

Queensland



# **ELECTRICITY ACT 1994**

**Reprinted as in force on 18 December 1998  
(includes amendments up to Act No. 77 of 1997)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 2E**

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# Information about this reprint

This Act is reprinted as at 18 December 1998. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



**ELECTRICITY ACT 1994**

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# **ELECTRICITY ACT 1994**

[as amended by all amendments that commenced on or before 18 December 1998]

**An Act about the electricity industry and use of electricity, and for related purposes**

## **CHAPTER 1—PRELIMINARY**

### **PART 1—INTRODUCTORY PROVISIONS**

#### **Short title**

1. This Act may be cited as the *Electricity Act 1994*.

### **PART 2—OBJECTS OF ACT**

#### **Objects of Act**

3. The objects of this Act are to—
  - (a) set a framework for all electricity industry participants that promotes efficient, economical and environmentally sound electricity supply and use; and
  - (b) regulate the electricity industry and electricity use; and
  - (c) promote electricity safety; and
  - (d) establish a competitive electricity market in line with the national electricity industry reform process.

## **PART 3—DEFINITIONS**

### **Definitions—the dictionary**

4. The dictionary in schedule 5 defines particular words used in this Act.

## **PART 4—SOME BASIC CONCEPTS OF ELECTRICITY INDUSTRY OPERATIONS**

### **Electricity**

5. “**Electricity**” includes electric current, electrical energy and like or related physical qualities.

### **Transmission grid**

- 6.(1) A “**transmission grid**” is a system, or part of a system, of electric lines, substations and associated equipment providing connection between generation facilities and supply networks or customers not supplied through supply networks.

- (2) A transmission grid includes connections to other transmission grids.

### **Regional system control**

7. For the Queensland system, “**regional system control**” is—
  - (a) maintaining the operation and performance of the transmission grid; and
  - (b) controlling switching of transmission elements and access to them for maintenance, inspection and testing; and
  - (c) controlling switching of parts of the supply network relevant to the integrity of the Queensland system; and
  - (d) carrying out other functions prescribed by regulation.

## **Supply network**

**8.** A “**supply network**” is a system, or part of a system, of electric lines, substations and associated equipment, other than a transmission grid, for distributing electricity to customers, whether or not generating plant is connected to it.

## **Network control**

**9.** For a supply network, “**network control**” is—

- (a) coordinating the operation of the supply network and any generators connected to it; or
- (b) coordinating maintenance programs and schedules for generating plant and elements of the supply network; or
- (c) ensuring the integrity of the supply network; or
- (d) controlling switching of elements of the supply network and access to them, including disconnection of load, for maintenance, inspection and testing; or
- (e) issuing directions for, and implementing reductions in, demand of customers supplied by the supply network in emergencies when available electricity is limited; or
- (f) scheduling and controlling the switching of controllable load.

## **Network services**

**10.** “**Network services**” are services for electricity transfer provided by transmission entities and distribution entities to persons connected to a transmission grid or supply network.

*Examples of network services—*

1. Providing electricity transfer capacity.
2. Controlling and regulating the characteristics of electricity being transferred.
3. Providing facilities to connect works of generation entities, transmission entities, distribution entities, or electrical installations of customers, to a transmission grid or supply network.

### **Ancillary services**

**11. “Ancillary services”** are services provided by electricity entities or customers through the operation of their works or installations in ways that are not directly related to the generation and supply of electricity, but are to ensure the stable and secure operation of an electricity system, and its recovery from emergency situations.

*Examples of ancillary services—*

1. Providing reserve to the system, including through interruptibility of load.
2. Operating generating and other plant to ensure the stable and secure operation of the system.
3. Maintaining an ability to restore supply to the system after total failure of supply.

### **Works, substations and operating works**

**12.(1) “Works”** are anything used for, or in association with, the generation, transmission or supply of electricity.

*Example of works—*

Electric lines and apparatus, electrical articles, buildings, control cables, engines, fittings, lamps, machinery, meters, substations and transformers if they are used for, or in association with, the generation, transmission or supply of, electricity.

**(2) A “substation”** is works used for converting, transforming or controlling electricity.

**(3) “Operating works”** are—

- (a) for a generation entity—the generating plant, fuel stocks, electrical and other property used for generating electricity or connecting supply to a transmission grid or supply network; or
- (b) for a transmission entity—the transmission grid and other property used for operating or managing the transmission grid; or
- (c) for a distribution entity—the supply network and other property used for operating or managing the supply network.

*Example of other property used for generating electricity—*

Coal handling facilities for a coal-fired power station and the land where they are situated.

### **Electrical installation**

**13.(1)** An “**electrical installation**” is an electric line or electrical article installed in a place that is used for conveying, controlling or using electricity.

**(2)** An electrical installation includes an addition or other alteration to the electric line or electrical article.

**(3)** However, an electrical installation does not include works used for generating, transmitting or supplying electricity.

### **Electrical article, electric line and meter**

**14.(1)** An “**electrical article**” includes an apparatus, appliance, article, cable, fitting, insulator, material, meter or wire—

- (a) used for generating, transmitting or supplying electricity; or
- (b) operated by electricity.

**(2)** An “**electric line**” is a wire, conductor or associated equipment used for transmitting, transforming or supplying electricity.

*Examples of electric line—*

1. A bracket, casing, coating, covering, duct, frame, insulator, pillar, pipe, pole, tower or tube enclosing, surrounding or supporting an electric line.
2. Apparatus connected to an electric line and used for transmitting, transforming or supplying electricity.

**(3)** A “**meter**” is a device used for measuring electricity, and includes any associated equipment.

### **Cathodic protection system**

**15.** A “**cathodic protection system**” is a system by which a structure in contact with ground or water is protected from electrolytic corrosion by a direct electric current flowing between the structure and an anode through the ground or water.

**Electrical work and electrical installation work**

**16.(1) “Electrical work”** is the work of installing or repairing an electric line or electrical article used for generating, transmitting, supplying or using electricity.

**(2)** However, the following work is not electrical work—

- (a) manufacturing, assembling or repairing electrical articles at an industrial workplace if the principal manufacturing process carried on at the workplace is the making, assembling, altering, repairing or adapting of electrical articles;
- (b) building for an electricity entity, and under its supervision, an overhead electric line on supports that do not already carry an overhead line connected to an electricity source;
- (c) building or repairing ducts, conduits or troughs (“**channels**”) where electrical wiring will be or is installed, if—
  - (i) the channels are not used as an earthing medium or are not to be earthed; or
  - (ii) the wiring installed in the channels is not connected to supply and the work is done under the direct supervision of an electrical worker licensed to perform electrical installation work;
- (d) laying, cutting and sealing underground cables that are part of an electricity entity’s works before initial connection to an electricity source;
- (e) recovering underground cables that are part of an electricity entity’s works after disconnection from an electricity source;
- (f) altering, repairing, maintaining or recovering an overhead electric line that is part of an electricity entity’s works, if the work is performed under the entity’s supervision and—
  - (i) if the line is not on supports supporting another electric line—the line has been isolated from electricity sources in a way that closure of a switch cannot energise the section of the line where work is being done; or
  - (ii) if the line is on supports supporting another electric line—both lines have been isolated from electricity sources



in a way that closure of a switch cannot energise the section of the line where work is being done or an adjacent section of the other line;

(g) other work prescribed under the regulations.

(3) For licensing electrical contractors, “**electrical work**” includes minor building work, and building services work, incidental to electrical work.

(4) “**Electrical installation work**” is the work of installing, altering or adding to an electrical installation, and includes supervising the work.

## **Voltage**

17.(1) “**Voltage**” is the difference in electrical potential measured in volts.

(2) For alternating current systems, “**voltage**” is taken to be the root mean square (RMS) value of the difference.

(3) Unless otherwise provided, “**voltage**” is the nominal voltage between phases of a symmetrical 3 phase system.

(4) For electricity supplied from a single wire earth return system originating from a symmetrical 3 phase system, “**voltage**” is the nominal voltage between phase and earth.

## **PART 5—OPERATION OF ACT**

### **Application of Act to government entities**

18.(1) In this section—

“**government entity**” includes—

- (a) the State, the Commonwealth or another State; or
- (b) an instrumentality or agent of the State, the Commonwealth or another State.

(2) This Act binds a government entity only—

*Electricity Act 1994*

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- (a) to the extent that the entity is, or has a financial interest in, an electricity entity; or
- (b) to the extent that the entity is a customer; or
- (c) in relation to electrical safety; or
- (d) in relation to electricity restriction and rationing; or
- (e) in relation to section 287 (Gladstone power station provisions) and section 287A (Gladstone power station arrangements).

(3) This Act does not apply to the building or use of electrical installations and other works used by Queensland Rail, as part of a system of electric traction or for signalling purposes, on a railway.

**Act subject to certain laws**

**19.(1)** This Act is subject to the *Gladstone Power Station Agreement Act 1993*.

(2) This Act is also subject to the *Wet Tropics World Heritage Protection and Management Act 1993*, section 56.<sup>1</sup>

**Exemptions from Act**

**20.(1)** A regulation may exempt a person or thing from this Act or a provision of this Act.

(2) The exemption may be given on conditions.

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

Maximum penalty—50 penalty units.

(4) A regulation may provide that an exemption ceases or continues if a condition of the exemption is contravened.

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<sup>1</sup> This section prohibits certain acts (for example, destruction of forest products) without an appropriate authority.

## **CHAPTER 2—THE ELECTRICITY INDUSTRY**

### **PART 1—ELECTRICITY INDUSTRY AND ENTITIES**

#### **Electricity industry**

**21.** The “**electricity industry**” is the industry involved in generating, transmitting, supplying and selling electricity in the State.

#### **Electricity entities**

**22.(1)** An “**electricity entity**” is an entity that is a participant in the electricity industry.

**(2)** The following entities are the participants in the electricity industry—

- (a) generation entities;
- (b) transmission entities;
- (c) distribution entities;
- (d) retail entities.

### **PART 2—CUSTOMERS AND CONTESTABLE CUSTOMERS**

#### **Types of customers**

**23.(1)** A “**customer**” is a person who receives, or wants to receive, a supply of electricity from an electricity entity or special approval holder.

**(2)** A “**contestable customer**” is a customer declared to be a contestable customer under the regulations.

**(3)** A “**non-contestable customer**” is a customer other than a contestable customer.

**Regulations concerning contestability declaration**

**23A.(1)** A regulation under section 23(2) declaring a customer to be a contestable customer may provide—

- (a) that the declaration takes effect on the day on which the regulation commences or on another stated day; or
- (b) for the effects of the customer being declared to be a contestable customer.

*Examples of effects that may be provided for—*

- the specification of a contract, class of contract or type of contract as a customer connection contract or as a customer sale contract
- the continuation of the customer's customer sale contract
- the continuation of a customer connection contract that applies to the customer's premises
- the change in status of the customer's customer sale contract, for example, from a standard customer sale contract to a negotiated customer sale contract
- the change in status of the customer connection contract that applies to the customer's premises, for example, from a standard customer connection contract to a negotiated customer connection contract
- the amendment of the customer's customer sale contract
- the amendment of the customer connection contract that applies to the customer's premises
- the ending of the customer's customer sale contract
- the ending of the customer connection contract that applies to the customer's premises
- anything necessary or convenient to help or give effect to a regulation under section 23(2).

**(2)** The ending of a customer sale contract or a customer connection contract under a regulation made under section 23(2) does not give rise to a claim for compensation by a party to the contract because of the ending of the contract.

**(3)** However, subsection (2) does not affect a right of a party that accrued before the ending of the contract.

### **Customers authorised to take electricity from transmission grid or supply network**

**24.** If an electricity entity may provide electricity from a transmission grid or supply network to a customer, the customer is taken to be authorised to take electricity from the grid or network.

## **PART 3—GENERATION ENTITIES AND THEIR AUTHORITIES**

### **Generation entities**

**25.** A “**generation entity**” is a person who holds a generation authority.

### **Generation authorities**

**26.(1)** A “**generation authority**” authorises its holder—

- (a) to connect the generating plant stated in the authority to the transmission grid or supply network stated in the authority; and
- (b) to sell electricity—
  - (i) if stated in the authority or otherwise authorised under this Act—through the spot market in accordance with the Market Code; or
  - (ii) as stated in the authority or otherwise authorised under this Act.

**(2)** However, a generation authority does not relieve its holder or anyone else from complying with laws applying to the development, building, operation or maintenance of generating plant.

### **Conditions of generation authority**

**27.** A generation authority is subject to the following conditions—

- (a) the generation entity must provide electricity of a quality suitable for the transmission grid or supply network stated in the

- authority;
- (b) the generation entity must comply with—
    - (i) the technical conditions of connection to a transmission grid or supply network stated in the authority or prescribed under the regulations; and
    - (ii) if the entity is a code participant—the Market Code; and
    - (iii) if the entity is connected to the Queensland system—the National Electricity (Queensland) Law, the Market Code and directions given to it under this Act, the National Electricity (Queensland) Law or the Market Code; and
    - (iv) conduct rules made by the QCA; and
    - (v) conditions imposed under the regulations; and
    - (vi) the condition stated in section 28 (Additional condition to comply with protocols, standards and codes); and
    - (vii) conditions stated in the authority;
  - (c) the generation entity must properly take into account the environmental effects of its activities under the authority;
  - (d) the generation entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

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

**28.** It is also a condition of a generation authority that the generation entity must comply with all protocols, standards and codes applying to the entity under the regulations.

## **PART 4—TRANSMISSION ENTITIES AND THEIR AUTHORITIES**

### **Transmission entities**

**29.** A “**transmission entity**” is a person who holds a transmission authority.

### **Transmission authorities**

**30.(1)** A “**transmission authority**” authorises its holder—

- (a) to operate the transmission grid stated in the authority; and
- (b) if stated in the authority—to connect the transmission grid to another transmission grid stated in the authority.

**(2)** However, a transmission authority does not relieve its holder or anyone else from complying with laws applying to the development, building, operation or maintenance of a transmission grid.

### **Conditions of transmission authority**

**31.** A transmission authority is subject to the following conditions—

- (a) the transmission entity must comply with—
  - (i) the technical conditions of operating the transmission grid stated in the authority or prescribed under the regulations; and
  - (ii) if the entity is a code participant—the National Electricity (Queensland) Law, the Market Code and directions given to it under this Act, the National Electricity (Queensland) Law or the Market Code; and
  - (iii) conduct rules made by the QCA; and
  - (iv) the conditions stated in the following sections—
    - section 32 (Additional condition to allow connection to grid by complying persons)
    - section 33 (Additional condition not to engage in

- electricity trading)
  - section 34 (Additional conditions about grid operation etc.)
  - section 35 (Additional condition to provide network services)
  - section 36 (Additional condition to comply with protocols, standards and codes); and
- (v) conditions imposed under the regulations; and
  - (vi) conditions stated in the authority;
- (b) the transmission entity must properly take into account the environmental effects of its activities under the authority;
  - (c) the transmission entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

### **Additional condition to allow connection to grid by complying persons**

**32.(1)** It is also a condition of a transmission authority that the transmission entity must allow, as far as technically and economically practicable, a person to connect supply to a transmission grid stated in the authority, or take electricity from the grid, on fair and reasonable terms if the conditions stated in subsection (2) are satisfied.

**(2)** The conditions to be satisfied are as follows—

- (a) the person must be authorised under this Act to connect supply or take electricity from the transmission grid;
- (b) the grid must be capable of being used safely to connect supply or take electricity as proposed by the person;
- (c) the person must have complied with all provisions of the regulations relevant to connecting supply to, or taking electricity from, the grid;
- (d) the person must pay the reasonable cost of connection to the grid.

**(3)** In deciding whether the condition mentioned in subsection (2)(b) is satisfied, all relevant matters must be considered, including, for example—



- (a) the transmission entity's current obligations; and
- (b) the current obligations of other persons connected directly or indirectly to the transmission grid; and
- (c) the grid's capacity.

**Additional condition not to buy and sell electricity**

**33.(1)** It is also a condition of a transmission authority that the transmission entity must not buy or sell electricity directly or indirectly.

**(2)** Subsection (1) does not apply to generating, buying or selling electricity—

- (a) necessary to operate the transmission entity's transmission grid or for a purpose associated with the planning, design, construction, maintenance or operation of the transmission grid; or
- (b) for the entity's administrative purposes; or
- (c) *by the QETC for the performance of its function as the Queensland System Operator.*<sup>2</sup>

**(3)** Subsection (2)(c) expires on the commencement of the *Electricity—National Scheme (Queensland) Act 1997*.

**Additional conditions about grid operation etc.**

**34.(1)** In addition, a transmission authority is subject to the following conditions—

- (a) the transmission entity must operate, maintain (including repair and replace if necessary) and protect its transmission grid to ensure the adequate, economic, reliable and safe transmission of electricity;
- (b) the transmission entity must operate the grid in coordination with transmission grids to which it is connected directly or indirectly.

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<sup>2</sup> Section 33(2)(c) has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.

