

Queensland



# **ELECTRICITY AMENDMENT ACT 1997**

**Act No. 26 of 1997**



# Queensland



## ELECTRICITY AMENDMENT ACT 1997

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Queensland



## **Electricity Amendment Act 1997**

### **Act No. 26 of 1997**

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**An Act to amend the *Electricity Act 1994* and another Act and for other purposes**

*[Assented to 22 May 1997]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Electricity Amendment Act 1997*.

### **Commencement**

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

### **Act amended**

3. This Act amends the *Electricity Act 1994*.

### **Amendment of s 7 (System control)**

4. Section 7(f), ‘supply entities or authorised suppliers’—  
*omit, insert—*  
‘distribution entities or retail entities’.

### **Amendment of s 10 (Network services)**

- 5.(1) Section 10, ‘, supply entities and authorised suppliers’—  
*omit, insert—*  
‘and distribution entities’.
- (2) Section 10, example 3, ‘supply entities or authorised suppliers,’—  
*omit, insert—*  
‘distribution entities,’.

**Amendment of s 12 (Works, substations and operating works)**

6. Section 12(3)(c), ‘supply entity or authorised supplier’—  
*omit, insert—*  
‘distribution entity’.

**Amendment of s 21 (Electricity industry)**

7. Section 21, ‘and supplying’—  
*omit, insert—*  
‘, supplying and selling’.

**Amendment of s 22 (Electricity entities)**

8. Section 22(2)—  
*omit, insert—*  
‘(2) The following entities are the participants in the electricity industry—  
(a) generation entities;  
(b) transmission entities;  
(c) distribution entities;  
(d) retail entities.’.

**Amendment of s 23 (Customers and contestable customers)**

- 9.(1) Section 23, heading—  
*omit, insert—*  
‘**Types of customers**’.
- (2) Section 23—  
*insert—*  
‘(3) A “**non-contestable customer**” is a customer other than a contestable customer.’.

**Amendment of ch 2, pt 5, hdg (Supply entities and their authorities)**

**10.** Chapter 2, part 5, heading, ‘**SUPPLY**’—

*omit, insert—*

‘**DISTRIBUTION**’.

**Replacement of s 37 (Supply entities)**

**11.** Section 37—

*omit, insert—*

**‘Distribution entities**

‘**37.** A “**distribution entity**” is a person who holds a distribution authority.’.

**Replacement of s 38 (Supply entity authorities)**

**12.** Section 38—

*omit, insert—*

**‘Distribution authorities**

‘**38.** A “**distribution authority**” authorises its holder to supply electricity using a supply network within its distribution area.’.

**Replacement of s 39 (Supply area of supply entity)**

**13.** Section 39—

*omit, insert—*

**‘Distribution area of distribution entity**

‘**39.** A distribution entity’s “**distribution area**” is the area stated in its authority as its distribution area.’.

**Replacement of s 40 (Supply of electricity in supply area)**

**14.** Section 40—

*omit, insert—*

**‘Connection and supply of electricity in distribution area**

**‘40.(1)** A distribution entity has an obligation—

- (a) to connect customers’ electrical installations or premises within the distribution entity’s distribution area to the distribution entity’s supply network to allow the supply of electricity from the supply network to the installations or premises; and
- (b) to supply electricity from its supply network to the customers’ electrical installations or premises.

**‘(2)** The obligation—

- (a) only requires the connection and supply of electricity sought by a person in a particular case if it is technically and economically practicable to connect and supply electricity; and
- (b) is subject to a provision in this Act or a regulation that—
  - (i) provides that the obligation does not apply; or
  - (ii) allows for disconnection or refusal to connect or reconnect; and
- (c) arises only if an application is made to the distribution entity by a customer for an electrical installation or premises of the customer within the entity’s distribution area.

**‘(3)** An application may be made by a retail entity acting for a customer.

**‘(4)** If a distribution entity complies with the obligation, then—

- (a) if a customer applied for the connection and supply—the customer and the distribution entity are taken to have entered into the distribution entity’s standard customer connection contract for the connection and supply to the electrical installation or premises; and
- (b) if a retail entity applied for the connection and supply acting for a customer—the retail entity and the distribution entity are taken to have entered into the distribution entity’s standard customer connection contract for the connection and supply to the electrical installation or premises.

**‘(5)** The standard customer connection contract has the effect of a contract under seal between the parties to it under which each party agrees to

observe and perform the contract's provisions so far as they apply to the party.

'(6) Subsections (4) and (5) do not apply if there is a negotiated customer connection contract for the connection and supply of electricity to the relevant electrical installation or premises.

### **'Supply in absence of customer connection contract**

'40AA.(1) If electricity is supplied to a customer's electrical installation or premises and there is no customer connection contract in effect or taken to be in effect for the installation or premises then the relevant retail entity is taken to have—

- (a) entered into a contract with the customer to arrange for the matters mentioned in section 49(1)(b) for the electrical installation or premises on the terms of the retail entity's standard customer sale contract; and
- (b) entered into a contract with the relevant distribution entity on the terms of the relevant distribution entity's standard customer connection contract under which the relevant distribution entity agrees to provide the services mentioned in section 49(1)(b) for the electrical installation or premises.

'(2) In this section—

**"relevant distribution entity"** for an electrical installation or premises, means the distribution entity to whose supply network the electrical installation or premises is connected.

**"relevant retail entity"** for an electrical installation or premises, means—

- (a) if the electricity supplied to the electrical installation or premises is sold under an agreement with a retail entity—that retail entity; or
- (b) otherwise—the retail entity in whose area the electrical installation or premises is located.

### **'Standard customer connection contract**

'40A.(1) A distribution entity must prepare a standard customer connection contract to establish the terms on which it is to provide the

services mentioned in section 40(1).

‘(2) A regulation may prescribe the following for a standard customer connection contract—

- (a) the terms that must be included in the contract;
- (b) when the contract takes effect;
- (c) how the contract may be amended;
- (d) any approvals needed to amend the contract.

