



Queensland

# **Electrical Safety and Other Legislation Amendment Bill 2011**





Queensland

# Electrical Safety and Other Legislation Amendment Bill 2011

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# 2011

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## A Bill

for

**An Act to amend the *Electrical Safety Act 2002*, *Electrical Safety Regulation 2002*, *Industrial Relations Act 1999*, *Industrial Relations Regulation 2000*, *Industrial Relations (Tribunals) Rules 2000* and the *Workers' Compensation and Rehabilitation Act 2003*, and to make minor and consequential amendments of legislation as stated in the schedule, for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Electrical Safety and Other  
Legislation Amendment Act 2011*. 4  
5

**Clause 2 Commencement** 6

(1) The following provisions commence on a day to be fixed by  
proclamation— 7  
8

(a) part 2; 9

(b) part 3; 10

(c) schedule, part 2. 11

(2) Section 52, to the extent it inserts chapter 20, part 12, division  
1, commences, or is taken to have commenced, on 27 March  
2011. 12  
13  
14

**Part 2 Amendment of Electrical Safety  
Act 2002** 15  
16

**Clause 3 Act amended** 17

This part amends the *Electrical Safety Act 2002*. 18

*Note—* 19

See also the schedule. 20

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<b>Clause 4</b>	<b>Amendment of s 26 (Obligations for electrical safety)</b>	1
	Section 26, after the last dot point—	2
	<i>insert—</i>	3
	‘• persons who conduct recognised external certification schemes.’	4
		5
<b>Clause 5</b>	<b>Amendment of s 32 (Obligation of manufacturer of electrical equipment)</b>	6
	Section 32, after subsection (2)—	7
	<i>insert—</i>	8
	‘ <i>Note—</i>	9
	The circumstances in which this section applies could include circumstances in which the manufacturer is a responsible supplier and the electrical equipment is in-scope electrical equipment.’	10
		11
		12
		13
<b>Clause 6</b>	<b>Amendment of s 33 (Obligation of importer of electrical equipment)</b>	14
	Section 33, after subsection (2)—	15
	<i>insert—</i>	16
	‘ <i>Note—</i>	17
	The circumstances in which this section applies could include circumstances in which the importer is a responsible supplier and the electrical equipment is in-scope electrical equipment.’	18
		19
		20
		21
<b>Clause 7</b>	<b>Insertion of new s 40AA</b>	22
	Part 2, division 2, after section 40—	23
	<i>insert—</i>	24
	<b>‘40AA Obligation of person who conducts recognised external certification scheme</b>	25
		26
	‘(1) This section applies to a person who conducts a recognised external certification scheme and who certifies in-scope electrical equipment under the scheme.	27
		28
		29





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

*register* means to register in the national register.

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

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

**‘48B Meaning of *in-scope electrical equipment***

‘(1) *In-scope electrical equipment* is low voltage electrical  
equipment that is designed, or marketed as suitable, for  
household, personal or similar use.

‘(2) It is immaterial whether the low voltage electrical equipment  
is also designed or marketed to be used for commercial or  
industrial purposes.

**‘48C Extraterritorial operation**

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

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

[s 8]

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<b>‘Division 2</b>	<b>National register</b>	1
<b>‘48D</b>	<b>Chief executive to establish and maintain national register</b>	2 3
‘(1)	The chief executive must establish and maintain an in-scope electrical equipment safety system register (the <i>national register</i> ).	4 5 6
‘(2)	The national register must be available for the purposes of this Act and each corresponding law—	7 8
	(a) to register responsible suppliers and level 2 or 3 in-scope electrical equipment; and	9 10
	(b) to record information about certificates of conformity and other matters; and	11 12
	(c) to access information in the register.	13
‘(3)	The registration matters mentioned in subsection (2)(a) and the information matters mentioned in subsection (2)(b) are to be kept separately.	14 15 16
‘(4)	The national register must be in electronic form available, on the internet, for use by any person for the purposes mentioned in subsection (2).	17 18 19
‘(5)	The chief executive may comply with subsections (1) to (4) by entering into an agreement with an entity under which the entity establishes and maintains the national register for the chief executive.	20 21 22 23
‘(6)	It is immaterial where the national register is located.	24
<b>‘48E</b>	<b>Electronic registration procedure</b>	25
‘(1)	A person may register any matter, or record any information about a matter in the national register, by accessing the national register on the internet—	26 27 28
	(a) inputting the information; and	29
	(b) making the declaration (if any); and	30

---

(c) paying the fee (if any);	1
as indicated by prompts or fields in the register.	2
‘(2) A person who responds to the prompts or fills in the fields is taken to have given the information or made the declaration concerned.	3 4 5
<b>‘48F Effect of registration etc. in national register</b>	6
‘A matter registered in the national register, or information recorded in the national register, is taken to be registered or recorded under this Act whether the registration or inclusion was done for the purposes of this Act or a corresponding law.	7 8 9 10
<b>‘48G Effect of cancellation of registration etc.</b>	11
‘(1) This section applies if—	12
(a) the registration of a matter is cancelled under a corresponding law; or	13 14
(b) information recorded in the national register is omitted under a corresponding law.	15 16
‘(2) The registration is cancelled or the information is omitted for the purpose of this Act.	17 18
‘(3) However, the cancellation or omission does not entitle a person to apply for a review of the decision resulting in the cancellation or omission, or to appeal against that decision, under part 12.	19 20 21 22
<i>Note—</i>	23
For any review of the decision, see the corresponding law.	24
<b>‘48H Chief executive may note cancellation under corresponding law in national register</b>	25 26
‘(1) This section applies if—	27

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[s 8]

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- (a) the registration of a responsible supplier or of level 2 or 3 in-scope electrical equipment is cancelled under a corresponding law; and 1  
2  
3
- (b) the chief executive is notified of the cancellation under arrangements agreed to by the chief executive. 4  
5
- ‘(2) The chief executive must record notice of the cancellation in the national register. 6  
7

**‘48I Registration fees 8**

- ‘(1) This section applies for prescribing fees under a regulation for the registration of responsible suppliers or level 2 or 3 in-scope electrical equipment. 9  
10  
11
- ‘(2) The fees prescribed may be prescribed at a premium level having regard to the following— 12  
13
  - (a) under this Act and corresponding laws matters registered in the national register will be taken to be registered under this Act and each corresponding law; and 14  
15  
16  
17
  - (b) under an agreement between the State and the participating jurisdictions— 18  
19
    - (i) the only fees payable for registration, whether under this Act or a corresponding law, will be the fees prescribed under the regulation; and 20  
21  
22
    - (ii) the fees will— 23
      - (A) in the first instance, be paid to the chief executive through the national register; and 24  
25
      - (B) be paid by the chief executive into the fund; and 26  
27
      - (C) be paid from the fund as mentioned in section 204C(1). 28  
29
- ‘(3) Subsection (2) does not limit the matters that may be taken into account when prescribing the fees but may extend the matters. 30  
31  
32

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‘(4)	Subsections (1) and (2) do not limit the fees that may be prescribed under section 210(4) for this part or the national register.	1 2 3
‘(5)	A fee payable under subsection (2) must be paid under section 48E(1) or the equipment safety rules.	4 5
<b>‘Division 3</b>	<b>Recognised external certification schemes</b>	6 7
<b>‘48J</b>	<b>Recognised external certification schemes</b>	8
‘(1)	The chief executive may, by gazette notice, declare a scheme for the certification of types of in-scope electrical equipment to be a recognised external certification scheme.	9 10 11
‘(2)	A regulation may make provision about the declaration of a scheme under subsection (1).	12 13
<b>‘Division 4</b>	<b>Rules</b>	14
<b>‘48K</b>	<b>Chief executive may make rules</b>	15
‘(1)	The chief executive may make rules under this part (the <i>equipment safety rules</i> ).	16 17
‘(2)	Without limiting subsection (1), a rule may—	18
(a)	be about—	19
(i)	the registration of matters including the declarations to be made by responsible suppliers relating to their registration and to their registration of level 2 or 3 in-scope electrical equipment; or	20 21 22 23
(ii)	the recording of any information in the national register;	24 25
(iii)	the correction, change or withdrawal of information recorded in the national register in	26 27

[s 9]

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	relation to the registration of a matter or otherwise;	1
	or	2
	(iv) process for issuing certificates of conformity; or	3
	(b) approve an entity as an approved testing entity.	4
‘(3)	A rule may contain other information relating to this part or a regulation.	5 6
‘(4)	A rule must not be inconsistent with this Act.	7
‘(5)	The chief executive must notify the making of a rule in the gazette.	8 9
‘(6)	A rule takes effect—	10
	(a) on the day the making of the rule is notified in the gazette; or	11 12
	(b) if a later day is stated in the notice or the rule—on that day.	13 14
‘(7)	The chief executive must make a copy of the equipment safety rules available for public inspection on the department’s website on the internet.	15 16 17
	<i>Editor’s note—</i>	18
	The address of the department’s website is <www.justice.qld.gov.au>.’.	19
<b>Clause 9</b>	<b>Insertion of new s 181A</b>	20
	After section 181—	21
	<i>insert—</i>	22
<b>‘181A</b>	<b>Statement in complaint that thing is in-scope electrical equipment</b>	23 24
	‘In a complaint starting a proceeding, a statement that a thing is level 1, 2 or 3 in-scope electrical equipment under a regulation is sufficient evidence of that element unless the contrary is proved.’.	25 26 27 28
<b>Clause 10</b>	<b>Insertion of new pt 14, div 1A</b>	29
	After section 204—	30

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<i>insert—</i>	1
<b>‘Division 1A In-scope electrical equipment (registration fees) fund</b>	2 3
<b>‘204A Establishment of fund</b>	4
‘The in-scope electrical equipment (registration fees) fund (the <i>fund</i> ) is established.	5 6
<b>‘204B Purpose and administration of fund</b>	7
‘(1) The purpose of the fund is to record amounts received for, and paid from, the fund as mentioned in this division.	8 9
‘(2) Accounts for the fund must be kept as part of the departmental accounts of the department.	10 11
‘(3) Amounts payable to the fund are the fees received by the chief executive for the registration of responsible suppliers and level 2 or 3 in-scope electrical equipment in the national register.	12 13 14 15
<b>‘204C Payments from fund</b>	16
‘(1) Amounts are payable from the fund only for providing, in Queensland and participating jurisdictions, electrical safety services relating to in-scope electrical equipment and if payable under the terms of an agreement between the State and participating jurisdictions.	17 18 19 20 21
‘(2) The amounts may be paid without further appropriation.	22
<b>‘204D State may enter into agreement</b>	23
‘The State is authorised to enter into an agreement with participating jurisdictions in relation to the fund including for making payments to and from the fund.’.	24 25 26

[s 11]

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<b>Clause 11</b>	<b>Amendment of s 210 (Regulation-making power)</b>	1
(1)	Section 210(2)(e), ‘approval requirements’—	2
	<i>omit, insert—</i>	3
	‘certification requirements’.	4
(2)	Section 210(2)(e), ‘hiring,’	5
	<i>omit.</i>	6
(3)	Section 210(2)(g), ‘approvals’—	7
	<i>omit, insert—</i>	8
	‘certificates’.	9
(4)	Section 210(2)(ha), ‘hiring or’—	10
	<i>omit.</i>	11
(5)	Section 210(2)—	12
	<i>insert—</i>	13
	‘(la) all matters relating to the registration of responsible suppliers and in-scope electrical equipment in the national register, including the renewal and cancellation of the registration; and	14 15 16 17
	(lb) all matters relating to the classification of in-scope electrical equipment; and	18 19
	(lc) all matters relating to the sale of in-scope electrical equipment including requirements about the keeping of evidence and certificates that show that items of types of in-scope electrical equipment meet relevant standards; and	20 21 22 23 24
	(ld) all matters relating to the recording of information about certificates of conformity in the national register including what information is to be recorded, how it is to be recorded and by whom it is to be recorded; and	25 26 27 28
	(le) all matters relating to the recording of other information in the national register including what information is to be recorded, how it is to be recorded and by whom it is to be recorded; and	29 30 31 32



(lf) all matters relating to the declaration of a scheme as a recognised external certification scheme under section 48J including the imposition of conditions on, and the cancellation of, the declaration; and’. 1  
2  
3  
4

(6) Section 210(2)(ha) to (n)— 5  
*renumber* as section 210(2)(i) to (u). 6

**Clause 12 Insertion of new pt 19** 7  
After section 246— 8  
*insert*— 9

**‘Part 19 Transitional provision for** 10  
**Electrical Safety and Other** 11  
**Legislation Amendment Act** 12  
**2011** 13

**‘247 Effect of regulation amendment** 14  
‘The amendment of the *Electrical Safety Regulation 2002* by 15  
the *Electrical Safety and Other Legislation Amendment Act* 16  
*2011* does not affect the power of the Governor in Council to 17  
further amend the regulation or to repeal it.’. 18

**Clause 13 Amendment of sch 2 (Dictionary)** 19  
Schedule 2— 20  
*insert*— 21  
‘*another State*, for part 2A, see section 48A. 22  
*certificate of conformity* see section 48A. 23  
*corresponding law* see section 48A. 24  
*equipment safety rules* see section 48K. 25  
*fund* see section 204A. 26  
*in-scope electrical equipment* see section 48B. 27

[s 14]

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<i>level 2</i> in-scope electrical equipment, for part 2A, see section 48A.	1 2
<i>level 3</i> in-scope electrical equipment, for part 2A, see section 48A.	3 4
<i>national register</i> see section 48D.	5
<i>participating jurisdiction</i> see section 48A.	6
<i>recognised external certification scheme</i> see section 48A.	7
<i>register</i> , for part 2A, see section 48A.	8
<i>responsible supplier</i> see section 48A.	9
<i>sell</i> includes—	10
(a) sell by wholesale, retail or auction; and	11
(b) supply in trade or commerce or under an arrangement; and	12 13
(c) hire; and	14
(d) agree, attempt or offer to sell; and	15
(e) keep or expose for sale; and	16
(f) cause or permit to be sold.’.	17

<b>Part 3</b>	<b>Amendment of Electrical Safety Regulation 2002</b>	18 19
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<b>Clause 14</b>	<b>Regulation amended</b>	20
	This part amends the <i>Electrical Safety Regulation 2002</i> .	21
	<i>Note—</i>	22
	See also the schedule.	23

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<b>Clause 15</b>	<b>Replacement of pt 6 and insertion of new pt 6A</b>	1	
	Part 6—	2	
	<i>omit, insert—</i>	3	
	<b>‘Part 6</b>	<b>In-scope electrical equipment</b>	4
	<b>‘Division 1</b>	<b>Preliminary</b>	5
<b>‘95</b>	<b>This part applies for pt 2A of the Act</b>	6	
	‘This part applies for the purposes of part 2A of the Act.	7	
<b>‘96</b>	<b>Definitions for pt 6</b>	8	
	‘In this part—	9	
	<i>certificate of conformity</i> means a certificate—	10	
	(a) stating that a type of level 3 in-scope electrical equipment complies with the relevant standard for that type; and	11 12 13	
	(b) issued—	14	
	(i) under division 7 or under a recognised external certification scheme; or	15 16	
	(ii) under a corresponding law or a scheme provided for under that law.	17 18	
	<i>date of registration</i> , in relation to—	19	
	(a) the registration of a responsible supplier; or	20	
	(b) the registration of equipment as a type of level 2 or 3 in-scope electrical equipment;	21 22	
	means the date shown in the national register as the date of registration of the responsible supplier or type.	23 24	
	<i>defining standard</i> means AS/NZS 4417 (Marking of electrical products to indicate compliance with regulations).	25 26	

[s 15]

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- false declaration** includes an incorrect or misleading declaration. 1  
2
- false information** includes incorrect or misleading information. 3  
4
- family**, of a type of level 1, 2 or 3 in-scope electrical equipment, means items of the type that— 5  
6
- (a) have the same basic electrical characteristics and material composition but may differ in dimension, colour or other aspects; and 7  
8  
9
- (b) are, having regard to the relevant standard for the type, able to be covered by a single test report. 10  
11
- level 1** in-scope electrical equipment see section 97B(1). 12
- level 2** in-scope electrical equipment see section 97B(2). 13
- level 3** in-scope electrical equipment see section 97B(3). 14
- meets**, in relation to a relevant standard, means complies with the safety requirements, electrical or otherwise, of the standard. 15  
16  
17
- RCM** means the regulatory compliance mark under the defining standard. 18  
19
- registered** see section 97. 20
- registered responsible supplier** means a responsible supplier of in-scope electrical equipment who is registered. 21  
22
- relevant person** means— 23
- (a) an individual who resides in Queensland; or 24
- (b) a corporation whose— 25
- (i) registered office under the Corporations Law is in Queensland; or 26  
27
- (ii) principal place of business is in Queensland. 28
- relevant responsible supplier** means— 29
- (a) if the responsible supplier is an individual—an individual who resides in Queensland; or 30  
31

- 
- (b) if the responsible supplier is a corporation—a corporation whose—
- (i) registered office under the Corporations Law is in Queensland; or
  - (ii) principal place of business is in Queensland.
- relevant standard**—
- (a) for a type of level 1 in-scope electrical equipment, see section 97C; or
  - (b) for a type of level 2 or 3 in-scope electrical equipment, see section 97D.
- second-hand**, in relation to an item of a type of in-scope electrical equipment means an item of the type that has previously been sold, other than by wholesale.
- test report** means a document that presents test results and other information relevant to the test.