(2) Unless otherwise provided in its authority, it is also a condition of the transmission authority that the transmission entity must ensure, as far as technically and economically practicable, that the transmission grid is operated with enough capacity (and, if necessary, augmented or extended to provide enough capacity) to provide network services to persons authorised to connect to the grid or take electricity from the grid.

### **Additional condition to provide network services**

35. It is also a condition of a transmission authority that the transmission entity must provide, as far as technically and economically practicable for the transmission entity, network services on fair and reasonable terms, for persons authorised to connect supply of electricity to the transmission grid or take electricity from the grid.

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

36. It is also a condition of a transmission authority that the transmission entity must comply with all protocols, standards and codes applying to the entity under the regulations.

### **Responsibility for regional system control**

36A.(1) A transmission entity is responsible for regional system control of its transmission grid.

(2) However, a transmission entity is subject to directions given to it under the National Electricity (Queensland) Law or the Market Code.

## **PART 5—DISTRIBUTION ENTITIES AND THEIR AUTHORITIES**

### **Distribution entities**

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

**Distribution authorities**

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

**Distribution area of distribution entity**

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

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

**40.(1)** The following persons may apply to a distribution entity for the provision of customer connection services to premises within the entity’s distribution area—

- (a) a customer who owns or occupies the premises;
- (b) a retail entity.

**(2)** A distribution entity to which an application is made has an obligation to provide to the applicant the customer connection services to the premises.

**(3)** However, the obligation does not apply if another provision of this Act or a regulation—

- (a) states that the obligation does not apply; or
- (b) authorises the disconnection of premises from, or refusal to connect or reconnect premises to, a supply network.

**(4)** The applicant and the distribution entity are taken to have entered into a contract on the terms of the distribution entity’s standard customer connection contract, in effect from time to time, for the provision of the services to the premises if—

- (a) the distribution entity provides the customer connection services applied for to the premises; and
- (b) the applicant does not enter into a negotiated customer connection contract for the customer connection services applied for.

**(5)** However, the terms of the contract only include the terms of the distribution entity’s standard customer connection contract, in effect from time to time, that apply to the customer.

(6) The contract takes effect as a deed.

(7) The contract is taken to end if the applicant and the distribution entity enter into a negotiated customer connection contract for the provision of the customer connection services applied for.

(8) Each of the parties to a standard customer connection contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, as far as the provisions apply to each party.

### **Supply if no customer connection contract**

**40AA.(1)** This section applies if—

- (a) premises are connected to a distribution entity's supply network; and
- (b) there is no customer connection contract in effect, or taken to be in effect, for the provision of customer connection services to the premises.

(2) For premises of a contestable customer, the customer and the host distribution entity are taken to have entered into a contract on the terms of the host distribution entity's standard customer connection contract, in effect from time to time, for the provision of the customer connection services to the premises.

(3) For premises of a non-contestable customer, the host retail entity and the host distribution entity are taken to have entered into a contract on the terms of the host distribution entity's standard customer connection contract, in effect from time to time for the provision of the customer connection services to the premises.

(4) However, the terms of a contract under subsection (2) or (3) only include the terms of the host distribution entity's standard customer connection contract, in effect from time to time, that apply to the customer.

(5) A contract under subsection (2) or (3)—

- (a) takes effect as a deed; and
- (b) does not prevent the customer giving a dispute notice under the

*Queensland Competition Authority Act 1997*, section 112;<sup>3</sup> and

- (c) is taken to end if there is a customer connection contract entered into, or taken to be entered into, for the provision of customer connection services to the premises.

(6) Each of the parties to a standard customer connection contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, as far as the provisions apply to each party.

(7) In this section—

**“host distribution entity”**, for premises, means the distribution entity to whose supply network the premises are connected.

**PrimaryIndLegAmdBill(No.2)9.pdf“host retail entity”**, for premises, means the retail entity in whose retail area the premises are located.

### **Standard customer connection contract**

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

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

- (a) the terms that must be included in the contract;
- (b) when the contract takes effect.

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

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

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

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<sup>3</sup> *Queensland Competition Authority Act 1997*, section 112 (Giving dispute notice)

**Approval of standard customer connection contract by regulator**

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

**Amendment of standard customer connection contract**

**40BA.(1)** A distribution entity may only amend its standard customer connection contract if the regulator approves.

**(2)** An approval may—

- (a) be given on conditions; or
- (b) state when the amendment takes effect; or
- (c) require the entity to give notice to customers of the amendment in a stated way before the amendment takes effect.

**(3)** If a standard customer connection contract is amended, the standard customer connection contract as amended becomes the standard customer connection contract.

**Customer connection contracts outside standard form**

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

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

**Connection and supply on nondiscriminatory terms**

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

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

**Limitation on obligation to connect and supply**

**40E.(1)** A distribution entity is not obliged to connect or supply electricity to a customer's electrical installation or premises and it will not be in breach of its customer connection contract for the installation or premises if—

- (a) the connection or supply is, or needs to be, interrupted—
  - (i) in an emergency; or
  - (ii) for work that needs to be performed without delay to prevent an emergency happening; or
  - (iii) by circumstances beyond the distribution entity's control; or
  - (iv) for work—if it is reasonable to do the work when it is done, reasonable notice is given to the customer and supply is restored as soon as practicable; or
- (b) the connection or supply would breach technical or safety requirements under this Act; or
- (c) the connection or supply would unreasonably interfere with the connection or supply of electricity by the distribution entity to other customers; or
- (d) the connection or supply is denied or limited under an electricity restriction regulation or emergency rationing order; or
- (e) a distribution entity is entitled, under its customer connection contract or under a regulation, to disconnect supply to the customer; or
- (f) after disconnecting supply to something that was unsafe, the thing is still unsafe; or
- (g) the connection or supply is likely to cause fire or electric shock to anyone; or
- (h) this Act otherwise authorises refusal to connect or supply (or reconnect or resupply); or
- (i) a regulation provides that the obligation to connect or supply (or reconnect or resupply) does not apply.

**(2)** Subsection (1)(c) does not apply if the customer pays an amount to

the entity for works necessary to prevent the connection or supply from unreasonably interfering with the connection or supply of electricity by the entity to other customers.

(3) The entity must give the customer an opportunity to pay the amount.

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

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

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

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

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

### **Contracting out of s 40E, 40G(a) or (b), 96 or 97**

**40H.(1)** The parties to a negotiated customer connection contract may in the contract agree to vary or exclude the operation of sections 40E, 40G(a) or (b), 96 or 97 for the contract.

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



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

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

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

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

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

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

**Conditions of distribution authority**

**42.** A distribution authority is subject to the following conditions—

- (a) the distribution entity must comply with—
  - (i) if the entity is a code participant—the National Electricity (Queensland) Law, the Market Code and directions given to it under this Act, the National Electricity (Queensland) Law or the Market Code; and
  - (ii) conduct rules made by the QCA; and
  - (iii) the additional conditions stated in the following sections—
    - section 43 (Additional condition to allow connection to supply network by complying persons)

- section 44 (Additional condition to provide network services)
  - section 45 (Additional condition to comply with protocols, standards and codes); and
- (iv) conditions imposed under the regulations; and
  - (v) conditions stated in the authority;
- (b) the entity must operate, maintain (including repair and replace as necessary) and protect its supply network to ensure the adequate, economic, reliable and safe connection and supply of electricity to its customers;
  - (c) the entity must properly take into account the environmental effects of its activities;
  - (d) the entity must consider both demand side and supply side options to provide, as far as technically and economically practicable, for the efficient supply of electrical energy;
  - (e) the entity must pay the amounts required under the authority or regulations for administering the authority and its conditions.

### **Additional condition to allow connection to supply network by complying persons**

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

**(2)** The conditions to be satisfied are as follows—

- (a) the person must be a generation entity, a transmission entity or a distribution entity;
- (b) the supply network must be capable of being safely used to connect supply or take electricity as proposed by the person;
- (c) the person must have complied with all provisions of the regulations relevant to connecting supply to, or taking electricity from, the network;

(d) the person must pay the reasonable cost of connection to the network.

(3) In deciding whether the condition mentioned in subsection (2)(b) is satisfied, all relevant matters must be considered, including, for example—

- (a) the distribution entity's current obligations and its expected future obligations; and
- (b) the current obligations of other persons connected directly or indirectly to the network; and
- (c) the network's capacity.

#### **Additional condition to provide network services**

44. In addition, it is a condition of a distribution authority that the entity must provide, as far as technically and economically practicable, network services, on fair and reasonable terms, for persons authorised to connect supply of electricity to the network or take electricity from the network.

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

45. It is also a condition of a distribution authority that the distribution entity must comply with all protocols, standards and codes applying to the entity under the regulations.

#### **Responsibility for network control**

45A.(1) A distribution entity is responsible for network control of its supply network.

(2) However, a distribution entity is subject to directions given to it under the National Electricity (Queensland) Law or the Market Code.

## **PART 6—RETAIL ENTITIES AND THEIR AUTHORITIES**

### **Retail entities**

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

### **Retail authorities**

**47.** A “**retail authority**” authorises its holder to provide customer retail services under the terms of the authority.

### **Retail area of retail entity**

**48.** If a retail authority states a retail area, the retail entity—

- (a) has an obligation to provide to non-contestable customers, customer retail services to premises that they own or occupy within the area as required under this Act; and
- (b) may provide to contestable customers, customer retail services to premises that they own or occupy anywhere in the State.

### **Where retail authority does not state a retail area**

**48A.** If a retail authority does not state a retail area, the retail entity may provide to contestable customers, customer retail services to premises that they own or occupy anywhere in the State.

### **Applying for customer retail services**

**48B.** An application may be made to a retail entity by a customer who owns or occupies premises for the provision of customer retail services to the premises.

### **Obligation to provide customer retail services to non-contestable customers**

**49.(1)** This section applies if a non-contestable customer makes an

application under section 48B to a retail entity with a retail area in relation to premises within the retail entity's retail area.

(2) A retail entity to which an application is made has an obligation to provide to the non-contestable customer the customer retail services to the premises.

(3) However, the obligation does not apply if another provision of this Act or a regulation—

- (a) states that the obligation does not apply; or
- (b) authorises refusal to provide customer retail services.

(4) While the customer is a non-contestable customer, the customer and the entity are taken to have entered into a contract on the terms of the retail entity's standard customer sale contract, in effect from time to time for the provision of the customer retail services if—

- (a) the retail entity provides the customer retail services applied for the premises pursuant to the application; and
- (b) the non-contestable customer does not enter into a negotiated customer sale contract for the customer retail services applied for.

(5) However, the terms of the contract only include the terms of the retail entity's standard customer sale contract, in effect from time to time, that apply to the non-contestable customer.

(6) The contract takes effect as a deed.

(7) A contract is taken to end if the customer and the retail entity enter into a negotiated customer sale contract for the provision of the services applied for.

(8) Each party to a standard customer sale contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, so far as the provisions apply to each party.

### **Sale if no customer sale contract**

**49A.(1)** This section applies if—

- (a) premises are connected to a supply network; and
- (b) there is no customer sale contract in effect or taken to be in effect

for the provision of customer retail services to the premises.

(2) For the premises of a non-contestable customer, the customer and the host retail entity are taken to have entered into a contract on the terms of the host retail entity's standard customer sale contract, in effect from time to time, for the provision of the following services to the premises—

- (a) the sale of electricity to the premises;
- (b) if there is no customer connection contract in effect or taken to be in effect for the provision of customer connection services to the premises, providing for—
  - (i) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
  - (ii) the supply of electricity from the supply network to the premises.

(3) For premises of a contestable customer, the customer and the host retail entity are taken to have entered into a contract on the terms of the host retail entity's standard customer sale contract, in effect from time to time, for the sale of electricity to the customer's premises.

(4) However, the terms of the contract only include the terms of the host retail entity's standard customer sale contract, in effect for the time being, that apply to the customer.

(5) A contract under subsection (2) or (3)—

- (a) takes effect as a deed; and
- (b) is taken to end if the customer and the host retail entity enter into, or are taken to be entered into a customer sale contract for the provision of customer retail services to the premises.

(6) Each of the parties to a standard customer sale contract is taken to have agreed to comply with the provisions of the contract, in effect for the time being, so far as those provisions apply to each party.

(7) In this section—

**“host retail entity”**, for premises, means—

- (a) the retail entity in whose area the premises are located; and

- (b) if there is no such retail entity—the retail entity or entities prescribed by regulation.

### **Standard customer sale contract**

**50.(1)** A retail entity must prepare a standard customer sale contract to establish the terms on which it is to provide customer retail services to non-contestable customers under section 49 and to contestable customers under section 49A(3).

**(2)** A regulation may prescribe the following for a standard customer sale contract—

- (a) the terms that must be included in the contract;
- (b) when the contract takes effect.

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

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

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

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

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

### **Amendment of standard customer sale contract**

**51A.(1)** A retail entity may only amend its standard customer sale contract if the regulator approves.

**(2)** An approval may—

- (a) be given on conditions; or
- (b) state when the amendment takes effect; or
- (c) require the entity to give notice to customers of the amendment in

a stated way before the amendment takes effect.

(3) If a standard customer sale contract is amended, the standard customer sale contract as amended becomes the standard customer sale contract.

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

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

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

### **Regulation may allow contract outside standard form**

**52A.(1)** A non-contestable customer and a retail entity must not contract on terms different from the terms of the retail entity's standard customer sale contract, unless a regulation provides that they can contract on different terms.

(2) However, a contract permitted by a regulation must not be inconsistent with this Act and is unenforceable to the extent that it is.

(3) Without limiting subsection (1), a regulation may provide for the following matters—

- (a) the non-contestable customer or class of non-contestable customers who may contract on different terms;
- (b) when a non-contestable customer or class of non-contestable customer may contract on different terms.

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

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



- (a) a distribution entity is not required to connect or supply electricity to the relevant electrical installation or premises under sections 40(2)(a) and (b), 40E or 40G; or
- (b) of anything beyond the retail entity's control; or
- (c) a regulation provides that the obligation does not apply.

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

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

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

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

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

### **Electricity must be sold on fair and reasonable terms**

**55A.(1)** A retail entity must provide the customer retail services to a non-contestable customer for an electrical installation or premises within its retail area on fair and reasonable terms.

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

- (a) different advance payments or security deposits from different customers; or
- (b) different standard customer sale contract terms for different types of customers.

**Contracting out of s 53, 55, 96 or 97**

**55B.(1)** The parties to a negotiated customer sale contract may in the contract agree to vary or exclude the operation of section 53, 55, 96 or 97 for the contract.

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

**Sale of electricity outside retail area**

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

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

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

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

**Conditions of retail authority**

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

- (a) the retail entity must consider both demand side and supply side options to provide, as far as technically and economically practicable, for the efficient use of electrical energy;

- (b) the retail entity must pay the amounts required under the authority or the regulations to administer the authority and its conditions;
- (c) if the retail entity is a code participant—the entity must comply with—
  - (i) the National Electricity (Queensland) Law; and
  - (ii) the Market Code; and
  - (iii) directions given to it under this Act, the National Electricity (Queensland) Law or the Market Code;
- (d) the retail entity must comply with conduct rules made by the QCA;
- (e) the condition under section 55E;
- (f) conditions imposed under a regulation;
- (g) conditions stated in the authority.

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

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

## **PART 7—SPECIAL APPROVAL HOLDERS AND THEIR APPROVALS**

### **Purpose of special approvals**

**56.** The purpose of special approvals is to enable, in special circumstances, electricity entities and other persons to perform activities, normally authorised by a generation, transmission, distribution or retail authority, without the authority.

### **Special approval holders**

**57.** A “**special approval holder**” is a person who has a special approval.

### **Special approvals**

**58.** A “**special approval**” authorises its holder to do anything stated in the approval that a generation entity, transmission entity, distribution entity or retail entity may do under this Act.

### **Authorisation given by special approval**

**59.(1)** A special approval authorises its holder to do the things stated in the approval, even though the things would otherwise require the holder to be the holder of a generation, transmission, distribution or retail authority to do the things.

**(2)** Despite subsection (1), a special approval does not make the holder an electricity entity, unless a regulation provides that the holder is to be treated as an electricity entity.

**(3)** However, for things authorised by the special approval, the special approval holder is taken to be a person who has the relevant authority and the special approval is taken to be the relevant authority.

*Examples—*

1. If a special approval authorises the holder to connect generating plant to a transmission grid or supply network, the holder is taken, for that activity, to be the holder of a generation authority.

2. If a special approval authorises the holder to operate a transmission grid, the holder is taken, for that activity, to be the holder of a transmission authority.

**(4)** The approval does not relieve the holder or anyone else from complying with laws relevant to the doing of the things authorised by the approval.

### **Conditions of special approval**

**60.(1)** A special approval is subject to the following conditions—

(a) the holder must comply with—

- (i) if the holder is a code participant—the Market Code; and
  - (ii) if connected to the Queensland system or a code participant—the National Electricity (Queensland) Law, the Market Code and directions given to it under this Act, the National Electricity (Queensland) Law or the Market Code; and
  - (iii) the condition stated in section 61 (Additional condition to comply with protocols, standards and codes); and
  - (iv) conditions imposed under the regulations; and
  - (v) if the approval is given by the regulator—conditions stated in the approval;
- (b) the holder must pay amounts required under the approval or the regulations for administering the approval and its conditions.

