



# **Community Ambulance Cover Act 2003**

**Reprinted as in force on 1 July 2007**

**Reprint No. 2B**

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**Also see endnotes for information about—**

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Queensland

# Community Ambulance Cover Act 2003

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
<b>Division 1</b>	<b>Introductory provisions</b>	
1	Short title . . . . .	9
2	Commencement . . . . .	9
<b>Division 2</b>	<b>Object and operation of Act</b>	
3	Objects of Act . . . . .	9
4	Operation of Act . . . . .	10
5	Act binds all persons . . . . .	10
6	State not liable to be prosecuted for offence . . . . .	10
7	Extra-territorial application . . . . .	10
<b>Division 3</b>	<b>Interpretation</b>	
8	Definitions . . . . .	11
10	Meaning of customer sale arrangement . . . . .	11
11	Meaning of power card arrangement . . . . .	12
12	Meaning of separate area . . . . .	13
13	Meaning of separate non-domestic area . . . . .	14
13A	Meaning of separate domestic area . . . . .	14
14	Meaning of on-supply arrangement (type 1) . . . . .	14
15	Meaning of on-supply arrangement (type 2) . . . . .	16
17	Person may have more than 1 role . . . . .	16
<b>Division 4</b>	<b>Annual levy and daily levy</b>	
18	Basis of imposition of levy . . . . .	17
19	Annual levy . . . . .	17
20	Daily levy . . . . .	17
21	Failure to prescribe annual levy and notify daily levy for later financial year . . . . .	18

<b>Part 2</b>	<b>Customer sale arrangements</b>	
<b>Division 1</b>	<b>Imposition of levy</b>	
22	Imposition of levy on customer sale arrangements . . . . .	18
23	Imposition of levy if there are 2 or more customer sale arrangements in place . . . . .	19
24	Operation of customer sale arrangement . . . . .	19
<b>Division 2</b>	<b>Liability for levy</b>	
25	When liability for levy is imposed . . . . .	19
26	Who is liable to pay levy . . . . .	20
27	Consolidation arrangement does not affect liability for levy . . . . .	20
<b>Division 3</b>	<b>Calculation of levy</b>	
28	Amount of levy . . . . .	20
<b>Division 4</b>	<b>Exempt customer sale arrangements generally</b>	
29	Exemption from liability for levy . . . . .	20
30	Exemption on 2 or more grounds . . . . .	20
<b>Division 5</b>	<b>Particular exemptions</b>	
31	Exemption for later customer sale arrangements for separate area . . . . .	21
32	Pensioner exemption . . . . .	22
33	Farming shed exemption . . . . .	22
34	Pump exemption . . . . .	22
35	Hot water system exemption . . . . .	23
36	Public park facility exemption . . . . .	23
37	Security lighting exemption . . . . .	23
37A	Exemption for equipment for medical condition . . . . .	24
37B	Retirement village common account exemption . . . . .	24
37C	Building common account exemption (type 1) . . . . .	25
37D	Building common account exemption (type 2) (2 pensioner occupiers) . . . . .	26
37E	Building common account exemption (type 2) (1 pensioner occupier) . . . . .	26
37F	Building common account exemption (type 2) (no pensioner occupiers) . . . . .	27
37G	Commonwealth exemption . . . . .	28
37H	State exemption . . . . .	28
37I	Local government exemption . . . . .	29
37J	Exemption for religious bodies and other institutions . . . . .	29

---

<b>Part 3</b>	<b>Power card arrangements</b>	
<b>Division 1</b>	<b>Imposition of levy</b>	
38	Imposition of levy on power card arrangements . . . . .	31
<b>Division 2</b>	<b>Liability for levy</b>	
39	Who is liable to pay levy . . . . .	31
40	Levy on each power card arrangement . . . . .	31
<b>Division 3</b>	<b>Calculation of levy</b>	
41	Amount of levy . . . . .	32
<b>Division 4</b>	<b>Exempt power card arrangements generally</b>	
42	Exemption from liability for levy . . . . .	32
43	Exemption on 2 or more grounds . . . . .	32
<b>Division 5</b>	<b>Particular exemptions</b>	
44	Exemption for later power card arrangements for separate area . . . . .	32
45	Pensioner exemption . . . . .	33
46	Farming shed exemption . . . . .	34
47	Pump exemption . . . . .	34
47A	Hot water system exemption . . . . .	34
47B	Public park facility exemption . . . . .	34
47C	Security lighting exemption . . . . .	34
47D	Exemption for equipment for medical condition . . . . .	35
47E	Retirement village common account exemption . . . . .	35
47F	Building common account exemption (type 1) . . . . .	36
48	Commonwealth exemption . . . . .	37
49	State exemption . . . . .	37
50	Local government exemption . . . . .	37
51	Exemption for religious bodies and other institutions . . . . .	37
<b>Part 4</b>	<b>On-supply arrangements</b>	
<b>Division 1</b>	<b>Imposition of levy</b>	
52	Imposition of levy on on-supply arrangements . . . . .	39
<b>Division 2</b>	<b>Liability for levy</b>	
53	Who is liable to pay levy . . . . .	39
54	Consolidation arrangement does not affect liability for levy . . . . .	40
<b>Division 3</b>	<b>Calculation of levy</b>	
55	Amount of levy . . . . .	40
<b>Division 4</b>	<b>Exempt on-supply arrangements generally</b>	
56	Exemption from liability for levy . . . . .	40
57	Exemption on 2 or more grounds . . . . .	40

---

<b>Division 5</b>	<b>Particular exemptions</b>	
58	Pensioner exemption . . . . .	41
59	Farming shed exemption . . . . .	41
60	Commonwealth exemption . . . . .	41
61	State exemption . . . . .	42
62	Local government exemption . . . . .	42
63	Exemption for religious bodies and other institutions . . . . .	42
<b>Part 6</b>	<b>Electricity retailers as agents of commissioner</b>	
79	General nature and extent of agency of electricity retailer . . . . .	44
80	Role and functions of electricity retailer . . . . .	44
81	Authorised subcontractors to perform electricity retailer's functions . . . . .	45
81A	When commissioner's approval not required for contract . . . . .	46
81B	When authorised subcontractor not permitted to subcontract under s 81(2) . . . . .	47
82	Administration agreement . . . . .	47
83	Administration fee . . . . .	48
84	Giving information to the commissioner . . . . .	48
85	Commissioner may perform electricity retailer's obligations . . . . .	49
86	Commissioner may give directions . . . . .	50
<b>Part 7</b>	<b>Payment, recovery and refunds of levy</b>	
<b>Division 1</b>	<b>Statement of levy liability</b>	
87	Statement of levy liability . . . . .	50
88	Statement of levy liability for power card arrangement . . . . .	52
89	Replacement statement of levy liability . . . . .	52
<b>Division 2</b>	<b>Notification requirements for customer sale arrangements</b>	
90	Notification requirement for exemption for customer sale arrangement . . . . .	52
90A	Notification requirement for exemption for previous customer sale arrangement . . . . .	53
90B	When notification for exemption for customer sale arrangement taken to have been given . . . . .	54
91	Notification requirement for loss of exemption for customer sale arrangement . . . . .	54
91A	Notification requirement for loss of exemption for previous customer sale arrangement . . . . .	55
<b>Division 3</b>	<b>Notification requirements for power card arrangements</b>	
92	Notification requirement for exemption for power card arrangement . . . . .	56

---

92B	Special provision for notification of hot water system exemption for power card arrangement instead of s 92(3) and (4) . . . . .	57
93	Notification requirement for loss of exemption for power card arrangement . . . . .	58
<b>Division 4</b>	<b>Notification requirements for on-supply arrangements</b>	
94	Notification requirement for exemption for on-supply arrangement . . . . .	59
95	Notification requirement for loss of exemption for on-supply arrangement . . . . .	60
96	Returns and notices . . . . .	60
<b>Division 6</b>	<b>Special notification provisions</b>	
99	Particular exemptions taken to be notified under div 2, 3 or 4 . . .	61
100	Notification for government exemptions . . . . .	62
<b>Division 7</b>	<b>Payment of levy</b>	
101	Payment of levy amount shown in statement of levy liability . . . .	62
102	Priority of application of payment . . . . .	63
103	Payment to commissioner of received levy amounts . . . . .	63
104	Voluntary contributions . . . . .	64
105	Requirement to pay shortfall amount . . . . .	65
105A	Requirement to pay shortfall amount for previous customer sale arrangement . . . . .	65
<b>Division 8</b>	<b>Refund of overpaid levy</b>	
106	Refund made only under this division . . . . .	66
107	Refund of overpaid levy for electricity sale arrangement . . . . .	66
107A	Refund of overpaid levy for previous customer sale arrangement	67
108	Refund on issue of replacement statement of levy liability. . . . .	69
109	No interest on refund . . . . .	69
<b>Division 9</b>	<b>Waiving payment and writing-off liability</b>	
110	Waiver of levy liability . . . . .	69
111	Effect of writing-off levy liability . . . . .	70
<b>Division 10</b>	<b>Action for non-payment</b>	
112	Recovery of unpaid levy amount . . . . .	70
113	Disconnection of electricity supply . . . . .	70
114	Unpaid levy amount is a debt to the State . . . . .	71
<b>Division 11</b>	<b>Miscellaneous provisions for power card arrangements</b>	
115	Ability of owner to recover levy amount . . . . .	71
116	Recovery of levy by owner . . . . .	72
117	Failure to notify electricity retailer of exemption information. . . . .	72

---

118	Payment of refund to entitled person . . . . .	72
119	No recovery from Commonwealth . . . . .	73
<b>Division 12</b>	<b>Miscellaneous provisions for on-supply arrangements</b>	
120	Ability of on-supplier to recover levy amount . . . . .	73
121	Recovery of levy by on-supplier . . . . .	74
121A	Recovery of levy by on-supplier before statement of levy liability	74
121B	Subsequent recovery entitlements . . . . .	75
122	Failure to notify electricity retailer of exemption information . . . . .	75
123	Payment of refund to entitled person . . . . .	76
124	No recovery from Commonwealth . . . . .	77
<b>Division 13</b>	<b>Limitations on levy recovery</b>	
124A	Recovery of levy amount prohibited for common account exemptions . . . . .	77
124B	Recovery of levy amount from pensioner prohibited for customer sale arrangement . . . . .	77
<b>Part 8</b>	<b>Late payments</b>	
125	Unpaid levy interest . . . . .	78
126	Commissioner may remit unpaid levy interest . . . . .	79
<b>Part 9</b>	<b>Review of decisions</b>	
<b>Division 1</b>	<b>Objections</b>	
127	Who may lodge objection . . . . .	79
128	Requirements for lodging objection . . . . .	80
129	Onus of proof of objection . . . . .	81
130	Deciding objection . . . . .	81
131	Notice of decision . . . . .	81
<b>Division 2</b>	<b>Appeals</b>	
132	Right of appeal . . . . .	81
133	How to start appeal . . . . .	81
134	Onus on appeal . . . . .	82
135	Procedures for hearing appeal . . . . .	82
136	Deciding appeal . . . . .	82
137	Appeals to District Court . . . . .	83
<b>Division 3</b>	<b>Decisions not subject to objection, appeal or review</b>	
138	What is a non-reviewable decision . . . . .	83
139	Effect of a non-reviewable decision . . . . .	83
140	Application of Judicial Review Act 1991 . . . . .	84



<b>Part 10</b>	<b>Application of Taxation Administration Act 2001</b>	
<b>Division 1</b>	<b>Preliminary</b>	
141	This Act as a revenue law for Administration Act . . . . .	84
<b>Division 2</b>	<b>Confidentiality</b>	
142	Application of Administration Act, s 111 . . . . .	84
143	Use of information obtained under taxation law . . . . .	85
<b>Division 3</b>	<b>Record keeping</b>	
144	Requirement to keep records for levy. . . . .	85
<b>Division 4</b>	<b>Enforcement and legal proceedings</b>	
145	Failure to give notice . . . . .	86
146	Prohibition on giving false or misleading documents to electricity retailer, on-supplier or owner . . . . .	87
147	Prohibition on giving false or misleading information to electricity retailer, on-supplier or owner . . . . .	87
148	Evidentiary provision for statements of levy liability . . . . .	88
<b>Division 5</b>	<b>Giving and lodging documents</b>	
149	Additional ways of giving documents to commissioner . . . . .	88
150	Requirement if electricity retailer or authorised subcontractor given document for commissioner . . . . .	89
151	Giving document if more than 1 electricity customer liable to pay levy amount for electricity sale arrangement . . . . .	89
<b>Division 6</b>	<b>Miscellaneous</b>	
152	Lodgment requirement . . . . .	89
<b>Part 11</b>	<b>Miscellaneous</b>	
153	Approved forms . . . . .	90
154	Regulation-making power. . . . .	90
<b>Part 12</b>	<b>Transitional provision for Electricity and Other Legislation Amendment Act 2006</b>	
155	Negotiated retail contract entered into under the Electricity Act, s 312(2) . . . . .	90
<b>Part 13</b>	<b>Transitional provisions for Community Ambulance Cover and Other Acts Amendment Act 2007</b>	
156	Definitions for pt 13. . . . .	91
157	When notification for exemption for corresponding arrangements taken to have been given . . . . .	91
158	Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements. . . . .	92
159	Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements . . . . .	92

*Community Ambulance Cover Act 2003*


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160	Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—new arrangements . . . . .	93
161	Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—new arrangements . . . . .	94
162	Notification requirement for loss of exemption for standard contract or contestable sale arrangement under pre-amended Act . . . . .	96
163	Requirement to pay shortfall amount for standard contract or contestable sale arrangement under pre-amended Act . . . . .	97
<b>Schedule</b>	<b>Dictionary</b> . . . . .	99
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	109
2	Date to which amendments incorporated . . . . .	109
3	Key . . . . .	110
4	Table of reprints . . . . .	110
5	List of legislation . . . . .	111
6	List of annotations . . . . .	111
7	List of forms notified or published in the gazette . . . . .	120
8	Information about retrospectivity . . . . .	121

# Community Ambulance Cover Act 2003

[as amended by all amendments that commenced on or before 1 July 2007]

**An Act to provide for a community ambulance cover levy, and for other purposes**

## Part 1 Preliminary

### Division 1 Introductory provisions

#### 1 Short title

This Act may be cited as the *Community Ambulance Cover Act 2003*.

#### 2 Commencement

Part 12 commences on 1 July 2003.

### Division 2 Object and operation of Act

#### 3 Objects of Act

The objects of this Act are—

- (a) to impose and collect a levy, to be known as the ***community ambulance cover levy***, to fund ambulance services in Queensland; and
- (b) to use the system of supply and sale of electricity as the basis for the imposition and collection of the levy.

#### **4 Operation of Act**

This Act imposes the levy only for days on or after 1 July 2003.

*Note—*

From assent, electricity retailers may act under this Act to collect information for administering the exemption arrangements under this Act. Prohibitions on the provision of false or misleading information will apply.

#### **5 Act binds all persons**

- (1) This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) This Act does not impose a tax on property of any kind belonging to the Commonwealth.
- (3) Subsection (2) does not limit subsection (1).
- (4) In this section—

*property of any kind belonging to the Commonwealth* has the same meaning as in section 114 of the Commonwealth Constitution.

#### **6 State not liable to be prosecuted for offence**

Nothing in this Act makes the State liable to be prosecuted for an offence.

#### **7 Extra-territorial application**

This Act applies to impose the levy on electricity sale arrangements relating to electricity for consumption in Queensland—

- (a) regardless of whether an arrangement is entered into or made in or outside Queensland; and
- (b) regardless of whether any person involved in an arrangement is resident in Queensland or is otherwise connected with Queensland; and

- (c) regardless of whether the supply of electricity for the purposes of an arrangement originates in or outside Queensland.

*Note—*

This is because electricity sale arrangements relating to electricity for consumption in Queensland have a nexus to Queensland.

## **Division 3                      Interpretation**

### **8                      Definitions**

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

### **10                      Meaning of *customer sale arrangement***

- (1) A *customer sale arrangement* is an arrangement for the sale of electricity by an electricity retailer to a person (the *relevant customer*), but only if, for the sale—
- (a) the electricity is supplied for consumption in Queensland; and
- (b) the supply of the electricity is measured by a meter.

*Example—*

a retail contract under the Electricity Act for the sale of electricity by a special approval holder to a person for consumption at a house in Queensland, the supply of which is measured by a meter

- (2) However, a *customer sale arrangement* does not include an arrangement for the sale of electricity if the electricity is accessed through a power card arrangement.
- (3) There can be 2 or more customer sale arrangements in place even though there is only 1 contract for the sale of the electricity by the electricity retailer to a person who is the relevant customer for each of the arrangements.

*Example—*

If, under a contract for the sale of electricity by an electricity retailer to a person, electricity is supplied for consumption at each of 5 separate shops and each supply is measured by a meter, there are 5 customer sale arrangements.

- (4) If a national metering identifier has been issued under the National Electricity Rules for the metering installation for a particular supply of electricity for consumption in Queensland, there is only 1 customer sale arrangement for the supply that is measured by 1 or more meters forming part of the installation.

*Example—*

If there is a contract for the sale of electricity by an electricity retailer to a person for consumption at a house, a national metering identifier has been issued for the metering installation for the supply of the electricity and the supply is measured by 3 meters, there is only 1 customer sale arrangement for the supply.

- (5) In this section—

**arrangement** includes an unwritten arrangement or contract, and any of the following, whether or not in writing—

- (a) agreement;
- (b) other arrangement, whether enforceable or not, including an arrangement arising under an Act.

**National Electricity (Queensland) Law** has the meaning given in the *Electricity—National Scheme (Queensland) Act 1997*.

**National Electricity Rules** has the meaning given in the National Electricity (Queensland) Law.

**national metering identifier** see the Electricity Act, schedule 5.

*Notes—*

- 1 A customer sale arrangement may be a retail contract under the Electricity Act.
- 2 Under the Electricity Act, section 49, there are 3 types of retail contract, namely negotiated retail contracts, standard retail contracts and standard large customer retail contracts.

## 11 Meaning of **power card arrangement**

- (1) A **power card arrangement** exists for premises in Queensland (the **power card premises** for the arrangement) if an electricity retailer has the facility to sell electricity for consumption at

the power card premises using a card operated meter installed, and available for operation, for the power card premises.

