



Queensland

# **Electricity and Other Legislation Amendment Act 2006**

**Act No. 60 of 2006**





Queensland

# Electricity and Other Legislation Amendment Act 2006

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Queensland

# Electricity and Other Legislation Amendment Act 2006

## Act No. 60 of 2006

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An Act to amend the *Electricity Act 1994* and the *Gas Supply Act 2003*, and for other purposes

[Assented to 7 December 2006]

**The Parliament of Queensland enacts—****Part 1 Preliminary****1 Short title**

This Act may be cited as the *Electricity and Other Legislation Amendment Act 2006*.

**2 Commencement**

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- part 2 heading
- section 3, to the extent it relates to the amendments under section 51
- section 51
- part 4 heading
- section 58, to the extent it relates to the amendments under section 167
- section 167.

**Part 2 Amendment of Electricity Act 1994****3 Act amended in pt 2**

This part and the schedule amend the *Electricity Act 1994*.

**4 Amendment of s 20J (Maximum charge for metered supply)**

Section 20J, ‘non-contestable customer’—

*omit, insert—*

‘non-market customer’.

## 5 Replacement of ss 23 and 23A

Sections 23 and 23A—

*omit, insert—*

### ‘23 Customers and their types

- ‘(1) A **customer** is a person, including a relevant body corporate, who receives, or wants to receive, a supply of electricity for premises from an electricity entity or special approval holder.
- ‘(2) However, a receiver is only a customer if the receiver’s premises has an electrical installation that, to the reasonable satisfaction of the distribution entity whose distribution area includes the premises, is capable of receiving supply directly from a supply network.
- ‘(3) An **excluded customer** is a customer whose premises are connected, or to be connected, to a supply network that is not connected to the national grid.
- ‘(4) A **small customer**, for premises, is a customer prescribed under a regulation to be a small customer for the premises.
- ‘(5) A regulation made under subsection (4) may prescribe who is a small customer for premises only by reference to a stated consumption threshold.
- ‘(6) A **large customer**, for premises, is a customer other than a small customer for the premises.
- ‘(7) A **market customer**, for premises, is a customer prescribed under a regulation to be a market customer for the premises.
- ‘(8) A **non-market customer**, for premises, is a customer other than a market customer for the premises.
- ‘(9) A **large market customer**, for premises, is a large customer for the premises who is also a market customer for the premises.
- ‘(10) A **large non-market customer**, for premises, is a large customer for the premises who is also a non-market customer for the premises.’.

**6 Amendment of s 27 (Conditions of generation authority)**

- (1) Section 27(b)(iv)—  
*omit.*
- (2) Section 27(b)(v) to (vii)—  
*renumber* as section 27(b)(iv) to (vi).

**7 Amendment of s 31 (Conditions of transmission authority)**

- (1) Section 31(a)(iii)—  
*omit.*
- (2) Section 31(a)(iv) to (vi)—  
*renumber* as section 31(a)(iii) to (v).

**8 Replacement of ss 40–40D**

Sections 40 to 40D—  
*omit, insert—*

**‘Division 2 Applying for and obtaining customer connection services****‘40 Applying for customer connection services**

- ‘(1) A customer who owns or occupies premises may make an application (a *connection services application*) to a distribution entity for the provision of customer connection services to the premises if—
  - (a) the premises are within the entity’s distribution area; and
  - (b) if the customer is not an excluded customer—the premises are NMI premises.
- ‘(2) The application may be made by a retail entity for the customer.
- ‘(3) A connection services application must be made in the way, and give the information, reasonably required, by the distribution entity.

- ‘(4) For subsection (3), a requirement that the application can only be made for the customer by a retail entity is taken to be reasonable.

**‘40A When distribution entity must provide the services**

- ‘(1) This section applies if a customer makes a connection services application for premises.
- ‘(2) The distribution entity to whom the application is made must provide the customer connection services applied for to the premises.
- ‘(3) The obligation is the *connection obligation*.
- ‘(4) The connection obligation is subject to sections 40C and 40D.
- ‘(5) However, the sections do not prevent the distribution entity from lawfully providing the services even though it is not obliged to do so.

**‘40B Information notice for refusal of services**

- ‘(1) This section applies if—
- (a) a customer makes a connection services application; and
  - (b) the distribution entity to whom the application is made decides the connection obligation does not apply for the services applied for.
- ‘(2) The entity must as soon as practicable after, but within 1 month of, receiving the application give the customer an information notice about the decision.

**‘40C Things to which connection obligation is subject**

‘The connection obligation is subject to—

- (a) the other provisions of this part; and
- (b) any authorisation under section 130 for the taking over of the distribution entity’s operations; and
- (c) the retailer of last resort scheme; and

- (d) any relevant electricity restriction regulation or emergency rationing order; and
- (e) the conditions of the distribution entity's distribution authority.

#### **'40D When connection obligation does not apply**

- '(1) The connection obligation does not apply to a distribution entity in relation to a customer if—
  - (a) the customer's connection services application is for supply at a rate more than the maximum capacity of the connection to the entity's supply network; or
  - (b) the customer does not comply with a requirement of the entity to give any of the following—
    - (i) a reasonable advance payment for customer connection services;
    - (ii) a reasonable security or agreement for security for performing the customer's obligations to the entity;
    - (iii) a capital contribution towards the entity's costs incurred, or to be incurred, in extending or increasing the capacity of its supply network to provide the services; or
  - (c) after disconnecting supply under this Act or a connection contract, the entity is not reasonably satisfied the matter that caused the disconnection has been remedied, rectified or fixed; or
  - (d) for supply to premises for which there is an existing agreement with the entity for supply of electricity—
    - (i) the applicant does not agree on similar terms to those that apply for balance of the term of the existing agreement; and
    - (ii) the entity does not otherwise agree; or
  - (e) the customer does not provide and maintain space, equipment, access, facilities or anything else the customer must provide for the services, under this Act or a connection contract; or



*Examples of anything else—*

meters, substations, connection of service lines

- (f) the customer is not a party to a retail contract with a retail entity under which the retail entity provides customer retail services to the customer's premises; or
  - (g) a regulation provides the obligation does not apply.
- '(2) Subsection (1)(b)(iii) does not apply if the customer pays or agrees to pay an amount to the distribution entity for works necessary to increase the maximum capacity to supply the customer at the rate the customer has applied for.
- '(3) The distribution entity must give the customer a reasonable opportunity to pay an amount mentioned in subsection (2).
- '(4) This section does not limit—
- (a) the right to interrupt supply of electricity under a connection contract; or
  - (b) a right or obligation under a connection contract to disconnect premises, or refuse to connect or reconnect premises.

## 'Division 3           **Connection contracts**

### 'Subdivision 1       **Preliminary**

#### '40DA **Distribution contract types**

- '(1) A *connection contract* is any contract under which a distribution entity agrees to provide customer connection services to a customer's premises.
- '(2) A *negotiated connection contract* is a contract entered into under subdivision 3 for the provision of customer connection services to premises.
- '(3) A *standard connection contract* is a connection contract between a customer and a distribution entity the terms of which contract are only the terms provided for under section 40DB(3).

## **‘Subdivision 2      Standard connection contracts**

### **‘40DB Supply if no negotiated connection contract**

- ‘(1) This section applies if—
  - (a) premises are connected to a distribution entity’s supply network; and
  - (b) there is no negotiated connection contract in force for a customer who owns or occupies the premises.
- ‘(2) The customer and the entity are taken to have entered into a standard connection contract for the provision of customer connection services to the premises.
- ‘(3) The terms of the contract are the standard connection contract terms under an industry code that apply to the customer, as the terms are in force from time to time.
- ‘(4) The customer and the entity are taken to have agreed to comply with the terms and to have entered into the contract as a deed.
- ‘(5) The contract is taken to end if—
  - (a) the customer and the entity enter into a negotiated connection contract for the provision of the services and that contract comes into effect; or
  - (b) another customer and the entity enter into, or are taken to have entered into, a connection contract for the premises and that contract has come into effect.
- ‘(6) Subsection (5) does not limit how or when the contract may end.
- ‘(7) The contract does not prevent the customer giving a dispute notice under the QCA Act, section 112.
- ‘(8) This section is subject to the retailer of last resort scheme.

### **‘Subdivision 3 Negotiated connection contracts**

#### **‘40DC Negotiation of connection contract**

- ‘(1) A customer and a distribution entity may enter into a contract for the provision of customer connection services from the entity to the customer’s premises on terms that are different from the standard connection contract terms under an industry code.
- ‘(2) Subsection (1) applies subject to sections 40DD, 40DE and 40DF.

#### **‘40DD General limit on what may be negotiated**

‘A negotiated connection contract must not be inconsistent with this Act or any relevant industry code, and is unenforceable to the extent that it is.

#### **‘40DE Provisions for small customers**

- ‘(1) The section applies to a negotiated connection contract for the provision of customer connection services to a small customer’s premises.
- ‘(2) The contract must comply with all relevant industry code provisions about minimum terms for the provision of customer connection services to small customers.
- ‘(3) The contract is unenforceable to the extent it does not comply with subsection (2).
- ‘(4) If, under subsection (3), a term of the contract is unenforceable because it conflicts with a minimum term provision mentioned in subsection (2), the minimum term is taken to be a term of the contract.

#### **‘40DF Provisions for large customers**

- ‘(1) The section applies to a negotiated connection contract for the provision of customer connection services to a large customer’s premises.

- ‘(2) The contract must provide for the provision of the services on fair and reasonable terms.
- ‘(3) The services are taken to be provided on fair and reasonable terms if the contract is consistent with relevant industry code provisions about minimum terms for the provision of customer connection services to small customers.

## **‘Division 4                    General provisions about customer connection services’.**

### **9                    Amendment of s 40E (Limitation on obligation to connect and supply)**

- (1) Section 40E, before subsection (1)(a)—

*omit, insert—*

### **‘40E                    Limitation on connection obligation**

- ‘(1) The connection obligation does not apply in relation to a customer’s premises and a distribution entity is not in breach of a connection contract if the obligation or contract can not be performed because—’.
- (2) Section 40E(1)(a), (b), and (g), ‘the connection or supply’—  
*omit, insert—*  
‘connection, reconnection or supply to the premises’.
- (3) Section 40E(1)(c), (d) and (e)—  
*omit, insert—*
  - ‘(c) the connection, reconnection or supply to the premises would unreasonably interfere with the connection, reconnection or supply of electricity by the distribution entity to the premises of other customers; or
  - (d) the distribution entity has, at the request of the customer’s retail entity, disconnected or not reconnected supply to the premises; or
  - (e) the distribution entity is, under its connection contract, entitled to disconnect supply to the customer; or’.

- (4) Section 40E(1)(h) and (i), ‘or supply (or reconnect or resupply)’—

*omit, insert—*

‘, reconnect or supply’.

- (5) Section 40E(2), ‘connection or supply’—

*omit, insert—*

‘connection, reconnection or supply’.

## **10 Omission of ss 40F and 40G**

Sections 40F and 40G—

*omit.*

## **11 Amendment of s 41 (Connection and supply of electricity outside distribution area)**

- (1) Section 41(1), ‘electrical installation or’—

*omit.*

- (2) Section 41(1) and (2)(a), ‘is’—

*omit, insert—*

‘are’.

- (3) Section 41(1)(a) and (b) and (2), ‘installation or’—

*omit.*

- (4) Section 41(2)(b), ‘if it is’—

*omit, insert—*

‘if they are’.

## **12 Amendment of s 42 (Conditions of distribution authority)**

- (1) Section 42(a)(ii)—

*omit.*

- (2) Section 42(a)(iii) to (v)—

*renumber* as section 42(a)(ii) to (iv).

(3) Section 42—

*insert—*

‘(f) the entity must pay any amount that, under the *Energy Ombudsman Act 2006*, it must pay the energy ombudsman.’

### **13 Replacement of ss 48–55C**

Sections 48 to 55C—

*omit, insert—*

#### **‘48 Retail area of retail entity**

‘(1) A retail authority may be issued for a particular area stated in the authority (a *retail area*) or for no particular area.

‘(2) A retail area may consist of either or both of the following—

(a) 1 or more discrete geographical areas;

(b) particular premises.

‘(3) A retail authority stating a retail area consisting of particular premises may describe the premises in the way the regulator considers appropriate including, for example, the street address or national metering identifier for the premises.

#### **‘48A What a retail authority authorises**

‘(1) Unless otherwise provided for under this part, a retail authority that states a retail area authorises its holder to provide customer retail services to any customer in the State, including an excluded customer whose premises are in the retail area.

‘(2) A retail authority without a retail area authorises its holder to provide customer retail services to any customer in the State, other than an excluded customer.

‘(3) The authorisation under subsection (1) or (2) is subject to the provisions of the retail authority.

**‘48B Restriction on providing customer retail service to excluded customer’s premises**

‘A retail entity must not provide customer retail services to an excluded customer’s premises, unless—

- (a) the entity is the area retail entity for the premises; or
- (b) the provision of the services is authorised or required under the retailer of last resort scheme.

Maximum penalty—500 penalty units.

**‘Division 2 Applying for and obtaining customer retail services**

**‘48C Application**

- ‘(1) A customer who owns or occupies premises may make an application (a *retail services application*) to a retail entity for the provision of customer retail services to the premises.
- ‘(2) However, if the customer is other than an excluded customer, the customer can only make a retail services application for the premises if the premises are NMI premises.
- ‘(3) Also, if the customer is an excluded customer for the premises, the customer can only make a retail services application to the area retail entity for the premises.
- ‘(4) A retail services application must be made in the way, and give the information, reasonably required, by the retail entity.

**‘48D When area retail entity must provide the services to an applicant**

- ‘(1) This section applies if—
  - (a) a customer makes a retail services application for premises to the area retail entity for the premises; and
  - (b) the customer is not a large market customer.
- ‘(2) The retail entity must provide the customer retail services applied for to the premises if—
  - (a) the customer is a small customer for the premises and—

- (i) the entity is the financially responsible retail entity for the premises; or
- (ii) the premises are not physically connected to a supply network; or
- (b) the customer is a large customer for the premises and—
  - (i) both of the following apply—
    - (A) the entity is the financially responsible retail entity for the premises;
    - (B) the customer who owned or occupied the premises immediately before the applicant was a non-market customer for the premises; or
  - (ii) the premises have never been physically connected to a supply network.

*Note—*

For retail contracts for the services and their terms, see division 3.

- ‘(3) A regulation may, for subsection (2)(b), provide for the circumstances in which premises are not, or have never been, physically connected to a supply network.
- ‘(4) In this section—

*physically connected* for premises means the premises has an electrical connection between the supply network and a meter at the premises, whether or not they have been energised.

#### ‘48E **When non-area retail entity must provide the services to an applicant**

- ‘(1) This section applies if—
  - (a) a customer makes a retail services application for premises to a retail entity who is not the area retail entity for the premises; and
  - (b) the customer is a small customer for the premises; and
  - (c) the entity is the financially responsible retail entity for the premises; and



- (d) the customer is not an excluded customer for the premises.
- ‘(2) The entity must provide the customer retail services applied for to the premises.

*Note—*

Generally, in the absence of a negotiated retail contract, a standard retail contract is taken to exist between the entity and the small customer. See sections 51 and 52.

#### **‘48F Retail obligation**

- ‘(1) A retail entity’s obligation under section 48D or 48E is the *retail obligation*.
- ‘(2) The retail obligation is subject to sections 48H and 48I.
- ‘(3) However, the sections do not prevent the retail entity from lawfully providing customer retail services even though it is not obliged to do so.

#### **‘48G Information notice for refusal of services to small customer**

- ‘(1) This section applies if—
  - (a) a customer makes a retail services application to a retail entity under section 48D or 48E; and
  - (b) the retail entity to whom the application is made decides the retail obligation does not apply for the services applied for.
- ‘(2) The entity must as soon as practicable after, but within 1 month of, receiving the application give the customer an information notice about the decision.

#### **‘48H Things to which retail obligation is subject**

‘The retail obligation is subject to—

- (a) the other provisions of this part; and
- (b) any authorisation under section 130 for the taking over of the retail entity’s operations; and

- (c) the retailer of last resort scheme; and
- (d) any relevant electricity restriction regulation emergency rationing order; and
- (e) the conditions of the entity's retail authority; and
- (f) any relevant provision of an industry code about customer transfers or cooling-off periods for the provision of customer retail services.

**'48I When retail obligation does not apply**

- '(1) The retail obligation does not apply to a retail entity in relation to a customer if—
  - (a) the customer does not comply with a requirement of the entity to give either of the following—
    - (i) a reasonable advance payment for customer retail services;
    - (ii) a reasonable security or agreement for security for performing the customer's obligations to the entity; or
  - (b) the entity has, under a retail contract, asked the customer's distribution entity to disconnect supply and the entity is not reasonably satisfied the matter that caused it to ask for the disconnection has been remedied, rectified or fixed; or
  - (c) the connection obligation does not apply to a distribution entity in relation to the customer's premises; or
  - (d) a circumstance beyond the entity's control prevents it from providing customer retail services to the customer; or
  - (e) a regulation provides the obligation does not apply.
- '(2) Subsection (1) does not limit—
  - (a) a retail entity's right under the retail contract to ask the distribution entity to interrupt the supply of electricity; or

- (b) the entity's right or obligation under a retail contract; to—
  - (i) ask the customer's distribution entity to disconnect premises, or refuse to connect or reconnect premises; or
  - (ii) refuse to provide customer retail services.

## **'Division 3           Retail contracts**

### **'Subdivision 1       Preliminary**

#### **'49     Retail contract types**

- '(1) A *retail contract* is any contract under which a retail entity agrees to provide customer retail services to a customer's premises.
- '(2) A *negotiated retail contract* is a retail contract entered into under subdivision 3 for the provision of customer retail services to a customer's premises.
- '(3) A *standard retail contract* is a retail contract taken, under section 51(2), to have been entered into between a small customer and a retail entity the terms of which contract are only the terms provided for under section 52.
- '(4) A *standard large customer retail contract* is a retail contract taken, under section 51(3), to have been entered into between a large customer and a retail entity the terms of which contract are only the terms provided for under sections 52 to 55.

### **'Subdivision 2       Retail contract if no negotiated retail contract**

#### **'50     Application of sdiv 2**

- '(1) This subdivision applies if—
  - (a) a customer has made a retail services application for premises to a retail entity; and

- (b) the retail obligation applies to the retail entity; and
  - (c) the premises are connected to a supply network; and
  - (d) the retail entity provides the customer retail services applied for, in accordance with the application; and
  - (e) there is no negotiated retail contract in force between the entity and the customer in relation to the premises.
- ‘(2) This subdivision also applies if—
- (a) a customer’s premises are connected to a supply network without the customer having made a retail services application for the premises; and
  - (b) there is no negotiated retail contract in force between a retail entity and the customer in relation to the premises.

**‘51 Retail contract with financially responsible retail entity**

- ‘(1) The customer is taken to have entered into a retail contract with the financially responsible retail entity for the premises for the provision of customer retail services to the premises.
- ‘(2) If the customer is a small customer for the premises, the contract is a standard retail contract.
- ‘(3) If the customer is a large customer for the premises, the contract is a standard large customer retail contract.
- ‘(4) This section is subject to the retailer of last resort scheme.

**‘52 Terms of contract**

- ‘(1) The terms of the contract are the following terms to the extent they apply to the customer as they are in force from time to time—
- (a) for a standard retail contract—the standard retail contract terms under an industry code;
  - (b) for a standard large customer retail contract—the entity’s terms under sections 53 and 54.

- ‘(2) The customer and the financially responsible retail entity are taken to have agreed to comply with the terms and to have entered into the contract as a deed.
- ‘(3) The contract is taken to end if—
  - (a) the customer and the retail entity enter into a negotiated retail contract for the provision of the services and that contract comes into effect; or
  - (b) another retail entity becomes the financially responsible retail entity for the premises; or
  - (c) the retail entity commences the provision of customer retail services under a retail contract to another customer at the premises.
- ‘(4) Section (3) does not limit how or when the contract may end.

**‘53 Making or amending terms of standard large customer retail contract**

- ‘(1) Subject to section 54, the terms of a retail entity’s standard large customer retail contract are the terms made by the entity and as amended by it from time to time.
- ‘(2) On making or amending the terms, the retail entity must—
  - (a) publish the terms or amended terms on its website; and
  - (b) give QCA a copy of the terms or amended terms; and
  - (c) give each of its large customers a written notice stating that it has made or amended the terms and that the terms as made or amended may be inspected on its website.
- ‘(3) The terms or amended terms take effect only when the retail entity complies with subsection (2)(a) and (b) in relation to the terms or amended terms.
- ‘(4) If a customer becomes a large customer of the retail entity under a standard large customer retail contract, the entity must, as soon as practicable, give the customer a written notice that the terms of the entity’s standard large customer retail contract may be inspected on its website.

