Primary duty of care

- (1) A person conducting a business or undertaking must ensure the person's business or undertaking is conducted in a way that is electrically safe.
- (2) Without limiting subsection (1), the duty includes—
 - (a) ensuring that all electrical equipment used in the conduct of the person's business or undertaking is electrically safe; and
 - (b) if the person's business or undertaking includes the performance of electrical work, ensuring the electrical safety of all persons and property likely to be affected by the electrical work; and
 - (c) if the person's business or undertaking includes the performance of work, whether or not electrical work, involving contact with, or being near to, exposed parts, ensuring persons performing the work are electrically safe.

31 Duty of person conducting business or undertaking that designs electrical equipment or an electrical installation

- (1) This section applies to a person (the *designer*) who conducts a business or undertaking that designs electrical equipment or an electrical installation.
- (2) The designer must ensure that—
 - (a) the electrical equipment or installation is designed to be electrically safe; and
 - (b) if the designer gives the design to another entity who is to give effect to the design, the design is accompanied by information about the way the electrical equipment or installation must be used and installed to ensure the equipment or installation is electrically safe.

32 Duty of person conducting business or undertaking that manufactures electrical equipment

- (1) This section applies to a person (the *manufacturer*) who conducts a business or undertaking that manufactures electrical equipment.
- (2) The manufacturer must ensure that—
 - (a) the processes followed for the manufacture of the electrical equipment ensure that the electrical equipment, when made, will be electrically safe; and
 - (b) the electrical equipment, when made, is electrically safe.
- (3) Without limiting subsection (1)(b), the duty includes ensuring that the electrical equipment, when made, is tested and examined to ensure it is electrically safe.

Note—

The circumstances in which this section applies could include circumstances in which the manufacturer is a responsible supplier and the electrical equipment is in-scope electrical equipment.

33 Duty of person conducting business or undertaking that imports electrical equipment

- (1) This section applies to a person (the *importer*) who conducts a business or undertaking that imports electrical equipment.
- (2) The importer must ensure that the electrical equipment is electrically safe.
- (3) Without limiting subsection (1), the duty includes ensuring that the electrical equipment—
 - (a) is designed to be electrically safe; and
 - (b) is tested and examined to ensure it is electrically safe.

Note—

The circumstances in which this section applies could include circumstances in which the importer is a responsible supplier and the electrical equipment is in-scope electrical equipment.

34 Duty of person conducting business or undertaking that supplies electrical equipment

- (1) This section applies to a person (the *supplier*) who conducts a business or undertaking that supplies electrical equipment.
- (2) The supplier must ensure that when the electrical equipment leaves the supplier, it is accompanied by information about the way the electrical equipment must be used to ensure that its use is electrically safe.

35 Additional duties of designer, manufacturer, importer or supplier of electrical equipment

- (1) A designer, manufacturer, importer or supplier of electrical equipment mentioned in section 31, 32, 33 or 34 must comply with the requirements of an electrical safety notification that apply to the designer, manufacturer, importer or supplier.

Note—

See section 206 which provides for the issue of electrical safety notifications.

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- (2) A designer, manufacturer or importer of electrical equipment mentioned in section 31, 32, 33 or 34 must comply with the requirements of a recall order that applies to the designer, manufacturer or importer.

Note—

See division 2B which provides for the making of recall orders.

36 Duty of installer of electrical equipment or electrical installation

- (1) This section applies to a person (the *installer*) who installs electrical equipment or an electrical installation.
- (2) The installer must ensure that—
- (a) the way the electrical equipment or installation is installed is electrically safe; and
 - (b) the processes followed for installing the electrical equipment or installation ensure that, when installed, it will be electrically safe; and
 - (c) after the electrical equipment or installation is installed, the person tests and examines it to ensure it is electrically safe.

37 Duty of repairer of electrical equipment or electrical installation

- (1) This section applies to a person (the *repairer*) who repairs electrical equipment or an electrical installation.
- (2) The repairer must ensure that—
- (a) the way the electrical equipment or installation is repaired is electrically safe; and
 - (b) the processes followed for repairing the electrical equipment or installation ensure that, when repaired, it will be electrically safe; and
 - (c) the electrical equipment or installation, when repaired, is electrically safe.

- (3) Without limiting subsection (1), the duty includes ensuring that the electrical equipment or installation, when repaired, is tested and examined to ensure it is electrically safe.

38A Duty of officers

- (1) If a person conducting a business or undertaking has a duty under this Act, an officer of the person conducting the business or undertaking must exercise due diligence to ensure that the person conducting the business or undertaking complies with that duty.
- (2) Subject to subsection (3), the maximum penalty applicable under division 2A for an offence relating to the duty of an officer under this section is the maximum penalty fixed for an officer of a person conducting a business or undertaking for that offence.
- (3) Despite anything to the contrary in section 40D, if the duty of a person conducting a business or undertaking was imposed under a provision other than sections 29 to 40, the maximum penalty under 40D for an offence by an officer under section 40D in relation to the duty is the maximum penalty fixed under the provision creating the duty for an individual who fails to comply with the duty.
- (4) An officer of a person conducting a business or undertaking may be convicted or found guilty of an offence under this Act relating to a duty under this section whether or not the person conducting the business or undertaking has been convicted of an offence under this Act relating to the duty.
- (5) In this section, *due diligence* includes taking reasonable steps—
 - (a) to acquire and keep up-to-date knowledge of electrical safety matters; and
 - (b) to gain an understanding of the nature of the operations of the business or undertaking of the person conducting the business or undertaking and generally of the hazards and risks associated with those operations; and

- (c) to ensure that the person conducting the business or undertaking has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to electrical safety from work carried out as part of the conduct of the business or undertaking; and
- (d) to ensure that the person conducting the business or undertaking has appropriate processes for receiving and considering information regarding incidents, hazards and risks and responding in a timely way to that information; and
- (e) to ensure that the person conducting the business or undertaking has, and implements, processes for complying with any duty of the person conducting the business or undertaking under this Act; and

Example—

For paragraph (e), the duties under this Act of a person conducting a business or undertaking may include—

- ensuring compliance with notices issued under this Act;
 - ensuring the provision of training and instruction to workers about electrical safety.
- (f) to verify the provision and use of the resources and processes mentioned in paragraphs (c) to (e).

38 Duty of person in control of electrical equipment

- (1) This section applies to a person who is in control of electrical equipment.
- (2) The person must ensure that the electrical equipment is electrically safe.
- (3) Subsection (1) does not apply to the person in control of electrical equipment to the extent that the electrical equipment—
 - (a) is located at premises in which the person lives; or
 - (b) forms part of the works of an electricity entity.

39 Duty of worker

While at work, a worker must—

- (a) take reasonable care for the worker's own electrical safety; and
- (b) take reasonable care that the worker's acts or omissions do not adversely affect the electrical safety of other persons or property; and
- (c) comply, so far as the worker is reasonably able, with—
 - (i) any reasonable instruction that is given by the person conducting the business or undertaking to allow the person to comply with this Act; or
 - (ii) subject to subparagraph (i), any reasonable instruction about electrical equipment located at the workplace given by a person in control of the electrical equipment to allow the person to comply with this Act; and
- (d) cooperate with any reasonable policy or procedure of the person conducting the business or undertaking relating to electrical safety at the workplace that has been notified to workers.

40 Duty of other person

- (1) This section applies to a person at a place where electrical equipment is located, whether or not the person has another duty under this part.
- (2) The person must—
 - (a) take reasonable care for the person's electrical safety; and
 - (b) take reasonable care that the person's acts or omissions do not adversely affect the electrical safety of other persons; and
 - (c) comply, so far as the person is reasonably able, with any reasonable instruction that is given by the person in

control of the electrical equipment to allow the person to comply with this Act.

40AA Duty of person conducting business or undertaking that conducts a recognised external certification scheme

- (1) This section applies to a person who conducts a business or undertaking—
 - (a) that conducts a recognised external certification scheme; and
 - (b) that certifies in-scope electrical equipment under the scheme.
- (2) The person must ensure that the in-scope electrical equipment to which the certification relates is electrically safe.

Division 2A Offences and penalties

40A Electrical safety duty

Electrical safety duty means a duty imposed under division 2.

40B Reckless conduct—category 1

- (1) A person commits a *category 1 offence* if—
 - (a) the person has an electrical safety duty; and
 - (b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; and
 - (c) the person is reckless as to the risk to an individual of death or serious injury or illness.

Maximum penalty—

- (a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or

[s 40C]

- undertaking—3,000 penalty units or 5 years imprisonment; or
- (b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—6,000 penalty units or 5 years imprisonment; or
 - (c) for an offence committed by a body corporate—30,000 penalty units.
- (2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.
- (3) A category 1 offence is a crime.

40C Failure to comply with electrical safety duty—category 2

A person commits a *category 2 offence* if—

- (a) the person has an electrical safety duty; and
- (b) the person fails to comply with that duty; and
- (c) the failure exposes an individual to a risk of death or serious injury or illness.

Maximum penalty—

- (a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—1,500 penalty units; or
- (b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—3,000 penalty units; or
- (c) for an offence committed by a body corporate—15,000 penalty units.

40D Failure to comply with electrical safety duty—category 3

A person commits a *category 3 offence* if—

- (a) the person has an electrical safety duty; and
- (b) the person fails to comply with that duty.

Maximum penalty—

- (a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—500 penalty units; or
- (b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—1,000 penalty units; or
- (c) for an offence committed by a body corporate—5,000 penalty units.

40E Duty prevails over particular excuses

For an offence against sections 40C and 40D, the Criminal Code sections 23(1) and 24 are subject to division 2.

Note—

This rule is similar to the rule in the Criminal Code section 23(1) (extended to section 24), which makes that provision subject to express provisions of the Criminal Code relating to negligent acts and omission.

40F Exceptions

- (1) A volunteer does not commit an offence under this division for a failure to comply with an electrical safety duty, except a duty under section 39 or 40.
- (2) An unincorporated association does not commit an offence under this Act for a failure to comply with a duty imposed on the unincorporated association under this Act.
- (3) However—
 - (a) an officer of an unincorporated association (other than a volunteer) may be liable for a failure to comply with a duty under section 38A; and

[s 40G]

- (b) a member of an unincorporated association may be liable for failure to comply with a duty under section 39 or 40.

Division 2B Ministerial recall orders

40G Minister may make recall order

- (1) This section applies if the Minister considers that electrical equipment is placing, or will place, persons or property in electrical risk.
- (2) The Minister may make an order (a *recall order*) that—
 - (a) is directed to a stated designer, manufacturer or importer (the *responsible person*); and
 - (b) requires stated electrical equipment, or a stated type of electrical equipment, be recalled from use.
- (3) The Minister may make a recall order for electrical equipment whether or not—
 - (a) the responsible person has already undertaken a recall of the electrical equipment; or
 - (b) the electrical equipment has been installed at a place.

Note—

Section 35(2) expressly provides for a duty to comply with the recall order.

40H Notice required before making recall order

- (1) Before making the recall order, the Minister must—
 - (a) advise the responsible person by written notice that the Minister intends to make the order and the reasons for making the order; and
 - (b) give the responsible person a copy of the proposed order; and

- (c) call on the responsible person to show cause why the Minister should not make the proposed order.
- (2) If the responsible person wishes to show cause why the recall order should not be made, the responsible person must make written submissions to the Minister within 7 days after receiving the notice and copy of the proposed order from the Minister.
- (3) The Minister must consider any written submissions made by the responsible person before making the recall order.

40I Service of recall order

- (1) This section applies if, after considering any written submissions made by the responsible person under section 40H(2), the Minister still decides to make the recall order.
- (2) The recall order must be in writing and be given to the responsible person.
- (3) Information that is sufficient to alert the public about the electrical risk identified in the recall order must be published in—
 - (a) the gazette; and
 - (b) a newspaper circulating generally in the State.

40J Nature of recall order

- (1) The recall order must state—
 - (a) the reasons for the recall of the electrical equipment from use; and
 - (b) what the responsible person must do to recall the electrical equipment from use including, but not limited to, the following—
 - (i) the way in which, and the period for which, the responsible person must inform other persons about the electrical risk;

[s 40K]

- (ii) the information the responsible person must give other persons about the electrical risk, including the action the other persons should take to mitigate the electrical risk;
 - (iii) the action the responsible person must take to eliminate the electrical risk, for example, by repair, replacement or otherwise making the equipment electrically safe;
 - (iv) the information the responsible person must give to the regulator about the progress of the recall.
- (2) The responsible person is liable for any cost incurred in relation to complying with the recall order, including costs incurred by a supplier giving reasonable help in relation to the recall order under section 40K.
- (3) The recall order remains in force until the end of 2 years after the order is made unless sooner revoked by the Minister.
- (4) Subsection (3) does not prevent a further recall order being made for the same electrical equipment to which the recall order applied while it was in force.

40K Supplier must help responsible person

- (1) This section applies if the responsible person—
 - (a) produces a copy of the recall order to a supplier of electrical equipment that is the subject of the order; and
 - (b) asks the supplier for help in relation to the recall order.
- (2) The supplier must give the responsible person reasonable help in relation to the recall order.

Examples of reasonable help—

- ceasing the supply of the recalled electrical equipment
- putting up a sign about the recall at the supplier's place of business
- providing a collection point for recalled electrical equipment
- identifying or contacting persons supplied with the recalled electrical equipment

- giving the responsible person information about the number of items of recalled electrical equipment sold, in stock or returned by customers

Maximum penalty—50 penalty units.

Division 3 Regulations, ministerial notices and codes of practice relating to electrical safety duties

42 Ministerial notice about discharging electrical safety duty

- (1) This section applies if the Minister has identified circumstances of electrical risk for persons or property and considers that urgent action should be taken to deal with the electrical risk.
- (2) The Minister may make a notice that prescribes a way of discharging a person's electrical safety duty in relation to the electrical risk.
- (3) The notice expires—
 - (a) 1 year from the day it is notified; or
 - (b) on an earlier day stated in the notice.
- (4) However, a regulation may extend the notice's operation for a further period of not more than 1 year.
- (5) If a notice is inconsistent with a regulation or code of practice, the notice prevails to the extent of the inconsistency.
- (6) A notice is subordinate legislation.

43 Effect of ministerial notice for discharge of electrical safety duty

- (1) Unless otherwise stated in a ministerial notice, the notice does not prescribe all that a person to whom the notice applies must do, or must not do, to discharge the person's electrical safety duty in relation to the electrical risk mentioned in the notice.

- (2) However, for applying the duty offence provision, the person fails to discharge the electrical safety duty in relation to the electrical risk if the person contravenes the ministerial notice.

44 Code of practice about discharging electrical safety duty

- (1) The Minister may make a code of practice that states a way of discharging a person's electrical safety duty.
- (2) A code of practice, or an instrument amending or repealing a code of practice, has no effect unless the Minister gives notice of its making.
- (3) A notice under subsection (2) is subordinate legislation.
- (4) A code of practice, or an instrument amending or repealing a code of practice, commences on the later of the following—
 - (a) the day the notice under subsection (2) commences;
 - (b) the day the code or instrument provides that it commences.
- (5) A code of practice expires 10 years after its commencement.
- (6) The Minister must ensure that a copy of each code of practice as in force from time to time, and any document applied, adopted or incorporated by the code of practice, is made available for inspection without charge during normal business hours at each department office dealing with electrical safety.
- (7) A code of practice may be made available in written or electronic form.
- (8) If a code of practice is inconsistent with a regulation, the regulation prevails to the extent of the inconsistency.

45 Use of code of practice in proceedings

- (1) This section applies in a proceeding for an offence against this Act.

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- (2) A code of practice is admissible in the proceeding as evidence of whether or not a duty under this Act has been complied with.
- (3) The court may—
- (a) have regard to the code as evidence of what is known about a hazard or risk, risk assessment or risk control to which the code relates; and
 - (b) rely on the code in deciding what is reasonably practicable in the circumstances to which the code relates.

Note—

See section 28 for the meaning of *reasonably practicable*.

- (4) Nothing in this section prevents a person from introducing evidence of compliance with this Act in a way that is different from the code but provides a standard of electrical safety that is equivalent to or higher than the standard required in the code.

Part 2A In-scope electrical equipment safety system

Division 1 Preliminary

48A Definitions for pt 2A

In this part—

another State includes New Zealand.

certificate of conformity has the meaning given by a regulation made for this part.

corresponding law means a law of another State that provides for the same, or substantially the same, matter as—

- (a) this part or a regulation made for this part; or

(b) a provision of this part or a regulation made for this part.

in-scope electrical equipment see section 48B.

level 2 in-scope electrical equipment has the meaning given by a regulation made for this part.

level 3 in-scope electrical equipment has the meaning given by a regulation made for this part.

national register see section 48D.

participating jurisdiction means another State that has enacted or made a corresponding law.

recognised external certification scheme means a scheme declared to be a recognised external certification scheme under section 48J.

register means to register in the national register.

responsible supplier, of in-scope electrical equipment, means—

- (a) a person who conducts a business or undertaking that manufactures the electrical equipment in, or imports the electrical equipment into, Australia; or
- (b) if New Zealand is a participating jurisdiction, a person who conducts a business or undertaking that manufactures the electrical equipment in, or imports the electrical equipment into, New Zealand.

48B Meaning of *in-scope electrical equipment*

- (1) ***In-scope electrical equipment*** is low voltage electrical equipment that is designed, or marketed as suitable, for household, personal or similar use.
- (2) It is immaterial whether the low voltage electrical equipment is also designed or marketed to be used for commercial or industrial purposes.

48C Extraterritorial operation

It is the intention of the Parliament that the operation of this part and a regulation made for this part are to, as far as possible, include operation in relation to the following—

- (a) things situated in or outside the territorial limits of Queensland;
- (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of Queensland;
- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this part and a regulation made for this part, be governed or otherwise affected by the law of another jurisdiction.

Division 2 National register

48D Regulator to establish and maintain national register

- (1) The regulator must establish and maintain an in-scope electrical equipment safety system register (the *national register*).
- (2) The national register must be available for the purposes of this Act and each corresponding law—
 - (a) to register responsible suppliers and level 2 or 3 in-scope electrical equipment; and
 - (b) to record information about certificates of conformity and other matters; and
 - (c) to access information in the register.
- (3) The registration matters mentioned in subsection (2)(a) and the information matters mentioned in subsection (2)(b) are to be kept separately.
- (4) The national register must be in electronic form available, on the internet, for use by any person for the purposes mentioned in subsection (2).

- (5) The regulator may comply with subsections (1) to (4) by entering into an agreement with an entity under which the entity establishes and maintains the national register for the regulator.
- (6) It is immaterial where the national register is located.

48E Electronic registration procedure

- (1) A person may register any matter, or record any information about a matter in the national register, by accessing the national register on the internet—
 - (a) inputting the information; and
 - (b) making the declaration (if any); and
 - (c) paying the fee (if any);as indicated by prompts or fields in the register.
- (2) A person who responds to the prompts or fills in the fields is taken to have given the information or made the declaration concerned.

48F Effect of registration etc. in national register

A matter registered in the national register, or information recorded in the national register, is taken to be registered or recorded under this Act whether the registration or inclusion was done for the purposes of this Act or a corresponding law.

48G Effect of cancellation of registration etc.

- (1) This section applies if—
 - (a) the registration of a matter is cancelled under a corresponding law; or
 - (b) information recorded in the national register is omitted under a corresponding law.
- (2) The registration is cancelled or the information is omitted for the purpose of this Act.

- (3) However, the cancellation or omission does not entitle a person to apply for a review of the decision resulting in the cancellation or omission, or to appeal against that decision, under part 12.

Note—

For any review of the decision, see the corresponding law.

48H Regulator may note cancellation under corresponding law in national register

- (1) This section applies if—
- (a) the registration of a responsible supplier or of level 2 or 3 in-scope electrical equipment is cancelled under a corresponding law; and
 - (b) the regulator is notified of the cancellation under arrangements agreed to by the regulator.
- (2) The regulator must record notice of the cancellation in the national register.

48I Registration fees

- (1) This section applies for prescribing fees under a regulation for the registration of responsible suppliers or level 2 or 3 in-scope electrical equipment.
- (2) The fees prescribed may be prescribed at a premium level having regard to the following—
- (a) under this Act and corresponding laws matters registered in the national register will be taken to be registered under this Act and each corresponding law; and
 - (b) under an agreement between the State and the participating jurisdictions—
 - (i) the only fees payable for registration, whether under this Act or a corresponding law, will be the fees prescribed under the regulation; and

- (ii) the fees will—
 - (A) in the first instance, be paid to the regulator through the national register; and
 - (B) be paid by the regulator into the fund; and
 - (C) be paid from the fund as mentioned in section 204C(1).
- (3) Subsection (2) does not limit the matters that may be taken into account when prescribing the fees but may extend the matters.
- (4) Subsections (1) and (2) do not limit the fees that may be prescribed under section 210(4) for this part or the national register.
- (5) A fee payable under subsection (2) must be paid under section 48E(1) or the equipment safety rules.

Division 3 Recognised external certification schemes

48J Recognised external certification schemes

- (1) The regulator may, by gazette notice, declare a scheme for the certification of types of in-scope electrical equipment to be a recognised external certification scheme.
- (2) A regulation may make provision about the declaration of a scheme under subsection (1).

Division 4 Rules

48K Regulator may make rules

- (1) The regulator may make rules under this part (the *equipment safety rules*).
- (2) Without limiting subsection (1), a rule may—

- (a) be about—
 - (i) the registration of matters including the declarations to be made by responsible suppliers relating to their registration and to their registration of level 2 or 3 in-scope electrical equipment; or
 - (ii) the recording of any information in the national register;
 - (iii) the correction, change or withdrawal of information recorded in the national register in relation to the registration of a matter or otherwise; or
 - (iv) process for issuing certificates of conformity; or
- (b) approve an entity as an approved testing entity.
- (3) A rule may contain other information relating to this part or a regulation.
- (4) A rule must not be inconsistent with this Act.
- (5) The regulator must notify the making of a rule in the gazette.
- (6) A rule takes effect—
 - (a) on the day the making of the rule is notified in the gazette; or
 - (b) if a later day is stated in the notice or the rule—on that day.
- (7) The regulator must make a copy of the equipment safety rules available for public inspection on the department's website on the internet.

Editor's note—

The address of the department's website is www.justice.qld.gov.au.

Part 2B Industrial manslaughter

48L Definitions for part

(1) In this part—

conduct means an act or omission to perform an act.

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

senior officer, of a person conducting a business or undertaking, means—

- (a) if the person is a corporation—an executive officer of the corporation; or
 - (b) otherwise—the holder of an executive position (however described) in relation to the person who makes, or takes part in making, decisions affecting all, or a substantial part, of the person's functions.
- (2) For this part, a person's conduct *causes* death if it substantially contributes to the death.
- (3) For this part, a reference to a worker carrying out work for a business or undertaking includes a reference to a worker who is at a workplace to carry out work for the business or undertaking, including during a work break.

48M Exceptions

- (1) A volunteer does not commit an offence under this part.
- (2) Despite section 40F(2), a senior officer of an unincorporated association (other than a volunteer) may commit an offence under this part.
- (3) The Criminal Code, section 23 does not apply to an offence under this part.