‘(3) A standard customer connection contract must not be inconsistent with this Act and is unenforceable to the extent that it is.

‘(4) If a standard customer connection contract is amended after it is made, the contract as amended applies to the parties to it whether the contract was entered into before or after the amendment.

‘(5) To remove doubt, it is declared that a standard customer connection contract may provide for different terms to apply to different types of customer.

#### **‘Approval of first standard customer connection contract by regulator**

‘**40B.** A distribution entity’s first standard customer connection contract must be approved by the regulator and does not take effect until it is approved.

#### **‘Customer connection contracts outside standard form**

‘**40C.(1)** Despite sections 40 and 40A, a customer or retail entity may contract with a distribution entity on terms different from the terms of the distribution entity’s standard customer connection contract.

‘(2) A contract under subsection (1) must not be inconsistent with this Act and is unenforceable to the extent that it is.

#### **‘Connection and supply on nondiscriminatory terms**

‘**40D.(1)** A distribution entity must connect and supply electricity to a customer’s electrical installation or premises within its distribution area on nondiscriminatory terms.

‘(2) For subsection (1), a term is nondiscriminatory if it does not discriminate between the customer and other customers within its distribution area seeking similar connection and supply.

‘(3) A regulation may declare what is or is not discrimination, including, for example, whether or not and, if so, in what circumstances different terms of standard customer connection contracts for different types of customers are discrimination.

### **‘Limitation on obligation to connect and supply**

‘40E. A distribution entity is not obliged to connect or supply electricity to a customer’s electrical installation or premises and it will not be in breach of its customer connection contract for the installation or premises if—

- (a) the connection or supply is, or needs to be, interrupted—
  - (i) in an emergency; or
  - (ii) for work that needs to be performed without delay to prevent an emergency happening; or
  - (iii) by circumstances beyond the distribution entity’s control; or
  - (iv) for work—if it is reasonable to do the work when it is done, reasonable notice is given to the customer and supply is restored as soon as practicable; or
- (b) the connection or supply would breach technical or safety requirements under this Act; or
- (c) the connection or supply would unreasonably interfere with the connection or supply of electricity by the distribution entity to other customers; or
- (d) the connection or supply is denied or limited under an electricity restriction regulation or emergency rationing order; or
- (e) a distribution entity is entitled, under its customer connection contract or under a regulation, to disconnect supply to the customer; or
- (f) after disconnecting supply to something that was unsafe, the thing is still unsafe; or
- (g) the connection or supply is likely to cause fire or electric shock to



anyone; or

- (h) the electricity is to be supplied to premises with a separate source of electricity or energy and the electricity is needed as a stand-by supply only; or
- (i) this Act otherwise authorises refusal to connect or supply (or reconnect or resupply); or
- (j) a regulation provides that the obligation to connect or supply (or reconnect or resupply) does not apply.

#### **‘Obligation to connect and supply subject to authority**

**‘40F.** A distribution entity’s obligation to connect and supply is subject to the conditions of its authority.

#### **‘Disconnection for failure to pay debts**

**‘40G.** A regulation may provide for the disconnection and refusal to connect or reconnect supply of electricity to electrical installations of customers or premises of customers if—

- (a) a customer fails to pay an amount owing to the customer’s distribution entity or breaches the customer connection contract; or
- (b) a customer’s retail entity fails to pay an amount owing to the customer’s distribution entity or breaches the customer connection contract; or
- (c) a customer fails to pay an amount owing to the customer’s retail entity or breaches the customer sale contract with its retail entity and the retail entity requests the distribution entity to disconnect or refuse to connect or reconnect the customer.

#### **‘Contracting out of s 40E, 40G or 97**

**‘40H.(1)** The parties to a negotiated customer connection contract may in the contract agree to vary or exclude the operation of sections 40E, 40G or 97 for the contract.

‘(2) If the sections’ operation is varied or excluded, they do not apply to the contract to the extent agreed.’.

### **Replacement of s 41 (Supply of electricity outside supply area)**

**15.** Section 41—

*omit, insert—*

#### **‘Connection and supply of electricity outside distribution area**

**‘41.(1)** A distribution entity may, if a customer’s electrical installation or premises is outside the distribution entity’s distribution area—

- (a) connect the installation or premises to the entity’s supply network; and
- (b) supply electricity from its supply network to the installation or premises.

**‘(2)** Subsection (1) applies only if the installation or premises—

- (a) is not within another distribution entity’s distribution area; or
- (b) if it is in another distribution entity’s area—
  - (i) but the other distribution entity claims that it is not technically and economically practicable for it to connect and supply electricity to the customer; or
  - (ii) the other distribution entity agrees to the connection and supply.

**‘(3)** However, the distribution entity may connect and supply electricity to the customer only if the connection and supply is not likely to impair its capacity to fulfil its obligation to connect and supply in its own distribution area.’.

### **Amendment of s 42 (Conditions of supply entity authority)**

**16.(1)** Section 42, heading—

*omit, insert—*

**‘Conditions of distribution authority’.**

(2) Section 42, ‘supply entity’—

*omit, insert—*

‘distribution entity’.

(3) Section 42(b)—

*omit, insert—*

‘(b) the entity must operate, maintain (including repair and replace as necessary) and protect its supply network to ensure the adequate, economic, reliable and safe connection and supply of electricity to its customers;’.

(4) Section 42(d), ‘delivery and use of electrical energy’—

*omit, insert—*

‘supply of electrical energy’.

**Amendment of s 43 (Additional condition to allow connection to supply network by complying persons)**

17.(1) Section 43(1)—

*omit, insert—*

‘43.(1) It is also a condition of a distribution authority that the distribution entity must allow, as far as technically and economically practicable, a person to connect supply to its supply network, or take electricity from its supply network, on nondiscriminatory terms, if the conditions stated in subsection (2) are satisfied.’.

(2) Section 43(2)(a)—

*omit, insert—*

‘(a) the person must be a generation entity, a transmission entity or a distribution entity;’.