- (2) For subsection (1), the following do not matter—
- (a) whether the power card premises are occupied;
  - (b) whether the power card premises are connected for the supply of electricity;
  - (c) whether electricity is being consumed at the power card premises;
  - (d) whether the card operated meter is installed at the power card premises.

## 12 Meaning of *separate area*

A *separate area* is a building or part of a building in Queensland that is—

- (a) used, or, if not being used, available to be used, solely—
  - (i) as a single self-contained place of residence; or
  - (ii) as a single place of business; or
  - (iii) to conduct a single undertaking or enterprise or other single activity, other than a business; or
  - (iv) in a combination of subparagraphs (i), (ii) and (iii); and
- (b) wired for the supply to it of electricity.

*Examples—*

- 5 floors of a building that are occupied by, and operated as, a single business
- 3 units in a residential complex that have been altered so that they are a single residence
- a residential unit used both as a residence and as a place of business
- each of 2 coffee shops both of which operate under the same name but at different ends of a shopping centre
- each of 3 adjoining shops operated by the same person but operating as separate businesses of newsagent, furniture shop and delicatessen.

**13 Meaning of *separate non-domestic area***

A *separate non-domestic area* is a building or part of a building in Queensland that is—

- (a) used, or, if not being used, available to be used, solely—
  - (i) as a single place of business; or
  - (ii) to conduct a single undertaking or enterprise or other single activity, other than a business; or
  - (iii) in a combination of subparagraphs (i) and (ii); and
- (b) wired for the supply to it of electricity.

**13A Meaning of *separate domestic area***

(1) A *separate domestic area* is a building or part of a building in Queensland that is—

- (a) used, or, if not being used, available to be used, solely as a single self-contained place of residence; and
  - (b) wired for the supply to it of electricity.
- (2) For subsection (1), a building or a part of a building is not used solely as a single self-contained place of residence if it is to any extent used for income producing or business purposes.

*Examples of separate domestic areas—*

- a detached house, a residential unit or a flat, used only as a place of residence for a family
- a detached house occupied by a family only as a place of residence, and occupied also by an elderly family member who lives in separate living facilities in the house and who does not pay a commercial rent for his or her occupation
- a single residential unit in a residential unit complex, used solely as a residence, that has been converted from 2 residential units

**14 Meaning of *on-supply arrangement (type 1)***

(1) An *on-supply arrangement (type 1)* exists for a separate area if the following circumstances apply—

- (a) electricity is being supplied to a person (the *on-supplier* for the on-supply arrangement) for the purposes of a building that includes the separate area;



- (b) the electricity is being sold to the on-supplier by an electricity retailer;
- (c) the supply of the electricity under paragraph (a) is measured by a meter;
- (d) the on-supplier has the facility to further supply and further sell some or all of the electricity for consumption at the separate area;
- (e) if electricity is being consumed at the separate area, it is electricity that is being further sold to a person by the on-supplier for the consumption at the separate area.

*Examples of on-supply arrangements (type 1)—*

- 1 Electricity sold by an electricity retailer to a shopping centre owner is further sold by the shopping centre owner for consumption at a shop in the centre.
- 2 Electricity sold by an electricity retailer to a body corporate for a residential building is sold by the body corporate to the building manager who further sells to an owner of a unit in the building.
- 3 The owner of a shopping centre has the facility to further supply and sell, to a vacant shop in the shopping centre, electricity sold to the owner by an electricity retailer.

- (2) For subsection (1), the following do not matter—
- (a) whether any further supply and further sale under subsection (1)(d) is directly from the on-supplier, or is achieved under 1 or more arrangements involving entities interposed between the on-supplier and the person to whom the electricity is further supplied and further sold;
  - (b) whether the separate area is occupied;
  - (c) whether the separate area is connected for the further supply;
  - (d) if the separate area is not occupied, whether or not there is an identifiable person to whom electricity is, or may be, further supplied and further sold;
  - (e) whether electricity is being consumed at the separate area.

**15 Meaning of *on-supply arrangement (type 2)***

- (1) An *on-supply arrangement (type 2)* exists for a separate area if the following circumstances apply—
- (a) the separate area is included in a group of 3 or more separate areas in a building;
  - (b) there is no on-supply arrangement (type 1) for any of the separate areas included in the group;
  - (c) an electricity retailer sells to a person (the *on-supplier* for the on-supply arrangement) all electricity consumed at any separate area in the group;
  - (d) any supply of electricity to a separate area in the group is measured by a meter;
  - (e) under an arrangement between the on-supplier and the electricity retailer, electricity accounts issued to the on-supplier by the electricity retailer for the sale of the electricity mentioned in paragraph (c) show the cost of electricity supplied to each separate area.

*Examples of on-supply arrangements (type 2)—*

- 1 A building comprises 4 flats, 3 of which are let to tenants and 1 of which is vacant. The owner of the building receives an account from an electricity retailer which shows the cost of electricity supplied to each flat as measured by a meter. There are 4 on-supply arrangements (type 2).
  - 2 A person owns 10 self contained apartments which are located in 1 building and which are available for holiday letting. The owner receives an account from an electricity retailer which shows the cost of electricity supplied to each apartment as measured by a meter. There are 10 on-supply arrangements (type 2).
- (2) For subsection (1), the following do not matter—
- (a) whether electricity is consumed in the separate areas;
  - (b) whether all separate areas in the building are included in the group.

**17 Person may have more than 1 role**

- (1) A set of circumstances applying to a person can result in a person being both a relevant customer for a customer sale

arrangement and also an on-supplier for an on-supply arrangement.

*Examples—*

- 1 A body corporate for a residential complex could be both a relevant customer for a customer sale arrangement for the purchase of electricity from an electricity retailer for consumption in the residential complex, and also be an on-supplier for an on-supply arrangement for the further supply and sale of some of the electricity for consumption at a residential unit in the complex.
  - 2 A person could be both a relevant customer for a customer sale arrangement for the supply of electricity to a shopping centre the person owns, and also be an on-supplier for an on-supply arrangement for the further supply and sale of some of the electricity for consumption at a shop in the centre.
- (2) The person is subject to the requirements of this Act in relation to each electricity sale arrangement in which the person is involved, according to the capacity in which the person is involved.

## **Division 4                      Annual levy and daily levy**

### **18            Basis of imposition of levy**

- (1) The levy imposed under this Act is established as an amount (*annual levy*) for each financial year.
- (2) However, the levy is imposed under this Act on the basis of an amount (*daily levy*) for each day in a financial year.

### **19            Annual levy**

- (1) For the financial year starting on 1 July 2003, the annual levy is \$88.
- (2) For a later financial year, the annual levy is the amount prescribed under a regulation.

### **20            Daily levy**

- (1) For the financial year starting on 1 July 2003, the daily levy is 24.044c.

- (2) For a later financial year, the daily levy is the annual levy for the later financial year divided by the number of days in the later financial year.
- (3) The daily levy for a later financial year must be notified in the regulation prescribing the annual levy for the later financial year.

**21 Failure to prescribe annual levy and notify daily levy for later financial year**

- (1) This section applies if a regulation prescribing the annual levy for a later financial year, and notifying the daily levy for the later financial year, has not been notified in the gazette on or before 31 May in the preceding financial year.
- (2) The annual levy for the later financial year is the same amount as the annual levy for the preceding financial year.
- (3) The daily levy for the later financial year is the same amount as the daily levy for the preceding financial year.
- (4) In this section—  
*preceding financial year*, in relation to a later financial year, means the financial year immediately preceding the later financial year.

## **Part 2 Customer sale arrangements**

### **Division 1 Imposition of levy**

**22 Imposition of levy on customer sale arrangements**

- (1) This part imposes the levy on customer sale arrangements.
- (2) A liability for the levy is imposed on a customer sale arrangement for each day the arrangement is in place.

*Note—*

Exemptions for the levy are dealt with in divisions 4 and 5.

**23 Imposition of levy if there are 2 or more customer sale arrangements in place**

- (1) This section applies if there are 2 or more customer sale arrangements in place for a day for a particular supply of electricity to particular premises.
- (2) For section 22, a liability for the levy for the day is imposed only on that customer sale arrangement for which the electricity retailer for the arrangement is the financially responsible retail entity for the premises for the day.
- (3) In this section—  
*financially responsible retail entity* see the Electricity Act, schedule 5.

**24 Operation of customer sale arrangement**

- (1) For this Act, the days a customer sale arrangement is in place do not include the day the arrangement starts, but do include the day the arrangement ends.
- (2) Without limiting how and when a customer sale arrangement may end, a customer sale arrangement is taken to end if the supply of electricity for sale under the arrangement is disconnected, other than because of a temporary disconnection or other interruption.

**Division 2 Liability for levy****25 When liability for levy is imposed**

- (1) Liability for the levy is imposed for a day even if no electricity is sold under the arrangement on the day, including, for example, because premises are temporarily unoccupied or because supply of electricity to premises is temporarily disconnected or otherwise interrupted.
- (2) However, if the arrangement is put in place for premises not yet connected for the supply of electricity, liability is not imposed until the day the premises are connected.

**26 Who is liable to pay levy**

- (1) The levy imposed on a customer sale arrangement must be paid by the relevant customer for the arrangement.
- (2) If 2 or more persons are the relevant customer for the arrangement, all the persons are jointly and severally liable for payment of the levy.

**27 Consolidation arrangement does not affect liability for levy**

- (1) A person must pay the levy for each customer sale arrangement for which the person is the relevant customer.
- (2) If a person is the relevant customer for 2 or more customer sale arrangements and a single electricity account is issued for the sale of electricity under all the arrangements, the issue of the single electricity account does not affect the person's liability to pay the levy for each of the arrangements.

**Division 3 Calculation of levy****28 Amount of levy**

The amount of the levy imposed on a customer sale arrangement for each day the arrangement is in place is the daily levy for the financial year in which the day happens.

**Division 4 Exempt customer sale arrangements generally****29 Exemption from liability for levy**

Liability for the levy is not imposed on a customer sale arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt customer sale arrangement.

**30 Exemption on 2 or more grounds**

- (1) This section applies to a customer sale arrangement if—

- (a) a number of circumstances mentioned in division 5 apply to the arrangement; and
  - (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt customer sale arrangement.
- (2) The arrangement is taken to be an exempt customer sale arrangement.

*Example—*

A customer sale arrangement would be an exempt customer sale arrangement if all electricity sold under the arrangement is supplied to a farming shed and to a pump used for irrigation.

## **Division 5                      Particular exemptions**

### **31            Exemption for later customer sale arrangements for separate area**

- (1) This section applies if there are 2 or more customer sale arrangements for the sale of electricity for consumption only at the 1 separate area.
- (2) Each of the arrangements that is a later customer sale arrangement is an exempt customer sale arrangement.
- (3) For subsection (2), a customer sale arrangement is a later customer sale arrangement if it is not the first of the arrangements to have commenced.

*Example—*

The owner of a shop has 3 customer sale arrangements with an electricity retailer for the sale of electricity for consumption at the shop. Arrangement A was entered into on 31 July 2006. Arrangement B was entered into on 31 August 2006. Arrangement C was entered into on 30 September 2006. Arrangements B and C are exempt customer sale arrangements. However, if arrangement A ends and arrangements B and C continue, only arrangement C will be an exempt customer sale arrangement.

**32 Pensioner exemption**

A customer sale arrangement is an exempt customer sale arrangement if—

- (a) either of the following apply—
  - (i) only 1 person is the relevant customer for the arrangement and the person is a pensioner (the *pensioner*);
  - (ii) 2 or more persons are the relevant customer for the arrangement and at least 1 of the persons is a pensioner (also the *pensioner*); and
- (b) all electricity sold under the arrangement is supplied to premises that are the pensioner's principal place of residence; and
- (c) any other person sharing the premises, other than a visitor, is at least 1 of the following—
  - (i) the pensioner's spouse;
  - (ii) a person who is wholly dependent on the pensioner;
  - (iii) another pensioner;
  - (iv) a social security beneficiary who does not pay rent for his or her occupation of the premises;
  - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the premises.

**33 Farming shed exemption**

A customer sale arrangement is an exempt customer sale arrangement if all electricity sold under the arrangement is supplied to a farming shed.

**34 Pump exemption**

A customer sale arrangement is an exempt customer sale arrangement if all electricity sold under the arrangement is supplied to a pump that is—



- (a) a water pump used for irrigation, stock or other purposes of primary production; or
- (b) a water or sewerage pump used for domestic purposes.

### **35 Hot water system exemption**

A customer sale arrangement is an exempt customer sale arrangement if all electricity sold under the arrangement is supplied to a hot water system.

### **36 Public park facility exemption**

A customer sale arrangement is an exempt customer sale arrangement if all electricity sold under the arrangement is supplied to a public park facility.

### **37 Security lighting exemption**

- (1) A customer sale arrangement (the *relevant arrangement*) is an exempt customer sale arrangement if—
  - (a) all electricity sold under the relevant arrangement is supplied to security lighting for premises; and
  - (b) there is at least 1 other electricity sale arrangement for the premises; and
  - (c) the relevant arrangement is not an exempt customer sale arrangement under the building common account exemption (type 1) or the building common account exemption (type 2).
- (2) However, the relevant arrangement is not an exempt customer sale arrangement if—
  - (a) all electricity sold under the other arrangement, or other arrangements, is supplied to security lighting for the premises; and
  - (b) the relevant arrangement is the first of the electricity sale arrangements to have commenced.

**37A Exemption for equipment for medical condition**

A customer sale arrangement is an exempt customer sale arrangement if—

- (a) all electricity sold under the arrangement is supplied to an item of equipment; and
- (b) the equipment is for the use of a person for a medical condition the person has—
  - (i) whether or not the equipment is used only by the person; and
  - (ii) whether or not, when used by the person, the equipment is used only for the medical condition; and
- (c) the person has written advice from a doctor to the effect of either of the following—
  - (i) because of the medical condition, the person needs to use the equipment;
  - (ii) because of the medical condition, the person needs to have the equipment readily available for use in a medical emergency; and
- (d) the equipment is not in premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.

**37B Retirement village common account exemption**

A customer sale arrangement is an exempt customer sale arrangement if—

- (a) all electricity sold under the arrangement is sold for consumption at a retirement village; and
- (b) all electricity sold under the arrangement is supplied for 1 or more of the following—
  - (i) common facilities for the retirement village;
  - (ii) 1 or more on-supply arrangements; and
- (c) there is an electricity sale arrangement, other than the customer sale arrangement, for each occupied

accommodation unit in the retirement village that is a separate domestic area.

*Example—*

A retirement village has 6 accommodation units. For each occupied accommodation unit that is a separate domestic area, there is a separate customer sale arrangement for the supply of electricity to it. Additionally, the retirement village scheme operator is the relevant customer for a customer sale arrangement for the supply of electricity for the retirement village's common lighting. The customer sale arrangement for the lighting is an exempt customer sale arrangement.

### **37C Building common account exemption (type 1)**

A customer sale arrangement is an exempt customer sale arrangement if—

- (a) all electricity sold under the arrangement is sold for consumption at a multi-unit building; and
- (b) the electricity is supplied for 1 or more of the following—
  - (i) common facilities for the building;
  - (ii) 1 or more on-supply arrangements; and
- (c) there is an electricity sale arrangement, other than the customer sale arrangement, for each occupied separate area in the building.

*Examples—*

- 1 A residential unit building has 6 units and common property. For each occupied unit, there is a separate customer sale arrangement for the supply of electricity to it. Additionally, the body corporate for the residential building is the relevant customer for a customer sale arrangement for the supply of electricity for the building's common lighting. The customer sale arrangement for the lighting is an exempt customer sale arrangement.
- 2 A shopping centre building has 14 shops. For each occupied shop there is an on-supply arrangement (type 1) for the supply of electricity. Electricity for the on-supply arrangements is supplied to the building owner under 1 customer sale arrangement. Additionally, the building owner is the relevant customer for 5 customer sale arrangements, all for security lighting for the shopping centre. All 6 customer sale arrangements are exempt customer sale arrangements.

- 3 A residential building consists of 6 flats. For each occupied flat there is an on-supply arrangement (type 2) for the supply of electricity. Electricity for the on-supply arrangements (type 2) is supplied to the building owner under a customer sale arrangement that relates also to the supply of electricity to the building's common use laundry area. The customer sale arrangement is an exempt customer sale arrangement.

**37D Building common account exemption (type 2) (2 pensioner occupiers)**

- (1) A customer sale arrangement is an exempt customer sale arrangement if all the following circumstances apply—
  - (a) all electricity sold under the arrangement is sold for consumption at a double unit building;
  - (b) the electricity is supplied for 1 or more of the following—
    - (i) common facilities for the building;
    - (ii) consumption at a separate area;
  - (c) if there were a separate electricity sale arrangement for each separate area in the building, each electricity sale arrangement would be an exempt arrangement because of the pensioner exemption;
  - (d) the pensioner who occupies each separate area has notified the relevant customer for the arrangement in the approved form of the circumstances supporting the application of paragraph (c).
- (2) The pensioner who occupies a separate area is taken to have notified the relevant customer under subsection (1)(d) if an electricity rebate applies for the supply of electricity to the separate area.

**37E Building common account exemption (type 2) (1 pensioner occupier)**

- (1) A customer sale arrangement is an exempt customer sale arrangement if all the following circumstances apply—

- (a) all electricity sold under 2 or more electricity sale arrangements (the *relevant arrangements*) is sold for consumption at a double unit building;
  - (b) the customer sale arrangement is one of the relevant arrangements;
  - (c) all electricity sold under the customer sale arrangement is supplied for 1 or more of the following—
    - (i) common facilities for the building;
    - (ii) consumption at a separate area;
  - (d) if there were a separate electricity sale arrangement for each separate area in the building, the customer sale arrangement applying for one of the separate areas (the *relevant separate area*) would be an exempt arrangement because of the pensioner exemption;
  - (e) the pensioner who occupies the relevant separate area has notified the relevant customer for the customer sale arrangement in the approved form of the circumstances supporting the application of paragraph (d);
  - (f) the customer sale arrangement is not the first of the relevant arrangements to have commenced.
- (2) The pensioner who occupies the relevant separate area is taken to have notified the relevant customer under subsection (1)(e) if an electricity rebate applies for the supply of electricity to the separate area.