48N Industrial manslaughter—person conducting business or undertaking

- (1) A person conducting a business or undertaking commits an offence if—
- (a) a worker—
 - (i) dies in the course of carrying out work for the business or undertaking; or
 - (ii) is injured in the course of carrying out work for the business or undertaking and later dies; and
 - (b) the person’s conduct causes the death of the worker; and
 - (c) the person is negligent about causing the death of the worker by the conduct.

Maximum penalty—

- (a) for an individual—20 years imprisonment; or
- (b) for a body corporate—100,000 penalty units.

Note—

See section 188 or 190B in relation to imputing to a body corporate or public authority particular conduct of employees, agents or officers of the body corporate or public authority.

- (2) An offence against subsection (1) is a crime.

48O Industrial manslaughter—senior officer

- (1) A senior officer of a person conducting a business or undertaking commits an offence if—
- (a) a worker—
 - (i) dies in the course of carrying out work for the business or undertaking; or
 - (ii) is injured in the course of carrying out work for the business or undertaking and later dies; and
 - (b) the senior officer’s conduct causes the death of the worker; and

- (2) The regulator must publish, on the regulator's website, notice of a decision to accept an electrical safety undertaking and the reasons for that decision.

51 When an electrical safety undertaking is enforceable

An electrical safety undertaking takes effect and becomes enforceable when the regulator's decision to accept the undertaking is given to the person who made the undertaking or at any later date stated by the regulator.

52 Compliance with an electrical safety undertaking

A person must not contravene an electrical safety undertaking made by that person that is in effect.

Maximum penalty— 500 penalty units.

53 Contravention of an electrical safety undertaking

- (1) The regulator may apply to a Magistrates Court for an order if a person contravenes an electrical safety undertaking.
- (2) If the court is satisfied that the person who made the electrical safety undertaking has contravened the undertaking, the court, in addition to the imposition of any penalty, may make 1 or both of the following orders—
 - (a) an order directing the person to comply with the undertaking;
 - (b) an order discharging the undertaking.
- (3) In addition to the orders mentioned in subsection (2), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay to the State—
 - (a) the costs of the proceedings; and
 - (b) the reasonable costs of the regulator in monitoring compliance with the electrical safety undertaking in the future.

- (4) Nothing in this section prevents proceedings being taken for the contravention or alleged contravention of this Act to which the electrical safety undertaking relates.

Note—

Section 54A states circumstances affecting proceedings for a contravention for which an electrical safety undertaking has been given.

54 Withdrawal or variation of electrical safety undertaking

- (1) A person who has made an electrical safety undertaking may at any time, with the written agreement of the regulator—
 - (a) withdraw the undertaking; or
 - (b) vary the undertaking.
- (2) However, the provisions of the undertaking can not be varied to provide for a different alleged contravention of the Act.
- (3) The regulator must publish, on the regulator’s website, notice of the withdrawal or variation of an electrical safety undertaking.

54A Proceeding for alleged contravention

- (1) Subject to this section, no proceedings for a contravention or alleged contravention of this Act may be taken against a person if an electrical safety undertaking is in effect in relation to the contravention.
- (2) No proceedings may be taken for a contravention or alleged contravention of this Act against a person who has made an electrical safety undertaking for the contravention and has completely discharged the electrical safety undertaking.
- (3) The regulator may accept an electrical safety undertaking for a contravention or alleged contravention before proceedings for the contravention have been finalised.
- (4) If the regulator accepts an electrical safety undertaking before the proceedings are finalised, the regulator must take all reasonable steps to have the proceedings discontinued as soon as possible.

Part 4 Licences

Division 1 Requirements for electrical licences

55 Requirement for electrical work licence

- (1) A person must not perform or supervise electrical work unless—
 - (a) the person is the holder of an electrical work licence in force under this Act; and
 - (b) the licence authorises the person to perform the work.Maximum penalty—400 penalty units.
- (2) Only an individual may be the holder of an electrical work licence.
- (3) A person is not required under subsection (1) to hold an electrical work licence for the purpose of the following—
 - (a) performance or supervision of electrical work for the purpose of installing or repairing telecommunications cabling;
 - (b) performance or supervision of electrical work in practising the person's profession as an electrical engineer;
 - (c) performance or supervision of remote rural installation work;
 - (d) performance or supervision of electrical work as part of the testing of electrical equipment that the person is authorised to do under a regulation;
 - (e) performance, as an apprentice, of electrical work in a calling that requires the apprentice to perform electrical work;
 - (f) performance, as a trainee, of electrical work in a calling that requires the trainee to perform electrical work of a type prescribed under a regulation;

- (g) performance, as a student, of electrical work as part of training under the supervision of teaching staff at—
 - (i) a university; or
 - (ii) a college, school or similar institution conducted or approved by a department of the State or of the Commonwealth.

56 Requirement for electrical contractor licence

- (1) A person must not conduct a business or undertaking that includes the performance of electrical work unless the person is the holder of an electrical contractor licence that is in force.
Maximum penalty—400 penalty units.
- (2) Without limiting subsection (1), a person conducts a business or undertaking that includes the performance of electrical work if the person—
 - (a) advertises, notifies or states that, or advertises, notifies or makes a statement to the effect that, the person carries on the business of performing electrical work; or
 - (b) contracts for the performance of electrical work, other than under a contract of employment; or
 - (c) represents to the public that the person is willing to perform electrical work; or
 - (d) employs a worker to perform electrical work, other than for the person.
- (3) However, a person does not conduct a business or undertaking that includes the performance of electrical work only because the person—
 - (a) is a licensed electrical mechanic who—
 - (i) performs electrical work for the person or a relative of the person at premises owned or occupied by the person or relative; or
 - (ii) makes minor emergency repairs to make electrical equipment electrically safe; or

- (b) contracts for the performance of work that includes the performance of electrical work if the electrical work is intended to be subcontracted to the holder of an electrical contractor licence who is authorised under the licence to perform the electrical work.
- (4) This section does not authorise the performance of electrical work by a person who does not have an electrical work licence for the work.
- (5) A person does not contravene subsection (1) if—
 - (a) the person conducts a business or undertaking that includes the performance of electrical work as a partner in a partnership; and
 - (b) the partnership is the holder of an electrical contractor licence that is in force.

57 Compliance with conditions and restrictions

- (1) The holder of an electrical work licence who performs or supervises electrical work must comply with all conditions and restrictions included in the licence.

Maximum penalty—400 penalty units.

- (2) The holder of an electrical contractor licence who performs electrical work must comply with all conditions and restrictions included in the licence.

Maximum penalty for subsection (2)—400 penalty units.

57AA Person conducting a business or undertaking must ensure workers are appropriately licensed

- (1) This section applies if a person is conducting a business or undertaking that includes the performance of electrical work.
- (2) The person must ensure—
 - (a) the electrical work is performed by the holder of an electrical work licence that authorises the performance of the work; and

[s 57AB]

- (b) any supervision of the electrical work is carried out by the holder of an electrical work licence that authorises the performance of the work.

Maximum penalty—400 penalty units.

- (3) Subsection (2) does not apply if the electrical work is performed or supervised by a person who, under section 55, is not required to hold an electrical work licence for the purpose of performing or supervising the work.

57AB Person conducting a business or undertaking must keep register of licensed workers

- (1) This section applies if—
 - (a) a person (the *relevant person*) conducts a business or undertaking that includes the performance of electrical work; and
 - (b) the relevant person engages other persons to perform or supervise the electrical work.
- (2) The relevant person must—
 - (a) keep a register of licensed workers in a way that complies with subsection (3); and
 - (b) if asked by an inspector, make the register of licensed workers available for immediate inspection by the inspector.

Maximum penalty—100 penalty units.

- (3) The register of licensed workers kept by the relevant person must—
 - (a) include the prescribed details for each holder of an electrical work licence engaged by the relevant person to perform or supervise electrical work—
 - (i) while the holder is engaged by the relevant person to perform or supervise electrical work; or
 - (ii) if the holder ceases to be engaged by the relevant person to perform or supervise electrical work—

- for at least 5 years after the holder ceases to be engaged by the relevant person; and
- (b) be updated within 7 days after the relevant person is notified, under section 57AC, of a change in any of the prescribed details, for the holder of an electrical work licence, included in the register; and
 - (c) include the date on which the prescribed details for the holder of an electrical work licence are included in the register or are updated.
- (4) A register of licensed workers may be kept in electronic form.

57AC Licence holder engaged by person conducting a business or undertaking must notify changes

- (1) This section applies if the holder of an electrical work licence is engaged to perform or supervise electrical work for a person (the *relevant person*) who conducts a business or undertaking that includes the performance of electrical work.
- (2) The holder must notify, in writing, the relevant person if any of the following happens within 14 days after it happens—
 - (a) the electrical work licence held by the person—
 - (i) is suspended or cancelled; or
 - (ii) is surrendered; or
 - (iii) expires and is not renewed; or
 - (iv) is amended in a way that changes—
 - (A) the work or activities that are authorised to be performed under the licence; or
 - (B) the conditions or restrictions applying to the way work or activities may be performed under the licence;
 - (b) the electrical work licence held by the holder is renewed or reinstated;
 - (c) any other prescribed details for the holder change.

Example for paragraph (c)—

the holder's name changes

Maximum penalty—

- (a) for paragraph (a)—40 penalty units; or
- (b) for paragraph (b) or (c)—10 penalty units.

Division 1A Rectification of defective electrical work

57A Power of regulator to direct defective electrical work to be rectified

- (1) This section applies if—
 - (a) the regulator considers that a person has contravened section 55 or 56; and
 - (b) the regulator considers that—
 - (i) the way the electrical work was performed was not electrically safe; or
 - (ii) the person who actually performed the electrical work was negligent or incompetent in performing the work; or
 - (iii) because of the performance of the work, a person or property is not electrically safe.
- (2) The regulator may direct the person to rectify the electrical work.

57B Notice of proposed action

- (1) Before the regulator gives a direction to rectify the electrical work, the regulator must give the person a written notice—
 - (a) stating that the regulator proposes to direct the person to rectify the electrical work within the period stated in the direction (the *proposed action*); and

- (b) stating the grounds for the proposed action; and
 - (c) outlining the facts and circumstances forming the basis for the grounds; and
 - (d) inviting the person to show, within a stated time of at least 14 days, why the proposed action should not be taken.
- (2) The regulator must consider any representations made by the person within the stated time.
- (3) If the regulator still considers a ground exists to take the proposed action, the regulator may direct the person to rectify the electrical work within the period stated in the direction.
- (4) The regulator must give the person—
- (a) written notice of the decision; and
 - (b) include with the written notice an information notice for the decision.
- (5) If the direction is given to a person who is not currently licensed to carry out the required work, the person must have the work carried out by a licensed contractor.
- (6) The person to whom the direction is given must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty—100 penalty units.
- (7) It is not a reasonable excuse for a person not to comply with the requirement that a contractor engaged by the person to perform the work had failed to perform the work.

Division 2 Electrical licence applications

58 Definition for div 2

In this division—

electrical licence application means an application to the regulator for—

- (a) the issue of an electrical licence; or

- (b) the renewal of an electrical licence; or
- (c) the reinstatement of an electrical licence.

59 Application for issue of electrical licence

- (1) A person may apply to the regulator for the issue of an electrical licence.
- (2) The application for the electrical licence—
 - (a) must be made in the approved form; and
 - (b) must otherwise comply with the requirements prescribed under a regulation about applying for the issue of the electrical licence, including any requirements about the payment of fees.
- (3) The regulator may issue, or refuse to issue, the electrical licence.
- (4) In deciding whether to issue the electrical licence, the regulator must apply any eligibility requirements prescribed under a regulation for the issue of the licence.

60 Application for renewal of electrical licence

- (1) The holder of an electrical licence may, before the licence expires (the *licence expiry*), apply to the regulator for the renewal of the licence.
- (2) The application for the renewal of the electrical licence—
 - (a) must be made in the approved form; and
 - (b) must otherwise comply with the requirements prescribed under a regulation about applying for the renewal of the electrical licence, including any requirements about—
 - (i) the payment of fees; and
 - (ii) the day by which the application must be made.
- (3) The regulator may renew, or refuse to renew, the electrical licence.

- (4) In deciding whether to renew the electrical licence, the regulator must apply any eligibility requirements prescribed under a regulation for the renewal of the licence.
- (5) If the electrical licence is renewed before the licence expiry, the renewal has effect from the licence expiry.
- (6) If the electrical licence is not renewed before the licence expiry—
 - (a) the licence as in force immediately before the licence expiry continues in force until—
 - (i) it is renewed; or
 - (ii) the regulator gives written notice of a refusal to renew; and
 - (b) if the licence is renewed, the licence, as renewed, ends on the day it would have ended if it had been renewed with effect from the licence expiry.

61 Application for reinstatement of electrical licence

- (1) If an electrical licence expires (the *licence expiry*), the person who was the holder of the licence may, within 1 year after the licence expiry, apply to the regulator for the reinstatement of the licence.
- (2) The application must—
 - (a) be made in the approved form; and
 - (b) otherwise comply with the requirements prescribed under a regulation about applying for the reinstatement of an electrical licence, including any requirements about the payment of fees.
- (3) The regulator may reinstate, or refuse to reinstate, the electrical licence.
- (4) In deciding whether to reinstate the electrical licence, the regulator must apply any eligibility requirements prescribed under a regulation for the reinstatement of the licence.

- (5) The reinstatement has effect from the end of the day of reinstatement.
- (6) The electrical licence, as reinstated, is not taken to have been in force for the period from the licence expiry to the reinstatement.
- (7) However, the electrical licence, as reinstated, ends on the day it would have ended if it had been renewed with effect from the licence expiry instead of being reinstated.

62 Further information or documents to support electrical licence application

- (1) The regulator may, by written notice given to the applicant under an electrical licence application, require the applicant to give the regulator, within a reasonable period of at least 21 days stated in the notice, further information or a document the regulator reasonably requires to decide the application.
- (2) The regulator may, in the notice, require the applicant to verify the further information or document by statutory declaration.
- (3) The applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) or (2) within the stated period.

63 Electrical licence conditions and restrictions

An electrical licence, as issued, renewed or reinstated, may include conditions or restrictions the regulator considers necessary or desirable for the proper performance of electrical work.

Examples of conditions—

- a condition that the licence holder satisfactorily finish a particular training course or examination
- a condition that the licence holder keep in place insurance of a kind, and in an amount, prescribed under a regulation

Examples of restrictions—

- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence
- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence for a person conducting a business or undertaking who is stated in the licence
- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence in a locality stated in the licence
- a restriction that limits the extent to which the holder may supervise the performance of electrical work

64 Regulator to give reasons for refusal of application or for conditions

- (1) If, after considering an electrical licence application, the regulator refuses to issue, renew or reinstate an electrical licence, the regulator must—
 - (a) give written notice of the refusal to the applicant within 30 days of the decision to refuse; and
 - (b) include with the written notice an information notice for the decision to refuse.
- (2) If, after considering an electrical licence application, the regulator decides to include additional conditions or restrictions in an electrical licence, or change conditions or restrictions in an electrical licence, the regulator must—
 - (a) give written notice of the inclusion or change to the applicant within 30 days of the decision to include or change the conditions or restrictions; and
 - (b) include with the written notice an information notice for the decision to include or change the conditions or restrictions.

Division 2A Miscellaneous requirements

Subdivision 1 Requests for further information and documents

64A Regulator may ask for further information or documents from licence holder

- (1) The regulator may, by written notice given to a person who is the holder of an electrical licence, require the person to give the regulator, within a reasonable period of at least 21 days stated in the notice, information or a document the regulator reasonably requires to satisfy the regulator that the person continues to satisfy the eligibility requirements for the issue of the licence.

Example of information—

The person continues to hold public liability insurance of the required amount under a contract of insurance approved by the regulator.

- (2) The regulator may, in the notice, require the person to verify the further information or document by statutory declaration.
- (3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Subdivision 2 Competency assessments

64B Notice of proposed direction under s 64C

- (1) This section applies in relation to a person who is the holder of an electrical work licence if—
 - (a) the person performs electrical work; and
 - (b) the licensing committee reasonably believes the person may not be competent to perform electrical work, or an

aspect of electrical work, that the person is authorised to perform under the licence.

- (2) Before giving the person a direction under section 64C, the licensing committee must give the person a written notice—
 - (a) stating the following—
 - (i) that the licensing committee proposes to direct the person to undergo an assessment of the person's competency to perform the electrical work or aspect;
 - (ii) the grounds for the proposed direction;
 - (iii) the competencies that are proposed to be assessed; and
 - (b) inviting the person to show, within a stated period of at least 10 business days, why the proposed direction should not be given.
- (3) The licensing committee must consider any representations made by the person within the stated period.

64C Direction to licensed electrical worker to undergo competency assessment

- (1) This section applies in relation to a person who is the holder of an electrical work licence if—
 - (a) the person performs electrical work; and
 - (b) the licensing committee reasonably believes the person may not be competent to perform electrical work, or an aspect of electrical work, that the person is authorised to perform under the licence.
- (2) The licensing committee may, by written notice to the person, direct the person to undergo an assessment of the person's competency to perform the electrical work or aspect.
- (3) The notice must—
 - (a) state the following—

- (i) the period, of at least 1 month, within which the person must undergo the assessment;
 - (ii) the competencies that must be assessed;
 - (iii) that the assessment must be carried out by a registered training organisation;
 - (iv) the matters a registered training organisation must consider in carrying out the assessment; and
- (b) include an information notice for the decision.

64D Requirements for registered training organisations

- (1) This section applies if—
- (a) a person is given a direction under section 64C; and
 - (b) a registered training organisation carries out the assessment required under the direction.
- (2) The registered training organisation must, as soon as practicable after completing the assessment—
- (a) prepare a report about the assessment; and
 - (b) give a copy of the report to the person and the licensing committee.

Division 3 External licences

65 External licence recognition provision

- (1) A regulation may prescribe particular external licences to be equivalent to particular electrical work licences.
- (2) An external licence is taken to be the electrical work licence to which it is equivalent.

- (i) how the document is to be developed and periodically updated;
- (ii) lodging the document with the regulator;
- (iii) initial and subsequent periodic assessments and validations of the document by accredited auditors to ensure that the document comprehensively identifies and addresses the hazards and risks associated with the design, construction, operation and maintenance of the entity's works.

67 Safety management system

A prescribed electricity entity must have, and must give effect to, a safety management system for the entity.

Maximum penalty—400 penalty units.

Part 6 Commissioner for electrical safety

68 Appointment of commissioner

- (1) There is to be a commissioner for electrical safety.
- (2) The commissioner is to be appointed by the Governor in Council by gazette notice.
- (3) The commissioner is to be appointed under this Act, and not under the *Public Service Act 2008*.
- (4) The commissioner's term of appointment is the term, not longer than 5 years, stated in the gazette notice appointing the commissioner.
- (5) Subsection (4) does not prevent the commissioner from being reappointed.

69 Eligibility for appointment

To be appointed as commissioner, a person must have—

- (a) an electrical trade or qualification; and
- (b) professional experience in electrical safety.

70 Terms and conditions of appointment

- (1) The commissioner is entitled to be paid the salary and allowances decided by the Governor in Council.
- (2) The Governor in Council may set conditions of employment to apply to the person.
- (3) The conditions of employment must, to the greatest extent practicable, be equivalent to the conditions of employment for a person appointed at a comparable level under the *Public Service Act 2008*.
- (4) The commissioner must, as soon as practicable after being appointed under section 68(2), enter into a written contract of employment with the regulator.
- (5) The contract must include any conditions of employment set by the Governor in Council.

71 Commissioner's functions

The functions of the commissioner are—

- (a) to manage the activities of the board, having regard to its objectives, strategies and policies, and to ensure its efficient operation; and
- (b) to manage the activities of each committee, having regard to its objectives, strategies and policies, and to ensure each committee's efficient operation; and
- (c) to fulfil the roles of chairperson of the board and chairperson of the Electrical Licensing Committee; and
- (d) to advise the Minister on electrical safety matters generally; and

- (e) to advise the Minister on proposed codes of practice after appropriate board and committee consideration and endorsement; and
- (f) to perform any other functions given to the commissioner under this Act.

72 Commissioner's powers

The commissioner has the powers necessary or convenient to carry out the commissioner's functions.

73 End of appointment

The commissioner's appointment ends if—

- (a) the commissioner resigns by signed notice of resignation given to the Minister; or
- (b) the commissioner's employment under the contract of employment ends.

74 Acting commissioner

- (1) The Minister may appoint a person to act in the office of commissioner during—
 - (a) any vacancy, or all vacancies, in the office; or
 - (b) any period, or all periods, when the commissioner is absent from duty, or can not, for another reason, perform the functions of the office.
- (2) A person can not be appointed to act as the commissioner unless the person would be eligible for appointment as the commissioner.
- (3) An appointment under subsection (1) is for the term, and on the conditions, decided by the Minister, and the Minister may end the appointment at any time in accordance with the conditions.

Part 7 Electrical Safety Board

Division 1 The board and its functions

75 Establishment

The Electrical Safety Board is established.

76 Functions of board

- (1) The primary function of the board is to give advice and make recommendations to the Minister about policies, strategies, and legislative arrangements for electrical safety.
- (2) Without limiting subsection (1), the board may discharge its primary function by—
 - (a) developing a 5-year strategic plan for improving electrical safety; and
 - (b) periodically evaluating, and at least once each year updating, the 5-year strategic plan; and
 - (c) advising the Minister about state, national and international electrical safety issues; and
 - (d) considering, and making recommendations on, issues the Minister refers to it; and
 - (e) reviewing the appropriateness of provisions of this Act, including regulations, ministerial notices and codes of practice made under this Act; and
 - (f) as considered appropriate, establishing working parties, including appointing members of the working parties and setting their procedures; and
 - (g) ensuring industry has been adequately consulted on proposed codes of practice; and
 - (h) promoting electrical safety in workplaces and in the broader community to foster an increased awareness of—

- (i) the potential risks associated with electricity; and
 - (ii) ways to improve electrical safety.
- (3) A secondary function of the board is to give advice and make recommendations to the regulator under the Electricity Act, as requested by the regulator, about the energy efficiency and performance of electrical equipment.
- (4) The regulator must give the board the necessary administrative and other support to enable the board to perform its functions efficiently and effectively.

Division 2 Board membership

77 Composition of board

- (1) The board consists of the following members—
 - (a) the commissioner, who is the chairperson of the board;
 - (b) the regulator;
 - (c) 6 members appointed by the Minister.
- (2) In choosing the appointed members of the board, the Minister must—
 - (a) consider each proposed member's practical experience and competence in the management of electrical safety; and
 - (b) ensure that—
 - (i) 2 of the appointed members are representative of employers; and
 - (ii) 2 of the appointed members are representative of workers; and
 - (iii) 2 of the appointed members are representative of the community; and
 - (c) seek to appoint both men and women as members.