(3) Section 43(3)(a), ‘supply entity’s’—

*omit, insert—*

‘distribution entity’s’.

**Amendment of s 44 (Additional condition to provide network services)**

**18.** Section 44, ‘supply entity authority that, if the supply entity has a supply network,—

*omit, insert—*

‘distribution authority that’.

**Amendment of s 45 (Additional condition to comply with protocols, standards and codes)**

**19.** Section 45, ‘supply entity authority that the supply entity’—

*omit, insert—*

‘distribution authority that the distribution entity’.

**Replacement of ch 2, pt 6 (Authorised suppliers and their authorities)**

**20.** Chapter 2, part 6—

*omit, insert—*

**‘PART 6—RETAIL ENTITIES AND THEIR AUTHORITIES****‘Retail entities**

**‘46.** A “**retail entity**” is a person who holds a retail authority.

**‘Retail authorities**

**‘47.** A “**retail authority**” authorises its holder to sell electricity to customers.

**‘Retail area of retail entity**

**‘48.** A retail entity’s “**retail area**” is the area stated in its authority as its retail area.

**‘Sale of electricity in retail area**

‘**49.(1)** A retail entity has an obligation—

- (a) to sell electricity to non-contestable customers for the customers’ electrical installations or premises; and
- (b) if requested by the customers, to arrange for—
  - (i) non-contestable customers’ electrical installations or premises to be connected to a supply network to allow the supply of electricity to the non-contestable customers’ electrical installations or premises; and
  - (ii) the supply of electricity from the supply network to the electrical installations or premises.

‘**(2)** The obligation—

- (a) is subject to any provision in this Act or a regulation that provides that the obligation does not apply or allows for refusal to sell; or
- (b) arises only if an application is made to the retail entity by a non-contestable customer for an electrical installation or premises of the customer within the retail entity’s retail area.

‘**(3)** If electricity is supplied to a non-contestable customer’s electrical installation or premises within a retail entity’s retail area, then the electricity is taken to be sold by the retail entity to the non-contestable customer on the terms of the retail entity’s standard customer sale contract.

‘**(4)** The standard customer sale contract has the effect of a contract under seal between the retail entity and the customer under which each party agrees to observe and perform the provisions of the standard customer sale contract so far as those provisions apply to the party.

‘**(5)** Subsections (3) and (4) do not apply if the parties enter into a negotiated customer sale contract for the electrical installation or premises.

**‘Standard customer sale contract**

‘**50.(1)** A retail entity must prepare a standard customer sale contract to establish the terms on which it is to provide the services mentioned in section 49(1) to non-contestable customers.

‘**(2)** A regulation may prescribe the following for a standard customer

sale contract—

- (a) the terms that must be included in the contract;
- (b) when the contract takes effect;
- (c) how the contract may be amended;
- (d) any approvals needed to amend the contract.

‘(3) A standard customer sale contract must not be inconsistent with this Act and is unenforceable to the extent that it is.

‘(4) If a standard customer sale contract is amended after it is made, the contract as amended applies to the parties to it whether the contract was entered into before or after the amendment.

‘(5) To remove doubt, it is declared that a standard customer sale contract may provide for different terms to apply to different types of customer.

#### **‘Approval of first standard customer sale contract by regulator**

‘51. A retail entity’s first standard customer sale contract must be approved by the regulator and does not take effect until it is approved.

#### **‘Customer sale contracts outside standard form**

‘52.(1) Despite sections 49 and 50, a customer and a retail entity may contract on terms different from the terms of the retail entity’s standard customer sale contract.

‘(2) A contract under subsection (1) must not be inconsistent with this Act and is unenforceable to the extent that it is.

#### **‘Limitations on obligation to sell**

‘53. A retail entity does not have an obligation under section 49(1) to non-contestable customers and the retail entity is not in breach of a customer sale contract in relation to an electrical installation or premises of a non-contestable customer if the obligation or contract can not be performed because—

- (a) a distribution entity is not required to connect or supply electricity to the relevant electrical installation or premises under

- sections 40(2)(a) and (b), 40E or 40G; or
- (b) of anything beyond the retail entity's control; or
- (c) a regulation provides that the obligation does not apply.

#### **'Obligation to sell subject to authority**

**'54.** A retail entity's obligations under section 49(1) are subject to the conditions of its authority.

#### **'Disconnection for failure to pay debts**

**'55.** A regulation may provide that a retail entity's obligations under section 49(1) do not apply to a non-contestable customer if the customer—

- (a) fails to pay an amount owing to the non-contestable customer's retail entity or distribution entity; or
- (b) breaches its customer sale contract with the customer's retail entity or its customer connection contract with its distribution entity.

#### **'Electricity must be sold on nondiscriminatory terms**

**'55A.(1)** A retail entity must provide the services mentioned in section 49(1) to a non-contestable customer for an electrical installation or premises within its retail area on nondiscriminatory terms.

**'(2)** For subsection (1), a term is nondiscriminatory if it does not discriminate between the non-contestable customer and other non-contestable customers in relation to their electrical installation or premises within the entity's retail area, seeking a similar provision of services.

**'(3)** A regulation may declare what is or is not discrimination, including, for example, whether or not and, if so, in what circumstances requiring the following, is discrimination—

- (a) different advance payments or security deposits from different customers; or

- (b) different standard customer sale contract terms for different types of customers.

#### **‘Contracting out of s 53, 55 or 97A**

**‘55B.(1)** The parties to a negotiated customer sale contract may in the contract agree to vary or exclude the operation of section 53, 55 or 97A for the contract.

**‘(2)** If the sections’ operation is varied or excluded, they do not apply to the contract to the extent agreed.

#### **‘Sale of electricity outside retail area**

**‘55C.(1)** A retail entity may, if a customer’s electrical installation or premises is outside the retail entity’s retail area—

- (a) sell electricity to the customer for the installation or premises; or
- (b) arrange for—
  - (i) the installation or premises to be connected to a supply network to allow the supply of electricity to the installation or premises; and
  - (ii) the supply of electricity from the supply network to the installation or premises.