**‘54 Required and permitted terms of standard large customer retail contract**

- ‘(1) This section applies for a retail entity’s terms or amended terms of a standard large customer retail contract to which it is a party (the *standard terms*).
- ‘(2) The standard terms must—
- (a) provide that the retail entity’s charges for the provision of services that are, or relate to, customer retail services to large non-market customers are only the notified prices; and
- Note—*
- The notified prices are only required for small and large non-market customers. For large market customers, see subsection (4)(a) and subdivision 3.
- (b) provide for the provision of the services on a fair and reasonable basis.
- ‘(3) To remove any doubt, it is declared that subsection (2)(a) does not prevent the standard terms from charging or passing on non-DUOS charges under section 90.
- ‘(4) Subject to subsection (2), the standard terms may—
- (a) also include prices, or a methodology to fix the prices, for the provision by the entity of customer retail services to its large market customers; and
  - (b) be different for stated types of large customers; and
  - (c) be contained in a different document for any of the types.
- ‘(5) Subject to any regulation made under subsection (6), the services are taken to be provided on a fair and reasonable basis if the standard terms are consistent with relevant industry code provisions about minimum terms for the provision of customer retail services to small customers.
- ‘(6) A regulation may declare what is or is not fair and reasonable or not unfair or unreasonable, in relation to large non-market customers for subsection (2)(b), including, for example whether or not and, if so, in what circumstances requiring the following, is fair and reasonable—

- (a) different advance payments or security deposits from different large non-market customers;
- (b) different terms for different types of large non-market customers.

## **'55 Charging for GST under standard contract**

- '(1) This section applies if—
  - (a) there are notified prices for a retail entity; and
  - (b) the notification for the prices includes a GST statement; and
  - (c) the entity provides customer retail services under a standard contract; and
  - (d) the entity charges the customer the notified prices.
- '(2) If the GST statement provides that the notified prices exclude GST, the entity may also charge the customer an amount for GST for providing the services.
- '(3) If the GST statement provides that the notified prices exclude the net GST effect, the entity may also charge the customer the net GST effect for providing the service.
- '(4) The customer must pay any amount charged under subsection (2) or (3).
- '(5) To remove any doubt, it is declared that this section does not prevent the entity from charging, under a standard contract, an amount for GST for goods or for any services that are not customer retail services.
- '(6) Subsections (1) to (5) are taken to be terms of a standard contract.
- '(7) This section applies despite any other provision of this subdivision.
- '(8) In this section—  
*standard contract* means a standard retail contract or standard large customer retail contract.

### **‘Subdivision 3 Negotiated retail contracts**

#### **‘55A Negotiation of retail contract**

- ‘(1) A customer and a retail entity may enter into a contract for the provision of customer retail services from the entity to the customer’s premises on terms that are different to terms of the entity’s standard retail contract or standard large customer retail contract.
- ‘(2) Subsection (1) applies subject to sections 55B and 55C.

#### **‘55B General limit on what may be negotiated**

‘A negotiated retail contract must not be inconsistent with this Act or any relevant industry code, and is unenforceable to the extent that it is.

#### **‘55C Provisions for small customers**

- ‘(1) This section applies to a negotiated retail contract for the provision of customer retail services to a small customer’s premises.
- ‘(2) The contract must comply with all relevant industry code provisions about minimum terms for the provision of customer retail services to small customers.
- ‘(3) The contract is unenforceable to the extent it does not comply with subsection (2).
- ‘(4) If, under subsection (3), a term of the contract is unenforceable because it conflicts with a minimum term provision mentioned in subsection (2), the minimum term is taken to be a term of the contract.

### **‘Division 4 Conditions of retail authorities’.**

#### **14 Amendment of s 55D (Conditions of retail authority)**

Section 55D(d) and (e)—

*omit, insert—*



- ‘(d) the retail entity must, under section 53, make the terms of its standard large customer retail contract;
- (e) the retail entity must pay any amount that, under the *Energy Ombudsman Act 2006*, it must pay the energy ombudsman;’.

## 15 Insertion of new s 55DA

After section 55D—

*insert—*

### ‘55DA Additional condition about community services agreement

- ‘(1) It is also a condition of a retail authority that—
  - (a) the retail entity must not provide customer retail services unless it has entered into an agreement with the State to provide, for at least 5 years, the community services—
    - (i) agreed between the State and the entity; or
    - (ii) failing agreement, as decided by the Minister; and

*Examples of community services—*

    - pensioner rebate and drought relief schemes for customer retail services
  - (b) the retail entity must comply with the agreement.
- ‘(2) In making the decision, the Minister must have regard to the retail entity’s reasonable administration costs and other risks in providing the community services.
- ‘(3) An agreement under subsection (1) does not affect—
  - (a) the levy; or
  - (b) the levy amount paid or payable by a person; or
  - (c) the collection of a levy amount; or
  - (d) the collection of an amount for electricity, if the dispute arises, in substance, from the collection of a levy amount.
- ‘(4) In this section—

*levy* means the community ambulance cover levy under the Ambulance Cover Act.

*levy amount* means a levy amount under the Ambulance Cover Act.’.

## **16 Insertion of new s 55G and new ch 2, pt 6A**

After section 55F—

*insert—*

### **‘55G Restriction on Ergon Energy and its subsidiaries**

- ‘(1) This section imposes conditions on a retail authority held by the GOC Ergon Energy or any of its subsidiaries (the *retailer*).
- ‘(2) The retailer must not enter into any negotiated retail contract.  
Maximum penalty—500 penalty units.
- ‘(3) The retailer can only provide customer retail services to a customer for premises if the retailer is an area retail entity for the premises and any of the following apply—
  - (a) on the day this section commences, the customer was a non-market customer of the retailer for the premises;
  - (b) the retail obligation applies in relation to the premises;
  - (c) the retailer is the financially responsible retail entity for the premises and the customer was a small customer for the premises and becomes a large customer for the premises;
  - (d) the retailer is the financially responsible retail entity for the premises and the premises are—
    - (i) in the retailer’s retail area; and
    - (ii) connected to a supply network without the customer having made a retail services application for the premises to the retailer.

Maximum penalty—500 penalty units.

- ‘(4) However, subsection (3) does not apply if the retailer provides customer retail services to a customer and the customer is required to be transferred to the retailer to correct an

erroneous transfer, completed under the National Electricity Rules, from the retailer to another retail entity.

- ‘(5) Also, it is a defence to a proceeding under subsection (3) if, because of information given by the customer, the retailer reasonably believed that the retail obligation applied in relation to the premises.

## **‘Part 6A                      Coordination agreements    between distribution and retail    entities**

### **‘55H    Negotiation of coordination agreement**

- ‘(1) A distribution entity and a retail entity may enter into a written agreement about protocols under which they agree to help each other perform their functions under—
- (a) this Act or another Act or law relating to electricity that applies in the State; or
  - (b) a procedure or protocol made under an Act or law mentioned in paragraph (a).
- ‘(2) The agreement may be different from the coordination agreement provided for under an industry code.

### **‘55I    Standard coordination agreement**

- ‘(1) This section applies if—
- (a) a distribution entity and a retail entity have common customers; and
  - (b) an agreement under section 55H is not in force between the entities.
- ‘(2) The entities are taken to have entered into an agreement on the terms of the standard coordination agreement provided for under an industry code.

- ‘(3) The entities are taken to have agreed to comply with the terms and to have entered into the agreement as a deed.’.

**17 Amendment of s 60 (Conditions of special approval)**

- (1) Section 60(1)—

*insert—*

‘(c) the holder must pay any amount that, under the *Energy Ombudsman Act 2006*, the holder must pay the energy ombudsman.’.

- (2) Section 60(2)—

*omit.*

- (3) Section 60(3)—

*renumber* as section 60(2).

**18 Amendment of s 63 (Functions)**

- (1) Section 63(1)(b) to (e)—

*omit, insert—*

‘(b) to assist in the settlement of disputes arising under chapter 4, part 6, between electricity entities and between electricity entities and public entities; and

(c) to monitor compliance with the conditions of approvals, authorities and licences under this Act; and’.

- (2) Section 63(1)(f)—

*renumber* as section 63(1)(d).

**19 Omission of ch 2, pt 8, divs 2 and 3 and pts 8A and 8B**

Chapter 2, part 8, divisions 2 and 3 and parts 8A and 8B—

*omit.*

**20 Insertion of new ch 4, pt 2, div 1, hdg**

Before section 89A—

*insert—*

**‘Division 1                    Provisions for Mount Isa–Cloncurry  
supply network’.**

**21        Insertion of new ch 4, pt 2, div 2, hdg**

After section 89B—

*insert—*

**‘Division 2                    General provisions for notified  
prices’.**

**22        Amendment of s 90 (Deciding prices for non-contestable  
customers)**

(1) Section 90(2) to (7)—

*renumber* as section 90(4) to (9).

(2) Section 90, heading and subsection(1)—

*omit, insert—*

**‘90        Deciding prices for non-market customers**

‘(1) The Minister must, for each tariff year, decide the prices, or the methodology for fixing the prices, that a retail entity may charge its non-market customers for all or any of the following—

(a) customer retail services;

(b) DUOS charges;

(c) charges or fees relating to customer retail services;

*Examples—*

• charges or fees for late or dishonoured payments

• credit card surcharges for payments for the services

(d) other goods and services prescribed under a regulation.

‘(2) The prices or methodology decided under subsection (1) must be in the form of a tariff schedule.

‘(2A) To remove any doubt, the following is declared for decisions under subsection (1)—

- (a) they may be made from time to time and not just once a year;
- (b) a tariff from the tariff schedule for the previous tariff year may be added to, removed or changed;
- (c) they can not be made for non-DUOS charges.
- ‘(3) The Minister may delegate to QCA all or any of the Minister’s functions under subsection (1).’.
- (3) Section 90(5), as renumbered, from ‘consider’—  
*omit, insert—*  
‘comply with any indexation required under division 3.’.
- (4) Section 90—  
*insert—*
- ‘(10) In this section—  
***DUOS charges*** means distribution use of system charges for the use of a shared supply network.  
***non-DUOS charges*** means charges of a distribution entity, approved by the jurisdictional regulator under the National Electricity (Queensland) Law, that—
- (a) are referable to a specific customer or retail entity request; and
- (b) do not include DUOS charges.
- Examples of non-DUOS charges—*
- a deenergisation or disconnection fee
  - a reconnection fee
  - a meter test fee’.

## 23 Amendment of s 91 (Retail entities charging for GST)

- (1) Section 91, ‘non-contestable customers’—  
*omit, insert—*  
‘non-market customers’.
- (2) Section 91(5), ‘standard customer sale contract’—  
*omit, insert—*

‘standard retail contract or standard large customer retail contract’.

**24 Amendment of s 91A (Retail entity must comply with notification or direction)**

Section 91A(2), ‘non-contestable customers’—

*omit, insert—*

‘non-market customers’.

**25 Insertion of new ch 4, pt 2, div 3**

After section 91A—

*insert—*

**‘Division 3 Annual indexation**

**‘Subdivision 1 Preliminary**

**‘91B Operation and application of div 3**

- ‘(1) This division requires the annual indexation of tariffs in the current tariff schedule to the extent the tariffs, or components of the tariffs, will continue to apply in the next tariff year (the *relevant tariff year*).
- ‘(2) However, indexation under this division only applies to—
- (a) customer retail charges; and
  - (b) DUOS charges under section 90.
- ‘(3) Also, this division does not prevent the pricing entity from, under section 90, adding to, removing or changing a tariff when indexation is required under this division.
- ‘(4) Each tariff indexed under this division applies from the start of the relevant tariff year.

**‘91C Definitions for div 3**

‘In this division—

*benchmark retail cost element* see section 91G(2).

*c/kWh* means cents per kilowatt hour.

*current tariff schedule* means the tariff schedule under section 90 for notified prices for the current tariff year.

*NEM load*, of the State, means the State's NEM load, as worked out under section 91F.

*relevant tariff year* see section 91B(1).

## 'Subdivision 2      Indexation formula for relevant tariff year

### '91D      Indexation formula

- '(1) Each tariff in the current tariff schedule must be indexed by applying the following formula—

$$T_y = T_{y-1} \times B_y / B_{y-1}$$

where—

$T_y$  is the tariff component for the relevant tariff year.

$T_{y-1}$  is the relevant tariff component for the preceding tariff year.

$B_y$  is the benchmark retail cost index for the relevant tariff year, as worked out under subdivision 3.

$B_{y-1}$  is the benchmark retail cost index for the preceding tariff year.

- '(2) For subsection (1), the benchmark retail cost index for the preceding tariff year is worked out under subdivision 3 as if a reference in the subdivision to the relevant tariff year were a reference to the preceding tariff year.

- '(3) In this section—

*tariff component*, for the relevant tariff year, means each separate charge or fee stated in the notified prices that applies for a particular tariff category.



*Examples of tariff components—*

service fees, demand charges, energy charges, annual payments and minimum payments

### **‘Subdivision 3      Benchmark retail cost index for relevant tariff year**

#### **‘91E      Benchmark retail cost index**

‘The benchmark retail cost index for the relevant tariff year is the index, expressed in c/kWh, for the State, worked out by applying the following formula—

$$\mathbf{B = R/L}$$

where—

*B* is the benchmark retail cost index for the year.

*R* is the total benchmark retail cost for the year.

*L* is all of the NEM load of the State for the year.

#### **‘91F      Working out NEM load**

- ‘(1) The pricing entity must work out the State’s NEM load for the relevant tariff year.
- ‘(2) The NEM load is the pricing entity’s view of the total of the loads for the State supplied at each transmission connection point to a supply network, as adjusted for any matter prescribed under a regulation.
- ‘(3) The total must be expressed in kWh.
- ‘(4) The pricing entity must consult with interested persons about the methodology it proposes to use to form the view.
- ‘(5) In this section—

*transmission connection point* means a Queensland transmission network connection point as defined under the National Electricity Rules.

**‘91G Total benchmark retail cost**

- ‘(1) For section 91E, the total benchmark retail cost, expressed as c/kWh, for the relevant tariff year is the estimated total cost of supplying customers in the State during that year, as worked out by the pricing entity.
- ‘(2) The total cost must be the total of each of the following (each a *benchmark retail cost element*) as fixed by the entity—
  - (a) the cost of energy, as worked out under section 92;
  - (b) network costs, as worked out under section 93;
  - (c) retail costs, as worked out under section 94;
  - (d) any other relevant costs the pricing entity considers relevant.
- ‘(3) In fixing a benchmark retail cost element other than network costs, the pricing entity must consult with interested persons in the way prescribed under a regulation.
- ‘(4) The working out of any particular benchmark retail cost element is subject to any relevant fixed principle.
- ‘(5) If the fixed principle is inconsistent with the operation of a section stated in subsection (2), the principle prevails to the extent of the inconsistency.

**‘92 Cost of energy**

- ‘(1) The cost of energy must reflect the pricing entity’s view of the likely total of the costs to be incurred during the relevant tariff year to purchase energy to supply all of the NEM load of the State for the relevant tariff year.
- ‘(2) The view must be based on the pricing entity’s most recent estimate of the long run marginal cost of energy in the part of the State connected to the national grid, after taking into account—
  - (a) the 13% gas scheme under chapter 5A; and
  - (b) the scheme under the *Renewable Energy (Electricity) Act 2000* (Cwlth).

- '(3) The estimate must take into account the most efficient combination of generating plant to supply all of the NEM load of the State for relevant tariff year.
- '(4) Unless the cost of energy is subject to a fixed principle, the long run marginal cost estimate must be prepared at least every 3 years.
- '(5) Subsection (4) does not prevent the pricing entity preparing the long run marginal cost estimate more frequently.
- '(6) In estimating the long run marginal cost, the pricing entity must comply with any methodology prescribed under a regulation.

### **'93 Network costs**

- '(1) The network costs must reflect the pricing entity's view of the likely total revenue requirements for the relevant tariff year for transmission entities and distribution entities in the State.
- '(2) In forming the view the pricing entity must comply with any methodology prescribed under a regulation.

### **'94 Retail costs**

- '(1) The retail costs must reflect the pricing entity's view of the likely cost of providing customer retail services to Queensland customers connected to the national grid, based on an efficient entity carrying on an electricity retail business that meets all of the following criteria—
  - (a) it is carried on separately from any other business;
  - (b) it has a significant market share of the State's electricity retail market;
  - (c) it provides customer retail services to a cross-section of customers;
  - (d) it earns a reasonable retail margin.
- '(2) In forming the view the pricing entity must comply with any methodology prescribed under a regulation.

**‘Subdivision 4      Miscellaneous provisions****‘95      Fixing of future principles for benchmark retail cost element**

- ‘(1) The pricing entity may, in deciding notified prices for the relevant tariff year, fix principles to apply for a benchmark retail cost element.

*Example of a fixed principle—*

The Minister may decide that, for the next 2 tariff years, the retail costs for the years must be a stated amount of c/kWh, escalated at 100% of the CPI for the preceding year.

- ‘(2) The decision must state the tariff years for which the principles are to apply.

**‘96      Gazettal of indexed prices**

- ‘(1) The pricing entity must ensure notified prices indexed under this division are gazetted at least 1 month before the relevant tariff year starts.
- ‘(2) However, a failure to comply with subsection (1) does not invalidate or otherwise affect the indexation.’.

**26      Amendment of s 118 (Retail entity may recover amount for electricity sold to a person occupying premises)**

- (1) Section 118, heading—

*omit, insert—*

**‘118      Financially responsible retail entity may recover amount for electricity consumed by person occupying premises’.**

- (2) Section 118(a), ‘sold by a retail entity’—

*omit.*

- (3) Section 118, ‘retail entity’—

*omit, insert—*

‘financially responsible retail entity’.

**27 Omission of ss 119 and 119A**

Sections 119 and 119A—

*omit.*

**28 Amendment of s 120AA (Regulator's powers concerning audit of compliance with Act etc.)**

(1) Section 120AA(3)—

*renumber* as section 120AA(4).

(2) Section 120AA(2)—

*omit, insert—*

‘(2) The notice may state terms of reference for carrying out the audit.

‘(3) The regulator may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the entity or holder if—

(a) the regulator reasonably considers that the person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit; or

(b) the entity or holder does not comply with a notice given to it under the subsection.’.

(3) Section 120AA(4), as renumbered, ‘(2)’—

*omit, insert—*

‘(3)’.

**29 Amendment of s 120AC (Independent auditor may require reasonable help or information)**

(1) Section 120AC(2)—

*insert—*

‘Maximum penalty—1000 penalty units.’.

(2) Section 120AC, note—

*omit.*

**30 Replacement of ch 5, pts 1A–1C**

Chapter 5, parts 1A to 1C—

*omit, insert—*

**‘Part 1A Industry codes****‘Division 1 Preliminary****‘120A Definition for pt 1A**

‘In this part—

*electricity entity* includes a special approval holder.

**‘Division 2 Initial industry codes****‘120B Making of initial industry codes by Minister**

‘(1) The Minister may make initial industry codes to apply to all or any of the following and their customers—

- (a) distribution entities;
- (b) retail entities;
- (c) special approval holders authorised to carry out activities for which a distribution authority or retail authority would otherwise be required under this Act.

‘(2) A code must state the electricity entities to which it applies.

‘(3) A code is not subordinate legislation.

*Note—*

QCA must keep a register of industry codes and publish them on its website. See section 254B and the QCA Act, sections 227A to 227C.

**‘120C Specific matters for which code may provide**

‘(1) Without limiting section 120B, an initial industry code may provide for all or any of the following—

- (a) the rights and obligations of distribution entities, retail entities and customers about customer connection services and customer retail services, including, for example—
  - (i) their rights and obligations in relation to the disconnection or reconnection of the services; and
  - (ii) rights of compensation for a contravention of an obligation mentioned in subparagraph (i);
- (b) minimum service standards for electricity supply to be met by distribution entities;
- (c) the service levels to be provided by distribution entities and retail entities to customers;
- (d) the payment of amounts by distribution entities to affected customers for failure to provide a stated service level;
- (e) the preparation, by a distribution entity, of plans about the operation and management of the entity's supply network;
- (f) the terms of standard connection contracts and standard retail contracts;
- (g) a standard coordination agreement for distribution entities and retail entities under which they will help each other perform their functions under—
  - (i) this Act or another Act or law relating to electricity that applies in the State; or
  - (ii) a procedure or protocol made under an Act or law mentioned in subparagraph (i);
- (h) minimum requirements for distribution entities and retail entities in dealing with customer complaints;
- (i) minimum terms for negotiated connection contracts or negotiated retail contracts for small customers, including permitted departures from the terms;
- (j) protecting small customers entering into negotiated retail contracts, including imposing cooling-off periods;
- (k) requirements for obtaining consent of small customers to enter into negotiated retail contracts;

- (l) marketing conduct of retail entities to small customers;
- (m) metering;
- (n) public lighting;
- (o) customer transfers.