78 Conditions of appointment to board

- (1) The appointment of an appointed member of the board is for the term, of not longer than 3 years, decided by the Minister when the member is appointed.
- (2) An appointed member of the board is appointed on a part-time basis.
- (3) An appointed member of the board is entitled to be paid the remuneration and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.

79 When appointed member's office becomes vacant

- (1) The office of an appointed member of the board becomes vacant if—
 - (a) the member resigns by signed notice of resignation given to the Minister; or
 - (b) the Minister ends the member's appointment.
- (2) The Minister may end the appointment of an appointed member of the board—
 - (a) in either of the following events—
 - (i) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the board;
 - (ii) the member is found guilty of an indictable offence, whether or not dealt with summarily, or an offence against this Act; or
 - (b) at any time, for any reason or without stating a reason.

80 Leave of absence

- (1) The Minister may approve a leave of absence for an appointed member of the board.

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- (2) If a leave of absence is approved, the Minister may appoint someone else as an acting member during the member's approved leave of absence.
- (3) In appointing a person as an acting member, the Minister must have regard to requirements of this division for the composition of the board.

Division 3 Conduct of board proceedings

81 Times of board meetings

- (1) The board may hold its meetings when it decides.
- (2) However, the board must meet at least 4 times a year.
- (3) The chairperson of the board—
 - (a) may call a meeting of the board at any time; and
 - (b) must call a meeting if the meeting is asked for by at least a third of the other members.
- (4) The Minister may call a meeting of the board at any time.

82 Conduct of proceedings

- (1) The chairperson of the board presides at all board meetings at which the chairperson is present.
- (2) The chief executive's attendance at a board meeting may be through a representative nominated by the regulator.
- (3) If the chairperson is absent, the member chosen by the members present is to preside.
- (4) At a meeting of the board—
 - (a) a quorum is at least 4 members; and
 - (b) a question is decided by a majority of the votes of the members present and voting; and
 - (c) each member present has a vote on each question to be decided and, if the votes are equal, the member

presiding has an additional vote in the form of a casting vote.

- (5) The board may otherwise conduct its proceedings, including its meetings, as it considers appropriate.
- (6) The board may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (7) A member who takes part in a board meeting under subsection (6) is taken to be present at the meeting.
- (8) A resolution is a valid resolution of the board, even though it is not passed at a board meeting, if—
 - (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

83 Disclosure of interests

- (1) If there is a reasonable possibility that a member's participation in the board's consideration of an issue will give the member, or an entity associated with the member, a professional or commercial advantage, or will otherwise be a conflict of interest, the member must disclose the possibility to the board.
- (2) The disclosure must be recorded in the board's minutes and, unless the board otherwise directs, the member must not—
 - (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board on the issue.
- (3) If, because of subsection (2), the member is not present for the board's consideration of the issue, but there would be a quorum if the member were present, the remaining members

present are a quorum for the board's consideration of the issue.

- (4) For subsection (1), an entity is associated with a member if the member is an employee or member of, or an adviser to, the entity.

84 Minutes

The board must keep minutes of its proceedings.

Division 4 General

85 Annual report

- (1) As soon as practical, but within 4 months, after the end of each financial year, the chairperson of the board must prepare and give to the Minister a report on the board's operations for the year.
- (2) The report must include a summary of the work of each of the board committees.
- (3) The report must—
 - (a) be approved by the board before it is submitted to the Minister; or
 - (b) indicate the extent to which any part of the report has not been approved by the board.
- (4) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

Part 8 Board committees

Division 1 Introduction

86 Establishment of board committees

- (1) This part establishes, and otherwise provides for, 3 committees.
- (2) This part also provides for the establishment of advisory committees.
- (3) Committees are established to support the board in the performance of its functions.
- (4) Additionally, the licensing committee has independent functions for particular licensing matters.

Division 2 Electrical Licensing Committee

87 Establishment

The Electrical Licensing Committee is established.

88 Functions of licensing committee

- (1) The functions of the licensing committee are—
 - (a) to give advice and make recommendations to the board about electrical licences and training; and
 - (b) to take necessary disciplinary action against holders of electrical licences and against previous holders of electrical contractor licences; and
 - (c) to review decisions of the regulator about electrical licences; and
 - (d) any other function given to the committee under this Act.

- (2) Without limiting subsection (1), the licensing committee may discharge its functions by—
 - (a) recommending training modules and courses to qualify persons for electrical licences; and
 - (b) advising on issues the board refers to it; and
 - (c) making recommendations about the safety of electrical work and the standards for qualifications required for an electrical licence; and
 - (d) receiving and investigating complaints about electrical work; and
 - (e) taking action to ensure holders of electrical licences perform work, or conduct their businesses or undertakings, to appropriate standards, including by cancelling or suspending licences and taking other disciplinary action; and
 - (f) reviewing decisions of the regulator about electrical licences, including by confirming, setting aside or substituting decisions or referring decisions back to the regulator.
- (3) The regulator must give the licensing committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

89 Composition of licensing committee

- (1) The licensing committee consists of the following members—
 - (a) the commissioner, who is the chairperson of the committee;
 - (b) 4 other members appointed by the Minister.
- (2) In choosing the appointed members of the committee, the Minister must—
 - (a) consider each proposed member's practical experience and competence in the management of electrical safety and in electrical training; and

- (b) ensure that—
 - (i) 1 of the appointed members is representative of employers; and
 - (ii) 1 of the appointed members is representative of workers; and
 - (iii) 1 of the appointed members is representative of the community; and
- (c) ensure that an appointed member who is other than an appointed member under paragraph (b) is a technical expert who is—
 - (i) a licensed electrical worker; or
 - (ii) an electrical engineer; and
- (d) seek to appoint both men and women as members.

Division 2A Electrical Safety Education Committee

90 Establishment

The Electrical Safety Education Committee is established.

91 Function of safety education committee

- (1) The function of the safety education committee is to give advice and make recommendations to the board about the promotion of electrical safety in workplaces and in the broader community.
- (2) Without limiting subsection (1), the safety education committee may perform its function by—
 - (a) recommending to the board strategies and marketing campaigns in relation to electrical safety; and
 - (b) recommending to the board information and education strategies for electrical safety; and

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- (c) advising on issues the board refers to it; and
 - (d) examining the appropriateness of, and the need for, marketing campaigns and promotional programs; and
 - (e) making recommendations to the board about the establishment of working parties to deal with particular electrical safety issues.
- (3) The regulator must give the safety education committee the necessary administrative and other support to enable the committee to perform its function efficiently and effectively.

92 Composition of safety education committee

- (1) The safety education committee consists of the following members—
- (a) 1 member appointed by the Minister to be chairperson of the committee;
 - (b) at least 6 other members appointed by the Minister.
- (2) In choosing the members of the committee, the Minister must—
- (a) consider each proposed member's practical experience and competence in the promotion and marketing of electrical safety; and
 - (b) seek to appoint both men and women as members.

Division 2B Electrical Equipment Committee

93 Establishment

The Electrical Equipment Committee is established.

94 Functions of equipment committee

- (1) The primary function of the equipment committee is to give advice and make recommendations to the board about the safety of electrical equipment.
- (2) It is also a function of the equipment committee to give advice and make recommendations to the board about the energy efficiency and performance of electrical equipment.
- (3) Without limiting subsections (1) and (2), the equipment committee may perform its functions by—
 - (a) investigating and reporting on issues the board refers to it about the safety of electrical equipment; and
 - (b) advising on other issues the board refers to it; and
 - (c) advising on strategies to improve the safety of electrical equipment; and
 - (d) advising on safety standards for electrical equipment; and
 - (e) advising on certificates for electrical equipment and the suitability of electrical equipment for connection to electricity; and
 - (f) advising on the approval, hire, sale and use of electrical equipment; and
 - (g) advising on actions the regulator might take about unsafe electrical equipment.
- (4) The regulator must give the equipment committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

95 Composition of equipment committee

- (1) The equipment committee consists of the following members—
 - (a) 1 member appointed by the Minister to be chairperson of the committee;
 - (b) at least 6 other members appointed by the Minister.

- (2) In choosing the members of the committee, the Minister must—
 - (a) consider each proposed member's practical experience and competence in relation to electrical equipment; and
 - (b) seek to appoint both men and women as members.

Division 3 Advisory committees

96 Establishment

- (1) The Minister may, by gazette notice, establish advisory committees to support the board as the Minister considers appropriate.
- (2) The gazette notice establishing an advisory committee must include information about the committee's terms of reference and the composition of the committee's membership.

97 Function of advisory committee

An advisory committee has the function of advising the board in relation to the particular issues that, in accordance with its terms of reference, the board refers to it.

98 Composition of advisory committee

- (1) An advisory committee consists of the chairperson and other members appointed by the Minister in accordance with the requirements for the composition of the committee as stated in the gazette notice establishing the committee.
- (2) In choosing the members of the committee, the Minister must—
 - (a) consider each proposed member's practical experience and competence in relation to the terms of reference stated in the gazette notice; and
 - (b) seek to appoint both men and women as members.

- (3) Unless the gazette notice establishing the advisory committee otherwise provides, the commissioner is not precluded from appointment as an appointed member of the committee.

Division 4 Board committee membership

99 Conditions of appointment to board committee

- (1) The appointment of an appointed member of a board committee is for the term, of not longer than 3 years, decided by the Minister when the member is appointed.
- (2) An appointed member of a board committee is appointed on a part-time basis.
- (3) An appointed member of a board committee is entitled to be paid the remuneration and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.
- (4) Subsection (3) does not apply to the commissioner as an appointed member of an advisory committee.

100 When appointed member's office becomes vacant

- (1) The office of an appointed member of a board committee becomes vacant if—
 - (a) the member resigns by signed notice of resignation given to the Minister; or
 - (b) the Minister ends the member's appointment.
- (2) The Minister may end the appointment of an appointed member of a board committee—
 - (a) in either of the following events—
 - (i) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the board committee;

- (ii) the member is found guilty of an indictable offence, whether or not dealt with summarily, or an offence against this Act; or
- (b) at any time, for any reason or without stating a reason.

101 Leave of absence

- (1) The Minister may approve a leave of absence for an appointed member of a board committee.
- (2) If a leave of absence is approved, the Minister may appoint someone else as an acting member during the member's approved leave of absence.
- (3) In appointing a person as an acting member, the Minister must have regard to requirements of this part for the composition of the board committee.

Division 7 Conduct of board committee proceedings

102 Times of board committee meetings

- (1) A board committee may hold its meetings when it decides.
- (2) However, a board committee, other than an advisory committee, must meet at least 4 times a year.
- (3) The chairperson of a board committee—
 - (a) may call a meeting of the board committee at any time; and
 - (b) must call a meeting if the meeting is asked for by at least a third of the other members.
- (4) The Minister may call a meeting of a board committee at any time.

103 Conduct of proceedings

- (1) The chairperson of a board committee presides at all board committee meetings at which the chairperson is present.
- (2) If the chairperson is absent, the member chosen by the members present is to preside.
- (3) At a meeting of a board committee—
 - (a) a quorum is at least half the members of the board committee; and
 - (b) a question is decided by a majority of the votes of the members present and voting; and
 - (c) each member present has a vote on each question to be decided and, if the votes are equal, the member presiding has an additional vote in the form of a casting vote.
- (4) A board committee may otherwise conduct its proceedings, including its meetings, as it considers appropriate.
- (5) A board committee may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (6) A member who takes part in a board committee meeting under subsection (5) is taken to be present at the meeting.
- (7) A resolution is a valid resolution of a board committee, even though it is not passed at a board committee meeting, if—
 - (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board committee.

104 Disclosure of interests

- (1) If there is a reasonable possibility that a member's participation in a board committee's consideration of an issue will give the member, or an entity associated with the member, a professional or commercial advantage, or will otherwise be a conflict of interest, the member must disclose the possibility to the board committee.
- (2) The disclosure must be recorded in the board committee's minutes and, unless the board committee otherwise directs, the member must not—
 - (a) be present when the board committee considers the issue; or
 - (b) take part in a decision of the board committee on the issue.
- (3) If, because of subsection (2), the member is not present for the board committee's consideration of the issue, but there would be a quorum if the member were present, the remaining members present are a quorum for the board committee's consideration of the issue.
- (4) For subsection (1), an entity is associated with a member if the member is an employee or member of, or an adviser to, the entity.

105 Minutes and reports

- (1) A board committee must keep minutes of its proceedings.
- (2) A board committee must give the board a report on the performance of the board committee's functions as soon as practicable after each meeting of the board committee.

Part 9 **Disciplinary action and immediate suspension notices**

Division 1 **Grounds for disciplinary action**

106 **Licensed electrical worker**

Each of the following is a ground for taking disciplinary action against the holder of an electrical work licence—

- (a) the holder performs or supervises electrical work, and—
 - (i) the way the electrical work is performed is not electrically safe; or
 - (ii) the person who performs the electrical work is negligent or incompetent in the performance of the work;
- (b) the holder performs or supervises electrical work, and because of the performance of the work, a person or property is not electrically safe;
- (c) the holder is, or has been, the holder of an electrical contractor licence, and has not complied with a direction of the licensing committee to rectify electrical work;
- (d) the holder obtained the electrical work licence by supplying incorrect or misleading information;
- (e) the holder no longer complies with eligibility requirements applying for the licence;
- (f) the holder commits an offence against this Act;
- (g) the holder contravenes a condition or restriction included in the licence.

107 **Licensed electrical contractor**

- (1) Each of the following is a ground for taking disciplinary action against the holder of an electrical contractor licence—

- (a) the holder performs electrical work, and—
 - (i) the way the electrical work is performed is not electrically safe; or
 - (ii) the person who actually performs the electrical work is negligent or incompetent in the performance of the work;
- (b) the holder performs electrical work, and because of the performance of the work, a person or property is not electrically safe;
- (c) the holder has not given to a person a notice the holder is required under this Act to give the person about electrical work performed by the holder;
- (d) the holder has unreasonably delayed rectifying a fault found in an inspection, under this Act, of electrical work performed by the holder;
- (e) the holder, or a worker of the holder, intentionally deceives, or tries to deceive, an electricity entity or inspector by—
 - (i) the concealment of inferior work or materials used in electrical work; or
 - (ii) a statement about electrical work that is false or misleading in a material particular;
- (f) the holder, or a worker of the holder, unlawfully tampers with, or breaks or tampers with the seal attached to, a meter, control apparatus or fuse belonging to an electricity supplier;
- (g) the holder, or a worker of the holder, connects an electrical installation, or part of an electrical installation, to a source of supply chargeable at a rate lower than the rate for which electricity supply to the electrical installation or part is chargeable, without the authority of the electricity supplier supplying the electricity;
- (h) the holder is a party to an act done by someone else that is an act of a type mentioned in paragraph (a), (b), (c),

- (d), (e), (f) or (g) or knows of the act and does nothing about it;
- (i) the holder obtained the electrical contractor licence by supplying incorrect or misleading information;
 - (j) the holder no longer complies with eligibility requirements applying for the licence, including any requirements about the suitability of the holder to hold an electrical contractor licence;
 - (k) the holder commits an offence against this Act;
 - (l) the holder contravenes a condition or restriction included in the licence;
 - (m) the holder is a partnership, and advises, or causes or allows, a partner or worker of the partnership to perform electrical work, knowing the member or worker is not authorised under this Act to perform the work;
 - (n) the holder is a corporation, and advises, or causes or allows, an officer or worker of the corporation to perform electrical work, knowing the officer or worker is not authorised under this Act to perform the work.
- (2) Subsection (3) states a ground for taking disciplinary action against a person who—
- (a) was the holder of an electrical contractor licence when electrical work was performed; and
 - (b) is no longer the holder of the licence.
- (3) The ground is that the person performed the electrical work, and—
- (a) the way the electrical work was performed was not electrically safe; or
 - (b) the person who actually performed the electrical work was negligent or incompetent in the performance of the work.
- (4) In this section—

electricity supplier means a distribution entity or special approval holder who provides customer connection services to an electrical installation or premises.

Division 2 Types of disciplinary action

108 Purpose of div 2

This division establishes the disciplinary action that may be taken by the licensing committee.

109 Electrical licence issued by regulator

(1) The licensing committee may take any of the following disciplinary actions against the holder of an electrical licence issued by the regulator—

- (a) cancel or amend the licence;
- (b) suspend the licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with;

Example of condition—

a condition that the licence holder satisfactorily finish a stated training course or examination

- (ba) if the licence is an electrical work licence, disqualify the holder from being a qualified technical person for the holder of an electrical contractor licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with;
- (bb) disqualify the holder from holding an electrical contractor licence, electrical work licence, or both—
 - (i) for a period decided by the committee; or

- (ii) until conditions decided by the committee are complied with;

Example of condition—

a condition that the licence holder satisfactorily finish a stated training course or examination

- (c) reprimand or caution the holder;
 - (d) if the electrical licence is an electrical contractor licence, require the holder to correct a fault or defect in electrical work within the time and in the way stated by the committee;
 - (e) impose on the holder a penalty of not more than 40 penalty units.
- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

Example—

The licensing committee may cancel the electrical contractor licence held by a person as well as impose a penalty of 10 penalty units on the person.

- (3) If the electrical licence was issued by the regulator and is suspended because of disciplinary action, the licence—
- (a) can not be renewed while it is still suspended; and
 - (b) if it expires while it is still suspended, can not be reinstated while it is still suspended.
- (4) If the holder is disqualified from holding an electrical licence because of disciplinary action—
- (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
 - (b) the person can not be issued another electrical licence while the disqualification applies.
- (5) In this section—

qualified technical person has the meaning given by a regulation.

110 External licence

- (1) The licensing committee may take any of the following disciplinary actions against the holder of an electrical work licence that, under the external licence recognition provision, is an external licence—
- (a) cancel or limit the external licence recognition provision's application to the external licence;
 - (b) suspend the external licence recognition provision's application to the external licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with;
- Example of condition—*
- a condition that the licence holder satisfactorily finish a stated training course or examination
- (c) reprimand or caution the holder;
 - (d) impose on the holder a penalty of not more than 40 penalty units.
- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

Example—

The licensing committee may limit the external licence recognition provision's application to the external licence held by a person as well as reprimand the person.

111 Electrical contractor licence issued by regulator but no longer in force

- (1) The licensing committee may take any of the following disciplinary actions against a person who was the holder of an electrical contractor licence when electrical work was performed, but who is no longer the holder of an electrical contractor licence—

- (a) require the person, at the person's own expense, to have the holder of an electrical contractor licence correct a fault or defect in the electrical work within the time and in the way stated by the committee;
- (b) reprimand or caution the person;
- (c) impose on the person a penalty of not more than 40 penalty units;
- (d) disqualify the person from holding an electrical contractor licence, or electrical work licence, or both—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with.

Example of condition—

a condition that the person satisfactorily finish a stated training course or examination

- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the person.

Example—

The licensing committee may require the person to have the holder of an electrical contractor licence correct a fault or defect in the electrical work performed by the person as well as impose a penalty of 10 penalty units on the person.

- (3) If a person is disqualified from holding an electrical licence because of disciplinary action—
 - (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
 - (b) the person can not be issued another electrical licence while the disqualification applies.

112 Penalties

- (1) A penalty may be imposed as disciplinary action in addition to the taking of other disciplinary action under this part against a person.
- (2) If a penalty is imposed as disciplinary action and the person against whom it is imposed does not pay the penalty within the time allowed by the licensing committee, the committee may take further disciplinary action against the person for the ground for which the penalty was imposed.
- (3) Without limiting subsection (2), a penalty imposed as disciplinary action may be recovered as a debt owing to the State by the person.

Division 3 Procedures for taking disciplinary action generally

113 Application of div 3

- (1) This division sets out the procedures for taking disciplinary action against a person.
- (2) However, this division does not apply for taking disciplinary action against a person in relation to the performance of electrical work if—
 - (a) the person has been given an immediate suspension notice in relation to the work; and
 - (b) the immediate suspension notice is in effect.

114 Preliminary notice

- (1) If the licensing committee considers that a ground may exist for taking disciplinary action against a person, the committee may give the person a written notice (*preliminary notice*) stating—
 - (a) that the committee is considering whether it should hold a hearing—

- (i) to decide whether a ground exists for taking disciplinary action against the person; and
 - (ii) if the committee decides a ground exists for taking disciplinary action—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (b) the ground that the committee considers may exist for taking disciplinary action against the person; and
 - (c) an outline of the committee’s understanding of the facts and circumstances forming the basis for the committee’s view that the ground may exist; and
 - (d) an invitation to the person to give the committee information the person considers the committee should consider before deciding whether to hold the hearing, including information the person considers would justify the committee in deciding not to act further under this part; and
 - (e) that, to ensure the licensing committee is required to consider the person’s information, the committee must receive the information within the fixed period after the date of the notice; and
 - (f) what the fixed period is.
- (2) The preliminary notice must be dated not earlier than the day the notice is given.
 - (3) The licensing committee must consider information provided by the person in response to the preliminary notice if the information is received by the committee within the fixed period after the date of the preliminary notice.
 - (4) The licensing committee may consider, but is not required to consider, information provided by the person in response to the preliminary notice if the information is received by the committee after the fixed period.
 - (5) A preliminary notice may deal with—
 - (a) more than 1 ground; or

- (b) more than 1 set of facts and circumstances.
- (6) In this section—
- fixed period* means 14 days, or a longer period fixed by the licensing committee for a particular preliminary notice.

115 Hearing

- (1) The licensing committee may hold a hearing (*disciplinary hearing*)—
- (a) to decide whether the ground exists for taking disciplinary action against the person; and
 - (b) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action.
- (2) However, the committee may hold the disciplinary hearing only if—
- (a) the committee has considered—
 - (i) all information provided by the person that the committee is required to consider; and
 - (ii) all other information provided by the person that the committee decides to consider; and
 - (b) the committee still considers that the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person.

116 Disciplinary hearing notice

- (1) Before holding the disciplinary hearing, the licensing committee must give the person a written notice (*disciplinary hearing notice*) stating—
- (a) that the committee still considers that the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person; and

- (b) that the committee has decided to hold a disciplinary hearing—
 - (i) to decide whether the ground exists; and
 - (ii) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (c) an outline of the committee’s understanding of the facts and circumstances forming the basis for the committee’s view that the ground may exist; and
 - (d) when and where the disciplinary hearing is to be held; and
 - (e) that—
 - (i) the person is required to appear at the hearing; and
 - (ii) if the person appears at the hearing, the person may give information or make submissions to the committee at the hearing; and
 - (f) that, if the person does not appear at the hearing—
 - (i) the person may give information or make submissions to the committee in another way; and
 - (ii) the committee may act in the person’s absence, whether or not the person gives information or makes submissions.
- (2) The disciplinary hearing notice must be dated not earlier than the day the notice is given.
- (3) The date the licensing committee fixes for the disciplinary hearing must be at least 14 days after the date of the disciplinary hearing notice.
- (4) The committee must include with the disciplinary hearing notice—
- (a) a copy of the preliminary notice; and
 - (b) copies of all available written material held by the committee that the committee reasonably considers to be relevant to the proposed disciplinary hearing.