**‘97 Registration for particular purposes**

- ‘(1) A responsible supplier is **registered** if the supplier is recorded in the part of the national register that records registered responsible suppliers.
- ‘(2) Electrical equipment is **registered** as a type of level 2 or 3 in-scope electrical equipment if the equipment is recorded, in relation to a registered responsible supplier, as equipment of that type in the part of the national register that records registered in-scope electrical equipment of that type.

*Note*—

Level 1 in-scope electrical equipment is not required to be registered under this part.
- ‘(3) In-scope electrical equipment of a particular type is registered in relation to a particular registered responsible supplier if it is registered as mentioned in subsection (2) in relation to the responsible supplier.

[s 15]

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<b>‘97A</b>	<b>Component is not a separate item</b>	1
‘(1)	This section applies if an item of a type of in-scope electrical equipment includes 2 or more components of types of in-scope electrical equipment that are permanently attached to the item.	2 3 4 5
‘(2)	The components are not separate items of types of in-scope electrical equipment.	6 7
	<i>Example—</i>	8
	A type of in-scope electrical equipment, being a refrigerator, includes a number of components each of which, taken separately, is itself an item of a type of in-scope electrical equipment. If a refrigerator of the type is sold, the item sold is the refrigerator. There is not a separate sale of each of the components.	9 10 11 12 13
<b>‘97B</b>	<b>Meanings of levels 1, 2 and 3 in-scope electrical equipment</b>	14 15
‘(1)	Electrical equipment is level 1 in-scope electrical equipment if it is a type of in-scope electrical equipment that is not classified under the defining standard as level 2 or level 3.	16 17 18
‘(2)	Electrical equipment is level 2 in-scope electrical equipment if it is a type of in-scope electrical equipment classified as level 2 under the defining standard.	19 20 21
‘(3)	Electrical equipment is level 3 in-scope electrical equipment if it is a type of in-scope electrical equipment classified as level 3 under the defining standard.	22 23 24
‘(4)	Also, if a type of in-scope electrical equipment is level 1, 2 or 3 in-scope electrical equipment, each item of the family of the type is also level 1, 2 or 3 in-scope electrical equipment.	25 26 27
<b>‘97C</b>	<b>Meaning of relevant standard for level 1 in-scope electrical equipment</b>	28 29
‘(1)	The <i>relevant standard</i> for a type of level 1 in-scope electrical equipment is—	30 31
	(a) if there is a Standards Australia or joint Standards Australia and Standards New Zealand standard that	32 33

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applies specifically to the type—that standard together with AS/NZS3820 (Essential safety requirements for electrical equipment); or	1 2 3
(b) if there is not a Standards Australia or joint Standards Australia and Standards New Zealand standard that applies specifically to the type and there is an IEC standard that applies specifically to the type—the IEC standard together with AS/NZS3820; or	4 5 6 7 8
(c) if neither paragraph (a) nor (b) applies—AS/NZS3820.	9
‘(2) In this section—	10
<i>IEC standard</i> means an International Electrotechnical Commission standard.	11 12
<b>‘97D Meaning of relevant standard for level 2 or 3 in-scope electrical equipment</b>	13 14
‘(1) A standard is a <i>relevant standard</i> for a type of level 2 or 3 in-scope electrical equipment if it is a standard—	15 16
(a) shown in the defining standard as the relevant standard for the type, and the standard can be readily applied to the type; or	17 18 19
(b) accepted by the chief executive as a standard that can be readily applied to the type; or	20 21
(c) accepted under a corresponding law as a standard that can be readily applied to the type.	22 23
‘(2) The acceptance of a standard under subsection (1)(b) or (c) has effect subject to compliance with any requirements stated—	24 25 26
(a) for subsection (1)(b)—by the chief executive as part of the chief executive’s acceptance of the standard; or	27 28
(b) for subsection (1)(c)—as part of the acceptance of the standard under the corresponding law.	29 30

[s 15]

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<b>‘Division 2</b>	<b>Registration of responsible suppliers and levels 2 and 3 in-scope electrical equipment</b>	1 2 3
<b>‘Subdivision 1</b>	<b>Registration of responsible suppliers</b>	4 5
<b>‘98</b>	<b>Responsible supplier may register</b>	6
‘(1)	A responsible supplier of in-scope electrical equipment may register as a responsible supplier.	7 8
‘(2)	However, the responsible supplier is not eligible to register—	9
	(a) unless the responsible supplier has an ABN or an IRD; or	10 11
	(b) if the responsible supplier is ineligible to register under section 103G(2).	12 13
‘(3)	As part of the registration process, the responsible supplier must—	14 15
	(a) make the responsible supplier’s declaration as required by the equipment safety rules; and	16 17
	(b) pay the registration fee.	18
‘(4)	The declaration required by the equipment safety rules must include the information mentioned in schedule 3, part 1.	19 20
‘(5)	A relevant person must not, in registering or purporting to register as a responsible supplier, give false information or make a false declaration.	21 22 23
	Maximum penalty—40 penalty units.	24
‘(6)	In this section—	25
	<i>ABN</i> (short for ‘Australian Business Number’) has the meaning given by the <i>A New Tax System (Australian Business Number) Act 1999</i> (Cwlth), section 41.	26 27 28



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<i>IRD</i> means a tax file number within the meaning of the <i>Income Tax Act 2007</i> (New Zealand), section YA1.	1 2
<b>‘99 Term of registration</b>	3
‘Registration of a responsible supplier is for the term of 1 year starting on the date of registration unless sooner cancelled.	4 5
<b>‘100 Renewal of registration</b>	6
‘A responsible supplier may renew the supplier’s registration from time to time by again registering under section 98.	7 8
<b>‘100A Responsible supplier must ensure details in national register are current</b>	9 10
‘(1) This section applies if the details of any matter entered by a relevant responsible supplier in the national register relating to the registration of any matter change during the term of registration.	11 12 13 14
‘(2) Within 30 days the relevant responsible supplier must correct the details in the national register.	15 16
Maximum penalty—40 penalty units.	17
<b>‘Subdivision 2 Registration of level 2 in-scope electrical equipment</b>	18 19
<b>‘101 Registration</b>	20
‘(1) A registered responsible supplier of a type of level 2 in-scope electrical equipment may register the type as level 2 in-scope electrical equipment.	21 22 23
‘(2) However, the registered responsible supplier is not eligible to carry out the registration if the responsible supplier is ineligible to do so under section 103G(3).	24 25 26

[s 15]

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- ‘(3) Each registration must relate only to a single type of level 2 in-scope electrical equipment. 1  
2
- ‘(4) As part of the registration process the registered responsible supplier must— 3  
4
- (a) make the responsible supplier’s level 2 in-scope electrical equipment declaration under the equipment safety rules; and 5  
6  
7
- (b) if the compliance folder required to be kept in relation to the type of level 2 in-scope electrical equipment under section 108 is not available in the national register, state the address where it is kept; and 8  
9  
10  
11
- (c) pay the registration fee. 12
- ‘(5) The declaration under the equipment safety rules must include the information mentioned in schedule 3, part 2. 13  
14
- ‘(6) A relevant person must not, in registering or purporting to register a type of level 2 in-scope electrical equipment, give false information or make a false declaration. 15  
16  
17
- Maximum penalty for subsection (6)—40 penalty units. 18
- ‘102 Term of registration 19**
- ‘(1) Registration of a type of level 2 in-scope electrical equipment is for the term of 1, 2 or 5 years starting on the date of registration. 20  
21  
22
- ‘(2) Subsection (1) is subject to the registration being earlier cancelled. 23  
24
- ‘(3) Subsection (4) applies if the responsible supplier’s registration lapses for a period during the term of the electrical equipment’s registration. 25  
26  
27
- ‘(4) The electrical equipment’s registration is suspended during that period. 28  
29

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<b>‘103</b>	<b>Renewal of registration</b>	1
	‘A registered responsible supplier may renew the registration of a type of level 2 in-scope electrical equipment from time to time by again registering it under section 101.	2 3 4
<b>‘Subdivision 3</b>	<b>Registration of level 3 in-scope electrical equipment</b>	5 6
<b>‘103A</b>	<b>Registration</b>	7
	‘(1) A registered responsible supplier of a type of level 3 in-scope electrical equipment may register the type as level 3 in-scope electrical equipment.	8 9 10
	‘(2) However, the registered responsible supplier is not eligible to carry out the registration if the responsible supplier is ineligible to do so under section 103G(3).	11 12 13
	‘(3) Each registration must relate only to a single type of level 3 in-scope electrical equipment.	14 15
	‘(4) As part of the registration process the registered responsible supplier must—	16 17
	(a) identify a certificate of conformity applicable to the type of level 3 in-scope electrical equipment; and	18 19
	(b) make the responsible supplier’s level 3 in-scope electrical equipment declaration under the equipment safety rules; and	20 21 22
	(c) pay the registration fee.	23
	‘(5) The declaration under the equipment safety rules must include the information mentioned in schedule 3, part 3.	24 25
	‘(6) A relevant person must not, in registering or purporting to register a type of level 3 in-scope electrical equipment, give false information or make a false declaration.	26 27 28
	Maximum penalty for subsection (6)—40 penalty units.	29

[s 15]

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<b>‘103B Term of registration</b>	1
‘(1) Registration of a type of level 3 in-scope electrical equipment is for the term of 1, 2 or 5 years starting on the date of registration.	2 3 4
‘(2) However, the term of registration must not be longer than the term for which the certificate of conformity applying to the type and identified under section 103A(4)(a) is current at the time of registration.	5 6 7 8
‘(3) Subsection (1) is subject to the registration being earlier cancelled.	9 10
‘(4) Also, if the certificate of conformity is cancelled the term of registration ends.	11 12
‘(5) Subsection (6) applies if the responsible supplier’s registration lapses for a period during the term of the electrical equipment’s registration.	13 14 15
‘(6) The electrical equipment’s registration is suspended during that period.	16 17
<b>‘103C Renewal of registration</b>	18
‘A registered responsible supplier may renew the registration of a type of level 3 in-scope electrical equipment from time to time by again registering it under section 103A.	19 20 21
<b>‘Subdivision 4      Relevant persons not to be twice punished for same acts or omissions</b>	22 23 24
<b>‘103D Relevant person may be punished only once</b>	25
‘(1) This section applies if—	26
(a) an act or omission of a relevant person is an offence against section 98(5), 100A(2), 101(6) or 103A(6) and also under a corresponding law; and	27 28 29

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(b)	the relevant person is punished for the offence under the corresponding law.	1 2
‘(2)	The relevant person must not be punished for the same offence under this regulation.	3 4
<b>‘Subdivision 5</b>	<b>Cancellation of registration</b>	5
<b>‘103E</b>	<b>Grounds for cancelling registration of responsible supplier or level 2 or 3 in-scope electrical equipment</b>	6 7
‘(1)	The following are grounds for cancelling a responsible supplier’s registration—	8 9
(a)	the responsible supplier commits an offence against the Act or this regulation;	10 11
(b)	the responsible supplier contravenes a requirement of a recall order;	12 13
(c)	the responsible supplier is a relevant responsible supplier and the registration was obtained by giving false information or making a false declaration;	14 15 16
(d)	the registration of a type of level 2 or 3 in-scope electrical equipment registered in relation to the responsible supplier is cancelled under section 103G.	17 18 19
‘(2)	The following are grounds for cancelling the registration in relation to a registered responsible supplier of a type of level 2 or 3 in-scope electrical equipment—	20 21 22
(a)	the responsible supplier commits an offence against the Act or this regulation in relation to the type;	23 24
(b)	the responsible supplier contravenes a requirement of a recall order relating to the type;	25 26
(c)	the responsible supplier is a relevant responsible supplier and—	27 28
(i)	electrical equipment of the type does not meet the relevant standard that was the relevant standard for the type at the time the type was registered; or	29 30 31

[s 15]

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- (ii) the relevant standard for the type changed after the type was registered because of safety concerns relating to the type and the type does not meet the current relevant standard for the type; or
- (iii) an item of electrical equipment of the type is, or is likely to be or to become, dangerous in normal use; or
- (iv) the registration was obtained by giving false information or making a false declaration.