**37F Building common account exemption (type 2) (no pensioner occupiers)**

A customer sale arrangement is an exempt customer sale arrangement if all the following circumstances apply—

- (a) all electricity sold under 3 or more electricity sale arrangements (the *relevant arrangements*) is sold for consumption at a double unit building;
- (b) the customer sale arrangement is one of the relevant arrangements;
- (c) all electricity sold under the customer sale arrangement is supplied for 1 or more of the following—

- (i) common facilities for the building;
- (ii) consumption at a separate area;
- (d) if there were a separate electricity sale arrangement for each separate area in the building, neither of the customer sale arrangements would be an exempt arrangement because of the pensioner exemption;

*Note—*

The reference to ‘neither’ in this paragraph arises because under the definition *double unit building* in the schedule, a double unit building has only 2 separate areas.

- (e) the customer sale arrangement is not the first or second of the relevant arrangements to have commenced.

### **37G Commonwealth exemption**

A customer sale arrangement is an exempt customer sale arrangement if the relevant customer for the arrangement is the Commonwealth.

### **37H State exemption**

- (1) A customer sale arrangement is an exempt customer sale arrangement if—
  - (a) the relevant customer for the arrangement is the State; and
  - (b) all electricity sold under the arrangement is supplied to premises—
    - (i) that are used only for providing core government services; or
    - (ii) that are public infrastructure.
- (2) In this section—

*State* includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

**37I Local government exemption**

A customer sale arrangement is an exempt customer sale arrangement if—

- (a) the relevant customer for the arrangement is a local government; and
- (b) all electricity sold under the arrangement is supplied to premises—
  - (i) that are used only for providing core local government services; or
  - (ii) that are public infrastructure.

**37J Exemption for religious bodies and other institutions**

(1) A customer sale arrangement is an exempt customer sale arrangement if—

- (a) the relevant customer for the arrangement is a body, or the trustees of a body, that is either a religious body or a body—
  - (i) that is controlled by, or associated with, a religious body; and
  - (ii) whose principal object and pursuit is the conduct of activities of a religious nature; and
- (b) all electricity sold under the arrangement is supplied to premises used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.

(2) A customer sale arrangement is an exempt customer sale arrangement if—

- (a) the relevant customer for the arrangement is an institution or the trustees of an institution; and
- (b) the principal object or pursuit of the institution is the care of sick, aged, infirm, afflicted or incorrigible persons; and

- (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit; and
  - (d) the premises are not premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.
- (3) A customer sale arrangement is an exempt customer sale arrangement if—
  - (a) the relevant customer for the arrangement is an institution or the trustees of an institution; and
  - (b) the principal object or pursuit of the institution is the relief of poverty, suffering, distress or misfortune of people; and
  - (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.
- (4) A customer sale arrangement is an exempt customer sale arrangement if—
  - (a) the relevant customer for the arrangement is an institution or the trustees of an institution; and
  - (b) the principal object or pursuit of the institution is the care of children by—
    - (i) being responsible for them on a full-time basis; and
    - (ii) providing them with all the necessary food, clothing and shelter; and
    - (iii) providing for their general wellbeing and protection; and
  - (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.
- (5) However, a customer sale arrangement is an exempt customer sale arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—
  - (a) its income and property are used solely for promoting its objects; and



- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

## **Part 3                      Power card arrangements**

### **Division 1                  Imposition of levy**

#### **38            Imposition of levy on power card arrangements**

- (1) This part imposes the levy on power card arrangements.
- (2) A liability for the levy is imposed on a power card arrangement for each day of the power card arrangement.

*Note—*

Exemptions for the levy are dealt with in divisions 4 and 5.

### **Division 2                  Liability for levy**

#### **39            Who is liable to pay levy**

- (1) The levy imposed on a power card arrangement must be paid by the owner of the power card premises for the arrangement.
- (2) If 2 or more persons are the owner of the power card premises, all the persons are jointly and severally liable for payment of the levy.

#### **40            Levy on each power card arrangement**

A person must pay the levy for each power card arrangement for which the person is the owner.

## **Division 3                      Calculation of levy**

### **41            Amount of levy**

The amount of levy imposed on a power card arrangement for each day of the arrangement is the daily levy for the financial year in which the day occurs.

## **Division 4                      Exempt power card arrangements generally**

### **42            Exemption from liability for levy**

Liability for the levy is not imposed on a power card arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt power card arrangement.

### **43            Exemption on 2 or more grounds**

- (1) This section applies to a power card arrangement if—
  - (a) a number of circumstances mentioned in division 5 apply to the arrangement; and
  - (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt power card arrangement.
- (2) The arrangement is taken to be an exempt power card arrangement.

## **Division 5                      Particular exemptions**

### **44            Exemption for later power card arrangements for separate area**

- (1) This section applies if there are 2 or more power card arrangements that relate to the sale of electricity for consumption only at the 1 separate area.

- (2) Each of the arrangements that is a later power card arrangement is an exempt power card arrangement.
- (3) For subsection (2), a power card arrangement is a later power card arrangement if it is not the first of the arrangements to have commenced.

*Example—*

There are 3 power card arrangements for the sale of electricity for consumption at a shop. Power card arrangement A commenced on 31 July 2006. Power card arrangement B commenced on 31 August 2006. Power card arrangement C commenced on 30 September 2006. Power card arrangements B and C are exempt power card arrangements. However, if power card arrangement A ends and power card arrangements B and C continue, only power card arrangement C will be an exempt power card arrangement.

## **45 Pensioner exemption**

A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are the principal place of residence of a pensioner (the *pensioner*); and
- (b) any other person sharing the power card premises, other than a visitor, is at least 1 of the following—
  - (i) the pensioner's spouse;
  - (ii) a person who is wholly dependent on the pensioner;
  - (iii) another pensioner;
  - (iv) a social security beneficiary who does not pay rent for his or her occupation of the power card premises;
  - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the power card premises.

**46 Farming shed exemption**

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a farming shed.

**47 Pump exemption**

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a pump that is—

- (a) a water pump used for irrigation, stock or other purposes of primary production; or
- (b) a water or sewerage pump used for domestic purposes.

**47A Hot water system exemption**

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a hot water system.

**47B Public park facility exemption**

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a public park facility.

**47C Security lighting exemption**

- (1) A power card arrangement (the *relevant arrangement*) is an exempt power card arrangement if—
  - (a) the power card premises for the relevant arrangement are security lighting for particular premises; and
  - (b) there is at least 1 other electricity sale arrangement for the supply of electricity for the particular premises; and
  - (c) the relevant arrangement is not an exempt power card arrangement under the building common account exemption (type 1) or the building common account exemption (type 2).

- (2) However, the relevant arrangement is not an exempt power card arrangement if—
- (a) all electricity sold under the other arrangement, or other arrangements, is supplied to security lighting also for the particular premises; and
  - (b) the relevant arrangement is the first of the electricity sale arrangements to have commenced.

#### **47D Exemption for equipment for medical condition**

A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are an item of equipment; and
- (b) the equipment is for the use of a person for a medical condition the person has, whether or not the equipment is used only by the person, and whether or not, when used by the person, the equipment is used only for the medical condition; and
- (c) the person has written advice from a doctor to the effect of either of the following—
  - (i) because of the medical condition, the person needs to use the equipment;
  - (ii) because of the medical condition, the person needs to have the equipment readily available for use in a medical emergency; and
- (d) the equipment is not located in premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.

#### **47E Retirement village common account exemption**

A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are a retirement village; and

- (b) all electricity sold under the arrangement is supplied for 1 or more of the following—
  - (i) common facilities for the retirement village;
  - (ii) 1 or more on-supply arrangements; and
- (c) there is an electricity sale arrangement, other than the power card arrangement, for each occupied accommodation unit in the retirement village that is a separate domestic area.

*Example—*

A retirement village has 6 accommodation units. For each occupied accommodation unit that is a separate domestic area, there is a separate customer sale arrangement for the supply of electricity to it. Additionally, there is a power card arrangement for the supply of electricity for the retirement village's common lighting. The power card arrangement for the lighting is an exempt power card arrangement.

#### **47F Building common account exemption (type 1)**

A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are a multi-unit building; and
- (b) all electricity sold under the arrangement is supplied for 1 or more of the following—
  - (i) common facilities for the building;
  - (ii) 1 or more on-supply arrangements; and
- (c) there is an electricity sale arrangement, other than the power card arrangement, for each occupied separate area in the building.

*Example—*

In a shopping centre with a number of shops, each occupied shop has a power card arrangement for the supply of electricity to it. There is also a power card arrangement for the supply of electricity for air conditioning for the shopping centre. The power card arrangement for the air conditioning is an exempt power card arrangement.

**48 Commonwealth exemption**

A power card arrangement is an exempt power card arrangement if the owner for the arrangement is the Commonwealth.

**49 State exemption**

(1) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used by the State only—

- (a) for providing core government services; or
- (b) as public infrastructure.

(2) In this section—

*State* includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

**50 Local government exemption**

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used by a local government only—

- (a) for providing core local government services; or
- (b) as public infrastructure.

**51 Exemption for religious bodies and other institutions**

(1) A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are used by a body that is either—
  - (i) a religious body; or
  - (ii) a body that is controlled by, or associated with, a religious body, and whose principal object and pursuit is the conduct of activities of a religious nature; and

- (b) the power card premises are used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.
- (2) A power card arrangement is an exempt power card arrangement if—
  - (a) the power card premises for the arrangement are used—
    - (i) by an institution the principal object or pursuit of which is the care of sick, aged, infirm, afflicted or incorrigible persons; and
    - (ii) solely or almost solely for the purposes of the institution's principal object or pursuit; and
  - (b) the power card premises are not power card premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.
- (3) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used—
  - (a) by an institution the principal object or pursuit of which is the relief of poverty, suffering, distress or misfortune of people; and
  - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.
- (4) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used—
  - (a) by an institution the principal object or pursuit of which is the care of children by—
    - (i) being responsible for them on a full time basis; and
    - (ii) providing them with all the necessary food, clothing and shelter; and
    - (iii) providing for their general wellbeing and protection; and
  - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.



- (5) However, a power card arrangement is an exempt power card arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—
- (a) its income and property are used solely for promoting its objects; and
  - (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
  - (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

## **Part 4                      On–supply arrangements**

### **Division 1                      Imposition of levy**

#### **52                      Imposition of levy on on-supply arrangements**

- (1) This part imposes the levy on on-supply arrangements.
- (2) A liability for the levy is imposed on an on-supply arrangement for each day of the on-supply arrangement.

*Note—*

Exemptions for the levy are dealt with in divisions 4 and 5.

### **Division 2                      Liability for levy**

#### **53                      Who is liable to pay levy**

- (1) The levy imposed on an on-supply arrangement must be paid by the on-supplier for the arrangement.
- (2) If 2 or more persons are the on-supplier, all the persons are jointly and severally liable for payment of the levy.

**54 Consolidation arrangement does not affect liability for levy**

- (1) A person must pay the levy for each on-supply arrangement for which the person is the on-supplier.
- (2) If a person is the on-supplier for 2 or more on-supply arrangements and a single billing arrangement is established for the purposes of the sale of electricity under all the on-supply arrangements, the establishment of the single billing arrangement does not affect the on-supplier's liability to pay the levy for each on-supply arrangement.

**Division 3 Calculation of levy****55 Amount of levy**

The amount of levy imposed on an on-supply arrangement for each day of the arrangement is the daily levy for the financial year in which the day occurs.

**Division 4 Exempt on-supply arrangements generally****56 Exemption from liability for levy**

Liability for the levy is not imposed on an on-supply arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt on-supply arrangement.

**57 Exemption on 2 or more grounds**

- (1) This section applies to an on-supply arrangement if—
  - (a) a number of circumstances mentioned in division 5 apply to the arrangement; and
  - (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt on-supply arrangement.

- (2) The arrangement is taken to be an exempt on-supply arrangement.

## **Division 5                    Particular exemptions**

### **58            Pensioner exemption**

An on-supply arrangement is an exempt on-supply arrangement if—

- (a) the separate area for the arrangement is the principal place of residence of a pensioner (the *pensioner*); and
- (b) any other person sharing the separate area, other than a visitor, is at least 1 of the following—
  - (i) the pensioner's spouse;
  - (ii) a person who is wholly dependent on the pensioner;
  - (iii) another pensioner;
  - (iv) a social security beneficiary who does not pay rent for his or her occupation of the separate area;
  - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the separate area.

### **59            Farming shed exemption**

An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is a farming shed.

### **60            Commonwealth exemption**

An on-supply arrangement is an exempt on-supply arrangement if the on-supplier for the arrangement is the Commonwealth.

**61 State exemption**

(1) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used by the State only—

- (a) for providing core government services; or
- (b) as public infrastructure.

(2) In this section—

*State* includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

**62 Local government exemption**

An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used by a local government only—

- (a) for providing core local government services; or
- (b) as public infrastructure.

**63 Exemption for religious bodies and other institutions**

(1) An on-supply arrangement is an exempt on-supply arrangement if—

(a) the separate area for the arrangement is used by a body that is either—

- (i) a religious body; or
- (ii) a body that is controlled by, or associated with, a religious body, and whose principal object and pursuit is the conduct of activities of a religious nature; and

(b) the separate area is used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.

- (2) An on-supply arrangement is an exempt on-supply arrangement if—
- (a) the separate area for the arrangement is used—
    - (i) by an institution the principal object or pursuit of which is the care of sick, aged, infirm, afflicted or incorrigible persons; and
    - (ii) solely or almost solely for the purposes of the institution's principal object or pursuit; and
  - (b) the separate area is not a separate area that is, or that is in the nature of, a hospital, an aged care hostel or a nursing home.
- (3) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used—
- (a) by an institution the principal object or pursuit of which is the relief of poverty, suffering, distress or misfortune of people; and
  - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.
- (4) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used—
- (a) by an institution the principal object or pursuit of which is the care of children by—
    - (i) being responsible for them on a full time basis; and
    - (ii) providing them with all the necessary food, clothing and shelter; and
    - (iii) providing for their general wellbeing and protection; and
  - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.
- (5) However, an on-supply arrangement is an exempt on-supply arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—
- (a) its income and property are used solely for promoting its objects; and

- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

## **Part 6**                    **Electricity retailers as agents of commissioner**

### **79**    **General nature and extent of agency of electricity retailer**

- (1) In general terms, an electricity retailer is the agent of the commissioner for the collection of the levy.
- (2) However, an electricity retailer is the commissioner's agent only in relation to the electricity sale arrangements for which the electricity retailer is the relevant electricity retailer.

### **80**    **Role and functions of electricity retailer**

- (1) The role of an electricity retailer is to help the commissioner in the administration of the Act through the collection of the levy from the electricity retailer's electricity customers.
- (2) An electricity retailer has the following functions—
  - (a) issuing statements of levy liability to electricity customers;
  - (b) receiving notifications and returns required to be given to the electricity retailer under this Act;
  - (c) administering exemptions for electricity sale arrangements;
  - (d) collecting the levy from electricity customers required to pay it;
  - (e) pursuing collection of unpaid levy amounts;

- (f) providing refunds authorised under this Act;
  - (g) paying to the commissioner levy amounts received by the electricity retailer;
  - (h) giving the commissioner the information and documents this Act requires to be given;
  - (i) the other functions provided for in this Act or in an administration agreement to which the commissioner and the electricity retailer are parties;
  - (j) the other functions, being functions reasonably necessary for the administration of this Act, that the commissioner directs the electricity retailer to perform.
- (3) An electricity retailer must perform the retailer's functions under this Act to a standard necessary for the proper administration of this Act.

## **81 Authorised subcontractors to perform electricity retailer's functions**

- (1) An electricity retailer may enter into a contract with a person (the electricity retailer's *authorised subcontractor*) under which the person agrees to perform some or all of the electricity retailer's functions under this Act.
- (2) Subject to section 81B, an authorised subcontractor of an electricity retailer may enter into a contract with a person (also the electricity retailer's *authorised subcontractor*) under which the person agrees to perform some or all of the electricity retailer's functions that the authorised subcontractor has agreed to perform under another contract.

### *Examples of authorised subcontractors—*

An electricity retailer enters into a contract with S1 under which S1 agrees to perform particular functions of the electricity retailer. S1 is an authorised subcontractor of the electricity retailer.

S1 enters into a contract with S2 under which S2 agrees to perform some of the functions that S1 agreed to perform under its contract with the electricity retailer. S2 is also an authorised subcontractor of the electricity retailer.

S2 enters into a contract with S3 under which S3 agrees to perform some of the functions of the electricity retailer that S2 agreed to perform

under its contract with S1. S3 is also an authorised subcontractor of the electricity retailer.

- (3) Subject to section 81A, an electricity retailer or authorised subcontractor of an electricity retailer must not contract under subsection (1) or (2) without the written approval of the commissioner.
- (4) However, a failure to comply with subsection (3) does not affect the validity of the contract or the status of a person as an authorised subcontractor of an electricity retailer.
- (5) Despite any contract under subsection (1) or (2), an electricity retailer remains liable for the proper performance of the electricity retailer's functions under this Act.
- (6) An obligation or requirement applying to an electricity retailer under this Act also applies to an authorised subcontractor of the electricity retailer to the extent that the obligation or requirement relates to the performance of the electricity retailer's functions that the authorised subcontractor is contracted to perform.

*Example—*

S1 is an authorised subcontractor of an electricity retailer. In the course of performing functions contracted to it under its contract, S1 holds information about the electricity retailer's electricity customers. S1 must comply with a requirement of the commissioner to give the information to the commissioner.

### **81A When commissioner's approval not required for contract**

- (1) Despite section 81(3), an electricity retailer or authorised subcontractor (the *first party*) does not require the written approval of the commissioner for a contract under section 81(1) or (2) if—
  - (a) the contract relates only to the performance by an authorised subcontractor (the *second party*) of 1 or more matters prescribed under a regulation; and
  - (b) the first party does not have another contract with the second party under section 81(1) or (2) that requires the written approval of the commissioner.
- (2) For subsection (1)(a), the matters prescribed must be ancillary administrative processes related to an electricity retailer's



functions under section 80(2), for example, mailing and printing services.

- (3) Nothing in this section prevents an electricity retailer or authorised subcontractor from obtaining the approval of the commissioner for a contract under section 81(1) or (2).