‘(2) In this section—

*distribution entity* includes a special approval holder authorised to carry out activities for which a distribution authority would otherwise be required under this Act.

*retail entity* includes a special approval holder authorised to carry out activities for which a retail authority would otherwise be required under this Act.

#### **‘120D Gazettal and taking of effect of code**

- ‘(1) The Minister must, as soon as practicable after making an initial industry code, publish a gazette notice stating the Minister has made the code and where it may be inspected.
- ‘(2) The code takes effect on the later of the following days—
  - (a) a day of effect stated in the gazette notice;
  - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

#### **‘120E Tabling of code**

- ‘(1) Within 14 days after an initial industry code takes effect, the Minister must table a copy in the Legislative Assembly.
- ‘(2) The copy is tabled for information only.
- ‘(3) A failure to table the copy does not affect the code’s ongoing effect.



## **‘Division 3                    QCA industry codes**

### **‘120F QCA may make industry code**

- ‘(1) Subject to sections 120G and 120H, QCA may make industry codes.
- ‘(2) However, a code made by QCA has no effect unless it is approved by the Minister.
- ‘(3) A code may provide for any matter that may be provided for under an initial industry code.
- ‘(4) Sections 120B and 120C apply to the making of an industry code by QCA as if the code were an initial industry code.

### **‘120G QCA code objective**

- ‘(1) The objective (the *QCA code objective*) of an industry code made by QCA is to promote efficient investment in, and efficient use of, electricity services for the long-term interests of Queensland customers about—
  - (a) price, quality, reliability and security of supply of electricity; and
  - (b) the reliability, safety and security of the Queensland electricity system.
- ‘(2) QCA may make an industry code only if it is satisfied the code will, or is likely to, contribute to the achievement of the QCA code objective.
- ‘(3) In this section—  
*electricity services* means electricity services as defined under the National Electricity (Queensland) Law.

### **‘120H Required consultation**

- ‘(1) This section applies if QCA proposes to make an industry code, unless QCA considers the code—
  - (a) is needed urgently; or
  - (b) does not materially affect anyone’s interests.

- ‘(2) Before QCA makes the industry code it must prepare a draft of the code and engage in the consultation prescribed under a regulation.

#### **‘120I Ministerial approval**

- ‘(1) QCA must, as soon as practicable after making an industry code, give the Minister a copy.
- ‘(2) The Minister may, within 20 business days after receiving the code, decide whether to approve it.
- ‘(3) The Minister must, in making the decision, have regard to the QCA code objective.
- ‘(4) If the decision is not to approve the code, the Minister must, as soon as practicable after the making of the decision, give QCA a notice stating the decision, and the reasons for it.
- ‘(5) If the Minister does not make the decision within the 20 business days, the Minister is taken to have approved the code.

#### **‘120J When approved QCA industry code takes effect**

- ‘(1) This section applies for an industry code made by QCA only if the Minister approves the code.
- ‘(2) QCA must, as soon as practicable after the approval, publish a gazette notice stating the Minister has approved the code and where it may be inspected.
- ‘(3) The code takes effect on the later of the following days—
  - (a) a day of effect stated in the gazette notice;
  - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

#### **‘120K Tabling of QCA industry code**

- ‘(1) If an industry code made by QCA takes effect, the Minister must, within 14 sitting days, table a copy of the code in the Legislative Assembly.
- ‘(2) The copy is tabled for information only.

- ‘(3) A failure to table the copy does not affect the code’s ongoing effect.

## **‘Division 4                    Review of industry codes and related matters**

### **‘120L Direction by Minister to review**

- ‘(1) The Minister may, by gazette notice, give QCA a written direction to conduct a review into—
- (a) any matter relating to the Queensland electricity market; or
  - (b) the operation and effectiveness of an industry code; or
  - (c) any matter relating to an industry code.
- ‘(2) QCA must comply with the direction.
- ‘(3) QCA must publish the direction on its website.

### **‘120M Terms of reference**

‘The direction may do all or any of the following—

- (a) state the terms of reference of the review;
- (b) require QCA to give the Minister a report on the review within a stated period;
- (c) require QCA to make the report publicly available or available to a stated entity;
- (d) require QCA to, during the review, make a draft report publicly available or available to a stated entity;
- (e) require QCA to, in conducting the review—
  - (i) consider stated matters; and
  - (ii) have stated objectives;
- (f) give QCA other directions the Minister considers appropriate.

**‘120N Notice of review or amended term of reference or direction**

‘QCA must publish a notice of the following on its website and in a Statewide newspaper—

- (a) the review;
- (b) if a term of reference or direction relating to the review is amended—the amended term of reference or direction.

**‘120O Conduct of review**

‘(1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the review—

- (a) as if a reference in the applied part to an investigation were a reference to the review; and
- (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review; and
- (c) with other necessary changes.

‘(2) However, the applied part applies subject to any requirement or direction of the Minister.

‘(3) Any definitions under the QCA Act relevant to the applied part also applies.

**‘Division 5 Amending Industry codes****‘120P Amending code**

‘(1) QCA may amend an industry code.

‘(2) Division 3 applies to the amendment—

- (a) as if a reference in the division to making the code were a reference to the making of the amendment; and

- (b) as if a reference in the division to the code were a reference to the amendment; and
- (c) with other necessary changes.

## **‘Division 6            Enforcing industry codes**

### **‘Subdivision 1        Code contravention notices**

#### **‘120Q Application of sdiv 1**

‘This subdivision applies if QCA suspects—

- (a) an electricity entity—
  - (i) has contravened, or is contravening, an industry code; or
  - (ii) is involved in an activity that is likely to result in a contravention of an industry code; and
- (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code.

#### **‘120R Criteria for deciding material contravention**

- ‘(1) This section applies to the making of any decision under this part about whether a contravention of an industry code is a material contravention of the code.
- ‘(2) Regard must be had to the QCA code objective.
- ‘(3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.

#### **‘120S Warning notice may be given**

- ‘(1) QCA may give the electricity entity a notice (the *warning notice*) warning the entity that QCA proposes to give the entity a further notice about the contravention or likely contravention (a *code contravention notice*).

- ‘(2) QCA must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion.
- ‘(3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent code contravention notice.
- ‘(4) Despite subsections (2) and (3), if the warning notice is proposed to be given for a contravention, it can only be given within 2 years after the day on which the contravention happened.

#### ‘120T Requirements for warning notice

- ‘(1) The warning notice must state each of the following—
  - (a) particulars of the contravention or likely contravention;
  - (b) that QCA proposes to give the electricity entity a code contravention notice unless the entity—
    - (i) takes steps reasonably necessary to remedy the contravention or avoid the likely contravention; and
    - (ii) gives QCA a written assurance (a **conduct assurance**), in the terms stated in the warning notice, that the entity will—
      - (A) avoid any similar future contravention; and
      - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
  - (c) a period (the **warning period**) after which the code contravention notice may be given unless the warning notice is complied with;
  - (d) that the entity may make, within the period, written submissions to show why the proposed code contravention notice should not be given.
- ‘(2) The warning period must be—
  - (a) if the warning notice is given because QCA considers the contravention or likely contravention is of a type that

requires urgent action—a period that QCA considers is reasonable in the circumstances; or

(b) otherwise—at least 20 business days.

‘(3) The warning notice may also state the steps QCA reasonably believes are necessary to remedy the contravention or avoid its future recurrence, or avoid the likely contravention.

*Examples of steps that may remedy a contravention—*

- refunding an amount wrongly paid because of the contravention
- paying compensation to someone who has damage, injury or loss because of the contravention
- disclosing particular information
- publishing advertisements about the contravention or action to remedy it

### **‘120U Considering submissions on warning notice**

‘(1) QCA must consider any written submission made under section 120T(1)(d) by the electricity entity within the period stated in the warning notice.

‘(2) If QCA at any time decides not to give the proposed code contravention notice, it must, as soon as practicable, give the electricity entity notice of the decision.

### **‘120V Giving of code contravention notice**

‘(1) QCA may give the proposed code contravention notice if—

- (a) the electricity entity has not complied with the warning notice; and
- (b) after complying with section 120U, QCA still believes the code contravention notice ought to be given.

‘(2) The code contravention notice must state—

- (a) that the electricity entity—
  - (i) has contravened, or is contravening, an industry code; or
  - (ii) is likely to contravene an industry code; and

- (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code; and
  - (c) particulars of the contravention or likely contravention.
- ‘(3) Subsection (4) applies if the warning notice was given on the basis of a contravention of the industry code and the electricity entity—
- (a) has taken steps reasonably necessary to remedy the contravention; but
  - (b) has not given the conduct assurance required under the warning notice.
- ‘(4) QCA may give the code contravention notice on the basis that the electricity entity is still involved in an activity that is, or is likely to result in, a material contravention of the industry code.

*Note—*

Under section 251A, a certified copy of a conduct notice is, for a proceeding under or relating to this Act, amongst other things, evidence of the contravention or other things stated in it.

### **‘120W Duration of code contravention notice**

‘The code contravention notice—

- (a) comes into effect—
  - (i) when it is made; or
  - (ii) if it states a later time—at the later time; and
- (b) ends—
  - (i) on the day stated in the notice; or
  - (ii) if it is cancelled before that day—when it is cancelled.



## **‘Subdivision 2 Proceedings**

### **‘120X Proceeding for civil penalty order**

- ‘(1) This section applies if, on the application of QCA, the Supreme Court is satisfied an electricity entity has—
- (a) committed a material contravention of an industry code; or
  - (b) attempted to a commit a material contravention of an industry code; or
  - (c) been involved in a material contravention of an industry code.
- ‘(2) The court may order the entity to pay the State as a civil penalty an amount of no more than—
- (a) for an individual—\$100000; or
  - (b) for a corporation—\$500000.
- ‘(3) In fixing the penalty, the court must consider—
- (a) the nature and extent of—
    - (i) the contravention; and
    - (ii) loss or damage suffered because of the contravention; and
  - (b) the circumstances in which the contravention took place; and
  - (c) whether the entity has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.
- ‘(4) For subsection (1)(c), an electricity entity is involved in a contravention if the entity —
- (a) has aided, abetted, counselled or procured the contravention; or
  - (b) has induced the contravention, whether through threats, promises or in another way; or

- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

*Note—*

See also chapter 11, part 1A (Provisions for civil penalty proceedings).

### **‘120Y How order enforced**

‘If the Supreme Court orders payment of an amount under section 120X(2), the State may enforce the order as a judgment of the court for a debt of that amount.

### **‘120Z Injunctions**

- ‘(1) The Supreme Court may, on the application of QCA, grant an injunction if satisfied an electricity entity has engaged or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
  - (a) a contravention of an industry code;
  - (b) attempting to contravene an industry code;
  - (c) aiding, abetting, counselling or procuring an electricity entity to contravene an industry code;
  - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, an electricity entity to contravene an industry code;
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by an electricity entity of an industry code;
  - (f) conspiring with others to contravene an industry code.
- ‘(2) An injunction may be granted on conditions.
- ‘(3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied an electricity entity has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
- ‘(4) The court may grant an interim injunction pending its decision on the application.

- ‘(5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- ‘(6) The court may amend an injunction or interim injunction.
- ‘(7) An injunction or interim injunction restraining an electricity entity from engaging in conduct may be granted whether or not—
  - (a) it appears to the court that the entity intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) the entity has previously engaged in conduct of that kind; and
  - (c) there is an imminent danger of substantial damage to another person if the person engages in conduct of that kind.
- ‘(8) An injunction or interim injunction requiring an electricity entity to do an act or thing may be granted whether or not—
  - (a) it appears to the court that the entity intends to fail again, or to continue to fail, to do that act or thing; and
  - (b) the entity has previously failed to do the act or thing; and
  - (c) there is an imminent danger of substantial damage to another person if the entity does not do the act or thing.

#### **‘120ZA Conduct by directors, servants or agents**

- ‘(1) This section applies to a proceeding under this subdivision.
- ‘(2) If—
  - (a) the proceeding concerns alleged conduct engaged in by an electricity entity to which an industry code applies; and
  - (b) it is necessary to prove the entity’s state of mind;it is enough to prove that a director, servant or agent (a *representative*) of the entity, acting within the scope of the representative’s actual or apparent authority, had the state of mind.

- ‘(3) Conduct engaged in for an electricity entity by the following persons is taken to have been engaged in by the entity—
- (a) a representative of the entity, acting within the scope of the representative’s actual or apparent authority;
  - (b) another person at the direction, or with the consent or agreement, of a representative of the entity, if the giving of the direction, consent or agreement was within the scope of the representative’s actual or apparent authority.
- ‘(4) Conduct engaged in for an electricity entity by the following persons is taken to have been engaged in by the entity—
- (a) a servant or agent of the entity, acting within the scope of the servant’s or agent’s actual or apparent authority;
  - (b) another person at the direction or with the consent or agreement, of a servant or agent of the entity, if the giving of the direction, consent or agreement was within the scope of the servant’s or agent’s actual or apparent authority.
- ‘(5) In this section—
- consent or agreement* includes an implied consent or agreement.
- state of mind*, of a person, may include—
- (a) knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person’s reasons for the person’s intention, opinion, belief or purpose.

### ‘Subdivision 3 Referrals to regulator

#### ‘120ZB When QCA must refer material contravention

‘If the Supreme Court decides a contravention of an industry code by an electricity entity is a material contravention of the code, QCA must refer the matter to the regulator.

*Note—*

For the action the regulator may take, see section 133.

**‘120ZC When QCA may refer material contravention**

- ‘(1) If QCA has given an electricity entity a warning notice for a material contravention or likely material contravention of an industry code, QCA may refer the matter to the regulator.
- ‘(2) The referral may be made whether or not a code contravention notice has been given for, or a proceeding started under this division about, the contravention or likely contravention.

*Note—*

If QCA has applied for a civil penalty order under section 120X, section 133 prevents the regulator from imposing a similar penalty.

- ‘(3) However, the matter can not be referred before the giving of the warning notice.

**‘120ZD Guidelines for exercise of QCA powers for civil penalties**

- ‘(1) QCA must publish on its website guidelines about when it will do each of the following—
  - (a) under section 120X, apply for a civil penalty order;
  - (b) under section 120ZB, refer matters to the regulator.
- ‘(2) Before publishing the guidelines, QCA must take steps it considers appropriate to consult with electricity entities.
- ‘(3) The guidelines are not legally binding on QCA and are non-justiciable.
- ‘(4) The guidelines must include information to the effect of subsection (3).

**‘Subdivision 4 Production of documents or information****‘120ZE Notice to produce documents or information**

- ‘(1) This section applies if QCA is conducting an investigation to find out whether an electricity entity is complying with an industry code.

- ‘(2) QCA may, by written notice to the entity, require it to give QCA the following things QCA believes, on reasonable grounds, are relevant to the investigation—
- (a) information within the entity’s knowledge or possession;
  - (b) documents in the entity’s custody, possession or power.
- ‘(3) The notice must state—
- (a) the information or documents required; and
  - (b) a period in which the documents or information are to be given of no less than 7 days; and
  - (c) a reasonable place at which the documents or information are to be given.
- ‘(4) The entity must comply with the notice, unless it has a reasonable excuse.
- Maximum penalty—500 penalty units.
- ‘(5) An electricity entity is not required to comply with the notice if it claims, on the ground of self-incrimination, a privilege the entity would be entitled to claim against giving the information were the entity a witness in a prosecution for an offence in the Supreme Court.
- ‘(6) If the entity claims that complying with the notice may tend to incriminate it, QCA or the entity may make an application to the Supreme Court to decide the validity of the claim.

### **‘120ZF Disclosure of information to regulator**

- ‘(1) This section applies if an electricity entity gives QCA written information about the entity under this Act, the *Electricity–National Scheme (Queensland) Act 1997* or the National Electricity Rules.
- ‘(2) QCA must disclose the information to the regulator if—
- (a) the regulator requests the disclosure for performing the regulator’s functions; and
  - (b) the entity—
    - (i) consents to the disclosure; or

- (ii) is required, under the entity's approval or authority, to consent to the disclosure.

### **'120ZG Protection of confidential information given for investigation**

- '(1) This section applies if—
  - (a) QCA is conducting an investigation to find out whether an electricity entity is complying with an industry code; and
  - (b) the electricity entity gives QCA information for the purpose of the investigation, whether or not the giving of the information was required under section 120ZE.
- '(2) Subject to section 120ZF, the QCA Act, section 187 applies as if the information had been made available for an investigation under that Act.
- '(3) In this section—  
*information* includes a document.

## **'Subdivision 5 Audits**

### **'120ZH QCA's powers concerning audit of compliance with industry code**

- '(1) QCA may, by written notice to an electricity entity, require the entity to—
  - (a) carry out an internal audit of all or any of the following—
    - (i) the entity's compliance with an industry code, either generally or about a stated particular matter or matters;
    - (ii) the reliability and quality of information given by the entity to QCA, under this Act; or
  - (b) appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).

- ‘(2) The notice may state terms of reference for carrying out the audit.
- ‘(3) QCA may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the entity if—
- (a) the entity does not comply with a notice given to it under the subsection; or
  - (b) QCA reasonably considers that a person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit.
- ‘(4) A person may be appointed as an independent auditor under subsection (1)(b) or (3) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

#### **‘120ZI Responsibility for cost of audit**

- ‘(1) An electricity entity required under section 120ZH(1) to carry out, or appoint an independent auditor to carry out, an audit is responsible for the cost of the audit.
- ‘(2) If QCA appoints an independent auditor to carry out an audit concerning an electricity entity, the entity must reimburse QCA for the cost of the audit if required to do so by QCA.

#### **‘120ZJ Independent auditor may require reasonable help or information**

- ‘(1) An independent auditor appointed under section 120ZH to carry out an audit concerning an electricity entity may require the entity to give the auditor—
- (a) reasonable help to carry out the audit; or  
*Examples—*
    - access to the entity’s premises and records
    - help from the entity’s employees
  - (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.



- ‘(2) An electricity entity required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the entity has a reasonable excuse.

Maximum penalty—1000 penalty units.

- ‘(3) If the entity is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

### **‘120ZK Audit report and submissions on report**

- ‘(1) An electricity entity required under section 120ZH(1) to carry out, or appoint an independent auditor to carry out, an audit must give a copy of the audit report to QCA.
- ‘(2) The copy must be given as soon as practicable after the audit is completed.
- ‘(3) If QCA appoints an independent auditor to carry out an audit concerning an electricity entity, QCA must give the entity—
- (a) a copy of the draft audit report and an opportunity to make submissions to QCA on the draft report; and
  - (b) a copy of the final audit report and an opportunity to make further submissions to QCA on the final report.’.

### **31 Amendment of s 131A (Retailer of last resort scheme)**

- (1) Section 131A(3)(e), from ‘regulated’, first mention to ‘connection contract’—  
*omit, insert—*  
‘regulated default retail contract’.
- (2) Section 131A(3)(e), ‘either of’—  
*omit.*
- (3) Section 131A(3)(f)(ii) and (iv), ‘customer sale’—  
*omit, insert—*  
‘retail’.
- (4) Section 131A(3)(f)(iii) and (v)—

*omit.*

- (5) Section 131A(3)(f)(iv)—  
*renumber* as section 131A(3)(f)(iii).
- (6) Section 131A(3)(g), ‘the regulator’—  
*omit, insert*—  
‘QCA’.

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

- (1) Section 133(2), ‘contravention of the conduct rules’—  
*omit, insert*—  
‘material contravention of an industry code’.
- (2) Section 133(2), ‘the QCA.’—  
*omit, insert*—  
‘QCA, whether or not a proceeding has been started in relation to the contravention.’
- Note*—  
For when QCA must or may make the referral, see sections 120ZB and 120ZC.’.
- (3) Section 133(3)—  
*omit.*
- (4) Section 133(4), after ‘Electrical Safety Act’—  
*insert*—  
‘, the *Energy Ombudsman Act 2006*, an industry code’.
- (5) Section 133(4), from ‘penalty of’—  
*omit, insert*—  
‘a civil penalty of not more than the amount of 1333 penalty units for each contravention.’

*Note*—

See also chapter 11, part 1A (Provisions for civil penalty proceedings).’.

- (6) Section 133(4)—

*renumber* as section 133(3).

(7) Section 133—

*insert*—

‘(4) However, if the contravention is a contravention of an industry code, subsection (3) only applies if QCA has not applied for a civil penalty order under section 120X.’.

(8) Section 133(5), ‘subsection (4)’—

*omit, insert*—

‘subsection (3)’.

**33 Amendment of s 135HX (Electricity sold under retailer of last resort scheme or similar scheme)**

(1) Section 135HX(1), from ‘under a’—

*omit, insert*—

‘under the retailer of last resort scheme.’.

(2) Section 135HX(2)(a), ‘customer sale contract’—

*omit, insert*—

‘retail contract’.