**‘103F Procedure before cancellation** 10

- ‘(1) This section applies if the chief executive considers a ground exists under section 103E to cancel the registration of a matter. 11  
12  
13
- ‘(2) The chief executive must, before taking the action, give the responsible supplier written notice— 14  
15
  - (a) stating that the chief executive is considering cancelling the registration; and 16  
17
  - (b) stating each ground for the proposed cancellation; and 18
  - (c) outlining the facts and circumstances forming the basis for each ground; and 19  
20
  - (d) inviting the responsible supplier to show, within a stated time of at least 28 days, why the registration should not be cancelled. 21  
22  
23

**‘103G Cancellation** 24

- ‘(1) If, after considering all written representations, if any, made by the responsible supplier within the stated time, the chief executive still considers a ground exists to cancel the registration, the chief executive may cancel the registration. 25  
26  
27  
28
- ‘(2) If a responsible supplier’s registration is cancelled under this section, the responsible supplier is not eligible to again register for the period of 12 months starting on the date of cancellation. 29  
30  
31  
32

- 
- ‘(3) If the registration of a type of level 2 or 3 in-scope electrical equipment registered in relation to a registered responsible supplier is cancelled under this section, the responsible supplier is not eligible to again register the type for the period of 12 months starting on the date of cancellation. 1  
2  
3  
4  
5
- ‘(4) If the chief executive cancels a registration under this section, the chief executive must— 6  
7
- (a) notify the cancellation— 8
- (i) by publishing notice of the cancellation in a newspaper circulating throughout Australia and, if New Zealand is a participating jurisdiction, in a newspaper circulating throughout New Zealand; and 9  
10  
11  
12  
13
- (ii) by recording notice of the cancellation in the national register; and 14  
15
- (b) give the responsible supplier an information notice for the decision to cancel the registration. 16  
17
- ‘(5) The information notice must state the period for which the responsible supplier is not eligible to again— 18  
19
- (a) register; or 20
- (b) register the type of level 2 or 3 in-scope electrical equipment. 21  
22

**‘103H Cancellation at responsible supplier’s request 23**

‘The chief executive must, by notice recorded in the national register, cancel the registration of a responsible supplier or the registration in relation to a responsible supplier of a type of level 2 or 3 in-scope electrical equipment if asked to do so by the responsible supplier. 24  
25  
26  
27  
28

[s 15]

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<b>‘Division 3</b>	<b>Sales of in-scope electrical equipment</b>	1 2
<b>‘104</b>	<b>Sale of level 1 in-scope electrical equipment by responsible supplier</b>	3 4
‘(1)	A responsible supplier of a type of level 1 in-scope electrical equipment must not sell an item of the type unless—	5 6
(a)	the responsible supplier is a registered responsible supplier; and	7 8
(b)	the item meets the relevant standard for the type as in force—	9 10
(i)	if the responsible supplier is a manufacturer of the type—at the time the item was manufactured by the responsible supplier; or	11 12 13
(ii)	if the responsible supplier is an importer of the type—at the time the item was imported by the responsible supplier; and	14 15 16
(c)	the item is electrically safe.	17
	Maximum penalty—40 penalty units.	18
‘(2)	It is a defence for the responsible supplier to prove that the responsible supplier obtained the item from a registered responsible supplier.	19 20 21
	<i>Example for subsection (2)—</i>	22
	This example assumes New Zealand is a participating jurisdiction.	23
	A New Zealand responsible supplier (company A) is a registered responsible supplier. Company A imports level 1 in-scope electrical equipment into New Zealand from the United Kingdom. Company B is an Australian company that purchases the level 1 in-scope electrical equipment from company A and imports it into Australia. Company B, although a responsible supplier, is not a registered responsible supplier.	24 25 26 27 28 29
	If company B were charged with an offence against subsection (1) in relation to its sale of an item of the equipment, it would be a defence for company B to prove that it obtained the item from company A who is a registered responsible supplier.	30 31 32 33



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<b>‘105</b>	<b>Sale of level 2 or 3 in-scope electrical equipment by responsible supplier</b>	1 2
‘(1)	A responsible supplier of a type of level 2 or 3 in-scope electrical equipment must not sell an item of the type unless—	3 4
	(a) the responsible supplier is a registered responsible supplier; and	5 6
	(b) the type is registered in relation to the responsible supplier; and	7 8
	(c) the item meets the relevant standard for the type as at the time the type became registered as mentioned in paragraph (b); and	9 10 11
	(d) the item is electrically safe.	12
	Maximum penalty—40 penalty units.	13
‘(2)	It is a defence for the responsible supplier to prove—	14
	(a) that—	15
	(i) the responsible supplier obtained the item from a registered responsible supplier; and	16 17
	(ii) the type of in-scope electrical equipment to which the item belongs was, at the time of the alleged offence, registered in relation to the registered responsible supplier; or	18 19 20 21
	(b) that, at the time of the alleged offence—	22
	(i) the responsible supplier was, under the Corporations Act, a related body corporate of a New Zealand registered responsible supplier; and	23 24 25
	(ii) the type of in-scope electrical equipment to which the item belongs was registered in relation to the New Zealand registered responsible supplier.	26 27 28
‘(3)	In this section—	29
	<i>New Zealand registered responsible supplier</i> means a registered responsible supplier that is, under the <i>Companies Act 1993</i> (New Zealand)—	30 31 32
	(a) a company; or	33

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[s 15]

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- (b) an overseas company carrying on business in New Zealand. 1  
2
- Example for subsection (2)(a)—* 3
- This example assumes New Zealand is a participating jurisdiction. 4
- A New Zealand responsible supplier (company A) is a registered responsible supplier and a type of level 2 in-scope electrical equipment is registered in the national register in relation to company A. Company A imports level 2 in-scope electrical equipment of that type into New Zealand from the United Kingdom. Company B is an Australian company that purchases the level 2 in-scope electrical equipment from company A and imports it into Australia. Company B, although a responsible supplier, is not a registered responsible supplier. 5  
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- If company B were charged with an offence against subsection (1) in relation to its sale of an item of the equipment, it would be a defence for company B to prove that it obtained the item from company A who is a registered responsible supplier and that the type of in-scope electrical equipment to which the item belonged was, at the time of the alleged offence, registered in the national register in relation to company A. 13  
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- ‘106 Sale of in-scope electrical equipment—general** 19
- ‘(1) A person must not sell an item of a type of level 1, 2 or 3 in-scope electrical equipment unless the item is marked with the RCM in compliance with the defining standard. 20  
21  
22
- Maximum penalty—20 penalty units. 23
- ‘(2) A person must not sell an item of a relevant type if— 24
- (a) the item was purchased by the person for the purpose of resale; and 25  
26
- (b) when the person purchased the item, the relevant type was not registered in relation to a registered responsible supplier. 27  
28  
29
- Maximum penalty—20 penalty units. 30
- ‘(3) Subsection (4) applies in relation to a prosecution of an offence against subsection (2) in which the issue is raised that the person had an honest and reasonable but mistaken belief that the type was registered in relation to a registered 31  
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responsible supplier based on reasonable monitoring by the person of the national register.	1 2
‘(4) In deciding whether the monitoring of the national register was reasonable, regard may be had to the nature of the item and the nature of the person’s business in relation to the item.	3 4 5
‘(5) For subsection (1) it is sufficient if the mark is on the item’s labelling or packaging in compliance with the defining standard.	6 7 8
‘(6) Subsection (1) or (2) does not apply if—	9
(a) the person is a responsible supplier of the type of in-scope electrical equipment; or	10 11
(b) the item is a second-hand item.	12
‘(7) In this section—	13
<i>relevant type</i> means a type of level 2 or 3 in-scope electrical equipment that, after the commencement of subsection (2), is manufactured in, or imported into, Australia or, if New Zealand is a participating jurisdiction, New Zealand.	14 15 16 17
<b>‘106A Sale of plug etc. with level 1 or 2 in-scope electrical equipment</b>	18 19
‘(1) This section applies if—	20
(a) a relevant item of a type of level 3 in-scope electrical equipment is sold for use with an item of a type of level 1 or 2 in-scope electrical equipment; and	21 22 23
(b) at the time of sale, there is a current certificate of conformity that applies to the relevant item recorded in the national register.	24 25 26
‘(2) For the purpose of the sale, the type of level 3 in-scope electrical equipment is not required to be registered.	27 28
‘(3) Subsection (2) applies despite any other provision of this part.	29
‘(4) In this section—	30
<i>relevant item</i> means a plug, flexible supply cord or appliance connector, as defined in the defining standard.	31 32

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<b>‘Division 4</b>	<b>Evidence of compliance with relevant standards</b>	1 2
<b>‘Subdivision 1</b>	<b>Level 1 in-scope electrical equipment</b>	3 4
<b>‘107</b>	<b>Responsible supplier to keep evidence</b>	5
‘(1)	This section applies to a responsible supplier of a type of level 1 in-scope electrical equipment who sells an item of the type.	6 7
‘(2)	The responsible supplier must, for the prescribed period, keep documentary evidence, in English, proving that items of the type meet the relevant standard for the type as in force—	8 9 10
	(a) if the responsible supplier is a manufacturer of the type—at the time the item was manufactured by the responsible supplier; or	11 12 13
	(b) if the responsible supplier is an importer of the type—at the time the item was imported by the responsible supplier.	14 15 16
	Maximum penalty—40 penalty units.	17
	<i>Note—</i>	18
	It is the responsibility of the responsible supplier to ascertain the relevant standard applying to the type under section 97C.	19 20
‘(3)	It is a defence for the responsible supplier to prove that the responsible supplier obtained the item from a registered responsible supplier.	21 22 23
	<i>Example for subsection (3)—</i>	24
	This example assumes New Zealand is a participating jurisdiction.	25
	A New Zealand responsible supplier (company A) is a registered responsible supplier. Company A imports level 1 in-scope electrical equipment into New Zealand from the United Kingdom. Company B is an Australian company that purchases the level 1 in-scope electrical equipment from company A and imports it into Australia. Company B, although a responsible supplier, is not a registered responsible supplier.	26 27 28 29 30 31

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Also, company B does not keep the evidence mentioned in subsection (2) in relation to items of the type.	1 2
If company B were charged with an offence against subsection (1) in relation to its sale of an item of the equipment, it would be a defence for company B to prove that it obtained the item from company A who is a registered responsible supplier.	3 4 5 6
‘(4) In this section—	7
<i>keep</i> , documentary evidence, means hold the evidence or be able to access it within 10 business days.	8 9
<i>prescribed period</i> means 5 years starting on the day the type is last manufactured or imported by the responsible supplier.	10 11
<b>‘Subdivision 2      Level 2 in-scope electrical equipment</b>	12 13
<b>‘108      Registered responsible supplier must keep compliance folder</b>	14 15
‘(1) This section applies to a registered responsible supplier who sells items of a type of level 2 in-scope electrical equipment registered in relation to the responsible supplier.	16 17 18
‘(2) The registered responsible supplier must, for the prescribed period, keep a compliance folder proving that the type meets the relevant standard as in force when the type was registered.	19 20 21
Maximum penalty—40 penalty units.	22
‘(3) A compliance folder is a document recording evidence in English, that must include test reports completed by an approved testing entity or a suitably qualified person, confirming that the type meets the relevant standard mentioned in subsection (2).	23 24 25 26 27
‘(4) A compliance folder may be kept in electronic form.	28
‘(5) In this section—	29
<i>keep</i> , a compliance folder, means—	30
(a) have the folder available in the national register; or	31

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(b)	hold the folder or be able to access it within 10 business days.	1 2
	<i>prescribed period</i> means the term of the registration of the type of level 2 in-scope electrical equipment plus 5 years.	3 4
	<i>suitably qualified person</i> means an individual who has—	5
(a)	a degree qualification in electrical engineering and at least 2 years experience in the use of electrical equipment safety standards for regulatory purposes; or	6 7 8
(b)	an advanced diploma or equivalent qualification in an electrical discipline and at least 3 years experience in the use of electrical equipment safety standards for regulatory purposes; or	9 10 11 12
(c)	a trade qualification in an electrical discipline and at least 4 years experience in the use of electrical equipment safety standards for regulatory purposes.	13 14 15
<b>‘Subdivision 3</b>	<b>Level 3 in-scope electrical equipment</b>	16 17
<b>‘109</b>	<b>Registered responsible supplier must keep certificate of conformity</b>	18 19
‘(1)	This section applies to a registered responsible supplier who sells a type of level 3 in-scope electrical equipment that is registered in relation to the responsible supplier.	20 21 22
‘(2)	The responsible supplier must keep a current certificate of conformity for the type. Maximum penalty—40 penalty units.	23 24 25
‘(3)	In this section— <i>keep</i> , a current certificate of conformity, means hold the certificate or be able to access it within 10 business days.	26 27 28

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<b>‘Division 5</b>	<b>Effect of reclassification of in-scope electrical equipment</b>	1 2
<b>‘110</b>	<b>Effect of reclassification</b>	3
‘(1)	This section applies if—	4
	(a) a type of level 1 or 2 in-scope electrical equipment is reclassified to a higher level; and	5 6
	(b) immediately before the reclassification happens, a responsible supplier of that type was selling items of the type.	7 8 9
‘(2)	For the period of 12 months starting on the day the reclassification has effect, divisions 3 and 4 apply to the sale by the responsible supplier of items of that type as if the reclassification had not happened.	10 11 12 13
‘(3)	In this section—	14
	<i>reclassified to a higher level—</i>	15
	(a) in relation a type of level 1 in-scope electrical equipment, means that type is classified by the defining standard as level 2 or 3; or	16 17 18
	(b) in relation to a type of level 2 in-scope electrical equipment, means that type is reclassified by the defining standard from level 2 to level 3.	19 20 21
<b>‘Division 6</b>	<b>Marking of in-scope electrical equipment</b>	22 23
<b>‘111</b>	<b>Responsible supplier must not sell unmarked item of in-scope electrical equipment</b>	24 25
‘(1)	A responsible supplier of a type of level 1, 2 or 3 in-scope electrical equipment must not sell an item of the type unless the item is marked with the RCM in compliance with the defining standard.	26 27 28 29

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Maximum penalty—40 penalty units.	1
‘(2) For subsection (1) it is sufficient if the mark is on the item’s labelling or packaging in compliance with the defining standard.	2 3 4
<b>‘112 Person must not mark in-scope electrical equipment that does not meet relevant standard</b>	5 6
‘(1) A person must not mark an item of a type of level 1, 2 or 3 in-scope electrical equipment with the RCM unless the item meets the relevant standard for the type.	7 8 9
Maximum penalty—40 penalty units.	10
‘(2) In this section—	11
<i>mark</i> , an item of a type of level 1, 2 or 3 in-scope electrical equipment, includes mark the item’s labelling or packaging.	12 13
<b>‘113 Mark for use in exceptional circumstances</b>	14
‘(1) The chief executive may approve a mark other than the RCM for use in exceptional circumstances.	15 16
‘(2) A person does not commit an offence under section 106(1) or 111 in relation to the sale of an item of a type of in-scope electrical equipment if the item is marked as required by the approval given under subsection (1).	17 18 19 20
‘(3) Also, a person does not commit an offence under section 106(1) or 111 in relation to the sale of an item of a type of in-scope electrical equipment if—	21 22 23
(a) the item is marked with a mark, other than the RCM, approved under a corresponding law for use in exceptional circumstances; and	24 25 26
(b) the item is marked as required by that approval.	27



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<b>‘Division 7</b>	<b>Certificates of conformity issued by chief executive</b>	1 2
<b>‘Subdivision 1</b>	<b>Applications and terms</b>	3
<b>‘114</b>	<b>Application for certificate of conformity</b>	4
‘(1)	A person may apply to the chief executive for a certificate of conformity for a type of level 3 in-scope electrical equipment.	5 6
‘(2)	The application must be—	7
(a)	in the approved form; and	8
(b)	accompanied by—	9
(i)	a test report from an approved testing entity; and	10
(ii)	an item of the type or colour images showing the internal and external construction of an item of the type; and	11 12 13
(iii)	technical documentation which adequately describes the type; and	14 15
(c)	accompanied by the fee for the application.	16
‘(3)	The chief executive may require the applicant to provide—	17
(a)	an item of the type if colour images provided are not adequate; or	18 19
(b)	additional information about the type.	20
‘(4)	The chief executive may exempt the applicant from the requirement to provide any of the items referred to in subsection (2)(b) if—	21 22 23
(a)	the chief executive has previously issued a certificate of conformity to another person in relation to the type; or	24 25
(b)	in the circumstances the chief executive is of the reasonable opinion that it is not necessary for any of those items to be provided.	26 27 28