**‘(2)** A retail entity may do the things mentioned in subsection (1) only if—

- (a) the customer is a contestable customer; or
- (b) the customer’s electrical installation or premises is not within another retail entity’s retail area; or
- (c) the customer’s electrical installation or premises is in another retail entity’s area, but the other retail entity agrees to electricity being sold to the customer.

#### **‘Conditions of retail authority**

**‘55D.** A retail authority is subject to the following conditions—



- (a) the retail entity must consider both demand side and supply side options to provide, as far as technically and economically practicable, for the efficient use of electrical energy;
- (b) the retail entity must pay the amounts required under the authority or the regulations to administer the authority and its conditions;
- (c) the condition under section 55E;
- (d) conditions imposed under a regulation;
- (e) conditions stated in the authority.

**‘Additional condition to comply with protocols, standards and codes**

‘**55E.** It is also a condition of a retail authority that the retail entity must comply with all protocols, standards and codes applying to the retail entity under a regulation.’.

**Amendment of s 56 (Purpose of special approvals)**

**21.** Section 56, ‘supply entity or authorised supplier’—

*omit, insert—*

‘distribution or retail’.

**Amendment of s 58 (Special approvals)**

**22.** Section 58, ‘supply entity or authorised supplier’—

*omit, insert—*

‘distribution entity or retail entity’.

**Amendment of s 59 (Authorisation given by special approval)**

**23.** Section 59(1), ‘supply entity or authorised supplier’—

*omit, insert—*

‘distribution or retail’.

**Amendment of s 66 (Limitation of electricity officer's powers)**

**24.(1)** Section 66, 'supply area'—

*omit, insert—*

'distribution area'.

**(2)** Section 66—

*insert—*

'(c) if the electricity entity sells electricity—within its retail area or a place where it sells electricity.'

**Omission of ch 2, pt 11 (State electricity entities)**

**25.** Chapter 2, part 11—

*omit.*

**Omission of ch 3 (Obligation to supply)**

**26.** Chapter 3—

*omit.*

**Insertion of new s 88A**

**27.** After section 88—

*insert—*

**'Prohibition on operating supply network unless authorised**

**'88A.(1)** A person must not supply electricity using a supply network unless the person is the holder of a distribution authority.

Maximum penalty—5 000 penalty units.

**'(2)** A person who contravenes subsection (1) may not, for the period of the contravention, take part in trading arrangements or settlement processes under this Act or recover payment for electricity or services provided by it.'

**Replacement of s 89 (Restriction on supply of electricity within supply area)**

**28.** Section 89—

*omit, insert—*

**‘Restriction on sale of electricity**

**‘89.(1)** A person must not sell electricity unless the person is authorised to sell electricity under this Act.

Maximum penalty—100 penalty units.

**‘(2)** A person who contravenes subsection (1) may not, for the period of the contravention, take part in trading arrangements or settlement processes under this Act or recover payment for electricity provided by it.’.

**Amendment of s 92 (System control)**

**29.** Section 92(5)—

*omit, insert—*

**‘(5)** A distribution entity is responsible for network control of its supply network within its distribution area.

**‘(6)** However, a system control entity may give the distribution entity a direction in relation to the switching of parts of the network relevant to the integrity or security of the system control entity’s power system.’.

**Replacement of s 97 (Limitation of liability of supply entity or authorised supplier for failure to provide network services or supply electricity)**

**30.** Section 97—

*omit, insert—*

**‘Limitation of liability of distribution entity for failure to provide network services or to connect and supply electricity**

**‘97.** A distribution entity (the **“entity”**) is civilly liable for total or partial failure to perform its obligations under a customer connection contract only if the failure was caused by—

- (a) the negligence or breach of duty of the entity or a person acting for it; or
- (b) contravention by the entity, or a person acting for it, of this Act or a condition of the entity's authority.

### **'Limitation of liability of retail entity for failure to sell electricity**

**'97A.** A retail entity (the **"entity"**) is civilly liable for total or partial failure to perform its obligations under a customer sale contract only if the failure was caused by—

- (a) the negligence or breach of duty of the entity or a person acting for it; or
- (b) contravention by the entity, or a person acting for it, of this Act or a condition of the entity's authority.'

### **Insertion of new s 116A**

**31.** After section 116—

*insert—*

### **'Authority to create easements over forest land**

**'116A.(1)** Despite the *Forestry Act 1959*, sections 26(1A) and 28(3) but subject to the *Land Act 1994*, section 362, the Governor in Council may, at the request of an electricity entity, authorise the creation of an easement for the entity over forest land for the entity's works, including proposed works.

**'(2)** Section 116(2) and (3) applies to the authority with all necessary changes.

**'(3)** In this section—

**"forest land"** means land that is a State forest or a timber reserve within the meaning of the *Forestry Act 1959*, section 5.'

### **Replacement of s 118 (Supplier may recover amount for electricity supplied to person occupying premises**

**32.** Section 118—

*omit, insert—*

**‘Retail entity may recover amount for electricity sold to a person occupying premises**

**‘118.** If—

- (a) a person occupies premises where electricity sold by a retail entity has been consumed during the person’s occupancy; and
- (b) the retail entity has not been paid for the electricity;

the amount the retail entity is entitled to charge for the electricity is a debt owing by the person to the retail entity.

**‘Distribution entity may recover amount for connection and supply of electricity to a person**

**‘118A.** If—

- (a) a person occupies premises that are connected and supplied with electricity by a distribution entity during the person’s occupancy; and
- (b) the distribution entity has not been paid for the connection and supply;

the amount the distribution entity is entitled to charge for the connection and supply is a debt owing by the person to the distribution entity.’.

**Amendment of s 127 (Advertisement of order)**

**33.** Section 127, ‘A supply entity whose supply area’—

*omit, insert—*

‘A distribution entity whose distribution area’.