117 Disciplinary hearing a meeting of the licensing committee

The disciplinary hearing is held as, or as a part of, a meeting of the licensing committee, and the provisions of this Act providing for the holding of meetings of board committees apply to the meeting to the extent the provisions are consistent with the provisions of this division.

118 Disciplinary hearing requirements

- (1) When conducting the disciplinary hearing, the licensing committee—
 - (a) must comply with natural justice; and
 - (b) must act as quickly and with as little formality and technicality as is consistent with appropriate consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and
 - (d) may inform itself of anything in the way it considers appropriate; and
 - (e) may adjourn the hearing at any time to make further enquiries or for another purpose.
- (2) Also, the licensing committee must—
 - (a) at the start of the hearing, tell the person—
 - (i) the facts and circumstances forming the basis for the committee's view that the ground mentioned in the preliminary notice and disciplinary hearing notice may exist for taking disciplinary action against the person; and
 - (ii) what possible disciplinary action the licensing committee may take against the person; and
 - (b) if asked by the person—explain to the person any aspect of the committee's procedures or any decisions or rulings relating to the hearing; and
 - (c) ensure the person has the fullest opportunity practicable to be heard.

- (3) The disciplinary hearing is not open to the public unless the licensing committee otherwise decides.
- (4) At the disciplinary hearing, the licensing committee may act in the absence of the person if it reasonably believes that the requirements of this Act for giving the holder the disciplinary hearing notice have been followed.

119 Evidence and findings in other proceedings may be received or adopted

During the disciplinary hearing the licensing committee may—

- (a) receive in evidence a transcript or part of a transcript of evidence taken in a proceeding before a disciplinary body or a court, tribunal or other entity constituted under the law of the State, the Commonwealth, another State or a foreign country and draw conclusions of fact from the evidence; or
- (b) adopt as it considers appropriate decisions, findings, judgments or reasons for judgment of a disciplinary body, court, tribunal or entity that may be relevant to the disciplinary hearing.

120 Licensing committee to keep record of disciplinary hearing

- (1) The licensing committee must keep a record of evidence given to it for the disciplinary hearing.
- (2) However, the licensing committee is not required to keep a transcript of the disciplinary hearing.
- (3) In this section—

evidence, given to the licensing committee, includes information given and submissions made to the committee.

121 Decision about taking disciplinary action

- (1) As soon as practicable after completing the disciplinary hearing, the licensing committee—
 - (a) must decide whether the ground exists for taking disciplinary action against the person; and
 - (b) if the committee decides that the ground exists for taking disciplinary action against the person—must decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (c) must give the person a written notice informing the person of what the committee has decided.
- (2) If the committee decides that disciplinary action is to be taken against the person, the written notice must include information notices for the committee's decisions under subsection (1)(a) and (b).
- (3) The disciplinary action takes effect on the day stated in the written notice for the disciplinary action to take effect.
- (4) The day stated in the written notice for the disciplinary action to take effect must be not earlier than the day the notice is given.
- (5) If the committee decides that disciplinary action is to be taken against the person, and the person is the holder of an external licence, notice of what the committee has decided, but not its reasons for decision, must also be published in the gazette.
- (6) If disciplinary action taken against the person requires the person to correct, or have corrected, a fault or defect in electrical work, the person must comply with the requirement.

Maximum penalty for subsection (6)—100 penalty units.

Division 4 **Immediate suspension of electrical work licences**

121AA Regulator may suspend electrical work licences

- (1) This section applies in relation to the holder of an electrical work licence who performs or supervises electrical work if the regulator reasonably believes that the performance of the work—
 - (a) may have caused the death of, or grievous bodily harm to, a person; or
 - (b) may involve an imminent serious risk to the health or safety of a person.
- (2) The regulator may—
 - (a) if the electrical work licence was given by the regulator—suspend the licence; or
 - (b) if the electrical work licence is an external licence—suspend the application of the external licence recognition provision to the external licence.
- (3) The regulator must—
 - (a) give the holder written notice (an *immediate suspension notice*) of the suspension; and
 - (b) give the licensing committee a copy of the notice.
- (4) The suspension takes effect on the giving of the immediate suspension notice.
- (5) This section does not apply to the holder in relation to the performance of electrical work if the licensing committee has given the holder a preliminary notice in relation to the work.
- (6) In this section—

grievous bodily harm see the Criminal Code, section 1.

121AB Requirements for immediate suspension notices

An immediate suspension notice must state the following—

- (a) the grounds for the suspension;
- (b) that the suspension takes effect on the giving of the notice;
- (c) that a copy of the notice has been given to the licensing committee;
- (d) that the licensing committee must, under section 121AE, hold a disciplinary hearing to decide the matters mentioned in section 115(1);
- (e) the ground mentioned in division 1 the regulator considers may exist for taking disciplinary action against the person to whom the notice is given;
- (f) that division 2 states the types of disciplinary action that may be taken by the licensing committee;
- (g) that the person may, within 10 business days of the notice being given (the *submission period*), make written submissions to the regulator about the grounds mentioned in paragraphs (a) and (e);
- (h) that any submissions made under paragraph (g) will be given by the regulator to the licensing committee;
- (i) all rights of review or appeal under this Act against a disciplinary decision of the licensing committee.

121AC Regulator must give submissions to licensing committee

- (1) This section applies if the holder of an electrical work licence—
 - (a) is given an immediate suspension notice; and
 - (b) makes a written submission about the grounds mentioned in section 121AB(a) or (e) to the regulator within the submission period.

- (2) The regulator must give the submission to the licensing committee before a disciplinary hearing is held in relation to the holder.

121AD Licensing committee must give notice of disciplinary hearing

- (1) This section applies if the holder of an electrical work licence is given an immediate suspension notice.
- (2) The licensing committee must, within 10 business days of the immediate suspension notice being given, give the holder written notice (a *hearing notice*) of the disciplinary hearing under section 121AE.
- (3) The hearing notice must state the following—
 - (a) the day, time and place the disciplinary hearing is to be held;
 - (b) that the holder is required to appear at the disciplinary hearing;
 - (c) that, if the holder appears at the disciplinary hearing, the holder may give information or make submissions to the licensing committee at the hearing;
 - (d) that, if the holder does not appear at the disciplinary hearing—
 - (i) the holder may give information or make submissions to the licensing committee in another way; and
 - (ii) the licensing committee may act in the holder's absence, whether or not the holder gives information or makes submissions.
- (4) The hearing notice must be accompanied by—
 - (a) a copy of the immediate suspension notice; and
 - (b) copies of all written material held by the licensing committee the committee reasonably considers to be relevant to the disciplinary hearing.

- (5) The stated day for the disciplinary hearing must be at least 5, but not more than 10, business days after the day the hearing notice is given.

121AE Licensing committee must hold disciplinary hearing

- (1) This section applies if the holder of an electrical work licence is given an immediate suspension notice.
- (2) The licensing committee must hold a disciplinary hearing under section 115(1).
- (3) Sections 117 to 121, other than section 118(2)(a), apply to the disciplinary hearing as if—
 - (a) a reference in the sections to the ground for taking disciplinary action against the person were a reference to the ground stated in the immediate suspension notice under section 121AB(e); and
 - (b) a reference in section 118(4) to a disciplinary hearing notice were a reference to a hearing notice.
- (4) The licensing committee must, at the start of the disciplinary hearing, tell the holder—
 - (a) the facts and circumstances the committee considers are relevant to making a decision under section 115(1)(a); and
 - (b) the disciplinary action the licensing committee may take against the person.
- (5) At the disciplinary hearing, the licensing committee must consider—
 - (a) any written submissions made by the holder that were given to the licensing committee under section 121AC; and
 - (b) any other submissions made, or information given, to the committee by the holder before or at the hearing.

121AF When immediate suspension notice stops having effect

An immediate suspension notice given to the holder of an electrical work licence stops having effect when the first of the following happens—

- (a) a preliminary notice is given to the holder;
- (b) if the licensing committee does not give the holder a hearing notice within the period mentioned in section 121AD(2)—that period ends;
- (c) if a disciplinary hearing is not held within 10 business days after the day a hearing notice is given to the holder—that period ends;
- (d) if the licensing committee makes a decision under section 121—
 - (i) to take disciplinary action against the person—the disciplinary action takes effect; or
 - (ii) to not take disciplinary action against the person—the decision is made.

Part 10 Regulator, inspectors and accredited auditors

Division 1 Regulator

122 Functions of regulator

- (1) The regulator has the following functions—
 - (a) to advise and make recommendations to the Minister and report on the operation and effectiveness of this Act;
 - (b) to monitor and enforce compliance with this Act;
 - (c) to provide advice and information on electrical safety to duty holders under this Act and to the community;

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- (d) to collect, analyse and publish statistics relating to electrical safety;
 - (e) to foster a cooperative, consultative relationship between duty holders and the persons to whom they owe duties and their representatives in relation to electrical safety matters;
 - (f) to promote and support education and training on matters relating to electrical safety;
 - (g) to engage in, promote and coordinate the sharing of information to achieve the object of this Act, including the sharing of information with a corresponding regulator;
 - (h) to conduct and defend proceedings under this Act before a court or tribunal;
 - (i) any other function conferred on the regulator under this Act.
- (2) The regulator must act independently when making a decision under this Act but otherwise is subject to direction in the person's capacity as a public service officer and an officer of the department.
- (3) To remove any doubt, it is declared that proceedings mentioned in subsection (1)(h) may be taken by or against the regulator in the name 'the regulator under the *Electrical Safety Act 2002*'.

122A Powers of regulator

- (1) Subject to this Act, the regulator has the power to do all things necessary or convenient to be done for or in connection with the performance of the regulator's functions.
- (2) Without limiting subsection (1), the regulator has all the powers and functions that an inspector has under this Act.

122B Delegation by regulator

(1) The regulator may delegate to an inspector, appropriately qualified public service employee or a person prescribed under a regulation a function or power of the regulator under this Act.

(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to perform the function or exercise the power.

Example of standing—

a person's classification level in the public service

122C Power of regulator to obtain information

(1) This section applies if the regulator has reasonable grounds to believe that a person is capable of giving information, providing documents or giving evidence in relation to a possible contravention of this Act or that will help the regulator to monitor or enforce compliance with this Act.

(2) Also, this section applies if the regulator—

(a) is deciding whether to issue an electrical licence; and

(b) reasonably believes a relevant person has information or a document the regulator reasonably requires to decide whether the applicant satisfies the eligibility requirements for the issue of the electrical licence.

(3) The regulator may, by written notice served on the person, require the person to do one or more of the following—

(a) to give the regulator, in writing signed by the person (or in the case of a body corporate, by a competent officer of the body corporate) and within the time and in the way stated in the notice, that information of which the person has knowledge;

(b) to produce to the regulator, in accordance with the notice, those documents;

- (c) to appear before a person appointed by the regulator on a day, and at a time and place, stated in the notice (being a day, time and place that are reasonable in the circumstances) and give either orally or in writing that evidence and produce those documents.
- (4) The notice must—
- (a) state that the requirement is made under this section; and
 - (b) contain a statement to the effect that a failure to comply with a requirement is an offence; and
 - (c) if the notice requires the person to provide information or documents or answer questions—
 - (i) contain a statement about the effect of sections 141A and 192A; and
 - (ii) state that the person may attend with a legal practitioner.
- (5) The regulator must not make a requirement under subsection (3)(c) unless the regulator has taken all reasonable steps to obtain the information under subsection (3)(a) and (b) and has been unable to do so.
- (6) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under this section.
- Maximum penalty—100 penalty units.
- (7) Subsection (6) places an evidential burden on the defendant to show a reasonable excuse.
- (8) Section 141A, with any necessary changes, applies to a requirement under this section.
- (9) In this section—
- relevant person***, for an applicant for an electrical licence, means—
- (a) a person who is conducting, or has conducted, a business or undertaking—

- (i) that includes or included the performance of electrical work; and
 - (ii) in which the applicant is or was engaged as a worker; or
- (b) a registered training organisation that delivered training to the applicant on the performance of electrical work.

Division 2 Appointment of inspectors

123 Appointment of inspectors

- (1) The regulator may, by instrument, appoint any of the following as an inspector—
- (a) a public service employee;
 - (b) an employee of a public authority;
 - (c) the holder of a statutory office;
 - (d) a person who is appointed as an inspector under a corresponding law;
 - (e) a person of a class prescribed under a regulation.
- (2) Arrangements may be made for subsection (1)(d) under the *Public Service Act 2008*, section 183 and 184, as if a reference in the sections to the chief executive were a reference to the regulator.
- (3) However, the regulator may appoint a person as an inspector only if—
- (a) the regulator is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or
 - (b) the person has satisfactorily finished training approved by the regulator.

123A Identity cards

- (1) The regulator must give each inspector an identity card that states the person's name and appointment as an inspector and includes any other matter prescribed under a regulation.
- (2) In exercising a compliance power in relation to a person, an inspector must—
 - (a) produce the inspector's identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (3) However, if it is not practicable to comply with subsection (2), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.
- (4) If a person to whom an identity card has been issued stops being an inspector, the person must return the identity card to the regulator as soon as practicable.

Maximum penalty—40 penalty units.

124 Accountability of inspectors

- (1) An inspector must give written notice to the regulator of all interests, pecuniary or otherwise, that the inspector has, or acquires, and that conflict or could conflict with the proper performance of the inspector's functions.
- (2) The regulator must give a direction to an inspector not to deal, or to no longer deal, with a matter if the regulator becomes aware that the inspector has a potential conflict of interest in relation to a matter and the regulator considers that the inspector should not deal, or should no longer deal, with the matter.

125 Suspension and ending of appointment of inspectors

- (1) The regulator may suspend or end the appointment of an inspector.

- (2) A person's appointment as an inspector ends when the person stops being eligible for appointment as an inspector.

126 Appointment of temporary inspector

- (1) This division applies if—
 - (a) the regulator considers that an inspector is required urgently to enter a place and investigate the circumstances of a serious electrical incident or dangerous electrical event at the place; and
 - (b) there is no inspector available to enter the place and investigate the circumstances.
- (2) The regulator may appoint a person as a temporary inspector to exercise the powers of an inspector for the place.
- (3) The person appointed as a temporary inspector need not be a person who could be appointed as an inspector.
- (4) However, the regulator may appoint the person as a temporary inspector only if the regulator is satisfied the person has the necessary expertise or experience for what the temporary inspector can reasonably be expected to have to do.
- (5) If practicable, the regulator must give the temporary inspector a document evidencing the temporary inspector's appointment.

127 Exercise of powers by temporary inspector

- (1) The temporary inspector has all the powers in relation to the place, including any person or thing at the place, that an inspector has under this part.
- (2) However, the temporary inspector must not exercise a power unless the temporary inspector is directed by an inspector to exercise the power, whether by phone, fax or another form of communication.
- (3) In exercising a power, the temporary inspector must—

- (a) comply with any conditions the inspector directing the exercise of power attaches to the direction; and
 - (b) to the greatest practicable extent, show each person affected by the exercise of the power the document evidencing his or her appointment.
- (4) Subject to subsections (1) to (3), the temporary inspector is taken to be an inspector under this Act.

Division 3 Accredited auditors

129 Appointment and qualifications

- (1) The regulator may appoint a person, whether or not an officer of the department, as an accredited auditor.
- (2) However, the regulator may appoint a person as an accredited auditor only if—
 - (a) the person makes application for appointment in the way prescribed under a regulation; and
 - (b) either—
 - (i) the regulator is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or
 - (ii) the person has satisfactorily finished training approved by the regulator.

130 Appointment conditions and limit on powers

- (1) An accredited auditor holds office on any conditions stated in—
 - (a) the accredited auditor's instrument of appointment; or
 - (b) a signed notice given to the accredited auditor; or
 - (c) a regulation.

- (2) The instrument of appointment, a signed notice given to the accredited auditor or a regulation may limit the accredited auditor's powers or functions under this Act.
- (3) In this section—
signed notice means a notice signed by the regulator.

131 Issue of identity card

- (1) The regulator must issue an identity card to each accredited auditor.
- (2) The identity card must—
 - (a) contain a recent photo of the accredited auditor; and
 - (b) contain a copy of the accredited auditor's signature; and
 - (c) identify the person as an accredited auditor under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

132 Production or display of identity card

- (1) In exercising a power or performing a function under this Act in relation to a person, an accredited auditor must produce the accredited auditor's identity card for the person's inspection if asked by the person.
- (2) However, if it is not practicable to comply with subsection (1), the accredited auditor must produce the identity card for the person's inspection at the first reasonable opportunity.

133 When accredited auditor ceases to hold office

- (1) An accredited auditor ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;

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- (b) under another condition of office, the accredited auditor ceases to hold office;
 - (c) the accredited auditor's resignation takes effect.
- (2) Subsection (1) does not limit the ways an accredited auditor may cease to hold office.
- (3) In this section—
condition of office means a condition on which the accredited auditor holds office.

134 Suspension or revocation of accredited auditor's appointment

The regulator may suspend or revoke an accredited auditor's appointment.

135 Resignation

- (1) An accredited auditor may resign by signed notice given to the regulator.
- (2) However, if holding office as an accredited auditor is a condition of the accredited auditor holding another office, the accredited auditor may not resign as an accredited auditor without resigning from the other office.

136 Return of identity card

A person who ceases to be an accredited auditor must return the person's identity card to the regulator within 21 days after ceasing to be an accredited auditor unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

136A Regulator may ask for further information or documents from accredited auditor

- (1) The regulator may, by written notice given to a person who is an accredited auditor, require the person to give the regulator, within a reasonable period of at least 21 days stated in the notice, information or a document the regulator reasonably requires to satisfy the regulator that the person—
 - (a) continues to be appropriately qualified; or
 - (b) continues to satisfy the conditions of office.

Examples of information—

- the person has undertaken training in changes to relevant legislation
 - the person has conducted audits or other testing or assessments in relation to electrical safety
 - the person continues to hold the insurance required under a condition of office applying to the person
- (2) The regulator may, in the notice, require the person to verify the further information or document by statutory declaration.
 - (3) The person must comply with the notice, unless the person has a reasonable excuse.
 - (4) The regulator may revoke the person's appointment as an accredited auditor if the person fails, without reasonable excuse, to comply with the notice.
 - (5) Subsection (4) does not limit the operation of section 134.
 - (6) In this section—

appropriately qualified, for a person, means qualified for appointment as an accredited auditor because the person has the necessary expertise or experience.

condition of office means a condition on which an accredited auditor holds office.

136B Offence to impersonate accredited auditor

A person who is not an accredited auditor must not, in any way, hold himself or herself out to be an accredited auditor.

Maximum penalty—100 penalty units.

Part 11 Securing compliance

Division 1 Functions and powers of inspectors

137 Functions and powers of inspectors

An inspector has the following functions and powers under this Act—

- (a) to provide information and advice about compliance with this Act;
- (b) to help in the resolution of electrical safety issues;
- (c) to require compliance with this Act through the issuing of notices;
- (d) to investigate contraventions of this Act and help in the prosecution of offences.

137A Conditions on inspectors' compliance powers

An inspector's compliance powers are subject to any condition stated in the instrument of the inspector's appointment.

137B Inspectors subject to regulator's directions

- (1) An inspector is subject to the regulator's directions in the exercise of the inspector's compliance powers.
- (2) A direction under subsection (1) may be of a general nature or may relate to a stated matter or stated class of matter.
- (3) Without limiting subsection (1), the regulator must issue directions to inspectors to ensure powers are exercised under this part in a way that minimises any adverse affect on the

privacy, confidentiality and security of persons and businesses.

Division 2 Powers relating to entry

Subdivision 1 General powers of entry

138 Powers of entry

- (1) An inspector may at any time enter a place if—
 - (a) it is a workplace under the control of a person who has an electrical safety duty under this Act, and is—
 - (i) open for carrying on business; or
 - (ii) otherwise open for entry; or
 - (b) the inspector reasonably suspects it is a workplace under the control of a person who has an electrical safety duty under this Act, and it is—
 - (i) open for carrying on business; or
 - (ii) otherwise open for entry; or
 - (c) the entry is urgently required to investigate the circumstances of a serious electrical incident or dangerous electrical event.
- (2) An entry may be made under subsection (1) with, or without, the consent of the person with management or control of the place.
- (3) The inspector must leave the place immediately if the inspector finds that the place or circumstances are not as mentioned in subsection (1)(a) or (c).
- (4) An inspector may enter any place if the entry is authorised by a search warrant.

Note—

An inspector may enter residential premises to gain access to a workplace. See section 140.

138A Notification of entry

- (1) An inspector may enter a place under section 138 without prior notice to any person.
- (2) An inspector must, as soon as practicable after entry to a workplace or suspected workplace, take all reasonable steps to notify the following persons of the entry and the purpose of the entry—
 - (a) the relevant person conducting a business or undertaking at the workplace;
 - (b) the person with management or control of the workplace.
- (3) However, an inspector is not required to notify any person if to do so would defeat the purpose for which the place was entered or cause unreasonable delay.
- (4) In this section *relevant person conducting a business or undertaking* means the person conducting any business or undertaking in relation to which the inspector is exercising the powers of entry.

138B General powers on entry

- (1) An inspector who enters a place under section 138 may do any of the following—
 - (a) search and make inquiries at the place;
 - (b) inspect and examine anything, including a document, at the place;
 - (c) copy a document at the place;
 - (d) bring to the place and use any equipment or materials that may be required;
 - (e) take measurements, conduct tests and make sketches or recordings, including photographs, films, audio, video, digital or other recordings;

- (f) take and remove for analysis, testing or examination, a substance or thing or a sample of any substance or thing without paying for it;
 - (g) make inquiries or conduct surveys and tests to assess—
 - (i) the degree of electrical risk to persons or property existing at the place; or
 - (ii) standards of electrical safety existing at the place;
 - (h) inquire into the circumstances and probable causes of any serious electrical incident or dangerous electrical event at the place;
 - (i) require a person at the place to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (h);
 - (j) exercise any compliance power or other power that is reasonably necessary to be exercised by the inspector for this Act.
- (2) A person required to give reasonable help under subsection (1)(i) must not, without reasonable excuse, refuse or fail to comply with the requirement.
- Maximum penalty—100 penalty units.
- (3) Subsection (2) places an evidential burden on the defendant to show a reasonable excuse.

138C Persons assisting inspectors

- (1) A person, including an interpreter, may accompany the inspector entering a place under section 138 to assist the inspector if the inspector considers the assistance is necessary.
- (2) The person—
 - (a) may do the things at the place and in the way that the inspector reasonably requires to assist the inspector to exercise compliance powers; but
 - (b) must not do anything that the inspector does not have power to do, except as permitted under a search warrant.

- (3) Anything done lawfully by the person is taken for all purposes to have been done by the inspector.

138D Analysis

- (1) The regulator may have a substance, thing or sample taken by an inspector under 138B(1)(f) analysed.
- (2) A person must not, with intent to adversely affect the analysis of the thing—
 - (a) tamper with a substance or thing before an inspector takes a sample of the substance or thing for analysis; or
 - (b) tamper with the substance, thing or sample after it is taken by an inspector for analysis.

Maximum penalty—100 penalty units.