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<b>‘115 Chief executive may issue certificate of conformity</b>	1
‘(1) If the chief executive approves the application, the chief executive may issue a certificate of conformity for the type of level 3 in-scope electrical equipment.	2 3 4
‘(2) If the chief executive refuses to approve the application, the chief executive must give the applicant an information notice for the decision to refuse.	5 6 7
<b>‘116 Term of certificate</b>	8
‘Unless it is cancelled earlier, a certificate of conformity issued under this division remains in force for the period stated in the certificate, which must not be more than 5 years.	9 10 11
<b>‘Subdivision 2 Modifications, renewals and transfers</b>	12 13
<b>‘116A Modification of certificate of conformity—change of name or model</b>	14 15
‘(1) This section applies if the holder of a certificate of conformity for a type of level 3 in-scope electrical equipment issued under this division proposes to vary the brand name or model designation that is specified on the certificate in relation to the type.	16 17 18 19 20
‘(2) The holder may apply to the chief executive for modification of the certificate.	21 22
‘(3) The application must be—	23
(a) in the approved form; and	24
(b) accompanied by the fee for the application.	25
‘(4) The chief executive may require the applicant to provide—	26
(a) an item of the type or colour images showing the internal and external construction of an item of the type; or	27 28 29

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(b)	documentation that adequately describes the proposed variation.	1 2
‘(5)	The chief executive may modify a certificate of conformity and issue a modified certificate if satisfied that the variation does not affect the compliance of the type with the relevant standard to which the type was tested.	3 4 5 6
‘(6)	If the chief executive refuses to modify the certificate, the chief executive must give the applicant an information notice for the decision to refuse.	7 8 9
<b>‘116B</b>	<b>Modification of certificate of conformity—other than a change of name or model</b>	10 11
‘(1)	This section applies if the holder of a certificate of conformity for a type of level 3 in-scope electrical equipment issued under this division proposes to make any modification to the equipment (other than a modification described in section 116A) that would not result in the creation of a new type of equipment.	12 13 14 15 16 17
‘(2)	The holder may apply to the chief executive for the modification of the certificate.	18 19
‘(3)	The application must be—	20
(a)	in the approved form; and	21
(b)	accompanied by—	22
(i)	a test report relating to the modified in-scope electrical equipment from an approved testing entity; and	23 24 25
(ii)	an item of the type or colour images showing the internal and external construction of an item of the type; and	26 27 28
(iii)	technical documentation which adequately describes the modified in-scope electrical equipment; and	29 30 31
(c)	accompanied by the fee for the application.	32
‘(4)	The chief executive may require the applicant to provide—	33

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- (a) an item of the type if colour images provided are not adequate; or 1  
2
- (b) additional information about the modified electrical equipment. 3  
4
- ‘(5) The chief executive may exempt the applicant from the requirement to provide a test report under subsection (3)(b)(i) if the chief executive is satisfied that the modification will not affect the safety of the type. 5  
6  
7  
8
- ‘(6) The chief executive may waive or rebate the payment of the fee for the modification of the certificate if the chief executive, under subsection (5), exempts the applicant from the requirement to provide a test report. 9  
10  
11  
12
- ‘(7) The chief executive may modify a certificate of conformity and issue a modified certificate if satisfied that the modification to the type would not result in the creation of a new type of in-scope electrical equipment. 13  
14  
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- ‘(8) If the chief executive refuses to modify the certificate, the chief executive must give the applicant an information notice for the decision to refuse. 17  
18  
19
- ‘116C Renewal of certificate of conformity 20**
- ‘(1) A person who holds a certificate of conformity issued under this division may apply to the chief executive for renewal of the certificate and the issue of a new certificate. 21  
22  
23
- ‘(2) The application must be— 24
- (a) in the approved form; and 25
- (b) accompanied by a declaration by the applicant or a person authorised by the applicant stating whether or not— 26  
27  
28
- (i) the type of level 3 in-scope electrical equipment to which the current certificate relates has been modified since the certificate was issued or modified; and 29  
30  
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- (ii) the relevant standard to which the type was tested has changed since the current certificate was issued or modified; and
    - (c) accompanied by the fee for the application.
  - ‘(3) The chief executive may renew the certificate and issue a new certificate of conformity if satisfied that—
    - (a) the type of level 3 in-scope electrical equipment has not been modified; and
    - (b) the relevant standard to which that type was tested has not changed since the current certificate was issued or the certificate relating to that type was modified.
  - ‘(4) If the chief executive refuses to renew the certificate, the chief executive must give the applicant an information notice for the decision to refuse.

#### ‘116D Transfer of certificate

- ‘(1) The holder of a certificate of conformity issued under this division who proposes to transfer the certificate to another person may apply to the chief executive to have the certificate amended to refer to the name of the person to whom the certificate is to be transferred (the *transferee*).
- ‘(2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) the certificate to be transferred; and
    - (ii) a statement, signed by the transferee, that the transferee consents to the transfer; and
    - (iii) the fee for the application.
- ‘(3) The chief executive may issue a certificate of conformity to the transferee as mentioned in subsection (1) if the requirements of subsection (2) are complied with.

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- ‘(4) If the chief executive refuses to grant the application, the chief executive must give the applicant an information notice for the decision to refuse. 1  
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**‘Subdivision 3 Cancellation 4**

**‘116E Grounds for cancelling certificate of conformity 5**

‘The following are grounds for cancelling a certificate of conformity for a type of level 3 in-scope electrical equipment issued under this division— 6  
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- (a) an item of the type does not meet the relevant standard for the type; 9  
10
- (b) an item of the type is, or is likely to be or to become, dangerous in normal use; 11  
12
- (c) the certificate was obtained by misleading information; 13
- (d) an item of the type, or purportedly of the type, is found, on examination by the chief executive, to be substantially different from the type as described in— 14  
15  
16
- (i) the certificate; or 17
- (ii) a test report forming the basis for the issuing of the certificate; 18  
19
- (e) the holder of the certificate contravenes the Act or this regulation. 20  
21

**‘116F Procedure before cancellation 22**

- ‘(1) If the chief executive considers a ground exists to cancel the certificate of conformity for a type of level 3 in-scope electrical equipment under section 116E, the chief executive must, before taking the action, give the holder of the certificate written notice— 23  
24  
25  
26  
27
- (a) stating that the chief executive is considering cancelling the certificate; and 28  
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(b) stating each ground for the proposed cancellation; and	1
(c) outlining the facts and circumstances forming the basis for each ground; and	2 3
(d) inviting the holder to show, within a stated time of at least 28 days, why the certificate should not be cancelled.	4 5 6
‘(2) If, after considering all written representations made by the holder of the certificate within the stated time, the chief executive still considers a ground exists to cancel the certificate, the chief executive may cancel the certificate.	7 8 9 10
‘(3) If the chief executive cancels the certificate, the chief executive must—	11 12
(a) give the holder of the certificate an information notice for the decision to cancel; and	13 14
(b) notify the cancellation by gazette notice stating the day of cancellation.	15 16
<b>‘116G Cancellation at certificate holder’s request</b>	17
‘The chief executive must cancel a certificate of conformity for a type of level 3 in-scope electrical equipment issued under this division if the holder of the certificate asks for the cancellation.	18 19 20 21
<b>‘116H Certificate of conformity holder to return certificate if cancelled</b>	22 23
‘Within 14 days of receiving notice of cancellation of a certificate of conformity, the holder of the certificate must give the chief executive the certificate of conformity unless the holder has a reasonable excuse.	24 25 26 27
Maximum penalty—10 penalty units.	28

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<b>‘Subdivision 4</b>	<b>Information to be recorded in the national register</b>	1 2
<b>‘116I</b>	<b>Information to be recorded in national register</b>	3
‘(1)	The chief executive must ensure that, for each certificate of conformity issued under this division, or for each modification, renewal or transfer of a certificate of conformity under this division, the information required by the equipment safety rules is recorded in the national register.	4 5 6 7 8
‘(2)	The chief executive must also ensure particulars of the cancellation of a certificate of conformity under this division are recorded in the national register.	9 10 11
<b>‘Division 8</b>	<b>Recognised external certification schemes—Act, section 48J</b>	12 13
<b>‘Subdivision 1</b>	<b>Preliminary</b>	14
<b>‘117</b>	<b>Definitions for div 8</b>	15
	‘In this division—	16
	<i>declaration holder</i> means the person who conducts a declared scheme under a declaration made by the chief executive under section 48J of the Act.	17 18 19
	<i>declared scheme</i> means a scheme declared to be a recognised external certification scheme under section 48J of the Act.	20 21
<b>‘Subdivision 2</b>	<b>Applications and terms</b>	22
<b>‘118</b>	<b>Application for chief executive’s declaration of scheme</b>	23 24
‘(1)	A person who conducts a scheme for the certification of types	25



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of in-scope electrical equipment may apply to the chief executive for the scheme to be declared to be a recognised external certification scheme under section 48J of the Act.	1 2 3
‘(2) The application must be—	4
(a) in the approved form; and	5
(b) accompanied by—	6
(i) the fee for the application; and	7
(ii) evidence that the applicant is—	8
(A) accredited by the Joint Accreditation System of Australia and New Zealand as competent to certify that types of in-scope electrical equipment meet relevant standards; or	9 10 11 12
(B) appropriately designated, under a mutual recognition arrangement or a free trade agreement to which Australia is a party, as competent to certify that types of in-scope electrical equipment meet relevant standards; and	13 14 15 16 17 18
(iii) the applicant’s written agreement that when certifying types of level 3 in-scope electrical equipment the applicant will do so under the equipment safety rules; and	19 20 21 22
(iv) the other documents and information required by the chief executive.	23 24
<b>‘119 Intention to make declaration must be advertised</b>	25
‘(1) This section applies if the chief executive is intending to grant the application.	26 27
‘(2) Before finally deciding the application, the chief executive must publish a notice indicating the chief executive’s intention to declare the scheme to be a recognised external certification scheme.	28 29 30 31

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- ‘(3) The notice must state a period of at least 14 days during which written submissions may be made to the chief executive about the proposed declaration (the *submission period*).’
- ‘(4) The notice must be published in—
- (a) a newspaper circulating generally in the State; or
  - (b) if the types of in-scope electrical equipment concerned would typically be sold only to a particular section of the public—a newspaper or other publication circulating generally to that section of the public; or
  - (c) if the types of in-scope electrical equipment concerned would typically be sold only in a particular part of the State—a newspaper or other publication circulating generally in that part.
- ‘(5) During the submission period, a person may make a written submission to the chief executive about the proposed declaration.’
- ‘(6) Before finally deciding the application, the chief executive must consider all submissions received under subsection (5).’

**‘119A Decision about application’**

- ‘(1) The chief executive may decide to grant or refuse to grant the application.’
- Note—*
- If the chief executive grants the application, the chief executive may, under section 48J of the Act, declare the scheme to be a recognised external certification scheme.
- ‘(2) If the chief executive refuses to grant the application, or grants the application and imposes conditions on the declared scheme, the chief executive must give the applicant an information notice for the decision to refuse or to impose conditions.’

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<b>‘119B Term of declared scheme</b>	1
‘The term of a declared scheme is the period of not more than	2
5 years stated in the chief executive’s declaration of the	3
scheme.	4
<b>‘Subdivision 3 Conditions</b>	5
<b>‘119C Chief executive may impose conditions on declared scheme</b>	6
	7
‘(1) The chief executive may impose conditions on a declared	8
scheme.	9
‘(2) Without limiting subsection (1), a condition may restrict the	10
types of in-scope electrical equipment that may be certified	11
under the scheme.	12
‘(3) Conditions applying to a declared scheme under this section	13
when the scheme is declared under section 48J of the Act	14
must be stated in the declaration.	15
<b>‘119D Condition imposed by regulation</b>	16
‘It is a condition of each declared scheme that the declaration	17
holder must—	18
(a) pay the annual fee for the declaration by each	19
anniversary of the scheme’s declaration; and	20
(b) for each certificate of conformity issued by the	21
declaration holder, or for each modification, renewal or	22
transfer of a certificate of conformity approved by the	23
declaration holder, record the information required by	24
the equipment safety rules in the national register within	25
3 business days of issuing the certificate or granting the	26
approval; and	27
(c) for each certificate of conformity cancelled by the	28
declaration holder, record information about the	29
cancellation in the national register within 3 business	30
days of cancelling the certificate.	31

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<b>‘119E Amendment of conditions imposed by chief executive</b>	1 2
‘(1) The chief executive may amend the conditions imposed on a declared scheme by the chief executive by revoking or varying the conditions or imposing new conditions.	3 4 5
‘(2) The chief executive may act under subsection (1) on the chief executive’s own initiative or at the request of the declaration holder.	6 7 8
‘(3) The revocation of conditions, or the amendment of conditions at the request of the declaration holder, has effect when written notice of the amendment is given to the declaration holder.	9 10 11 12
‘(4) If the chief executive refuses to amend the conditions as requested by the declaration holder, the chief executive must give the declaration holder an information notice for the decision to refuse.	13 14 15 16
<b>‘119F Acting on chief executive’s own initiative—general</b>	17
‘(1) Subject to section 119G, the chief executive must not act, to amend the conditions by varying them or imposing new conditions, on the chief executive’s own initiative without first giving the declaration holder a notice—	18 19 20 21
(a) stating details of the proposed amendment; and	22
(b) inviting the declaration holder to make written submissions about the proposal within a stated time of at least 7 days.	23 24 25
‘(2) The chief executive must consider all submissions received from the declaration holder under subsection (1)(b).	26 27
‘(3) If, after considering the submissions, if any, the chief executive is of the opinion that the conditions of the declared scheme should be amended as mentioned in subsection (1)(a), the chief executive may amend the conditions by written notice given to the declaration holder.	28 29 30 31 32
‘(4) The amendment has effect when the notice is given to the declaration holder.	33 34

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‘(5) If the chief executive amends the conditions, the chief executive must give the declaration holder an information notice for the decision to amend.	1 2 3
<b>‘119G Acting on chief executive’s own initiative—electrical risk</b>	4 5
‘(1) This section applies if the chief executive considers that a type of level 1, 2 or 3 in-scope electrical equipment certified by a declaration holder is placing, or will place, persons or property at electrical risk.	6 7 8 9
‘(2) The chief executive may amend the conditions applying to the declared scheme, other than the condition imposed under section 119D, by written notice given to the declaration holder.	10 11 12 13
‘(3) The amendment has effect when the notice is given to the declaration holder.	14 15
‘(4) If the chief executive amends the conditions, the chief executive must give the declaration holder an information notice for the decision to amend.	16 17 18
<b>‘Subdivision 4 Cancellation</b>	19
<b>‘119H Grounds for cancelling declaration</b>	20
‘The following are grounds for cancelling the declaration of a declared scheme—	21 22
(a) the declaration holder contravened a condition of the declared scheme;	23 24
(b) the declaration of the scheme was obtained by giving false information.	25 26
<b>‘119I Procedure before cancellation</b>	27
‘(1) If the chief executive considers a ground exists to cancel the declaration of a declared scheme under section 119H, the	28 29