**Amendment of s 132 (Grounds for disciplinary action)**

**34.** Section 132(1)(e), ‘supply entity’—

*omit, insert—*

‘distribution entity’.

**Amendment of s 133 (Types of disciplinary action)**

**35.(1)** Section 133(1)(b), ‘supply’—

*omit, insert—*

‘distribution’.

**(2)** Section 133(1)(c)—

*omit, insert—*

‘(c) for a retail entity—cancel or amend its authority for its retail area or part of its retail area.’.

**Amendment of s 137 (Entry to read meters etc.)**

**36.** Section 137, ‘supplied by’—

*omit, insert—*

‘supplied or sold by’.

**Amendment of s 167 (Occupier to give notice of electrical accident)**

**37.** Section 167(2)—

*omit, insert—*

‘(2) The occupier of the place must immediately tell either of the following about the accident unless the occupier has a reasonable excuse—

- (a) the retail entity who has a contract to sell electricity for an electrical installation at the place;
- (b) the distribution entity in whose distribution area the accident happened.

Maximum penalty—8 penalty units.

‘(2A) If the occupier tells the retail entity the retail entity must immediately tell the distribution entity in whose distribution area the accident happened.

Maximum penalty—8 penalty units.’.

**Amendment of s 168 (Licensed electrical contractor to give notice of electrical accident)**

**38.(1)** Section 168(2)—

*omit, insert—*

‘(2) The licensed electrical contractor must immediately tell the distribution entity in whose distribution area the accident happened about the accident.

Maximum penalty—8 penalty units.’.

**(2)** Section 168(3), ‘supplier or’—

*omit, insert—*

‘distribution’.

**Amendment of s 169 (Special approval holders to give notice of electrical accident)**

**39.** Section 169(2)—

*omit, insert—*

‘(2) The special approval holder must immediately tell the distribution entity in whose distribution area the accident happened about the accident.

Maximum penalty—8 penalty units.’.

**Amendment of s 170 (Electricity entity to advise regulator immediately of accident)**

**40.** Section 170(1)(b) ‘supply entity or authorised supplier’—

*omit, insert—*

‘distribution entity’.

**Replacement of ch 9, pt 3, hdg (Supply entity authorities)**

**41.** Chapter 9, part 3, heading—

*omit, insert—*

**‘PART 3—DISTRIBUTION AUTHORITIES’.****Replacement of s 195 (Issue of supply entity authorities)**

**42.** Section 195—

*omit, insert—*

**‘Issue of distribution authorities**

**‘195.(1)** The regulator may issue a distribution authority to a person.

**‘(2)** The authority may state the term of the authority.’.

**Amendment of s 196 (Application for authority)**

**43.(1)** Section 196(1), ‘supply entity’—

*omit, insert—*

‘distribution’.

**(2)** Section 196(1)(b), ‘supply’—

*omit, insert—*

‘distribution’.

**Amendment of s 197 (Consideration of application for authority)**

**44.(1)** Section 197(1), ‘supply entity authority’—

*omit, insert—*

‘distribution authority’.

**(2)** Section 197(7)(b), ‘supply entity authorities’—

*omit, insert—*

‘distribution authorities’.

**(3)** Section 197, ‘supply entity’—

*omit, insert—*

‘distribution entity’.



**Amendment of s 198 (Notice of refusal to issue authority)**

**45.** Section 198, ‘supply entity authority’—

*omit, insert—*

‘distribution authority’.

**Replacement of s 199 (Amendment of supply entity authorities)**

**46.** Section 199—

*omit, insert—*

**‘Amendment of distribution authorities**

‘**199.** The regulator may, with a distribution entity’s agreement, amend its distribution authority.’.

**Replacement of s 200 (Amendment of conditions stated in supply entity authorities)**

**47.** Section 200—

*omit, insert—*

**‘Amendment of conditions stated in distribution authorities**

‘**200.** The regulator may, with a distribution entity’s agreement, amend the conditions stated in its authority.’.

**Replacement of s 201 (Supply entity authorities not transferable)**

**48.** Section 201—

*omit, insert—*

**‘Distribution authorities not transferable**

‘**201.** A distribution authority can not be transferred.’.

**Replacement of s 202 (Surrender of supply entity authorities)**

**49.** Section 202—

*omit, insert—*

**‘Surrender of distribution authorities**

‘**202.** A distribution entity may surrender its authority only with the regulator’s agreement.’

**Replacement of ch 9, pt 4 (Authorised supplier authorities)**

**50.** Chapter 9, part 4—

*omit, insert—*

**‘PART 4—RETAIL AUTHORITIES****‘Issue of retail authorities**

‘**203.(1)** The regulator may issue a retail authority to a person.

‘**(2)** The authority may state the term of the authority.

**‘Application for authority**

‘**204.(1)** An application for the issue of a retail authority must—

- (a) be made to the regulator in the form approved by the regulator; and
- (b) state the proposed retail area; and
- (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.

‘**(2)** If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

**‘Consideration of application for authority**

‘**205.(1)** The regulator must consider an application for the issue of a retail authority and may give, or refuse to give, the authority.

‘**(2)** The regulator may issue the authority only if satisfied—

- (a) the applicant will sell the electricity and perform the services

stated in the application; and

- (b) the applicant is a suitable person to be a retail entity; and
- (c) the applicant meets the additional criteria prescribed under a regulation.

‘(3) In deciding whether the applicant is a suitable person to be a retail entity, the regulator may consider—

- (a) the person’s previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
- (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
- (c) the person’s criminal history; and
- (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
- (e) for the applicant—the applicant’s competence to be a retail entity; and
- (f) additional matters prescribed under a regulation.

‘(4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant’s competence to be a retail entity.

‘(5) In deciding whether to issue the authority, the regulator must consider—

- (a) relevant government policies about energy issues; and
- (b) additional matters prescribed under a regulation.

‘(6) In deciding whether to issue the authority, the regulator may consider additional matters prescribed under a regulation.