(2) A special approval may be subject to the condition that the holder must comply with the conduct rules made by the QCA.

(3) In this section—

**“special approval”** means a special approval given under a regulation or by the regulator.

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

**61.** It is also a condition of a special approval that the holder must comply with all protocols, standards and codes applying to the holder under the regulations.

## **PART 8—REGULATOR**

### **Regulator**

**62.** The chief executive of the department is the regulator.

**Functions**

**63.(1)** The regulator's functions are—

- (a) to ensure only suitable persons become electricity entities; and
- (b) to ensure the safety requirements under this Act are complied with; and
- (c) to review and make recommendations about standards and practices under this Act; and
- (d) to assist the settlement of disputes between electricity entities and between electricity entities and others; and
- (e) to monitor compliance with this Act, including compliance with conditions of authorities, approvals and licences; and
- (f) to perform other functions given to the regulator under this Act or another Act.

**(2)** In performing the regulator's functions, the regulator must consider the objects of the Act.

**Delegation**

**64.(1)** The regulator may delegate a power of the regulator to an officer of the department, an authorised person or an employee of an electricity entity if satisfied the person has the expertise and experience necessary to exercise properly the power.

**(2)** A regulation may provide that a particular power of the regulator—

- (a) may not be delegated; or
- (b) may be delegated only to a particular person.

**PART 9—ELECTRICITY OFFICERS****Appointment**

**65.(1)** The chief executive officer of an electricity entity may appoint a

person as an electricity officer for the entity.

(2) The chief executive officer may appoint a person as an electricity officer only if—

- (a) the chief executive officer considers the person has the expertise or experience approved by the regulator to be an electricity officer; or
- (b) the person has satisfactorily finished training approved by the regulator.

### **Limitation of electricity officer's powers**

**66.** An electricity officer may exercise powers only—

- (a) in relation to the electricity entity's works; or
- (b) if the electricity entity supplies electricity—within its distribution area or a place where it supplies electricity; or
- (c) if the electricity entity sells electricity—within its retail area or a place where it sells electricity.

### **Other limitation of electricity officer's powers**

**67.** An electricity officer's powers may be limited—

- (a) under the regulations; or
- (b) under a condition of appointment; or
- (c) by written notice given by the electricity entity's chief executive officer to the electricity officer.

### **Electricity officer's appointment conditions**

**68.(1)** An electricity officer holds office on the conditions stated in the instrument of appointment.

(2) An electricity officer—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and

- (b) may resign by signed notice of resignation given to the chief executive officer concerned; and
- (c) if the conditions of appointment provide—ceases holding office as an electricity officer on ceasing to hold another office stated in the appointment conditions.

### **Electricity officer's identity card**

**69.(1)** The chief executive officer of an electricity entity must give each electricity officer for the entity an identity card.

**(2)** The identity card must—

- (a) contain a recent photograph of the electricity officer; and
- (b) be in a form approved by the regulator; and
- (c) be signed by the electricity officer; and
- (d) identify the person as an electricity officer for the electricity entity.

**(3)** A person who ceases to be an electricity officer for an electricity entity must return the person's identity card to the entity's chief executive officer within 21 days after the person ceases to be an electricity officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

**(4)** This section does not prevent the giving of a single identity card to a person under this section and for other provisions, Acts or purposes.

### **Production or display of electricity officer's identity card**

**70.(1)** An electricity officer may exercise a power in relation to someone else only if the electricity officer—

- (a) first produces his or her identity card for the person's inspection;  
or
- (b) has the identity card displayed so it is clearly visible to the person.

**(2)** However, if for any reason it is not practicable to comply with subsection (1), the electricity officer must produce the identity card for the person's inspection at the first reasonable opportunity.



## **PART 10—AUTHORISED PERSONS**

### **Appointment**

**71.(1)** The regulator may appoint any of the following persons as authorised persons—

- (a) officers and employees of the public service;
- (b) employees of electricity entities;
- (c) other persons prescribed under the regulations.

**(2)** The regulator may appoint a person as an authorised person only if—

- (a) the regulator considers the person has the necessary expertise or experience to be an authorised person; or
- (b) the person has satisfactorily finished training approved by the regulator.

### **Limitation of authorised person's powers**

**72.** The powers of an authorised person may be limited—

- (a) under the regulations; or
- (b) under a condition of appointment; or
- (c) by written notice given by the regulator to the authorised person.

### **Authorised person's appointment conditions**

**73.(1)** An authorised person holds office on the conditions stated in the instrument of appointment.

**(2)** An authorised person—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
- (b) may resign by signed notice of resignation given to the regulator; and
- (c) if the conditions of appointment provide—ceases holding office

as an authorised person on ceasing to hold another office stated in the appointment conditions.

### **Authorised person's identity card**

**74.(1)** The regulator must give each authorised person an identity card.

**(2)** The identity card must—

- (a) contain a recent photograph of the authorised person; and
- (b) be signed by the authorised person; and
- (c) identify the person as an authorised person for this Act.

**(3)** A person who ceases to be an authorised person must return the person's identity card to the regulator within 21 days after the person ceases to be an authorised person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

**(4)** This section does not prevent the giving of a single identity card to a person under this section and for other provisions, Acts or purposes.

### **Production or display of authorised person's identity card**

**75.(1)** An authorised person may exercise a power in relation to someone else only if the authorised person—

- (a) first produces his or her identity card for the person's inspection;  
or
- (b) has the identity card displayed so it is clearly visible to the person.

**(2)** However, if for any reason it is not practicable to comply with subsection (1), the authorised person must produce the identity card for inspection by the person at the first reasonable opportunity.

## **PART 12—ELECTRICAL WORKERS AND CONTRACTORS BOARD**

### **Electrical workers and contractors board**

**81.** The electrical workers and contractors board under the *Electricity Act 1976* continues in existence as the Electrical Workers and Contractors Board.

### **Electrical Workers and Contractors Board is statutory body**

**81A.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the Electrical Workers and Contractors Board is a statutory body.

**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **CHAPTER 4—ELECTRICITY INDUSTRY OPERATIONS**

### **PART 1—RESTRICTION ON CERTAIN ACTIVITIES BY UNAUTHORISED PERSONS**

#### **Connection of generating plant to transmission grid or supply network only if authorised**

**87.(1)** A person must not connect generating plant to a transmission grid or supply network unless the person is the holder of a generation authority.

Maximum penalty—5 000 penalty units.

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

**Prohibition on operating transmission grid unless authorised**

**88.(1)** A person must not operate a transmission grid unless the person is the holder of a transmission authority.

Maximum penalty—5 000 penalty units.

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

**Prohibition on operating supply network unless authorised**

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

Maximum penalty—5 000 penalty units.

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

**Restriction on sale of electricity**

**89.(1)** A person must not sell electricity other than in accordance with—

- (a) a generation authority or a retail authority held by the person; or
- (b) any other authorisation to sell electricity under the Act.

Maximum penalty—5 000 penalty units.

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

## **PART 2—PRICING AND SERVICE QUALITY STANDARDS**

### **Minister may decide retail price for non-contestable customers**

**90.(1)** The Minister may decide, in the way the Minister thinks fit, the prices, or the methodology to fix the prices, that a retail entity may charge to provide—

- (a) customer retail services to non-contestable customers; or
- (b) other goods and services prescribed by regulation to non-contestable customers.

**(2)** The Minister must, in making a decision consider the objects of the Act and the standards about quality of service.

**(3)** The Minister must notify the prices or the methodology by gazette notice.

**(4)** The prices or the methodology take effect—

- (a) on a day stated in the notice; or
- (b) if no day is stated in the notice—on the day the notice is gazetted.

### **Retail entity must comply with prices or methodology**

**91.** A retail entity must charge the prices, or prices fixed under the methodology, notified under section 90.

Maximum penalty—500 penalty units.

### **Standards about quality of service**

**92.(1)** A regulation may prescribe standards about the quality of service that must be provided—

- (a) to non-contestable customers by retail entities; and
- (b) to customers by transmission and distribution entities.

**(2)** The QCA must monitor, investigate and report on compliance with the standards.

(3) The way the QCA monitors, investigates and reports on compliance with the standards must be prescribed by regulation.

(4) A transmission, distribution or retail entity must not contravene a standard applying to the entity.

Maximum penalty—100 penalty units.

### **PART 3—LIMITATION OF LIABILITY OF ELECTRICITY ENTITIES**

#### **Limitation of liability of electricity entities and special approval holders that are not code participants**

**97.(1)** An electricity entity or special approval holder that is not a code participant is not liable for damages to a person for a partial or total failure to supply or sell electricity or perform an obligation under a contract in relation to the supply or sale of electricity, unless the failure is due to—

- (a) anything done or omitted to be done by the electricity entity or special approval holder in bad faith; or
- (b) the negligence of the electricity entity or special approval holder.

(2) This section does not apply to the extent to which liability is otherwise agreed by the parties to a contract.

(3) This section commences on the commencement of the Electricity—National Scheme (Queensland) Act 1997.

(4) In subsection (1)—

“**contract**” includes an arrangement that has the effect of a contract.

#### **Limitation of liability for National Electricity (Queensland) Law**

**97A.(1)** The words ‘supply electricity’ in section 78 of the National Electricity (Queensland) Law are taken to include the sale of electricity and the performance of an obligation in a contract for the supply and sale of electricity.

(2) In subsection (1)—  
“**contract**” includes an arrangement that has the effect of a contract.

## **PART 4—WORKS**

### *Division 1—Works generally*

#### **Electricity entity entitled to access to its works**

**98.(1)** This section applies to an electricity entity’s works on someone else’s land, including land that is a publicly controlled place, railway land or a protected area.

(2) The electricity entity (and its employees and agents) are entitled to have unrestricted access to the works at any reasonable time and, for that purpose, may enter and pass through the land.

#### **Person to give notice of work affecting electricity entity’s works**

**99.(1)** A person proposing to do work near an electricity entity’s works must give the entity at least 14 days written notice of the proposed work if, in performing the work—

- (a) plant, if not properly controlled, is likely to come into contact with an overhead electric line; or
- (b) soil or other material supporting or covering the entity’s works may be disturbed.

(2) If, because of an emergency, it is not practicable to give the notice under subsection (1), written notice must be given to the electricity entity as soon as practicable.

(3) The person must, at the person’s cost, take measures to protect or reinstate the electricity entity’s works if required by the entity.

***Division 2—Works on public places, other than railway land and protected areas***

**Application of division**

**100.** This division is subject to the following divisions—

- division 3 (Works on railway land)
- division 4 (Works on protected areas).

**Electricity entity may take action in publicly controlled places to provide electricity etc.**

**101.(1)** An electricity entity may take the action in a publicly controlled place it considers necessary to provide or supply electricity, including, for example<sup>4</sup>—

- (a) opening and breaking up the soil and pavement of the place; and
- (b) cutting, lopping, or removing trees and other vegetation growing in or over the place; and
- (c) opening or breaking up a sewer, drain or tunnel in or under the place; and
- (d) temporarily stopping or diverting traffic on or from the place; and
- (e) building drains, excavations, subways and tunnels in or under the place.

**(2)** A regulation may make provision about the obligations and rights of electricity entities taking action in publicly controlled places, including, for example—

- (a) notice to be given before taking action; and
- (b) timing of work; and
- (c) procedures to be followed on the breaking up of anything in, on or under the place.

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<sup>4</sup> The application of this section could, in a particular case, be affected by the *Native Title Act 1993* (Cwlth).



(3) This section has effect subject to sections 102 (Works on roads) and 104 (Regulation may declare restricted road).

### **Works on roads**

**102.(1)** An electricity entity may do any of the following things on a road—

- (a) build or remove, or alter (other than for maintenance or repair), its electric lines or other works;
- (b) maintain, repair or alter for maintenance or repair, its electric lines or other works;
- (c) stop obstruction or potential obstruction to, or interference or potential interference with, its electric lines or other works.

(2) However, the electricity entity may do things mentioned in subsection (1)(a) only if it has the written agreement of the road authority.

(3) The road authority must not unreasonably withhold agreement.

(4) If asked in writing by the electricity entity, the road authority must give the entity information about lines and levels for any planned roadworks necessary to enable the entity to minimise possible adverse effects of the entity's works on roadworks.

### **Electricity entity to consult with road authority before replacing works**

**103.(1)** Before an electricity entity replaces the whole or a substantial proportion of its electric lines or other works on a road, the entity must consult with the road authority responsible for the road.

(2) The object of the consultation is to identify any mutually beneficial arrangements for the replacement of the works having regard to existing development plans for the road.

### **Regulation may declare restricted road**

**104.(1)** A regulation may—

- (a) declare a road, or part of a road, to be a restricted road; and

(b) for a restricted road—impose restrictions about building new works or altering or removing existing works on the road.

(2) An electricity entity must comply with the regulation.

### **Electricity entity to comply with road authority’s agreement etc.**

**105.(1)** If an electricity entity builds or removes, or alters (other than for maintenance or repair), its electric lines or other works in a road (the “**contravening conduct**”), without the agreement of the road authority for the road or in contravention of a regulation or an agreement with the road authority, the regulator may, by written notice given to the entity, require the entity, at its cost and within the period stated in the notice, to take action to remedy the contravening conduct.

(2) If the electricity entity does not comply with the notice, the regulator may arrange for the action the regulator considers necessary to remedy the contravening conduct to be carried out.

(3) The costs reasonably incurred by the regulator in arranging for the action to be carried out are a debt payable by the electricity entity to the State.

(4) This section does not limit the powers of a road authority under another Act.

### **Public entity may require electricity entity to alter position of works**

**106.(1)** A public entity may require an electricity entity to alter the position of the electricity entity’s works in a publicly controlled place if the works could interfere with the exercise of the public entity’s powers for the place.

(2) The public entity is responsible only for the cost of altering the position of the works.

***Division 3—Works on railway land*****Agreement for works of electricity entities affecting railways**

**107.(1)** An electricity entity may build, alter or remove works on a railway or break up a railway only if it has the railway operator's written agreement.

(2) The railway operator must not unreasonably withhold its agreement.

**Removal of works**

**108.(1)** A railway operator may require an electricity entity to remove or relocate the entity's works built with its agreement if the removal or relocation is in accordance with—

- (a) the agreement or another agreement between the entity and operator; or
- (b) a resolution of a dispute between the entity and operator.

(2) The electricity entity must pay the cost of the removal or relocation, unless an agreement or resolution mentioned in subsection (1) otherwise provides.

**Works impairing railway signalling or communication lines**

**109.(1)** An electricity entity must not build works, or carry out any other work for the supply of electricity, in a way that impairs, through induction or otherwise, the efficient use of a railway operator's existing signalling or communication line.

(2) An electricity entity and a railway operator may agree to relocate or protect a signalling or communication line to ensure its efficient use is not impaired.

(3) The electricity entity must pay the cost of relocating or protecting the signalling or communication line, unless an agreement between the entity and railway operator otherwise provides.

**Building by railway operator of signalling or communication line likely to be affected by electricity entity's works etc.**

**110.(1)** If a railway operator proposes to build or relocate a signalling or communication line that could be adversely affected by interference from an electricity entity's existing works, the operator must—

- (a) ensure the signalling or communication line is built or relocated so as not to be adversely affected; or
- (b) ask the entity to relocate or alter the works to protect adequately the signalling or communication line.

**(2)** The railway operator must pay the cost of relocating or altering works under subsection (1)(b).

***Division 4—Works on protected areas*****Building of works on protected areas**

**111.(1)** An electricity entity must not build, replace or alter electric lines or other works in a protected area unless the entity acts under a written agreement of the Minister administering the *Nature Conservation Act 1992*.

Maximum penalty—8 penalty units.

**(2)** In deciding whether to agree, the Minister must take into account—

- (a) the extent and significance of the disturbance building the works will, or is likely to, cause to the protected area; and
- (b) the electricity entity's report on alternative routes or positions for building the works outside the protected area; and
- (c) the extent of any disability or disadvantage in using an alternative route or position.

**(3)** Agreement may be given on conditions the Minister considers necessary to minimise interference to the protected area.

***Division 4A—Inapplicability of planning schemes in relation to particular transmission entity operating works***

**Definitions for div 4A**

**111A.** In this division—

**“affected land”**, of, or in relation to, operating works, means land—

- (a) on which a transmission entity is building or using the operating works and identified on maps held by the department;<sup>5</sup> or
- (b) identified in—
  - (i) a notice under section 111B(1);<sup>6</sup> or
  - (ii) the documents mentioned in section 111D(1).<sup>7</sup>

**“LGPE Act”** means the *Local Government (Planning and Environment) Act 1990*.

**“permissible use”** see the LGPE Act, section 1.4.<sup>8</sup>

**“planning instrument”**, for operating works, means—

- (a) any agreement made between the relevant local government and any person holding an interest in the operating work’s affected land; and
- (b) any condition imposed by the local government for the use of the operating work’s affected land.