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chief executive must, before taking the action, give the declaration holder written notice—	1 2
(a) stating that the chief executive is considering cancelling the declaration; and	3 4
(b) stating each ground for the proposed cancellation; and	5
(c) outlining the facts and circumstances forming the basis for each ground; and	6 7
(d) inviting the declaration holder to make written submissions, within a stated time of at least 7 days, as to why the declaration should not be cancelled.	8 9 10
‘(2) The chief executive must consider all submissions received from the declaration holder under subsection (1)(d).	11 12
‘(3) If, after considering the submissions, if any, the chief executive still considers a ground exists to cancel the declaration, the chief executive may cancel the declaration by written notice given to the declaration holder.	13 14 15 16
‘(4) The cancellation takes effect on the day the notice is given to the declaration holder.	17 18
‘(5) If the chief executive cancels the declaration, the chief executive must give the declaration holder an information notice for the decision to cancel.	19 20 21
<b>‘119J Cancellation at declaration holder’s request</b>	22
‘The chief executive must cancel the declaration of a declared scheme if the declaration holder asks for the cancellation.	23 24
<b>‘Subdivision 5 Other provisions</b>	25
<b>‘119K Reporting requirements for declaration holder</b>	26
‘(1) The chief executive may, by written notice given to a declaration holder, require the person to provide the chief executive with any of the following—	27 28 29

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(a)	reports or particulars, about the number and nature of certificates given under the declared scheme, as are stated in the notice and at the times stated in the notice;	1 2 3
(b)	reports, particulars or other information, about the level of compliance with the conditions imposed on the declared scheme under this division, as are stated in the notice and at the times stated in the notice.	4 5 6 7
‘(2)	The declaration holder must comply with the notice.	8
	Maximum penalty for subsection (2)—40 penalty units.	9
<b>‘119L</b>	<b>Declaration holder must comply with equipment safety rules</b>	10 11
	‘A declaration holder, in certifying a type of level 3 in-scope electrical equipment under a declared scheme, must comply with the equipment safety rules.	12 13 14
	Maximum penalty—40 penalty units.	15
<b>‘Division 9</b>	<b>Chief executive may require testing of item of level 1, 2 or 3 in-scope electrical equipment</b>	16 17 18
<b>‘120</b>	<b>Chief executive may require item of in-scope electrical equipment to be submitted</b>	19 20
	‘If the chief executive considers it necessary or appropriate for the maintenance of electrical safety, the chief executive may decide to have an item of a type of level 1, 2 or 3 in-scope electrical equipment tested and examined to see whether it meets the relevant standard for the type.	21 22 23 24 25

[s 15]

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<b>‘121</b>	<b>Procedure for obtaining item of in-scope electrical equipment for testing</b>	1 2
‘(1)	If the chief executive decides to have an item of a type of level 1, 2 or 3 in-scope electrical equipment tested and examined, the chief executive may—	3 4 5
	(a) for an item of a type of level 2 or 3 in-scope electrical equipment—	6 7
	(i) by written notice, require a registered responsible supplier in relation to whom the type is registered to give the chief executive items of the type for testing and examining within a stated reasonable time; or	8 9 10 11 12
	(ii) require an inspector to select, for testing and examining, items of the type from a place where a registered responsible supplier in relation to whom the type is registered has them stored and give them to the chief executive within a stated reasonable time; or	13 14 15 16 17 18
	(b) in any case—buy, for testing and examining, items of the type at any place where they are offered for sale.	19 20
‘(2)	If the chief executive makes a requirement under subsection (1)(a)(i), the registered responsible supplier must take all steps that are reasonable in the circumstances to ensure that the requirement is complied with.	21 22 23 24
	Maximum penalty—40 penalty units.	25
‘(3)	If the chief executive makes a requirement under subsection (1)(a)(ii), the registered responsible supplier must take all steps that are reasonable in the circumstances to ensure the inspector is able to comply with the requirement.	26 27 28 29
	Maximum penalty for subsection (3)—40 penalty units.	30



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<b>‘122</b>	<b>Identification of item of in-scope electrical equipment to be tested</b>	1 2
	‘Before the chief executive gives an item of a type of level 2 or 3 in-scope electrical equipment to an approved testing entity for testing and examining, the chief executive must—	3 4 5
	(a) give the registered responsible supplier from whom the item was obtained under section 121(1)(a) an opportunity to place an identifying mark on the item; and	6 7 8 9
	(b) advise the approved testing entity of the mark.	10
<b>‘123</b>	<b>Cost of testing and examining and liability for damage</b>	11 12
	‘(1) If an item of a type of level 1, 2 or 3 in-scope electrical equipment is tested and examined under this division and is found to substantially meet the relevant standard for the type, the chief executive must—	13 14 15 16
	(a) bear the cost of the testing and examination; and	17
	(b) if the item was obtained under section 121(1)(a), compensate the registered responsible supplier for any damage done to the item.	18 19 20
	‘(2) An amount for which a registered responsible supplier is entitled to be compensated under subsection (1)(b) may be recovered from the chief executive as a debt owing by the State to the person.	21 22 23 24
	‘(3) If an item of a type of level 2 or 3 in-scope electrical equipment is tested and examined under this division and is found not to substantially meet the relevant standard for the type, the registered responsible supplier from whom the item was obtained under section 121(1)(a)—	25 26 27 28 29
	(a) must reimburse the chief executive for all costs incurred in obtaining and having the item of electrical equipment tested and examined; and	30 31 32

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(b)	is not entitled to compensation for damage necessarily caused to the item to enable it to be properly tested and examined.	1 2 3
‘(4)	An amount the chief executive is entitled to be reimbursed under subsection (3)(a) may be recovered by the chief executive as a debt owing to the State.	4 5 6
<b>‘Division 10</b>	<b>Return of in-scope electrical equipment given to chief executive</b>	7 8
<b>‘124</b>	<b>Return of item of level 2 or 3 in-scope electrical equipment provided to chief executive</b>	9 10
‘(1)	This section applies if a person provides the chief executive with—	11 12
(a)	an item of a type of level 3 in-scope electrical equipment under division 7; or	13 14
(b)	an item of a type of level 2 or 3 in-scope electrical equipment for testing and examination because of a requirement made by the chief executive under division 9.	15 16 17 18
‘(2)	The chief executive must notify the person the item of in-scope electrical equipment is available for collection by the person at a stated place as soon as practicable after—	19 20 21
(a)	if the item was provided under division 7—the chief executive decides the application to which the item relates; or	22 23 24
(b)	if the item was provided for testing and examination—	25
(i)	if the chief executive believes, on reasonable grounds, that the item is required as evidence in a prosecution for an offence—the prosecution and any appeal from the prosecution; or	26 27 28 29
(ii)	if subparagraph (i) does not apply—the testing and examination.	30 31

- 
- ‘(3) Despite subsection (2)(b)(i), the chief executive must notify the person immediately after the earlier of the following—
- (a) the chief executive decides the item of in-scope electrical equipment is not required as evidence;
  - (b) a prosecution for an offence involving the item of in-scope electrical equipment is not started within 6 months from when the notice would have been given if subsection (2)(b)(i) had not applied.
- ‘(4) If, at the end of 6 months after the giving of notice, the item of in-scope electrical equipment has not been collected, the chief executive may dispose of the item as the chief executive considers appropriate and the person is not entitled to claim for the item or any loss or damage to it.
- ‘(5) Subsection (2) does not apply if the item of in-scope electrical equipment was necessarily destroyed by testing.

**‘Division 11                      Second-hand in-scope electrical equipment**

**‘125      Limitation on offering second-hand in-scope electrical equipment for sale**

- ‘(1) A person (the *seller*) who offers for sale to another person (the *purchaser*) a second-hand item of a type of in-scope electrical equipment must give the purchaser information to the effect that the item has not been tested for electrical safety unless—
- (a) subsection (2) applies; and
  - (b) the seller complies with the subsection.
- Maximum penalty—40 penalty units.
- ‘(2) If—
- (a) the item has been tested by a licensed electrical worker who is qualified to test the item; and
  - (b) has been found to be electrically safe;

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	the seller may instead give the information about the test.	1
‘(3)	A person is not required to comply with subsection (1) if the purchaser conducts a business or undertaking that includes dealing in, repairing or reconditioning second-hand items of in-scope electrical equipment.	2 3 4 5
<b>‘Division 12</b>	<b>Program for certification of level 1 or 2 in-scope electrical equipment</b>	6 7
<b>‘125A</b>	<b>Chief executive may establish program for certification</b>	8 9
‘(1)	The chief executive may establish a program for the issuing of certificates relating to the suitability of types of level 1 or 2 in-scope electrical equipment for connection to electricity supply.	10 11 12 13
‘(2)	The program may include the charging of fees for the certificates.	14 15
‘(3)	The program can not require a person to take part in the program.	16 17
<b>‘Part 6A</b>	<b>Electrical equipment—general</b>	18
<b>‘Division 1</b>	<b>Requirement for warning sign for sale of particular electrical equipment</b>	19 20 21
<b>‘126</b>	<b>Definition for div 1</b>	22
	‘In this division—	23
	<i>particular electrical equipment</i> means electrical equipment the installation, testing, maintenance, repair, alteration,	24 25

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removal, or replacement of which is electrical work required 1  
under the Act to be performed by a licensed electrical 2  
contractor or licensed electrical worker. 3

*Examples—* 4

- fixed-wired electrical equipment, including, for example, air 5  
conditioners, stoves, ovens, electric hot water systems, ceiling fans, 6  
light fittings 7
- electrical accessories, including, for example, socket outlets, light 8  
switches, electrical cable, wall switches, plugs and cord extension 9  
sockets 10
- electrical parts, including, for example, electrical motors, switches, 11  
solenoids, elements 12

**‘126A Application of div 1** 13

‘This division applies to a person who conducts a business or 14  
undertaking that involves the sale of particular electrical 15  
equipment to the public. 16

**‘126B Requirement to display DIY warning sign** 17

‘(1) The person must not sell an item of particular electrical 18  
equipment unless a DIY warning sign is displayed for the 19  
item. 20

Maximum penalty—40 penalty units. 21

‘(2) For subsection (1), a DIY warning sign is displayed for an 22  
item of particular electrical equipment if the sign is 23  
displayed— 24

(a) in close proximity to the point of display of the item; or 25

(b) as part of the price tag of the item; or 26

(c) on a label attached to the packaging of the item; or 27

(d) as part of the packaging of the item; or 28

(e) on a label attached to the item. 29

‘(3) In this section— 30

*DIY warning sign* means a sign that— 31



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<b>‘126D Chief executive may prohibit the sale or use of electrical equipment on safety grounds</b>	1 2
‘(1) The chief executive may, by gazette notice, prohibit the sale or use by any person of an item of electrical equipment, or items of electrical equipment of a particular type, if the chief executive believes on reasonable grounds that the item or type does not comply with the safety criteria in AS/NZS 3820 (Essential safety requirements for electrical equipment).	3 4 5 6 7 8
‘(2) The prohibition remains in force for the time stated in the gazette notice or, if no time is stated, without limit of time.	9 10
‘(3) As well as notifying the prohibition in the gazette, the chief executive must give an information notice for the decision to prohibit the sale or use of the item or type of electrical equipment to each person the chief executive knows to be, or to be likely to be, a seller of the item or type.	11 12 13 14 15
‘(4) A person must not contravene the prohibition, unless the person has a reasonable excuse. Maximum penalty—40 penalty units.	16 17 18
‘(5) Unless a court otherwise decides in the circumstances of a particular case, it is not a reasonable excuse for a contravention of the prohibition that the person did not receive an information notice under subsection (3).	19 20 21 22
 <b>‘Division 3                      Labelling and inspection of electrical equipment</b>	 23 24
 <b>‘126E Labelling faulty portable electrical equipment</b>	 25
‘(1) This section applies if a person acting under the authority of a distribution entity finds, at a place occupied by a consumer, an item of portable electrical equipment that has a serious defect.	26 27 28
‘(2) The distribution entity must ensure that a label is attached to the item of electrical equipment stating that the item is electrically unsafe. Maximum penalty—40 penalty units.	29 30 31 32

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- ‘(3) A person must not take the label off the item of electrical equipment or connect a source of electricity to the item unless the item—
- (a) has been repaired by a licensed electrical worker qualified to repair it; or
  - (b) has been repaired by a person who, because of the operation of section 18(2)(d) of the Act, was not performing electrical work in repairing the equipment.
- Maximum penalty for subsection (3)—40 penalty units.

## ‘Division 4 Hire electrical equipment 10

### ‘126F Purpose of div 4 11

‘This division prescribes a way of discharging the electrical safety obligation of an employer or self-employed person to ensure that the person’s business or undertaking is conducted in a way that is electrically safe. 12  
13  
14  
15

### ‘126G Hiring electrical equipment 16

- ‘(1) This section applies if an employer or self-employed person (the *hirer*) conducts a business or undertaking of hiring out electrical equipment to other persons. 17  
18  
19
- ‘(2) The hirer must ensure each item of electrical equipment hired out by the hirer to another person— 20  
21
- (a) either— 22
    - (i) is inspected and tested by a competent person before each hiring; or 23  
24
    - (ii) has a safety switch that can not be disconnected, deactivated or removed during the item’s operation; and 25  
26  
27
  - (b) is inspected, tested and tagged by a competent person at least once every 6 months; and 28  
29



- 
- (c) if the item has a safety switch under paragraph (a)(ii),  
the safety switch—
- (i) is inspected, tested and tagged by a competent  
person at least once every 6 months; and
  - (ii) complies with AS/NZS 3760 (In-service safety  
inspection and testing of electrical equipment)  
when tested.
- ‘(3) However, subsection (2)(b) does not apply if the item is  
domestic electrical equipment that is hired for use in a  
domestic situation.
- Example of domestic electrical equipment hired for use in a domestic  
situation—*
- refrigerator, television or computer hired for use in a dwelling house or  
flat
- Example of domestic electrical equipment not hired for use in a domestic  
situation—*
- refrigerator hired for use in a mechanic’s workshop
- ‘(4) For subsection (2)(a)(i), if, because of the way in which the  
item of electrical equipment is designed, the item can not be  
tested without dismantling it, it is sufficient if the hirer  
ensures the item is tested to the extent that it can be tested  
without dismantling it.
- ‘(5) If, after inspecting and testing an item of electrical equipment  
under subsection (2)(b)—
- (a) the competent person decides the item is safe to use, the  
hirer must ensure the competent person immediately  
attaches a durable tag to the item that shows the day by  
which the item must be reinspected and retested; or
  - (b) the competent person decides the item is not safe to use,  
the hirer must ensure that—
    - (i) the competent person immediately attaches a  
durable tag to the item warning people not to use  
the item; and
    - (ii) the item is immediately withdrawn from use.
-