‘(7) In deciding whether to issue the authority, the regulator must not consider—

- (a) the applicant’s existing or likely future share of the electricity market; or
- (b) the number of retail authorities in force; or
- (c) additional matters prescribed under a regulation.

**‘Notice of refusal to issue authority**

‘206. If the regulator refuses to issue a retail authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant’s right of appeal.

**‘Amendment of retail authorities**

‘207. The regulator may, with a retail entity’s agreement, amend its retail authority.

**‘Amendment of conditions stated in retail authorities**

‘207A. The regulator may, with a retail entity’s agreement, amend the conditions stated in its authority.

**‘Retail authorities not transferable**

‘207B. A retail authority cannot be transferred.

**‘Surrender of retail authorities**

‘207C. A retail entity may surrender its authority only with the regulator’s agreement.’.

**Insertion of new s 259A**

51. After section 259—

*insert—*

**‘Regulation may declare a State electricity entity**

‘259A. A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for section 256 or 262—

- (a) a GOC;
- (b) a subsidiary of a GOC;
- (c) a government company;

as long as the business, or part of the business, of the relevant entity was, at some time carried on, in whole or in part, by a business unit, division or branch of a State electricity entity or State electricity entities.

### **Insertion of new pt hdg**

**52.** In chapter 14, before section 269—

*insert—*

#### **‘PART 1—PROVISIONS FOR ORIGINAL ACT (1994 No. 64)’.**

### **Insertion of new pt 2**

**53.** After section 288—

*insert—*

#### **‘PART 2—TRANSITIONAL PROVISIONS FOR ELECTRICITY AMENDMENT ACT 1997**

### **‘Continuation of tariffs**

**‘289.(1)** The prices for electricity in force at the commencement continue in force until prices are approved by the Minister after the commencement.

**‘(2)** This section expires 1 year after the commencement.

### **‘Expiry of QGC’s generation authorities**

**‘290.(1)** The following generation authorities (“**old generation authority**”) issued by the regulator to Queensland Generation Corporation expire on a date decided by the Minister—

- (a) the authority dated 18 December 1995 for the Swanbank generation plant;
- (b) the authority 18 December 1995 for the Stanwell generation plant;
- (c) the authority dated 18 December 1995 for the Wivenhoe generation plant;

- (d) the authority dated 18 December 1995 for the Tarong generation plant;
- (e) the authority dated 18 December 1995 and amended on 27 May 1996 for the Callide A and Callide B generation plants;
- (f) the authority dated 18 December 1995 for the Rockhampton generation plant;
- (g) the authority dated 18 December 1995 for the Middle Ridge generation plant;
- (h) the authority dated 18 December 1995 for the Mackay generation plant;
- (i) the authority dated 18 December 1995 for the Kareeya generation plant;
- (j) the authority dated 18 December 1995 for the Barron Gorge generation plant.

‘(2) Subsection (1) applies despite anything to the contrary in an old generation authority.

‘(3) A decision under subsection (1)—

- (a) must be notified by the Minister to the regulator and Queensland Generation Corporation; and
- (b) does not give rise to any claim for compensation by Queensland Generation Corporation or anyone else.

‘(4) This section expires 1 year after the commencement.

### **‘Generation authorities for new generation entities**

‘**291.(1)** As soon as practicable after the commencement of this section, the regulator must issue to each of Queensland Generation Corporation 1, Queensland Generation Corporation 2 and Queensland Generation Corporation 3 (“**generation corporations**”)—

- (a) a generation authority; or
- (b) if separate authorities are to be issued for separate generation plants—a generation authority for each generation plant.

‘(2) The regulator must issue an authority on the terms approved by the

Minister.

‘(3) Subject to the conditions in subsection (4), until each generation corporation is issued with an authority, each corporation is authorised to—

- (a) connect the generation plant approved by the Minister to the transmission grid of Queensland Electricity Transmission Corporation; and
- (b) perform other functions approved by the Minister.

‘(4) An authorisation under subsection (3) is subject to—

- (a) the conditions in sections 27 and 28; and
- (b) the condition that the generation corporation complies with all laws that apply to it; and
- (c) other conditions relating to the connection or operation of the generation corporation’s generation plant that may be notified in writing by the Minister to the generation corporation.

‘(5) This section expires 1 year after the commencement.

#### **‘Expiry of QETC’s transmission authority**

‘292.(1) The transmission authority issued by the regulator to Queensland Electricity Transmission Corporation dated 18 December 1995 (“old QETC authority”) expires on a date decided by the Minister.

‘(2) Subsection (1) applies despite anything to the contrary in the old QETC authority.

‘(3) A decision under subsection (1)—

- (a) must be notified by the Minister to the regulator and Queensland Electricity Transmission Corporation; and
- (b) does not give rise to any claim for compensation by Queensland Electricity Transmission Corporation or anyone else.

‘(4) This section expires 1 year after the commencement.

#### **‘New transmission authority for QETC**

‘293.(1) As soon as practicable after the commencement of this section,

the regulator must issue a new transmission authority to Queensland Electricity Transmission Corporation.

‘(2) The regulator must issue the new transmission authority on the terms approved by the Minister.

‘(3) Subject to the conditions in subsection (4), until Queensland Electricity Transmission Corporation is issued with a new authority under subsection (1), the corporation is authorised to—

- (a) operate the transmission grid in the area stated in the old QETC authority; and
- (b) perform other functions approved by the Minister.

‘(4) An authorisation under subsection (3) is subject to—

- (a) the conditions in sections 31, 32, 33, 34, 35 and 36; and
- (b) the condition that Queensland Electricity Transmission Corporation complies with all laws that apply to it; and
- (c) other conditions relating to the operation of the transmission grid that may be notified in writing by the Minister to Queensland Electricity Transmission Corporation.

‘(5) This section expires 1 year after the commencement.

### ‘Expiry of QTSC’s supply entity authority

‘294.(1) The supply entity authority issued by the regulator to Queensland Transmission and Supply Corporation dated 18 December 1995 and amended on 22 April 1996 expires on a date decided by the Minister.