**34 Replacement of s 135HY (Electricity sold under s 49A(2) contract)**

Section 135HY—

*omit, insert*—

**‘135HY Electricity sold under particular standard large customer retail contracts**

‘(1) This section applies if—

(a) under section 51, an area retail entity is taken to have entered into a standard large customer retail contract with a customer; and

(b) the retailer must, under section 48D, provide customer retail services to the customer because of the circumstances mentioned in section 48D(2)(b)(ii).

- ‘(2) An electricity load sold under the contract is a non-liable load if it is supplied within 3 months after the contract was taken to have been entered into.’.

### **35 Amendment of s 203 (Issue of retail authorities)**

Section 203—

*insert—*

- ‘(5) The regulator must not issue a retail authority without a retail area to the GOC Ergon Energy or any subsidiary of Ergon Energy.’.

### **36 Amendment of s 204 (Application for authority)**

Section 204(1)(b)—

*omit, insert—*

- ‘(b) if the application is for a retail authority with a retail area—state the proposed retail area; and’.

### **37 Amendment of s 214 (Who may apply for review etc.)**

Section 214(1), from ‘to the regulator’—

*omit, insert—*

‘to the following entity (the *reviewer*) for a review of the decision—

- (a) for a decision mentioned in section 40B or 48G about a connection services application or retail services application by a large customer—QCA;
- (b) for another decision mentioned in schedule 1—the regulator.’.

### **38 Amendment of s 215 (Applying for review)**

Section 215(3), ‘regulator’—

*omit, insert—*

‘reviewer’.

**39 Amendment of s 216 (Stay of operation of decision etc.)**

- (1) Section 216(4), ‘regulator’—  
*omit, insert—*  
‘reviewer’.
- (2) Section 216(4), ‘regulator’s’—  
*omit, insert—*  
‘reviewer’s’.

**40 Amendment of s 218 (Decision on reconsideration)**

- (1) Section 218, ‘regulator’—  
*omit, insert—*  
‘reviewer’.
- (2) Section 218(5), ‘regulator’s’—  
*omit, insert—*  
‘reviewer’s’.

**41 Amendment of s 219 (Who may make an appeal)**

Section 219, ‘regulator’—  
*omit, insert—*  
‘reviewer’.

**42 Amendment of s 220 (Making appeals)**

Section 220(1), ‘regulator’—  
*omit, insert—*  
‘reviewer’.

**43 Amendment of s 221 (Starting appeals)**

Section 221(2), ‘regulator’—  
*omit, insert—*  
‘reviewer’.

**44 Insertion of new ch 11, pt 1A**

Chapter 11, before part 1—

*insert—*

**‘Part 1A Provisions for civil penalty proceedings****‘244A Relationship with criminal proceedings**

- ‘(1) This section applies if—
- (a) action (the *civil penalty proceeding*) is taken against or in relation to a person, consisting of—
    - (i) an application under section 120X for a civil penalty order; or
    - (ii) a referral under section 120ZC to the regulator and any decision in relation to the referral that involves the imposition of a civil penalty; and
  - (b) a criminal proceeding has been started, or has already been started, against the person for an offence; and
  - (c) the conduct that constitutes the offence is the same, or substantially the same, as the conduct the subject of the civil penalty proceeding.
- ‘(2) The civil penalty proceeding must be stayed or not continued.
- ‘(3) However, the civil penalty proceeding may be resumed if, at the end of the criminal proceeding, there is no conviction for the offence.
- ‘(4) Evidence in the civil penalty proceeding of information given, or documents produced, by a person is not admissible in evidence in the criminal proceeding.
- ‘(5) In this section—
- conduct* includes an omission.
- conviction* includes a finding of guilt, or the acceptance of a plea of guilt, by a court whether or not a conviction is recorded.

**‘244B Avoidance of multiple penalties**

‘If—

- (a) a civil penalty proceeding under section 244A is taken; and
- (b) conduct, or substantially the same conduct, the subject of the civil penalty proceeding constitutes a contravention of 2 or more industry code provisions;

a civil penalty must not be imposed or ordered in the civil penalty proceeding more than once for that conduct.’

**45 Replacement of s 251A Evidentiary effect of conduct notice)**

Section 251A—

*omit, insert—*

**‘251A Evidentiary effect of code contravention notice**

- ‘(1) A document purporting to be a certified copy of a code contravention notice is evidence—
  - (a) that the notice was a code contravention notice given under chapter 5, part 1A, division 6, subdivision 1; and
  - (b) of the contravention or other matters stated in it; and
  - (c) that the notice has been given to the entity stated in it the notice.

- ‘(2) In this section—

*certified copy* means a copy with a certificate purporting to be signed by a member of QCA stating the copy is a true copy of the document it purports to be.’

**46 Amendment of s 253 (Advisory committees)**

- (1) Section 253(5), after ‘advisory committee’—

*insert—*

‘established under subsection (1)’.

- (2) Section 253—

*insert—*

- ‘(6) QCA must establish a consumer advisory committee to advise it on—
- (a) the performance of its functions under this Act and its corresponding functions under the *Gas Supply Act 2003*, including, for example, the making or amendment of an industry code under the Acts; and
  - (b) any other matter about the electricity supply industry or reticulated processed natural gas markets.
- ‘(7) The members of the consumer advisory committee must be appointed after consultation with groups who represent the interests of consumers.
- ‘(8) QCA must give the consumer advisory committee necessary support to allow the committee to perform its functions.
- ‘(9) QCA may also establish other advisory committees to advise it on stated matters about the administration of industry codes under either Act.’.

#### **47 Insertion of new s 253A**

After section 253—

*insert—*

#### **‘253A Reporting to Minister by QCA**

- ‘(1) QCA must, on or before each 31 December and 30 June, give the Minister a written report about the performance of—
- (a) its functions under this Act; or
  - (b) any of the Minister’s functions under this Act that have been delegated to QCA.
- ‘(2) QCA may, from time to time, give the Minister reports about any significant events in the State’s electricity market of which it considers the Minister ought to be aware, including, for example, systemic issues materially affecting consumers.
- ‘(3) In this section a reference to the performance of a function includes the exercise of a power.’.



**48 Amendment of s 254 (Protection from liability)**

(1) Section 254(1)—

*insert—*

‘*civil liability* includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.’.

(2) Section 254(1), definition *official*, paragraph (c), from ‘mentioned’ to ‘and (e)—

*omit, insert—*

‘under section 63’.

(3) Section 254(2) and (3), after ‘official’—

*insert—*

‘or QCA’.

**49 Insertion of new s 254B**

Chapter 11, part 3, after section 254A—

*insert—*

**‘254B Registers QCA must keep**

‘QCA must keep a register of each of the following—

- (a) the terms of each retail entity’s standard large customer retail contract given to QCA by the entity;
- (b) industry codes;
- (c) warning notices, including expired warning notices;
- (d) conduct assurances;
- (e) code contravention notices, including expired code contravention notices.

*Note—*

For access to the registers, see the QCA Act, sections 227A to 227C.’.

**50 Amendment of s 309 (Existing electricity supply contracts)**

Section 309(1)(a), ‘contestable customer’—

*omit, insert—*

‘customer who, under this Act as it was in force on that day, was a contestable customer’.

**51 Replacement of ch 14, pt 8 (Transitional provisions for Electricity Amendment Act (No. 2) 2004)**

Chapter 14, part 8—

*omit, insert—*

**‘Part 8 Transitional provisions for Electricity and Other Legislation Amendment Act 2006**

**‘310 Definitions for pt 8**

‘In this part—

*amendment Act* means the *Electricity and Other Legislation Amendment Act 2006*.

*commencement* means the date of assent of the amendment Act.

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

*FRC day* means the day the amendment Act, section 13 commences.

*new*, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the post-amended Act, as affected by any relevant definitions under the post-amended Act.

*post-amended Act* means this Act as in force from the FRC day.

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

**‘311 Extension of area retail obligation**

- ‘(1) This section applies to a retail entity in relation to premises if—
- (a) it is not the area retail entity for the premises; and
  - (b) it is the financially responsible retail entity for the premises; and
  - (c) immediately before the FRC day, the premises were owned or occupied by a customer who, under the post-amended Act, is a large non-market customer for the premises.
- ‘(2) New section 48D applies to the retail entity as if it were an area retail entity for the premises and as if the circumstances mentioned in section 48D(2)(b) existed.

**‘312 Small customer may enter into negotiated retail contract before FRC day**

- ‘(1) This section applies if—
- (a) under the pre-amended Act, a customer is a non-contestable customer for premises; and
  - (b) the customer would, under the post-amended Act, be a small customer for the premises.
- ‘(2) Despite former sections 52 and 52A, the customer may enter into a negotiated retail contract under the post-amended Act with a retail entity for the provision of customer retail services to the premises even though this Act is not in force in the form of the post-amended Act.
- ‘(3) However, until the FRC day—
- (a) customer retail services can not be provided under the negotiated retail contract; and
  - (b) any standard customer sale contract or standard contract between the customer and the retail entity under any of the following continues to apply for the provision of the services to the premises—
    - (i) former section 49 or 49A;
    - (ii) former section 310;

(iii) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.

- ‘(4) Also, it is taken to be a term of the negotiated contract that the customer may, by written notice to the retail entity given within 10 business days after the FRC day, terminate the contract without penalty.
- ‘(5) The notice need not state a ground for the termination.

### **‘313 Existing contestable customers who are receivers**

- ‘(1) This section applies to a person who, immediately before the FRC day, was, under the pre-amended Act, both a contestable customer and a receiver for premises.
- ‘(2) Despite new section 23(2), the person is, under the post-amended Act, a customer for the premises.
- ‘(3) To remove any doubt, it is declared that subsection (2) continues to apply despite the ending of any contract entered into before the FRC day in relation to the provision of customer connection services or customer retail services to the premises.

### **‘314 Existing standard customer connection contracts**

- ‘(1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under former section 40 or 40AA, taken to have been in force between a customer and a distribution entity for the provision of customer connection services to premises.
- ‘(2) The existing contract ends.
- ‘(3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- ‘(4) The customer and the entity are, under new section 40DB, taken to have entered into a standard connection contract for the provision of the services to the premises.

- ‘(5) New section 40DB(3) to (6) apply as if the standard connection contract as if were a contract taken to have been entered into under that section.
- ‘(6) This section is subject to the retailer of last resort scheme.

### **‘315 Existing standard customer sale contracts**

- ‘(1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under any of the following provisions, taken to have been in force between a customer and a retail entity for the provision of customer retail services to premises—
  - (a) former section 49 or 49A;
  - (b) former section 310;
  - (c) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.
- ‘(2) However, subsections (3) to (6) do not apply if the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 applies to the existing contract.
- ‘(3) The existing contract ends.
- ‘(4) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- ‘(5) The customer and the financially responsible retail entity for the premises are, under new section 51, taken to have entered into a retail contract of the following type for the provision of the services to the premises—
  - (a) if the customer is a small customer for the premises—a standard retail contract;
  - (b) if the customer is a large customer for the premises—a standard large customer retail contract.
- ‘(6) New section 52(3) and (4) applies to the retail contract as if it were a contract taken to have been entered into under that section.
- ‘(7) The FRC entity is taken to be the financially responsible retail entity for the premises under the post-amended Act.

- ‘(8) To remove any doubt, it is declared that subsection (7) applies even though the FRC entity would not, other than for subsection (7), be the financially responsible retail entity for the premises.
- ‘(9) Subsection (7) ceases to apply if, under the post-amended Act—
- (a) another retail entity becomes the financially responsible retail entity for the premises because of a completed transfer under the National Electricity Rules taking effect after the FRC day; or
  - (b) the FRC entity becomes the financially responsible retail entity.
- ‘(10) In this section—
- FRC entity*** means—
- (a) Ergon Energy; or
  - (b) an acquiring entity or a sale entity under the *Energy Assets (Restructuring and Disposal) Act 2006*.

**‘316 References to other particular contracts under pre-amended Act**

- ‘(1) In an Act or document, a reference to a contract of a following type (the ***old type***) under the pre-amended Act is taken to be a reference to a type of contract under the post-amended Act stated opposite the old type—
- (a) a customer connection contract—a connection contract;
  - (b) a negotiated customer connection contract—a negotiated connection contract;
  - (c) a customer sale contract—a retail contract;
  - (d) a negotiated customer sale contract—a negotiated retail contract.
- ‘(2) Subsection (1) applies subject to new sections 312 to 315.

**‘317 Exclusion of new s 40DB for existing negotiated sale and connection contracts**

- ‘(1) This section applies if, immediately before the FRC day, a negotiated sale and connection contract under the pre-amended Act was in force for a customer’s premises connected to a distribution entity’s supply network.
- ‘(2) While the contract continues in force new section 40DB does not apply to the customer and the entity in relation to the premises.

**‘318 Street lighting with non-metered connection point**

- ‘(1) This section applies to a customer for street lighting that—
- (a) under the National Electricity Rules, has an unmetered connection point; and
  - (b) is in a public place.
- ‘(2) From the FRC day to relevant day the post-amended Act applies to the customer in relation to the street lighting as if the customer were an excluded customer for the street lighting.
- ‘(3) In this section—
- relevant day* means—
- (a) if, before 1 July 2008, a day after 1 July 2008 is prescribed under a regulation—the prescribed day; or
  - (b) otherwise—1 July 2008.
- street lighting* includes a system of street lighting.

**‘319 Other unmetered connection points**

- ‘(1) This section applies to a customer for premises, other than street lighting mentioned in new section 318, to the extent that under the National Electricity Rules, the premises has an unmetered connection point.

*Examples—*

security or watchman lights and telephone booths

- ‘(2) From the FRC day to the day prescribed under a regulation the the post-amended Act applies to the customer in relation to the premises as if the customer were an excluded customer for the premises.

**‘320 Obligation to decide notified prices for 2006–2007 financial year on basis of post amended Act**

- ‘(1) The pricing entity must, as soon as practicable after the commencement, decide notified prices for the financial year from 1 July 2007 to 30 June 2008 for—
- (a) customer retail services; and
  - (b) DUOS charges under new section 90.
- ‘(2) New section 90, new chapter 4, part 2, division 3 and any other relevant provisions of the post-amended Act apply for the deciding of the notified prices, instead of former section 90.

**‘321 Making of transitional conduct rules about marketing conduct**

- ‘(1) The Minister may, at any time after the commencement, make conduct rules about marketing conduct by distribution entities or retail entities.
- ‘(2) Former section 120C and 120GB apply for the making of the rules as if a reference in the sections to QCA were a reference to the Minister.
- ‘(3) Former sections 120D to 120GA do not apply for the making of the rules.
- ‘(4) The Minister must publish a gazette notice stating that the Minister has made the rules.
- ‘(5) The rules take effect when the notice is published, or on a later day of effect stated in the notice.
- ‘(6) The rules are taken to be conduct rules under the pre-amended Act.



**‘322 Existing mediated agreements**

‘Former chapter 5, part 1B continues to apply for a mediated agreement under the pre-amended Act as if the part were still in force.

**‘323 Existing orders on arbitrated disputes**

‘Former chapter 5, part 1C continues to apply for an order made under former, section 120ZY, as if the part were still in force.

**‘324 Preservation of appeal rights about former contribution and user-pays fees**

‘If, before the commencement, a member entity under the pre-amended Act had been given an information notice under former section 64E for a contribution fee or user-pays fee under the pre-amended Act, former section 64E and former schedule 1 continue to apply for the fee.

**‘325 Transitional provision for non-labile loads**

‘(1) This section applies if—

- (a) immediately before the FRC day, a customer was, under former section 49A, taken to have entered into a contract (the *old contract*) for the provision of customer retail services for premises; and
- (b) under either of the following, the old contract is taken to have ended and the customer is taken to have entered into a standard large customer retail contract (the *new contract*) for the provision of the services to the premises on the FRC day—
  - (i) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 (the *EARD section*);
  - (ii) new section 315.

‘(2) An electricity load sold under the new contract is taken to be a non-labile load for—

- (a) if the new contract is with the same retail entity under the old contract—3 months from the day the old contract was, under former section 49A, taken to have been entered into; or
- (b) if the new contract is with a different retail entity to the retail entity under the old contract—3 months from the FRC day.’.

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

Schedule 1, part 3, entry for sections 40 and 49—

*omit, insert—*

‘40A to 40D      1 If a customer makes a connection services application for premises, the distribution      District entity to whom the application is made decides the connection obligation does not apply for the services applied for.

2 However, item 1 applies only if, had the services been provided, the customer would have been a large customer for the premises.

*Note—*

For small customers’ referral rights, see the *Energy Ombudsman Act 2006*, sections 17 and 18.

48E to 48I      1 If a customer makes a retail services      District’ application for premises, the retail entity to whom the application is made decides the retail obligation does not apply for the services applied for.

2 However, item 1 applies only if, had the services been provided, the customer would have been a large customer for the premises.

*Note—*

For small customers’ referral rights, see the *Energy Ombudsman Act 2006*, sections 17 and 18.

**53 Amendment of sch 5 (Dictionary)**

- (1) Schedule 5, definitions *conduct notice*, *conduct rules*, *contestable customer*, *contribution fee*, *customer connection contract*, *customer sale contract*, *electricity load*, *energy arbitrator*, *energy mediator*, *information notice*, *mediated agreement*, *member entity*, *membership fee*, *negotiated customer connection contract*, *negotiated sale and connection contract*, *negotiated customer sale contract*, *non-contestable customer*, *premises*, *standard customer connection contract*, *standard customer sale contract* and *user-pays fee*—

*omit*—

- (2) Schedule 5—

*insert*—

**'area retail entity**, for premises, means the retail entity in whose retail area the premises are located.

**benchmark retail cost element** see section 91G(2).

**c/kWh** see section 91C.

**code contravention notice** see section 120S(1).

**conduct assurance** see section 120T(1)(b)(ii).

**connection contract** see section 40DA(1).

**connection obligation** see section 40A(3).

**connection point** means a connection point as defined under the National Electricity Rules.

**connection services application** see section 40(1).

**electricity load**—

- (a) generally—see section 135AI(1); or

- (b) of the State—see section 135AI(2).

**energy ombudsman** means the energy ombudsman under the *Energy Ombudsman Act 2006*.

**excluded customer** see section 23(3).

**financially responsible retail entity**, for premises, means—

- (a) if the premises are an excluded customer's premises—the area retail entity with a retail authority for the area; or
- (b) if the premises are NMI premises—
  - (i) if, under the National Electricity Rules the person (the *responsible entity*) responsible for paying NEMMCO for electricity consumed at the premises is an area retail entity or other retail entity—that entity; or
  - (ii) if the responsible entity does not hold a retail authority, the area retail entity or other entity—
    - (A) who, under the Corporations Act, is a related body corporate of the responsible entity; and
    - (B) who acquires, directly or indirectly, the electricity consumed at the premises from the responsible entity.

*fixed principle*, for a benchmark retail cost element, see section 91C.

*industry code* means—

- (a) an initial industry code; or
- (b) an industry code made by QCA under chapter 5, part 1A and as amended from time to time under that part.

*information notice*, for a decision, means a notice stating each of the following—

- (a) the decision;
- (b) reasons for the decision;
- (c) the rights of—
  - (i) review or appeal under this Act for the decision; or
  - (ii) referral, under the *Energy Ombudsman Act 2006*, for the decision;
- (d) the period within which any review or appeal or referral must be started or made;
- (e) how the rights of review or appeal or referral must be exercised;

- (f) for a right of review or appeal—that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

***initial industry code*** means an initial industry code made by the Minister under section 120B and as amended under chapter 5, part 1A, division 5 from time to time.

***large customer*** see section 23(6).

***large market customer*** see section 23(9).

***large non-market customer*** see section 23(10).

***market customer*** see section 23(7).

***negotiated connection contract*** see section 40DA(2).

***negotiated retail contract*** see section 49(2).

***NEM load***, of the State, see section 91C.

***NMI premises***—

- 1 An ***NMI premises*** is premises, part of a premises or a group of premises—
  - (a) that, under the National Electricity Rules, has an established connection point; or
  - (b) for which, under the National Electricity Rules, a connection point is to be established.
- 2 However, the term does not include premises of an excluded customer.

***non-market customer*** see section 23(8).

***premises***—

- 1 ***premises*** includes—
  - (a) a building or other structure; and
  - (b) a part of a building or other structure; and
  - (c) land where a building or other structure is situated.
- 2 ***premises***, of a customer, means premises owned or occupied by the customer.

***QCA Act*** means the *Queensland Competition Authority Act 1997*.

**QCA code objective** see section 120G(1).

**relevant tariff year** see section 91B(1).

**retail contract** see section 49(1).

**retailer of last resort scheme** means any retailer of last resort scheme made under section 131A.

**retail obligation** see section 48F(1).

**retail services application** see section 48C(1).

**reviewer** see section 214(1).

**small customer** see section 23(4).

**standard connection contract** see section 40DA(3).

**standard large customer retail contract** see section 49(4).

**standard retail contract** see section 49(3).

**Statewide newspaper** means a newspaper circulating generally throughout the State.

**tariff** includes fee or charge.

**tariff year** means—

- (a) if, under a regulation, a period is prescribed—the prescribed period; or
- (b) otherwise—a financial year.