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- ‘(6) The hirer must keep records of the tests performed under subsection (2)(b) or (c)(i) for at least 5 years. 1  
2
- ‘(7) A person who contravenes subsection (2), (5) or (6) commits an offence. 3  
4  
Maximum penalty—40 penalty units. 5
- ‘(8) In this section— 6  
*domestic electrical equipment* means computer equipment, brown goods or white goods.’. 7  
8

**Clause 16 Insertion of new pt 14, div 4 9**  
After section 222— 10  
*insert*— 11

**‘Division 4 Transitional provisions for Electrical 12  
Safety and Other Legislation 13  
Amendment Act 2011 14**

**‘Subdivision 1 Definitions for division 4 15**

**‘223 Definitions for div 4 16**  
‘In this division— 17  
*commencement* means the commencement of the provision in which the term is used. 18  
19  
*external approval* means an external approval under part 6 of this regulation as in force before the commencement. 20  
21  
*external approvals entity* means an external approvals entity under this regulation as in force before the commencement. 22  
23  
*Queensland approval* means a Queensland approval under part 6 of this regulation as in force before the commencement. 24  
25  
*type approval number*, for a Queensland approval, means the type approval number given, for the type of electrical equipment to which the approval relates, under section 26  
27  
28

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102(2)(b) of this regulation as in force before the commencement.	1 2
<b>‘Subdivision 2 Queensland approvals, external approvals and other approvals</b>	3 4
<b>‘224 Queensland approvals</b>	5
‘(1) Subsection (2) applies to a Queensland approval in force immediately before the commencement for a type of electrical equipment.	6 7 8
‘(2) The Queensland approval is taken to be a certificate of conformity issued by the chief executive under part 6, division 7 for the type.	9 10 11
‘(3) Subject to this regulation, the Queensland approval, as a certificate of conformity, continues in force for the balance of the period stated in the approval.	12 13 14
‘(4) The Queensland approval, as a certificate of conformity, may be modified, renewed or transferred under part 6, division 7.	15 16
<b>‘225 External approvals</b>	17
‘(1) This section applies to an external approval, given by an external approvals entity that is—	18 19
(a) in force for a type of electrical equipment immediately before the commencement; or	20 21
(b) issued for a type of electrical equipment within 12 months starting on the commencement.	22 23
‘(2) The external approval is taken, for this regulation, to be a certificate of conformity issued under a corresponding law.	24 25
‘(3) The external approval, as a certificate of conformity, continues in force until it expires or otherwise comes to an end.	26 27 28

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<b>‘225A Approvals under declared scheme</b>	1
‘(1) This section applies to an approval given under a declared scheme that is—	2 3
(a) in force for a type of electrical equipment immediately before the commencement; or	4 5
(b) issued for a type of electrical equipment within 12 months starting on the commencement.	6 7
‘(2) The approval is taken, for this regulation, to be a certificate of conformity issued under a scheme recognised under a corresponding law.	8 9 10
‘(3) The approval, as a certificate of conformity, continues in force until it expires or otherwise comes to an end.	11 12
‘(4) In this section—	13
<i>declared scheme</i> means a scheme declared to be a recognised external approval scheme under the <i>Electricity (Consumer Safety) Act 2004</i> (NSW), section 15.	14 15 16
<b>‘Subdivision 3 Application of certain provisions</b>	17
<b>‘226 Application of s 104 during transition period</b>	18
‘(1) Subsection (2) applies in relation to items of a type of level 1 in-scope electrical equipment manufactured or imported by the responsible supplier concerned before the commencement.	19 20 21 22
‘(2) During the transition period section 104 applies as if—	23
(a) paragraph (a) of subsection (1) were omitted; and	24
(b) subsection (2) were omitted.	25
‘(3) In this section—	26
<i>transition period</i> means 6 months starting on the commencement.	27 28

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<b>‘227</b>	<b>Application of s 105 during transition period</b>	1
‘(1)	Subsection (2) applies in relation to items of a type of level 2 or 3 in-scope electrical equipment manufactured or imported by the responsible supplier concerned before the commencement.	2 3 4 5
‘(2)	During the transition period section 105 applies as if—	6
	(a) paragraphs (a), (b) and (c) of subsection (1) were omitted; and	7 8
	(b) subsections (2) and (3) were omitted.	9
‘(3)	In this section—	10
	<i>transition period</i> means 6 months starting on the commencement.	11 12
<b>‘228</b>	<b>Application of s 106(1) during transition period</b>	13
‘(1)	During the transition period it is sufficient compliance with section 106(1) if the item is marked—	14 15
	(a) as mentioned in section 100(1)(b) of this regulation as in force before the commencement and the marking happened before the commencement; or	16 17 18
	(b) after the commencement under section 231; or	19
	(c) after the commencement under the law of another State or New Zealand relating to electrical safety.	20 21
‘(2)	In this section—	22
	<i>transition period</i> means 5 years starting on the commencement.	23 24
<b>‘229</b>	<b>Application of s 107 during the transition period</b>	25
‘(1)	During the transition period section 107 applies only to items of a type of level 1 in-scope electrical equipment manufactured or imported by the responsible supplier concerned on or after the commencement.	26 27 28 29

[s 16]

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‘(2) In this section—	1
<i>transition period</i> means 6 months starting on the commencement.	2 3
<b>‘230 Application of s 111(1) during the transition period</b>	4
‘(1) During the transition period it is sufficient compliance with section 111(1) if the item is marked—	5 6
(a) as mentioned in section 100(1)(b) of this regulation as in force before the commencement and the marking happened before the commencement; or	7 8 9
(b) after the commencement under section 231; or	10
(c) after the commencement, under the law of another State or New Zealand relating to electrical safety.	11 12
‘(2) In this section—	13
<i>transition period</i> means 3 years starting on the commencement.	14 15
<b>‘Subdivision 4 Marking of in-scope electrical equipment</b>	16 17
<b>‘231 Marking of in-scope electrical equipment with type approval number</b>	18 19
‘(1) This section applies, in relation to a Queensland approval that is taken to be a certificate of conformity under section 224, for the shorter of the following periods—	20 21 22
(a) the period the approval, as that certificate, continues in force;	23 24
(b) 3 years from the commencement.	25
‘(2) Despite the omission of part 6 of this regulation as in force immediately before the commencement by the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> , an item of in-scope electrical equipment that is of a type of electrical	26 27 28 29

equipment to which the Queensland approval applied may be  
marked under that part with the type approval number for the  
Queensland approval or another mark approved by the chief  
executive.

*Note—*

See sections 112 and 113 of part 6 of this regulation as in force before  
the commencement.’.

<b>Clause 17</b>	<b>Replacement of sch 3</b>	8
	Schedule 3—	9
	<i>omit, insert—</i>	10
<b>‘Schedule 3</b>	<b>Information to be included in declarations by responsible suppliers</b>	11 12 13
	sections 98(4), 101(5) and 103A(5)	14
<b>‘Part 1</b>	<b>Responsible supplier’s declaration</b>	15 16
<b>‘Information to be included in declaration</b>		17
	That—	18
	(a) each item of a type of in-scope electrical equipment when sold by the responsible supplier will—	19 20
	(i) meet the relevant standard for the type as in force—	21 22
	(A) if the responsible supplier is a manufacturer of the type—at the time the item was manufactured by the responsible supplier; or	23 24 25

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(B)	if the responsible supplier is an importer of the type—at the time the item was imported by the responsible supplier; and	1 2 3
(ii)	be electrically safe; and	4
(b)	there is a current certificate of conformity for each plug, flexible supply cord or appliance connector, as defined in AS/NZS 4417 (Marking of electrical products to indicate compliance with regulations) sold for use with the item.	5 6 7 8 9
<b>‘Part 2</b>	<b>Responsible supplier’s level 2 in-scope electrical equipment declaration</b>	10 11 12
‘Information to be included in declaration		13
That—		14
(a)	each item of the type of level 2 in-scope electrical equipment mentioned below when sold by the responsible supplier will—	15 16 17
(i)	meet the relevant standard for the type as at the time the type was registered in the national register; and	18 19 20
(ii)	be electrically safe; and	21
(b)	the responsible supplier keeps a compliance folder for that type of equipment.	22 23
Details of the type of level 2 in-scope electrical equipment to which this declaration relates—		24 25
<i>(insert details).</i>		26





[s 19]

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11	Application for certificate of conformity (s 114), or renewal of certificate of conformity (s 116C) . . . . .	449.20
12	Application for modification of certificate of conformity—	
	(a) relating to change of name or model (s 116A) . . . . .	135.00
	(b) otherwise than in relation to a change of name or model (s 116B) . . . . .	340.00
13	Application relating to transfer of certificate of conformity (s 116D) . . . . .	68.00
14	Application for declaration of scheme as recognised external certification scheme (s 118) . . . . .	3500.00
15	Annual fee for declaration of scheme as recognised external certification scheme (s 119D) . . . . .	2000.00’.

<b>Clause 19</b>	<b>Amendment of sch 9 (Dictionary)</b>	1
(1)	Schedule 9, definitions <i>approved testing entity, existing type, external approval, external approvals entity, externally approved, jurisdiction, new type, nonprescribed electrical equipment, prescribed class, Queensland approval, Queensland approved, relevant standard, type, type approval certificate, type approval holder</i> and <i>type approval number</i> —	2 3 4 5 6 7
	<i>omit.</i>	8
(2)	Schedule 9—	9
	<i>insert</i> —	10
	<b>‘approved testing entity</b> means—	11
	(a) a body accredited by NATA to perform the relevant test or examination; or	12 13
	(b) a body accredited by another body, operating under a reciprocal agreement with NATA, to perform the relevant test or examination; or	14 15 16
	(c) an entity approved by the chief executive or the equipment safety rules to perform the relevant test or examination; or	17 18 19

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(d) a body approved to perform the relevant test or examination under a corresponding law.	1 2
<i>certificate of conformity</i> , for part 6, see section 96.	3
<i>date of registration</i> , for part 6, see section 96.	4
<i>declaration holder</i> , for part 6, division 8, see section 117.	5
<i>declared scheme</i> , for part 6, division 8, see section 117.	6
<i>defining standard</i> , for part 6, see section 96.	7
<i>false declaration</i> , for part 6, see section 96.	8
<i>false information</i> , for part 6, see section 96.	9
<i>family</i> , of a type of level 1, 2 or 3 in-scope electrical equipment, for part 6, see section 96.	10 11
<i>level 1</i> in-scope electrical equipment, see section 97B(1).	12
<i>level 2</i> in-scope electrical equipment, see section 97B(2).	13
<i>level 3</i> in-scope electrical equipment, see section 97B(3).	14
<i>meets</i> , for part 6, see section 96.	15
<i>particular electrical equipment</i> , for part 6A, division 1, see section 126.	16 17
<i>RCM</i> , for part 6, see section 96.	18
<i>registered</i> , for part 6, see section 97.	19
<i>registered responsible supplier</i> , for part 6, see section 96.	20
<i>relevant person</i> , for part 6, see section 96.	21
<i>relevant responsible supplier</i> , for part 6, see section 96.	22
<i>relevant standard</i> , for part 6, see section 96.	23
<i>second-hand</i> , for part 6, see section 96.	24
<i>test report</i> , for part 6, see section 96.’.	25

[s 20]

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<b>Part 4</b>	<b>Amendment of Industrial Relations Act 1999</b>	1 2
<b>Clause 20</b>	<b>Act amended</b>	3
	This part amends the <i>Industrial Relations Act 1999</i> .	4
	<i>Note—</i>	5
	See also the schedule.	6
<b>Clause 21</b>	<b>Amendment of s 73 (When is a dismissal unfair)</b>	7
	Section 73(2)(g), ‘or QWA’—	8
	<i>omit.</i>	9
<b>Clause 22</b>	<b>Amendment of s 105 (Prohibited conduct for employers and principals)</b>	10 11
	Section 105(2)(e), ‘, part 1’—	12
	<i>omit.</i>	13
<b>Clause 23</b>	<b>Amendment of s 137 (Order setting minimum wages and conditions)</b>	14 15
	Section 137(3), ‘or QWA’—	16
	<i>omit.</i>	17
<b>Clause 24</b>	<b>Amendment of ch 6, hdg (Agreements)</b>	18
	Chapter 6, heading, ‘Agreements’—	19
	<i>omit, insert—</i>	20
	‘ <b>Certified agreements</b> ’.	21

---

<b>Clause 25</b>	<b>Omission of ch 6, pt 1, hdg (Certified agreements)</b>	1
	Chapter 6, part 1, heading—	2
	<i>omit.</i>	3
<b>Clause 26</b>	<b>Amendment of s 165 (Certified agreement's effect on awards, agreements or orders)</b>	4
	Section 165(2), 'or QWA'—	5
	<i>omit.</i>	6
		7
<b>Clause 27</b>	<b>Amendment of s 167 (Successor employers bound)</b>	8
	Section 167(2)(c), 'this part'—	9
	<i>omit, insert</i> —	10
	'this chapter'.	11
<b>Clause 28</b>	<b>Amendment of s 169 (Amending a certified agreement)</b>	12
	Section 169(3)(b), 'this part'—	13
	<i>omit, insert</i> —	14
	'this chapter'.	15
<b>Clause 29</b>	<b>Amendment of s 184 (Secret ballot on valid majority)</b>	16
	Section 184(1)(a), 'this part'—	17
	<i>omit, insert</i> —	18
	'this chapter'.	19
<b>Clause 30</b>	<b>Amendment of s 185 (Coercion of persons to make, amend or terminate certified agreements etc.)</b>	20
	Section 185(1)(a), 'this part'—	21
	<i>omit, insert</i> —	22
	'this chapter'.	23
		24

[s 31]

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<b>Clause 31</b>	<b>Omission of ch 6, pt 2 (Queensland workplace agreements)</b>	1
	Chapter 6, part 2—	2
	<i>omit.</i>	3
		4
<b>Clause 32</b>	<b>Amendment of s 252 (President’s annual report)</b>	5
	Section 252(2), from ‘, industrial’—	6
	<i>omit, insert—</i>	7
	‘and industrial agreements.’.	8
<b>Clause 33</b>	<b>Amendment of s 273 (Commission’s functions)</b>	9
	(1) Section 273(1)(d)—	10
	<i>omit.</i>	11
	(2) Section 273(1)(e) to (ha)—	12
	<i>renumber</i> as section 273(1)(d) to (h).	13
<b>Clause 34</b>	<b>Amendment of s 280 (Procedures for reopening)</b>	14
	Section 280(2)(c), ‘or QWA’—	15
	<i>omit.</i>	16
<b>Clause 35</b>	<b>Amendment of s 284 (Interpretation of industrial instruments)</b>	17
	(1) Section 284(1), ‘or QWA’—	18
	<i>omit.</i>	19
		20
	(2) Section 284(3)—	21
	<i>omit.</i>	22
		23
	(3) Section 284(4)—	24
	<i>renumber</i> as section 284(3).	