- (3) If a particular method of analysis has been prescribed under a regulation, the analyst must follow the method.
- (4) The regulator must obtain from the analyst a certificate or report stating the analysis result.

Subdivision 2 Search warrants

139 Search warrants

- (1) An inspector may apply to a magistrate for a search warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

- (4) The magistrate may issue a search warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (b) the evidence is, or may be within the next 72 hours, at the place.
- (5) The search warrant must state—
- (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector's compliance powers; and
 - (b) the offence for which the search warrant is sought; and
 - (c) the evidence that may be seized under the search warrant; and
 - (d) the hours of the day or night when the place may be entered; and
 - (e) the date, within 7 days after the search warrant's issue, the search warrant ends.

139A Electronic application

- (1) An application under section 139 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector reasonably considers it necessary because of—
- (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) The application—
- (a) may not be made before the inspector prepares a written application under section 139(2); but
 - (b) may be made before the application is sworn.

- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under this section; and
 - (b) the way the application was made was appropriate.
- (4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the inspector, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the inspector; or
 - (b) otherwise—
 - (i) the magistrate must tell the inspector the information mentioned in section 139(5); and
 - (ii) the inspector must complete a form of warrant, including by writing on it the information mentioned in section 139(5) provided by the magistrate.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the *duplicate warrant*), is a duplicate of, and as effectual as, the original warrant.
- (6) The inspector must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with section 139(2); and
 - (b) if the inspector completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

- (8) Despite subsection (5), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (9) This section does not limit section 139.
- (10) In this section—
- relevant magistrates court*, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the *Magistrates Act 1991*.

139B Announcement before entry on warrant

- (1) Before executing a search warrant, the inspector named in the warrant or an assistant to the inspector must—
- (a) announce that he or she is authorised by the warrant to enter the place; and
 - (b) give any person at the place an opportunity to allow that entry.
- (2) However, the inspector or an assistant to the inspector is not required to comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place is needed to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated.

139C Copy of warrant to be given to person with management or control of place

- (1) If the person who has or appears to have management or control of a place is present at the place when a search warrant is being executed, the inspector must—
 - (a) identify himself or herself to that person by producing his or her identity card for inspection; and
 - (b) give that person a copy of the execution copy of the warrant.
- (2) In this section—

execution copy includes a duplicate warrant mentioned in section 139A(5).

Subdivision 3 Limitation on entry powers

140 Places used for residential purposes

Despite anything else in this division, the powers of an inspector under this division in relation to entering a place are not exercisable in relation to any part of a place that is used only for residential purposes except—

- (a) with the consent of the person with management or control of the place; or
- (b) under the authority conferred by a search warrant; or
- (c) for the purpose only of gaining access to a place the inspector may enter under section 138, but only—
 - (i) if the inspector reasonably believes that no reasonable alternative access is available; and
 - (ii) at a reasonable time having regard to the times at which the inspector believes work is being carried out at the place to which access is sought.

Subdivision 4 Specific powers on entry

141 Power to require production of documents and answers to questions

- (1) An inspector who enters a place under section 138 may—
 - (a) require a person to tell the inspector who has custody of, or access to, a document; or
 - (b) require a person who has custody of, or access to, a document to produce that document to the inspector while the inspector is at that place or within a stated period; or
 - (c) require a person at the place to answer any questions put by the inspector.
- (2) A requirement under subsection (1)(b) must be made by written notice unless the circumstances require the inspector to have immediate access to the document.
- (3) An interview conducted by an inspector under subsection (1)(c) must be conducted in private if—
 - (a) the inspector considers it appropriate; or
 - (b) the person being interviewed so requests.
- (4) Subsection (3) does not limit the operation of section 138C or prevent a representative of the person being interviewed from being present at the interview.
- (5) Subsection (3) may be invoked during an interview by—
 - (a) the inspector; or
 - (b) the person being interviewed;in which case the subsection applies to the remainder of the interview.
- (6) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under this section.

Maximum penalty—100 penalty units

Note—

See section 141A and 141B in relation to self-incrimination and section 192A in relation to legal professional privilege.

- (7) Subsection (6) places an evidential burden on the defendant to show a reasonable excuse.

141A Abrogation of privilege against self-incrimination

- (1) A person is not excused from answering a question or providing information or a document under this part on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty.
- (2) However, the answer to a question or information or a document provided by an individual, and other evidence directly or indirectly derived from the answer, information or document, is not admissible as evidence against that individual in civil or criminal proceedings other than proceedings arising out of the false or misleading nature of the answer, information or document.

141B Warning to be given

- (1) Before requiring a person to answer a question or provide information or a document under this part, an inspector must—
- (a) identify himself or herself to the person as an inspector by producing the inspector's identity card or in some other way; and
 - (b) warn the person that failure to comply with the requirement or to answer the question, without reasonable excuse, would constitute an offence; and
 - (c) warn the person about the effect of section 141A; and
 - (d) advise the person about the effect of section 192A.
- (2) It is not an offence for an individual to refuse to answer a question put by an inspector or provide information or a

document to an inspector under this part on the ground that the question, information or document might tend to incriminate him or her, unless he or she was first given the warning in subsection (1)(c).

- (3) Nothing in this section prevents an inspector from obtaining and using evidence given to the inspector voluntarily by any person.

141C Powers to copy and retain documents

- (1) An inspector may—
 - (a) make copies of, or take extracts from, a document given to the inspector under a requirement under this Act; and
 - (b) keep that document for the period that the inspector considers necessary.
- (2) While an inspector retains custody of a document, the inspector must permit the following persons to inspect or make copies of the document at all reasonable times—
 - (a) the person who produced the document;
 - (b) the owner of the document;
 - (c) a person authorised by a person mentioned in paragraph (a) or (b).

141D Power to seize evidence etc.

- (1) An inspector who enters a place under section 138 may—
 - (a) seize anything (including a document) at the place if the inspector reasonably believes the thing is evidence of an offence against this Act; or
 - (b) take and remove for analysis, testing or examination a substance or thing or a sample of any substance or thing without paying for it.
- (2) An inspector who enters a place with a search warrant may seize the evidence for which the warrant was issued.

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- (3) An inspector may also seize anything else at the place if the inspector reasonably believes—
 - (a) the thing is evidence of an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat the offence.
- (4) Also, an inspector may seize a thing at a place the inspector enters under section 138 if the inspector reasonably believes it has just been used in committing an offence against this Act.

141E Inspector's power to seize unsafe electrical equipment at an entered place

- (1) This section applies if—
 - (a) an inspector enters a place under section 138; and
 - (b) the inspector reasonably believes that—
 - (i) persons or property at the place are at electrical risk from electrical equipment at the place; and
 - (ii) it is urgent that the inspector take action to prevent, remove or minimise the risk.
- (2) The inspector may seize the electrical equipment.

141F Inspector's power to seize other unsafe electrical equipment

- (1) This section applies if—
 - (a) an inspector enters a place under section 138; and
 - (b) the inspector takes electrical equipment at the place for analysis, testing or examination under section 138B(1)(f); and
 - (c) the results of the analysis, testing or examination show that the equipment is not electrically safe.
- (2) The inspector may seize the equipment.

141G Powers supporting seizure

(1) Having seized a thing, whether or not electrical equipment, an inspector may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it and, if the thing is electrical equipment, to disconnect it from its supply of electricity to the extent considered appropriate; or

Examples of restricting access to a thing—

- sealing a main switch and marking it to restrict its operation
- disconnecting a faulty power circuit from supply
- sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

(c) if the thing is electrical equipment—dismantle it or cause it to be dismantled.

(2) An inspector may direct an electricity entity to give the inspector the help the inspector reasonably requires to disconnect electrical equipment under subsection (1)(b).

(3) An electricity entity must comply with a direction under subsection (2).

(4) If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspector's approval.

Maximum penalty—100 penalty units.

(5) If an inspector disconnects seized electrical equipment from its supply of electricity, a person must not reconnect, or attempt to reconnect, the electrical equipment to a source of supply without an inspector's approval.

Maximum penalty—100 penalty units.

(6) To enable a thing to be seized, an inspector may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and

- (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (7) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (8) A further requirement may be made under this section in relation to the same thing if it is necessary and reasonable to make the further requirement.
- (9) A person of whom a requirement is made under subsection (6) or (8) must comply with the requirement unless the person has a reasonable excuse for not complying.
Maximum penalty—100 penalty units.
- (10) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (6) or (8) must be borne by the person.
- (11) For this section, a person is *in control* of a thing, other than electrical equipment, if the person has, or reasonably appears to an inspector to have, authority to exercise control over the thing.
- (12) Subsection (9) places an evidential burden on the defendant to show a reasonable excuse.

141H Inspector may require thing's return

- (1) If an inspector has required a person to take a thing to a stated place by a stated reasonable time under this division, the inspector may require the person to return the thing to the place from which it was taken.
- (2) A person of whom the requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (1) must be borne by the person.
- (4) Subsection (2) places an evidential burden on the defendant to show a reasonable excuse.

141I Receipt for seized things

- (1) As soon as practicable after an inspector seizes a thing at a place entered under section 138, the inspector must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt required by this section (given the thing's nature, condition and value).

141J Forfeiture of seized things

- (1) A seized thing is forfeited to the State if the regulator—
 - (a) can not find the person entitled to the thing after making reasonable inquiries; or
 - (b) can not return it to the person entitled to it, after making reasonable efforts; or
 - (c) reasonably believes it is necessary to forfeit the thing to prevent it being used to commit an offence against this Act.
- (2) Subsection (1)(a) does not require the regulator to make inquiries if it would be unreasonable to make inquiries to find the person entitled to the thing.

- (3) Subsection (1)(b) does not require the regulator to make efforts if it would be unreasonable to make efforts to return the thing to the person entitled to it.
- (4) If the regulator decides to forfeit the thing under subsection (1)(c), the regulator must tell the person entitled to the thing of the decision by written notice.
- (5) Subsection (4) does not apply if—
 - (a) the regulator can not find the person entitled to the thing, after making reasonable inquiries; or
 - (b) it is impracticable or would be unreasonable to give the notice.
- (6) The notice must include an information notice for the decision.
- (7) In deciding whether and, if so, what inquiries and efforts are reasonable or whether it would be unreasonable to give notice about a thing, regard must be had to the thing's nature, condition and value.
- (8) Any costs reasonably incurred by the State in storing or disposing of a thing forfeited under subsection (1)(c) may be recovered in a court of competent jurisdiction as a debt due to the State from that person.
- (9) In this section *person entitled* to a thing means the person from whom it was seized unless that person is not entitled to possess it in which case it means the owner of the thing.
- (10) Without limiting subsection (1), if a seized thing is electrical equipment, the thing is forfeited to the State if—
 - (a) the inspector who seized the thing reasonably believes the thing is not electrically safe; and
 - (b) the person entitled to the thing does not require its return.

141K Return of seized thing

- (1) If a seized thing has not been forfeited, the inspector must return it to the person entitled to the thing—
 - (a) at the end of 6 months; or
 - (b) if a proceeding for an offence involving it is started within 6 months, at the end of the proceeding and any appeal from the proceeding.
- (2) However, unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to the person entitled to the thing if the inspector stops being satisfied its continued retention as evidence is necessary.
- (3) This section does not apply to a seized thing if it is impracticable or would be unreasonable to return the thing given the thing's nature, condition and value.

Example for subsection (3)—

The seized thing is electrical equipment that has been destroyed or extensively damaged during analysis or testing conducted under the Act.

141L Returning seized electrical equipment that is not electrically safe

- (1) This section applies if—
 - (a) an inspector has seized electrical equipment under this part; and
 - (b) the inspector reasonably believes the equipment is not electrically safe; and
 - (c) the equipment is not forfeited under section 141J.
- (2) If the inspector returns the equipment to the person entitled to the equipment, the inspector may, by written notice, require the person to do 1 or more of the following to make the equipment electrically safe—
 - (a) have the equipment repaired;
 - (b) have the equipment altered in a stated way;

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- (c) take other stated action in relation to the equipment that is reasonable in the circumstances, including, for example, to make it incapable of operation.

Note—

Section 55 provides for who may perform electrical work, including repair or alter electrical equipment.

- (3) The person must comply with the requirement unless the person has a reasonable excuse for not complying.

Maximum penalty—40 penalty units.

- (4) For subsection (3), it is a reasonable excuse for the person not complying with the requirement that the person destroyed the equipment instead of complying with the requirement.
- (5) Subsection (3) places an evidential burden on the defendant to show a reasonable excuse.

141M Access to seized things

- (1) Until a seized thing is forfeited or returned, the regulator must permit the following persons to inspect it and, if it is a document, to make copies of it at all reasonable times—
 - (a) the person from whom the thing was seized;
 - (b) the owner of the thing;
 - (c) a person authorised by a person mentioned in paragraph (a) or (b).
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow inspection or copying.

Division 3 Damage and compensation

142 Damage etc. to be minimised

In the exercise, or purported exercise, of a compliance power, an inspector must take all reasonable steps to ensure that the

inspector, and any assistant to the inspector, cause as little inconvenience, detriment and damage as is practicable.

142A Inspector to give notice of damage

- (1) This section applies if an inspector or an assistant to an inspector damages a thing when exercising or purporting to exercise a compliance power.
- (2) The inspector must, as soon as practicable, give written notice of the damage to the person who the inspector believes on reasonable grounds, is the person in control of the thing.
- (3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or assistant's control, the inspector may state it in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the inspector reasonably believes is trivial.

142B Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under division 2.
- (2) Compensation may be claimed and ordered in a proceeding—
 - (a) taken in a court of competent jurisdiction; or
 - (b) for an offence against this Act taken against the person claiming compensation.
- (3) The court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

Division 4 Serious electrical incident or dangerous electrical event

143 Power to inquire into serious electrical incident or dangerous electrical event

- (1) This section applies if an inspector becomes aware, or reasonably suspects, that a serious electrical incident or dangerous electrical event has happened at a place.
- (2) The inspector may inquire into the circumstances and probable causes of the incident or event.
- (3) The inspector may require a person who has knowledge, or whom the inspector reasonably suspects to have knowledge, of the circumstances of the incident or event to give the inspector reasonable help, as stated in the requirement, to inquire under subsection (2).
- (4) A requirement under subsection (3) may be given orally or in writing.
- (5) A person must comply with a requirement under subsection (3) unless the person has a reasonable excuse for not complying.
Maximum penalty—100 penalty units.
- (6) This section does not limit any other power an inspector has on entering a place under section 138.
- (7) Subsection (5) places an evidential burden on the defendant to show a reasonable excuse.

Division 5 Other matters

144 Power to require name and address

- (1) An inspector may require a person to provide the person's name and residential address if—
 - (a) the inspector finds the person committing an offence against this Act; or
 - (b) the inspector finds the person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.
- (2) When asking a person to provide the person's name and residential address, the inspector must—
 - (a) tell the person the reason for the requirement to provide the person's name and residential address; and
 - (b) warn the person that it is an offence to fail to state that name and residential address, unless the person has a reasonable excuse.
- (3) If the inspector reasonably believes that the name or residential address is false, the inspector may require the person to give evidence of its correctness.
- (4) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under subsection (1) or (3).

Maximum penalty—100 penalty units.
- (5) Subsection (4) places an evidential burden on the defendant to show a reasonable excuse.
- (6) The person does not commit an offence against subsection (4) if—
 - (a) the person was required to state the person's name and address by an inspector who suspected the person had committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

144A Inspector may take affidavits

An inspector is authorised to take affidavits for any purpose relating or incidental to the exercise of his or her compliance powers.

144B Inspector at coronial inquests

Under and subject to the *Coroners Act 2003*, an inspector may appear at and otherwise participate in any coroners inquest into the cause of death of a person involving an issue of electrical safety.

Division 6 Offences in relation to inspectors

145 Offence to hinder or obstruct inspector

A person must not intentionally hinder or obstruct an inspector in exercising his or her compliance powers, or induce or attempt to induce any other person to do so.

Maximum penalty—100 penalty units.

145A Offence to impersonate inspector

A person who is not an inspector must not, in any way, hold himself or herself out to be an inspector.

Maximum penalty—100 penalty units.

145B Offence to assault, threaten or intimidate inspector

A person must not directly or indirectly assault, threaten or intimidate, or attempt to assault, threaten or intimidate, an inspector or a person helping an inspector.

Maximum penalty—500 penalty units or 2 years imprisonment.

Part 11A Enforcement measures

Division 1 Improvement notices

146 Issue of improvement notice

- (1) This section applies if an inspector reasonably believes that a person—
 - (a) is contravening a provision of this Act; or
 - (b) has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated.
- (2) The inspector may issue an improvement notice requiring the person to—
 - (a) remedy the contravention; or
 - (b) prevent a likely contravention from occurring; or
 - (c) remedy the things or operations causing the contravention or likely contravention.

146A Contents of improvement notice

- (1) An improvement notice must state—
 - (a) that the inspector believes the person—
 - (i) is contravening a provision of this Act; or
 - (ii) has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated; and
 - (b) the provision the inspector believes is being, or has been, contravened; and
 - (c) briefly, how the provision is being, or has been, contravened; and

- (d) the day by which the person is required to remedy the contravention or likely contravention.
- (2) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or prevent the likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.
- (3) The day stated for compliance with the improvement notice must be reasonable in all the circumstances.

146B Compliance with improvement notice

The person to whom an improvement notice is issued must comply with the notice within the period stated in the notice.

Maximum penalty—500 penalty units.

146C Extension of time for compliance with improvement notice

- (1) This section applies if a person has been issued with an improvement notice.
- (2) An inspector may, by written notice given to the person, extend the compliance period for the improvement notice.
- (3) However, the inspector may extend the compliance period only if the period has not ended.
- (4) In this section—
compliance period means the period stated in the improvement notice under section 146A, and includes that period as extended under this section.

Division 2 Electrical safety protection notices

147 Electrical safety protection notice

- (1) This section applies if an inspector reasonably believes that circumstances causing, or likely to cause, an immediate electrical risk to persons or property have arisen at a place.
- (2) The inspector may—
 - (a) direct the person in control of any activity or electrical equipment that caused, or is likely to cause, the circumstances to stop the activity, or to stop using, or allowing to be used, the electrical equipment; and
Example of direction—

A direction may be given requiring a person to stop selling, lending or otherwise disposing of particular electrical equipment.
 - (b) disconnect electrical equipment from its supply of electricity to the extent the inspector considers necessary to eliminate the electrical risk.
- (3) An inspector may direct an electricity entity to give the inspector the help the inspector reasonably requires to disconnect electrical equipment under subsection (2)(b).
- (4) An electricity entity must comply with a direction under subsection (3).
- (5) The direction under subsection (2)(a) may be given orally, but must be confirmed by notice (***electrical safety protection notice***) given to the person as soon as practicable.
- (6) The person must comply with—
 - (a) the direction under subsection (2)(a); and
 - (b) the electrical safety protection notice.

Maximum penalty—1,000 penalty units.
- (7) Subsection (2)(a) does not apply to an activity or use of electrical equipment necessary to rectify the circumstances.
- (8) An electrical safety protection notice must state—

- (a) the inspector believes that circumstances causing, or likely to cause, an immediate electrical risk to persons or property have arisen, or are likely to arise, at a place; and
 - (b) briefly, the circumstances that have caused or are likely to cause the risk; and
 - (c) if the inspector believes the circumstances involve a contravention, or likely contravention, of a provision of this Act—the provision contravened or likely to be contravened; and
 - (d) the requirements that must be complied with before any electrical equipment disconnected by the inspector from its supply of electricity may be reconnected.
- (9) For this section, a person is *in control* of an activity if the person has, or reasonably appears to have, authority to exercise control over the activity.

Division 3 Unsafe equipment notices

148 Unsafe equipment notice

- (1) This section applies if an inspector reasonably believes that electrical equipment is so defective or hazardous that it is likely to cause a serious electrical incident.
- (2) The inspector may, by notice (*unsafe equipment notice*), require the owner to make the electrical equipment—
 - (a) harmless; or
 - (b) incapable of operation.
- (3) The owner must comply with the unsafe equipment notice, unless the owner has a reasonable excuse for not complying.
Maximum penalty—1,000 penalty units.
- (4) Subsection (3) places an evidential burden on the defendant to show a reasonable excuse.

Division 4 Non-disturbance notices

149 Issue of non-disturbance notice

An inspector may issue a non-disturbance notice to the person with management or control of a place if the inspector reasonably believes that it is necessary to do so to facilitate the exercise of his or her compliance powers.

149A Contents of non-disturbance notice

- (1) A non-disturbance notice may require the person to—
 - (a) preserve the site at which a serious electrical incident or dangerous electrical event has happened for a stated period; or
 - (b) prevent the disturbance of a particular site (including the operation of plant) in other circumstances for a stated period that is reasonable in the circumstances.
- (2) A non-disturbance notice must state the period (of no more than 7 days) for which it applies and set out—
 - (a) the duties of the person to whom the notice is issued; and
 - (b) the measures to be taken to preserve a site or prevent disturbance of a site; and
 - (c) the penalty for contravening the notice.
- (3) In subsection (1) a reference to a site includes any plant, substance, structure or thing associated with the site.
- (4) A non-disturbance notice does not prevent any action—
 - (a) to assist an injured person; or
 - (b) to remove a deceased person; or
 - (c) that is essential to make the site safe or to prevent a further incident; or
 - (d) that is associated with a police investigation; or

- (e) for which an inspector has given permission.

149B Compliance with non-disturbance notice

- (1) A person must not, without reasonable excuse, refuse or fail to comply with a non-disturbance notice issued to the person.

Maximum penalty—500 penalty units.

- (2) Subsection (1) places an evidential burden on the accused to show a reasonable excuse.

149C Issue of subsequent notices

If an inspector considers it necessary to do so, he or she may issue 1 or more subsequent non-disturbance notices to a person, whether before or after the expiry of the previous notice, each of which must comply with section 149A.

Division 5 General requirements applying to notices

150 Application of division

In this division, *notice* means an improvement notice, electrical safety protection notice, unsafe equipment notice or non-disturbance notice.

150A Notice to be in writing

A notice must be in writing.

150B Directions in notice

A direction included in an improvement notice or electrical safety protection notice may—

- (a) refer to a code of practice; and

- (b) offer the person to whom it is issued a choice of ways in which to remedy the contravention.

150C Recommendations in notice

- (1) An improvement notice or electrical safety protection notice may include recommendations.
- (2) It is not an offence to fail to comply with recommendations in a notice.

150D Changes to notice by inspector

- (1) An inspector may make minor changes to a notice—
 - (a) for clarification; or
 - (b) to correct errors or references; or
 - (c) to reflect changes of address or other circumstances.
- (2) An inspector may also, under section 146C, extend the compliance period for an improvement notice.

150E Regulator may vary or cancel notice

Except as provided in section 150D, a notice issued by an inspector may only be varied or cancelled by the regulator.

150F Formal irregularities or defects in notice

A notice is not invalid only because of—

- (a) a formal defect or irregularity in the notice unless the defect or irregularity causes or is likely to cause substantial injustice; or
- (b) a failure to use the correct name of the person to whom the notice is issued if the notice sufficiently identifies the person and is issued or given to the person under section 150G.