### **81B When authorised subcontractor not permitted to subcontract under s 81(2)**

- (1) This section applies if—
  - (a) an authorised subcontractor has agreed to perform ancillary administrative processes under a contract for which the commissioner's approval is not required under section 81 because of section 81A; and
  - (b) the commissioner's approval has not been obtained for the contract.
- (2) Despite section 81(2), the authorised subcontractor must not further subcontract the matters to which the contract relates.

### **82 Administration agreement**

- (1) The commissioner may enter an agreement (an *administration agreement*) with an electricity retailer about the performance of the electricity retailer's functions under this Act.
- (2) An administration agreement may include, as a party to the agreement, an authorised subcontractor of the electricity retailer.
- (3) However, subsection (2) does not permit the inclusion of an authorised subcontractor for a contract for which the commissioner's approval is not required under section 81 because of section 81A.
- (4) If an authorised subcontractor of the electricity retailer is included as a party, the electricity retailer and the authorised subcontractor are jointly and severally liable for the proper performance of the authorised subcontractor's obligations under the agreement.

- (5) An administration agreement is of no effect to the extent it is inconsistent with a requirement of this Act.

### **83 Administration fee**

- (1) The commissioner may pay an electricity retailer a fee (an *administration fee*) for performing the electricity retailer's functions under this Act.
- (2) The amount of the administration fee, when it is to be paid, and other matters about the payment of the administration fee, may be included in an administration agreement.
- (3) However, the commissioner must not pay an administration fee unless the amount of the fee, or the way it is to be worked out, has been approved by the Treasurer.
- (4) An administration fee may, in particular circumstances, be a nil amount.
- (5) The Treasurer's decision to refuse to approve the amount of the fee, or the way it is to be worked out, is a non-reviewable decision.

### **84 Giving information to the commissioner**

- (1) The commissioner may require an electricity retailer to give the commissioner information and documents, or access to information or documents, held by the electricity retailer about its electricity sale arrangements to the extent the commissioner considers necessary for the proper administration and enforcement of this Act.
- (2) Without limiting subsection (1), the commissioner may require an electricity retailer to give the commissioner information in returns in the approved form at the times the commissioner requires.
- (3) Information required, or to which access is required, under subsections (1) and (2) may include personal information about the electricity retailer or its electricity customers.
- (4) The commissioner may advise an electricity retailer of the commissioner's requirements under subsections (1) and (2) in any reasonable way, and is not required to follow any particular formality.

- (5) An electricity retailer must not charge any fee for giving information or documents, or access to information or documents, under subsections (1) and (2) that is additional to the administration fee payable to the electricity retailer.
- (6) Despite any other Act or law about the disclosure of information, an electricity retailer, and an authorised subcontractor of the electricity retailer, is authorised—
  - (a) to use personal information about the electricity retailer or the electricity retailer's customers to the extent reasonably necessary for the performance of the electricity retailer's functions under this Act; and
  - (b) to disclose personal information about the electricity retailer or the electricity retailer's customers to the commissioner for the purposes of this Act.
- (7) In this section—

*personal information*, about a person, means information that—

  - (a) identifies, or is likely to identify, the person; or
  - (b) discloses matters about the person's affairs.

## **85 Commissioner may perform electricity retailer's obligations**

- (1) This section applies if an electricity retailer does not comply with—
  - (a) an obligation the electricity retailer has under this Act, including an obligation to perform a function the electricity retailer has under this Act; or
  - (b) an obligation the electricity retailer has under an administration agreement; or
  - (c) a direction given by the commissioner under this Act.
- (2) The commissioner may act in the place of the electricity retailer to the extent necessary to ensure the obligation or direction is fulfilled.

- (3) Further, the commissioner may issue a person with a statement of levy liability even though the statement is not included in an electricity account.
- (4) Subsection (3) does not limit subsection (2).
- (5) A person issued with a statement of levy liability under subsection (3) must pay the levy amount mentioned in the statement directly to the commissioner on or before the due date for payment of the levy amount.
- (6) The due date for payment of the levy amount must not be less than 30 days after the issue of the statement of levy liability.

## **86 Commissioner may give directions**

- (1) The commissioner may give a written direction to an electricity retailer or authorised subcontractor requiring the electricity retailer or authorised subcontractor to do anything reasonably necessary for the administration or enforcement of this Act.

*Example—*

The commissioner could give an electricity retailer a direction about the procedures to be followed for dealing with claims for exemptions.

- (2) An electricity retailer or authorised subcontractor given a written direction under subsection (1) must comply with the direction.

# **Part 7 Payment, recovery and refunds of levy**

## **Division 1 Statement of levy liability**

### **87 Statement of levy liability**

- (1) An electricity retailer must include in each electricity account given to an electricity customer of the electricity retailer a

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statement of levy liability for each electricity sale arrangement the account relates to.

*Examples—*

- 1 An electricity account given to a relevant customer for a customer sale arrangement must include a statement of levy liability that includes the levy amount payable under part 2.
  - 2 An electricity account given to a person who is the on-supplier for 3 on-supply arrangements for 3 separate areas must include a statement of levy liability that includes the levy amount payable under part 4 for each of the on-supply arrangements.
- (2) The period covered by the statement of levy liability must, other than for previously unpaid levy amounts, be the same as the period covered by the electricity account.
  - (3) The statement must be included even if the levy amount for which the customer is liable is a nil amount.
  - (4) Despite subsections (1) and (2), an electricity retailer may, with the commissioner's written approval, issue a statement of levy liability to an electricity customer of the electricity retailer separately from an electricity account.
  - (5) When an electricity sale arrangement ends, the relevant electricity retailer for the arrangement must give the electricity retailer's electricity customer an electricity account that, whether or not any amount is shown as payable for electricity retail services, includes a statement of levy liability for the period to the end of the electricity sale arrangement.
  - (6) The levy amount stated in a statement of levy liability must be worked out having regard to—
    - (a) any information notified to the electricity retailer under this part about exemptions applying under part 2 or 4; and
    - (b) information included in returns and notices given to the electricity retailer under this part.
  - (7) A statement of levy liability must include advice to the effect that the electricity customer has a right of objection under this Act if the customer claims that the levy amount for which the customer is stated to be liable is an incorrect amount.
  - (8) This section does not apply for power card arrangements.

**88 Statement of levy liability for power card arrangement**

- (1) This section applies for power card arrangements.
- (2) The relevant electricity retailer for a power card arrangement must issue a statement of levy liability to the electricity customer who is the owner for the power card arrangement at least once every 3 months, and as soon as practicable after the power card arrangement ends.
- (3) The statement need not be issued if the total levy amount for which the customer is liable is a nil amount.
- (4) The levy amount stated in a statement of levy liability must be worked out having regard to—
  - (a) any information notified to the electricity retailer under this part about exemptions applying under part 3; and
  - (b) information included in returns given to the electricity retailer under this part.
- (5) A statement of levy liability must include advice to the effect that the electricity customer has a right of objection under this Act if the customer claims that the levy amount for which the customer is stated to be liable is an incorrect amount.

**89 Replacement statement of levy liability**

An electricity retailer must give an electricity customer of the electricity retailer a statement of levy liability to replace a statement of levy liability previously given to the customer—

- (a) if the outcome of a review or appeal requires it; or
- (b) to correct mistakes of fact or arithmetic error in the calculation of a levy amount.

**Division 2 Notification requirements for customer sale arrangements****90 Notification requirement for exemption for customer sale arrangement**

- (1) This section applies to a relevant customer for a customer sale arrangement with an electricity retailer if the customer claims

that the customer sale arrangement is, or has been for a particular period, an exempt customer sale arrangement.

- (2) The relevant customer may notify the electricity retailer in the approved form of the circumstances supporting the claim.

### **90A Notification requirement for exemption for previous customer sale arrangement**

- (1) This section applies if—
  - (a) there was in existence a customer sale arrangement (the *previous arrangement*) between a relevant customer and electricity retailer; and
  - (b) the customer entered into a new customer sale arrangement (the *new arrangement*) with the electricity retailer or another electricity retailer in place of the previous arrangement; and
  - (c) there are no other parties to the new arrangement; and
  - (d) the previous arrangement and new arrangement relate to the supply of electricity that is measured by the same meter; and
  - (e) the customer had not given, or was not taken to have given under section 90B or 99 or part 13, the electricity retailer for the previous arrangement a notice under section 90(2) in relation to the arrangement.
- (2) If the customer claims that the previous arrangement was, or had been for a particular period, an exempt customer sale arrangement, the customer may only notify the electricity retailer for the new arrangement (and not the electricity retailer for the previous arrangement, if that electricity retailer is different to the electricity retailer for the new arrangement) in the approved form of the circumstances supporting the claim.
- (3) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

**90B When notification for exemption for customer sale arrangement taken to have been given**

- (1) This section applies if—
  - (a) there was in existence a customer sale arrangement (the *previous arrangement*) between a relevant customer and electricity retailer; and
  - (b) the customer entered into a new customer sale arrangement (the *new arrangement*) with the electricity retailer in place of the previous arrangement; and
  - (c) there are no other parties to the new arrangement; and
  - (d) the previous arrangement and new arrangement relate to the supply of electricity that is measured by the same meter; and
  - (e) the customer had given, or was taken to have given under section 99 or part 13, the electricity retailer a notice under section 90(2) of the circumstances causing the previous arrangement to be an exempt customer sale arrangement; and
  - (f) the circumstances mentioned in paragraph (e) continue to apply for the new arrangement.
- (2) The customer is taken to have given the electricity retailer a notice under section 90(2) of the circumstances causing the new arrangement to be an exempt customer sale arrangement.
- (3) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

**91 Notification requirement for loss of exemption for customer sale arrangement**

- (1) This section applies if—
  - (a) an exempt customer sale arrangement is being dealt with by an electricity retailer, for the purposes of electricity accounts, as an exempt customer sale arrangement; and
  - (b) the customer sale arrangement stops being an exempt customer sale arrangement.



- (2) The relevant customer for the arrangement must, within 28 days after the arrangement stops being an exempt customer sale arrangement, notify the electricity retailer in the approved form—
  - (a) that the arrangement has stopped being an exempt customer sale arrangement; and
  - (b) when the arrangement stopped being an exempt customer sale arrangement.
- (3) This section applies subject to section 91A.

**91A Notification requirement for loss of exemption for previous customer sale arrangement**

- (1) This section applies if—
  - (a) there was in existence a customer sale arrangement (the *previous arrangement*) between a relevant customer and electricity retailer; and
  - (b) the customer enters into a new customer sale arrangement (the *new arrangement*) with the electricity retailer or another electricity retailer in place of the previous arrangement; and
  - (c) there are no other parties to the new arrangement; and
  - (d) the previous arrangement and new arrangement relate to the supply of electricity that is measured by the same meter; and
  - (e) the previous arrangement was, immediately before being replaced by the new arrangement, being dealt with by the electricity retailer for the previous arrangement, for the purposes of electricity accounts, as an exempt customer sale arrangement; and
  - (f) the previous arrangement stopped being an exempt customer sale arrangement before being replaced by the new arrangement.
- (2) The customer must, within 28 days after the previous arrangement stopped being an exempt customer sale arrangement, notify the electricity retailer for the new arrangement in the approved form—

- (a) that the previous arrangement had stopped being an exempt customer sale arrangement; and
  - (b) when the previous arrangement stopped being an exempt customer sale arrangement.
- (3) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

### **Division 3                      Notification requirements for power card arrangements**

#### **92            Notification requirement for exemption for power card arrangement**

- (1) This section applies to a power card arrangement that is, or that has been for a particular period, an exempt power card arrangement.
- (2) If a person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement is the owner for the arrangement, the person may notify the relevant electricity retailer for the arrangement in the approved form of the circumstances supporting the claim.
- (3) If a person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement is not the owner for the arrangement, the person may notify the owner for the arrangement in the approved form of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement.
- (4) If the owner for the arrangement receives an approved form under subsection (3) that is properly completed, the owner must claim the exemption by giving notice in the approved form to the relevant electricity retailer for the power card arrangement not later than 28 days after receipt of the person's notification.

**92B Special provision for notification of hot water system exemption for power card arrangement instead of s 92(3) and (4)**

- (1) Subsections (2) to (4) apply, and section 92(3) and (4) does not apply, to a power card arrangement, if—
  - (a) the power card arrangement is, or has been for a particular period, an exempt power card arrangement because of the hot water system exemption; and
  - (b) section 99(3) does not provide for the notification of the exemption; and
  - (c) a person (the *affected person*) who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement is not the owner for the arrangement; and
  - (d) the affected person has notified the owner for the arrangement by written notice of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement.
- (2) The owner must, within 28 days after receiving the affected person's written notice under subsection (1)(d), notify the commissioner by written notice of the circumstances of the exemption.
- (3) After considering the owner's written notice under subsection (2), the commissioner must —
  - (a) decide the extent of exemption; and
  - (b) give written notice of the decision to—
    - (i) the owner; and
    - (ii) the relevant electricity retailer for the power card arrangement.
- (4) The relevant electricity retailer must treat the power card arrangement as an exempt power card arrangement to the extent provided for—
  - (a) in the written notice given to the relevant electricity retailer; or

- (b) in any subsequent notice the commissioner gives the relevant electricity retailer following any objection or appeal dealt with under this Act in relation to the commissioner's decision.

**93 Notification requirement for loss of exemption for power card arrangement**

- (1) This section applies if—
  - (a) an exempt power card arrangement is being dealt with by an electricity retailer as an exempt power card arrangement; and
  - (b) the power card arrangement stops being an exempt power card arrangement.
- (2) If the relevant person is not the owner for the arrangement, the relevant person must, within 28 days after the arrangement stops being an exempt power card arrangement, notify the owner for the arrangement in the approved form—
  - (a) that the arrangement has stopped being an exempt power card arrangement; and
  - (b) when the arrangement stopped being an exempt power card arrangement.

Maximum penalty—100 penalty units.

- (3) Within 28 days after receiving advice from the relevant person under subsection (2), the owner must notify the electricity retailer in the approved form of the notification received from the relevant person.
- (4) If the relevant person is the owner for the arrangement, the relevant person must, within 28 days after the arrangement stops being an exempt power card arrangement, notify the relevant electricity retailer for the arrangement in the approved form—
  - (a) that the arrangement has stopped being an exempt power card arrangement; and
  - (b) when the arrangement stopped being an exempt power card arrangement.
- (5) In this section—

**relevant person** means the person who had direct knowledge of the circumstances causing the power card arrangement to be an exempt power card arrangement and who either—

- (a) notified the owner for the arrangement of the circumstances; or
- (b) as owner for the arrangement, notified the electricity retailer of the circumstances to make the claim for exemption on his or her own behalf.

## **Division 4                      Notification requirements for on-supply arrangements**

### **94            Notification requirement for exemption for on-supply arrangement**

- (1) This section applies to an on-supply arrangement that is, or that has been for a particular period, an exempt on-supply arrangement.
- (2) A person who has direct knowledge of the circumstances causing the on-supply arrangement to be, or to have been, an exempt on-supply arrangement may notify the on-supplier for the arrangement in the approved form of the circumstances causing the on-supply arrangement to be, or to have been, an exempt on-supply arrangement.
- (3) If the on-supplier for the arrangement receives an approved form under subsection (2) that is properly completed, the on-supplier must claim the exemption by giving notice in the approved form to the relevant electricity retailer for the on-supply arrangement not later than 28 days after receipt of the person's notification.
- (4) If the on-supply arrangement is an on-supply arrangement (type 1), and the person who notifies the on-supplier under subsection (2) is the occupier of the separate area the subject of the on-supply arrangement but is not also the receiver for the arrangement, the occupier must advise the receiver of the notification in any reasonable way as soon as practicable after the notification is made.

**95 Notification requirement for loss of exemption for on-supply arrangement**

- (1) This section applies if—
  - (a) an exempt on-supply arrangement is being dealt with by an electricity retailer, for the purposes of electricity accounts, as an exempt on-supply arrangement; and
  - (b) the on-supply arrangement stops being an exempt on-supply arrangement.
- (2) The relevant person must, within 28 days after the arrangement stops being an exempt on-supply arrangement, notify the on-supplier for the arrangement in the approved form—
  - (a) that the arrangement has stopped being an exempt on-supply arrangement; and
  - (b) when the arrangement stopped being an exempt on-supply arrangement.

Maximum penalty—100 penalty units.

- (3) Within 28 days after receiving advice from the relevant person under subsection (2), the on-supplier must notify the electricity retailer in the approved form of the notification received from the relevant person.
- (4) In this section—

*relevant person* means the person who notified the on-supplier for the arrangement that the on-supply arrangement was an exempt on-supply arrangement.

**96 Returns and notices**

- (1) If a person is an on-supplier for 1 or more on-supply arrangements, the person must, within 90 days after the commencement of this section, give to the relevant electricity retailer for each arrangement a return complying with subsection (3), and in the approved form, about all the arrangements.
- (2) If a person becomes an on-supplier after the commencement of this section, the person must, within 90 days after becoming an on-supplier, give to the relevant electricity

retailer for each on-supply arrangement for which the person is the on-supplier, a return complying with subsection (3), and in the approved form, about all the arrangements.

- (3) The return must include the following information—
  - (a) the number of on-supply arrangements;
  - (b) the number of on-supply arrangements that are exempt on-supply arrangements.
- (4) An electricity retailer may, by written notice given to a person, require the person to give the electricity retailer a return in the approved form about on-supply arrangements for which the person is the on-supplier and the electricity retailer is the relevant electricity retailer.
- (5) A person given a notice under subsection (4) must comply with the requirement.
- (6) A person must, within 28 days after there is a change in the number of on-supply arrangements for which the person is the on-supplier and for which an electricity retailer is the relevant electricity retailer, give the electricity retailer a notice in the approved form of—
  - (a) the change; and
  - (b) when the change happened.

## **Division 6                      Special notification provisions**

### **99            Particular exemptions taken to be notified under div 2, 3 or 4**

- (1) For an exemption for an electricity sale arrangement on the basis of the pensioner exemption, an electricity retailer is taken to be notified, for division 2, 3 or 4, of the circumstances causing the electricity sale arrangement to be or to have been an exempt arrangement by the making of a claim with the electricity retailer, whether before or after the commencement of this section, for an electricity rebate.
- (2) For an exemption for an electricity sale arrangement on the basis of the pump exemption, an electricity retailer is taken to be notified, for division 2 or 3, of the circumstances causing

the electricity sale arrangement to be or to have been an exempt arrangement if any electricity retail services provided for the arrangement are charged or chargeable at a tariff of a type prescribed under a regulation.