‘(2) Subsection (1) applies despite anything to the contrary in the supply entity authority.

‘(3) A decision under subsection (1)—

- (a) must be notified by the Minister to the regulator and Queensland Transmission and Supply Corporation; and
- (b) does not give rise to any claim for compensation by Queensland Transmission and Supply Corporation or anyone else.

‘(4) This section expires 1 year after the commencement.



**‘Expiry of State authorised supplier authorities**

**‘295.(1)** The following authorised supplier authorities issued by the Queensland Transmission and Supply Corporation (“**old State authorities**”) expire on a date decided by the Minister—

- (a) the authority issued to South East Queensland Electricity Corporation dated 16 May 1996 and numbered 15/96;
- (b) the authority issued to South West Queensland Electricity Corporation dated 16 May 1996 and numbered 16/96;
- (c) the authority issued to Wide Bay-Burnett Electricity Corporation dated 16 May 1996 and numbered 14/96;
- (d) the authority issued to the Capricornia Electricity Corporation dated 16 May 1996 and numbered 13/96;
- (e) the authority issued to Mackay Electricity Corporation dated 16 May 1996 and numbered 12/96;
- (f) the authority issued to North Queensland Electricity Corporation dated 16 May 1966 and numbered 11/96;
- (g) the authority issued to Far North Queensland Electricity Corporation dated 16 May 1966 and numbered 10/96.

**‘(2)** Subsection (1) applies despite anything to the contrary in an old State authority.

**‘(3)** A decision under subsection (1)—

- (a) must be notified by the Minister to the regulator, Queensland Transmission and Supply Corporation and the relevant State authorised supplier; and
- (b) does not give rise to any claim for compensation by Queensland Transmission and Supply Corporation, a State authorised supplier or anyone else.

**‘(4)** This section expires 1 year after the commencement.

**‘New distribution authorities**

**‘296.(1)** As soon as practicable after the commencement, the regulator

must issue a distribution authority to each of the following corporations (“**distribution corporations**”)—

- (a) South East Queensland Electricity Corporation;
- (b) South West Queensland Electricity Corporation;
- (c) Wide Bay-Burnett Electricity Corporation;
- (d) Capricornia Electricity Corporation;
- (e) Mackay Electricity Corporation;
- (f) North Queensland Electricity Corporation;
- (g) Far North Queensland Electricity Corporation.

‘(2) The regulator must issue a distribution authority on the terms approved by the Minister.

‘(3) Until each distribution corporation is issued with an authority under subsection (1), each corporation is authorised to—

- (a) operate the supply network within the area stated in the corporation’s old State authority, however, the Minister may by notice to the corporation change the area; and
- (b) perform other functions approved by the Minister.

‘(4) An authorisation under subsection (3) is subject to—

- (a) the condition that the corporation complies with all laws that apply to it; and
- (b) other conditions relating to the matters mentioned in subsections (3)(a) or (b) that may be notified by the Minister to the corporation.

‘(5) The Minister may approve a distribution entity’s first standard customer connection contract and if the Minister does so—

- (a) section 40B does not apply to the contract; and
- (b) the contract takes effect on and from the later of—
  - (i) the date specified in the Minister’s approval; or
  - (ii) the date the contract is approved by the Minister.

‘(6) To remove doubt, it is declared that the contract approved by the

Minister is the contract mentioned in sections 40(4) and 40AA(1)(b).

‘(7) This section expires 1 year after the commencement.

**‘New retail authorities**

**‘297.(1)** As soon as practicable after the commencement of this section, the regulator must issue a retail authority to each of the following corporations (“**retail corporations**”)—

- (a) Southern Electricity Retail Corporation;
- (b) Central Electricity Retail Corporation;
- (c) Northern Electricity Retail Corporation.

‘(2) The regulator must issue a retail authority on the terms approved by the Minister.

‘(3) Until each retail corporation is issued with an authority under subsection (1), each corporation is authorised—

- (a) in relation to customers with electrical installations or premises within the area approved by the Minister—
  - (i) to sell electricity to customers for their electrical installations or premises; and
  - (ii) to arrange for—
    - (A) customers’ electrical installations or premises to be connected to a supply network to allow the supply of electricity from the supply network to customers’ electrical installations or premises; and
    - (B) the supply of electricity from the supply network to customers’ electrical installations or premises; and
- (b) in relation to customers outside the area approved by the Minister—to act in accordance with section 55C; and
- (c) to perform other functions approved by the Minister.

‘(4) An authorisation under subsection (3) is subject to—

- (a) the condition that the corporation complies with all laws that apply to it; and

- (b) other conditions relating to the matters mentioned in subsection (3)(a), (b) or (c) that may be notified in writing by the Minister to the corporation.

‘(5) The Minister may approve a retail entity’s first standard customer sale contract and if the Minister does so—

- (a) section 51 does not apply to the contract; and
- (b) the contract takes effect on and from the later of—
  - (i) the date specified in the Minister’s approval; or
  - (ii) the date the contract is approved by the Minister.

‘(6) To remove doubt, it is declared that the contract approved by the Minister is the contract mentioned in sections 40AA(1)(a) and 49(3).

‘(7) This section expires 1 year after the commencement.

#### **‘Dispensing with formal requirements for the issue of interim authorities**

‘298.(1) The Minister may dispense with the requirements of chapter 9 that the Minister considers appropriate for the issue of the interim authorities under sections 291, 293, 296 and 297.

‘(2) This section expires 1 year after the commencement.

#### **‘Directions to State electricity entities**

‘299.(1) A State electricity entity must comply with a direction given to it by the Ministers.

‘(2) A direction must be in writing and signed by the Ministers.

‘(3) The Ministers may only give a direction if they are satisfied that it is necessary or convenient to assist or give effect to the restructuring of the Queensland electricity supply industry or reforms proposed for the Queensland electricity supply industry.

‘(4) The board of a State electricity entity must implement a direction given under subsection (1) but an act or decision of the board is not invalid merely because of a failure to comply with the direction.