150G Issue and giving of notice

- (1) A notice may be issued or given to a person—
 - (a) by delivering it personally to the person or sending it by post or facsimile or electronic transmission to the person's usual or last known place of residence or business; or
 - (b) by leaving it for the person at the person's usual or last known place of residence or business with a person who appears to be over 16 years and who appears to reside or work there; or
 - (c) by leaving it for the person at the place to which the notice relates with a person who is or appears to be the person with management or control of the place; or
 - (d) in a way prescribed under a regulation.
- (2) A regulation may prescribe—
 - (a) the way of issuing a notice; and
 - (b) the steps a person to whom a notice is issued must take to bring it to the attention of other persons.

150H Display of notice

- (1) A person to whom a notice is issued that affects a workplace must, as soon as possible, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.
Maximum penalty—50 penalty units.
- (2) A person must not intentionally remove, destroy, damage or deface a notice displayed under subsection (1) while the notice is in force.
Maximum penalty—50 penalty units.

Division 6 Remedial action

151 When regulator may carry out action

- (1) This section applies if a person to whom an electrical safety protection notice is issued fails to take reasonable steps to comply with the notice.
- (2) The regulator may take any remedial action the regulator believes reasonable to make the situation safe after giving written notice to the person to whom the electrical safety protection notice was issued of—
 - (a) the regulator's intention to take that action; and
 - (b) the owner's or person's liability for the costs of that action.

151A Power of the regulator to take other remedial action

- (1) This section applies if the regulator reasonably believes that—
 - (a) circumstances in which a electrical safety protection notice can be issued exist; and
 - (b) an electrical safety protection notice can not be issued at a place because, after taking reasonable steps, the person with management or control of the place can not be found.
- (2) The regulator may take any remedial action necessary to make the place safe.

151B Costs of remedial or other action

The regulator may recover the reasonable costs of any remedial action taken under—

- (a) section 151 from the person to whom the notice is issued; or

- (b) section 151A from any person to whom the electrical safety protection notice could have been issued for the matter;
- as a debt due to the regulator.

Division 7 Injunctions

152 Application of division

In this division, *notice* means improvement notice electrical safety protection notice or unsafe equipment notice.

152A Injunctions for noncompliance with notices

- (1) The regulator may apply to a magistrates court for an injunction—
 - (a) compelling a person to comply with a notice; or
 - (b) restraining a person from contravening a notice.
- (2) The regulator may do so—
 - (a) whether or not proceedings have been taken for an offence against this Act in connection with any matter for which the notice was issued; and
 - (b) whether any period for compliance with the notice has expired.

Division 8 Retailer to give information

153 Provision of information by retailer

- (1) A retailer must, in the way and at the times the regulator reasonably requires, give the regulator information, prescribed by regulation, the retailer holds about—
 - (a) premises located in Queensland to which the retailer provides customer retail services; and

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- (b) persons who are customers of the retailer and who own or occupy the premises mentioned in paragraph (a).
- (2) An official may use information given to the regulator by a retailer under subsection (1) only for administering and enforcing this Act.
- (3) In this section—
- official* means—
- (a) the regulator; or
- (b) an inspector.

Part 12 Reviews

Division 1 Interpretation

167 Definitions for pt 12

In this part—

confirmation notice see section 169.

decision does not include a decision of the regulator under part 3 or section 121AA.

disciplinary decision means a decision of the licensing committee about—

- (a) whether to take disciplinary action against the holder of an electrical licence; or
- (b) what disciplinary action to take against the holder of an electrical licence.

original decision means a decision of the regulator or an inspector under this Act, other than an original regulator decision.

original regulator decision means a decision made by the regulator personally, other than a decision about the issue, renewal or reinstatement of an electrical licence.

review decision see section 170.

review entity means—

- (a) for a decision of the regulator about the issue, renewal or reinstatement of an electrical licence—the licensing committee; or
- (b) otherwise—the regulator.

Division 2 Internal review

168 Application for review

A person whose interests are affected by an original decision may apply under this division for the decision to be reviewed.

169 Procedure for review

- (1) The application must—
 - (a) be made in the approved form to the review entity; and
 - (b) be supported by enough information to enable the review entity to decide the application.
- (2) If the application is for the review of a decision to forfeit a thing, the application must be made to the review entity within—
 - (a) 28 days after the day the applicant receives notice of the original decision; or
 - (b) the longer period the review entity in special circumstances allows.
- (3) If the application is for the review of another decision, the application must be made to the review entity within—
 - (a) 14 days after the day the applicant receives notice of the original decision; or
 - (b) the longer period the review entity in special circumstances allows.

- (4) The longer period the review entity allows under subsection (2)(b) or (3)(b) must not be longer than 2 months after the day the person receives notice of the original decision.
- (5) If the review entity is satisfied the applicant has complied with subsection (1), the review entity must immediately give the applicant written notice (*confirmation notice*) of the fact.

170 Review of decision

- (1) The review entity must review the original decision and make a decision (*review decision*)—
 - (a) to confirm the original decision; or
 - (b) to vary the original decision; or
 - (c) to set aside the original decision and make a decision in substitution for the decision set aside.
- (2) The review under subsection (1) must be made—
 - (a) if the review entity is the regulator—within 14 days after giving the confirmation notice; or
 - (b) if the review entity is the licensing committee—as soon as practicable after giving the confirmation notice.
- (3) If the review entity is the regulator, the application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (4) Within 14 days after making the review decision, the review entity must give written notice of the decision to the applicant.
- (5) The notice must include an information notice for the decision.
- (6) The applicant may apply for a review of the original decision under division 3 if the review entity—

- (a) does not review the original decision within the time allowed under subsection (2); or
- (b) having reviewed the decision, does not tell the applicant of the review decision within the time allowed under subsection (4).

171 Stay of reviewable decisions on internal review

- (1) An application for a review of a decision (other than a decision to issue an electrical safety protection notice, an unsafe equipment notice or a non-disturbance notice) under this division stays the operation of the decision.
- (2) If an application is made under this division for a review of a decision to issue an electrical safety protection notice, an unsafe equipment notice or a non-disturbance notice, the review entity for the review may stay the operation of the decision.
- (3) The review entity may make the decision to stay the operation of a decision on the review entity's own initiative or on the application of the applicant for review.
- (4) The review entity must make a decision on an application for a stay within 1 working day after the review entity receives the application.
- (5) If the review entity has not made a decision to stay a decision within the time set out in subsection (4), the review entity is taken to have made a decision to grant a stay.
- (6) A stay of the operation of a decision pending a decision on a review under this division continues until whichever of the following is the earlier—
 - (a) the end of the prescribed period for applying for a review of the decision under division 3; or
 - (b) an application for a review under division 3 is made.

Division 3 External review

172 Application for external review

A person whose interests are affected by a following decision may apply to QCAT, as provided for under the QCAT Act, to have the decision reviewed—

- (a) a disciplinary decision;
- (b) an original regulator decision;
- (c) an original decision;
- (d) a review decision;
- (e) a decision made by the licensing committee to give a person a direction under section 64C.

Note—

See the QCAT Act, chapter 2, part 1, division 3.

Part 13 Proceedings and offences

Division 1 Evidence

178 Application of div 1

This division applies to a proceeding under this Act.

179 Proof of appointment and authority unnecessary

It is not necessary to prove—

- (a) the appointment of the regulator or an inspector; or
- (b) the authority of the regulator or an inspector to do anything under this Act.

180 Proof of signature

A signature purporting to be the signature of the regulator or an inspector is evidence of the signature it purports to be.

181 Evidentiary aids

- (1) A certificate stating any of the following matters is evidence of the matter—
 - (a) a stated document is—
 - (i) an appointment or approval or a copy of an appointment or approval; or
 - (ii) an improvement notice, electrical safety protection notice or unsafe equipment notice, or a copy of an improvement notice, electrical safety protection notice or unsafe equipment notice; or
 - (iii) a decision, or a copy of a decision, given or made under this Act; or
 - (iv) a record or document, a copy of a record or document, an extract from a record or document or a copy of an extract from a record or document, kept under this Act;
 - (b) on a stated day, or for a stated period, a stated certificate, registration, approval or appointment was, or was not, in force for a stated person, place or thing;
 - (c) on a stated day, or for a stated period, a stated person was or was not the holder of an electrical licence;
 - (d) a stated electrical licence was or was not subject to conditions or restrictions stated in the certificate;
 - (e) on a stated day, or for a stated period, a standard issued or published by the Electricity Supply Association of Australia, the National Occupational Health and Safety Commission or Standards Australia, or something in the standard, was or was not in force;
 - (f) on a stated day a stated person was given a stated direction or notice under this Act;

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- (g) a stated amount is payable under this Act by a stated person and has not been paid;
 - (h) an instrument, item of equipment or installation was used in accordance with conditions prescribed under a document for its use.
- (2) A document purporting to be published by or under the authority of the Energy Supply Association of Australia, the National Occupational Health and Safety Commission or Standards Australia is evidence of the matters appearing on and in the document.
 - (3) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.
 - (4) An instrument, item of equipment or installation used by an inspector or analyst in accordance with the conditions prescribed under a relevant document for its use is taken to be accurate and precise in the absence of evidence to the contrary.
 - (5) In this section—

certificate means a certificate purporting to be signed by the regulator or an inspector.

181A Statement in complaint that thing is in-scope electrical equipment

In a complaint starting a proceeding, a statement that a thing is level 1, 2 or 3 in-scope electrical equipment under a regulation is sufficient evidence of that element unless the contrary is proved.

182 Expert report

- (1) An expert report is admissible in evidence, whether or not the person making the report (the *expert*) attends to give oral evidence.

- (2) However, if the expert does not attend to give oral evidence, the report is admissible only with the court's leave.
- (3) In deciding whether to grant leave, the court must have regard to the following—
 - (a) the contents of the report;
 - (b) why the expert does not intend to give oral evidence;
 - (c) the risk that the report's admission in, or exclusion from, evidence would be unfair to a party, having regard in particular to the party's ability to controvert the contents of the report if the expert does not give oral evidence;
 - (d) any other circumstance the court considers relevant.
- (4) An expert report when admitted is evidence of a fact or opinion of which the expert could have given oral evidence.
- (5) In this section—

expert report means a report made by a person dealing entirely or mainly with issues the person is qualified to give expert evidence about, but does not include an analyst's report.

183 Analyst's certificate or report

The production by the prosecutor or the defendant in a prosecution of a signed analyst's report stating any of the following is evidence of them—

- (a) the analyst's qualifications;
- (b) the analyst took, or received from a stated person, the sample mentioned in the report;
- (c) the analyst analysed the sample on a stated day, or during a stated period, and at a stated place;
- (d) the results of the analysis.

184 Certificate about action on electrical licence

A certificate of the commissioner or regulator to the effect that a particular action was taken by the licensing committee or regulator in relation to the holder of an electrical licence is evidence of the action having been taken.

185 Use of code of practice

A document purporting to be a code of practice is admissible as evidence of the code of practice if—

- (a) the proceeding relates to a failure to discharge a person's electrical safety obligation; and
- (b) the code of practice is about discharging the obligation.

Division 2 Other matters

186 Prosecutions

- (1) Proceedings for an offence against this Act, other than a category 1 offence or an offence against part 2B, must be taken in a summary way under the *Justices Act 1886*.
- (2) Subject to subsection (5), proceedings for an offence against this Act may only be taken by—
 - (a) the regulator; or
 - (b) an inspector with the written authorisation of the regulator, either generally or in a particular case.
- (3) An authorisation under subsection (1)(b) is sufficient authority to continue proceedings in any case where the court amends the charge, warrant or summons.
- (4) The regulator must issue, and publish on the regulator's website, general guidelines for—
 - (a) the prosecution of offences under this Act; and
 - (b) the acceptance of electrical safety undertakings under this Act.

- (5) Nothing in this section affects the ability of the Director of Public Prosecutions to bring proceedings for an offence against this Act.

186A Procedure if prosecution is not brought

- (1) If—
- (a) a person reasonably considers that an act or omission constitutes a category 1 offence or a category 2 offence; and
 - (b) no prosecution has been brought for the act or omission after 6 months but not later than 12 months after the act or omission happens;

the person may make a written request to the regulator that a prosecution be brought.

- (1A) Also, a person may make a written request to the regulator that a prosecution be brought if—
- (a) the person reasonably considers that an act or omission constitutes an offence against part 2B; and
 - (b) no prosecution has been brought in relation to the act or omission; and
 - (c) it has been at least 6 months since the act or omission happened.
- (2) Within 3 months after the regulator receives a request under subsection (1) or (1A) the regulator must—
- (a) advise the person, in writing—
 - (i) whether the investigation is complete; and
 - (ii) if the investigation is complete, whether a prosecution has been or will be brought or give reasons why a prosecution will not be brought; and
 - (b) advise the person who the applicant believes committed the offence of the application and of the matters set out in paragraph (a).

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- (3) If the regulator advises the person that a prosecution for a category 1 or category 2 offence or an offence against part 2B will not be brought, the regulator must—
 - (a) advise the person that the person may ask the regulator to refer the matter to the Director of Public Prosecutions for consideration; and
 - (b) if the person makes a written request to the regulator to do so, refer the matter to the Director of Public Prosecutions within 1 month of the request.
 - (4) The Director of Public Prosecutions must consider the matter and advise (in writing) the regulator within 1 month as to whether the Director considers that a prosecution should be brought.
 - (5) The regulator must ensure a copy of the advice is given to—
 - (a) the person who made the request; and
 - (b) the person who the applicant believes committed the offence.
 - (6) If the regulator declines to follow the advice of the Director of Public Prosecutions to bring proceedings, the regulator must give written reasons for the decision to any person to whom a copy of the advice is given under subsection (5).

186B Limitation period for prosecutions

- (1) Proceedings for an offence against this Act may be taken within the latest of the following periods—
 - (a) within 2 years after the offence first comes to the notice of the regulator;
 - (b) within 1 year after a coronial report was made or a coronial inquiry or inquest ended, if it appeared from the report or the proceedings at the inquiry or inquest that an offence had been committed against this Act;
 - (c) if an electrical safety undertaking has been given in relation to the offence, within 6 months after—

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- (i) the electrical safety undertaking is contravened; or
 - (ii) it comes to the notice of the regulator that the electrical safety undertaking has been contravened;
or
 - (iii) the regulator has agreed under section 54 to the withdrawal of the electrical safety undertaking.
- (2) A proceeding for a category 1 offence may be taken after the end of the applicable limitation period in subsection (1) if fresh evidence relevant to the offence is discovered and the court is satisfied that the evidence could not reasonably have been discovered within the relevant limitation period.
- (3) Subsection (1) does not apply to a proceeding for an offence against part 2B.

186C Multiple contraventions of electrical safety duty provision

- (1) Two or more contraventions of an electrical safety duty provision by a person that arise out of the same factual circumstances may be charged as a single offence or as separate offences.
- (2) This section does not authorise contraventions of 2 or more electrical safety duty provisions to be charged as a single offence.
- (3) A single penalty only may be imposed for 2 or more contraventions of an electrical safety duty provision that are charged as a single offence.
- (4) In this section *electrical safety duty provision* means a provision of part 2, division 2.

Division 3 Sentencing for offences

187 Application of this division

This division applies if a court convicts a person (the *offender*), of an offence against this Act.

187A Orders generally

- (1) One or more orders may be made under this division against the offender.
- (2) Orders may be made under this division in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

187B Adverse publicity order

- (1) The court may make an order (an *adverse publicity order*) in relation to the offender requiring the offender—
 - (a) to take either or both of the following actions within the period stated in the order—
 - (i) to publicise, in the way stated in the order, the offence, its consequences, the penalty imposed and any other related matter;
 - (ii) to notify a stated person or stated class of persons, in the way stated in the order, of the offence, its consequences, the penalty imposed and any other related matter; and
 - (b) to give the regulator, within 7 days after the end of the period stated in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (2) The court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.
- (3) If the offender fails to give evidence to the regulator as provided under subsection (1)(b), the regulator, or a person authorised in writing by the regulator, may take the action or actions stated in the order.
- (4) However, if—
 - (a) the offender gives evidence to the regulator as provided under subsection (1)(b); and

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- (b) despite that evidence, the regulator is not satisfied that the offender has taken the action or actions stated in the order in accordance with the order;

the regulator may apply to the court for an order authorising the regulator, or a person authorised in writing by the regulator, to take the action or actions.

- (5) If the regulator or a person authorised in writing by the regulator takes an action or actions under subsection (3) or an order under subsection (4), the regulator is entitled to recover from the offender, by action in a court of competent jurisdiction, an amount for the reasonable expenses of taking the action or actions as a debt due to the regulator.

187C Order for restoration

- (1) The court may order the offender to take such steps as are stated in the order, within the period so stated, to remedy any matter caused by the commission of the offence that appears to the court to be within the offender's power to remedy.
- (2) The period in which an order under this section must be complied with may be extended, or further extended, by order of the court but only if an application for the extension is made before the end of that period.

187D Electrical safety project order

- (1) The court may make an order requiring the offender to undertake a stated project for the general improvement of electrical safety within the period stated in the order.
- (2) The order may specify conditions that must be complied with in undertaking the stated project.

187E Release on the giving of a court-ordered electrical safety undertaking

- (1) The court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make

an order for the release of the offender on the offender giving an undertaking with stated conditions (a *court-ordered electrical safety undertaking*).

- (2) A court-ordered electrical safety undertaking must specify the following conditions—
 - (a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so specifies, at the time to which the further hearing is adjourned;
 - (b) that the offender does not commit, during the period of the adjournment, any offence against this Act;
 - (c) that the offender observes any special conditions imposed by the court.
- (3) An offender who has given a court-ordered electrical safety undertaking under this section may be called on to appear before the court by order of the court.
- (4) An order under subsection (3) must be served on the offender not less than four days before the time stated in it for the appearance.
- (5) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the court-ordered electrical safety undertaking, it must discharge the offender without any further hearing of the proceeding.

187F Injunction

The court may issue an injunction requiring the offender to stop contravening this Act.

187G Training order

The court may make an order requiring the offender to undertake or arrange for 1 or more workers to undertake a stated course of training.

187H Forfeiture on conviction

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of anything used to commit the offence or anything else the subject of the offence.
- (2) The court may make the order—
 - (a) whether or not the thing has been seized under this Act; and
 - (b) if the thing has been seized—whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section applies to a thing only if the court is satisfied that the thing caused or may cause a serious electrical incident.
- (5) This section does not limit the court's powers under another law.

187I Dealing with forfeited thing

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the regulator as the regulator considers appropriate.
- (2) Without limiting subsection (1), the regulator may destroy it.

187J Offence to fail to comply with order

- (1) A person must not, without reasonable excuse, fail to comply with an order under this division.
Maximum penalty—500 penalty units.
- (2) Subsection (1) places an evidential burden on the defendant to show a reasonable excuse.
- (3) This section does not apply to an order under section 187E or 187F.

Division 4 Offences by bodies corporate

188 Imputing conduct to body corporate

- (1) For this Act, any conduct engaged in on behalf of a body corporate by an employee, agent or officer of the body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the body corporate.
- (2) If an offence under this Act requires proof of knowledge, intention or recklessness, it is sufficient in proceedings against a body corporate for the offence to prove that the person mentioned in subsection (1) had the relevant knowledge, intention or recklessness.
- (3) If for an offence against this Act mistake of fact is relevant to determining liability, it is sufficient in proceedings against a body corporate for the offence if the person mentioned in subsection (1) made the mistake of fact.

Division 5 The State, Commonwealth and other States

189 Offence and the State, Commonwealth and other States

- (1) If the State, Commonwealth or another State is found guilty of an offence against this Act, the penalty to be imposed on the State, Commonwealth or other State is the penalty applicable to a body corporate.
- (2) For this Act, conduct engaged in on behalf of the State, Commonwealth or another State by an employee, agent or officer of the State, Commonwealth or other State acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the State, Commonwealth or other State.
- (3) If an offence under this Act requires proof of knowledge, intention or recklessness, it is sufficient in proceedings against

the State, Commonwealth or other State for the offence to prove that the person mentioned in subsection (2) had the relevant knowledge, intention or recklessness.

- (4) If for an offence against this Act mistake of fact is relevant to determining liability, it is sufficient in proceedings against the State, Commonwealth or other State for the offence if the person mentioned in subsection (2) made the mistake of fact.

189A Officers

- (1) A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking of the State, Commonwealth or another State is taken to be an officer of the State, Commonwealth or other State for the purposes of this Act.
- (2) A Minister of a State or the Commonwealth is not in that capacity an officer for the purposes of this Act.

189B Responsible agency for the State, Commonwealth or other State

- (1) The following notices may be given to or served on the responsible agency—
 - (a) an improvement notice, electrical safety protection notice, unsafe equipment notice or non-disturbance notice to be given to or served on the State, Commonwealth or another State under this Act;
 - (b) an infringement notice for an offence against this Act to be given to or served on the State, Commonwealth or another State.
- (2) If an infringement notice is to be served on the State, Commonwealth or another State for an offence against this Act, the responsible agency may be stated in the infringement notice.
- (3) If proceedings are taken against the State, Commonwealth or another State for an offence against this Act or in relation to a contravention of this Act, the responsible agency for the

offence or contravention may be stated in any document initiating, or relating to, the proceedings.

- (4) The responsible agency for an offence or a contravention of this Act is entitled to act in proceedings against the State, Commonwealth or other State for the offence or relating to the contravention and, subject to any relevant rules of court, the procedural rights and obligations of the State, Commonwealth or other State as the accused or defendant in the proceedings are conferred or imposed on the responsible agency.
- (5) The person prosecuting the offence or bringing the proceedings may change the responsible agency during the proceedings with the court's leave.
- (6) In this section, the *responsible agency* means—
 - (a) for an improvement notice or infringement notice—the agency of the State, Commonwealth or other State the acts or omissions of which are alleged to contravene this Act; or
 - (b) for an electrical safety protection notice—the agency of the State, Commonwealth or other State that controls the place where the electrical risk has arisen; or
 - (c) for an unsafe equipment notice—the agency of the State, Commonwealth or other State that owns or controls the electrical equipment; or
 - (d) for a non-disturbance notice—the agency of the State, Commonwealth or other State that controls the site to which the notice relates; or
 - (e) for an offence or proceedings for a contravention of this Act—
 - (i) the agency of the State, Commonwealth or other State the acts or omissions of which are alleged to constitute the offence or contravention; or
 - (ii) if that agency no longer exists, that is the successor of the agency; or

- (iii) if that agency no longer exists and there is no clear successor, that the court declares to be the responsible agency.

Division 6 Public authorities

190 Application to public authorities that are bodies corporate

This division applies only to public authorities that are bodies corporate or are local governments.

190A Proceedings against public authorities

- (1) Proceedings may be taken under this Act against a public authority in its own name.
- (2) Proceedings may be taken under this Act against a local government, and a local government may be prosecuted and punished, as if it were a body corporate.
- (3) Nothing in this division affects any privileges that a public authority may have under the State.