**warning notice** see section 120S(1).’.

- (3) Schedule 5, definition *customer*, ‘or (1A)’—  
*omit*.
- (4) Schedule 5, definition *GST statement*, ‘section 90(6)’—  
*omit, insert—*  
‘section 90(8)’.
- (5) Schedule 5, definition *notified prices*, ‘section 90(2)’—  
*omit, insert—*  
‘section 90(4)’.
- (6) Schedule 5, definition *pricing entity*, ‘section 90(3)’—  
*omit, insert—*

‘section 90(5)’.

- (7) Schedule 5, definition *retail area*, ‘section 48’—  
*omit, insert—*  
 ‘section 48(1)’.

## **Part 3** **Amendment of Energy Assets (Restructuring and Disposal) Act 2006**

### **54 Act amended in pt 3**

This part amends the *Energy Assets (Restructuring and Disposal) Act 2006*.

### **55 Replacement of s 44 (Operation of authorities and related matters)**

Section 44—  
*omit, insert—*

#### **‘44 Provision for particular contracts on FRC day**

- ‘(1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under any of the following, taken to be in force between a customer and a FRC entity for the provision of customer retail services to premises—
- (a) former section 49 or 49A of the Electricity Act;
  - (b) former section 310 of the Electricity Act;
  - (c) section 41 of this Act.
- ‘(2) The existing contract ends.
- ‘(3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.

- ‘(4) The customer and the entity are taken to have entered into a retail contract of the following type under the Electricity Act, section 51, for the provision of the services—
  - (a) if, under that Act, the customer is a small customer for the premises—a standard retail contract;
  - (b) if, under that Act, the customer is a large customer for the premises—a standard large customer retail contract.
- ‘(5) The Electricity Act, section 52(3) and (4), applies to the retail contract as if it were a contract taken to have been entered into under that section.
- ‘(6) This section applies despite the FRC entity not holding an authority with a stated retail area.
- ‘(7) This section is subject to the retailer of last resort scheme under the Electricity Act.
- ‘(8) In this section—
 

***FRC entity*** means Ergon Energy, an acquiring entity or a sale entity.’.

## 56 Omission of s 51 (FRC day)

Section 51—

*omit.*

## 57 Amendment of schedule (Dictionary)

Schedule, definition *FRC day*—

*omit, insert—*

‘***FRC day*** means the FRC day under the *Electricity Act 1994*, section 310.’.



## **Part 4** **Amendment of Gas Supply Act 2003**

### **58 Act amended in pt 4**

This part and the schedule amend the *Gas Supply Act 2003*.

### **59 Amendment of long title**

Long title, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

### **60 Amendment of s 3 (Main purposes of Act)**

(1) Section 3(1) and (2)(a), ‘fuel gas’—

*omit, insert—*  
‘processed natural gas’.

(2) Section 3(2)(b) and (c)—

*omit, insert—*  
‘(b) providing, under chapter 4A, for the appointment of a gas retail market operator; and  
(c) providing, under chapter 5A, for the making of industry codes for reticulated processed natural gas markets.’.

(3) Section 3—

*insert—*  
*Note—*

This Act also includes particular provisions about LPG distribution pipelines and LPG distribution systems. See sections 75, 75A, 131A, 258, 289, 295 and 297 to 299.’.

### **61 Amendment of s 4 (Gas-related matters to which Act does not apply)**

(1) Section 4(1)(a) and (b), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

(2) Section 4(1)(c)—

*omit, insert—*

‘(c) regulate gases other than—

(i) processed natural gas; and

(ii) LPG, in relation to LPG distribution pipelines and LPG distribution systems.’.

**62 Omission of s 9 (What is *fuel gas*)**

Section 9—

*omit.*

**63 Amendment of s 10 (What is *LPG*)**

(1) Section 10, definition *LPG*, ‘is a substance’—

*omit, insert—*

‘means a substance’.

(2) Section 10, definition *LPG*, as amended—

*relocate* to schedule 4.

(3) Section 10, as amended—

*omit.*

**64 Amendment of s 12 (What is a *transmission pipeline*)**

Section 12, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**65 Amendment of s 13 (What is a *distribution pipeline*)**

Section 13(a), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**66 Amendment of s 14 (What is a *distribution system*)**

Section 14(1), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**67 Amendment of s 15 (When fuel gas is *reticulated*)**

(1) Section 15, heading, ‘fuel gas’—

*omit, insert—*

‘**processed natural gas**’.

(2) Section 15, ‘Fuel gas’—

*omit, insert—*

‘Processed natural gas’.

**68 Replacement of ss 16–18**

Sections 16 to 18—

*omit, insert—*

**‘16 Who is a *customer***

‘(1) A *customer* is a person who receives, or wants to receive, reticulated processed natural gas.

‘(2) However, a receiver is only a customer if the receiver’s premises has a processed natural gas installation that, to the reasonable satisfaction of the distributor whose distribution area includes the premises, is capable of receiving supply directly from a distribution system.

**‘17 Types of customers**

‘(1) A *small customer*, for premises, is a customer prescribed under a regulation to be a small customer for the premises.

‘(2) A regulation made under subsection (1) may prescribe who is a small customer for premises by reference only to a stated consumption threshold.

- ‘(3) A **large customer**, for premises, is a customer other than a small customer for the premises.
- ‘(4) An **excluded customer**, for premises, is a customer prescribed under a regulation to be an excluded customer for the premises.’.

**69 Amendment of s 19 (What are *customer connection services*)**

Section 19, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**70 Amendment of s 20 (What are *customer retail services*)**

Section 20(1), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**71 Amendment of s 21 (What is a *distribution authority*)**

Section 21(a), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**72 Amendment of s 22 (Who is a *distributor*)**

- (1) Section 22, heading—

*omit, insert—*

**‘22 Distributors and references to distributors’.**

- (2) Section 22(d)—

*omit, insert—*

‘(d) gas infrastructure is—

- (i) if the infrastructure is the subject of a distribution authority—the person who holds the authority; or

- (ii) if the infrastructure is an LPG pipeline or LPG distribution system—the LPG distributor who owns or operates the pipeline or system.’

- (3) Section 22(e), after ‘distributor’—

*insert—*

‘or LPG distributor’.

- (4) Section 22—

*insert—*

- ‘(2) Otherwise, a reference to a *distributor* is a reference to a person who holds a distribution authority.’

**73 Amendment of s 23 (Types of distribution authority and their distributors)**

Section 23, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**74 Amendment of s 25 (Who is a retailer)**

- (1) Section 25, heading—

*omit, insert—*

**‘25 Retailers and references to retailers’.**

- (2) Section 25—

*insert—*

- ‘(2) Otherwise, a reference to a *retailer* is a reference to a person who holds a retail authority.’

**75 Amendment of ch 2, hdg (Fuel gas distribution)**

Chapter 2, heading, ‘Fuel gas’—

*omit, insert—*

‘**Processed natural gas**’.

**76 Amendment of s 28 (Requirements for application)**

- (1) Section 28(c), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.
- (2) Section 28(d)—  
*omit.*
- (3) Section 28(e)—  
*renumber* as section 28(d).

**77 Amendment of s 42 (Obligation to operate and maintain distribution pipes)**

Section 42, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**78 Amendment of s 48 (Contingency practices and procedures)**

Section 48(1), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**79 Insertion of new ss 50A and 50B**

After section 50—  
*insert—*

**‘50A Compliance with industry codes**

‘A distributor must comply with any industry code that applies to the distributor.’

**‘50B Membership of energy ombudsman scheme**

‘A distributor must pay any amount that, under the *Energy Ombudsman Act 2006*, it must pay the energy ombudsman.’

**80 Amendment of s 57 (Conditions for amendment, cancellation or suspension)**

Section 57(2)(b)—

*insert—*

‘(v) an industry code, in a material way; or

*Note—*

For criteria for deciding a material contravention, see section 270Q.’

**81 Omission of ch 2, pt 1, div 5 (Service quality standards)**

Chapter 2, part 1, division 5—

*omit.*

**82 Amendment of s 75 (What is *gas infrastructure* and *gas infrastructure work*)**

Section 75(1)—

*omit, insert—*

‘(1) ***Gas infrastructure*** is the whole or any part of—

(a) a distribution pipeline or system the subject of a distribution authority; or

(b) an LPG distribution pipeline; or

(c) an LPG distribution system.’

**83 Insertion of new s 75A**

After section 75—

*insert—*

**‘75A References to distributor in pt 2 includes a reference to LPG distributor**

‘In this part, a reference to a distributor includes a reference to an LPG distributor.’

**84 Amendment of s 78 (Right to carry out work on publicly controlled place)**

Section 78, from ‘if the place’ to ‘distribution authority’—  
*omit.*

**85 Amendment of s 104 (Deciding application)**

Section 104(3)—  
*omit.*

**86 Insertion of new s 104A**

Chapter 2, part 3, division 2, subdivision 1, after section 104—  
*insert—*

**‘104A Information notice for refusal of services**

‘If the distributor decides not provide to the premises the customer connection services applied for, the distributor must, as soon as practicable after, but within 1 month of, receiving the application give the customer an information notice about the decision.’.

**87 Amendment of s 105 (Distributor’s obligation to propose terms)**

- (1) Section 105(1)(d)—  
*omit.*
- (2) Section 105(2) and (3)—  
*omit.*
- (3) Section 105(4) to (6)—  
*renumber* as section 105(2) to (4).

**88 Amendment of s 106 (Customer connection contract)**

- (1) Section 106, heading—  
*omit, insert—*



**‘106 Connection contract’.**

- (2) Section 106(1), definition *customer connection contract*, ‘customer connection contract’—

*omit, insert—*

*‘connection contract’.*

- (3) Section 106—

*insert—*

- ‘(3) The making of a connection contract is subject to subdivision 3.’.

**89 Omission of s 107 (Cooling-off period for customer connection contracts)**

Section 107—

*omit.*

**90 Amendment of s 108 (Commencement of customer connection services)**

- (1) Section 108(1), from ‘a customer’ to ‘section 107’—

*omit, insert—*

*‘a connection contract’.*

- (2) Section 108(5), definition *required period*, paragraph (a), ‘5 business days’—

*omit, insert—*

*‘10 business days’.*

**91 Amendment of s 109 (Limits on provision of customer connection services)**

- (1) Section 109(1), ‘fuel gas’—

*omit, insert—*

*‘processed natural gas’.*

- (2) Section 109(1)(c)

*renumber* as section 109(1)(d).

(3) Section 109(1)—

*insert—*

‘(c) the distributor is entitled, under its connection contract or under a regulation, to disconnect customer connection services to the premises;’.

(4) Section 109(2), ‘Also, the’ to ‘division 5’—

*omit, insert—*

‘The obligation ceases during any period in which the provision of the services is disconnected under a connection contract’.

(5) Section 109(3)—

*renumber* as section 109(5).

(6) Section 109—

*insert—*

‘(3) Also, the obligation does not apply if a regulation states the obligation does not apply.

‘(4) The obligation is subject to—

(a) any relevant insufficiency of supply declaration or insufficiency of supply direction; and

(b) the retailer of last resort scheme; and

(c) the conditions of the distributor’s relevant distribution authority; and

(d) any relevant provision of an industry code about cooling-off periods for the provision of customer connection services.’.

## **92 Insertion of new ch 2, pt 3, div 2, sdiv 3**

Chapter 2, part 3, division 2—

*insert—*

### **‘Subdivision 3 Requirements for connection contracts**

#### **‘109A General limits on what may be negotiated**

- ‘(1) A connection contract must not be inconsistent with this Act or any relevant industry code.
- ‘(2) If—
  - (a) customer connection services relate to processed natural gas transported through a covered pipeline; and
  - (b) there is an approved access arrangement for the pipeline;a connection contract for the services must not be inconsistent with the access arrangement.
- ‘(3) A connection contract is unenforceable to the extent it does not comply with this section.

#### **‘109B Provisions for small customers**

- ‘(1) This section applies to a connection contract for the provision of customer connection services to a small customer’s premises.
- ‘(2) The contract must comply with all relevant industry code provisions about minimum terms for the provision of customer connection services to small customers.
- ‘(3) The contract is unenforceable to the extent it does not comply with subsection (2).
- ‘(4) If, under subsection (3), a term of the contract is unenforceable because it conflicts with a minimum term provision mentioned in subsection (2), the minimum term is taken to be a term of the contract.

#### **‘109C Provisions for large customers**

- ‘(1) This section applies to a connection contract for the provision of customer connection services to a large customer’s premises.

- ‘(2) The contract must provide for the provision of the services on fair and reasonable terms.
- ‘(3) The services are taken to be provided on fair and reasonable terms if the contract is consistent with relevant industry code provisions about minimum terms for the provision of customer connection services to small customers.’.

**93 Amendment of ch 2, pt 3, div 3, hdg (Changes to fuel gas installation)**

Chapter 2, part 3, division 3, heading, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**94 Amendment of s 111 (Obligation to give information to allow proposed changes)**

Section 111, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**95 Amendment of s 112 (Applying to change connection)**

Section 112(1), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**96 Omission of ch 2, pt 3, divs 4 and 5**

Chapter 2, part 3, divisions 4 and 5—  
*omit.*

**97 Amendment of s 125 (Operation of pt 4)**

- (1) Section 125, ‘non-contestable’—  
*omit, insert—*  
‘small’.

- (2) Section 125(2), ‘customer connection contract’—  
*omit, insert—*  
 ‘connection contract’.

**98 Amendment of s 126 (Distributor must provide meter)**

- Section 126(1), ‘fuel gas’—  
*omit, insert—*  
 ‘processed natural gas’.

**99 Amendment of s 131 (Alternative measurement)**

- (1) Section 131(3), ‘fuel gas’—  
*omit, insert—*  
 ‘processed natural gas’.
- (2) Section 131(4), ‘section 120 or’—  
*omit.*

**100 Insertion of new ch 2, pt 5, div 1A**

- Chapter 2, part 5, before division 1—  
*insert—*

**‘Division 1A Preliminary**

**‘131A References to distributor and processed natural gas in pt 5**

- ‘In this part—
- (a) a reference to a distributor includes a reference to an LPG distributor; and
  - (b) a reference to a distributor’s distribution pipeline or system includes a reference to an LPG distributor’s LPG pipeline or LPG distribution system; and
  - (c) a reference to processed natural gas transported through a distributor’s distribution pipeline or system includes,

for an LPG distributor's LPG pipeline or LPG distribution system, a reference to LPG transported through the pipeline or system.'.

**101 Amendment of s 133 (Functions)**

Section 133(d), 'fuel gas'—

*omit, insert—*

'processed natural gas'.

**102 Amendment of s 140 (Power to enter for emergency)**

Section 140(1), 'fuel gas'—

*omit, insert—*

'processed natural gas'.

**103 Omission of ch 2, pt 6 (Market operating arrangements in natural gas market)**

Chapter 2, part 6—

*omit.*

**104 Amendment of ch 3, hdg (Supply of reticulated fuel gas)**

Chapter 3, heading, 'fuel gas'—

*omit, insert—*

'processed natural gas'.

**105 Amendment of s 148 (Who may apply for retail authority)**

Section 148—

*insert—*

'(4) Also, Ergon Energy or a subsidiary of Ergon Energy can not apply for a retail authority.

'(5) In this section—

***Ergon Energy*** means Ergon Energy Corporation Limited ACN 087 646 062.

***subsidiary*** see the *Government Owned Corporations Act 1993*, section 3.’.

**106 Replacement of ch 3, pt 1, div 2, sdivs 2 and 3**

Chapter 3, part 1, division 2, subdivisions 2 and 3—

*omit, insert—*

**‘160 Obligation to have standard terms before providing customer retail services**

A retailer must ensure the retailer has standard terms in force, under part 2, division 2 before it provides customer retail services.’.

**107 Amendment of s 167 (General right of retailer)**

(1) Section 167, ‘Any’—

*omit, insert—*

‘Subject to sections 169 and 171, any’.

(2) Section 167, ‘contestable’—

*omit.*

**108 Amendment of s 169 (Restriction on general retailers)**

Section 169, ‘a non-contestable customer’—

*omit, insert—*

‘an excluded customer’s premises, unless the provision of the services is authorised or required under the retailer of last resort scheme’.

**109 Insertion of new s 170**

After section 169—

*insert—*

**‘170 Restriction on providing customer retail services to excluded customer’s premises**

‘If a customer is an excluded customer for premises in the retail area for an area retail authority, a retailer must not provide customer retail services to the premises unless—

- (a) the retailer is the area retailer for the authority; or
- (b) the provision of the services is authorised or required under the retailer of last resort scheme.

Maximum penalty—500 penalty units.’.

**110 Amendment of s 171 (Area retailers—restriction for non-contestable customers)**

- (1) Section 171, heading, ‘non-contestable customers’—

*omit, insert—*

**‘excluded customers’.**

- (2) Section 171, ‘a non-contestable’—

*omit, insert—*

**‘an excluded’.**

**111 Omission of s 172 (Telephone hotline)**

Section 172—

*omit.*

**112 Insertion of new ss 174A and 174B**

After section 174—

*insert—*

**‘174A Compliance with industry codes**

‘A retailer must comply with any industry code that applies to the retailer.



**‘174B Membership of energy ombudsman scheme**

‘A retailer must pay any amount that, under the *Energy Ombudsman Act 2006*, it must pay the energy ombudsman.’.

**113 Amendment of s 181 (Conditions for amendment, cancellation or suspension)**

Section 181(2)(b)—

*insert—*

‘(v) an industry code, in a material way; or

*Note—*

For criteria for deciding a material contravention, see section 270Q.’.

**114 Replacement of ch 3, pt 2 (Customer retail services)**

Chapter 3, part 2—

*omit, insert—*

**‘Part 2 Customer retail services****‘Division 1 Applying for and obtaining customer retail services by small customer****‘198 Applying to area retailer for provision of customer retail services**

- ‘(1) A small customer who owns or occupies premises may make an application (a *retail services application*) to an area retailer for the provision of customer retail services to the premises.
- ‘(2) However, if the customer is other than an excluded customer, the customer can only make the application for the premises if the premises are MIRN premises.
- ‘(3) Also, if the customer is an excluded customer for the premises, the customer can only make the application to the area retailer in whose retail area the premises are located.

- ‘(4) The application must be made in the way, and give the information reasonably required, by the retailer.
- ‘(5) To remove any doubt, it is declared that this section does not prevent any other customer asking a retailer to provide customer retail services to the premises.

### ‘199 **Deciding application**

‘An area retailer must decide to grant or refuse a retail services application made to the retailer within 10 business days after the application is made.

### ‘200 **Information notice for refusal of services to small customer**

- ‘(1) This section applies if—
  - (a) a customer makes a retail services application to an area retailer for premises; and
  - (b) the retailer decides the area retail obligation does not apply to the services applied for; and
  - (c) had the services been provided, the customer would have been a small customer for the premises.
- ‘(2) The retailer must, as soon as practicable after, but within 1 month of, receiving the application give the customer an information notice about the decision.

### ‘201 **Area retailer obligation**

- ‘(1) If a retail services application to an area retailer is for premises in the retailer’s retail area, the retailer must provide to the premises the customer retail services applied for.
- ‘(2) The obligation is the *area retailer obligation*.
- ‘(3) The obligation is subject to sections 202 and 203.

*Note—*

Generally, in the absence of a negotiated retail contract, a standard retail contract is taken to exist between the entity and the customer. See section 204.

**‘202 Things to which area retailer obligation is subject**

‘The area retailer obligation is subject to each of the following—

- (a) any relevant insufficiency of supply declaration or insufficiency of supply direction;
- (b) the retailer of last resort scheme;
- (c) the conditions of the retailer’s relevant retail authority;
- (d) any relevant provision of an industry code about customer transfers or cooling-off periods for the provision of customer retail services.

**‘203 When area retailer obligation does not apply**

‘(1) The area retailer obligation does not apply to an area retailer in relation to a customer if—

- (a) the retailer is to arrange for customer connection services for the premises and the distributor for the premises is not obliged to provide, or has the right to disconnect, the services; or
- (b) the customer is to arrange for customer connection services for the premises and no connection contract has been entered into with the distributor for the premises; or
- (c) the retailer has asked the customer for information the retailer reasonably requires to allow the retailer to provide the customer retail services and the customer has not complied with the request within a reasonable period; or
- (d) the retailer has asked the customer to provide or maintain access, equipment, facilities, space or anything else the retailer reasonably needs to provide the customer retail services and the customer has not complied with the request within a reasonable period; or
- (e) the customer contravenes this Act, the Petroleum and Gas (Production and Safety) Act or another relevant Act and the contravention relates to safety; or

- (f) a circumstance beyond the retailer's control prevents the retailer from providing customer retail services to the customer.
- '(2) Also, the obligation does not apply if a regulation states the obligation does not apply.
- '(3) The obligation ceases to apply during any period in which the provision of customer connection services to the premises is disconnected under a connection contract or a dangerous situation direction under the Petroleum and Gas (Production and Safety) Act.
- '(4) This section does not prevent the retailer from lawfully providing the customer retail services even though it is not obliged to do so.