**“planning scheme”** means a planning scheme under the LGPE Act.

**“planning scheme maps”** means any map used in a planning scheme.

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<sup>5</sup> The maps may be inspected at the department’s office at the Queensland Minerals & Energy Centre, 61 Mary Street, Brisbane.

<sup>6</sup> Section 111B (Planning scheme does not apply to transmission entity if notice given)

<sup>7</sup> Section 111D (Chalumbin to Woree transmission line)

<sup>8</sup> *Local Government Planning and Environment Act 1990*, section 1.4 (Interpretation)—

**“permissible use”** means a use of premises which may only be undertaken pursuant to a planning scheme with the approval of the local government granted pursuant to section 4.13.

**“relevant planning scheme”**, in relation to a transmission entity’s operating works, or proposed operating works, means a planning scheme that includes land that is, or is proposed to be, affected land of the operating works.

### **Planning scheme does not apply to transmission entity if notice given**

**111B.(1)** This section applies if, in relation to proposed operating works of a transmission entity, the Minister—

- (a) is satisfied the transmission entity has taken into account any major environmental effects the works are likely to have and in so doing has had due regard to policies or administrative arrangements approved under the *State Development and Public Works Organization Act 1971*, section 29;<sup>9</sup> and
- (b) has given written notice to the local government for the area that the works will be in.

**(2)** A notice under subsection (1) must—

- (a) be given before the transmission entity builds or uses the operating works; and
- (b) state the following—
  - (i) that the Minister is satisfied as mentioned in subsection (1)(a);
  - (ii) a description of the land on which the transmission entity will build or use the operating works, including by reference to a map;
  - (iii) the name of the transmission entity;
  - (iv) that the land will be used for the transmission entity’s operating works;
  - (v) that this section and sections 111E to 111G apply to the operating works.

**(3)** A relevant planning scheme does not apply to—

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<sup>9</sup> Section 29 (Supervision of environment)

- (a) the building or use of the works by the transmission entity; or
- (b) the use of the affected land by the transmission entity in connection with the works.

(4) Immediately after giving a notice to a local government under subsection (1), the Minister must give a copy of the notice to the chief executive of the department through which the LGPE Act is administered.

(5) However, the notice under subsection (1) is unaffected by a failure to comply with subsection (4).

### **Existing projects**

**111C.(1)** This section applies if a transmission entity started building or using operating works before the *Electricity Amendment Act 1996* commenced.

(2) A relevant planning scheme does not apply, and it is declared never to have applied, to—

- (a) the building or use of the works by the transmission entity; or
- (b) the use of affected land by the transmission entity in connection with the works.

### **Chalumbin to Woree transmission line**

**111D.(1)** This section applies to the transmission line from Chalumbin to Woree, to be built by QETC<sup>10</sup> as part of its operating works on the land identified on the following documents held by the department—

- (a) for Chalumbin to Springmount—Queensland Electricity Generating Board transmission system 1:100 000 maps A1–N–411909–02–04–39;
- (b) for Springmount to Woree—Powerlink Queensland 275 Kv transmission line route plan A1–H–1155 55–sheets 01 to 09.<sup>11</sup>

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<sup>10</sup> The works are to be built by QETC under its trading name, Powerlink Queensland.

<sup>11</sup> The documents may be inspected at the department's office at the Queensland Minerals & Energy Centre, 61 Mary Street, Brisbane.

(2) A relevant planning scheme does not apply to—

- (a) the building or use of the works by the transmission entity; or
- (b) the use of affected land by the transmission entity in connection with the works.

### **Transmission entity's building or use of operating works and affected land prevails over other uses of affected land under planning scheme**

**111E.(1)** This section applies if—

- (a) affected land of a transmission entity's operating works are or become included in a planning scheme; and
- (b) a planning scheme does not apply to the building or use of the works by the transmission entity because of this division.

(2) The planning scheme or a planning instrument does not operate in relation to the affected land to the extent the planning scheme or instrument is inconsistent with the transmission entity's building or use of the works.

### **Noting planning scheme and planning scheme maps**

**111F.(1)** If a transmission entity has operating works in a local government's area—

- (a) the local government may note the maps of any relevant planning scheme to show that the affected land is being used for the operating works; and
- (b) if the local government is preparing a relevant planning scheme, the planning scheme must show, for the affected land, that the affected land is being used for the operating works.

(2) If a local government receives a notice under section 111B(1)<sup>12</sup> about proposed operating works, it must note the existence of the notice in any relevant planning scheme.

(3) To remove doubt, it is declared that a note to a planning scheme under subsection (1) or (2) is not an amendment of a planning scheme.

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<sup>12</sup> Section 111B (Planning scheme does not apply to transmission entity if notice given)



**Applications about affected land**

**111G.(1)** This section applies if—

- (a) a local government receives an application under the LGPE Act for—
  - (i) rezoning of land; or
  - (ii) permissible use of premises; or
  - (iii) subdivision of land; and
- (b) the land for which the application is made includes affected land of operating works or proposed operating works for which a notice under section 111B(1) has been given to the local government.

(2) The local government must give the Minister written notice of the application before considering the application.

(3) If a notice is given, the Minister may comment in writing on the application to the local authority.

(4) The local government must not consider the application until after the Minister comments on the application or the end of 28 days after the Minister is given the notice.

(5) If the Minister comments on the application, the local government must take the Minister's comments into account when considering the application.

*Division 5—Other matters about an electricity entity's works*

**Future owner or occupier of place taken to have consented to building of works**

**112.(1)** If electric lines or other works are built by an electricity entity in a place with the owner's consent, the occupier and a person who later becomes the owner or occupier of the place is taken to have also consented.

(2) If electric lines or other works are built by an electricity entity in a place with the occupier's consent, a person who later becomes the occupier of the place is taken to have also consented.

(3) However, the owner or occupier may require the electricity entity to remove and relocate the works if the owner or occupier pays the cost, or a contribution acceptable to the entity towards the cost, of the removal and relocation.

(4) If, before the commencement, an electricity entity's works have been placed on land in which the entity does not have an interest (other than an interest in the works or their use), the entity is taken to have built and maintained the works on the land with the consent of the land's owner unless the contrary is proved.

### **Works remain property of electricity entity**

**113.(1)** Works built in a place by an electricity entity remain the entity's property even if the place is not under its control.

(2) Despite subsection (1), the electricity entity may agree with the owner of the place that the works do not remain the entity's property.

(3) In this section—

“**place**” includes a building, railway, reserve, road, tramway and waterway.

### **Compensation payable by electricity entity for damage etc.**

**114.(1)** In exercising a power under this part, an electricity entity must do as little damage as is practicable.

(2) An electricity entity must fully compensate a person for damage to the person's property caused by the exercise of a power under this part.

## **PART 5—ENTRY ONTO AND ACQUISITION OF LAND**

### *Division 1—Entry onto land*

#### **Authority to enter onto land for proposed works etc.**

**115.(1)** The Minister may, by gazette notice, authorise an electricity entity (and its employees and agents) to enter onto land, and remain on it for as long as necessary, to decide the suitability of the land for the entity's proposed works.

**(2)** The authority must state—

- (a) the electricity entity to which it is given; and
- (b) whether it applies to any land or only to particular land; and
- (c) whether it applies to any proposed works or only to particular works; and
- (d) the things the entity may do on land entered under it; and
- (e) the period of the authority.

**(3)** The authority may—

- (a) state the conditions or restrictions to which it is subject; and
- (b) make provision about the effect of breaches of the conditions or restrictions or the continuation or suspension of the authority.

### *Division 2—Acquisition of land*

#### **Authority to acquire land**

**116.(1)** The Minister may, by gazette notice, authorise an electricity entity (an **“authorised electricity entity”**) to acquire land for works, including proposed works.

**(1A)** The Minister must consider the objects of the Act when authorising an electricity entity under subsection (1).

(2) The authority must state—

- (a) the electricity entity to which it is given; and
- (b) whether it applies to any land or only to particular land; and
- (c) whether it applies to any works or only to particular works; and
- (d) the period of the authority.

(3) The authority may—

- (a) state the conditions or restrictions to which it is subject; and
- (b) make provision about the effect of breaches of the conditions or restrictions or the continuation or suspension of the authority.

(4) The *Acquisition of Land Act 1967* applies to the authorised electricity entity acting under the authority as if—

- (a) it were a constructing authority; and
- (b) land mentioned in the Act included land held from the State for a lesser interest than freehold; and
- (c) the purposes for which land may be taken for the entity included—
  - (i) building works, including for example, relocating property for the works and lessening adverse environmental effects; and
  - (ii) any other public purpose within the meaning of the *Land Act 1994* related to works.

(5) The *Land Act 1962*, section 307 applies to the authorised electricity entity as if it were a constructing authority.

(6) A regulation may make provision about the acquisition of land by or for the authorised electricity entity.

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

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

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

(3) In this section—

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

### **Easements to include carriage services**

**116B.(1)** Despite anything to the contrary in any Act or instrument, an easement, licence or consent to which a transmission or distribution entity is entitled may be used by the entity or another person authorised by the entity for the provision of a carriage service or content service.

(2) This section does not authorise a transmission or distribution entity to take land under the *Acquisition of Land Act 1967* only for a carriage service or content service.

(3) In this section—

“**carriage service**” has the meaning given in the *Telecommunications Act 1997* (Cwlth).

“**content service**” has the meaning given in the *Telecommunications Act 1997* (Cwlth).<sup>13</sup>

## **PART 6—MISCELLANEOUS**

### **Resolution of certain disputes between electricity entities or between electricity entities and public entities**

**117.(1)** This section applies to—

- (a) disputes arising under part 4 (Works) between an electricity entity and a public entity; and

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<sup>13</sup> The attachment contains extracts of the relevant provisions of the *Telecommunications Act 1997* (Cwlth).

(b) disputes arising under this Act between electricity entities.

(1A) However, this section does not apply to disputes that are regulated by the QCA or under the Market Code.

(2) Any party to the dispute may refer the issue to the regulator.

(3) The regulator may give instructions about procedures to be followed by the parties to attempt to resolve the dispute before the regulator will attempt to resolve it.

(4) The regulator may require a party to supply information the regulator considers necessary to enable the dispute to be resolved.

(5) The regulator may—

(a) decline to act in a dispute; or

(b) seek to resolve the dispute with the parties or someone else, other than a court, responsible for dealing with disputes involving 1 or more of the parties.

(6) If the regulator cannot resolve the dispute, the matter may be decided by the Governor in Council.

(7) The Governor in Council may decide the matter without giving the parties an opportunity to make representations to, or to be heard by, the Governor in Council.

(8) The decision of the Governor in Council is binding on the parties.

(9) This section does not prevent an entity from exercising another right before a court or tribunal.

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

**118.** If—

(a) a person occupies premises where electricity sold by a retail entity has been consumed during the person's occupancy; and

(b) the retail entity has not been paid for the electricity;

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

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

**118A.** If—

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

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

## **CHAPTER 5—INDUSTRY REGULATION**

### **PART 1—REGULATOR**

**Regulator's role in disputes between electricity entity and customers or occupiers**

**119.(1)** This section applies to disputes between—

- (a) an electricity entity and a customer about the performance of a function or exercise of a power under this Act other than a dispute that may be referred to the electricity industry ombudsman under this Act; or
- (b) an electricity entity and an occupier of land onto which the entity enters or proposes to enter, or permits someone else to enter, under this Act.

**(2)** A party to a dispute may ask the regulator to settle the dispute by mediation.

**(3)** The regulator may decide the action that a party must take before the regulator will try to settle the dispute by mediation.

**(4)** If, at mediation, the parties agree on a resolution of their dispute or

part of it, the agreement must be written down and signed by or for each party and by the regulator.

(5) The agreement has the same effect as any other compromise.

(6) This section does not prevent a party exercising other rights before a court or tribunal.

(7) A regulation may prescribe a person other than the regulator to settle a dispute mentioned in subsection (1).

(8) The regulation may prescribe another way of settling the dispute.

### **Regulator's power to require information from electricity entities**

**120.(1)** An electricity entity must give the regulator the information the regulator reasonably requires to enable the regulator to perform the regulator's functions.

(2) The information must be given within a reasonable time after the regulator asks for it.

(3) However, this section does not require the electricity entity to give information if giving the information might tend to incriminate the entity.

## **PART 2—RESTRICTIONS AND RATIONING**

### *Division 1—Electricity restriction regulations*

#### **Purpose of electricity restriction regulations**

**121.** The purpose of an electricity restriction regulation is to restrict the use of electricity provided through a transmission grid or supply network or part of a transmission grid or supply network to ensure there is a regular, economically efficient and constant supply of electricity within the available supply capacity of the transmission grid or supply network or part of the transmission grid or supply network.



*Example—*

There are limitations in the capacity of generating plant or other works of an electricity entity. The use of large appliances (for example, industrial welders and large self-contained refrigerative airconditioners) may affect the quality of electricity supply to customers by causing unacceptable variations in voltage. It may not be economically practicable to increase the electricity entity's generating plant capacity to cater for the large appliances. In the interests of maintaining supply for all customers, it may be necessary or desirable to make an electricity restriction regulation to restrict the use of the large appliances.

**Electricity restriction regulations**

**122.(1)** A regulation (an “**electricity restriction regulation**”) may restrict the use of electricity provided through a transmission grid or supply network in a way the Governor in Council considers necessary or desirable to achieve the regulation's purpose.

**(2)** An electricity restriction regulation may restrict the use of electricity by regulating the use of electricity provided through a transmission grid or supply network, including, for example, by regulating—

- (a) the customers that may receive electricity; and
- (b) the maximum demand that may be imposed on the transmission grid or supply network by an electrical installation; and
- (c) the purposes for which electricity supplied through the transmission grid or supply network may be used; and
- (d) the electrical articles that may be used by customers entitled to be provided with electricity through the transmission grid or supply network.

**(3)** An electricity restriction regulation must state the purpose to be achieved by the regulation.

**Expiry of electricity restriction regulation**

**123.** An electricity restriction regulation expires 5 years after the day on which it is made unless it is earlier repealed.

### ***Division 2—Emergency rationing orders***

#### **Making of emergency rationing orders**

**124.(1)** The Minister may, by gazette notice, make an order rationing the use of electricity (an “**emergency rationing order**”).

**(2)** The Minister may make the order only if satisfied that—

- (a)** because of an emergency, an electricity entity cannot supply the electricity needed by its customers; and
- (b)** the making of the order is necessary to enable continued supply of electricity by restricting electricity use to the level of available supply.

**(3)** The order must outline the nature of the emergency.

#### **Making of emergency rationing orders other than by gazette notice**

**125.(1)** If the Minister is satisfied that it is necessary, because of extraordinary circumstances, to make an emergency rationing order other than by gazette notice, the Minister may make the order and immediately advertise the making of the order in the way the Minister considers most appropriate to notify persons likely to be affected by the order.

**(2)** The order expires if it is not notified in the gazette within 3 days after it is made.

**(3)** The order also expires if it is not tabled in the Legislative Assembly on the next sitting day after it is made.

#### **What order may provide**

**126.** An emergency rationing order may regulate the use or supply of electricity in the way the Minister considers necessary to enable the continued supply of electricity in the emergency.

#### **Advertisement of order**

**127.** A distribution entity whose distribution area is affected by an emergency rationing order must advertise the order, the repeal or expiry of

the order, and any amendment of the order, as prescribed under the regulations.

### **Period of operation of order**

**128.(1)** The Minister must repeal the emergency rationing order as soon as possible after the Minister is satisfied the order is no longer necessary to enable the continued supply of electricity or the emergency no longer exists.

**(2)** The order expires 1 month after it is gazetted, unless it is earlier repealed or the order states it operates for a shorter period.

**(3)** Subsection (1) does not stop the making of a fresh emergency rationing order.

### **Emergency rationing order prevails over existing agreements with customers**

**129.(1)** If there is an inconsistency between an emergency rationing order and an agreement between an electricity entity or special approval holder and a customer, the order prevails to the extent of the inconsistency.

**(2)** However, subsection (1) alone does not limit the liability of the electricity entity or special approval holder for failure to supply electricity to a customer.

## **PART 3—ACTION BY REGULATOR TO ENSURE SUPPLY OF ELECTRICITY BY ELECTRICITY ENTITIES**

### **Governor in Council may authorise regulator to take over operation of relevant operations**

**130.(1)** This section applies if the regulator advises the Minister that the regulator is satisfied, on reasonable grounds, that—

- (a) an electricity entity (the “**defaulting entity**”)—

- (i) has contravened this Act; or
  - (ii) has contravened a condition of its authority; or
  - (iii) if the defaulting entity is a code participant—
    - (A) has had its registration as a code participant cancelled or suspended; or
    - (B) is the subject of a direction given by NEMMCO or an order made by NECA or the National Electricity Tribunal; or
  - (iv) has had its authority cancelled, amended or suspended; or
  - (v) is insolvent or is likely to become insolvent; or
  - (vi) is not, or is no longer, a suitable person to hold an authority of the type it holds; and
- (b) to ensure customers receive an adequate, reliable and secure supply of electricity, it is necessary for the regulator to take over the operation of the whole or part of the defaulting entity's operating works and business (the “**relevant operations**”).