190B Imputing conduct to public authorities

- (1) For this Act, any conduct engaged in on behalf of a public authority by an employee, agent or officer of the public authority acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the public authority.
- (2) If an offence against this Act requires proof of knowledge, intention or recklessness, it is sufficient in proceedings against the public authority for that offence to prove that the person mentioned in subsection (1) had the relevant, knowledge or recklessness.
- (3) If for an offence against this Act mistake of fact is relevant to determining liability, it is sufficient in proceedings against the

public authority for that offence if the person mentioned in subsection (1) made that mistake of fact.

190C Officer of public authority

A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business or undertaking of a public authority is taken to be an officer of the public authority for the purposes of this Act.

190D Proceedings against successors to public authorities

- (1) Proceedings for an offence against this Act that were instituted against a public authority before its dissolution, or that could have been instituted against a public authority if not for its dissolution, may be continued or instituted against its successor if the successor is a public authority.
- (2) An infringement notice served on a public authority for an offence against this Act is taken to be an infringement notice served on its successor if the successor is a public authority.
- (3) Similarly, any penalty paid by a public authority for an infringement notice is taken to be a penalty paid by its successor if the successor is a public authority.

Division 7 Civil liability not affected by this Act

191 Civil liability not affected by this Act

Nothing in this Act is to be construed as—

- (a) conferring a right of action in civil proceedings in relation to a contravention of a provision of this Act; or
- (b) conferring a defence to an action in civil proceedings or otherwise affecting a right of action in civil proceedings; or
- (c) affecting the extent (if any) to which a right of action arises, or civil proceedings may be taken, in relation to

breaches of duties or obligations imposed under a regulation.

Part 14 General

Division 1 General provisions

192 Offence to give false or misleading information

- (1) A person must not give information in complying or purportedly complying with this Act that the person knows—
- (a) to be false or misleading in a material particular; or
 - (b) omits any matter or thing without which the information is misleading.

Maximum penalty—100 penalty units.

- (2) A person must not produce a document in complying or purportedly complying with this Act that the person knows to be false or misleading in a material particular without—
- (a) indicating how it is false or misleading and, if practicable, providing correct information; or
 - (b) accompanying the document with a written statement signed by the person or, in the case of a body corporate, by a competent officer of the body corporate—
 - (i) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
 - (ii) setting out, or referring to, the material particular in which the document is, to the knowledge of the first-mentioned person, false or misleading.

Maximum penalty—100 penalty units.

- (3) Subsection (2) places an evidential burden on the defendant to show—

- (a) that the defendant had indicated the extent to which the document was false or misleading; or
- (b) that the accompanying document sufficiently explained the extent to which the document was false or misleading.

192A Act does not affect legal professional privilege

Nothing in this Act requires a person to produce a document that would disclose information, or otherwise provide information, that is the subject of legal professional privilege.

192B Immunity from liability

- (1) An inspector, or other person engaged in the administration of this Act, incurs no civil liability for an act or omission done or omitted to be done in good faith and in the execution or purported execution of powers and functions under this Act.
- (2) A civil liability that would, but for subsection (1), attach to a person, attaches instead to the State.

193 Confidentiality of information

- (1) This section applies if a person obtains information or gains access to a document in exercising any power or function under this Act.
- (2) The person must not do any of the following—
 - (a) disclose to anyone else—
 - (i) the information; or
 - (ii) the contents of or information contained in the document;
 - (b) give access to the document to anyone else;
 - (c) use the information or document for any purpose.

Maximum penalty—100 penalty units.

- (3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document or the use of information or a document—
- (a) about a person, with the person’s consent; or
 - (b) that is necessary for the exercise of a power or function under this Act; or
 - (c) that is made or given by the regulator or a person authorised by the regulator if the regulator reasonably believes the disclosure, access or use—
 - (i) is necessary for administering, or monitoring or enforcing compliance with, this Act; or
 - (ii) is necessary for the administration or enforcement of another Act prescribed under a regulation; or
 - (iii) is necessary for the administration or enforcement of another Act or law, if the disclosure, access or use is necessary to lessen or prevent a serious risk to public safety; or
 - (iv) is necessary for the recognition of authorisations under a corresponding law; or
 - (v) is required for the exercise of a power or function under a corresponding law; or
 - (d) that is required by any court, tribunal, authority or person having lawful authority to require the production of documents or the answering of questions; or
 - (e) that is required or authorised under a law; or
 - (f) to a Minister.
- (4) A person must not intentionally disclose to another person the name of an individual who has made a complaint in relation to that other person unless—
- (a) the disclosure is made with the consent of the complainant; or
 - (b) the disclosure is required under a law.

Maximum penalty—100 penalty units.

194 No contracting out

A term of any agreement or contract that purports to exclude, limit or modify the operation of this Act or any duty owed under this Act or to transfer to another person any duty owed under this Act is void.

195 Person not to levy workers

A person conducting a business or undertaking must not impose a levy or charge on a worker, or permit a levy or charge to be imposed on a worker, for anything done, or provided, in relation to electrical safety.

Maximum penalty—50 penalty units.

Part 14A Miscellaneous provisions

Division 1 Electrical safety contributions

200 Purpose of div 1

The purpose of this division is to establish funding support for the following activities of the department—

- (a) ensuring compliance with this Act;
- (b) promoting electrical safety in the community.

201 Electrical safety contribution to be paid

Each distribution entity must pay to the regulator an electrical safety contribution for each financial year.

202 Electrical safety contribution notice

- (1) A distribution entity must pay its electrical safety contribution for a financial year in accordance with the requirements of a

notice (*electrical safety contribution notice*) the regulator gives to the distribution entity.

- (2) An electrical safety contribution notice must state the following—
 - (a) the financial year the notice relates to;
 - (b) the total amount of the electrical safety contribution payable by the distribution entity for the financial year;
 - (c) the calculations used to work out the electrical safety contribution payable by the distribution entity for the financial year;
 - (d) the amount of any instalment of the electrical safety contribution currently payable by the distribution entity and the date by which the instalment must be paid.
- (3) For each financial year, the regulator must—
 - (a) work out the amount of the electrical safety contribution payable by each distribution entity for the financial year; and
 - (b) give each distribution entity its first electrical safety contribution notice for the financial year.
- (4) The regulator must act under subsection (3) at a time that is—
 - (a) before the financial year starts; and
 - (b) in accordance with the reasonable forward planning requirements of the distribution entity.
- (5) The date by which an instalment, other than an overdue instalment, must be paid must not be earlier than—
 - (a) the start of the part of the financial year to which the instalment relates; or
 - (b) 14 days after the distribution entity receives the electrical safety contribution notice advising that payment of the instalment is required.
- (6) Subsection (4) does not apply for the financial year in which this section commences.

203 Working out electrical safety contribution amounts

- (1) A regulation may prescribe all things necessary or convenient for establishing and operating arrangements for the payment of electrical safety contributions.
- (2) Without limiting subsection (1), a regulation may do any of the following—
 - (a) prescribe requirements for working out the amount of the electrical safety contribution payable by each distribution entity for a financial year;
 - (b) fix, or prescribe how to fix, the total amount to be collected as electrical safety contributions;
 - (c) subject to subsection (3), fix, or prescribe how to fix, the relative size, as between the distribution entities, of each distribution entity's electrical safety contribution;
 - (d) provide for the payment of electrical safety contributions by instalments;
 - (e) provide for the payment of a proportion of the amount of an electrical safety contribution in circumstances, identified in the regulation, in which it is not appropriate for a distribution entity to have to pay an amount for a full financial year;
 - (f) provide for an adjustment of the amount of an electrical safety contribution to take account of significant change in the circumstances on which the working out of electrical safety contributions was based.
- (3) The relative size of a distribution entity's electrical safety contribution must be based on the number of the distribution entity's retail premises.
- (4) Subsections (1) and (2) extend, and do not limit, the Governor in Council's power to make regulations under this Act.

204 Consultation with distribution entities

The regulator must, to the greatest practicable extent, act in consultation with the distribution entities in establishing and

operating the arrangements for the payment of electrical safety contributions, including in applying the provisions of this division and the provisions of any regulation made for establishing and operating the arrangements.

Division 1A In-scope electrical equipment (registration fees) fund

204A Establishment of fund

The in-scope electrical equipment (registration fees) fund (the *fund*) is established.

204B Purpose and administration of fund

- (1) The purpose of the fund is to record amounts received for, and paid from, the fund as mentioned in this division.
- (2) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (3) Amounts payable to the fund are the fees received by the regulator for the registration of responsible suppliers and level 2 or 3 in-scope electrical equipment in the national register.

204C Payments from fund

- (1) Amounts are payable from the fund only for providing, in Queensland and participating jurisdictions, electrical safety services relating to in-scope electrical equipment and if payable under the terms of an agreement between the State and participating jurisdictions.
- (2) The amounts may be paid without further appropriation.

204D State may enter into agreement

The State is authorised to enter into an agreement with participating jurisdictions in relation to the fund including for making payments to and from the fund.

Division 2 General

205 Recovery of fee

- (1) A fee payable under this Act and not paid may be recovered by the regulator—
 - (a) in summary proceedings under the *Justices Act 1886*; or
 - (b) by action for a debt.
- (2) A fee may also be recovered in a proceeding for an offence against this Act.
- (3) Also, an order made under subsection (2) is enforceable under the *Justices Act 1886* as an order for payment of money made by a magistrate under that Act.
- (4) If an order is made under subsection (2)—
 - (a) the order may be filed in the registry of a Magistrates Court under the *Magistrates Courts Act 1921*; and
 - (b) on being filed, is taken to be an order made by a Magistrates Court and may be enforced accordingly.

205A Disciplinary action and offences

The taking of disciplinary action against the holder of an electrical licence does not prevent—

- (a) prosecution of the holder for an offence arising from the facts or circumstances on which the taking of disciplinary action is based; or
- (b) a court from imposing a penalty for an offence mentioned in paragraph (a) after the court takes into account the disciplinary action taken.

206 Electrical safety notification

- (1) The regulator may issue a notification (*electrical safety notification*) that—
 - (a) is directed at designers, manufacturers, importers or suppliers generally, or at stated designers, manufacturers, importers or suppliers; and
 - (b) states requirements about the use or supply of stated electrical equipment, or a stated type of electrical equipment, including, if appropriate, requirements about preventing the use or supply of the electrical equipment or type of electrical equipment.
- (2) A designer, manufacturer, importer or supplier is taken to have enough notice of an electrical safety notification if—
 - (a) the regulator gives the designer, manufacturer, importer or supplier a copy of the notification; or
 - (b) a copy of the notification is published in—
 - (i) the gazette; and
 - (ii) a newspaper circulating generally in the State.
- (3) The regulator may issue an electrical safety notification only if—
 - (a) the regulator is satisfied on reasonable grounds that—
 - (i) the supply or use of the electrical equipment, or the particular type of electrical equipment, that is the subject of the notification is putting, or will put, persons or property at electrical risk; or
 - (ii) appropriate information is not available about the electrical equipment, or the particular type of electrical equipment, that is the subject of the notification; and
 - (b) the decision to issue the notification is made by the regulator personally; and
 - (c) the requirements included in the notification are reasonable in the circumstances.

- (4) For subsection (3)(a)(ii), information about electrical equipment, or a particular type of electrical equipment, is appropriate information if the information states—
- (a) the use for which the electrical equipment or type of electrical equipment has been designed and tested; and
 - (b) all conditions that must be observed to ensure the electrical equipment, or electrical equipment of the type, is electrically safe.

208 Forms

The regulator may approve forms for use under this Act.

209 Charges for services

- (1) This section applies if there is no regulation under this Act that prescribes a fee for a service provided by the regulator in the course of the chief executive's administration of this Act.
- (2) The regulator may, by gazette notice, fix a fee for the service.

Example of subsections (1) and (2)—

If there is no regulation prescribing a fee for the service of renewing an electrical licence, of registering, under a regulation, a cathodic protection system or approving, under a regulation, particular electrical equipment, the regulator may fix a fee for the service.

- (3) The fee the regulator fixes for a service must not be more than an amount that fairly represents the cost of providing the service.

210 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may prescribe—
- (a) ways of discharging a person's electrical safety duty; and

- (b) ways of ensuring the electrical safety of persons or property; and
- (c) safety and technical requirements for electrical work; and
- (d) safety and technical requirements for working in contact with, or near to, exposed parts; and
- (e) safety and technical requirements, and certification requirements, for electrical equipment, including for the selling, testing and using of electrical equipment; and
- (f) safety and technical requirements for electrical installations, works of electricity entities, electric lines and electricity supply; and
- (g) amendments, cancellations, suspensions and transfers of certificates and other authorities required under the regulation; and
- (h) requirements for the labelling, marking and testing of electrical equipment, including requirements for the provision of electrical equipment for testing, the disposal of electrical equipment after testing, and the extent of compensation, if any, payable for electrical equipment damaged or destroyed during testing; and
- (i) requirements for signs or other advertising material for the sale of electrical equipment; and
- (j) requirements for safety management systems; and
- (k) safety and technical requirements, and registration requirements, for cathodic protection systems; and
- (l) notification and reporting requirements for serious electrical incidents and dangerous electrical events; and
- (m) all matters about electrical licences, including the following—
 - (i) classes of electrical licences;
 - (ii) the periods for which particular electrical licences are to be in force;

- (iii) financial and insurance requirements for electrical licence holders;
- (iv) particular requirements applying to the making of applications for the issue, renewal or reinstatement of electrical licences;
- (v) eligibility requirements for the issue, renewal or reinstatement of electrical licences, including requirements as to suitability, requirements for particular qualifications and requirements for the successful completion of examinations or courses stated in the regulation or chosen by the regulator;
- (vi) the keeping of a register for recording licence information;
- (vii) requirements for keeping licences and registers up to date, including for the provision of information for keeping licences and registers up to date;
- (viii) restrictions on advertising by electrical licence holders; and
- (n) all matters relating to the registration of responsible suppliers and in-scope electrical equipment in the national register, including the renewal and cancellation of the registration; and
- (o) all matters relating to the classification of in-scope electrical equipment; and
- (p) all matters relating to the sale of in-scope electrical equipment including requirements about the keeping of evidence and certificates that show that items of types of in-scope electrical equipment meet relevant standards; and
- (q) all matters relating to the recording of information about certificates of conformity in the national register including what information is to be recorded, how it is to be recorded and by whom it is to be recorded; and
- (r) all matters relating to the recording of other information in the national register including what information is to

be recorded, how it is to be recorded and by whom it is to be recorded; and

- (s) all matters relating to the declaration of a scheme as a recognised external certification scheme under section 48J including the imposition of conditions on, and the cancellation of, the declaration; and
 - (t) discipline of electrical licence holders; and
 - (u) matters of an administrative nature.
- (3) A regulation may prescribe offences for breaches of the regulation, and may fix a penalty of not more than 300 penalty units for a breach.
- (4) A regulation may prescribe fees payable under this Act, and may also provide for the refund or remission of fees.
- (5) A regulation may provide for a distribution entity to impose charges for the carrying out of activities of the distribution entity authorised under a regulation.

Part 15 Transitional provisions for Act No. 42 of 2002

Division 1 Interpretation

211 Definitions for pt 15

In this part—

Articles regulation means the *Electricity (Electrical Articles) Regulation 1994*, as in force immediately before the commencement.

commencement means the commencement of section 211.

Electricity Regulation means the *Electricity Regulation 1994*.
equivalent licence, to a previous licence, means an electrical licence that is prescribed under a regulation as being the

equivalent of the previous licence, and that is identified in the regulation according to—

- (a) whether it is an electrical work licence or an electrical contractor licence; and
- (b) its class.

EWC Board means the Electrical Workers and Contractors Board under the Electricity Regulation as in force immediately before the commencement.

previous licence means a licence under the Electricity Regulation, as that regulation was in force immediately before the commencement.

regulator means the regulator under the Electricity Act.

Division 2 Transitional references

212 References to Electricity Act and Electricity Regulation

- (1) In an Act or document, a reference to the Electricity Act may be taken to be a reference to this Act—
 - (a) to the extent the reference relates to a provision of the Electricity Act that is repealed by this Act; and
 - (b) if the context permits.
- (2) In an Act or document, a reference to the Electricity Regulation may be taken to be a reference to this Act, and not to a regulation under this Act—
 - (a) to the extent the reference relates to an Act related provision of the Electricity Regulation; and
 - (b) if the context permits.
- (3) Subject to subsection (2), in an Act or document, a reference to the Electricity Regulation may, if the context permits, be taken to be a reference to a regulation under this Act.
- (4) In this section—

Act related provision, of the Electricity Regulation, means a provision of that regulation, as in force immediately before the commencement, the substance of which is, after the commencement, the subject of a provision of this Act rather than a regulation under this Act.

213 References to EWC Board

A reference in an Act or document to the EWC Board may, if the context permits, be taken to be a reference to the licensing committee.

Division 3 Councils, EWC Board and licence matters

214 Electricity Health and Safety Council and Queensland Electrical Education Council

On the commencement, the following entities under the Electricity Regulation are abolished and their members go out of office—

- Electricity Health and Safety Council
- Queensland Electrical Education Council.

215 Electrical Approval and Energy Labelling Advisory Committee

On the commencement, the Electrical Approval and Energy Labelling Advisory Committee under the Articles regulation is abolished and its members go out of office.

216 Abolition of EWC Board

- (1) The EWC Board is abolished.
- (2) The members of the EWC Board go out of office.

217 Assets and liabilities of EWC Board

- (1) The assets and liabilities of the EWC Board vest in the State.
- (2) If the EWC Board held property on trust immediately before the commencement, the State holds the property on the terms of the trust.
- (3) The general fund established under the Electricity Regulation is abolished and the amount standing to the credit of the fund immediately before the commencement vests in the State.

218 Proceedings

- (1) A proceeding by or against the EWC Board that has not ended before the commencement may be continued and finished by or against the State.
- (2) A proceeding that could have been taken by or against the EWC Board if the EWC Board had continued to exist may be taken by or against the State.
- (3) A reference in this section to a proceeding by the EWC Board includes a proceeding by the EWC Board against a person for an offence.

219 Existing contracts

If the EWC Board was a party to a contract in force immediately before the commencement, the contract continues in force according to its terms and the State is taken to be a party instead of the EWC Board.

220 Disciplinary action not started

- (1) This section applies if, immediately before the commencement, the EWC Board could have started, but had not started, a procedure for disciplinary action under the Electricity Regulation.
- (2) The procedure may be started and finished under the Electricity Regulation as if the provisions of that regulation

relating to disciplinary action were still in force and the licensing committee were the EWC Board.

221 Disciplinary action started but not finished

- (1) This section applies if, immediately before the commencement, the EWC Board had started, but had not finished, a procedure for disciplinary action under the Electricity Regulation.
- (2) The procedure may be finished under the Electricity Regulation as if the provisions of that regulation relating to disciplinary action were still in force and the licensing committee were the EWC Board.
- (3) However, if before the commencement the EWC Board had started, but had not finished, its consideration of representations, or a hearing, for the purposes of the procedure, the licensing committee must start the consideration or hearing again under the provisions of the Electricity Regulation relating to disciplinary action as if the provisions were still in force and the licensing committee were the EWC Board.

222 Disciplinary action taken before commencement

Disciplinary action taken by the EWC Board before the commencement continues in effect after the commencement and may be enforced as if the action had been taken by the licensing committee.

223 Licensing committee may require person to correct defective work

- (1) This section applies if—
 - (a) before the commencement of this section, a person performed electrical installation work under the Electricity Act as a licensed electrical contractor under that Act; and

- (b) the licensing committee considers, on reasonable grounds, that there is a fault or defect in the work.
- (2) The regulator may give a written notice to the person giving directions that are reasonable in the circumstances for the correction of the fault or defect within the time and in the way stated in the written notice.
- (3) Without limiting subsection (2), the written notice may allow the person to correct the fault or defect even though the person does not have a current electrical contractor licence.
- (4) The person must not contravene the written notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

224 Annual report

In its first annual report, the Electrical Safety Board must include a report of the EWC Board's operations for any period for which the EWC Board did not make an annual report before its abolition.

225 Existing licences

- (1) This section applies to a person who, immediately before the commencement, held a previous licence issued by the EWC Board.
- (2) The person, on the commencement, is taken to be the holder of the equivalent licence to the previous licence.
- (3) The equivalent licence—
 - (a) is taken to be subject to conditions and restrictions in the same terms, as far as practicable, as the conditions and restrictions to which the previous licence was subject; and
 - (b) expires when the previous licence would have expired; and

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- (c) must not be the subject of renewal or reinstatement under this Act.

226 Existing application for previous licence

If, immediately before the commencement, an application made under the Electricity Regulation for the issue of a previous licence had not been decided, the application must be decided by the chief executive as if the application were an application for the equivalent licence to the previous licence.

227 Existing application for renewal of previous licence

If, immediately before the commencement, an application made under the Electricity Regulation for a renewal of a previous licence had not been decided, the application must be decided by the chief executive as if the application for renewal was not an application for renewal but was an application for an equivalent licence to the previous licence.

228 Partial postponement of requirement for electrical contractor licence

Despite section 56, until the end of 31 January 2003, a person may conduct a business or undertaking that includes the performance of electrical work even though the person is not the holder of an electrical contractor licence that is in force, but only to the extent the electrical work performed is not electrical installation work.

Division 4 Other transition from Electricity Act

229 Action under this Act not prevented

If a provision of this division (the *transitional provision*) provides that a section of the Electricity Act, as in force immediately before the commencement, has continuing application to circumstances as if the section had not been

repealed, the transitional provision does not stop action being taken under this Act in relation to the circumstances.

230 Review and appeal of decision made before commencement

(1) Chapter 10 of the Electricity Act continues to apply to a repealed entry decision.

(2) In this section—

repealed entry decision means a decision made under the Electricity Act before the commencement if—

- (a) when the decision was made, it was a decision the subject of an entry in schedule 1 of the Electricity Act; and
- (b) the entry is repealed by this Act.

231 Inspector has powers of authorised person for Electricity Act provisions of continuing application

(1) An inspector has all the functions and powers an authorised person had under the Electricity Act as in force immediately before the commencement—

- (a) in relation to an offence under the Electricity Act committed or alleged to have been committed before the commencement; and
- (b) in relation to an offence under the Electricity Act committed or alleged to have been committed after the commencement under a repealed offence provision that has continuing application under this part; and
- (c) under another provision of the Electricity Act that has continuing application under this part.

(2) If a repealed provision has continuing application under this part and an authorised person under the Electricity Act took action under the provision before the commencement, any inspector may be taken to be the authorised person who took the action.

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(3) Subsection (1) does not limit the powers an inspector has under this Act for an investigation.

(4) In this section—

repealed offence provision means a repealed provision that provided for an offence.

repealed provision means a provision of the Electricity Act, as in force immediately before the commencement, that is repealed under this Act.

232 Action before commencement to disconnect electrical installation or works

(1) This section applies if, before the commencement—

(a) under section 156(3) of the Electricity Act as in force immediately before the commencement, an authorised person disconnected an installation or works, or the defective part of an installation or works; or

(b) under section 156(4) of the Electricity Act as in force immediately before the commencement, an authorised person gave a person a written notice requiring the person to disconnect immediately an installation or works, or the defective part of an installation or works.