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<b>Clause 36</b>	<b>Amendment of s 339B (Purpose of ch 8A)</b>	1
	Section 339B, after ‘ombudsman’—	2
	<i>insert</i> —	3
	‘from time to time’.	4
<b>Clause 37</b>	<b>Replacement of s 339C (Ombudsman)</b>	5
	Section 339C—	6
	<i>omit, insert</i> —	7
	<b>‘339C Ombudsman</b>	8
	‘A Queensland workplace rights ombudsman may be appointed from time to time.’.	9 10
<b>Clause 38</b>	<b>Amendment of s 339D (Functions of ombudsman)</b>	11
	(1) Section 339D(2), ‘The’—	12
	<i>omit, insert</i> —	13
	‘Subject to subsection (3), the’.	14
	(2) Section 339D(3)—	15
	<i>renumber</i> as section 339D(4).	16
	(3) Section 339D—	17
	<i>insert</i> —	18
	‘(3) However, the ombudsman may conduct an investigation into a particular industry or sector, including an investigation into a specific area or part of the industry or sector, only if requested by the Minister.’.	19 20 21 22
<b>Clause 39</b>	<b>Amendment of s 339H (Appointment of ombudsman)</b>	23
	Section 339H(1)—	24
	<i>omit, insert</i> —	25
	‘(1) The Governor in Council may appoint a person as ombudsman.’.	26 27

[s 40]

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<b>Clause 40</b>	<b>Replacement of s 339L (Acting ombudsman)</b>	1
	Section 339L—	2
	<i>omit, insert</i> —	3
	<b>‘339L Acting ombudsman</b>	4
	‘(1) This section applies if an ombudsman is appointed and, during the ombudsman’s term of appointment, the ombudsman is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.	5 6 7 8
	‘(2) The Governor in Council may appoint a person eligible for appointment as ombudsman to act as ombudsman.’.	9 10
<b>Clause 41</b>	<b>Amendment of s 339S (Queensland Workplace Rights Office)</b>	11 12
	Section 339S(2), before ‘QWRO consists’—	13
	<i>insert</i> —	14
	‘If an ombudsman is appointed,’.	15
<b>Clause 42</b>	<b>Amendment of s 346 (Time limited for appeal)</b>	16
	(1) Section 346(1), from ‘21’—	17
	<i>omit, insert</i> —	18
	‘the appeal period.’.	19
	(2) Section 346(2), ‘21 days’—	20
	<i>omit, insert</i> —	21
	‘appeal period’.	22
	(3) Section 346—	23
	<i>insert</i> —	24
	‘(3) In this section—	25
	<i>appeal period</i> , for an appeal against a decision, means the period within 21 days after—	26 27



- 
- (a) if the decision is given at a hearing—the announcement of the decision at the hearing; or 1  
2
  - (b) if the decision is given through the registrar—the release of the decision; or 3  
4
  - (c) if, under another Act, the decision is given in another way—the decision is given in the other way.’. 5  
6

<b>Clause 43</b>	<b>Amendment of s 347 (Stay of decision appealed against)</b>	7
(1)	Section 347(1)— <i>omit.</i>	8 9
(2)	Section 347(2), ‘The’— <i>omit, insert—</i> ‘On an appeal, the’.	10 11 12

<b>Clause 44</b>	<b>Amendment of s 373 (Right to inspect and request information—authorised industrial officer)</b>	13 14
(1)	Section 373(2)(c)— <i>omit.</i>	15 16
(2)	Section 373(3)(b)— <i>omit, insert—</i> ‘(b) must not allow the officer to inspect the record for an employee who has made a written request to the employer that the record not be available for inspection by an authorised industrial officer or a particular authorised industrial officer; and’.	17 18 19 20 21 22 23

<b>Clause 45</b>	<b>Amendment of s 392 (Paying apprentices or trainees for supervised training)</b>	24 25
	Section 392(3)(b), ‘or 211’— <i>omit.</i>	26 27

[s 46]

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<b>Clause 46</b>	<b>Amendment of s 662 (False or misleading statements)</b>	1
	Section 662(3), ‘223 or’—	2
	<i>omit.</i>	3
<b>Clause 47</b>	<b>Amendment of s 663 (False or misleading documents)</b>	4
	Section 663(5), ‘201 or’—	5
	<i>omit.</i>	6
<b>Clause 48</b>	<b>Amendment of s 680 (Evidentiary value of official records)</b>	7
	(1) Section 680(2)(c)—	8
	<i>omit.</i>	9
	(2) Section 680(2)(d) to (g)—	10
	<i>renumber</i> as section 680(2)(c) to (f).	11
		12
<b>Clause 49</b>	<b>Amendment of s 692D (New State instrument taken to exist for declared employers in other circumstances)</b>	13
	(1) Section 692D(3)(a) and (b)—	14
	<i>omit, insert—</i>	15
	‘(a) the instrument is taken to be a certified agreement; and	16
	(b) the instrument will be taken to be on the relevant day	17
	certified under this Act; and’.	18
	(2) Section 692D(7)—	19
	<i>omit.</i>	20
		21
<b>Clause 50</b>	<b>Amendment of s 697 (Copy of award and certified agreement to be displayed)</b>	22
	Section 697(1), ‘, other than a QWA,’—	23
	<i>omit.</i>	24
		25

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<b>Clause 51</b>	<b>Amendment of s 709 (Regulation-making power)</b>	1
(1)	Section 709(2)(a), ‘or QWA’— <i>omit.</i>	2 3
(2)	Section 709(2)(b), (c), (d) and (e)— <i>omit.</i>	4 5
(3)	Section 709(2)(f) to (i)— <i>renumber</i> as section 709(2)(b) to (e).	6 7
<b>Clause 52</b>	<b>Insertion of new ch 20, pt 12</b>	8
	Chapter 20— <i>insert</i> —	9 10
<b>‘Part 12</b>	<b>Transitional provisions for Electrical Safety and Other Legislation Amendment Act 2011</b>	11 12 13 14
<b>‘Division 1</b>	<b>Provisions for local governments and employees</b>	15 16
<b>‘Subdivision 1</b>	<b>Provisions for local governments and employees covered by federal instrument</b>	17 18 19
<b>‘766</b>	<b>Application of sdiv 1</b>	20
(1)	This subdivision applies in relation to—	21
(a)	a local government, other than a local government mentioned in section 744(1)(a); and	22 23
(b)	an employee of a local government mentioned in paragraph (a).	24 25

[s 52]

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‘(2) In this section—	1
<i>local government</i> does not include the Brisbane City Council.	2
<b>‘767 Definitions for sdiv 1</b>	3
‘In this subdivision—	4
<i>commencement</i> means the commencement of this section.	5
<i>division 3 pre-reform certified agreement</i> means a division 3 pre-reform certified agreement under the Workplace Relations Act continued in existence under the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cwlth).	6 7 8 9 10
<i>federal instrument</i> means—	11
(a) a transitional award; or	12
(b) a division 3 pre-reform certified agreement.	13
<i>remuneration</i> , in relation to an employee, includes—	14
(a) the wage or salary payable to the employee; and	15
(b) amounts payable or other benefits made available to the employee under a contract of service or a federal instrument.	16 17 18
<i>substitute State agreement</i> see section 769(2).	19
<i>substitute State award</i> see section 768(2).	20
<i>substitute State instrument</i> means the following—	21
(a) a substitute State award;	22
(b) a substitute State agreement.	23
<i>transitional award</i> means a transitional award under the Workplace Relations Act continued in existence as a continuing schedule 6 instrument under the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cwlth).	24 25 26 27 28
<i>Workplace Relations Act</i> means the <i>Workplace Relations Act 1996</i> (Cwlth).	29 30

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<b>'768</b>	<b>Award binding local governments and employees of local governments</b>	1 2
'(1)	Subsection (2) applies if, on the commencement of section 747, a local government was a respondent to an original award mentioned in that section.	3 4 5
'(2)	On the commencement of this section, the local government and any employee of the local government are bound by the award that original award is taken to be under section 747(2) (a <i>substitute State award</i> ).	6 7 8 9
'(3)	For the purposes of this subdivision, and despite section 747(3), the substitute State award is taken to be amended so that the remuneration applying to employees under a transitional award immediately before the commencement of this section applies to the employees bound by the substitute State award.	10 11 12 13 14 15
'(4)	Subject to subsection (3) and section 746, the award has effect according to its terms.	16 17
<b>'769</b>	<b>Provision for division 3 pre-reform certified agreements</b>	18 19
'(1)	This section makes provision in relation to each division 3 pre-reform certified agreement in force immediately before the commencement.	20 21 22
'(2)	On the commencement, the division 3 pre-reform certified agreement is taken to be a certified agreement certified by the commission under section 156 (a <i>substitute State agreement</i> ).	23 24 25
'(3)	The substitute State agreement is taken to be amended by omitting any dispute settlement procedure (however described) provided for in the agreement and inserting instead—	26 27 28 29
(a)	clause 3.2 of the Sample Award - State 2004 attached to Practice Note PN 9 issued by the commission on 30 June 2004; or	30 31 32

[s 52]

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- (b) if the commission has replaced clause 3.2 with another grievance and dispute settling procedure—the replacement procedure. 1  
2  
3

*Editor’s note—* 4

Clause 3.2 of the Sample Award provides for a grievance and dispute settling procedure. A copy of the practice note can be found on the commission’s website at <www.qirc.qld.gov.au>. 5  
6  
7

- ‘(4) Subject to subsection (3) and section 770, and despite section 169(7), the substitute State agreement has effect according to its terms. 8  
9  
10

**‘770 Interpretation** 11

- ‘(1) This section has effect for section 769. 12

- ‘(2) A reference to the Australian Industrial Relations Commission or Fair Work Australia (however described) in a substitute State agreement is taken to be a reference to the commission. 13  
14  
15  
16

- ‘(3) A reference to a provision of the Workplace Relations Act, the Work Choices Amendment Act or the Commonwealth Act in a substitute State agreement is taken to be a reference to a corresponding provision of this Act. 17  
18  
19  
20

- ‘(4) Sections 746(4) and 754 apply to a substitute State agreement as if a reference to a substitute State instrument in those sections were a reference to a substitute State agreement under this subdivision. 21  
22  
23  
24

- ‘(5) In this section— 25

*corresponding provision of this Act*, to a provision of the Workplace Relations Act, the Work Choices Amendment Act or the Commonwealth Act, means— 26  
27  
28

- (a) if paragraph (b) does not apply, a provision of this Act that is of similar effect to the provision of the Workplace Relations Act, the Work Choices Amendment Act or the Commonwealth Act; or 29  
30  
31  
32

- (b) a provision of this Act declared under a regulation to be a corresponding provision. 33  
34

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*Work Choices Amendment Act* means the *Workplace Relations Amendment (Work Choices) Act 2005* (Cwlth). 1  
2

- ‘771 Preservation of existing entitlements** 3
- ‘(1) This section applies in relation to each employee who, after 4  
the commencement, is bound by a substitute State instrument. 5
- ‘(2) The employee is entitled to receive not less than the 6  
remuneration the employee received immediately before the 7  
commencement. 8
- ‘(3) Subsection (2) has effect until— 9
- (a) for a substitute State agreement, the earlier of the 10  
following— 11
- (i) the day, after the commencement, the employee is 12  
bound by a certified agreement certified by the 13  
commission; 14
- (ii) the remuneration provisions of the substitute State 15  
agreement are amended; 16
- (iii) the substitute State agreement is terminated; 17
- (iv) the commission makes a decision in relation to the 18  
remuneration the employee is entitled to receive 19  
under the substitute State agreement; or 20
- (b) for a substitute State award, the earlier of the 21  
following— 22
- (i) the day, after the commencement, the employee is 23  
bound by a certified agreement certified by the 24  
commission; 25
- (ii) the remuneration provisions of the substitute State 26  
award are amended; 27
- (iii) the commission makes a new award that replaces 28  
the substitute State award for the employee. 29

[s 52]

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<b>‘772 Provision for minimum entitlements</b>	1
‘(1) Sections 8A, 9, 9A, 10, 11 and 15 do not apply in relation to an employee bound by a substitute State agreement until the earlier of the following—	2 3 4
(a) 27 March 2012;	5
(b) the day, after the commencement, the employee is bound by a certified agreement certified by the commission.	6 7 8
‘(2) Sections 8A, 9, 9A, 10, 11 and 15 do not apply in relation to an employee bound by a substitute State award until the earlier of the following—	9 10 11
(a) 27 March 2012;	12
(b) the day, after the commencement, the employee is bound by a certified agreement certified by the commission;	13 14 15
(c) the substitute State award is repealed;	16
(d) the commission makes a new award that replaces the substitute State award for the employee.	17 18
‘(3) Despite subsection (2), sections 8A, 9, 9A, 10, 11 and 15 continue to apply in relation to an employee who, immediately before the commencement, was bound by an industrial instrument.	19 20 21 22
‘(4) Subsections (1) and (2) do not limit section 771.	23
<b>‘Subdivision 2 Provision for local governments and employees covered by industrial instrument</b>	24 25 26
<b>‘773 Application of industrial instrument for local governments and employees</b>	27 28
‘(1) This section applies if, immediately before the commencement of this section, an industrial instrument	29 30



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applied to a local government or an employee of the local government.	1 2
‘(2) On the commencement of this section, subdivision 1 does not affect—	3 4
(a) the application of the industrial instrument to the local government or the employee; or	5 6
(b) the remuneration payable to the employee.	7
‘(3) In this section—	8
<i>local government</i> does not include the Brisbane City Council.	9
<i>remuneration</i> , in relation to an employee, includes—	10
(a) the wage or salary payable to the employee; and	11
(b) amounts payable or other benefits made available to the employee under a contract of service or an industrial instrument.	12 13 14
<b>‘Division 2                      Particular QWAs continued</b>	15
<b>‘774    Definitions</b>	16
‘In this division—	17
<i>amending Act</i> means the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> .	18 19
<i>previous</i> , in relation to a stated provision that includes a number, means the provision of the Act with that number immediately before the commencement of this section.	20 21 22
<b>‘775    Continuation of new State instruments taken to be QWAs</b>	23 24
‘(1) This section applies if, immediately before the amendment of this Act by the amending Act, a new State instrument was taken to be a QWA under previous section 692D.	25 26 27

[s 52]

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- ‘(2) The QWA continues in force subject to this division and previous section 692D(3), (4) and (5). 1  
2
- ‘(3) The QWA expires on the earlier of the following— 3
- (a) the specified nominal expiry date the instrument is taken to have under previous section 692D(6); 4  
5
- (b) a day that is 4 months after the commencement of this section. 6  
7
- ‘776 Termination of QWAs 8**
- ‘(1) The QWA may be terminated before the day it expires under section 775(3) by written agreement (*termination agreement*) between the employer and employee. 9  
10  
11
- ‘(2) The termination agreement takes effect on— 12
- (a) if a day is stated in the termination agreement as the date it takes effect—the day stated in the termination agreement; or 13  
14  
15
- (b) otherwise—the day the QWA expires under section 775(3). 16  
17
- ‘(3) The termination agreement must be filed with the registrar or chief inspector. 18  
19
- ‘(4) If the registrar or chief inspector is satisfied that the filing requirements for the termination agreement under previous section 200(6) have been met, the registrar or chief inspector must issue a filing receipt to the person who filed it. 20  
21  
22  
23
- ‘(5) Previous chapter 6, part 2, division 5 does not apply to the QWA or termination agreement. 24  
25
- ‘777 Continuation of particular provisions for QWAs 26**
- ‘Subject to this division, this Act as in force immediately before its amendment by the amending Act, continues to apply to a QWA continued under this division. 27  
28  
29