(2) If this section applies, the Governor in Council may by gazette notice, authorise the regulator to take over the operation of the relevant operations for the time the regulator considers necessary to ensure customers receive an adequate, reliable and secure supply of electricity.

(3) The authority may provide for any matter for which it is necessary or convenient to help the regulator take over the operation of the relevant operations.

(4) The Governor in Council must notify the making of an authorisation under subsection (2) by gazette notice within 14 days.

(5) Failure to notify under subsection (4) does not invalidate the authorisation.

### **Effect of regulator taking over operation of relevant operations**

**131.(1)** On the regulator taking over the operation of a defaulting entity's relevant operations, the relevant operations may be operated by the person (the “**operator**”) appointed by the regulator.

(2) The operator need not be an electricity entity.

(3) The operator—

- (a) must comply with the conditions that applied to the defaulting entity that the regulator states in the appointment; and
- (b) must comply with any conditions imposed and directions given by the regulator; and
- (c) must comply with provisions of this Act about the operation of the relevant operations; and
- (d) may enter—
  - (i) the site of relevant operations; and
  - (ii) other property necessary for the efficient operation of the relevant operations (including necessary access to the relevant operations and other property).

(4) The operator may do all things necessary or convenient to ensure the relevant operations continue to operate as required by the regulator.

*Examples of things that the operator may do—*

- (a) employ, or continuing to employ, employees at the relevant operations; and
- (b) enter into contracts for the supply of fuel and the provision of customer connection services and customer retail services.

(5) The defaulting entity and other persons in possession or occupancy of property concerning the operation of the relevant operations must give the operator access to the property necessary to enter to enable the efficient operation of the relevant operations.

Maximum penalty—500 penalty units or 6 months imprisonment.

(6) The defaulting entity and anyone else in possession or occupancy of property must not take action, or refuse to take action, if the taking of the action, or the refusing to take the action, has the effect of preventing or hindering the operation of the relevant operations under this section.

Maximum penalty—1 000 penalty units or 6 months imprisonment.

(7) Subsections (5) and (6) do not apply to an act done, or omission made, during or in connection with industrial action (within the meaning of the *Industrial Relations Act 1990*).

(8) The owner of the relevant operations and the defaulting entity are liable for the cost of the operation of the relevant operations by the operator.

(9) The person who would, apart from this section, have the right to the proceeds from the operation of the relevant operations has the right to receive the income received by the operator from operating the relevant operations less all costs (including operating fees approved by the regulator) properly included in operating the relevant operations.

(10) The disposal of, or other dealing in, the relevant operations does not affect the operation of this section.

(11) For this section—

- (a) an electricity entity is solvent if the entity is able to pay all of the entity's debts, as and when they become due and payable; and
- (b) an electricity entity that is not solvent is insolvent.

## PART 3A—RETAILER OF LAST RESORT

### Retailer of last resort scheme

**131A.(1)** A regulation may provide for—

- (a) the establishment of a scheme to be known as the 'retailer of last resort scheme'; and
- (b) the compulsory participation by electricity entities in the scheme.

**(2)** The primary objects of the scheme are to provide for—

- (a) the management of the effects of a retail entity not being able to provide customer retail services to its customers ("**defaulting retailer**"); and
- (b) the protection of customers of a defaulting retailer from interruption in the supply and sale of electricity to them.

**(3)** Without limiting subsections (1) and (2), a regulation may make provision about any of the following matters—

- (a) other objects of the scheme;

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- (b) the circumstances in which the scheme will operate;
- (c) the electricity entities required to participate in the scheme;
- (d) the customers or class of customers to benefit from the scheme;
- (e) establishing a regulated default customer sale contract or a regulated default customer connection contract (either of which may include different terms for different classes of customer);
- (f) providing for the effects of a declaration that the scheme applies to a defaulting retailer and its affected customers, including, for example, the following—
  - (i) the charter of the scheme (including the duration of the scheme and other matters concerning its administration);
  - (ii) ending the defaulting retailer's customer sale contracts with its affected customers;
  - (iii) ending the defaulting retailer's customer connection contract for its affected customers' premises;
  - (iv) a regulated default customer sale contract taken to be entered into between each of the affected customers and the retailer of last resort;
  - (v) a regulated default customer connection contract taken to be entered into between the retailer of last resort and a distribution entity or entities for the premises of each affected customer;
- (g) the functions and the powers of the regulator concerning the scheme, including—
  - (i) establishing the charter of the scheme for a particular defaulting retailer and its affected customers;
  - (ii) declaring the scheme applies to a particular defaulting retail entity and to particular customers or class of customers;
  - (iii) appointing the electricity entity or entities who is or are to be the retailer of last resort (including procedures to be followed in making the appointment);
  - (iv) supervising and giving directions to the retailer of last resort concerning the administration of a scheme;

- (h) imposing conditions in relevant authorities to give effect to the matters in this section;
- (i) anything necessary or convenient to help or give effect to the provisions of this part.

## **PART 4—DISCIPLINARY ACTION AGAINST ELECTRICITY ENTITIES**

### **Grounds for disciplinary action**

**132.(1)** Each of the following is a ground for taking disciplinary action against an electricity entity—

- (a) the entity's authority was obtained by incorrect or misleading information;
- (b) the entity has contravened this Act;
- (c) the entity has contravened a condition of its authority;
- (d) the entity is not, or is no longer, a suitable person to be the holder of an authority of the relevant type;
- (e) for a generation entity, transmission entity or distribution entity—the owner of the generating plant, transmission grid or supply network is not, or is no longer, a suitable person to be the owner.

**(2)** The question whether a person is, or continues to be, a suitable person is decided in the same way as the question whether the person would be a suitable person for the issue of an authority of the relevant type.

### **Types of disciplinary action**

**133.(1)** The regulator may take the following disciplinary action against an electricity entity—

- (a) for a generation entity or transmission entity—cancel, suspend or amend its authority;



- (b) for a distribution entity—cancel, suspend or amend its authority for its distribution area or part of its distribution area;
- (c) for a retail entity—cancel, suspend or amend its authority.

(2) The regulator may only take disciplinary action against an electricity entity for a contravention of the conduct rules if the contravention has been referred to the regulator by the QCA.

(3) The regulator is limited to the disciplinary action under subsection (1) in relation to a contravention of the conduct rules.

(4) If the ground for taking disciplinary action is that the electricity entity has contravened this Act or a condition of its authority, the regulator may impose a penalty of not more than 1 333 penalty units for each contravention.

(5) If the ground for taking disciplinary action is that the electricity entity has contravened a condition of its authority by holding a prohibited interest, in addition to the penalty under subsection (4), the regulator may decide that 1 or more of the interests that gave rise to the contravention must be disposed of.

(6) The regulator may make a decision under subsection (5) based on the information that the regulator considers sufficient in the circumstances.

(7) If the regulator makes a decision under subsection (5), the regulator must give written notice of the decision to—

- (a) the electricity entity that has contravened a condition of its authority by holding a prohibited interest (the “**offending electricity entity**”); or
- (b) if the offending electricity entity does not hold the prohibited interest—to the person who holds the interest the subject of the decision.

(8) The notice must require the offending electricity entity or the other person to dispose of the interest the subject of the decision within a stated time of not less than 90 days.

(9) For subsection (8), the interest must not be disposed of to a person, if the disposal would result in a contravention of a condition of the offending electricity entity’s authority.

(10) A decision of the regulator under subsection (5) takes effect when

written notice is given to the offending electricity entity or the other person.

(11) If the offending electricity entity or person is given a notice requiring disposal of an interest and the person or entity does not comply with the notice within the time stated in the notice, the interest the subject of the decision is forfeited to the State, free from any mortgage, charge, lien, pledge, restriction or other encumbrance.

(12) The regulator must sell any forfeited interest under subsection (11).

(13) An amount from the sale of a forfeited interest, after deduction of reasonable costs of forfeiture and sale, must be paid to the person from whom the interest was forfeited.

(14) The regulator may, by written notice to the offending electricity entity or other person, amend or cancel a decision made by the regulator under subsection (5) with effect from the day of the decision or some other day fixed by the regulator.

(15) The regulator may take action under this section even though the regulator issued, contrary to this Act, an authority that gave rise to the contravention of a condition of the offending electricity entity's authority by its holding a prohibited interest.

(16) The regulator may take the action stated in subsection (17) if the regulator—

- (a) makes a decision under subsection (5) and the ground for making the decision is that a person (the “**offender**”) has a prohibited interest, because the person is in a position to exercise control over a person, entity or authority or thing; or
- (b) forms the opinion that the offender has a prohibited interest of the kind contemplated by schedule 2, section 3B(b)(iii).

(17) For subsection (16), the regulator may, by written notice served on the offender, decide that the offender must do 1 or more of the following to the extent necessary to prevent there being a prohibited interest within a stated reasonable time of less than 90 days—

- (a) stop exercising control over the person, entity or authority;
- (b) end any relevant agreement, arrangement, understanding or undertaking;
- (c) take, or refrain from taking, any other action stated in the notice.

(18) Subsections (6), (10), (14) and (15) apply to a decision made by the regulator under subsection (16).

(19) If an electricity entity fails to pay a penalty under this section within the time allowed by the regulator, the regulator may take further action for the contravention for which the penalty was imposed.

(20) A reference in this section to amending an authority includes a reference to amending its conditions.

(21) In this section—

“**authority**” (other than in subsections (1) and (20)) includes a special approval.

“**electricity entity**” (other than in subsections (1) and (20)) includes a special approval holder.

“**interest**” includes the following—

- (a) a legal or equitable interest in shares, stock, units or voting rights;
- (b) a legal or equitable right to acquire shares, stock, units or voting rights;
- (c) a right to decide the way in which a vote or other interest attaching to shares, stock, units or voting rights will be exercised;
- (d) a right under an agreement, an arrangement, a contract, a deed an understanding or an undertaking;
- (e) other rights or interests capable of conveyance, transfer, sale, disposal or assignment;
- (f) another interest prescribed by regulation.

“**sell**” means—

- (a) sell by wholesale, retail or auction; or
- (b) agree, attempt or offer to sell; or
- (c) possess, expose or advertise for sale; or
- (d) cause or permit to be sold.

**Procedure for disciplinary action**

**134.(1)** If the regulator considers a ground exists to take disciplinary action against an electricity entity, the regulator must, before taking the disciplinary action, give the entity a written notice—

- (a) stating the regulator is considering taking disciplinary action against the entity; and
- (b) stating the proposed disciplinary action; and
- (c) stating the grounds for the proposed disciplinary action; and
- (d) outlining the facts and circumstances forming the basis for the grounds; and
- (e) inviting the entity to show, within a stated time of at least 7 days, why the proposed disciplinary action should not be taken.

**(2)** If, after considering all written representations made by the electricity entity within the stated time, the regulator still considers a ground exists to take the disciplinary action, the regulator may take the disciplinary action.

**(3)** However, before cancelling or directing the cancellation of an electricity entity's authority, the regulator must consider the effect of the cancellation on persons who are provided or supplied with electricity or other services by the entity and the availability of alternative sources of electricity or services.

**(4)** The regulator must inform the electricity entity of the decision by written notice.

**(5)** If the regulator decides to take disciplinary action against the electricity entity, the notice must state the reasons for the decision.

**(6)** The decision takes effect on the later of—

- (a) the day when the notice is given to the electricity entity; or
- (b) the day of effect stated in the notice.

**Penalty recoverable as debt**

**135.** A penalty imposed by the regulator on an electricity entity may be recovered as a debt owing to the State.

## **CHAPTER 6—ELECTRICITY OFFICERS’ POWERS**

### **PART 1—OPERATIONAL POWERS**

#### **Entry to repair etc. works or electrical installations**

**136.(1)** An electricity officer for an electricity entity may, at any reasonable time, enter a place where the electricity entity has works or an electrical installation to inspect, operate, change, maintain, remove, repair or replace the works or installation.

**(2)** An electricity officer for an electricity entity may, at any reasonable time, enter a place where someone else has an electrical installation to which electricity is, or is to be supplied by the electricity entity to examine or inspect the installation to ensure that the installation is safe to connect or reconnect supply.

#### **Entry to read meters etc.**

**137.** An electricity officer for an electricity entity may, at any reasonable time, enter a place where there is an electrical installation to which electricity is being, or has been, supplied or sold by the electricity entity to—

- (a) read a meter; or
- (b) calculate or measure electricity supplied or taken; or
- (c) check the accuracy of metered consumption; or
- (d) take action for deciding—
  - (i) the appropriate tariffs for the electrical installation; or
  - (ii) the electrical installation’s load classification; or
- (e) replace meters, control apparatus and other electrical articles of the electricity entity.

**Disconnection of supply if entry refused****138.(1)** If—

- (a) an electricity officer for an electricity entity is allowed to enter a place under section 137 (Entry to read meters etc.); and
- (b) the electricity officer is refused entry to the place or the electricity officer's entry to the place is obstructed;

the entity's chief executive officer may, by written notice to the occupier of the place, ask for consent to the entry.

(2) The notice must state why the entry is needed and state a day and time for the proposed entry.

(3) If the occupier again refuses to consent to the entry, the chief executive officer may authorise an electricity officer to—

- (a) disconnect electricity supply to the place; and
- (b) leave the electrical installation disconnected until the occupier consents to the entry and pays the disconnection and reconnection fees prescribed under the regulations.

**Entry to disconnect supply**

**139.(1)** An electricity officer for an electricity entity may, at any reasonable time, enter a place to disconnect supply to an electrical installation to which electricity is being supplied by the entity.

(2) The electricity officer may act under subsection (1) only if the electricity entity is allowed to disconnect supply.

**Entry to place to prevent electrical hazard or protect electricity entity's works**

**140.(1)** An electricity officer for an electricity entity may, at any reasonable time, enter a place to prevent—

- (a) a situation becoming an electrical hazard; or
- (b) an obstruction or potential obstruction to, or interference or potential interference with, the building, maintenance or operation of an electric line or other works of the entity.

(2) However, the electricity officer may enter the place only if—

- (a) the occupier of the place consents to the entry; or
- (b) the electricity officer or the electricity entity gives the occupier at least 7 days notice of the intended entry.

(3) The notice must state a period of not more than 1 month when entry will be made.

(4) The notice is sufficient notice for each entry made during the stated period.

## **PART 2—SAFETY POWERS**

### **Entry to make works or electrical installations safe**

**141.(1)** An electricity officer for an electricity entity may, at any reasonable time, enter a place where the electricity entity has works or an electrical installation to make the works or installation safe.

(2) An electricity officer may, at any reasonable time, enter a place where someone else has an electrical installation to which electricity is supplied by the electricity entity to make the installation safe.

(3) The electricity officer may disconnect supply to a works or installation until it is made safe.

(4) The powers conferred by this section are in addition to the powers conferred by part 1 (Operational powers).

## **PART 3—EXERCISE OF POWERS BY ELECTRICITY OFFICERS**

### **Electricity officer to give notice of damage**

**142.(1)** This section applies if an electricity officer damages anything

when exercising or purporting to exercise a power under this chapter.

(2) The electricity officer must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.

(3) If the electricity officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the officer's control, the officer may state this in the notice.

(4) If, for any reason, it is not practicable to comply with subsection (2), the electricity officer must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.

(5) This section does not apply to damage that the electricity officer believes, on reasonable grounds, is trivial.

(6) In this section—

“owner” of a thing includes the person in possession or control of the thing.

### **Compensation**

**143.(1)** A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an electricity officer for an electricity entity may claim compensation from the entity.

(2) Compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction; or
- (b) an offence against this Act brought against the person claiming compensation.

(3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.



## **CHAPTER 7—AUTHORISED PERSONS’ POWERS**

### **PART 1—GENERAL POWERS TO INVESTIGATE OFFENCES**

#### **Entry to places**

**144.(1)** An authorised person may enter a place under this part if—

- (a) its occupier consents to the entry; or
- (b) the entry is permitted by a warrant.

**(2)** An authorised person, without the occupier’s consent or a warrant, may—

- (a) enter a public place when the place is open to the public;<sup>14</sup> or
- (b) enter the land (including the curtilage) around premises to ask the occupier of the premises for consent to enter the premises.

**(3)** The power of entry given to an authorised person under this part is in addition to the powers of entry given to an authorised person under other parts of this chapter.

#### **Consent to entry**

**145.(1)** This section applies if an authorised person intends to seek the consent of an occupier of a place to the authorised person entering the place under this part.

**(2)** Before seeking the consent, the authorised person must inform the occupier—

- (a) of the purpose of the entry; and
- (b) that anything found and seized may be used in evidence in court; and

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<sup>14</sup> The application of this section could, in a particular case, be affected by the *Native Title Act 1993* (Cwlth).

(c) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that anything found and seized may be used in evidence in court; and

(iii) that the occupier was not required to consent; and

(b) state the occupier gave the authorised person consent under this part to enter the place and to exercise powers under this part; and

(c) state the time and date the consent was given.

(5) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.