(2) Section 156 has continuing application to the circumstances of the disconnection or written notice as if the section had not been repealed.

233 Action before commencement to make cathodic protection system inoperable

(1) This section applies if, before the commencement—

(a) under section 160(5) of the Electricity Act as in force immediately before the commencement, an authorised person took action to make a cathodic protection system inoperable; or

(b) under section 160(6) of the Electricity Act as in force immediately before the commencement, an authorised

person gave a person a written notice requiring the person to make a cathodic protection system inoperable.

- (2) Section 160 has continuing application in relation to the circumstances of making the system inoperable or of the written notice as if the section had not been repealed.
- (3) However, for applying section 160(9), the reference to the Electricity Act is taken to be a reference to this Act.

234 Direction before commencement not to sell or hire unsafe electrical articles

- (1) This section applies if, before the commencement, under section 161(1) of the Electricity Act as in force immediately before the commencement, an authorised person gave a written notice to a person directing the person not to sell or hire an electrical article or type of electrical article.
- (2) Section 161 has continuing application in relation to the circumstances of the written notice as if the section had not been repealed.

235 Requirement before commencement to produce document

- (1) This section applies if, immediately before the commencement, there has been a requirement made under section 163(1) of the Electricity Act as in force immediately before the commencement for a person to produce to an authorised person for inspection a document required to be kept by the person under the Electricity Act.
- (2) Section 163 has continuing application in relation to the circumstances of the requirement as if the section had not been repealed.

236 Notice by occupier of electrical incident happening before commencement

- (1) This section applies if, immediately before the commencement, section 167 of the Electricity Act, as in force

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immediately before the commencement, applied because of particular circumstances.

- (2) Section 167 has continuing application in relation to the circumstances as if the section had not been repealed, whether or not, at the commencement, the occupier had given notice under section 167(2).

237 Notice by licensed electrical contractor of electrical accident happening before commencement

- (1) This section applies if, immediately before the commencement, section 168 of the Electricity Act, as in force immediately before the commencement, applied because of particular circumstances.
- (2) Section 168 has continuing application in relation to the circumstances as if the section had not been repealed, whether or not, at the commencement, the licensed electrical contractor had given notice under section 168(2).

238 Notice by electricity entity of accident

- (1) This section applies if, immediately before the commencement, circumstances applied under section 170 of the Electricity Act, as in force immediately before the commencement, requiring the electricity entity to advise the regulator of an accident.
- (2) Section 170 has continuing application in relation to the circumstances as if the section had not been repealed, whether or not, at the commencement, the electricity entity had advised the regulator of the accident under section 170(1).

239 Accident reported to electricity entity before commencement

- (1) This section applies if, immediately before the commencement—

- (a) under section 171 of the Electricity Act as in force immediately before the commencement, an electricity entity had received a report of an accident; and
 - (b) all action required under section 171 had not been completed.
- (2) The electricity entity must advise the chief executive of the report, and of the extent to which action has been taken under section 171.
 - (3) To the extent the chief executive considers appropriate, the accident may be investigated under this Act as if it had happened after the commencement.

240 Making unsafe things safe

- (1) This section applies if, before the commencement, the regulator made a requirement under section 177(2) of the Electricity Act as in force immediately before the commencement.
- (2) Section 177 has continuing application in relation to the circumstances of the requirement as if the section had not been repealed.

241 Evidentiary certificate of member or officer of EWC Board

A certificate in existence immediately before the commencement under section 250 of the Electricity Act, as in force immediately before the commencement, continues to have effect as evidence of a matter as provided for in that section.

Part 16 **Transitional provision for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004**

242 **Existing codes of practice**

- (1) The codes of practice mentioned in the *Electrical Safety (Codes of Practice) Notice 2002*, and as in force immediately before the commencement of this section, expire 10 years after their commencement.
- (2) To remove any doubt, it is declared that subsection (1) does not prevent a code of practice mentioned in the subsection from being amended or repealed before its expiry under this Act.

Part 17 **Transitional provision for Workplace Health and Safety and Other Legislation Amendment Act 2008**

243 **Applications to Supreme Court**

Section 156, as in force immediately before the commencement of this section, continues to apply after the commencement to an application to the Supreme Court made before the commencement as if the *Workplace Health and Safety and Other Legislation Amendment Act 2008*, section 32 had not been enacted.

Part 18 Transitional provisions for Electrical Safety and Other Legislation Amendment Act 2009

244 Definition for pt 18

In this part—

amending Act means the *Electrical Safety and Other Legislation Amendment Act 2009*.

245 Notices published in industrial gazette

- (1) This section applies if, before the commencement, a notice was published in the industrial gazette as required by section 121(5) as in force before the commencement.
- (2) The notice continues to have been published for section 121 after the commencement despite the amendment of that section by the amending Act.
- (3) In this section—

commencement means the commencement of this section.

industrial gazette means the Queensland Government Industrial Gazette.

Part 18A **Transitional provisions for the Guardianship and Administration and Other Legislation Amendment Act 2012**

246A **Vacation of office of members of certain committees**

- (1) This section applies to the members of the Electrical Safety Education Committee and the members of the Electrical Equipment Committee holding office immediately before the commencement of this section.
- (2) On the commencement of this section the members' appointments as members of either committee ends.

246B **Commencement provision**

- (1) This section applies if section 387 of the *Work Health and Safety Act 2011*, to the extent it replaces section 205 of this Act, commences before section 30 of the *Guardianship and Administration and Other Legislation Amendment Act 2012* (the *amending section*) commences.
- (2) The amending section is taken not to have commenced and is repealed.

Part 20 **Transitional provisions for Work Health and Safety Act 2011**

247A **Definitions for pt 20**

In this part—

amended includes—

- (a) repealed; and

(b) replaced.

Note—

See also the *Acts Interpretation Act 1954*, section 36, definition *amend*.
amendment Act means the *Work Health and Safety Act 2011*.

248 Proceedings for offence generally

- (1) This section applies if—
 - (a) an offence is committed by a person against a provision of this Act before the provision is amended by the amendment Act; and
 - (b) the investigation or proceedings for the offence have not been conducted, taken or completed before the amending happens.
- (2) The investigation or proceedings may be conducted, taken or continued as if this Act had not been amended by the amendment Act.
- (3) However, sections 186 and 187 as applied under subsection (2) apply to offence proceedings started after the amending of the offence provision as if a reference to the chief executive were a reference to the regulator.

249 Enforceable undertaking preserved

- (1) Subsection (2) applies to an electrical safety undertaking—
 - (a) made under part 3 before its amendment by the amending Act (the ***amendment***); and
 - (b) in force immediately before the amendment.
- (2) Part 3 continues to apply in relation to the electrical safety undertaking as if the amendment had not happened.
- (3) However, for subsection (2), sections 51, 53 and 54, as they existed before the amendment, apply as if a reference to the chief executive were a reference to the regulator.

- (4) Also, the undertaking continues in force, in relation to an act or omission of the identified person happening after the amendment, as if it were an undertaking accepted by the regulator under section 49(1) to the extent to which the future behaviour assurance is material to compliance with this Act after the amendment.
- (5) Subsection (4) does not apply to an act or omission that constitutes a category 1 offence.
- (6) Subsection (7) and (8) apply if, immediately before the amendment, the chief executive—
 - (a) has received an undertaking under section 49A; but
 - (b) has not made a decision whether to accept the undertaking under section 50.
- (7) The regulator must decide whether or not to accept the undertaking.
- (8) If the regulator accepts the undertaking, subsections (2) to (5) and (9) and (11) apply to the undertaking.
- (9) For subsection (4), a reference—
 - (a) in the undertaking to the alleged contravention; or
 - (b) in the future behaviour assurance to a contravention of this Act as it existed before the amendment;is taken to include a reference to a contravention of this Act that corresponds to those contraventions.

Note—

Paragraph (a) is relevant to the continued operation of section 51 as it existed before the amendment. Paragraph (b) is relevant if future behaviour is expressed in terms of contraventions of particular sections.

- (10) Despite subsections (1) to (9), the regulator may accept an electrical safety undertaking under part 3 as amended for a contravention of this Act that happened before the amendment.
- (11) In this section—

future behaviour assurance is the assurance about future behaviour from the identified person included in the electrical safety undertaking.

identified person means the identified person for the undertaking.

250 Appointment of inspector

- (1) This section applies to a person who, immediately before the amendment of part 10, division 1 by the amending Act, was an inspector appointed under the division.
- (2) The person is taken to be appointed by the regulator as an inspector under section 123.
- (3) The inspectors compliance powers continue to be subject to a condition or limit imposed under section 123 before the amendment.

251 Improvement notice preserved

- (1) This section applies to an improvement notice—
 - (a) given by an inspector under section 153 (*old section 153*) as it existed before the amendment of the section by the amendment Act (the *amendment*) for a contravention or likely contravention of a provision of this Act (the *notified contravention*); and
 - (b) in force immediately before the amendment.
- (2) The notice continues to be enforceable against the person to whom it was given for an offence against old section 153(5) that happened before the amendment as if the amendment had not happened.
- (3) Also, the improvement notice continues in force and may be enforced after the amendment as if it were an improvement notice given to the person under section 146 for a contravention or likely contravention of a provision of this Act that is, or corresponds to, the provision to which the notified contravention relates.

252 Warrants and actions by inspector preserved

- (1) A warrant issued under part 11 before its amendment by the amending Act continues to have effect for the purposes of this Act.
- (2) A power exercised by an inspector before the amendment of this Act by the amending Act—
 - (a) continues to have lawful effect for the purposes of this Act; and
 - (b) if the context permits, is taken to have been exercised under a corresponding provision of this Act as amended by the amendment Act.
- (3) However, subsection (2) does not apply to an exercise of an inspector's powers to which sections 249 or 251 applies.
- (4) In this section—

corresponding provision means a provision of this Act as amended by the amendment Act that corresponds to a provision under which the power mentioned in subsection (2) was exercised.

253 Reviews and appeals

- (1) Part 12, as it existed before being amended by the amendment Act, continues to apply to a decision made before the amendment as if it had not been amended.
- (2) Another provision of this part that would have applied to a matter if the final decision on a review or appeal under part 12 had been made before the part was amended applies to matter as if the final decision had been made before the part was amended.

254 Replacement of chief executive by regulator

- (1) This section applies to an amendment of this Act carried out by the *Work Health and Safety Act 2011*, schedule 4 replacing in each amended provision a reference to the chief executive with a reference to the regulator.

- (2) A decision made or action taken by the chief executive made or taken before the amendment continues to have effect after the amendment.
- (3) For subsection (2)—
 - (a) if the context permits; and
 - (b) to give effect to the establishment of the office of regulator;subsections (4) and (5) apply for the operation of the amended provision.
- (4) A reference to a decision or action made or taken under the provision by the regulator includes a reference to a decision or action made or taken by the chief executive before the amendment (the *original chief executive decision or action*).
- (5) If—
 - (a) any further decision or action must or may be taken in relation to the original chief executive decision or action; and
 - (b) that decision or action would have been taken by the chief executive if the provision had not been amended;the decision or action must or may be taken by the regulator.
- (6) Sections 179, 180, 181 and 184, as they existed before being amended, continue to apply to the appointment, signature and certificate of the chief executive to which they applied before the amendment.
- (7) Without limiting subsection (6), the regulator may issue a certificate under section 181 or 184 as amended, even though the matter certified arose before they were amended.

Part 22

Transitional provision for Work Health and Safety and Other Legislation Amendment Act 2015

256 Current chairpersons to hold office until commissioner is appointed

- (1) This section applies if, on the commencement, there is no commissioner holding office.
- (2) The chairperson of the board holding office immediately before the commencement continues to hold office as chairperson of the board until the commissioner's term of appointment starts.
- (3) The chairperson of the licensing committee holding office immediately before the commencement continues to hold office until the commissioner's term of appointment starts.

Schedule 2 Dictionary

section 8

advisory committee means an advisory committee established under part 8, division 3.

alleged contravention, for an electrical safety undertaking, see section 49.

amended, for part 20, see section 247A.

amendment Act, for part 20, see section 247A.

another State, for part 2A, see section 48A.

appliance see section 13.

appointed member, of the board or of a board committee, means a member of the board or committee who is appointed by the Minister.

apprentice means an apprentice under the *Further Education and Training Act 2014*.

approved form means a form approved by the regulator under section 208.

Articles regulation, for part 15, see section 211.

associated equipment, for an electric line, see section 17.

board means the Electrical Safety Board.

board committee means—

- (a) the licensing committee; or
- (b) the safety education committee; or
- (c) the equipment committee; or
- (d) an advisory committee.

calling includes a craft, manufacture, occupation, trade, undertaking or vocation.

category 1 offence see section 40B.

category 2 offence see section 40C.

category 3 offence see section 40D.

cathodic protection system means a system by which a structure in contact with ground or water is protected from electrolytic corrosion by a direct electric current flowing between the structure and an electrical conductor through the ground or water.

causes, for part 2B, see section 48L(2).

certificate of conformity see section 48A.

code of practice means a code of practice in force under section 44.

commencement, for part 15, see section 211.

compliance powers means the functions and powers conferred on an inspector under this Act.

conduct, for part 2B, see section 48L(1).

confirmation notice, for part 12, see section 167.

consumer means a person who receives electricity generated, transmitted or distributed by an electricity entity.

convicted means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

corresponding law, for part 2A, see section 48A.

corresponding law, other than for part 2A, means—

- (a) a law of another State corresponding, or substantially corresponding, to this Act; or
- (b) a law of another State that is declared under a regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this Act.

corresponding regulator means a person who, in relation to the administration of a corresponding law, has functions similar to the regulator in relation to the administration of this Act.

customer connection service has the meaning given by the NERL (Qld).

customer retail service has the meaning given by the NERL (Qld).

dangerous electrical event see section 12.

decision, for part 12, see section 167.

de facto spouse means either 1 of 2 people, whether of the same or opposite sex, who are living together as a couple on a genuine domestic basis in a relationship based on intimacy, trust and personal commitment to each other.

design, in relation to electrical equipment or an electrical installation, includes—

- (a) design of part of the equipment or installation; and
- (b) redesign or modify a design.

disciplinary decision, for part 12, see section 167.

disciplinary hearing see section 115.

disciplinary hearing notice see section 116.

distribution entity means a distribution entity under the Electricity Act.

electrical contractor licence see section 20(2).

electrical engineer means—

- (a) a person who is a registered professional engineer under the *Professional Engineers Act 2002* and who is registered in the area or preserved area of electrical engineering under that Act; or
- (b) a person who held a degree in electrical engineering granted by—
 - (i) an approved school of engineering under the repealed *Professional Engineers Act 1988*; or
 - (ii) an approved faculty of engineering under the repealed *Professional Engineers Act 1988*;
before the repeal of that Act and who continues to hold the degree; or

- (c) a person who held, immediately before the commencement of the *Professional Engineers and Other Legislation Amendment Act 2008*, and continues to hold, a qualification in electrical engineering granted by a tertiary education institution that entitled the person to be admitted to the Institution of Engineers Australia, as a graduate member.

electrical equipment see section 14.

electrical equipment work see section 19(3).

electrical installation see section 15.

electrical installation work see section 19(1).

electrical licence means an electrical work licence or an electrical contractor licence.

electrical licence application, for part 4, division 2, see section 58.

electrically safe see section 10(2).

electrical risk see section 10(1).

electrical safety see section 10(3).

electrical safety contribution notice see section 202.

electrical safety duty see section 40A.

electrical safety notification see section 206.

electrical safety protection notice see section 147.

electrical safety undertaking see section 49.

electrical work see section 18.

electrical work licence see section 20(1).

electricity includes electric current, electrical energy and similar or related physical qualities.

Electricity Act means the *Electricity Act 1994*.

electricity entity means—

- (a) a generation entity, transmission entity or distribution entity; or

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- (b) a special approval holder that is authorised under the Electricity Act to do something that a generation entity, transmission entity or distribution entity may do under that Act; or
- (c) a railway manager, or light rail manager for a light rail, that is exempted by the Electricity Act, section 20Q or 20QA, from the requirements of section 88A of that Act; or
- (d) the Authority under the *Queensland Rail Transit Authority Act 2013*; or
- (e) Airtrain Citylink Limited ACN 066 543 315.

Electricity Regulation, for part 15, see section 211.

electric line see section 16.

electric line work see section 19(2).

energise means energise by electricity.

engages in conduct means doing an act or omitting to do an act.

equipment committee means the Electrical Equipment Committee established under section 93.

equipment safety rules see section 48K.

equivalent licence, for part 15, see section 211.

EWC Board, for part 15, see section 211.

executive officer, of a corporation, for part 2B, see section 48L(1).

executive officer offence provision means section 199.

exposed means—

- (a) bare; or
- (b) not effectively insulated; or
- (c) not effectively guarded by either a fixed barrier or an earthed metal shield.

exposed part means an exposed conductor or an exposed component of an item of electrical equipment.

external licence means a current licence, permit certificate or other authority—

- (a) issued under a law of the Commonwealth, another State or New Zealand; and
- (b) authorising the holder to perform work of a type the holder of an electrical work licence is authorised to perform.

external licence recognition provision means section 65.

extra low voltage means voltage of 50V or less AC RMS, or 120V or less ripple-free DC.

fee includes charge.

fund see section 204A.

generation entity means a generation entity under the Electricity Act.

hearing notice see section 121AD(2).

high voltage means voltage greater than low voltage.

hire includes—

- (a) agree, attempt or offer to hire; and
- (b) possess, expose or advertise for hire; and
- (c) cause or allow to be hired.

identified person, for an electrical safety undertaking, see section 49.

immediate suspension notice see section 121AA(3)(a).

improvement notice see section 146.

information notice, for a decision, means a notice stating the following—

- (a) reasons for the decision;
- (b) all rights of review or appeal under this Act;
- (c) the period in which any review or appeal under this Act must be started;

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- (d) how rights of review or appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

infringement notice means an infringement notice under the *State Penalties Enforcement Act 1999*.

in-scope electrical equipment see section 48B.

inspector means a person appointed under this Act as an inspector.

level 2 in-scope electrical equipment, for part 2A, see section 48A.

level 3 in-scope electrical equipment, for part 2A, see section 48A.

licence includes permit.

licensed electrical contractor means the holder of an electrical contractor licence.

licensed electrical mechanic means a licensed electrical worker whose electrical work licence includes authority to perform electrical installation work, electric line work and electrical equipment work.

licensed electrical worker means the holder of an electrical work licence.

licensing committee means the Electrical Licensing Committee.

light rail see the *Transport Infrastructure Act 1994*, schedule 6.

light rail manager, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

low voltage means voltage greater than extra low voltage, but not more than 1,000V AC RMS or 1,500V ripple-free DC.

meter means a device, including any associated equipment, used for measuring electricity.

ministerial notice means a notice under section 42.

national register see section 48D.

NERL (Qld) see the *National Energy Retail Law (Queensland) Act 2014*, section 3.

non-disturbance notice see section 149.

officer means—

- (a) an officer within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth other than a partner in a partnership; or
- (b) an officer of the State, Commonwealth or another State within the meaning of section 189A; or
- (c) an officer of a public authority within the meaning of section 190C;

other than an elected member of a local government acting in that capacity.

original decision, for part 12, see section 167.

original regulator decision for part 12, see section 167.

participating jurisdiction see section 48A.

perform, in the context of the performance of electrical work as a licensed electrical contractor, includes the performance of the electrical work through the work of another person.

person conducting a business or undertaking see section 21.

person in control, of electrical equipment, see section 24.

preliminary notice see section 114.

premises includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) land where a building or other structure is situated.

prescribed details, for the holder of an electrical work licence engaged to perform or supervise electrical work, means the details about the person, or the person's electrical work licence, that are prescribed under a regulation for this definition.

prescribed electricity entity, for part 5, see section 66.

previous licence, for part 15, see section 211.

public authority means—

- (a) an authority or body established or incorporated for a public purpose by a law of the State, another State or of the Commonwealth, including a body corporate incorporated under a law of the State, another State or of the Commonwealth in which the State, the other State or the Commonwealth has a controlling interest; or
- (b) a GOC;
- (c) local government; or
- (d) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.

railway manager see the *Transport Infrastructure Act 1994*, schedule 6.

reasonable excuse does not include a matter of mere convenience.

reasonably practicable, in relation to a duty to ensure electrical safety, see section 28.

recall order see section 40G(2).

recognised external certification scheme see section 48A.

register, for part 2A, see section 48A.

registered training organisation means a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

regulator means—

- (a) for section 76(3)—see the section; or
- (b) for part 15—see section 211; or
- (c) otherwise—the regulator under the *Work Health and Safety Act 2011*.

relative, of a person, means—

- (a) the person's spouse; or

- (b) a child, grandchild, parent, brother, sister, grandparent, aunt, uncle, nephew or niece (whether of whole or half-blood) of the person.

remote rural installation work means work on an electrical installation if all the following circumstances apply—

- (a) the only source of electricity supply to the installation is a privately owned generating set used by—
- (i) a farmer on and solely for a farm; or
 - (ii) a grazier on and solely for a grazing property;
- (b) the generating set is not directly or indirectly connected to the works of an electricity entity;
- (c) the capacity of the generating set is not more than 75kW;
- (d) a person holding an appropriate electrical work licence is not available to perform the work because of the remote location of the farm or grazing property.

responsible person, in relation to a recall order, see section 40G(2)(a).

responsible supplier see section 48A.

retailer means a retailer under the NERL (Qld) that sells electricity to a customer in Queensland

retail premises, of a distribution entity, means premises that are the subject of both of the following—

- (a) the provision of customer connection services by the distribution entity;
- (b) the provision of customer retail services by a retailer.

review decision, for part 12, see section 167.

review entity, for part 12, see section 167.

safety education committee means the Electrical Safety Education Committee established under section 90.

safety management system, for part 5, see section 66.

sell includes—

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- (a) sell by wholesale, retail or auction; and
 - (b) supply in trade or commerce or under an arrangement; and
 - (c) hire; and
 - (d) agree, attempt or offer to sell; and
 - (e) keep or expose for sale; and
 - (f) cause or permit to be sold.

senior officer, of a person conducting a business or undertaking, for part 2B, see section 48L(1).

serious electrical incident see section 11.

special approval holder means a special approval holder under the Electricity Act.

spouse includes a de facto spouse and a civil partner.

submission period see section 121AB(g).

supervise, electrical work, means supervise the way the electrical work is performed.

temporary inspector means a temporary inspector appointed under section 126.

trainee means a trainee under the *Further Education and Training Act 2014*.

transmission entity means a transmission entity under the Electricity Act.

unsafe equipment notice see section 148.

vehicle means any means of transport by land, air or water.

voltage means the difference in electrical potential, measured in volts, existing—

- (a) between conductors; or
- (b) between conductors and earth.

volunteer means a person who is acting on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses).

worker see section 22.

workplace means a workplace under the *Work Health and Safety Act 2011*, section 8.

works, of an electricity entity, see section 25.