## **'Division 2                    Standard retail contracts**

### **'204    Standard retail contract for particular small customers**

- '(1) This section applies if—
  - (a) the area retailer obligation applies to a retailer for a small customer's premises; and
  - (b) the premises are connected to a distribution system; and
  - (c) the retailer provides the customer retail services applied for, in accordance with the application; and
  - (d) there is no negotiated retail contract in force between the retailer and the customer in relation to the premises.
- '(2) This section also applies if—
  - (a) a small customer's premises are connected to a distribution system without the customer having made a retail services application for the premises; and
  - (b) there is no negotiated retail contract in force between a retailer and the customer in relation to the premises.
- '(3) A contract for the provision of the customer retail services to the premises is taken to have been entered into between the customer and—

- (a) for the circumstances mentioned in subsection (1)—the area retailer; or
  - (b) for the circumstances mentioned in subsection (2)—the retailer that, under an industry code, is the registered retailer for the metering installation for the premises.
- ‘(4) The contract is a *standard retail contract*.
- ‘(5) The terms of the contract are the retailer’s standard terms, in force from time to time that apply to the customer.
- ‘(6) The customer and the retailer are taken to have agreed to comply with the terms and to have entered into the contract as a deed.
- ‘(7) This section is subject to the retailer of last resort scheme.

#### **‘205 Retailer’s standard terms for small customers**

- ‘(1) Each retailer must, before it provides customer retail services, prepare the terms (its *standard terms*) on which it provides customer retail services under a standard retail contract, including its prices for the services.
- ‘(2) The terms may—
- (a) be different for stated types of small customers; and
  - (b) be contained in a different document for any of the types; and
  - (c) include a methodology for fixing the prices.
- ‘(3) The retailer may amend its standard terms at any time.
- ‘(4) However, the standard terms or amended standard terms take effect only when the retailer complies with section 206 in relation to the terms or amended terms.
- ‘(5) The standard terms and any amended standard terms—
- (a) must not be inconsistent with this Act or any relevant industry code; and
  - (b) must comply with all relevant industry code provisions about minimum terms for the provision of customer retail services to small customers; and

- (c) are unenforceable to the extent they do not comply with paragraphs (a) and (b).
- ‘(6) If, under subsection (5)(b), a term or an amendment is unenforceable because it conflicts with a minimum term provision mentioned in subsection (5)(b), the minimum term is taken to be included in the terms or amended standard terms.
- ‘(7) Subsection (4) does not apply to stop a minimum term from applying under subsection (6).

## ‘206 **Publication of standard terms**

- ‘(1) This section applies only if a retailer prepares or amends its standard terms.
- ‘(2) The retailer must—
  - (a) publish the terms or amended terms on its website; and
  - (b) give QCA a copy of the terms or amended terms; and
  - (c) if a small customer asks, give the customer a copy of the terms or amended terms, free of charge.
- ‘(3) Also, subsections (4) and (5) apply if the terms or amended terms increase any price or tariff (the *old price*) currently charged by the retailer for customer retail services.
- ‘(4) The retailer must—
  - (a) at least 10 business days before the new prices are to take effect publish a notice (the *price increase notice*) on its website; and
  - (b) give each of its small customers a copy of the price increase notice with, or in, its next bill to the customer for customer retail services when it gives the customer the bill.
- ‘(5) The price increase notice—
  - (a) must state the increased price, or a methodology for fixing the increased price, and when the increased price is to start; and
  - (b) may be included with the material published under subsection (2)(a).

**‘207 Ending of standard retail contract**

- ‘(1) A standard retail contract between a retailer and a small customer for the customer’s premises is taken to end if—
- (a) the retailer and the customer enter into a negotiated retail contract for the premises and that contract comes into effect; or
  - (b) another retailer becomes, under an industry code, the registered retailer for the metering installation for the premises; or
  - (c) the retailer commences the provision of customer retail services under a retail contract to another customer at the premises.
- ‘(2) This section does not limit how or when a standard retail contract may end.

**‘Division 3 Negotiated retail contracts****‘208 Negotiation of retail contract**

- ‘(1) A customer and a retailer may enter into a contract (a *negotiated retail contract*) for the provision of customer retail services from the retailer for premises of the customer on terms that are different to the retailer’s standard terms.
- ‘(2) Subsection (1) applies subject to sections 209 and 210.

**‘209 General limit on what may be negotiated**

‘A negotiated retail contract must not be inconsistent with this Act or any relevant industry code, and is unenforceable to the extent that it is.

**‘210 Provisions for small customers**

- ‘(1) This section applies to a negotiated retail contract for the provision of customer retail services to a small customer’s premises.

- ‘(2) The contract must comply with all relevant industry code provisions about minimum terms for the provision of customer retail services to small customers.
- ‘(3) The contract is unenforceable to the extent it does not comply with subsection (2).
- ‘(4) If, under subsection (3), a term of the contract is unenforceable because it conflicts with a minimum term provision mentioned in subsection (2), the minimum term is taken to be a term of the contract.’

**115 Amendment of s 213 (*On-suppliers and their receivers*)**

Section 213, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**116 Amendment of s 214 (*Common areas and common area consumption*)**

Section 214(2), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**117 Omission of s 216 (*Restriction of application of pt 3 for LPG*)**

Section 216—

*omit.*

**118 Amendment of s 217 (*On-supply agreements*)**

Section 217(1)(a), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.



**119 Amendment of s 222 (Individual metering option)**

Section 222, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**120 Amendment of s 223 (Compensation for installation damage)**

Section 223(1)(b), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**121 Replacement of ch 3, pt 4, hdg (Pricing and service quality standards)**

Chapter 3, part 4, heading—

*omit, insert—*

**‘Part 4 Pricing****‘Division 1 QCA investigation****‘227A Direction by Minister to investigate effectiveness of retail competition**

‘(1) The Minister may, by gazette notice, give QCA a written direction to—

(a) investigate (the *pricing investigation*) the effectiveness of retail competition in the Queensland retail gas market; and

(b) give the Minister a report on the pricing investigation within a stated period.

‘(2) QCA must comply with the direction.

‘(3) QCA must publish the direction on its website.

**‘227B Period for giving report**

‘QCA must give the Minister the report within—

- (a) the period stated in the direction; or
- (b) if no period is stated in the direction—6 months after it receives the direction.

**‘227C Terms of reference**

‘The direction may do all or any of the following—

- (a) state the terms of reference of the pricing investigation;
- (b) require QCA to, during the pricing investigation, make a draft report publicly available or available to a stated entity;
- (c) require QCA to, in conducting the pricing investigation—
  - (i) consider stated matters; and
  - (ii) have stated objectives;
- (d) give QCA other directions the Minister considers appropriate.

**‘227D Notice of pricing investigation or amended term of reference or direction**

‘QCA must publish a notice of the following on its website and in a Statewide newspaper—

- (a) the pricing investigation;
- (b) if a term of reference or direction relating to the pricing investigation is amended—the amended term of reference or direction.

**‘227E Conduct of pricing investigation**

‘(1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the pricing investigation—

- (a) as if a reference in the applied part to an investigation were a reference to the pricing investigation; and

- (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review.
- (2) However, the applied part applies subject to any requirement or direction of the Minister.

### **‘227F Required consultation for report**

‘Before QCA gives the Minister the report it must prepare a draft of the report and engage in the consultation prescribed under a regulation.

## **‘Division 2                    Notified prices’.**

### **122 Replacement of s 228 (Fixing of prices for customer retail services or on-supply)**

Section 228—

*omit, insert—*

### **‘228 Fixing of prices for standard contracts or for on-supply**

- (1) Subject to section 228A, the Minister may fix prices, or a methodology to fix the prices, for—
- (a) the provision, under a standard retail contract, of services that are, or relate to, customer retail services; or
- (b) the supply of processed natural gas by on-suppliers to receivers.

*Examples of matters for which prices or a methodology may be fixed—*

- charges for selling processed natural gas
- security for the provision of customer retail services
- charges or fees for late or dishonoured payments
- charges or fees for discontinuing or recommencing customer connection or retail services

- (2) In exercising the power, the Minister must consider the main purposes of this Act and the QCA code objective.

- ‘(3) The prices, or prices fixed under the methodology, are called *notified prices*.
- ‘(4) The notified prices, or methodology to fix the prices—
  - (a) must be notified by gazette notice; and
  - (b) take effect on the later of the following days—
    - (i) the day the notice is gazetted;
    - (ii) if the gazette notice states a later day of effect—the later day.

*Note—*

Under section 320, the Minister may delegate the Minister’s powers under this division to QCA.

#### **‘228A Restrictions on the first exercise of price fixing power**

- ‘(1) This section applies only for the first occasion on which the Minister exercises the power under section 228.
- ‘(2) The power may be exercised only if—
  - (a) either—
    - (i) QCA has given the Minister a report about a pricing investigation; or
    - (ii) AEMC has, under the AEMC Act, a report about the effectiveness of retail competition in the Queensland retail gas market; and
  - (b) no more than 6 months has passed since the giving of the report; and
  - (c) the Minister has considered the report.
- ‘(3) The Minister must—
  - (a) publish on the department’s website reasons for exercising the power; and
  - (b) give each area retailer a copy of the reasons.
- ‘(4) In this section—

*AEMC* means the Australian Energy Market Commission established under section 5 of the AEMC Act.

*AEMC Act* means the *Australian Energy Market Commission Establishment Act 2004 (SA)*.’.

**123 Amendment of s 229 (Review of notified prices)**

Section 229(2), ‘a reasonable period’—

*omit, insert—*

‘6 months’.

**124 Replacement of s 230 (Public advertisement of notified prices)**

Section 230—

*omit, insert—*

**‘230 Public advertisement of notified prices**

‘(1) This section applies if there is a change to notified prices that apply to a particular retailer.

‘(2) QCA may publish a notice giving particulars of the changed prices in a newspaper circulating in each locality in which small customers to whom the prices apply reside.

‘(3) If QCA asks, the retailer must pay QCA’s reasonable costs of the publication.’.

**125 Amendment of s 231 (Requirement to comply with notified prices)**

Section 231(2)(a), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**126 Amendment of s 233 (Directions for prices notification)**

Section 233(1), examples, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**127 Omission of s 235 (Standards about quality of customer retail services)**

Section 235—

*omit.*

**128 Amendment of s 236 (Who is an *industry participant*)**

Section 236, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**129 Amendment of s 237 (Regulator’s power to require plan)**

Section 237, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**130 Amendment of s 239 (Contingency supply plan—content requirements)**

Section 239(3), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**131 Amendment of s 244 (Notice of significant disruption)**

Section 244, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**132 Amendment of s 245 (Regulator’s power to require information from industry participant)**

Section 245(1), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**133 Amendment of s 247 (Notice of intention to stop fuel gas transport or customer connection or retail services)**

- (1) Section 247, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.
- (2) Section 247(4)(a), ‘chapter 2’—  
*omit, insert—*  
‘a connection contract or retail contract’.

**134 Amendment of s 248 (Regulation may provide for scheme)**

- Section 248(b), after ‘scheme by’—  
*insert—*  
‘the GRMO and by’.

**135 Amendment of s 250 (Matters that may be provided for under scheme)**

- (1) Section 250, ‘customer connection contract’—  
*omit, insert—*  
‘connection contract’.
- (2) Section 250, ‘customer retail contract’—  
*omit, insert—*  
‘retail contract’.
- (3) Section 250(f)(ii), ‘customer retail contracts’—  
*omit, insert—*  
‘retail contracts’.
- (4) Section 250(g), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.
- (5) Section 250(h), ‘the regulator’s’—

*omit, insert—*

‘QCA’s’.

**136 Amendment of s 251 (Minister’s power to make declaration)**

Section 251, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**137 Amendment of s 254 (Minister’s power to give directions while declaration in force)**

(1) Section 254, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

(2) Section 254(1)—

*insert—*

‘(c) the GRMO.’.

**138 Amendment of s 256 (Liability of recipient for fuel gas supplied under direction)**

Section 256, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**139 Amendment of s 257 (Direction overrides contracts)**

Section 257(a) to (c)—

*omit, insert—*

‘(a) a connection contract;

(b) a retail contract;

(c) another contract relating to the production, transport or sale of processed natural gas.’.



**140 Replacement of ch 5, hdg (Dispute resolution)**

Chapter 5, heading—

*omit, insert—*

**‘Chapter 4A Gas retail market operator****‘Part 1 General provisions about operator****‘257A Appointment**

‘(1) The Minister may, by gazette notice, appoint a body corporate to be the gas retail market operator (the *GRMO*).

‘(2) However—

- (a) the Minister can not appoint an industry participant as the GRMO; and
- (b) the Minister may appoint a body corporate as the GRMO only if the Minister is satisfied the body has agents, employees or officers who are appropriately qualified to help it perform the GRMO’s functions.

**‘257B Functions**

‘(1) The GRMO’s functions are to—

- (a) provide services (*gas retail market services*) to others as the operator of the gas retail market, in accordance with industry codes; and
- (b) administer the parts of any industry code that provide for the following matters—
  - (i) MIRN registration;
  - (ii) customer transfers;
  - (iii) information exchanges;
  - (iv) metering;
  - (v) gas balancing;

- (vi) business to business transactions and information exchanges under industry codes;
  - (vii) any other matter prescribed under a regulation; and
  - (c) on request, give QCA advice about issues relating to reticulated processed natural gas markets; and
  - (d) recommend to QCA changes to the provisions of an industry code that provide for any of the matters mentioned in paragraph (b); and
  - (e) perform other functions relating to industry codes delegated to it under section 321A.
- ‘(2) In performing its functions, the GRMO must consider, but is not bound to accept, any advice given to it by any industry advisory committee established under part 2.

### **‘257C Obligations**

- ‘(1) The GRMO must do the following in performing its functions—
- (a) comply with this Act and any relevant industry codes;
  - (b) act consistently with the functions;
  - (c) keep accounting records and prepare accounts according to any principles decided by QCA;
  - (d) treat distributors and retailers on a fair and equal basis;
  - (e) give distributors and retailers access to its information systems to the extent necessary to allow them to participate in the reticulated processed natural gas market;
  - (f) comply with any minimum service standards provided for under a regulation or an industry code.
- ‘(2) The GRMO must give any industry advisory committee established under part 2 necessary support to allow the committee to perform its functions.

## **‘Part 2                      Industry advisory committee**

### **‘257D Establishment**

‘The Minister may—

- (a) establish 1 or more advisory committees to support the GRMO; and
- (b) fix the terms of reference of the advisory committees.

### **‘257E Functions**

‘An advisory committee’s functions are to—

- (a) advise the GRMO on the administration and operation of reticulated processed natural gas markets; and
- (b) make suggestions to the GRMO about changes under section 257B(1)(d); and
- (c) perform other functions prescribed under a regulation.

### **‘257F Composition**

‘(1) An advisory committee consists of—

- (a) a chairperson decided by the GRMO; and
- (b) other members decided by distributors and retailers.

‘(2) The number of members decided by distributors and the number of members decided by retailers must be the same.

‘(3) Of the members decided by retailers, at least 1 must be an individual nominated by area retailers and at least 1 must be an individual nominated by general retailers.

## **‘Part 3                      Miscellaneous provision**

### **‘257G Restriction on providing gas retail market services**

‘A person other than the following must not provide gas retail market services to someone else—

- (a) the GRMO;
- (b) a director or other officer of the GRMO acting within the scope of the person’s directorship or other office with the GRMO;
- (c) an employee of the GRMO acting within the course of the employee’s employment with the GRMO.

Maximum penalty—500 penalty units.

## **‘Chapter 5              Resolution of gas infrastructure work disputes’.**

### **141 Replacement of s 258 (Complaint investigation and dispute resolution)**

Section 258—

*omit, insert—*

### **‘258 Application of ch 5**

‘This chapter applies to a dispute about gas infrastructure work or proposed gas infrastructure work between a distributor and a public entity or an LPG distributor and a public entity.’.

### **142 Amendment of s 259 (Regulator’s power to require information)**

- (1) Section 259, heading and subsection (1)—

*omit, insert—*

- ‘(1) Also, the regulator may, by notice, require the distributor, LPG distributor or public entity (the *party*) to give the regulator stated information the regulator reasonably requires to mediate the dispute.’.
- (2) Section 259, as amended—  
*relocate* to section 268 and *renumber* as section 268(2) to (5).

### **143 Omission of ch 5, pt 2 (Customer disputes)**

Chapter 5, part 2—  
*omit.*

### **144 Omission of s 266 (Application of pt 3)**

Section 266—  
*omit.*

### **145 Insertion of new ch 5A**

After section 270—  
*insert—*

## **‘Chapter 5A Industry codes**

### **‘Part 1 Initial industry codes**

#### **‘270A Making of initial industry codes by Minister**

- ‘(1) The Minister must make initial industry codes for reticulated processed natural gas markets to apply to distributors and retailers and their customers.
- ‘(2) A code must state the distributors and retailers to which it applies.
- ‘(3) A code is not subordinate legislation.

*Note—*

QCA must keep a register of industry codes and publish them on its website. See section 310A and the QCA Act, sections 227A to 227C.

**‘270B Specific matters for which code may provide**

‘Without limiting section 270A, an initial industry code may provide for all or any of the following—

- (a) the rights and obligations of distributors, retailers and customers about customer connection services and customer retail services, including, for example—
  - (i) their rights and obligations in relation to the discontinuance or recommencement of the services; and
  - (ii) rights of compensation for a contravention of an obligation mentioned in subparagraph (i);
- (b) minimum terms for small customers under connection contracts and retail contracts, including permitted departures from the terms;
- (c) minimum requirements for distributors and retailers in dealing with customer complaints;
- (d) marketing conduct of retail entities to small customers;
- (e) metering;
- (f) customer transfers;
- (g) fees payable to the GRMO by distributors or retailers in relation to the code.

**‘270C Gazettal and taking of effect of code**

- ‘(1) The Minister must, as soon as practicable after making an initial industry code, publish a gazette notice stating the Minister has made the code and where it may be inspected.
- ‘(2) The code takes effect on the later of the following days—
  - (a) a day of effect stated in the gazette notice;
  - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

**‘270D Tabling of code**

- ‘(1) Within 14 days after an initial industry code takes effect, the Minister must table a copy in the Legislative Assembly.

- ‘(2) The copy is tabled for information only.
- ‘(3) A failure to table the copy does not affect the code’s ongoing effect.

## ‘Part 2                      QCA industry codes

### ‘270E QCA may make industry code

- ‘(1) Subject to sections 270F and 270G, QCA may make industry codes.
- ‘(2) However, a code made by QCA has no effect unless it is approved by the Minister.
- ‘(3) A code may provide for any matter that may be provided for under an initial industry code.
- ‘(4) Sections 270A and 270B apply to the making of an industry code by QCA as if the code were an initial industry code.

### ‘270F QCA code objective

- ‘(1) The objective (the *QCA code objective*) of an industry code made by QCA is to promote efficient investment in, and efficient use of, processed natural gas services for the long-term interests of Queensland customers of processed natural gas about price, quality, safety, reliability and security of supply of processed natural gas.
- ‘(2) QCA may make an industry code only if it is satisfied the code will, or is likely to, contribute to the achievement of the QCA code objective.

### ‘270G Required consultation

- ‘(1) This section applies if QCA proposes to make an industry code, unless QCA considers the code—
  - (a) is needed urgently; or
  - (b) does not materially affect anyone’s interests.

- ‘(2) Before QCA makes the industry code it must prepare a draft of the code and engage in the consultation prescribed under a regulation.

#### **‘270H Ministerial approval**

- ‘(1) QCA must, as soon as practicable after making an industry code, give the Minister a copy.
- ‘(2) The Minister may, within 20 business days after receiving the code, decide whether to approve it.
- ‘(3) The Minister must, in making the decision, have regard to the QCA code objective.
- ‘(4) If the decision is not to approve the code, the Minister must, as soon as practicable after the making of the decision, give QCA a notice stating the decision, and the reasons for it.
- ‘(5) If the Minister does not make the decision within the 20 business days, the Minister is taken to have approved the code.

#### **‘270I When approved QCA industry code takes effect**

- ‘(1) This section applies for an industry code made by QCA only if the Minister approves the code.
- ‘(2) QCA must, as soon as practicable after the approval, publish a gazette notice stating the Minister has approved the code and where it may be inspected.
- ‘(3) The code takes effect on the later of the following days—
  - (a) a day of effect stated in the gazette notice;
  - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

#### **‘270J Tabling of QCA industry code**

- ‘(1) If an industry code made by QCA takes effect, the Minister must, within 14 sitting days, table a copy of the code in the Legislative Assembly.
- ‘(2) The copy is tabled for information only.