### **Warrants for entry**

**146.(1)** An authorised person may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

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

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and

(b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person's powers under this Act; and
- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day, within 14 days after the warrant's issue, the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

### **Warrants—applications made other than in person**

**147.(1)** An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of urgent circumstances or other special circumstances, including, for example, the authorised person's remote location.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

- (a) the magistrate must—
  - (i) record on the warrant the reasons for issuing the warrant; and
  - (ii) tell the authorised person the date and time the warrant was signed; and
  - (iii) tell the authorised person the warrant's terms; and
- (b) the authorised person must write on a form of warrant (the **“warrant form”**)—

- (i) the magistrate's name; and
- (ii) the date and time the magistrate signed the warrant; and
- (iii) the warrant's terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers mentioned in the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

- (a) the sworn application; and
- (b) if a warrant form was required to be completed by the authorised person—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proven, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

- (a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and
- (b) the warrant is not produced in evidence.

### **General powers after entering places**

**148.(1)** An authorised person who enters a place under this part may—

- (a) search any part of the place; or
- (b) inspect, test, photograph or film anything in or on the place; or
- (c) copy a document in or on the place; or
- (d) take samples of or from anything in or on the place; or
- (e) take into or onto the place any persons, equipment and materials the authorised person reasonably requires for exercising a power under this part; or
- (f) require the occupier of the place, or a person in or on the place, to give the authorised person reasonable help to exercise the

authorised person's powers under paragraphs (a) to (e).

(2) A person required to give reasonable help under subsection (1)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—8 penalty units.

(3) If the requirement is to be complied with by the person—

- (a) giving information; or
- (b) producing a document (other than a document required to be kept by the person under this Act);

it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might incriminate the person.

(4) If an authorised person may exercise a power under this section or another provision of this part and under another provision of this Act, the authorised person may exercise the power under either or both provisions.

(5) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

### **Power to seize evidence**

**149.(1)** An authorised person who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

(2) An authorised person who enters a place under this part with the occupier's consent may seize the thing if—

- (a) the authorised person believes on reasonable grounds the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier in seeking the occupier's consent.

(3) An authorised person may also seize another thing if the authorised person believes on reasonable grounds—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—

- (i) concealed, lost or destroyed; or
- (ii) used to commit, continue or repeat the offence.

**(4)** Having seized a thing, an authorised person may—

- (a) remove the thing from the place where the thing was seized (the “**place of seizure**”) to another place; or
- (b) leave the thing at the place of seizure but restrict access to the thing.

*Example of subsection (4)(b)—*

An authorised person may—

- (a) seal a thing and mark it to show it has been seized; or
- (b) seal the entrance to a room where the seized thing is situated and mark it to show it contains a thing that has been seized.

**(5)** If an authorised person restricts access to a seized thing, a person must not tamper with the thing without the approval of the regulator.

Maximum penalty—30 penalty units.

### **Receipt for seized things**

**150.(1)** As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.

**(2)** However, if for any reason it is not practicable to comply with subsection (1), the authorised person must leave the receipt, at the place of seizure in a reasonably secure way and in a conspicuous position.

**(3)** Subsection (1) does not apply if—

- (a) the thing is unattended when seized; and
- (b) the thing’s owner is unknown; and
- (c) the owner cannot be found after reasonable inquiries (given the thing’s value) have been made.

**Access to seized things**

**151.** Until a seized thing is forfeited, returned or otherwise finally dealt with, an authorised person must allow its owner—

- (a) to inspect it; or
- (b) if it is a document—to make copies of it.

**Return of seized things**

**152.(1)** This section does not apply to a thing forfeited to the State.

**(2)** The authorised person must return a seized thing to its owner at the end of—

- (a) 6 months; or
- (b) if a prosecution for an offence involving it is started within 6 months—the prosecution and any appeal from the prosecution.

**(3)** Despite subsection (2), the authorised person must return the seized thing to its owner immediately the authorised person stops being satisfied its retention as evidence is necessary.

**(4)** However, the authorised person need not return the seized thing if the authorised person believes, on reasonable grounds, it is necessary to continue to retain it to prevent its use in committing an offence.

**PART 2—OTHER INVESTIGATIVE POWERS*****Division 1—Electricity restriction regulations and emergency rationing orders*****Entry to places to investigate compliance with emergency rationing orders**

**153.** An authorised person may, at any reasonable time, enter a place to investigate compliance with an emergency rationing order if the authorised

person suspects, on reasonable grounds, the order is not being complied with in the place.

### **Disconnection for contravening regulation or order**

**154.(1)** If a person contravenes an electricity restriction regulation or an emergency rationing order, an authorised person may, without notice to the person, disconnect supply to the person, including, for example, to any electrical installation or premises of the person.

**(2)** An electricity entity may refuse to reconnect supply to the person until—

- (a) whichever of the following happens first—
  - (i) the person agrees not to contravene the regulation or order;
  - (ii) the regulation or order ceases to be in force; and
- (b) the person pays any reasonable disconnection or reconnection fees required by the entity.

**(3)** However, despite the person's agreement not to contravene the regulation or order, the electricity entity may refuse to reconnect supply if it is of the opinion that, because of the person's previous conduct, the person will not comply with the agreement.

### *Division 2—Safety issues*

#### **Entry to places to investigate accidents involving electricity etc.**

**155.(1)** This section applies if an authorised person suspects, on reasonable grounds, that an accident has happened at a place—

- (a) involving the use of electricity; or
- (b) involving an electrical installation or works in which a person—
  - (i) received, or may have received, an electric shock; or
  - (ii) suffered, or may have suffered, serious personal injury; or
  - (iii) died or may have died.

**(2)** The authorised person may enter the place at any reasonable time to



investigate the accident, ensure the place is safe and prevent the concealment, loss or destruction of anything reasonably relevant to the investigation.

(3) The authorised person may do anything necessary and reasonable for a purpose mentioned in subsection (2).

### **Entry to place to make electrical installation or works safe etc.**

**156.(1)** This section applies if an authorised person suspects, on reasonable grounds, that—

- (a) an electrical installation or works may be defective; and
- (b) the defect is likely to cause a fire, or a person to suffer an electric shock or other personal injury.

(2) The authorised person may, at any time, enter the place and take any necessary and reasonable action to make the installation or works safe.

(3) Without limiting subsection (2), the authorised person may disconnect the installation or works, or the defective part of the installation or works.

(4) Alternatively, the authorised person may, by written notice given to the owner or person apparently in charge of the installation or works, require the person to disconnect immediately the installation or works, or the defective part of the installation or works.

(5) If the authorised person disconnects something under subsection (3), the authorised person must—

- (a) immediately give the owner or person apparently in charge of the electrical installation or works written notice of the disconnection and of the terms of subsection (3); and
- (b) as soon as practicable give the person written reasons for the disconnection.

(6) A person must not reconnect the electrical installation, works or part until the defect has been rectified or the defective part disconnected or isolated from all electricity sources.

Maximum penalty—8 penalty units.

(7) A person to whom a notice is given under subsection (4) must

comply with it, unless the person has a reasonable excuse.

Maximum penalty—8 penalty units.

### **Entry to places to check safety of works**

**157.(1)** An authorised person may, at any reasonable time, enter a place if the person suspects, on reasonable grounds, that—

- (a) there are works in the place; and
- (b) it is necessary or desirable to check the electrical safety of any of the works.

**(2)** After entering the place, the authorised person may check the electrical safety of any works in the place.

### **Entry to workplaces to check electrical work etc.**

**158.(1)** An authorised person may, at any reasonable time, enter a workplace (within the meaning of the *Workplace Health and Safety Act 1995*) to check—

- (a) whether action being taken, or suspected of being taken, in the workplace is electrical work; or
- (b) whether electrical work has been, or is being, performed in the workplace in accordance with this Act; or
- (c) the identity and qualifications of a person who has performed, or is performing, electrical work.

**(2)** After entering the workplace, the authorised person may inspect, test, photograph or film anything in the workplace.

### **Entry to business places to check safety of electrical articles**

**159.(1)** An authorised person may enter a place of business when it is open for the conduct of business or otherwise open to entry if the person suspects, on reasonable grounds, that—

- (a) there are electrical articles (“**commercial electrical articles**”) in the place that are intended for sale or hire by a person in trade or commerce; and

(b) it is necessary or desirable to check the electrical safety of any of the commercial electrical articles.

(2) After entering the place, the authorised person may check the electrical safety of any of the commercial electrical articles.

### *Division 3—Cathodic protection systems*

#### **Entry to examine or inspect cathodic protection system etc.**

**160.(1)** An authorised person may, at any reasonable time, enter a place to examine or inspect a cathodic protection system in the place.

(2) However, the authorised person may enter the place only if—

(a) the occupier of the place consents to the entry; or

(b) the authorised person gives the occupier at least 7 days notice of the intended entry.

(3) The notice must state a period of not more than 1 month when entry will be made.

(4) The notice is sufficient notice for each entry made during the stated period.

(5) If the authorised person believes, on reasonable grounds, that the cathodic protection system is being operated in contravention of this Act, the authorised person may take any necessary and reasonable action to make the system inoperable.

(6) Alternatively, the authorised person may, by written notice given to the person apparently in charge of the cathodic protection system, require the person to immediately make the system inoperable.

(7) The person given notice under subsection (6) must comply with the notice.

Maximum penalty—8 penalty units.

(8) An authorised person who makes a cathodic protection system inoperable under this section must, when practicable, give written reasons for making the system inoperable to the person apparently in charge of the system.

(9) A person must not again make the cathodic protection system operable until this Act is complied with.

Maximum penalty—8 penalty units.

#### *Division 4—Other powers of authorised persons*

##### **Direction not to sell or hire unsafe electrical articles**

**161.(1)** If an authorised person believes, on reasonable grounds, that a particular electrical article, or an electrical article of a particular type, is likely to cause a fire or an electrical accident in which a person suffers an electric shock or other personal injury, the authorised person may, by written notice given to a person, direct the person not to sell or hire the electrical article or an electrical article of that type.

(2) The person must not contravene the direction.

Maximum penalty—8 penalty units.

(3) If the direction is about a particular electrical article and an authorised person believes, on reasonable grounds, that the person has contravened the direction, the authorised person may seize the electrical article.

(4) If the direction is about a type of electrical article and an authorised person believes, on reasonable grounds, that the person has contravened the direction, the authorised person may seize all electrical articles of that type in the person's possession.

(5) Unless the person from whom the electrical article or articles were seized agrees with an authorised person, within 6 months after the seizure, to take the action the authorised person requires to make it or them safe, the electrical article or articles are forfeited to the State.

##### **Power to require name and address**

**162.(1)** An authorised person may require a person to state the person's name and address if the authorised person—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information

that leads, the authorised person to suspect, on reasonable grounds, the person has just committed an offence against this Act; or

- (c) believes, on reasonable grounds, that the person is performing or has just performed electrical work.

(2) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The authorised person may require the person to give evidence of the correctness of the person's stated name or address if the authorised person suspects, on reasonable grounds, that the stated name or address is false.

(4) A person must comply with a requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—8 penalty units.

(5) The person does not commit an offence against this section if—

- (a) the authorised person required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

(6) The person does not commit an offence against this section if—

- (a) the authorised person required the person to state the person's name and address on suspicion of the person having performed electrical work; and
- (b) the person is not proved to have performed electrical work.

### **Power to require production of certain documents**

**163.(1)** An authorised person may require a person to produce to the authorised person for inspection a document required to be kept by the person under this Act.

(2) The person must produce the document for inspection, unless the person has a reasonable excuse for not producing it.

Maximum penalty—40 penalty units.

(3) The authorised person may keep the document to take an extract from or make a copy of it.

(4) If the authorised person makes a copy of the document, or an entry in the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

(5) The person responsible for keeping the document must comply with a requirement made under subsection (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) The authorised person must return the document to the person as soon as practicable after taking the extract or making the copy.

### *Division 5—Other enforcement matters*

#### **Notice of damage by authorised persons**

**164.(1)** This section applies if an authorised person damages anything when exercising or purporting to exercise a power under this chapter.

(2) The authorised person must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.

(3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.

(4) In this section—

“owner” of a thing includes the person in possession or control of the thing.

#### **Compensation**

**165.(1)** A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an authorised person

may claim compensation against the State.

(2) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of compensation; or
- (b) for an offence against this Act brought against the person making the claim for compensation.

(3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

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

## **CHAPTER 8—SAFETY AND TECHNICAL ISSUES**

### **Connection to transmission grid or supply network to comply with conditions for connection**

**166.(1)** In connecting something to a transmission grid or supply network, a person must comply with the technical conditions for the connection.

Maximum penalty—8 penalty units.

(2) An electricity entity or special approval holder may disconnect anything that is connected to its transmission grid or supply network in contravention of the technical conditions.

### **Occupier to give notice of electrical accident**

**167.(1)** This section applies if a person suffers an electric shock or other personal injury because of an electrical accident at a place.

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

- (a) the retail entity who has a contract to sell electricity for an electrical installation at the place;

- (b) the distribution entity in whose distribution area the accident happened.

Maximum penalty—8 penalty units.

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

Maximum penalty—8 penalty units.

**(3)** The occupier must also take the reasonable steps necessary to prevent interference with equipment associated with the accident until the accident has been investigated.

Maximum penalty—8 penalty units.

**(4)** Subsection (3) does not apply to action reasonably taken to prevent a further shock or injury.

### **Licensed electrical contractor to give notice of electrical accident**

**168.(1)** This section applies if a person suffers electric shock or other personal injury because of an electrical accident that happens while electrical work is being carried out on an electrical installation by a licensed electrical contractor or an employee of the contractor.

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

Maximum penalty—8 penalty units.

**(3)** However, if the licensed electrical contractor cannot report the accident immediately because of injury suffered by the electrical contractor in the accident, the electrical contractor must tell the distribution entity as soon as practicable after the accident.

Maximum penalty—8 penalty units.

### **Special approval holders to give notice of electrical accident**

**169.(1)** This section applies if a person suffers electric shock or other personal injury because of an electrical accident on a special approval



holder's works.

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

Maximum penalty—8 penalty units.

### **Electricity entity to advise regulator immediately of accident**

**170.(1)** An electricity entity must immediately tell the regulator if it becomes aware of—

- (a) an accident involving death or serious personal injury on its works or 1 of its electrical installations; or
- (b) for a distribution entity—an electrical accident involving death or serious personal injury on an electrical installation in its supply area.

(2) However, subsection (1) does not apply to an electricity entity if the entity reasonably believes the regulator has already been told about the accident.

(3) The regulator may direct an electricity entity to ensure that equipment, lines, poles, electrical articles, appliances or anything else at the place where the accident happened are not removed or interfered with until an authorised person inspects the place.

(4) The direction may be given orally or in writing to an employee of the electricity entity or anyone else acting for the entity.

(5) An electricity entity must ensure that a direction under subsection (3) is complied with.

### **Electricity entity to ensure accident investigated and reported to regulator**

**171.(1)** On receiving a report of an accident, an electricity entity must ensure an authorised person immediately investigates the accident and reports to the entity in the way prescribed under the regulations.

(2) The electricity entity must give the report to the regulator within 7 days of receiving it, and must not give the report or a copy of it to anyone else.

**Misrepresentations about electrical articles or work**

**172.(1)** A person must not, in trade or commerce, represent that someone who is not a licensed electrical worker may lawfully—

- (a) connect to electricity supply an electrical article that may only be connected to electricity supply by a licensed electrical worker; or
- (b) do electrical work that may only be done by a licensed electrical worker.

**(2)** A person must take all reasonable steps to ensure the person's employees do not make a representation mentioned in subsection (1).

Maximum penalty—8 penalty units.

**Works and electrical installations not to be unsafe**

**173.** A person who owns or operates works or an electrical installation must take all reasonable steps to ensure they are not unsafe.

Maximum penalty—20 penalty units.

**Examination, inspection and testing of certain electrical installation work**

**174.** An electricity entity must ensure electrical installation work prescribed under the regulations is examined, inspected and tested as required under the regulations.

Maximum penalty—20 penalty units.

**Safety standards for works and electrical installations to be complied with**

**175.** A person who owns or operates works or an electrical installation must ensure the works or installation complies, and is operated in accordance with, all safety standards prescribed under the regulations.

Maximum penalty—20 penalty units.

**Removing anything built contrary to Act**

**176.(1)** The regulator may, by written notice to a person, require the person to remove anything built by the person in contravention of this Act.

**(2)** The person must comply with the notice within the reasonable period stated in the notice, unless the person has a reasonable excuse for not complying with the notice.

Maximum penalty—8 penalty units.

**Making unsafe things safe**

**177.(1)** This section applies if the regulator believes, on reasonable grounds, that the whole or part of a person's electrical installation, works or electrical article (the "**thing**") is unsafe.

**(2)** The regulator may require—

- (a) the person to disconnect, remove or repair the thing; or
- (b) the person to make the thing safe to the regulator's satisfaction; or
- (c) the relevant electricity entity to disconnect electricity supply to the thing.

**(3)** The requirement must be made by—

- (a) written notice; or
- (b) if the regulator believes the thing so unsafe that immediate action should be taken by the person or electricity entity—oral notice.