‘(5) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for this section—

- (a) a GOC;
- (b) a subsidiary of a GOC;
- (c) a government company;

as long as the business, or part of the business, of the relevant entity was, at some time carried on, in whole or in part, by a business unit, division or branch of a State electricity entity or State electricity entities.

‘(6) In this section—

“**Ministers**” means the Minister who administers this Act and the Minister who administers the *Government Owned Corporations Act 1993*.

#### ‘**Minister may give exemptions from holding a retail authority**

‘300.(1) The Minister may exempt a person or class of person from the requirement to hold a retail authority.

‘(2) The exemption may be given on conditions.

‘(3) A person must not contravene a condition of an exemption applying to the person.

‘(4) This section expires 1 year after the commencement.

#### ‘**Minister’s powers about pricing**

‘301.(1) In this section, examples of “**fixing**” include—

- (a) setting a mechanism for deciding prices; or
- (b) setting maximum prices; or
- (c) setting a mechanism for deciding maximum prices; or
- (d) providing for another person to decide prices or maximum prices;  
or
- (e) any combination of the above.

‘(2) Despite section 93 and without limiting section 299, the Minister may, by written notice to a State electricity entity, fix the prices the entity

must charge for—

- (a) electricity that it sells; or
- (b) any services that it provides.

‘(3) If the Minister fixes a price a State electricity entity must charge for electricity or services, the entity must not charge a different price.

‘(4) A State electricity entity does not discriminate merely because it charges a price fixed by the Minister.

‘(5) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for this section—

- (a) a GOC;
- (b) a subsidiary of a GOC;
- (c) a government company;

as long as the business, or part of the business, of the relevant entity was, at some time carried on, in whole or in part, by a business unit, division or branch of a State electricity entity or State electricity entities.

‘(6) This section expires 1 year after the commencement.

#### ‘QTSC State electricity entity for limited purposes

‘302.(1) Queensland Transmission and Supply Corporation is taken to be a State electricity entity for the purposes only of—

- (a) the arrangements under the *Gladstone Power Station Agreement 1993* and the State agreement under that Act; and
- (b) sections 255, 256, 262, 299 and 301.

‘(2) This section expires 1 year after the commencement.

#### ‘Transitional regulations

‘303.(1) A regulation may make provision for any matter for which this Act does not make provision or sufficient provision and for which—

- (a) it is necessary or convenient to assist or give effect to the restructuring of the Queensland electricity supply industry or reforms proposed for the Queensland electricity supply industry;

or

- (b) it is necessary to provide for the preservation, continuation, termination of any authority or special approval issued under this Act including without limitation any licence or approval that has been preserved or continued by this Act; or
- (c) it is necessary or convenient to assist in giving effect to sections 289 to 302; or
- (d) it is necessary to provide for the preservation of any accrued rights existing before the commencement in relation to the supply of electricity.

‘(2) A regulation under subsection (1) may be given retrospective operation to a date not earlier than the commencement of this section.

‘(3) This section and any regulation made under it expires 1 year after this section commences.’

### **Amendment of sch 1 (Appeals against administrative decisions)**

**54.(1)** Schedule 1, ‘supply entity’—

*omit, insert—*

‘distribution’.

**(2)** Schedule 1, ‘206(1)’ and the entry opposite—

*omit, insert—*

‘205(1)	Refusal to issue retail authority sought by applicant	Supreme
207C	Refusal to agree to surrender of retail authority	Supreme
55D(e)	Stating of conditions in retail entity authority	Supreme’.

### **Amendment of sch 2 (Subject matter for regulations)**

**55.(1)** Schedule 2, clause 1, heading, after ‘supply’—

*insert—*

‘and sale’.

(2) Schedule 2, clause 1, ‘supply,’—

*omit, insert—*

‘supply and sale.’.

(3) Schedule 2, clause 1(f) ‘fees for’—

*omit, insert—*

‘fees for or in relation to’.

### Amendment of sch 5 (Dictionary)

56.(1) Schedule 5, dictionary, definitions “**authorised supplier**”, “**authorised supplier authority**”, “**obligated supplier**”, “**obligation to supply**”, “**State authorised supplier**”, “**State electricity entity**”, “**supply area**”, “**supply entity**” and “**supply entity authority**”—

*omit.*

(2) Schedule 5, dictionary—

*insert—*

“**customer connection contract**” means the contract under which a distribution entity agrees to provide the services mentioned in section 40(1) for a customer’s electrical installation or premises.

“**customer sale contract**” means the contract under which a retail entity agrees to provide the services mentioned in section 49(1) for a customer’s electrical installation or premises.

“**distribution area**” see section 39.

“**distribution authority**” see section 38.

“**distribution entity**” see section 37.

“**government company**” has the meaning given to it in the *Government Owned Corporations Act 1993*.

“**negotiated customer connection contract**” means a contract entered into under section 40C in relation to a customer’s electrical installation or premises, including any amendments of the contract.



**“negotiated customer sale contract”** means a contract entered into under section 52 in relation to a customer’s electrical installation or premises, including any amendments of the contract.

**“non-contestable customer”** see section 23(3).

**“retail area”** see section 48.

**“retail authority”** see section 47.

**“retail entity”** see section 46.

**“standard customer connection contract”** means, for a distribution entity, the standard customer connection contract prepared by the distribution entity under section 40A, including any amendments of the contract.

**“standard customer sale contract”** means, for a retail entity, the standard customer sale contract prepared by the retail entity under section 50, including any amendments of the contract.

**“State electricity entity”** means an electricity entity that is a GOC, a GOC subsidiary or a government company.’.

### **Amended Act—schedule**

**57.** The schedule amends the Act mentioned in it.

**SCHEDULE****AMENDED ACT**

section 57

**BUILDING ACT 1975****1. Section 4(5)(a)(i), ‘Queensland Generation Corporation’—***omit, insert—*

‘a State electricity entity holding a generation authority under the *Electricity Act 1994*’.