- (3) For an exemption for an electricity sale arrangement on the basis of the hot water system exemption, an electricity retailer is taken to be notified, for division 2 or 3, of the circumstances causing the electricity sale arrangement to be, or to have been, an exempt arrangement if all electricity retail services provided for the arrangement are charged or chargeable at a tariff of a type prescribed under a regulation.
- (4) For an exemption for an electricity sale arrangement on the basis of the retirement village common account exemption or the building common account exemption (type 1), an electricity retailer is taken to be notified, for division 2 or 3, of the circumstances causing the electricity sale arrangement to be, or to have been, an exempt arrangement if—
  - (a) electricity sold under the arrangement is supplied to an on-supplier for 1 or more on-supply arrangements; and
  - (b) the on-supplier has given to the electricity retailer, in relation to the on-supply arrangements, a return under section 96.

## **100 Notification for government exemptions**

Information that may be, or that is required to be, notified under division 2, 3 or 4 because of a government exemption may be given in a way approved by the commissioner rather than as required under the division.

## **Division 7 Payment of levy**

### **101 Payment of levy amount shown in statement of levy liability**

- (1) The electricity customer of an electricity retailer must pay the electricity retailer the total levy amount shown in a statement of levy liability given to the electricity customer by the electricity retailer.



- (2) If the statement of levy liability is included in an electricity account, the total levy amount must be paid on or before the day stated in the electricity account as the day for payment of the electricity account.
- (3) If the statement of levy liability is not included in the electricity account, the total levy amount must be paid within the period stated in the statement for payment of the levy amount.
- (4) The period stated in the statement of levy liability under subsection (3) must be the period, of not less than 30 days, approved by the commissioner.
- (5) The electricity customer must pay the total levy amount shown in the statement of levy liability even if the electricity customer claims for any reason that the customer is not liable to pay all or part of the levy amount shown.

## **102 Priority of application of payment**

Any payment received by an electricity retailer for an electricity account must be applied first in payment of any levy amount or other amount payable under this Act for any electricity sale arrangement to which the account relates, before it is applied in payment of any other amount payable under the account.

## **103 Payment to commissioner of received levy amounts**

- (1) An electricity retailer must pay to the commissioner a levy amount collected—
  - (a) within 1 day after the electricity retailer receives the amount; or
  - (b) within a later time approved by the commissioner.
- (2) The electricity retailer must pay the amount to the commissioner without any deduction or set-off of any type, including, in particular, without any deduction or set-off for any administration fee payable to the electricity retailer by the commissioner for the collection of the levy amount.

- (3) Despite subsections (1) and (2), if the electricity retailer is authorised to pay a refund under division 8, the electricity retailer may pay the refund out of levy amounts collected.
- (4) When an electricity retailer pays to the commissioner a levy amount collected from an electricity customer, the electricity retailer must give the commissioner a return in the approved form for the payment.
- (5) The return must include information about any amount that has not been included in the payment because it has been used to pay a refund.
- (6) The refusal of the commissioner to approve a later time under subsection (1)(b) is a non-reviewable decision.

#### 104 Voluntary contributions

- (1) This section applies if—
  - (a) a customer sale arrangement is an exempt arrangement because of a pensioner exemption; and
  - (b) the arrangement is being dealt with by the relevant electricity retailer for the arrangement as an exempt arrangement; and
  - (c) the relevant customer for the arrangement voluntarily pays to the electricity retailer an amount (***voluntary contribution***) that is additional to any amount that is payable by the customer for the electricity account relating to the arrangement.
- (2) To the extent the voluntary contribution is not more than the relevant amount in a financial year, the voluntary contribution is taken, for all purposes of this Act, to be a levy amount received by an electricity retailer and payable to the commissioner.
- (3) In this section—

***relevant amount*** means the amount prescribed under a regulation.

**105 Requirement to pay shortfall amount**

- (1) If an electricity retailer becomes aware of a shortfall amount payable by a person, the electricity retailer must give written notice to the person of the shortfall amount.
- (2) The commissioner may give written notice to a person of a shortfall amount payable by a person.
- (3) A written notice given under subsection (1) may be included in an electricity account.
- (4) A person given a notice under subsection (1) or (2) must pay the shortfall amount to the person who gave the notice within 14 days after the person receives the notice.
- (5) A notice must not be given under subsection (1) or (2) more than 5 years after the shortfall amount should have been paid.
- (6) The limitation in subsection (5) does not apply if, in failing to pay the shortfall amount, the person—
  - (a) acted fraudulently; or
  - (b) knowingly misled the commissioner or an electricity retailer; or
  - (c) otherwise acted deliberately to evade payment of the amount.
- (7) A notice given under subsection (1) or (2) must include advice to the effect that the person has a right of objection under this Act if the person claims that the shortfall amount is an incorrect amount or that no shortfall amount is payable.

**105A Requirement to pay shortfall amount for previous customer sale arrangement**

- (1) This section applies if—
  - (a) there was in existence a customer sale arrangement (the *previous arrangement*) between a relevant customer and electricity retailer; and
  - (b) the customer enters into a new customer sale arrangement (the *new arrangement*) with the electricity retailer or another electricity retailer in place of the previous arrangement; and

- (c) there are no other parties to the new arrangement; and
  - (d) the previous arrangement and new arrangement relate to the supply of electricity that is measured by the same meter; and
  - (e) the previous arrangement was, immediately before being replaced by the new arrangement, being dealt with by the electricity retailer for the previous arrangement, for the purposes of electricity accounts, as an exempt customer sale arrangement.
- (2) If the electricity retailer for the new arrangement becomes aware of a shortfall amount payable by the customer in relation to the previous arrangement, the electricity retailer must give written notice to the customer of the shortfall amount.
- (3) If a notice is given under subsection (2), section 105(3) to (7) apply as if the notice was given under section 105(1).
- (4) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

## **Division 8                      Refund of overpaid levy**

### **106      Refund made only under this division**

A person is not entitled to a refund by an electricity retailer of any levy amount paid, or purportedly paid, under this Act other than under this division.

### **107      Refund of overpaid levy for electricity sale arrangement**

- (1) This section applies if—
- (a) as required by a statement of levy liability, an electricity customer pays an electricity retailer a levy amount (the *paid amount*) for an electricity sale arrangement; and
  - (b) some or all of the paid amount (the *refund amount*) relates to a period of 1 or more days when the electricity sale arrangement was an exempt arrangement.

- (2) The electricity customer may claim the refund amount by giving the electricity retailer a claim in the approved form or by complying with the notification requirements under this part.
- (3) If the electricity retailer is satisfied the electricity customer is entitled to the refund amount, the electricity retailer must—
  - (a) pay the refund amount to the electricity customer; or
  - (b) provide the electricity customer with a credit for the refund amount in the next statement of levy liability issued to the customer.
- (4) However, the electricity retailer must apply all or part of the refund amount as payment for any levy amount the electricity customer is liable to pay for the electricity sale arrangement that has not been paid.
- (5) A person is not entitled to a refund under this section if—
  - (a) more than 1 year has elapsed since the paid amount was paid; and
  - (b) in the year, the person has not claimed the refund in the way provided for in this section.

### **107A Refund of overpaid levy for previous customer sale arrangement**

- (1) This section applies if—
  - (a) there was in existence a customer sale arrangement (the *previous arrangement*) between a relevant customer and electricity retailer; and
  - (b) the customer entered into a new customer sale arrangement (the *new arrangement*) with the electricity retailer or another electricity retailer in place of the previous arrangement; and
  - (c) there are no other parties to the new arrangement; and
  - (d) the previous arrangement and new arrangement relate to the supply of electricity that is measured by the same meter; and

*Community Ambulance Cover Act 2003*

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- (e) as required by a statement of levy liability, the customer paid the electricity retailer for the previous arrangement a levy amount (the *paid amount*) for the previous arrangement; and
  - (f) some or all of the paid amount (the *refund amount*) relates to a period of 1 or more days when the previous arrangement was an exempt customer sale arrangement.
- (2) The customer may claim the refund amount by giving the electricity retailer for the new arrangement a claim in the approved form or by complying with the notification requirements under section 90A.<sup>1</sup>
- (3) If the electricity retailer for the new arrangement is satisfied the customer is entitled to the refund amount, the electricity retailer must—
- (a) pay the refund amount to the customer; or
  - (b) provide the customer with a credit for the refund amount in the next statement of levy liability issued to the customer.
- (4) However, the electricity retailer for the new arrangement must apply all or part of the refund amount as payment for any levy amount the customer is liable to pay for the arrangement that has not been paid.
- (5) A person is not entitled to a refund under this section if—
- (a) more than 1 year has elapsed since the paid amount was paid; and
  - (b) in the year, the person has not claimed the refund in the way provided for in this section.
- (6) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

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<sup>1</sup> Section 90A (Notification requirement for exemption for previous customer sale arrangement)

**108 Refund on issue of replacement statement of levy liability**

- (1) An electricity customer is entitled to a refund of a levy amount paid for an electricity sale arrangement if the customer's levy liability is decreased by the issue of a replacement statement of levy liability.
- (2) The electricity retailer must refund the overpaid amount to the electricity customer by—
  - (a) paying the overpaid amount to the customer; or
  - (b) providing the customer with a credit for the overpaid amount in the next statement of levy liability issued to the customer.
- (3) However, the electricity retailer must apply all or part of the overpaid amount as payment for any levy amount the electricity customer is liable to pay for the electricity sale arrangement but has not been paid.

**109 No interest on refund**

A person is not entitled to interest on any levy amount required to be refunded to the person under this Act.

**Division 9 Waiving payment and writing-off liability****110 Waiver of levy liability**

- (1) The commissioner may waive payment of an electricity customer's levy liability up to the amount prescribed under a regulation.
- (2) If the commissioner waives payment, the liability to pay the amount waived is extinguished.
- (3) A decision to refuse to waive payment is a non-reviewable decision.

**111 Effect of writing-off levy liability**

If all or part of an electricity customer's levy liability is written-off under the *Financial Administration and Audit Act 1977*, section 106,<sup>2</sup> the writing-off does not extinguish the electricity customer's liability or prevent a later proceeding against the customer to recover the amount of the liability.

**Division 10 Action for non-payment****112 Recovery of unpaid levy amount**

- (1) If a person does not pay a levy amount to an electricity retailer within the time the person is required under this Act to pay the amount, the electricity retailer must carry out procedures for recovery of the unpaid levy amount as the commissioner directs.
- (2) The terms of an administration agreement between the commissioner and the electricity retailer do not limit the directions the commissioner may give under subsection (1).

**113 Disconnection of electricity supply**

- (1) The disconnection provisions apply if a person fails to pay an electricity retailer a levy amount under this Act as if the failure to pay the levy amount were a failure to pay the electricity retailer an amount the person owes the electricity retailer for the provision of electricity retail services.
- (2) An electricity retailer must take action under the disconnection provisions, including action to cause the supply of electricity to an electricity customer of the electricity retailer to be disconnected, if—
  - (a) the electricity customer owes the electricity retailer—
    - (i) a levy amount; and
    - (ii) an amount payable by the customer for the provision of electricity retail services; and

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<sup>2</sup> *Financial Administration and Audit Act 1977*, section 106 (Losses and special payments)



- (b) the electricity retailer would, under its established business procedures, take action under the disconnection provisions in relation to the electricity customer if the total owed amount consisted only of an amount payable by the electricity customer for the provision of electricity retail services.
- (3) Subsection (2) does not limit subsection (1).
- (4) This section does not apply for power card arrangements.
- (5) In this section—
  - total owed amount* means the total of the following—
    - (a) the amount mentioned in subsection (2)(a)(i);
    - (b) the amount mentioned in subsection (2)(a)(ii).

#### **114 Unpaid levy amount is a debt to the State**

- (1) If a levy amount is not paid by a person to an electricity retailer as required under this Act, the commissioner may recover the unpaid levy amount, as a debt payable to the State, in a court of competent jurisdiction.
- (2) Subsection (1) does not stop the electricity retailer, while the levy amount remains unpaid, from, as provided for in this part—
  - (a) carrying out procedures for recovery of the unpaid levy amount; or
  - (b) taking action under the disconnection provisions to cause the supply of electricity to the person to be disconnected.

### **Division 11 Miscellaneous provisions for power card arrangements**

#### **115 Ability of owner to recover levy amount**

- (1) This section applies if a power card premises for a power card arrangement are the subject of a lease, tenancy or other right of occupation from the owner for the arrangement.

- (2) The owner may recover from the occupier of the power card premises a levy amount for the power card arrangement that the owner has paid, or that is payable by the owner, for the power card arrangement, but only to the extent the levy amount relates to the period of the lease, tenancy or occupation.

### **116 Recovery of levy by owner**

An owner for a power card arrangement must not recover, or try to recover, from a person a levy amount for the arrangement, or an amount purportedly payable as a levy amount for the arrangement, unless the owner has received a statement of levy liability for the amount.

Maximum penalty—100 penalty units.

### **117 Failure to notify electricity retailer of exemption information**

- (1) This section applies if—
- (a) an owner for a power card arrangement is notified, in the way this part provides, of the circumstances causing the arrangement to be, or to have been, an exempt power card arrangement; and
  - (b) the owner does not, in the way this part provides, claim the exemption from the relevant electricity retailer for the arrangement; and
  - (c) because of the owner's failure, the owner is required to pay a levy amount for the arrangement.
- (2) The owner must not recover, or take action to try to recover, from any person the levy amount paid.
- (3) Subsection (2) does not stop the owner from seeking a refund from the electricity retailer of the levy amount.

### **118 Payment of refund to entitled person**

- (1) This section applies if the owner for a power card arrangement receives a refund, for any reason, of a levy amount that was overpaid for the arrangement (the *refund amount*).

- (2) The owner must, within 90 days after receiving the refund amount (the *relevant period*), pay the required amount to the entitled person.
- (3) If the owner does not pay the entitled person the required amount within the relevant period, the owner must, within 7 days after the relevant period—
  - (a) give the commissioner written notice that the entitled person was not paid the required amount; and
  - (b) pay the commissioner the required amount plus interest at the prescribed rate calculated, on the balance payable from time to time, from the date the owner received the refund amount to the date the required amount is paid to the commissioner.

Maximum penalty—100 penalty units.

- (4) In this section—

*entitled person* means the person from whom the owner recovered, or otherwise collected, the required amount.

*required amount* means the refund amount to the extent it represents an amount that the owner has already recovered or otherwise collected from a person as authorised under this Act.

## 119 No recovery from Commonwealth

This division does not authorise the owner for a power card arrangement to recover a levy amount from the Commonwealth.

## Division 12 Miscellaneous provisions for on-supply arrangements

### 120 Ability of on-supplier to recover levy amount

The on-supplier for an on-supply arrangement may recover a levy amount for the arrangement that the on-supplier has paid, or that is payable by the on-supplier, for the on-supply arrangement from any of the following—

- (a) if there is a receiver for the arrangement—the receiver;
- (b) if the on-supplier is not the owner of the separate area for the arrangement—the owner;
- (c) if the separate area for the arrangement is the subject of a lease, tenancy or other right of occupation—the occupier, but only to the extent the levy amount relates to the period of the lease, tenancy or occupation.

### **121 Recovery of levy by on-supplier**

An on-supplier must not recover, or try to recover, from a person a levy amount for an on-supply arrangement, or an amount purportedly payable as a levy amount for an on-supply arrangement, unless the on-supplier has received a statement of levy liability for the amount.

Maximum penalty—100 penalty units.

### **121A Recovery of levy by on-supplier before statement of levy liability**

- (1) This section applies if—
  - (a) a person (the *relevant person*) is—
    - (i) the receiver for an on-supply arrangement; or
    - (ii) the owner of the separate area for an on-supply arrangement; or
    - (iii) the occupier of the separate area for an on-supply arrangement; and
  - (b) the relevant person stops or is about to stop being the receiver for the on-supply arrangement or the owner or occupier of the separate area for the on-supply arrangement; and
  - (c) the statement of levy liability the on-supplier needs to entitle the on-supplier to recover from the relevant person the relevant levy amount has not yet been issued to the on-supplier for the arrangement by the relevant electricity retailer for the arrangement.

(2) Despite section 121, the on-supplier may recover the relevant levy amount from the relevant person without waiting for the statement of levy liability to be issued.

(3) In this section—

*relevant levy amount* means the levy amount relating to a period ending on the day the relevant person stops being the receiver for the arrangement, or the owner or occupier of the separate area, and for which the on-supplier has not recovered a levy amount under section 120.

### **121B Subsequent recovery entitlements**

(1) If the on-supplier for an on-supply arrangement recovers a levy amount from the receiver for the arrangement, the receiver may recover the amount from, if the receiver is not the owner of the separate area for the arrangement—

(a) the owner of the separate area; or

(b) the occupier of the separate area, but only to the extent the amount relates to the period of the occupier's lease, tenancy or occupation.

(2) If the on-supplier or the receiver for an on-supply arrangement recovers a levy amount from the owner of the separate area for the arrangement, the owner may recover the amount from the occupier of the separate area, but only to the extent the amount relates to the period of the occupier's lease, tenancy or occupation.

(3) In this section—

*levy amount* includes a relevant levy amount under section 121A.

### **122 Failure to notify electricity retailer of exemption information**

(1) This section applies if—

(a) an on-supplier is notified, in the way this part provides, of the circumstances causing an on-supply arrangement to be, or to have been, an exempt on-supply arrangement; and

- (b) the on-supplier does not, in the way this part provides, claim the exemption from the relevant electricity retailer for the arrangement; and
  - (c) because of the on-supplier's failure, the on-supplier is required to pay a levy amount for the on-supply arrangement.
- (2) The on-supplier must not recover, or take action to try to recover, from any person the levy amount paid.
  - (3) Subsection (2) does not stop the on-supplier from seeking a refund from the electricity retailer of the levy amount.

### **123 Payment of refund to entitled person**

- (1) This section applies if the on-supplier for an on-supply arrangement receives a refund, for any reason, of a levy amount that was overpaid for the arrangement (the ***refund amount***).
- (2) The on-supplier must, within 90 days after receiving the refund amount (the ***relevant period***), pay the required amount to the entitled person.
- (3) If the on-supplier does not pay the entitled person the required amount within the relevant period, the on-supplier must, within 7 days after the relevant period—
  - (a) give the commissioner written notice that the entitled person was not paid the required amount; and
  - (b) pay the commissioner the required amount plus interest at the prescribed rate calculated, on the balance payable from time to time, from the date the on-supplier received the refund amount to the date the required amount is paid to the commissioner.