**(4)** However, if an oral notice is given, the regulator must promptly give the person or electricity entity a document confirming the oral notice.

**(5)** The person or electricity entity must comply with the notice within the reasonable period stated in the notice, unless the person has a reasonable excuse for not complying with the notice.

Maximum penalty—8 penalty units.

**(6)** If the person or electricity entity does not comply with the notice, the regulator may take the action that is reasonable and necessary to have the requirement carried out.

**(7)** A person, authorised in writing by the regulator, may do what is

reasonable and necessary to carry out the requirement.

*Example—*

The person may enter the place where the works or an electrical installation is situated without notice.

(8) The costs incurred in carrying out the requirement may be recovered from the person or electricity entity as a debt owed to the State.

## **CHAPTER 9—AUTHORITIES AND APPROVALS**

### **PART 1—GENERATION AUTHORITIES**

#### **Issue of generation authorities**

**178.(1)** The regulator may issue a generation authority to a person.

**(2)** The authority must state—

- (a) the generating plant that may be connected; and
- (b) the transmission grid or supply network to which it may be connected; and
- (c) whether the person is authorised to sell electricity and, if so, the basis of the authorisation; and
- (d) the term of the authority.

**(3)** Generating plant may be stated in the authority even though it has not been built when the authority is issued.

#### **Application for generation authority**

**179.(1)** An application for the issue of a generation authority must—

- (a) be made to the regulator in the form approved by the regulator; and
- (b) state—

- (i) the generating plant proposed to be connected; and
  - (ii) the transmission grid or supply network to which it is proposed to be connected; and
  - (iii) whether the applicant intends to sell electricity and, if so, the basis on which the applicant intends to sell; and
- (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.

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

### **Publication about application for generation authority**

**179A.(1)** Before issuing a generation authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
- (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.

(2) The regulator must consider the submissions made before issuing an authority.

### **Consideration of application for generation authority**

**180.(1)** The regulator must consider an application for the issue of a generation authority and may issue, or refuse to issue, the authority.

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

- (a) the applicant will operate the generating plant stated in the application; and
- (b) the generating plant will be able to provide electricity of a quality suitable for the transmission grid or supply network stated in the application; and

- (c) the applicant is a suitable person to be a generation entity; and
- (d) the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner; and
- (e) the applicant meets the additional criteria prescribed under the regulations.

**(3)** In deciding whether the applicant is a suitable person to be a generation entity, or the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—

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

**(4)** A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.

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

- (a) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the generating plant; and
- (b) additional matters prescribed under the regulations.

**(6)** In deciding whether to issue the authority, the regulator may consider matters prescribed under the regulations.

**(7)** In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

**Notice of refusal to issue generation authority**

**181.** If the regulator refuses to issue the generation authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

**Amendment of generation authorities**

**182.** The regulator may, with a generation entity's agreement, amend its generation authority.

**Amendment of conditions stated in generation authorities**

**183.** The regulator may, with a generation entity's agreement, amend the conditions stated in its authority.

**Amendment of generation authorities and conditions by notice to generation entity**

**183A.(1)** The regulator may amend a generation authority or the conditions of a generation authority by notice under subsection (2) given to the holder of the authority.

**(2)** The regulator may amend a generation authority or the conditions of a generation authority by a notice only if—

- (a) the regulator is satisfied the amendment is—
  - (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, or reforms concerning the Queensland electricity supply industry; or
- (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.

**(3)** This section does not affect the power to amend under sections 182 and 183.

**Generation authorities not transferable**

**184.** A generation authority cannot be transferred.

**Surrender of generation authorities**

**185.(1)** A generation entity may surrender its authority by giving the regulator written notice of surrender.

**(2)** The notice must be given to the regulator at least—

- (a)** 6 months before it is to take effect; or
- (b)** if the authority requires a longer period of notice—the required period of notice before it is to take effect.

**(3)** However, the regulator may agree to a shorter period of notice in a particular case.

**PART 2—TRANSMISSION AUTHORITIES****Issue of transmission authorities**

**186.(1)** The regulator may issue a transmission authority to a person.

**(2)** The authority must state—

- (a)** the transmission grid that may be operated; and
- (b)** if it may be connected to another transmission grid—the other transmission grid to which it may be connected; and
- (c)** the term of the authority.

**(3)** A transmission grid may be stated in the authority even though it has not been built when the authority is issued.

**(4)** The authority may, but need not, state—

- (a)** the precise limits of the transmission grid; or
- (b)** that the transmission grid is to operate in a stated area.



(5) The transmission grid mentioned in subsection (2)(b) may be a transmission grid outside the State.

### **Transmission authorities for same area**

**187.** The regulator may issue 2 or more transmission authorities for the same area.

### **Application for transmission authority**

**188.(1)** An application for the issue of a transmission authority must—

- (a) be made to the regulator in the form approved by the regulator; and
- (b) state—
  - (i) the transmission grid proposed to be operated; and
  - (ii) if it is proposed the transmission grid be connected to another transmission grid—the transmission grid to which it is proposed to be connected; and
- (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.

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

### **Publication about application for transmission authority**

**188A.(1)** Before issuing a transmission authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
- (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.

(2) The regulator must consider the submissions made before issuing an authority.

### **Consideration of application for authority**

**189.(1)** The regulator must consider an application for the issue of a transmission authority and may issue, or refuse to issue, the authority.

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

- (a) the applicant is operating, or will operate, the transmission grid stated in the application; and
- (b) the transmission grid has, or will have, the technical capabilities to provide for transmission of electricity of a quality likely to be needed to be transmitted through the transmission grid and the proposed transmission of electricity is, or will be, adequate, safe and reliable; and
- (c) the applicant is a suitable person to be a transmission entity; and
- (d) the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner; and
- (e) the applicant meets the additional criteria prescribed under the regulations.

(3) In deciding whether the applicant is a suitable person to be a transmission entity, or the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—

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

(f) additional matters prescribed under the regulations.

(4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.

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

(a) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the transmission grid; and

(b) additional matters prescribed under the regulations.

(6) In deciding whether to issue the authority, the regulator must not consider the matters prescribed by regulation.

### **Notice of refusal to issue transmission authority**

**190.** If the regulator refuses to issue the transmission authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

### **Amendment of transmission authorities**

**191.** The regulator may, with a transmission entity's agreement, amend its authority—

(a) to change the transmission grid that may be operated under the authority; or

(b) to authorise connection to a transmission grid; or

(c) to change a transmission grid to which connection may be made.

### **Amendment of conditions stated in transmission authorities**

**192.** The regulator may, with a transmission entity's agreement, amend the conditions stated in its authority.

**Amendment of transmission authorities and conditions by notice to transmission entity**

**192A.(1)** The regulator may amend a transmission authority or the conditions of a transmission authority by notice under subsection (2) given to the holder of the authority.

**(2)** The regulator may amend a transmission authority or the conditions of a transmission authority by a notice only if—

- (a) the regulator is satisfied the amendment is—
  - (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms in relation to the Queensland electricity supply industry; or
- (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.

**(3)** This section does not affect the power to amend under sections 191 and 192.

**Transmission authorities not transferable**

**193.** A transmission authority cannot be transferred.

**Surrender of transmission authorities**

**194.(1)** A transmission entity may surrender its authority by giving the regulator written notice of surrender.

- (2)** The notice must be given to the regulator at least—
- (a) 6 months before it is to take effect; or
  - (b) if the authority requires a longer period of notice—the required period of notice before it is to take effect.

**(3)** However, the regulator may agree to a shorter period of notice in a particular case.

## **PART 3—DISTRIBUTION AUTHORITIES**

### **Issue of distribution authorities**

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

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

### **Distribution authorities for same distribution area**

**195A.** The regulator may issue 2 or more distribution authorities for the same distribution area.

### **Application for authority**

**196.(1)** An application for the issue of a distribution authority must—

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

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

### **Publication about application for distribution authority**

**196A.(1)** Before issuing a distribution authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a)** stating that an application for an authority has been made to the regulator by the person stated in the notice; and
- (b)** inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.

(2) The regulator must consider the submissions made before issuing an authority.

### **Consideration of application for authority**

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

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

- (a) the applicant is operating, or will operate, the supply network stated in the application; and
- (b) the applicant is a suitable person to be a distribution entity; and
- (c) the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner; and
- (d) the applicant meets the additional criteria prescribed under the regulations.

(3) In deciding whether the applicant is a suitable person to be a distribution entity, or the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—

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

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

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

consider—

- (a) relevant government policies about environmental and energy issues and the likely environmental effects of the activities proposed to be done under the authority; and
- (b) additional matters prescribed under the regulations.

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

(7) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

### **Notice of refusal to issue authority**

**198.** If the regulator refuses to issue a distribution authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

### **Amendment of distribution authorities**

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

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

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

### **Amendment of distribution authorities and conditions by notice to distribution entity**

**200A.(1)** The regulator may amend a distribution authority or the conditions of a distribution authority by notice under subsection (2) given to the holder of the authority.

(2) The regulator may amend a distribution authority or the conditions of a distribution authority by a notice only if—

- (a) the regulator is satisfied the amendment is—

- (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; or
- (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.

(3) This section does not affect the power to amend under sections 199 and 200.

### **Distribution authorities not transferable**

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

### **Surrender of distribution authorities**

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

## **PART 4—RETAIL AUTHORITIES**

### **Issue of retail authorities**

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

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

(3) If the authority states a retail area, the authority may state when the right to the retail area ends.

(4) The regulator must not issue more than 1 retail authority with a retail area for the same retail area.

### **Application for authority**

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



- (a) be made to the regulator in the form approved by the regulator; and
- (b) if the application relates to the sale of electricity to non-contestable customers—state the proposed retail area; and
- (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.

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

### **Publication about application for retail authority**

**204A.(1)** Before issuing a retail authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
- (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.

(2) The regulator must consider the submissions made before issuing an authority.

### **Consideration of application for authority**

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

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

- (a) the applicant will sell the electricity and perform the services stated in the application; and
- (b) the applicant is a suitable person to be a retail entity; and
- (c) the applicant meets the additional criteria prescribed under a regulation.

(3) In deciding whether the applicant is a suitable person to be a retail

entity, the regulator may consider—

- (a) subject to subsection (4), the financial capacity of the applicant; and
- (b) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
- (c) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
- (d) the person's criminal history; and
- (e) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
- (f) for the applicant—the applicant's competence to be a retail entity; and
- (g) additional matters prescribed under a regulation.

**(4)** The regulator does not have to consider the matter in subsection (3)(a) if—

- (a) the applicant's authority will be subject to a condition requiring compliance with the Market Code; and
- (b) the Market Code contains prudential requirements applying to the activities to be authorised.

**(5)** A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be a retail entity.

**(6)** In deciding whether to issue the authority, the regulator must consider—

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

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

**(8)** In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

**Notice of refusal to issue authority**

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

**Amendment of retail authorities**

**207.** The regulator may, with a retail entity's agreement, amend its retail authority.

**Amendment of conditions stated in retail authorities**

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

**Amendment of retail authorities and conditions by notice to retail entity**

**207AB.(1)** The regulator may amend a retail authority or the conditions of a retail authority by notice under subsection (2) given to the holder of the authority.

**(2)** The regulator may amend a retail authority or the conditions of a retail authority by a notice only if—

- (a) the regulator is satisfied the amendment is—
  - (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms about the Queensland electricity supply industry; or
- (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.

**(3)** This section does not affect the power to amend under sections 207 and 207A.

**Retail authorities not transferable**

**207B.** A retail authority cannot be transferred.

**Surrender of retail authorities**

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

**Recognition of interstate retail authority equivalents**

**207D.(1)** A person may apply for the issue of a retail authority if the person holds an equivalent authority or licence issued under the law of another State.

**(2)** The application must—

- (a) be made to the regulator in the form approved by the regulator; and
- (b) be accompanied by the fees prescribed under a regulation including any fee for investigating whether an authority or licence should be issued.

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

**(4)** The regulator may dispense with any of the requirements of this part in relation to the application for or issue of a retail authority applied for under this section.

**(5)** The applicant may not apply for a review of, or appeal against, the decision of the regulator.

**(6)** To remove doubt, subsection (5) also precludes an application for review under the *Judicial Review Act 1991*.

## **PART 5—SPECIAL APPROVALS**

### **Giving of special approvals**

**208.** A special approval may be given under the regulations or by the regulator.

### **Application for special approval**

**209.(1)** An application for a special approval must—

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

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

### **Consideration of application for special approval**

**210.(1)** The regulator must consider an application for the giving of a special approval and may give, or refuse to give, the approval.

**(2)** In deciding whether to give the approval, the regulator may consider the matters that the regulator considers appropriate.

### **Notice of refusal to give special approval**

**211.** If the regulator refuses to give a special approval, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

**Amendment of special approval**

**211A.** The regulator may, with a special approval holder's agreement, amend its special approval.

**Amendment of conditions stated in special approval**

**211B.** The regulator may, with a special approval holder's agreement, amend the conditions stated in its special approval.

**Amendment of special approval and conditions by notice to holder of special approval**

**211C.(1)** The regulator may amend a special approval or the conditions of a special approval by notice under subsection (2) given to the holder of the special approval.

**(2)** The regulator may amend a special approval or the conditions of a special approval by a notice only if—

- (a) the regulator is satisfied the amendment is—
  - (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; or
- (b) the regulator has given the holder of the special approval an opportunity to make representations on the matter.

**Special approvals not transferable**

**212.** A special approval cannot be transferred.

**Surrender of special approvals**

**213.(1)** The holder of a special approval may surrender the approval by giving the regulator written notice of surrender.

**(2)** The notice must be given to the regulator at least—

- (a) 6 months before it is to take effect; or
- (b) if the approval requires a longer period of notice—the required period of notice before it is to take effect.

(3) However, the regulator may agree to a shorter period of notice in a particular case.

## **CHAPTER 10—REVIEW OF AND APPEALS AGAINST DECISIONS**

### **PART 1—REVIEW OF DECISIONS**

#### **Who may apply for review etc.**

**214.(1)** A person whose interests are affected by a decision mentioned in schedule 1 may apply to the regulator for a review of the decision.

(2) A person who may seek a review of a decision is entitled to receive a statement of reasons for the decision.

#### **Applying for review**

**215.(1)** An application by a person for review of a decision must be made within 28 days after notice of the decision is given to the person.

(2) However, if—

- (a) the notice did not state reasons for the decision; and
- (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (1);

the person may make the application within 28 days after the person is given the statement of reasons.

(3) In addition, the regulator may extend the period for making an application for review.

(4) An application for review must be written and state in detail the grounds on which the applicant seeks review of the decision.

### **Stay of operation of decision etc.**

**216.(1)** If an application is made under this part for review of a decision, the applicant may immediately apply for a stay of the decision to the court mentioned opposite the decision in schedule 1.

(2) The court may stay the decision to secure the effectiveness of the review and any later appeal to the court.

(3) A stay—

- (a) may be given on conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

(4) The period of a stay under this section must not extend past the time when the regulator reviews the decision and any later period the court allows the applicant to enable the applicant to appeal against the regulator's decision.

(5) The making of an application under this part for review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

### **Review panels, arbitration and mediation**

**217.(1)** A regulation may make provision about referring applications under this part for review of decisions to—

- (a) review panels for advice; or
- (b) mediation for resolution; or
- (c) arbitration for decision.

(2) Without limiting subsection (1), a regulation may make provision about—

- (a) the type of applications that must or may be referred to review panels, mediation or arbitration; and



- (b) establishing review panels; and
- (c) the composition of review panels; and
- (d) the appointment of mediators and arbitrators; and
- (e) the conduct of proceedings before review panels, mediators and arbitrators; and
- (f) the making of recommendations by review panels, the resolving of applications by mediation and the making of decisions by arbitration.

### **Decision on reconsideration**

**218.(1)** This section applies to an application under this part for review of a decision (the “**disputed decision**”).

(2) If the application is not referred to a review panel, resolved by mediation or decided by arbitration, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the applicant’s representations.

(3) If the application is referred to a review panel, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the review panel’s advice.

(4) If the application is resolved by mediation or decided by arbitration, the regulator must give effect to the resolution or decision and may, for the purpose, confirm the disputed decision, amend the disputed decision or substitute a new decision.

(5) The regulator must immediately give the applicant written notice of the regulator’s decision on the application.

(6) If the decision is not the decision sought by the applicant, the notice must state—

- (a) the reasons for the decision; and
- (b) that the applicant may appeal against the decision to a stated court within 28 days.

(7) If the regulator was not the decision maker and the regulator amends the decision or substitutes a new decision, the amended or substituted

decision is, for this Act (other than this chapter), taken to be a decision of the decision maker.

## **PART 2—APPEALS**

### **Who may make an appeal**

**219.(1)** A person whose interests are affected by a decision of the regulator under section 218 (Decision on reconsideration) may appeal against the decision to the court mentioned in schedule 1 opposite the reference to the decision that was reviewed.

**(2)** However, a regulation may provide that a person may not appeal against a decision of the regulator giving effect to a resolution by mediation or decision by arbitration.