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<b>‘Division 3</b>	<b>Other transitional provisions</b>	1
<b>‘778</b>	<b>President’s annual report—s 252</b>	2
	‘Despite the amendment of section 252 by the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> , section 32, the president’s report under section 252 for the financial years ending 30 June 2011 and 30 June 2012 must contain summaries of significant decisions and interpretations about QWAs and ancillary documents.	3 4 5 6 7 8
<b>‘779</b>	<b>Amendment of regulation and rules under the Electrical Safety and Other Legislation Amendment Act 2011</b>	9 10 11
	‘The amendment of the <i>Industrial Relations Regulation 2000</i> and the <i>Industrial Relations (Tribunals) Rules 2000</i> by the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> does not affect the power of the Governor in Council to further amend the regulation or rules or to repeal them.’.	12 13 14 15 16
<b>Clause 53</b>	<b>Amendment of sch 5 (Dictionary)</b>	17
(1)	Schedule 5, definitions <i>additional approval requirements, amendment agreement, ancillary document, approval notice, bargaining agent, certified copy, employee, existing employee, extension agreement, file, filing receipt, filing requirements, initial day, new employee, nominal expiry date, party, penalty provision, period of operation, QWA, QWA date, refusal notice, relevant or designated award, termination agreement and termination notice—</i>	18 19 20 21 22 23 24 25
	<i>omit.</i>	26
(2)	Schedule 5—	27
	<i>insert—</i>	28
	‘ <i>declared employee</i> , for chapter 16, part 2, see section 692A.	29
	<i>declared employer</i> , for chapter 16, part 2, see section 692A.	30

[s 53]

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<i>employee</i> see section 5.	1
<i>federal industrial authority</i> , for chapter 16, part 2, see section 692A.	2 3
<i>federal industrial authority manager</i> , for chapter 16, part 2, see section 692A.	4 5
<i>file</i> , for chapter 12, see section 409.	6
<i>initial day</i> , for a certified agreement, means the day on which it was certified.	7 8
<i>national fair work legislation</i> , for chapter 16, part 2, see section 692A.	9 10
<i>new State instrument</i> see section 692A.	11
<i>nominal expiry date</i> , of a certified agreement, see section 156.	12 13
<i>old federal instrument</i> , for chapter 16, part 2, see section 692A.	14 15
<i>party</i> , for an industrial instrument or permit, includes a person bound by the instrument or permit.	16 17
<i>penalty provision</i> , for chapter 6, division 7, see section 182.	18
<i>relevant day</i> , for chapter 16, part 2, see section 692A.	19
<i>terms</i> , for chapter 16, part 2, see section 692A.’.	20
(3) Schedule 5, definitions <i>approved apprenticeship</i> and <i>approved traineeship</i> , ‘sections 162 and 211’—	21 22
<i>omit, insert</i> —	23
‘section 162’.	24
(4) Schedule 5, definition <i>award</i> , paragraph (b)—	25
<i>omit, insert</i> —	26
‘(b) for chapter 6, division 3—includes a federal award.’.	27
(5) Schedule 5, definitions <i>certified agreement</i> , <i>new business</i> and <i>project</i> , ‘, part 1’—	28 29
<i>omit</i> .	30

- 
- |      |   |    |
|------|---|----|
| (6)  | Schedule 5, definition <i>designated award</i> , ‘or QWA’—            | 1  |
|      | <i>omit.</i>  | 2  |
| (7)  | Schedule 5, definition <i>designated award</i> , ‘, or the commission | 3  |
|      | under section 212,’—  | 4  |
|      | <i>omit.</i>  | 5  |
| (8)  | Schedule 5, definition <i>employer</i> , paragraph (b), ‘, part 1’—   | 6  |
|      | <i>omit.</i>  | 7  |
| (9)  | Schedule 5, definition <i>employer</i> , paragraph (c)—               | 8  |
|      | <i>omit.</i>  | 9  |
| (10) | Schedule 5, definition <i>employer</i> , paragraph (d)—               | 10 |
|      | <i>renumber</i> as paragraph (c).                                     | 11 |
| (11) | Schedule 5, definition <i>industrial instrument</i> , ‘QWA,’—         | 12 |
|      | <i>omit.</i>  | 13 |
| (12) | Schedule 5, definition <i>relevant award</i> , ‘or QWA’—              | 14 |
|      | <i>omit.</i>  | 15 |
| (13) | Schedule 5, definition <i>wages</i> , paragraph (d)—                  | 16 |
|      | <i>omit.</i>  | 17 |

<b>Part 5</b>	<b>Amendment of Industrial</b>	18
	<b>Relations Regulation 2000</b>	19

- |                  |  |    |
|------------------|--|----|
| <b>Clause 54</b> | <b>Regulation amended</b>  | 20 |
|                  | This part amends the <i>Industrial Relations Regulation 2000</i> . | 21 |
|                  | <i>Note</i> —  | 22 |
|                  | See also the schedule.   | 23 |

[s 55]

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<b>Clause 55</b>	<b>Amendment of s 9 (Agreement for certification to be accompanied by affidavit—Act, s 156)</b>	1 2
	Section 9(1)(q), ‘part 1,’—	3
	<i>omit.</i>	4
<b>Clause 56</b>	<b>Omission of pt 5 (Queensland workplace agreements)</b>	5
	Part 5—	6
	<i>omit.</i>	7
<b>Clause 57</b>	<b>Omission of schs 1 and 2</b>	8
	Schedules 1 and 2—	9
	<i>omit.</i>	10
<b>Part 6</b>	<b>Amendment of Industrial Relations (Tribunals) Rules 2000</b>	11 12 13
<b>Clause 58</b>	<b>Rules amended</b>	14
	This part amends the <i>Industrial Relations (Tribunals) Rules 2000</i> .	15 16
<b>Clause 59</b>	<b>Amendment of r 9 (Form of applications)</b>	17
	Rule 9(3), definition <i>excluded application</i> , paragraph (d), ‘212’—	18 19
	<i>omit.</i>	20

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<b>Clause 60</b>	<b>Amendment of r 14 (Ways of filing)</b>	1
	Rule 14(d), 'or 147(1)'—	2
	<i>omit.</i>	3
<b>Clause 61</b>	<b>Amendment of r 87 (Publishing decisions etc.)</b>	4
	(1) Rule 87(2)—	5
	<i>omit.</i>	6
	(2) Rule 87(3) and (4)—	7
	<i>renumber</i> as rule 87(2) and (3).	8
<b>Clause 62</b>	<b>Omission of pt 11 (Queensland workplace agreements)</b>	9
	Part 11—	10
	<i>omit.</i>	11
<b>Clause 63</b>	<b>Amendment of sch 2 (Dictionary)</b>	12
	(1) Schedule 2, definition <i>filed</i> , paragraph (a)—	13
	<i>omit.</i>	14
	(2) Schedule 2, definition <i>filed</i> , paragraphs (b) and (c)—	15
	<i>renumber</i> as paragraphs (a) and (b).	16
<b>Part 7</b>	<b>Amendment of Workers' Compensation and Rehabilitation Act 2003</b>	17 18 19
<b>Clause 64</b>	<b>Act amended</b>	20
	This part amends the <i>Workers' Compensation and Rehabilitation Act 2003</i> .	21 22

[s 65]

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<b>Clause 65</b>	<b>Amendment of s 107E (Authority's board may approve amount payable under industrial instrument)</b>	1 2
	Section 107E(7), definition <i>workplace agreement</i> —	3
	<i>omit, insert</i> —	4
	' <i>workplace agreement</i> means—	5
	(a) an Australian workplace agreement or preserved individual State agreement under the <i>Workplace Relations Act 1996</i> (Cwlth) given continuing effect under the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cwlth), schedule 3, part 2; or	6 7 8 9 10 11
	(b) an individual division 2B state employment agreement under the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> (Cwlth).'	12 13 14
<b>Clause 66</b>	<b>Amendment of s 561 (Appeal to industrial court)</b>	15
	Section 561(2) and (3)—	16
	<i>omit, insert</i> —	17
	'(2) If the party is aggrieved by the industrial commission's decision, the person may appeal only on the ground of—	18 19
	(a) error of law; or	20
	(b) excess, or want, of jurisdiction.	21
	'(3) The <i>Industrial Relations Act 1999</i> applies to the appeal.'	22
<b>Clause 67</b>	<b>Insertion of new ch 28</b>	23
	After section 671—	24
	<i>insert</i> —	25



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<b>'Chapter 28</b>	<b>Transitional provisions for Electrical Safety and Other Legislation Amendment Act 2011</b>	1 2 3 4
<b>'672</b>	<b>Provision for QWAs</b>	5
	(1) The pre-amended Act continues to apply to a QWA under the <i>Industrial Relations Act 1999</i> as if a reference in the pre-amended Act to a QWA were a reference to a QWA continued in force under the <i>Industrial Relations Act 1999</i> , section 775.	6 7 8 9 10
	(2) In this section— <i>pre-amended Act</i> means this Act as in force immediately before its amendment by the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> .	11 12 13 14
<b>'673</b>	<b>Appeal of decision under s 561</b>	15
	'Section 561, as in force immediately before the commencement of this section, continues to apply to a decision mentioned in section 560A made before the commencement as if the <i>Electrical Safety and Other Legislation Amendment Act 2011</i> had not been enacted.'	16 17 18 19 20
<b>Clause 68</b>	<b>Amendment of sch 6 (Dictionary)</b>	21
	(1) Schedule 6, definition <i>industrial instrument</i> , paragraph (a)(v)— <i>omit</i> .	22 23 24
	(2) Schedule 6, definition <i>industrial instrument</i> , paragraph (a)(vi)— <i>renumber</i> as paragraph (a)(v).	25 26 27

[s 69]

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<b>Part 8</b>	<b>Minor and consequential amendments</b>	1 2
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<b>Clause 69</b>	<b>Legislation amended</b>	3
	The schedule amends the legislation it mentions.	4

<b>Schedule</b>	<b>Minor and consequential amendments</b>	1 2
	section 69	3
<b>Part 1</b>	<b>Amendments commencing on assent</b>	4 5
	<b>Child Employment Act 2006</b>	6
1	Section 15C(2) and note, 'part 1,'— <i>omit.</i>	7 8
	<b>Coal Mining Safety and Health Act 1999</b>	9
1	Section 255(4), ' <i>Workplace Relations Act 1997</i> '— <i>omit, insert—</i> <i>'Industrial Relations Act 1999'</i> .	10 11 12
	<b>Industrial Relations Act 1999</b>	13
1	Section 46(12), definition <i>usual rate</i> , before 'the rate'— <i>insert—</i> 'means'.	14 15 16

Schedule

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<b>2</b>	<b>Section 49(1), after ‘casual’—</b>	1
	<i>insert—</i>	2
	‘employee’.	3
<b>3</b>	<b>Sections 238(6) and 294(1), ‘Editor’s note’—</b>	4
	<i>omit, insert—</i>	5
	‘Note’.	6
<b>4</b>	<b>Section 339I(2)(c), ‘a auditor’—</b>	7
	<i>omit, insert—</i>	8
	‘an auditor’.	9
<b>5</b>	<b>Section 669(1), ‘the <i>Private Employment Agents Act 1983</i> and’—</b>	10
	<i>omit.</i>	11
<b>6</b>	<b>Section 692A, definition <i>federal industrial authority manager</i>, paragraph (a), after ‘1996’—</b>	13
	<i>insert—</i>	14
	‘(Cwlth)’.	15
		16
	<b>Industrial Relations Regulation 2000</b>	17
<b>1</b>	<b>Section 40(1), examples—</b>	18
	<i>omit, insert—</i>	19
	‘Examples of information a voter may ask for—	20
	• whether ballot papers were posted on the same day	21
	• if all material required to be given to voters for a ballot was given’.	22

<b>2</b>	<b>Sections 82(2)(b) and 141(b), ‘<i>Example of</i>—</b> <i>omit, insert—</i> <i>‘Example for’.</i>	1 2 3
<b>3</b>	<b>Schedule 3, sections 2(2), 6(2), 12(1) and 13(1) and schedule 4, section 42, ‘<i>Editor’s note</i>—</b> <i>omit, insert—</i> <i>‘Note’.</i>	4 5 6 7
	<b>Mining and Quarrying Safety and Health Act 1999</b>	8
<b>1</b>	<b>Section 234(4), ‘<i>Workplace Relations Act 1997</i>—</b> <i>omit, insert—</i> <i>‘Industrial Relations Act 1999’.</i>	9 10 11
	<b>Pastoral Workers’ Accommodation Act 1980</b>	12
<b>1</b>	<b>Section 5, definition <i>award</i>, ‘, certified agreement or QWA’—</b> <i>omit, insert—</i> <i>‘or certified agreement’.</i>	13 14 15 16

<b>South East Queensland Water (Restructuring) Act 2007</b>	1 2
<b>1 Section 90(7), definition <i>prescribed industrial instrument</i>, paragraph (c)—</b>	3 4
<i>omit.</i>	5
<b>2 Section 90(7), definition <i>prescribed industrial instrument</i>, paragraphs (d) to (j)—</b>	6 7
<i>renumber</i> as paragraphs (c) to (i).	8
<b>Part 2 Amendments commencing by proclamation</b>	9 10
<b>Electrical Safety Act 2002</b>	11
<b>1 Section 5(e), ‘commissioner of electrical safety’—</b>	12
<i>omit, insert—</i>	13
‘commissioner for electrical safety’.	14
<b>2 Section 35(1), ‘Editor’s note—’—</b>	15
<i>omit, insert—</i>	16
‘Note—’.	17
<b>3 Section 109(1)(ba)(ii) and (bb)(ii), ‘; or’—</b>	18
<i>omit, insert—</i>	19
‘;’.	20

<b>4</b>	<b>Section 154(2)(a), example, ‘hiring,’—</b>	1
	<i>omit.</i>	2
<b>5</b>	<b>Section 181(2), ‘Electricity Supply Association of Australia’—</b>	3
	<i>omit, insert—</i>	4
	<i>‘Energy Supply Association of Australia’.</i>	5
		6
	 <b>Electrical Safety Regulation 2002</b>	 7
<b>1</b>	<b>Section 4(d)(ii)—</b>	8
	<i>omit, insert—</i>	9
	(ii) requirements relating to the registration and certification of particular electrical equipment; and’.	10
		11
		12
<b>2</b>	<b>Section 4(d)(iv)—</b>	13
	<i>omit, insert—</i>	14
	(iv) requiring particular electrical equipment to be marked for compliance with relevant standards; and’.	15
		16
		17

**State Penalties Enforcement Regulation 2000**

1

**1 Schedule 5, entry for Electrical Safety Regulation 2002,  
columns 1 and 2 entries for sections from section 100(1)  
to section 126(5)—**

2

3

4

*omit, insert—*

5

's 100A(2) .....	4	8
s 104(1)(a) .....	4	8
s 105(1)(a) .....	4	8
s 105(1)(b) .....	4	8
s 106(1) .....	2	4
s 106(2) .....	2	4
s 109(2) .....	4	8
s 111(1) .....	4	8
s 126B(1) .....	4	20
s 126C .....	4	8
s 126G(7) .....	4	8'.