Maximum penalty—100 penalty units.

- (4) If the entitled person who receives the required amount is the owner of the separate area for the on-supply arrangement, the owner must pay the required amount to the occupier of the separate area, to the extent the required amount represents an amount the owner has already recovered from the occupier under this division.

(5) In this section—

*entitled person* means the person from whom the on-supplier recovered, or otherwise collected, the required amount.

*required amount* means the refund amount to the extent it represents an amount that the on-supplier has already recovered or otherwise collected from a person as authorised under this Act.

## **124 No recovery from Commonwealth**

This division does not authorise the on-supplier for an on-supply arrangement, or the owner of the separate area the subject of an on-supply arrangement, to recover a levy amount from the Commonwealth.

## **Division 13 Limitations on levy recovery**

### **124A Recovery of levy amount prohibited for common account exemptions**

- (1) An electricity customer must not recover, or take action to try to recover, from any person, all or part of a levy amount paid or payable for a day for an electricity sale arrangement that is an exempt arrangement for that day under—
  - (a) the retirement village common account exemption; or
  - (b) the building common account exemption (type 1); or
  - (c) the building common account exemption (type 2).
- (2) Subsection (1) does not stop the electricity customer from claiming a refund of the levy amount from the relevant electricity retailer for the electricity sale arrangement.

### **124B Recovery of levy amount from pensioner prohibited for customer sale arrangement**

- (1) If a customer sale arrangement for a double unit building is an exempt customer sale arrangement under section 37E, an electricity customer must not recover, or take action to try to recover, from a pensioner, all or part of a levy amount paid for

an electricity sale arrangement for the building that is, under section 37E(1)(f), the first of the relevant arrangements to have commenced, if the pensioner is the occupier who—

- (a) gave the notification under section 37E(1)(e); or
  - (b) is taken to have given the notification under section 37E(2).
- (2) Subsection (3) applies if—
- (a) all electricity sold for consumption at a double unit building is sold under a single customer sale arrangement; and
  - (b) if there were a separate electricity sale arrangement for each separate area in the building, the arrangement applying for 1 of the separate areas (the *relevant separate area*) would be an exempt arrangement because of the pensioner exemption; and
  - (c) the pensioner who occupies the relevant separate area has notified the relevant customer for the customer sale arrangement in the approved form of the circumstances supporting the application of paragraph (b).
- (3) An electricity customer must not recover, or take action to try to recover, from the pensioner, all or part of a levy amount paid for the customer sale arrangement.
- (4) The pensioner who occupies the relevant separate area is taken to have notified the relevant customer under subsection (2)(c) if an electricity rebate applies in relation to the supply of electricity to the separate area.

## **Part 8**                      **Late payments**

### **125**      **Unpaid levy interest**

- (1) An electricity retailer must pay interest (*unpaid levy interest*) on all levy amounts received by the electricity retailer and payable to the commissioner and unpaid from time to time.



- (2) Unpaid levy interest accrues daily at the prescribed rate on an unpaid levy amount for the period starting on the day immediately after the day the unpaid levy amount became payable to the commissioner and ending on the day the unpaid levy amount is paid in full, both days inclusive.

### **126 Commissioner may remit unpaid levy interest**

- (1) The commissioner may remit the whole or part of any unpaid levy interest an electricity retailer owes.
- (2) The remission must be made by written notice given to the electricity retailer.

## **Part 9 Review of decisions**

### **Division 1 Objections**

#### **127 Who may lodge objection**

- (1) An electricity customer of an electricity retailer who is dissatisfied with any of the following may lodge a written objection with the commissioner—
  - (a) the levy amount stated in a statement of levy liability issued to the electricity customer by the electricity retailer;
  - (b) a written notice given to the electricity customer of a shortfall amount payable by the customer;
  - (c) a decision of the commissioner or the electricity retailer affecting the electricity customer's liability to pay the levy;
  - (d) a decision of the electricity retailer about a claim by the electricity customer for a refund of a levy amount paid.
- (2) Also, a person mentioned in subsection (3) who is dissatisfied with a decision of the commissioner or an electricity retailer about the status of an on-supply arrangement or a power card

arrangement as an exempt arrangement may lodge a written objection with the commissioner.

- (3) For subsection (2), the persons are—
  - (a) a person who notifies the on-supplier for an on-supply arrangement that the arrangement is an exempt on-supply arrangement; and
  - (b) a person who notifies the owner for a power card arrangement that the arrangement is an exempt power card arrangement.
- (4) However, an objection may not be made under subsection (1)(a) on the grounds of the status of an electricity sale arrangement as an exempt arrangement unless the electricity customer complies, on or before lodging the objection, with the notification provisions under part 7.
- (5) This section does stop an electricity customer from asking an electricity retailer to act under section 89 to give the electricity customer a replacement statement of levy liability.

## **128 Requirements for lodging objection**

- (1) The grounds of objection must be stated fully and in detail in the written objection lodged with the commissioner.
- (2) The written objection must, if the objection relates to the status of an electricity sale arrangement as an exempt arrangement, be accompanied by a copy of the notice supporting the claim to exemption given to the electricity retailer by the electricity customer.
- (3) The objection must be lodged within 60 days after the objector receives the statement of levy liability, written notice of a shortfall amount or notice of the decision.
- (4) If the commissioner is satisfied an objector has a reasonable excuse for failing to lodge an objection within the 60 day period, the commissioner may extend the time for lodging the objection.
- (5) The commissioner's decision to refuse to extend the time for lodging an objection is a non-reviewable decision.

**129 Onus of proof of objection**

An objector has the onus of proving the objector's case.

**130 Deciding objection**

- (1) After considering the objection, the commissioner may—
  - (a) allow all or part of the objection; or
  - (b) disallow the objection.
- (2) If the decision was made by a delegate of the commissioner, the delegate must not decide the objection.

**131 Notice of decision**

- (1) The commissioner must give written notice of the commissioner's decision on the objection to—
  - (a) the objector; and
  - (b) the relevant electricity retailer for the electricity sale arrangement the objection relates to.
- (2) The notice must state the following—
  - (a) the reasons for the decision;
  - (b) the objector may, within 60 days after receiving the notice, appeal against the decision;
  - (c) how to appeal.

**Division 2 Appeals****132 Right of appeal**

An objector who is dissatisfied with the commissioner's decision on an objection, may appeal against the decision.

**133 How to start appeal**

- (1) The appeal is started by—

- (a) filing notice of appeal with the clerk of the court of the Magistrates Court nearest the place where the objection was lodged; and
  - (b) giving a copy of the notice of appeal to the commissioner.
- (2) The notice of appeal must be filed within 60 days after the appellant receives notice of the commissioner's decision on the objection.
- (3) The court may at any time extend the time for filing the notice of appeal.
- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.
- (5) The grounds of the appeal are limited to the grounds of objection unless the court otherwise orders.

### **134 Onus on appeal**

On the appeal, the appellant has the onus of proving the appellant's case.

### **135 Procedures for hearing appeal**

- (1) In deciding the appeal, the Magistrates Court—
  - (a) is not bound by the rules of evidence; and
  - (b) must comply with natural justice; and
  - (c) may hear the appeal in court or chambers.
- (2) An appeal is by way of rehearing.

### **136 Deciding appeal**

- (1) On the appeal, the Magistrates Court may—
  - (a) confirm the decision; or
  - (b) set aside the decision and substitute another decision; or
  - (c) set aside the decision and return the issue to the commissioner with the directions the court considers appropriate.

- (2) If the court substitutes another decision, the substituted decision is taken for this Act, other than this part, to be the commissioner's decision.

### **137 Appeals to District Court**

An appeal lies to the District Court from a decision of the Magistrates Court, but only on a question of law.

## **Division 3 Decisions not subject to objection, appeal or review**

### **138 What is a *non-reviewable decision***

- (1) A *non-reviewable decision* is a decision that, under this Act, is declared to be a non-reviewable decision.
- (2) In this section—  
*decision* includes a decision or conduct leading up to or forming part of the process of making a decision.

### **139 Effect of a non-reviewable decision**

A non-reviewable decision—

- (a) is final and conclusive; and
- (b) is not subject to objection or appeal under this part; and
- (c) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
- (d) is not subject to a writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

**140 Application of Judicial Review Act 1991**

The *Judicial Review Act 1991*, parts 3 and 5,<sup>3</sup> do not apply to—

- (a) a decision of the commissioner or an electricity retailer on a person's levy liability; or
- (b) a decision or conduct leading up to or forming part of the process of making a decision mentioned in paragraph (a); or
- (c) a decision disallowing all or part of an objection against a decision.

**Part 10 Application of Taxation Administration Act 2001****Division 1 Preliminary****141 This Act as a revenue law for Administration Act**

The Administration Act, parts 3 to 6, do not apply to this Act as a revenue law under the Administration Act.<sup>4</sup>

**Division 2 Confidentiality****142 Application of Administration Act, s 111**

- (1) For the Administration Act, section 111,<sup>5</sup> the following persons are taken to be officials—

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3 *Judicial Review Act 1991*, parts 3 (Statutory orders of review) and 5 (Prerogative orders and injunctions)

4 *Taxation Administration Act 2001*, section 6 (Revenue laws) declares this Act to be a revenue law.

5 *Taxation Administration Act 2001*, section 111 (Disclosure of confidential information)

- (a) a person who is, or has been, an electricity retailer or an authorised subcontractor of the electricity retailer;
  - (b) a person who is, or has been, an employee, agent or contractor of an electricity retailer or an authorised subcontractor of the electricity retailer.
- (2) Section 111(1) of the Administration Act does not stop an electricity retailer or its authorised subcontractor disclosing confidential information to the commissioner.

### **143 Use of information obtained under taxation law**

- (1) The commissioner may use information obtained in the administration or enforcement of a taxation law for the administration or enforcement of this Act.
- (2) In this section—
- taxation law* means—
- (a) a law of the Commonwealth or a State about the assessment or imposition of a tax, fee, duty or other impost; or
  - (b) the *Fuel Subsidy Act 1997*; or
  - (c) the *First Home Owner Grant Act 2000*.

## **Division 3 Record keeping**

### **144 Requirement to keep records for levy**

- (1) The Administration Act, section 114<sup>6</sup> does not apply to a person's levy liability.
- (2) An electricity retailer must keep the records necessary to enable the levy liability of the electricity retailer's electricity customers to be ascertained.

Maximum penalty—100 penalty units.

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<sup>6</sup> *Taxation Administration Act 2001*, section 114 (Requirement to keep proper records)

- (3) A following person must keep the records necessary to enable the person's levy liability to be ascertained—
- (a) an on-supplier;
  - (b) an electricity customer under an electricity sale arrangement that is dealt with as an exempt arrangement.

Maximum penalty—100 penalty units.

- (4) A person who notifies the on-supplier for an on-supply arrangement that the arrangement is an exempt on-supply arrangement must keep the records necessary to enable the status of the on-supply arrangement as an exempt on-supply arrangement to be ascertained.

Maximum penalty—100 penalty units.

- (5) A person who notifies the owner for a power card arrangement that the arrangement is an exempt power card arrangement must keep the records necessary to enable the status of the power card arrangement as an exempt power card arrangement to be ascertained.

Maximum penalty—100 penalty units.

- (6) For subsections (2) to (5), the commissioner may, by written notice given to a person, require the person to keep a particular record stated in the notice for this Act.

- (7) The person must, unless the person has a reasonable excuse, comply with the notice.

Maximum penalty for subsection (7)—100 penalty units.

## **Division 4                      Enforcement and legal proceedings**

### **145      Failure to give notice**

If, under this Act, a person is required to give to an electricity retailer a notice about a matter, the person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty—100 penalty units.



**146 Prohibition on giving false or misleading documents to electricity retailer, on-supplier or owner**

- (1) A person must not give an electricity retailer, an on-supplier or the owner for a power card arrangement a document containing information the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) tells the electricity retailer, on-supplier or owner of the extent to which the document is false or misleading; and
  - (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the electricity retailer, on-supplier or owner.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state the document was ‘false or misleading’, without specifying which.
- (4) This section applies in addition to the Administration Act, section 122.<sup>7</sup>

**147 Prohibition on giving false or misleading information to electricity retailer, on-supplier or owner**

- (1) A person must not state anything to an electricity retailer, an on-supplier or the owner for a power card arrangement that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) It is enough for a complaint for an offence against subsection (1), to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.
- (3) This section applies in addition to the Administration Act, section 123.<sup>8</sup>

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<sup>7</sup> *Taxation Administration Act 2001*, section 122 (False or misleading documents)

<sup>8</sup> *Taxation Administration Act 2001*, section 123 (False or misleading information)

**148 Evidentiary provision for statements of levy liability**

- (1) Production of a document signed by the commissioner purporting to be a copy of a statement of levy liability or a notice of a shortfall amount—
  - (a) is conclusive evidence of the proper making of the statement or notice; and
  - (b) for—
    - (i) a proceeding on an appeal against a decision on an objection—is evidence that the amount and all particulars of the liability are correct; or
    - (ii) another proceeding—is conclusive evidence that the amount and all particulars of the liability are correct.
- (2) The validity of a statement of levy liability or a notice of a shortfall amount is not affected merely because this Act has not been complied with.

**Division 5 Giving and lodging documents****149 Additional ways of giving documents to commissioner**

- (1) For this Act, a document, other than a document for a proceeding, may be given to the commissioner by—
  - (a) leaving it at any office of an electricity retailer or an authorised subcontractor of an electricity retailer; or
  - (b) sending it by post or facsimile to an electricity retailer or an authorised subcontractor of an electricity retailer.
- (2) However, subsection (1) does not permit a document to be given to an authorised subcontractor that has only entered into a contract for which the commissioner's approval is not required under section 81 because of section 81A.
- (3) A document given to the commissioner under subsection (1) is taken to be given to the commissioner—
  - (a) if it is given to the commissioner in the way mentioned in subsection (1)(a)—when it is actually received by the

electricity retailer or authorised subcontractor with whom it is left; or

(b) if it is sent by facsimile—the date the facsimile is sent.<sup>9</sup>

(4) Subsection (1) applies in addition to the Administration Act, section 143.<sup>10</sup>

### **150 Requirement if electricity retailer or authorised subcontractor given document for commissioner**

An electricity retailer, or an authorised subcontractor of an electricity retailer, to whom a document is given under section 149 must, as soon as practicable after receiving the document, give the document to the commissioner in a way mentioned in the Administration Act, section 143.

### **151 Giving document if more than 1 electricity customer liable to pay levy amount for electricity sale arrangement**

(1) A document is taken to be given to all persons who are liable to pay a levy amount for an electricity sale arrangement if it is given to 1 of the persons who is liable to pay the amount.

(2) In this section—

*levy amount* includes a relevant levy amount under section 121A.

## **Division 6 Miscellaneous**

### **152 Lodgment requirement**

For the application of the Administration Act to this Act as a revenue law—

*lodge* includes lodge with an electricity retailer.

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<sup>9</sup> For time of giving document by post, see *Acts Interpretation Act 1954*, section 39A(1)(b).

<sup>10</sup> *Taxation Administration Act 2001*, section 143 (Ways of giving document to commissioner)

*lodgment requirement* includes a requirement under this Act to give a document to an electricity retailer.

## **Part 11                      Miscellaneous**

### **153      Approved forms**

- (1) The commissioner may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

### **154      Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may prescribe particular services or infrastructure that are, or are not, core government or local government services or public infrastructure under this Act.
- (3) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

## **Part 12                      Transitional provision for Electricity and Other Legislation Amendment Act 2006**

### **155      Negotiated retail contract entered into under the Electricity Act, s 312(2)**

- (1) This section applies if, before or after the commencement of this section, a non-contestable customer for premises entered

or enters into a negotiated retail contract for the premises under the Electricity Act, s 312(2).<sup>11</sup>

- (2) The contract is not, and never was, a standard contract.

## **Part 13**

# **Transitional provisions for Community Ambulance Cover and Other Acts Amendment Act 2007**

### **156 Definitions for pt 13**

In this part—

*commencement* means the day this section commences.

*former*, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the pre-amended Act.

*pre-amended Act* means this Act as in force before the commencement.

### **157 When notification for exemption for corresponding arrangements taken to have been given**

- (1) This section applies if—
- (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
  - (b) the customer for the previous arrangement had given, or was taken to have given under former section 99, the electricity retailer for the arrangement a notice under former section 90(2) or former section 97(2) of the

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<sup>11</sup> Electricity Act, section 312 (Small customer may enter into negotiated retail contract before FRC day)

circumstances causing the arrangement to be an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.

- (2) The customer is taken to have given the electricity retailer for the corresponding arrangements a notice under section 90(2) of the circumstances causing the arrangements to be exempt customer sale arrangements.
- (3) The circumstances mentioned in subsection (2) are taken to be identical to the circumstances mentioned in subsection (1)(b).

**158 Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements**

- (1) This section applies if a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*).
- (2) If the relevant customer for the corresponding arrangements claims that the previous arrangement was, or had been for a particular period, an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act, the customer may notify the electricity retailer for the corresponding arrangements in the approved form of the circumstances supporting the claim.

**159 Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements**

- (1) This section applies if—
  - (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
  - (b) as required by a statement of levy liability, the customer for the previous arrangement paid under the pre-amended Act the electricity retailer for the

- arrangement a levy amount (the *paid amount*) for the arrangement; and
- (c) some or all of the paid amount (the *refund amount*) relates to a period of 1 or more days when the arrangement was an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.
- (2) The customer may claim the refund amount by giving the electricity retailer for the corresponding arrangements a claim in the approved form or by complying with the notification requirements under section 158.
- (3) If the electricity retailer for the corresponding arrangements is satisfied the customer is entitled to the refund amount, the electricity retailer must—
- (a) pay the refund amount to the customer; or
- (b) provide the customer with a credit for the refund amount in the next statement of levy liability issued to the customer.
- (4) However, the electricity retailer must apply all or part of the refund amount as payment for any levy amount the customer is liable to pay for 1 or more of the arrangements that has not been paid.
- (5) A person is not entitled to a refund under this section if—
- (a) more than 1 year has elapsed since the paid amount was paid; and
- (b) in the year, the person has not claimed the refund in the way provided for in this section.