- ‘(3) A failure to table the copy does not affect the code’s ongoing effect.

## **‘Part 3                      Review of industry codes and related matters**

### **‘270K Direction by Minister to review**

- ‘(1) The Minister may, by gazette notice, give QCA a written direction to conduct a review into—
- (a) any matter relating to the Queensland reticulated processed natural gas markets; or
  - (b) the operation and effectiveness of an industry code; or
  - (c) any matter relating to an industry code.
- ‘(2) QCA must comply with the direction.
- ‘(3) QCA must publish the direction on its website.

### **‘270L Terms of reference**

‘The direction may do all or any of the following—

- (a) state the terms of reference of the review;
- (b) require QCA to give the Minister a report on the review within a stated period;
- (c) require QCA to make the report publicly available or available to a stated entity;
- (d) require QCA to, during the review, make a draft report publicly available or available to a stated entity;
- (e) require QCA to, in conducting the review—
  - (i) consider stated matters; and
  - (ii) have stated objectives;
- (f) give QCA other directions the Minister considers appropriate.

**‘270M Notice of review or amended term of reference or direction**

‘QCA must publish a notice of the following on its website and in a Statewide newspaper—

- (a) the review;
- (b) if a term of reference or direction relating to the review is amended—the amended term of reference or direction.

**‘270N Conduct of review**

‘(1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the review—

- (a) as if a reference in the applied part to an investigation were a reference to the review; and
- (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review.

‘(2) However, the applied part applies subject to any requirement or direction of the Minister.

**‘Part 4 Amending industry codes****‘270O Amending code**

‘(1) QCA may amend an industry code.

‘(2) Part 2 applies to the amendment—

- (a) as if a reference in the part to making the code were a reference to the making of the amendment; and
- (b) as if a reference in the part to the code were a reference to the amendment.

## **‘Part 5                    Enforcing industry codes**

### **‘Division 1                Code contravention notices**

#### **‘Subdivision 1        Preliminary**

##### **‘270P Application of div 1**

‘This division applies if QCA suspects—

- (a) a distributor or retailer—
  - (i) has contravened, or is contravening, an industry code; or
  - (ii) is involved in an activity that is likely to result in a contravention of an industry code; and
- (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code.

##### **‘270Q Criteria for deciding material contravention**

- ‘(1) This section applies to the making of any decision under this Act about whether a contravention of an industry code is a material contravention of the code.
- ‘(2) Regard must be had to the QCA code objective.
- ‘(3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.

#### **‘Subdivision 2        Warning notices**

##### **‘270R Warning notice may be given**

- ‘(1) QCA may give the distributor or retailer a notice (the *warning notice*), warning the distributor or retailer that QCA proposes to give the distributor or retailer a further notice about the contravention or likely contravention (a *code contravention notice*).

- ‘(2) QCA must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion.
- ‘(3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent code contravention notice.
- ‘(4) Despite subsections (2) and (3), if the warning notice is proposed to be given for a contravention, it can only be given within 2 years after the day on which the contravention happened.

### ‘270S Requirements for warning notice

- ‘(1) The warning notice must state each of the following—
  - (a) particulars of the contravention or likely contravention;
  - (b) that QCA proposes to give the distributor or retailer a code contravention notice unless the distributor or retailer—
    - (i) takes steps reasonably necessary to remedy the contravention or avoid the likely contravention; and
    - (ii) gives QCA a written assurance (a **conduct assurance**), in the terms stated in the warning notice, that the distributor or retailer will—
      - (A) avoid any similar future contravention; and
      - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
  - (c) a period (the **warning period**) after which the code contravention notice may be given unless the warning notice is complied with;
  - (d) that the distributor or retailer may make, within the period, written submissions to show why the proposed code contravention notice should not be given.
- ‘(2) The warning period must be—
  - (a) if the warning notice is given because QCA considers the contravention or likely contravention is of a type that

requires urgent action—a period that QCA considers is reasonable in the circumstances; or

(b) otherwise—at least 20 business days.

(3) The warning notice may also state the steps QCA reasonably believes are necessary to remedy the contravention or avoid its future recurrence, or avoid the likely contravention.

*Examples of steps that may remedy a contravention—*

- refunding an amount wrongly paid because of the contravention
- paying compensation to someone who has damage, injury or loss because of the contravention
- disclosing particular information
- publishing advertisements about the contravention or action to remedy it

### **‘270T Considering submissions on warning notice**

(1) QCA must consider any written submission made under section 270S(1)(d) by the distributor or retailer within the period stated in the warning notice.

(2) If QCA at any time decides not to give the proposed code contravention notice, it must, as soon as practicable, give the distributor or retailer notice of the decision.

## **‘Subdivision 3 Action after warning notice**

### **‘270U Giving of code contravention notice**

(1) QCA may give the proposed code contravention notice if—

- (a) the distributor or retailer has not complied with the warning notice; and
- (b) after complying with section 270T, QCA still believes the code contravention notice ought to be given.

(2) The code contravention notice must state—

- (a) that the distributor or retailer—
  - (i) has contravened, or is contravening, an industry code; or

- (ii) is likely to contravene an industry code; and
  - (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code; and
  - (c) particulars of the contravention or likely contravention.
- ‘(3) Subsection (4) applies if the warning notice was given on the basis of a contravention of the industry code and the distributor or retailer—
  - (a) has taken steps reasonably necessary to remedy the contravention; but
  - (b) has not given the conduct assurance required under the warning notice.
- ‘(4) QCA may give the code contravention notice on the basis that the distributor or retailer is still involved in an activity that is, or is likely to result in, a material contravention of the industry code.

*Note—*

Under section 307A, a certified copy of a conduct notice is, for a proceeding under or relating to this Act, amongst other things, evidence of the contravention or other things stated in it.

## **‘270V Duration of code contravention notice**

‘The code contravention notice—

- (a) comes into effect—
  - (i) when it is made; or
  - (ii) if it states a later time—at the later time; and
- (b) ends—
  - (i) on the day stated in the notice; or
  - (ii) if it is cancelled before that day—when it is cancelled.

## **‘Division 2                    Proceedings**

### **‘270W Proceeding for civil penalty order**

- ‘(1) This section applies if, on the application of QCA, the Supreme Court is satisfied a distributor or retailer has—
  - (a) contravened an industry code; or
  - (b) attempted to contravene an industry code; or
  - (c) been involved in a contravention of an industry code.
- ‘(2) The court may order the distributor or retailer to pay the State as a civil penalty an amount of no more than—
  - (a) for an individual—\$100000; or
  - (b) for a corporation—\$500000.
- ‘(3) In fixing the penalty, the court must consider—
  - (a) the nature and extent of—
    - (i) the contravention; and
    - (ii) loss or damage suffered because of the contravention; and
  - (b) the circumstances in which the contravention took place; and
  - (c) whether the distributor or retailer has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.
- ‘(4) For subsection (1)(c), a distributor or retailer is involved in a contravention if the distributor or retailer—
  - (a) has aided, abetted, counselled or procured the contravention; or
  - (b) has induced the contravention, whether through threats, promises or in another way; or
  - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
  - (d) has conspired with others to effect the contravention.

*Note—*

See also chapter 6, part 3, division 3 (Provisions for civil penalty proceedings).

### **‘270X How order enforced**

‘If the Supreme Court orders payment of an amount under section 270W(2), the State may enforce the order as a judgment of the court for a debt of that amount.

### **‘270Y Injunctions**

- ‘(1) The Supreme Court may, on the application of QCA, grant an injunction if satisfied a distributor or retailer has engaged or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
- (a) a contravention of an industry code;
  - (b) attempting to contravene an industry code;
  - (c) aiding, abetting, counselling or procuring a distributor or retailer to contravene an industry code;
  - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a distributor or retailer to contravene an industry code;
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a distributor or retailer of an industry code;
  - (f) conspiring with others to contravene an industry code.
- ‘(2) An injunction may be granted on conditions.
- ‘(3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied a distributor or retailer has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
- ‘(4) The court may grant an interim injunction pending its decision on the application.
- ‘(5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- ‘(6) The court may amend an injunction or interim injunction.



- ‘(7) An injunction or interim injunction restraining a distributor or retailer from engaging in conduct may be granted whether or not—
- (a) it appears to the court that the distributor or retailer intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) the distributor or retailer has previously engaged in conduct of that kind; and
  - (c) there is an imminent danger of substantial damage to another person if the person engages in conduct of that kind.
- ‘(8) An injunction or interim injunction requiring a distributor or retailer to do an act or thing may be granted whether or not—
- (a) it appears to the court that the distributor or retailer intends to fail again, or to continue to fail, to do that act or thing; and
  - (b) the distributor or retailer has previously failed to do the act or thing; and
  - (c) there is an imminent danger of substantial damage to another person if the distributor or retailer does not do the act or thing.

### **‘270Z Conduct by directors, servants or agents**

- ‘(1) This section applies to a proceeding under this division.
- ‘(2) If—
- (a) the proceeding concerns alleged conduct engaged in by a distributor or retailer to which an industry code applies; and
  - (b) it is necessary to prove the distributor or retailer’s state of mind;
- it is enough to prove that a director, servant or agent (a *representative*) of the distributor or retailer, acting within the scope of the representative’s actual or apparent authority, had the state of mind.

- ‘(3) Conduct engaged in for a distributor or retailer by the following persons is taken to have been engaged in by the distributor or retailer—
- (a) a representative of the distributor or retailer, acting within the scope of the representative’s actual or apparent authority;
  - (b) another person at the direction, or with the consent or agreement, of a representative of the distributor or retailer, if the giving of the direction, consent or agreement was within the scope of the representative’s actual or apparent authority.
- ‘(4) Conduct engaged in for a distributor or retailer (the *principal*) by the following persons is taken to have been engaged in by the principal—
- (a) a servant or agent of the principal, acting within the scope of the servant’s or agent’s actual or apparent authority;
  - (b) another person at the direction or with the consent or agreement, of a servant or agent of the principal, if the giving of the direction, consent or agreement was within the scope of the servant’s or agent’s actual or apparent authority.
- ‘(5) In this section—
- consent or agreement* includes an implied consent or agreement.
- state of mind*, of a person, may include—
- (a) knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person’s reasons for the person’s intention, opinion, belief or purpose.

## **‘Division 3                    Referrals to regulator**

### **‘270ZA When QCA must refer material contravention**

‘If the Supreme Court decides a contravention of an industry code by a distributor or retailer is a material contravention of the code, QCA must refer the matter to the regulator.

### **‘270ZB When QCA may refer material contravention**

- ‘(1) If QCA has given a distributor or retailer a warning notice for a material contravention or likely material contravention of an industry code, QCA may refer the matter to the regulator.
- ‘(2) The referral may be made whether or not a code contravention notice has been given for, or a proceeding started under this division about, the contravention or likely contravention.

*Note—*

If QCA has applied for a civil penalty order under section 270W, section 270ZK prevents the regulator from imposing a similar penalty.

- ‘(3) However, the matter can not be referred before the giving of the warning notice.

### **‘270ZC Guidelines for exercise of QCA powers for civil penalties**

- ‘(1) QCA must publish on its website guidelines about when it will do each of the following—
  - (a) under section 270W, apply for a civil penalty order;
  - (b) under section 270ZB, refer matters to the regulator.
- ‘(2) Before publishing the guidelines, QCA must, take steps it considers appropriate to consult with distributors and retailers.
- ‘(3) The guidelines are not legally binding on QCA and are non-justiciable.
- ‘(4) The guidelines must include information to the effect of subsection (3).

**‘270ZD How regulator deals with referral**

‘If, under this subdivision, QCA refers a matter to the regulator, the regulator may take all or any of the following action against the relevant distributor or retailer—

- (a) for a distributor or retailer—impose a civil penalty, under chapter 6, part 1A;
- (b) for a distributor—action under chapter 2, part 1, division 3;
- (c) for a retailer—action under chapter 3, part 1, division 3.

**‘Division 4                    Production of documents or information****‘270ZE Notice to produce documents or information**

- ‘(1) This section applies if QCA is conducting an investigation to find out whether a distributor or retailer is complying with an industry code.
- ‘(2) QCA may, by notice to the distributor or retailer, require the distributor or retailer to give QCA all or any the following things QCA believes, on reasonable grounds, are relevant to the investigation—
  - (a) information within the distributor’s or retailer’s knowledge or possession;
  - (b) documents in the distributor’s or retailer’s custody, possession or power.
- ‘(3) The notice must state—
  - (a) the information or documents required; and
  - (b) a period in which the documents or information are to be given of no less than 7 days; and
  - (c) a reasonable place at which the documents or information are to be given.
- ‘(4) The distributor or retailer must comply with the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.

- ‘(5) A distributor or retailer is not required to comply with the notice if the distributor or retailer claims, on the ground of self-incrimination, a privilege the distributor or retailer would be entitled to claim against giving the information were the distributor or retailer a witness in a prosecution for an offence in the Supreme Court.
- ‘(6) If the distributor or retailer claims that complying with the notice may tend to incriminate it, QCA or the distributor or retailer may make an application to the Supreme Court to decide the validity of the claim.

### **‘270ZF Protection of confidential information given for investigation**

- ‘(1) This section applies if—
  - (a) QCA is conducting an investigation to find out whether a distributor or retailer is complying with an industry code; and
  - (b) the distributor or retailer gives QCA information for the purpose of the investigation, whether or not the giving of the information was required under section 270ZE.
- ‘(2) The QCA Act, section 187 applies as if the information had been made available for an investigation under that Act.
- ‘(3) In this section—  
*information* includes a document.

## **‘Division 5            Audits**

### **‘270ZG QCA’s powers concerning audit of compliance with industry code**

- ‘(1) QCA may, by notice to a distributor or retailer, require the distributor or retailer to—
  - (a) carry out an internal audit of all or any of the following—

- (i) the distributor's or retailer's compliance with an industry code, either generally or about a stated particular matter or matters;
    - (ii) the reliability and quality of information given by the distributor or retailer to QCA, under this Act; or
  - (b) appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).
- '(2) The notice may state terms of reference QCA requires for carrying out the audit.
- '(3) QCA may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the distributor or retailer, if—
- (a) the distributor or retailer does not comply with a notice given to it under the subsection; or
  - (b) QCA reasonably considers that a person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit.
- '(4) A person may be appointed as an independent auditor under subsection (1)(b) or (3) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

### **'270ZH Responsibility for cost of audit**

- '(1) A distributor or retailer required under section 270ZG(1) to carry out, or appoint an independent auditor to carry out, an audit is responsible for the cost of the audit.
- '(2) If QCA appoints an independent auditor to carry out an audit concerning a distributor or retailer, the distributor or retailer must reimburse QCA for the cost of the audit if required to do so by QCA.

**‘270ZI Independent auditor may require reasonable help or information**

‘(1) An independent auditor appointed under section 270ZG to carry out an audit concerning a distributor or retailer may require the distributor or retailer to give the auditor—

(a) reasonable help to carry out the audit; or

*Examples—*

- access to the distributor’s or retailer’s premises and records
- help from the distributor’s or retailer’s employees

(b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.

‘(2) A distributor or retailer required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the distributor or retailer has a reasonable excuse.

Maximum penalty—1000 penalty units.

‘(3) If the distributor or retailer is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

**‘270ZJ Audit report and submissions on report**

‘(1) A distributor or retailer required under section 270ZG(1) to carry out, or appoint an independent auditor to carry out, an audit must give a copy of the audit report to QCA.

‘(2) The copy must be given as soon as practicable after the audit is completed.

‘(3) If QCA appoints an independent auditor to carry out an audit concerning a distributor or retailer, QCA must give the distributor or retailer—

(a) a copy of the draft audit report and an opportunity to make submissions to QCA on the draft report; and

(b) a copy of the final audit report and an opportunity to make further submissions to QCA on the final report.’.

**146 Insertion of new ch 6, pt 1A**

Chapter 6, before part 1—

*insert—*

**‘Part 1A                      Civil penalty for particular  
contraventions****‘270ZK Application of pt 1A**

- ‘(1) This part applies if—
- (a) any of the following are referred to the regulator in relation to a distributor or retailer—
    - (i) a material contravention of an industry code, referred under section 270ZA or 270ZB;
    - (ii) a contravention of a compliance direction under the *Energy Ombudsman Act 2006*, referred under section 46 of that Act; or
  - (b) a distributor or retailer does not comply with a condition of the distributor’s or retailer’s authority under this Act in relation to the *Energy Ombudsman Act 2006*.
- ‘(2) However, if the contravention is a contravention of an industry code, this part applies only if QCA has not applied for a civil penalty order under section 270W.
- ‘(3) To remove any doubt, it is declared that this part does not limit or otherwise affect the taking of action or proposed action under chapter 2, part 1, division 3 or chapter 3, part 1, division 3 concerning an authority under this Act held by the distributor or retailer.

**‘270ZL Regulator may impose civil penalty**

- ‘(1) The regulator may, for the State, impose a civil penalty on the distributor or retailer of no more than the monetary value of 1333 penalty units.
- ‘(2) However, the power under subsection (1) may be exercised only if—



- (a) the regulator has given the distributor or retailer a notice stating each of the following—
  - (i) that the regulator proposes to impose the penalty;
  - (ii) the grounds for imposing the proposed penalty;
  - (iii) the facts and circumstances that are the basis for the grounds;
  - (iv) that the distributor or retailer may, within a stated period of at least 20 business days, make written submissions to show why the penalty should not be imposed; and

*Note—*

See also chapter 6, part 3, division 3 (Provisions for civil penalty proceedings).

- (b) the regulator has considered any written submissions made under paragraph (a)(iv) within the period stated in the notice.

### **‘270ZM Information notice about and taking effect of decision**

- ‘(1) If the regulator decides to impose the civil penalty, the regulator must, as soon as practicable after making the decision, give the distributor or retailer an information notice about the decision.
- ‘(2) The decision takes effect on the later of the following days—
  - (a) the day the information notice is given;
  - (b) a later day of effect stated in the notice.

### **‘270ZN Civil penalty recoverable as a debt**

‘If the regulator imposes the civil penalty, the State may recover the amount of the penalty as a debt.’

## **147 Amendment of s 279 (Who may appeal)**

Section 279—

*insert—*

- ‘(3) A distributor or retailer who, under section 270ZM, has been given, or is entitled to be given, an information notice about a decision under section 270ZL to impose a civil penalty may appeal against the decision to the District Court.’.

**148 Amendment of s 286 (Unlawfully operating distribution pipeline)**

Section 286(2), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**149 Amendment of s 287 (Unlawful tampering with gas infrastructure)**

Section 287, after ‘distributor’s’—  
*insert—*  
‘or LPG distributor’s’.

**150 Amendment of s 288 (Unlawfully selling reticulated fuel gas)**

Section 288, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas’.

**151 Amendment of s 289 (Unlawfully taking fuel gas)**

- (1) Section 289, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.
- (2) Section 289(2)(b)—  
*renumber* as section 289(2)(c).
- (3) Section 289(2)—  
*insert—*  
‘(b) an LPG distribution pipeline;’.

**152 Amendment of s 295 (Evidence of tampering with gas infrastructure)**

- (1) Section 295(a), ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.
- (2) Section 295(a), after ‘distributor’s’—  
*insert—*  
‘or LPG distributor’s’

**153 Amendment of ch 6, pt 3, div 2, hdg (Provisions for unlawfully taking fuel gas)**

Chapter 6, part 3, division 2, heading, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.

**154 Amendment of s 297 (Evidence of unlawful taking of fuel gas)**

Section 297, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.

**155 Amendment of s 298 (Proceeding may be for a period)**

Section 298, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.

**156 Amendment of s 299 (Ownership of fuel gas for proceeding)**

Section 299, ‘fuel gas’—  
*omit, insert—*  
‘processed natural gas or LPG’.

**157 Insertion of new ch 6, pt 3, div 3**

Chapter 6, part 3—

*insert—*

**‘Division 3 Provisions for civil penalty proceedings****‘299A Relationship with criminal proceedings**

- ‘(1) This section applies if—
- (a) action (a *civil penalty proceeding*) is taken against or in relation to a person, consisting of—
    - (i) an application under section 270W for a civil penalty order; or
    - (ii) a referral under section 270ZB to the regulator and any decision in relation to the referral that involves the imposition of a civil penalty; and
  - (b) a criminal proceeding has been started, or has already been started, against the person for an offence; and
  - (c) the conduct that constitutes the offence is the same, or substantially the same, as the conduct the subject of the civil penalty proceeding.
- ‘(2) The civil penalty proceeding must be stayed or not continued.
- ‘(3) However, the civil penalty proceeding may be resumed if, at the end of the criminal proceeding, there is no conviction for the offence.
- ‘(4) Evidence in the civil penalty proceeding of information given, or documents produced, by a person is not admissible in evidence in the criminal proceeding.
- ‘(5) In this section—
- conduct*** includes an omission.
- conviction*** includes a finding of guilt, or the acceptance of a plea of guilt, by a court whether or not a conviction is recorded.