**160 Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—new arrangements**

- (1) This section applies if—
- (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes,

- on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
- (b) the relevant customer for the corresponding arrangements enters into new customer sale arrangements (the *new arrangements*) with the electricity retailer for the corresponding arrangements or another electricity retailer in place of the corresponding arrangements; and
  - (c) there are no other parties to the new arrangements; and
  - (d) the previous arrangement and new arrangements relate to the supply of electricity that is measured by the same meter; and
  - (e) the customer had not given, or was not taken to have given under former section 99, the electricity retailer for the previous arrangement a notice under former section 90(2) or former section 97(2) of the circumstances causing the arrangement to be an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.
- (2) If the customer claims that the previous arrangement was, or had been for a particular period, an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act, the customer may only notify the electricity retailer for the new arrangements (and not the electricity retailer for the previous arrangement, if that electricity retailer is different to the electricity retailer for the new arrangements) in the approved form of the circumstances supporting the claim.
- (3) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

**161 Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—new arrangements**

- (1) This section applies if—
- (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended



- Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
- (b) the relevant customer for the corresponding arrangements enters into new customer sale arrangements (the *new arrangements*) with the electricity retailer for the corresponding arrangements or another electricity retailer in place of the corresponding arrangements; and
  - (c) there are no other parties to the new arrangements; and
  - (d) the previous arrangement and new arrangements relate to the supply of electricity that is measured by the same meter; and
  - (e) as required by a statement of levy liability, the customer paid under the pre-amended Act the electricity retailer for the previous arrangement a levy amount (the *paid amount*) for the arrangement; and
  - (f) some or all of the paid amount (the *refund amount*) relates to a period of 1 or more days when the arrangement was an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.
- (2) The customer may claim the refund amount by giving the electricity retailer for the new arrangements a claim in the approved form or by complying with the notification requirements under section 160.
  - (3) If the electricity retailer for the new arrangements is satisfied the customer is entitled to the refund amount, the electricity retailer must—
    - (a) pay the refund amount to the customer; or
    - (b) provide the customer with a credit for the refund amount in the next statement of levy liability issued to the customer.
  - (4) However, the electricity retailer must apply all or part of the refund amount as payment for any levy amount the customer is liable to pay for 1 or more of the arrangements that has not been paid.

- (5) A person is not entitled to a refund under this section if—
  - (a) more than 1 year has elapsed since the paid amount was paid; and
  - (b) in the year, the person has not claimed the refund in the way provided for in this section.
- (6) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

**162 Notification requirement for loss of exemption for standard contract or contestable sale arrangement under pre-amended Act**

- (1) This section applies if—
  - (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
  - (b) the relevant customer for the corresponding arrangements enters into new customer sale arrangements (the *new arrangements*) with the electricity retailer for the corresponding arrangements or another electricity retailer in place of the corresponding arrangements; and
  - (c) there are no other parties to the new arrangements; and
  - (d) the previous arrangement and new arrangements relate to the supply of electricity that is measured by the same meter; and
  - (e) the previous arrangement was, immediately before the commencement, being dealt with under the pre-amended Act by the electricity retailer for the arrangement, for the purposes of electricity accounts, as an exempt standard contract or exempt contestable sale arrangement; and
  - (f) the arrangement stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.

- (2) The customer must, within 28 days after the arrangement stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act, notify the electricity retailer for the new arrangements in the approved form—
  - (a) that the arrangement had stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act; and
  - (b) when the arrangement stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.
- (3) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

**163 Requirement to pay shortfall amount for standard contract or contestable sale arrangement under pre-amended Act**

- (1) This section applies if—
  - (a) a standard contract or contestable sale arrangement (the *previous arrangement*) in force under the pre-amended Act immediately before the commencement becomes, on the commencement, 1 or more customer sale arrangements (the *corresponding arrangements*); and
  - (b) the relevant customer for the corresponding arrangements enters into new customer sale arrangements (the *new arrangements*) with the electricity retailer for the corresponding arrangements or another electricity retailer in place of the corresponding arrangements; and
  - (c) there are no other parties to the new arrangements; and
  - (d) the previous arrangement and new arrangements relate to the supply of electricity that is measured by the same meter; and
  - (e) the previous arrangement was, immediately before the commencement, being dealt with under the pre-amended Act by the electricity retailer for the

arrangement, for the purposes of electricity accounts, as an exempt standard contract or exempt contestable sale arrangement; and

- (f) the arrangement stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act.
- (2) If the electricity retailer for the new arrangements becomes aware of a shortfall amount payable by the customer for a period that includes a period after the arrangement stopped being an exempt standard contract or exempt contestable sale arrangement under the pre-amended Act, the electricity retailer must give written notice to the customer of the shortfall amount.
- (3) If a notice is given under subsection (2), section 105(3) to (7) apply as if the notice was given under section 105(1).
- (4) For subsection (1)(d), the supply of electricity is measured by the same meter even though the meter measuring the supply replaced another meter.

## Schedule                      Dictionary

### section 8

***accommodation unit*** means—

- (a) for a retirement village that is a retirement village under the *Retirement Villages Act 1999*—an accommodation unit under that Act; or
- (b) for a retirement village that is not a retirement village under the *Retirement Villages Act 1999*—a unit of occupation in the retirement village that is equivalent to an accommodation unit under that Act.

***Administration Act*** means the *Taxation Administration Act 2001*.

***administration agreement*** see section 82.

***administration fee*** see section 83.

***annual levy*** see section 18(1).

***authorised subcontractor*** see section 81.

***building common account exemption (type 1)*** means the exemption applying to an electricity sale arrangement because of the operation of section 37C or 47F.

***building common account exemption (type 2)*** means the exemption applying to an electricity sale arrangement because of the operation of section 37D, 37E or 37F.

***card operated meter*** means a meter that allows electricity to be consumed at premises for which the meter is installed to the value of the amount credited to a card that operates the meter.

***commencement***, for part 13, see section 156.

***commissioner*** means the Commissioner of State Revenue under the Administration Act.

## Schedule (continued)

***common facility***—

- 1 A *common facility*, for a multi-unit building, means an electrical or mechanical installation or item of equipment that—
- (a) is located in or otherwise relates to a part of the building; and
  - (b) is for the use and enjoyment of occupants of the building; and
  - (c) is not for any particular separate area in the building.

*Examples*—

an air conditioning plant, a lift, common lighting, a swimming pool filter or a power point for the common use of the occupiers of units in a residential unit building

- 2 A *common facility*, for a retirement village, means an electrical or mechanical installation or item of equipment that—
- (a) is located in or otherwise relates to a part of the retirement village; and
  - (b) is for the use and enjoyment of the residents of the retirement village; and
  - (c) is not for any particular accommodation unit in the retirement village.

*Examples*—

an air conditioning plant, a lift, common lighting, a swimming pool filter or a power point for the common use of the residents of a retirement village

***Commonwealth*** means the Commonwealth within the meaning of section 114 of the Commonwealth Constitution.

***community ambulance cover levy*** see section 3.

***customer sale arrangement*** see section 10.

***daily levy*** see section 18(2).

***disconnection provisions*** means a regulation made under the Electricity Act, or a provision of any industry code under that

## Schedule (continued)

Act, that permits, requires, or otherwise provides for, the disconnection of supply of electricity under that Act.

**double unit building** means a multi-unit building for which all the following apply—

- (a) the building has only 2 separate areas;
- (b) under an electricity sale arrangement, electricity is supplied for consumption at both separate areas, and there is no separate electricity sale arrangement for either of the separate areas;
- (c) if the building had a third separate area, an on-supply arrangement (type 2) would exist for each separate area.

**electricity account** means a statement or invoice issued by an electricity retailer for an electricity customer of the retailer that shows the amount payable by the customer for electricity retail services provided to the customer for the purposes of an electricity sale arrangement.

**Electricity Act** means the *Electricity Act 1994*.

**electricity customer**, of an electricity retailer, means—

- (a) the relevant customer for a customer sale arrangement, if the electricity retailer is the electricity retailer that sells electricity to the customer; or
- (b) the owner of the power card premises for a power card arrangement, if the electricity retailer is the electricity retailer that has the facility to sell the electricity for consumption at the power card premises; or
- (c) the on-supplier for an on-supply arrangement, if the electricity retailer is the electricity retailer that sells the on-supplier the electricity for further supply and further sale.

**electricity rebate** means a Queensland Government Electricity Rebate under the Tariff Schedule—

- (a) the subject of a gazette notification of 14 June 2002; or
- (b) the subject of any subsequent gazette notification that replaces the notification mentioned in paragraph (a).

## Schedule (continued)

***electricity retailer*** means—

- (a) a retail entity; or
- (b) a special approval holder whose special approval authorises the holder to provide electricity retail services.

***electricity retail services*** means services that include the sale, or sale and supply, of electricity.

***electricity sale arrangement*** means—

- (a) a customer sale arrangement; or
- (b) a power card arrangement; or
- (c) an on-supply arrangement.

***equipment*** includes an apparatus or device.

***exempt arrangement*** means—

- (a) an exempt customer sale arrangement; or
- (b) an exempt power card arrangement; or
- (c) an exempt on-supply arrangement.

***exempt customer sale arrangement*** means a customer sale arrangement that is an exempt customer sale arrangement under part 2, division 5.

***exempt on-supply arrangement*** means an on-supply arrangement that is an exempt on-supply arrangement under part 4, division 5.

***exempt power card arrangement*** means a power card arrangement that is an exempt power card arrangement under part 3, division 5.

***farming shed***—

- 1 A *farming shed* means a building or silo that is located on land used primarily for primary production and is itself used only for primary production.
- 2 A *farming shed* does not include a building used indirectly for primary production, for example, for residential or accommodation purposes connected with



## Schedule (continued)

primary production, whether the use is permanent, temporary or occasional.

*Example—*

A building is not a farming shed if it is occasionally used for shearers accommodation, even if, most of the time, it is not being used for shearers accommodation and is being used only to store agricultural equipment.

**former**, for part 13, see section 156.

**government exemption** means the exemption applying to an electricity sale arrangement because of the operation of section 37G, 37H, 37I, 48, 49, 50, 60, 61 or 62.

**hot water system exemption** means the exemption applying to an electricity sale arrangement because of the operation of section 35 or 47A.

**later financial year** means a financial year after the financial year starting on 1 July 2003.

**levy** means the community ambulance cover levy.

**levy amount** means an amount of the levy, and includes a shortfall amount.

**levy liability** means a liability under this Act for a levy amount.

**meter** see the Electricity Act.

**multi-unit building—**

1 A *multi-unit building* is a building that includes 2 or more separate areas.

*Examples—*

- a home unit building
- a building made up of town houses
- a building that is a shopping centre
- an office building
- a building divided into flats

2 However, a *multi-unit building* does not include a detached house.

## Schedule (continued)

***non-reviewable decision*** see section 138.

***occupier***, of an area or premises means the lessee, tenant or occupier under a lease, tenancy or other right of occupation of the area or premises.

***on-supplier***—

- (a) for an on-supply arrangement (type 1)—see section 14; or
- (b) for an on-supply arrangement (type 2)—see section 15.

***on-supply arrangement*** means an on-supply arrangement (type 1) or an on-supply arrangement (type 2).

***on-supply arrangement (type 1)*** see section 14.

***on-supply arrangement (type 2)*** see section 15.

***owner***—

- 1 An *owner* of power card premises means the person who is—
  - (a) if the power card premises are the subject of a lease from the State—the lessee under the lease; or
  - (b) otherwise—the owner of the power card premises.
- 2 An *owner* for a power card arrangement means the person who is the owner of the power card premises for the arrangement.

***pensioner*** means a person who is the holder of a current card of one of the following types—

- (a) a pensioner concession card issued by the department of the Commonwealth responsible for administering either of the following—
  - (i) the *Social Security Act 1991* (Cwlth);
  - (ii) the *Veterans' Entitlements Act 1986* (Cwlth);
- (b) a repatriation health card for all conditions (Gold Card) issued by the department of the Commonwealth responsible for administering the *Veterans' Entitlements Act 1986* (Cwlth);

## Schedule (continued)

(c) a Queensland Government seniors card.

***pensioner exemption*** means the exemption applying to an electricity sale arrangement because of the operation of section 32, 45 or 58.

***power card arrangement*** see section 11.

***power card premises*** see section 11.

***pre-amended Act***, for part 13, see section 156.

***premises*** includes the following—

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

***prescribed rate***, for interest, means the rate prescribed under a regulation.

***primary production*** means—

- (a) agriculture; or
- (b) dairy farming; or
- (c) pasturing of animals; or
- (d) maintaining animals for the purposes of selling them or their bodily produce, including natural increase, for human consumption; or
- (e) apiculture; or
- (f) aquaculture; or
- (g) commercial fishing; or
- (h) horticulture—
  - (i) including amenity horticulture to the extent it comprises the commercial production or wholesale selling of horticultural products; but
  - (ii) otherwise excluding amenity horticulture.

## Schedule (continued)

*Examples for paragraph (h)—*

- 1 The following types of amenity horticulture are included—
  - cut flower or turf production
  - carrying on a wholesale plant nursery
- 2 The following types of amenity horticulture are excluded—
  - indoor plant hire
  - landscaping or maintenance of a park or golf course
  - carrying on a retail plant nursery
  - retail sale of cut flowers

***public facility*** means a facility for the use and enjoyment of the public, including the following—

- (a) a barbecue;
- (b) a picnic shelter;
- (c) a walkway;
- (d) a rest room;
- (e) a war memorial or similar memorial.

***public park—***

- 1 A *public park* is a place that is designed for use as a park and that is usually open to the public without payment of a fee for entry or use.
- 2 A *public park* includes the following—
  - (a) a public rest area;
  - (b) a public garden;
  - (c) a site at which a war memorial or similar memorial is located.

***public park facility*** means a public facility in a public park.

***pump exemption*** means the exemption applying to an electricity sale arrangement because of the operation of section 34 or 47.

***receiver***, for an on-supply arrangement, means—

## Schedule (continued)

- (a) if the on-supply arrangement is an on-supply arrangement (type 1)—any person to whom electricity is further supplied and further sold; and
- (b) if the on-supply arrangement is an on-supply arrangement (type 2)—the occupier of the separate area for the arrangement.

**relevant customer** see section 10(1).

**relevant electricity retailer**, for an electricity sale arrangement, means—

- (a) for a customer sale arrangement—the electricity retailer who sells electricity to the relevant customer for the arrangement; or
- (b) for a power card arrangement—the electricity retailer that has the facility to sell the electricity for consumption at the power card premises; or
- (c) for an on-supply arrangement—the electricity retailer who sells, to the on-supplier for the arrangement, electricity for further supply and further sale.

**replacement statement of levy liability** means a replacement statement of levy liability issued under section 89.

**retail entity** see the Electricity Act.

**retirement village** means—

- (a) a retirement village under the *Retirement Villages Act 1999*; or
- (b) premises made up of 2 or more independent living units or serviced units, managed and used for the permanent residence of persons who are either or both of the following—
  - (i) older members of the community;
  - (ii) retired persons.

**retirement village common account exemption** means the exemption applying to an electricity sale arrangement because of the operation of section 37B or 47E.

## Schedule (continued)

**security lighting** means lighting used primarily for either or both of the following—

- (a) protection of property;
- (b) safety of individuals.

**separate area** see section 12.

**separate domestic area** see section 13A.

**separate non-domestic area** see section 13.

**shortfall amount** means an amount of the levy payable for a period but which was not included in a statement of levy liability for the period.

*Examples—*

- an amount that was not included in a statement of levy liability because an exemption for an electricity sale arrangement was incorrectly claimed
- an amount that was not included in a statement of levy liability because an on-supplier submitted an incorrect return to an electricity retailer
- an amount that was not included in a statement of levy liability because a notification given to an electricity retailer by an electricity customer that an electricity sale arrangement stopped being an exempt arrangement is received after a statement of levy liability is sent to the electricity customer.

**social security beneficiary** means a person who receives income support payments from the Commonwealth under either of the following—

- (a) the *Social Security Act 1991* (Cwlth);
- (b) the *Veterans' Entitlements Act 1986* (Cwlth).

**special approval holder** see the Electricity Act.

**statement of levy liability** means a statement showing—

- (a) the levy amount for which an electricity customer is liable, under parts 2 to 4, for the period the subject of the statement; and
- (b) any unpaid levy amount for any previous period.

**unpaid levy interest** see section 125.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	109
3 Key . . . . .	110
4 Table of reprints . . . . .	110
5 List of legislation . . . . .	111
6 List of annotations . . . . .	111
7 List of forms notified or published in the gazette . . . . .	120
8 Information about retrospectivity . . . . .	121

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2007. Future amendments of the Community Ambulance Cover Act 2003 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	29 May 2003	
1A	—	30 May 2004	provs exp 29 May 2004
1B	2004 Act No. 30	11 November 2003	
1C	2004 Act No. 30	12 October 2004	
1CA	2006 Act No. 44	29 May 2006	
1D rv	2006 Act No. 42	13 October 2006	
1E	2006 Act No. 44	10 November 2006	R1E withdrawn, see R2
2	—	10 November 2006	
2A	2007 Act No. 17	23 April 2007	
2B	2007 Act No. 17	1 July 2007	



## 5 List of legislation

### **Community Ambulance Cover Act 2003 No. 34**

date of assent 29 May 2003

ss 1–2 commenced on date of assent

pt 12 commenced 1 July 2003 (see s 2)

remaining provisions commenced on date of assent

amending legislation—

### **Community Ambulance Cover Amendment Act 2004 No. 30**

date of assent 12 October 2004

ss 1–2, 12, 18–23, 24 (to the extent it ins new s 157) commenced on date of assent

remaining provisions commenced 11 November 2003 (see s 2)

### **Energy Assets (Restructuring and Disposal) Act 2006 No. 42 s 1, pt 8 div 1**

date of assent 13 October 2006

commenced on date of assent

### **Revenue and Other Legislation Amendment Act 2006 No. 44 ss 1, 2(1)–(2), pt 2**

date of assent 10 November 2006

ss 1–4 commenced on date of assent

s 9 commenced 29 May 2006 (see s 2(2))

remaining provisions commenced 10 November 2006 (see s 2(1))

### **Community Ambulance Cover and Other Acts Amendment Act 2007 No. 17 ss 1, 2(2), pt 2**

date of assent 23 April 2007

ss 1–2, pt 2 hdg, ss 3, 29 commenced on date of assent

remaining provisions commenced 1 July 2007 (see s 2(2))

## 6 List of annotations

### **Notes in text**

s 9 om 2006 No. 44 s 4

### **Meaning of “customer sale arrangement”**

s 10 sub 2007 No. 17 s 4

### **Meaning of “separate domestic area”**

s 13A ins 2004 No. 30 s 4 (retro)

### **Meaning of “on-supply arrangement (type 1)”**

s 14 amd 2007 No. 17 s 5

### **Meaning of “on-supply arrangement (type 2)”**

s 15 amd 2007 No. 17 s 6

### **Meaning of “contestable sale arrangement”**

s 16 om 2007 No. 17 s 7

### **Person may have more than 1 role**

s 17 amd 2007 No. 17 s 8

**PART 2—CUSTOMER SALE ARRANGEMENTS****pt hdg** sub 2007 No. 17 s 9**Division 1—Imposition of levy****div hdg** sub 2007 No. 17 s 9**Imposition of levy on customer sale arrangements****s 22** sub 2007 No. 17 s 9**Imposition of levy if there are 2 or more customer sale arrangements in place****s 23** sub 2007 No. 17 s 9**Operation of customer sale arrangement****s 24** sub 2007 No. 17 s 9**Division 2—Liability for levy****div hdg** sub 2007 No. 17 s 9**When liability for levy is imposed****s 25** sub 2007 No. 17 s 9**Who is liable to pay levy****s 26** sub 2007 No. 17 s 9**Consolidation arrangement does not affect liability for levy****s 27** sub 2007 No. 17 s 9**Division 3—Calculation of levy****div hdg** sub 2007 No. 17 s 9**Amount of levy****s 28** sub 2007 No. 17 s 9**Division 4—Exempt customer sale arrangements generally****div hdg** sub 2007 No. 17 s 9**Exemption from liability for levy****s 29** sub 2007 No. 17 s 9**Exemption on 2 or more grounds****prov hdg** amd 2004 No. 30 s 5 (retro)**s 30** sub 2007 No. 17 s 9**Division 5—Particular exemptions****div hdg** sub 2007 No. 17 s 9**Exemption for later standard contracts for separate domestic area****s 30A** ins 2004 No. 30 s 6 (retro)

om 2007 No. 17 s 9

**Exemption for later customer sale arrangements for separate area****s 31** sub 2007 No. 17 s 9**Pensioner exemption****s 32** sub 2007 No. 17 s 9**Farming shed exemption****s 33** sub 2007 No. 17 s 9

**Hot water system exemption**

s 33A ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Public park facility exemption**

s 33B ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Security lighting exemption**

s 33C ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Exemption for equipment for medical condition**

s 33D ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Retirement village common account exemption**

s 33E ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Building common account exemption (type 1)**

s 33F ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Building common account exemption (type 2) (2 pensioner occupiers)**

s 33G ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Building common account exemption (type 2) (1 pensioner occupier)**

s 33H ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Building common account exemption (type 2) (no pensioner occupiers)**

s 33I ins 2004 No. 30 s 7 (retro)  
om 2007 No. 17 s 9

**Pump exemption**

s 34 sub 2007 No. 17 s 9

**Hot water system exemption**

s 35 sub 2007 No. 17 s 9

**Public park facility exemption**

s 36 sub 2007 No. 17 s 9

**Security lighting exemption**

s 37 sub 2007 No. 17 s 9

**Exemption for equipment for medical condition**

s 37A ins 2007 No. 17 s 9

**Retirement village common account exemption**

s 37B ins 2007 No. 17 s 9

**Building common account exemption (type 1)**

s 37C ins 2007 No. 17 s 9

**Building common account exemption (type 2) (2 pensioner occupiers)**

s 37D ins 2007 No. 17 s 9

**Building common account exemption (type 2) (1 pensioner occupier)**

s 37E ins 2007 No. 17 s 9

**Building common account exemption (type 2) (no pensioner occupiers)**

s 37F ins 2007 No. 17 s 9

**Commonwealth exemption**

s 37G ins 2007 No. 17 s 9

**State exemption**

s 37H ins 2007 No. 17 s 9

**Local government exemption**

s 37I ins 2007 No. 17 s 9

**Exemption for religious bodies and other institutions**

s 37J ins 2007 No. 17 s 9

**Exemption for later power card arrangements for separate area**

prov hdg amd 2004 No. 30 s 8 (retro)

s 44 sub 2007 No. 17 s 10

**Exemption for later power card arrangements for separate domestic area**

s 44A ins 2004 No. 30 s 9 (retro)

om 2007 No. 17 s 10

**Hot water system exemption**

s 47A ins 2004 No. 30 s 10 (retro)

**Public park facility exemption**

s 47B ins 2004 No. 30 s 10 (retro)

**Security lighting exemption**

s 47C ins 2004 No. 30 s 10 (retro)

**Exemption for equipment for medical condition**

s 47D ins 2004 No. 30 s 10 (retro)

**Retirement village common account exemption**

s 47E ins 2004 No. 30 s 10 (retro)

amd 2007 No. 17 s 11

**Building common account exemption (type 1)**

s 47F ins 2004 No. 30 s 10 (retro)

**PART 5—CONTESTABLE SALE ARRANGEMENTS**

pt hdg om 2007 No. 17 s 12

**Division 1—Imposition of levy**

div 1 (ss 64–65) om 2007 No. 17 s 12

**Division 2—Liability for levy**

div 2 (ss 66–68) om 2007 No. 17 s 12

**Division 3—Calculation of levy****div 3 (s 69)** om 2007 No. 17 s 12**Division 4—Exempt contestable sale arrangements generally****div 4 (ss 70–71)** om 2007 No. 17 s 12**Division 5—Particular exemptions****div hdg** om 2007 No. 17 s 12**Pensioner exemption****s 72** om 2007 No. 17 s 12**Farming shed exemption****s 73** om 2007 No. 17 s 12**Pump exemption****s 74** om 2007 No. 17 s 12**Hot water system exemption****s 74A** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Public park facility exemption****s 74B** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Security lighting exemption****s 74C** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Exemption for equipment for medical condition****s 74D** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Retirement village common account exemption****s 74E** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Building common account exemption (type 1)****s 74F** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Building common account exemption (type 2) (2 pensioner occupiers)****s 74G** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Building common account exemption (type 2) (1 pensioner occupier)****s 74H** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Building common account exemption (type 2) (no pensioner occupiers)****s 74I** ins 2004 No. 30 s 11 (retro)  
om 2007 No. 17 s 12**Commonwealth exemption****s 75** om 2007 No. 17 s 12

**State exemption**

s 76 om 2007 No. 17 s 12

**Local government exemption**

s 77 om 2007 No. 17 s 12

**Exemption for religious bodies and other institutions**

s 78 om 2007 No. 17 s 12

**Authorised subcontractors to perform electricity retailer's functions**s 81 sub 2006 No. 42 s 65  
amd 2006 No. 44 s 5**When commissioner's approval not required for contract**

s 81A ins 2006 No. 44 s 6

**When authorised subcontractor not permitted to subcontract under s 81(2)**

s 81B ins 2006 No. 44 s 6

**Administration agreement**

s 82 amd 2006 No. 44 s 7

**Commissioner may perform electricity retailer's obligations**

s 85 amd 2004 No. 30 s 12

**PART 7—PAYMENT, RECOVERY AND REFUNDS OF LEVY****Statement of levy liability**

s 87 amd 2004 No. 30 s 13 (retro); 2007 No. 17 s 13

**Division 2—Notification requirements for customer sale arrangements**

div hdg amd 2007 No. 17 s 14

**Notification requirement for exemption for customer sale arrangement**prov hdg amd 2007 No. 17 s 15(1)  
s 90 amd 2007 No. 17 s 15**Notification requirement for exemption for previous customer sale arrangement**s 90A ins 2004 No. 30 s 14 (retro)  
sub 2007 No. 17 s 16**When notification for exemption for customer sale arrangement taken to have been given**

s 90B ins 2007 No. 17 s 16

**Notification requirement for loss of exemption for customer sale arrangement**prov hdg amd 2007 No. 17 s 17(1)  
s 91 amd 2007 No. 17 s 17**Notification requirement for loss of exemption for previous customer sale arrangement**

s 91A ins 2007 No. 17 s 18

**Special provision for notification of hot water system exemption for power card arrangement instead of s 92(2)**s 92A ins 2004 No. 30 s 15 (retro)  
om 2007 No. 17 s 19

**Special provision for notification of hot water system exemption for power card arrangement instead of s 92(3) and (4)**

s 92B ins 2004 No. 30 s 15 (retro)

**Division 5—Notification requirements for contestable sale arrangements**

div hdg om 2007 No. 17 s 20

**Notification requirement for exemption for contestable sale arrangement**

s 97 om 2007 No. 17 s 20

**Special provision for notification of hot water system exemption for contestable sale arrangement instead of s 97**s 97A ins 2004 No. 30 s 16 (retro)  
om 2007 No. 17 s 20**Notification requirement for loss of exemption for contestable sale arrangement**

s 98 om 2007 No. 17 s 20

**Particular exemptions taken to be notified under div 2, 3 or 4**

prov hdg amd 2007 No. 17 s 21(1)

s 99 amd 2004 No. 30 s 17 (retro); 2007 No. 17 s 21(2)–(3)

**Notification for government exemptions**

s 100 amd 2007 No. 17 s 22

**Voluntary contributions**

s 104 amd 2007 No. 17 s 23

**Requirement to pay shortfall amount for previous customer sale arrangement**

s 105A ins 2007 No. 17 s 24

**Refund of overpaid levy for electricity sale arrangement**

s 107 amd 2007 No. 17 s 25

**Refund of overpaid levy for previous customer sale arrangement**

s 107A ins 2007 No. 17 s 26

**Ability of on-supplier to recover levy amount**

s 120 amd 2004 No. 30 s 18

**Recovery of levy by on-supplier before statement of levy liability**

s 121A ins 2004 No. 30 s 19

**Subsequent recovery entitlements**

s 121B ins 2004 No. 30 s 19

**Division 13—Limitations on levy recovery**

div hdg ins 2004 No. 30 s 20

**Recovery of levy amount prohibited for common account exemptions**

s 124A ins 2004 No. 30 s 20

**Recovery of levy amount from pensioner prohibited for customer sale arrangement**

prov hdg amd 2007 No. 17 s 27(1)

s 124B ins 2004 No. 30 s 20  
amd 2007 No. 17 s 27

**Recovery of levy amount from pensioner prohibited for contestable sale arrangement**

**s 124C** ins 2004 No. 30 s 20  
om 2007 No. 17 s 28

**Who may lodge objection**

**s 127** amd 2004 No. 30 s 21

**Evidentiary provision for statements of levy liability**

**s 148** amd 2004 No. 30 s 22

**Additional ways of giving documents to commissioner**

**s 149** amd 2006 No. 44 s 8

**Giving document if more than 1 electricity customer liable to pay levy amount for electricity sale arrangement**

**s 151** sub 2004 No. 30 s 23

**PART 12—TRANSITIONAL PROVISION FOR ELECTRICITY AND OTHER LEGISLATION AMENDMENT ACT 2006**

**pt hdg** prev pt 12 hdg om R1 (see RA s 7(1)(k))  
pres pt 12 hdg ins 2004 No. 30 s 24 (retro)  
sub 2007 No. 17 s 29

**Negotiated retail contract entered into under the Electricity Act, s 312(2)**

**s 155** prev s 155 exp 29 May 2004 (see s 155(4))  
pres s 155 ins 2007 No. 17 s 29

**PART 13—TRANSITIONAL PROVISIONS FOR COMMUNITY AMBULANCE COVER AND OTHER ACTS AMENDMENT ACT 2007**

**pt hdg** ins 2007 No. 17 s 30

**Definitions for pt 13**

**s 156** orig s 156 om R1 (see RA s 40)  
prev s 156 ins 2004 No. 30 s 24 (retro)  
om 2007 No. 17 s 29  
pres s 156 ins 2007 No. 17 s 30

**When notification for exemption for corresponding arrangements taken to have been given**

**s 157** orig s 157 om R1 (see RA s 40)  
prev s 157 ins 2004 No. 30 s 24  
om 2007 No. 17 s 29  
pres s 157 ins 2007 No. 17 s 30

**Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements**

**s 158** prev s 158 om R1 (see RA s 40)  
pres s 158 ins 2007 No. 17 s 30

**Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—corresponding arrangements**

**s 159** prev s 159 om R1 (see RA s 40)  
pres s 159 ins 2007 No. 17 s 30



**Notification requirement for exemption for standard contract or contestable sale arrangement under pre-amended Act—new arrangements**

s 160 prev s 160 om R1 (see RA s 40)  
pres s 160 ins 2007 No. 17 s 30

**Refund of overpaid levy for standard contract or contestable sale arrangement under pre-amended Act—new arrangements**

s 161 prev s 161 om R1 (see RA s 40)  
pres s 161 ins 2007 No. 17 s 30

**Notification requirement for loss of exemption for standard contract or contestable sale arrangement under pre-amended Act**

s 162 prev s 162 om R1 (see RA s 40)  
pres s 162 ins 2007 No. 17 s 30

**Requirement to pay shortfall amount for standard contract or contestable sale arrangement under pre-amended Act**

s 163 prev s 163 om R1 (see RA s 40)  
pres s 163 ins 2007 No. 17 s 30

**Amendment of s 54 (Regulations)**

s 164 om R1 (see RA s 40)

**Insertion of new pt 8, div 5**

s 165 om R1 (see RA s 40)

**Amendment of schedule (Dictionary)**

s 166 om R1 (see RA s 40)

**PART 13—AMENDMENT OF ELECTRICITY ACT 1994**

pt 13 (ss 167–171) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE—DICTIONARY**

def “**accommodation unit**” ins 2004 No. 30 s 25 (retro)

def “**building common account exemption (type 1)**” ins 2004 No. 30 s 25 (retro)

amd 2007 No. 17 s 31(3)

def “**building common account exemption (type 2)**” ins 2004 No. 30 s 25 (retro)

amd 2007 No. 17 s 31(4)

def “**commencement**” ins 2007 No. 17 s 31(2)

def “**common facility**” ins 2004 No. 30 s 25 (retro)

def “**contestable customer**” om 2007 No. 17 s 31(1)

def “**contestable sale arrangement**” om 2007 No. 17 s 31(1)

def “**customer sale arrangement**” ins 2007 No. 17 s 31(2)

def “**disconnection provisions**” sub 2007 No. 17 s 31(1)–(2)

def “**double unit building**” ins 2004 No. 30 s 25 (retro)

def “**electricity customer**” amd 2007 No. 17 s 31(5)–(6)

def “**electricity sale arrangement**” amd 2007 No. 17 s 31(7)–(8)

def “**equipment**” ins 2004 No. 30 s 25 (retro)

def “**exempt arrangement**” amd 2007 No. 17 s 31(9)–(10)

def “**exempt contestable sale arrangement**” om 2007 No. 17 s 31(1)

def “**exempt customer sale arrangement**” ins 2007 No. 17 s 31(2)

- def “**exempt standard contract**” om 2007 No. 17 s 31(1)  
 def “**former**” ins 2007 No. 17 s 31(2)  
 def “**government exemption**” amd 2007 No. 17 s 31(11)  
 def “**hot water system exemption**” ins 2004 No. 30 s 25 (retro)  
   amd 2007 No. 17 s 31(12)  
 def “**multi-unit building**” ins 2004 No. 30 s 25 (retro)  
 def “**non-contestable customer**” om 2007 No. 17 s 31(1)  
 def “**pensioner**” sub 2007 No. 17 s 31(1)–(2)  
 def “**pensioner exemption**” amd 2007 No. 17 s 31(13)  
 def “**pre-amended Act**” ins 2007 No. 17 s 31(2)  
 def “**primary production**” amd 2006 No. 44 s 9 (retro)  
 def “**public facility**” ins 2004 No. 30 s 25 (retro)  
 def “**public park**” ins 2004 No. 30 s 25 (retro)  
 def “**public park facility**” ins 2004 No. 30 s 25 (retro)  
 def “**pump exemption**” amd 2007 No. 17 s 31(14)  
 def “**relevant contestable customer**” om 2007 No. 17 s 31(1)  
 def “**relevant customer**” ins 2007 No. 17 s 31(2)  
 def “**relevant electricity retailer**” amd 2007 No. 17 s 31(15)–(16)  
 def “**retirement village**” ins 2004 No. 30 s 25 (retro)  
 def “**retirement village common account exemption**” ins 2004 No. 30 s 25  
   (retro)  
   amd 2007 No. 17 s 31(17)  
 def “**security lighting**” ins 2004 No. 30 s 25 (retro)  
 def “**separate domestic area**” ins 2004 No. 30 s 25 (retro)  
 def “**social security beneficiary**” amd 2007 No. 17 s 31(18)  
 def “**standard contract**” om 2007 No. 17 s 31(1)  
 def “**statement of levy liability**” amd 2007 No. 17 s 31(19)

## **7 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

### **Form 1 Version 2—Electricity retailer return**

pubd gaz 16 January 2004 p 132

### **Form 2 Version 2—On-supplier return**

pubd gaz 16 January 2004 p 132

### **Form 3 Version 3—Non-domestic building multiple accounts- exemption application**

pubd gaz 16 January 2004 p 132

### **Form 4 Version 2—Pensioner- exemption application**

pubd gaz 16 January 2004 p 132

### **Form 5 Version 3—Pumps and farming sheds Exemption application**

pubd gaz 14 July 2006 p 1265

**Form 6 Version 2—Religious bodies and other institutions- exemption application**

pubd gaz 16 January 2004 p 132

**Form 7 Version 2—Government- exemption application**

pubd gaz 16 January 2004 p 132

**Form 8 Version 2—Notification for loss of exemption entitlement**

pubd gaz 16 January 2004 p 132

**Form 9 Version 1—Objections**

pubd gaz 16 January 2004 p 132

**Form 10 Version 2—Power card arrangement notification**

pubd gaz 16 January 2004 p 132

## **8 Information about retrospectivity**

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.