**‘299B Avoidance of multiple penalties**

‘If—

- (a) a civil penalty proceeding under section 299A is taken; and
- (b) conduct, or substantially the same conduct, the subject of the civil penalty proceeding constitutes a contravention of 2 or more industry code provisions;

a civil penalty must not be imposed or ordered in the civil penalty proceeding more than once for that conduct.’

**158 Amendment of s 301 (Additional consequences of unlawfully operating distribution pipe)**

Section 301, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**159 Amendment of s 302 (Additional consequences of unlawfully selling reticulated fuel gas)**

Section 302, ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**160 Insertion of new s 307A**

Chapter 6, part 5, after section 307—

*insert—*

**‘307A Evidentiary effect of code contravention notice**

- ‘(1) A document purporting to be a certified copy of a code contravention notice is evidence—
  - (a) that the notice was a code contravention notice given under chapter 5A, part 5, division 1; and
  - (b) of the contravention or other matters stated in it; and
  - (c) that the notice has been given to the distributor or retailer stated in the notice.

‘(2) In this section—

*certified copy* means a copy with a certificate purporting to be signed by a member of QCA stating the copy is a true copy of the document it purports to be.’.

## **161 Insertion of new s 310A**

Chapter 6, part 6, after section 310—

*insert—*

### **‘310A Registers QCA must keep**

‘QCA must keep a register of each of the following—

- (a) industry codes;
- (b) each retailer’s standard terms;
- (c) warning notices, including expired warning notices;
- (d) conduct assurances;
- (e) code contravention notices, including expired code contravention notices.

*Note—*

For access to the registers, see the QCA Act, sections 227A to 227C.’.

## **162 Amendment of s 315 (Protection from civil liability for particular persons)**

Section 315(1)—

*insert—*

- ‘(e) the GRMO;
- (f) a director or other officer of the GRMO acting within the scope of the person’s directorship or other office with the GRMO;
- (g) an employee of the GRMO acting within the course of the employee’s employment with the GRMO;
- (h) QCA.’.

**163 Amendment of s 316 (Limitation of liability of distributors and retailers)**

Section 316(1), ‘fuel gas’—

*omit, insert—*

‘processed natural gas’.

**164 Insertion of new s 316A**

After section 316—

*insert—*

**‘316A Protection from liability of member or employee of QCA**

‘(1) A member or employee of QCA is not civilly liable for an act done, or omission made, in good faith under this Act.

‘(2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to QCA.’.

**165 Amendment of s 320 (Delegation by Minister)**

Section 320(3), ‘section 228 or 233’—

*omit, insert—*

‘chapter 3, part 4, division 2’.

**166 Insertion of new ss 321A and 321B**

After section 321—

*insert—*

**‘321A Delegation by QCA**

‘QCA may delegate, to the GRMO, QCA’s functions under chapter 5A, part 5 to the extent the functions relate to provisions of an industry code concerning gas retail market services.

**‘321B Reporting to Minister by QCA**

- ‘(1) QCA must, on or before each 31 December and 30 June, give the Minister a written report about the performance of—
- (a) its functions under this Act; and
  - (b) any of the Minister’s functions under this Act that have been delegated to QCA.
- ‘(2) QCA may, from time to time, give the Minister reports about any significant events in the State’s processed natural gas market of which it considers the Minister ought to be aware, including, for example, systemic issues materially affecting consumers.
- ‘(3) In this section a reference to the performance of a function includes the exercise of a power.’

**167 Replacement of ch 7 (Transitional provisions)**

Chapter 7—

*omit, insert—*

## **‘Chapter 7 Transitional provisions for Electricity and Other Legislation Amendment Act 2006**

**‘324 Definitions for ch 7**

‘In this chapter—

***amendment Act*** means the *Electricity and Other Legislation Amendment Act 2006*.

***FRC day*** means the day the amendment Act, section 114 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.

***new***, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the



post-amended Act, as affected by any relevant definitions under the post-amended Act.

*post-amended Act* means this Act as in force from the FRC day.

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

### **‘325 Conversion of customer retail contracts for particular small customers to standard contracts**

- ‘(1) This section applies on the FRC day if—
- (a) immediately before that day, a customer retail contract under the pre-amended Act (the *existing contract*) was in force between a customer and a retailer for the provision of customer retail services to premises; and
  - (b) under the post-amended Act the customer is a small customer for the premises; and
  - (c) notified prices applied to the customer for the provision of the services to the premises.
- ‘(2) The existing contract ends.
- ‘(3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- ‘(4) The customer and the retailer are, under new section 204, taken to have entered into a standard retail contract for the provision of the services to the premises.
- ‘(5) New sections 204 and 207 apply to the standard retail contract as if it were a contract taken to have been entered into under that section.

### **‘326 Small customer may enter into negotiated retail contract before FRC day**

- ‘(1) This section applies if—
- (a) under the pre-amended Act, a customer is a non-contestable customer for premises; and
  - (b) the customer would, under the post-amended Act, be a small customer for the premises.

- ‘(2) Despite former section 169, the customer may enter into a negotiated retail contract under the post-amended Act for the provision of customer retail services to the premises even though this Act is not in force in the form of the post-amended Act.
- ‘(3) However, until the FRC day—
  - (a) customer retail services can not be provided under the negotiated retail contract; and
  - (b) any customer retail contract under the pre-amended Act continues to apply for the provision of the services.
- ‘(4) Also, it is taken to be a term of the negotiated contract that the customer may, by written notice to the relevant retailer given within 10 business days after the FRC day, terminate the contract without penalty.
- ‘(5) The notice need not state a ground for the termination.

### **‘327 Transitional retail contracts**

- ‘(1) This section applies on the FRC day if—
  - (a) immediately before that day, a customer retail contract under the pre-amended Act (the *existing contract*) was in force between a customer and a retailer for the provision of customer retail services to premises; and
  - (b) in the 12 months before the FRC day, the customer at the premises consumed more than 1TJ, but less than 10TJ, of processed natural gas; and
  - (c) notified prices applied to the customer for the provision of the services to the premises.
- ‘(2) The existing contract ends.
- ‘(3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- ‘(4) The customer and the retailer are taken to have entered into a new retail contract (the *transitional retail contract*) for the provision of the services to the premises.
- ‘(5) The terms of the transitional retail contract are the retailer’s terms for retail contracts of the type to which this section

applies, as published on the area retailer's website and given to QCA no later than 5 days before the FRC day.

- '(6) The retailer must, as soon as practicable after publishing the terms under subsection (5), give the customer a notice that the terms of the retailer's transitional retail contracts may be inspected on its website.
- '(7) The customer and the retailer are taken to have agreed to comply with the terms and to have entered into the transitional retail contract as a deed.
- '(8) New section 207 applies to the transitional retail contract as if a reference in the section to a standard retail contract were a reference to the transitional retail contract.
- '(9) This section is subject to the retailer of last resort scheme.

### **'328 References to other particular contracts under pre-amended Act**

- '(1) 'In an Act or document, a reference to a contract of a following type (the *old type*) under the pre-amended Act is taken to be a reference to a type of contract under the post-amended Act stated opposite the old type—
  - (a) a customer connection contract—a connection contract;
  - (b) a customer retail contract—a retail contract.
- '(2) Subsection (1) applies subject to new sections 325 to 327.

### **'329 Price publication requirements of area retailers for FRC**

- '(1) Each area retailer must, before the following day, publish and give the Minister and QCA a list of the indicative prices that it proposes to charge its small customers under a standard retail contract for the provision of customer retail services on the FRC day—
  - (a) if, before 31 March 2007, a day is prescribed under a regulation—the prescribed day;
  - (b) otherwise—31 March 2007.Maximum penalty—500 penalty units.

- ‘(2) For subsection (1), the indicative prices are the prices that the retailer reasonably estimates that it will be charging the customers for the services, other than for the following anticipated charges that it will pass on to them—
- (a) network use of system charges;
  - (b) network FRC charges passed on to the area retailer from distributors;
  - (c) charges from the GRMO.
- ‘(3) Each area retailer must, on the earlier of the following days, publish and give the Minister and QCA a list of its actual prices for the services—
- (a) the day that is 20 days after the last of the charges mentioned in subsection (2) is fixed;
  - (b) the day that is 5 days before the FRC day.

Maximum penalty—500 penalty units.

- ‘(4) A publication of actual prices under subsection (3) may be included in a publication of the area retailer’s standard terms under new section 206, as that section applies because of new section 330.
- ‘(5) In this section—

*network FRC charges* means charges for costs incurred by distributors in implementing the amendments to this Act under the amendment Act that, under their approved access arrangements, may be passed on to customers.

*network use of system charges* means charges by the relevant distributor for customer connection services and the transportation of processed natural gas.

*publish* means publish on the area retailer’s website.

### ‘330 **Area retailer’s obligations about standard terms apply 1 month before FRC day**

- ‘(1) New sections 160, 205 and 206 apply to each area retailer as if the sections had commenced 1 month before the FRC day.

- ‘(2) However, subsection (1) does not apply for the retailer’s standard terms to the extent the terms are its prices for customer retail services.
- ‘(3) Also, if the retailer gives a list as required under new section 329(3), the retailer may amend its standard terms to include the prices without complying with new section 206.

**‘331 Price publication requirements of general retailers for FRC**

‘Each general retailer must, before the FRC day, publish on its website and give QCA a list of its prices on the FRC day for its charges to small customers under a standard retail contract for customer retail services.

**‘332 Existing mediated agreements**

‘Former section 264 continues to apply for a mediated agreement under the pre-amended Act as if the section were still in force.

**‘333 Existing orders on arbitrated disputes**

‘Former section 265 continues to apply for an order made under the section as if the section were still in force.’.

**168 Omission of sch 1 (Contestable customers)**

schedule 1—  
*omit.*

**169 Omission of sch 3 (New authorities)**

schedule 3—  
*omit.*

**170 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definitions *contestable customer*, *customer connection contract*, *customer retail contract*, *discontinuance*

*request, discontinue, fuel gas, information notice, LPG, non-contestable customer, notified prices, protected customer and register—*

*omit.*

(2) Schedule 4—

*insert—*

**‘advisory committee** means an advisory committee established under section 257D.

**area retailer obligation** see section 201(2).

**code contravention notice** see section 270R(1).

**conduct assurance** see section 270S(1)(b)(ii).

**connection contract** see section 106(1).

**disconnect**, for customer connection services, includes—

- (a) cessation, curtailment and interruption; and
- (b) a refusal to connect or reconnect.

**energy ombudsman** means the energy ombudsman under the *Energy Ombudsman Act 2006*.

**excluded customer** see section 17(4).

**gas retail market services** see section 257B(1)(a).

**GRMO** see section 257A(1).

**industry code** means—

- (a) an initial industry code; or
- (b) an industry code made by QCA under chapter 5A and as amended from time to time under that chapter.

**information notice**, for a decision, means a notice stating each of the following—

- (a) the decision;
- (b) reasons for the decision;
- (c) the rights of—
  - (i) review or appeal under this Act for the decision; or

- (ii) referral, under the *Energy Ombudsman Act 2006*, for the decision;
- (d) the period within which any review or appeal or referral must be started or made;
- (e) how the rights of review or appeal or referral must be exercised;
- (f) for a right of review or appeal—that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

***initial industry code*** means an initial industry code made by the Minister under chapter 5A and as amended from time to time under that chapter.

***large customer*** see section 17(3).

***LPG distribution pipeline*** means a pipeline that—

- (a) only transports LPG; and
- (b) would, other than for the fact that it only transports LPG, be a distribution pipeline as defined under section 13.

***LPG distribution system*** means a system of pipelines, meters and other equipment that—

- (a) is only for LPG; and
- (b) would, other than for the fact that the system is only for LPG, be a distribution system as defined under section 14.

***LPG distributor*** means a person who—

- (a) owns or operates an LPG distribution pipeline or LPG distribution system; and
- (b) provides services to premises that—
  - (i) relate to the pipeline or system; and
  - (ii) would, if the pipeline or system was a distribution pipeline or system, be customer connection services as defined under section 19.

***MIRN*** means a meter identification registration number under an industry code.

***MIRN premises***—

- 1 A ***MIRN premises*** is premises, a part of premises or a group of premises—
  - (a) that, under an industry code, has an established metering installation with a MIRN; or
  - (b) for which, under an industry code, a metering installation with a MIRN is to be established.
- 2 However, the term does not include a premises of an excluded customer.

***negotiated retail contract*** see section 208(1).

***notified prices*** see section 228(3).

***premises***, of a customer, means premises owned or occupied by the customer.

***pricing investigation*** see section 227A(1)(a).

***QCA Act*** means the *Queensland Competition Authority Act 1997*.

***QCA code objective*** see section 270F(1).

***register of authorities*** means the register the regulator keeps under section 308.

***retail contract*** means a negotiated retail contract or a standard retail contract.

***retail services application*** see section 198(1).

***small customer*** see section 17(1).

***standard retail contract*** see section 204(4).

***standard terms***, for a retailer, see section 205(1).

***warning notice*** see section 270R(1).’.

- (3) Schedule 4, definition *corresponding authority*, paragraph (h) and definitions *meter*, *reticulated* and *supply*, ‘fuel gas’—

*omit, insert*—

‘processed natural gas’.

- (4) Schedule 4, definition *holder*, after ‘register’—

*insert*—



‘of authorities’.

- (5) Schedule 4, definition *QCA*, ‘*Queensland Competition Authority Act 1997*’—

*omit, insert—*

‘*QCA Act*’.

- (6) Schedule 4—  
*renumber as schedule 2.*

## **Part 5**                      **Amendment of Queensland Competition Authority Act 1997**

### **171 Act amended in pt 5**

This part amends the *Queensland Competition Authority Act 1997*.

### **172 Amendment of s 10 (Authority’s functions)**

- (1) Section 10(j), (k) and (l)—  
*omit, insert—*
- ‘(j) to make industry codes, other than an initial industry code, under the *Electricity Act 1994* and the *Gas Supply Act 2003*; and
- (k) to monitor compliance with industry codes under the *Electricity Act 1994* and the *Gas Supply Act 2003*; and
- (l) to review particular decisions under the *Electricity Act 1994*; and’.
- (2) Section 10(m), ‘this or another Act; and’—  
*omit, insert—*
- ‘an Act, including, for example—

- (i) performing a function or exercising a power delegated to it under an Act; or
- (ii) doing an act it is directed to do under an Act; and’.

**173 Amendment of s 187 (Confidential information)**

- (1) Section 187(3)(f), ‘section 63(1)(e)’—

*omit, insert—*

‘section 63(1)(c)’.

- (2) Section 187(3)(g) and (h)—

*renumber* as section 187(3)(h) and (i).

- (3) Section 187(3)—

*insert—*

‘(g) the regulator under the *Gas Supply Act 2003*, to facilitate the performance of the regulator’s function of monitoring compliance with the conditions of authorities under that Act; or’.

**174 Replacement of s 227A (Keeping registers)**

Section 227A—

*omit, insert—*

**‘227A Keeping registers**

- ‘(1) The authority may keep a register in the way it considers appropriate.
- ‘(2) However, if the register is a register of industry codes under the *Electricity Act 1994* or the *Gas Supply Act 2003*, the authority must keep the register in a way that ensures each code included in the register is published on its website.’.

**175 Amendment of s 239 (Confidential information)**

- (1) Section 239(2)(d), ‘section 63(1)(e)’—

*omit, insert—*

‘section 63(1)(c)’.

- (2) Section 239(2)(e) and (f)—  
*renumber* as section 239(2)(f) and (g).
- (3) Section 239(2)—  
*insert*—
- (e) the regulator under the *Gas Supply Act 2003*, to facilitate the performance of the regulator’s function of monitoring compliance with the conditions of authorities under that Act; or’.

### **176 Amendment of schedule (Dictionary)**

Schedule, definition *register*, paragraph (f)—  
*omit, insert*—

- (f) a register that the authority is required to keep under the *Electricity Act 1994*, section 254B or the *Gas Supply Act 2003*, section 310A;’.

## **Part 6                      Minor and consequential amendments**

### **177 Acts amended in schedule**

- (1) The schedule amends the Acts it mentions.
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that the schedule amends the particular Act.

## **Schedule                    Minor and consequential amendments**

sections 3, 58 and 177

### **Electricity Act 1994**

- 1            Chapter 1, part 3, heading, ‘and notes in text’—**  
*omit.*
  
- 2            Section 4A—**  
*omit.*
  
- 3            Chapter 2, part 2, heading, ‘and contestable customers’—**  
*omit.*
  
- 4            Before section 37—**  
*insert—*  
**‘Division 1                    Preliminary’.**
  
- 5            After section 41—**  
*insert—*  
**‘Division 5                    Conditions of distribution  
   authorities’.**
  
- 6            Chapter 2, part 8, division 1, heading—**  
*omit.*

## Schedule (continued)

- 7 Section 89A(8), and schedule 5, definition QCA, ‘Queensland Competition Authority Act 1997’—**  
*omit, insert—*  
‘QCA Act’.
- 8 Sections 89B and 254AA, ‘the QCA’—**  
*omit, insert—*  
‘QCA’.
- 9 Sections 89B(3), ‘The QCA’—**  
*omit, insert—*  
‘QCA’.
- 10 Section 135AI, heading, after ‘electricity load’—**  
*insert—*  
‘and the electricity load of the State’.
- 11 Section 135AK, definition *information notice*—**  
*omit.*
- 12 Sections 179A(1), 188A(1), 196A(1) and 204A(1), ‘daily newspaper generally circulating in the State’—**  
*omit, insert—*  
‘Statewide newspaper’.
- 13 Schedule 1, part 1, ‘27(b)(vii)’—**  
*omit, insert—*  
‘27(b)(vi)’.

## Schedule (continued)

- 14**    **Schedule 1, part 1, ‘31(a)(vi)’—**  
*omit, insert—*  
‘31(a)(v)’.
- 15**    **Schedule 1, part 1, ‘42(a)(v)’—**  
*omit, insert—*  
‘42(a)(iv)’.
- 16**    **Schedule 1, part 1, ‘55D(g)’—**  
*omit, insert—*  
‘55D(i)’.
- 17**    **Schedule 1, part 3, entry for section 64E—**  
*omit.*

**Gas Supply Act 2003**

- 1**    **Section 7, ‘schedule 4’—**  
*omit, insert—*  
‘schedule 2’.
- 2**    **Chapter 1, part 3, division 2, subdivision 2, heading—**  
*omit, insert—*  
**‘Subdivision 2    Processed natural gas’.**

## Schedule (continued)

- 3 Sections 52, 176, 307(a)(iv), 309 and 310, ‘register’—**  
*omit, insert—*  
‘register of authorities’.
- 4 Section 159(3), ‘162, 163, 169 and 171’—**  
*omit, insert—*  
‘169, 170 and 171’.
- 5 Chapter 3, part 1, division 2, subdivisions 1 and 4, headings—**  
*omit.*
- 6 Section 232(5), ‘customer retail contract’—**  
*omit, insert—*  
‘retail contract’.
- 7 Chapter 5, parts 1 and 3, headings—**  
*omit.*
- 8 Section 271(1), ‘schedule 2’—**  
*omit, insert—*  
‘schedule 1’.
- 9 Chapter 6, part 6, heading—**  
*omit, insert—*

## Schedule (continued)

**‘Part 6                      Registers’.**

- 10      Section 308, heading—**  
*omit, insert—*
- ‘308      Register of authorities’.**
- 11      Section 309(1)(a), ‘section 28(a) to (d)’—**  
*omit, insert—*  
‘section 28(a), (b) and (c)’.
- 12      Section 310(3), definition *appropriate fee*, ‘a copy of a’—**  
*omit, insert—*  
‘a copy of the’.
- 13      Schedule 2, ‘259’—**  
*omit, insert—*  
‘268’.
- 14      Schedule 2, entry for section 331, 2 entries for section 334 and entry for schedule 1, section 5—**  
*omit.*
- 15      Schedule 2—**  
*renumber* as schedule 1.



## Schedule (continued)

**Integrated Planning Act 1997****1 Schedule 10, definition *specified activity*, paragraph (e)(ii)—***omit, insert—*

‘(ii) the *Electricity Regulation 2006*, section 17; or’.

**Petroleum and Gas (Production and Safety) Act 2004****1 Schedule 2, definition *distribution pipeline*—***omit, insert—*

‘*distribution pipeline* means a pipeline that—

- (a) transports fuel gas as—
  - (i) part of a reticulation system, within a fuel gas market; or
  - (ii) a single point-to-point pipeline to a specific commercial or industrial facility; and
- (b) is not a transmission pipeline.’.