### **Making appeals**

**220.(1)** An appeal under this part against a decision of the regulator must be made within 28 days after the notice of the decision is given to the person.

**(2)** However, if—

- (a) the notice did not state reasons for the decision; and
- (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (1);

the person may make the application within 28 days after the person is given the statement of reasons.

**(3)** In addition, the court may extend the period for making an appeal, even though the time for making the appeal has expired.

### **Starting appeals**

**221.(1)** An appeal is started by filing a written notice of appeal with the court.

(2) A copy of the notice must be served on the regulator.

(3) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

### **Stay of operation of decisions**

**222.(1)** A court to which an appeal against a decision lies under this part may grant a stay of the decision to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

### **Powers of court on appeal**

**223.(1)** In deciding an appeal, a court—

- (a) has the same powers as the decision maker; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

(2) An appeal is by way of rehearing.

(3) The court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the decision maker with the directions the court considers appropriate.

**Effect of court's decision on appeal**

**224.** If the court substitutes another decision, the substituted decision is, for this Act (other than this chapter), taken to be the decision maker's decision.

**Procedure of court**

**225.(1)** In this section—

**“authorising Act”** means—

- (a) for the Supreme Court—the *Supreme Court Act 1995*, part 19;<sup>15</sup> or
- (b) for a District Court—the *District Courts Act 1967*; or
- (c) for a Magistrates Court—the *Magistrates Courts Act 1921*.

**(2)** The power to make rules of court for a court under its authorising Act includes power to make rules of court for appeals to the court under this part.

**(3)** The procedure for appeal to a court under this part is—

- (a) in accordance with its rules of court; or
- (b) in the absence of relevant rules, as directed by a judge or magistrate.

**Appeals**

**226.(1)** An appeal to the Court of Appeal from a decision of a District Court may be made only on a question of law.

**(2)** An appeal to a District Court from a decision of a Magistrates Court may be made only on a question of law.

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<sup>15</sup> Part 19 (Provisions from *Supreme Court Act 1921*)

## **CHAPTER 11—GENERAL**

### **PART 1—OFFENCES**

#### **Unlawful to convey electricity etc. beyond own property**

**227.** A person, other than an electricity entity or special approval holder, must not operate an electric line beyond the person's property other than under a regulation.

Maximum penalty—40 penalty units.

#### **Unlawfully in or on premises where works situated**

**228.** A person must not unlawfully be in or on premises or an enclosure where an electricity entity's works are situated.

Maximum penalty—40 penalty units.

#### **Potential damage to electric lines by projectiles**

**229.** A person must not unlawfully discharge a weapon near an electric line, or throw or otherwise project an object towards an electric line so that—

- (a) the electric line is likely to be damaged; or
- (b) the supply of electricity is likely to be interrupted.

Maximum penalty—40 penalty units or 6 months imprisonment.

#### **Unlawful interference with electricity entity's works**

**230.** A person must not wilfully and unlawfully interfere with an electricity entity's works.

*Example of interference—*

Attaching something to an electricity entity's works.

Maximum penalty—40 penalty units or 6 months imprisonment.

**Unlawful connection to transmission grid or supply network**

**231.** A person must not unlawfully connect anything to an electricity entity's transmission grid or supply network.

Maximum penalty—40 penalty units or 6 months imprisonment.

**Unlawful interference with supply of electricity to customer**

**232.** A person must not unlawfully connect or disconnect supply of electricity to a customer or interfere with supply of electricity to a customer.

Maximum penalty—40 penalty units or 6 months imprisonment.

**Offence to contravene emergency rationing order**

**233.** A person must not contravene an emergency rationing order, unless the person has a reasonable excuse for the contravention.

Maximum penalty—8 penalty units.

**Climbing poles etc. of electricity entity prohibited**

**234.** A person must not unlawfully climb—

- (a) a pole, standard or other structure that is part of an electricity entity's works; or
- (b) a ladder attached to or in contact with the pole, standard or other structure.

Maximum penalty—40 penalty units.

**Unlawful taking of electricity**

**235.(1)** A person must not unlawfully take electricity.

Maximum penalty—1 000 penalty units or 6 months imprisonment.

**(2)** If the day or days on which a person is alleged to have been committing an offence against subsection (1) cannot be established, the person may—

- (a) be charged with 1 offence of unlawfully taking electricity over, or

at some unknown time during, a stated period; and

(b) be convicted and punished accordingly.

(3) In a prosecution for an offence against this or another Act in which it is claimed electricity has been unlawfully taken, the electricity is taken to belong to any person through whose transmission grid, supply network or works the electricity was supplied.

### **Obstruction of electricity officers and authorised persons**

**236.** A person must not obstruct an electricity officer or authorised person in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **Impersonation of electricity officers and authorised persons**

**237.** A person must not pretend to be an electricity officer or authorised person.

Maximum penalty—80 penalty units.

### **False or misleading information**

**238.(1)** A person must not—

- (a) state anything to the regulator, an electricity officer or an authorised person the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the regulator, an electricity officer or an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states the statement made was false or misleading to the person's knowledge.

**False, misleading or incomplete documents**

**239.(1)** A person must not give the regulator, an electricity officer or an authorised person a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

**(2)** Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the regulator, authorised person or electricity officer, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) gives the correct information to the regulator, authorised person or electricity officer if the person has, or can reasonably obtain, the correct information.

**(3)** A complaint against a person for an offence against subsection (1) is sufficient if it states the document was false, misleading or incomplete to the person's knowledge.

**Impersonation of person named in document**

**240.(1)** A person must not pretend to be a person named in a document issued or given under this Act.

Maximum penalty—8 penalty units.

**(2)** In subsection (1)—

“**document**” includes a certificate, identity card, notice, record book and register.

**Executive officers must ensure corporation complies with Act**

**240A.(1)** The executive officers of a corporation must ensure the corporation complies with this Act.

**(2)** If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.



Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

(3) Evidence that a corporation has been convicted of an offence against a provision of this Act is evidence each of the corporation’s executive officers committed the offence of failing to ensure the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—that the officer took reasonable steps to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

(5) In this section—

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

### **Attempts to commit offences**

**241.(1)** A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—one-half maximum penalty for committing the offence.

(2) The Criminal Code, section 4 (Attempts to commit offences) applies to subsection (1).

### **Proof of unlawfulness**

**242.** If a provision of this Act that creates an offence mentions a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76 applies as if the doing of the act or the making of the omission with an authority were an exemption contained in the provision.

**Offences are summary offences**

**243.** An offence against this Act is a summary offence.

**Start of offence proceedings**

**244.(1)** A proceeding for an offence against this Act must be started within—

- (a) 1 year after the offence is committed; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

**(2)** However, if section 235(2) (which deals with unlawful taking of electricity over or during a period) applies to the offence, a proceeding for the offence may be started within—

- (a) 1 year after the end of the relevant period; or
- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the end of the relevant period.

**PART 2—EVIDENTIARY PROVISIONS****Application of part**

**245.** This part applies to a proceeding under or in relation to this Act.

**Proof of appointments**

**246.** It is not necessary to prove the appointment of the following persons—

- (a) the chief executive of the department (the regulator);
- (b) electricity officers;
- (c) authorised persons.

**Proof of signatures**

**247.** A signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the Minister;
- (b) the regulator;
- (c) an electricity officer;
- (d) an authorised person.

**Evidentiary certificates by regulator**

**248.** A certificate purporting to be signed by the regulator and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given by the regulator under this Act or a copy of it;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or an approval given by the regulator under this Act;
- (c) on a stated day, or during a stated period, a stated person did or did not have an obligation to supply electricity;
- (d) an authority or approval was or was not issued or granted by the regulator for a stated term, or was or was not subject to stated conditions;
- (e) on a stated day, a stated person was given a notice under this Act by the regulator or an authorised person;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;
- (g) a stated amount is the amount of costs or expenses incurred by the regulator in taking stated action under this Act.

**Evidentiary certificate by electricity entity's chief executive officer etc.**

**249.** A certificate purporting to be signed by the chief executive officer of an electricity entity, or an employee of the entity authorised by its chief

executive officer, and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given under this Act by the entity or a copy of it;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or approval given by the entity under this Act;
- (c) an authority given by the entity was or was not given for a stated term, or was or was not subject to stated conditions;
- (d) on a stated day, a stated person was given a notice by or for the entity under this Act;
- (e) a stated amount is payable under this Act to the entity by a stated person and has not been paid;
- (f) a stated amount is the amount of costs or expenses incurred by the entity in taking action under this Act.

### **Evidentiary certificate by member etc. of electrical workers and contractors board**

**250.** A certificate purporting to be signed by a member or officer of the electrical workers and contractors board and stating any of the following matters is evidence of the matter—

- (a) on a stated day, or during a stated period, a stated person was or was not—
  - (i) the holder of a stated licence, certificate or permit; or
  - (ii) a licensed electrical contractor; or
  - (iii) authorised to perform work as a licensed electrical worker of a stated type;
- (b) a stated licence, certificate or permit was or was not subject to conditions or restrictions stated in the certificate.

**Proof of taking of electricity etc.**

**251.** The existence on, or in association with, a customer's electrical installation of ways to—

- (a) take electricity provided from an electricity entity's transmission grid or supply network; or
- (b) change or interfere with a meter or the works of an electricity entity and connected (directly or indirectly) to an electricity entity's transmission grid or supply network if the meter is or works are in the custody or control of the customer;

is evidence that electricity has been taken by the customer and the change or interference has been caused by the customer.

**Evidentiary effect of conduct notice**

**251A.(1)** A document purporting to be a certified copy of a conduct notice is evidence—

- (a) that the notice was made under section 120O; and
- (b) of the contravention or other matters stated in it; and
- (c) that the notice has been given to the entity stated in it under section 120P.

**(2)** In subsection (1)—

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

**PART 3—MISCELLANEOUS****Condition may require compliance with standards, codes etc.**

**252.(1)** A condition that may be imposed under this Act may require compliance with a protocol, standard, code, intergovernmental agreement or another agreement stated in the condition.

(2) This section does not limit the *Statutory Instruments Act 1992*, section 23 (Statutory instrument may make provision by applying another document).

### **Advisory committees**

**253.(1)** Advisory committees for the administration of this Act may be established under the regulations or by the Minister.

(2) An advisory committee established under the regulations has the functions stated in the regulation.

(3) An advisory committee established by the Minister has the functions stated by the Minister.

(4) A member of an advisory committee is entitled to be paid the fees and allowances that may be approved by the Governor in Council.

### **Protection from liability**

**254.(1)** In this section—

“**official**” means—

- (a) the Minister; and
- (b) the regulator; and
- (d) an operator under section 131 and employees of an operator; and
- (e) authorised persons; and
- (f) members of advisory committees appointed by the Minister or under a regulation; and
- (g) members of any board established under this Act.

(2) An official does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

**Protection from liability of member or employee of QCA**

**254AA.** A member or employee of the QCA is not civilly liable for an act done, or omission made, in good faith under this Act.

(2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to the QCA.

**Attachment—words defined in other legislation referred to in this Act**

**254A.(1)** Attached to this Act is an attachment containing relevant provisions from other legislation referred to in this Act.<sup>16</sup>

(2) The attachment is not part of this Act.

(3) The attachment must be revised so that it is an accurate copy of the provisions as amended from time to time.

(4) The revision under subsection (3) must happen in the first reprint of this Act after an amendment of a provision.

**CHAPTER 12—STATE ELECTRICITY ENTITIES****PART 1—GENERAL****State electricity entities do not represent the State**

**255.** State electricity entities do not represent the State.

**Application of Freedom of Information Act and Judicial Review Act**

**256.(1)** In this section—

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<sup>16</sup> The attachment appears immediately after the dictionary.

**“commercial activities”** means activities conducted on a commercial basis.<sup>17</sup>

**“community service obligations”** has the same meaning as in the GOC Act.

**“excluded activities”** means—

- (a) commercial activities; or
- (b) community service obligations prescribed under the regulations.

(2) A regulation may declare the activities of a State electricity entity that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(3) The *Freedom of Information Act 1992* does not apply to a document received or brought into existence by a State electricity entity in carrying out its excluded activities.

(4) The *Judicial Review Act 1991* does not apply to a decision of a State electricity entity made in carrying out its excluded activities.

### **Transmission and distribution entities are constructing authorities**

**257.(1)** Despite chapter 4, part 5,<sup>18</sup> each State electricity entity that is a transmission entity or a distribution entity is a constructing authority under the *Acquisition of Land Act 1967*.

(2) This section expires 5 years after its commencement.

### **Regulation may declare a constructing authority**

**257A.(1)** This section applies—

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<sup>17</sup> Section 16 of the GOC Act (Meaning of “corporatisation”) defines corporatisation as a structural reform process for nominating government entities that, among other things, changes the conditions and (where required) the structure under which the entities operate so that they operate, as far as practicable, on a commercial basis and in a competitive environment (emphasis added).

<sup>18</sup> Chapter 4 (Electricity industry operations), part 5 (Entry onto and acquisition of land)



(a) on the expiry of section 257; and

(b) despite chapter 4, part 5.<sup>19</sup>

(2) A regulation may declare a State electricity entity that is a transmission entity or a distribution entity to be a constructing authority under the *Acquisition of Land Act 1967*.

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

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

(a) a GOC;

(b) a subsidiary of a GOC;

(c) a government company;

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

## **PART 2—SUPERANNUATION**

### **State electricity entities to take part in regulated superannuation scheme)**

**260.** Each State electricity entity must take part in a regulated superannuation scheme under the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

### **Membership of certain superannuation schemes continued**

**262.(1)** A person who, immediately before the commencement is—

(a) an employee of the electricity supply industry under the repealed

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<sup>19</sup> Chapter 4, part 5 (Entry onto and acquisition of land)

Act; and

- (b) a contributor to the Brisbane City Council Superannuation Fund, GO Super (Government Officers Superannuation Scheme), State Service Superannuation Scheme, Q-Super (State Public Sector Superannuation Scheme) or Local Government Superannuation Scheme;

continues to be a contributor while the person continues to be an employee of a State electricity entity.

(2) The person's employer must deduct from the person's salary the contributions the person is required to make under the scheme and remit them to the relevant fund.

(3) The person's employer is also liable to make any contributions that under the scheme an employer of the person is required to make.

(4) This section does not prevent a person being a contributor to the approved industry superannuation scheme, but a person may not be a contributor to a scheme under this section and also be a contributor to the approved industry superannuation scheme.

## CHAPTER 13—REGULATIONS

### General regulation making power

**263.** The Governor in Council may make regulations under this Act.

### Regulation about matters in sch 2

**264.(1)** A regulation may make provision about the matters mentioned in schedule 2, including for example—

- (a) regulating persons and things in relation to the matters; and
- (b) imposing conditions in an authority or special approval prohibiting electricity entities or special approval holders from having a prohibited interest in 1 or more of the following—

- (i) a prescribed authority;
  - (ii) a prescribed entity;
  - (iii) a prescribed person;
  - (iv) a prescribed thing; and
- (c) the functions, entitlements, obligations and powers of persons in relation to the matters.

(2) A regulation under subsection (1)(b) may make different provision for different electricity entities or special approval holders.

### **Cathodic protection**

**265.** A regulation may make provision about cathodic protection systems, including, for example, provision about—

- (a) installing cathodic protection systems; and
- (b) registration of, approvals for, and restrictions on, cathodic protection systems; and
- (c) regulating the operation of cathodic protection systems; and
- (d) directions by the regulator to operators of cathodic protection systems; and
- (e) using, and mitigating interference by, cathodic protection systems.

### **Energy labelling and performance standards**

**266.** A regulation may make provision about appliances that use electricity (“**electricity appliances**”), including, for example, provision about—

- (a) minimum energy performance standards for electrical appliances; and
- (b) efficiency labelling for electrical appliances; and
- (c) registering of efficiency labels for electrical appliances; and
- (d) testing and labelling electrical appliances, including, for example, payment of the cost of testing (whether or not required) and

limitation of liability for damage to electrical appliances during testing; and

- (e) selling and hiring electrical appliances; and
- (f) offering, exposing or advertising electrical appliances for sale or hire.

### **Electrical articles**

**267.** A regulation may make provision about the safety of electrical articles, including, for example, provision about—

- (a) using, selling, hiring, or offering, exposing or advertising, electrical articles for sale; and
- (b) registration or approval, including dealing in, stamping, marking and labelling electrical articles; and
- (c) standards for electrical articles; and
- (d) testing, including, for example, requiring the testing of electrical articles, payment of the cost of testing (whether or not required) and limitation of liability for damage to electrical articles during testing.

### **Regulations about electrical workers and contractors**

**268.** A regulation may make provision about—

- (a) the electrical workers and contractors board (the “**board**”), including, for example, the following matters—
  - (i) its composition, functions and powers (including its power of delegation);
  - (ii) fees and allowances payable to, and insurance of, board members;
  - (iii) its meetings and business, employees and funds; and
- (b) licences, certificates and permits for electrical workers and electrical contractors, including, for example, the following matters—

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- (i) classes of licences, certificates and permits;
  - (ii) qualifications for licences, certificates and permits;
  - (iii) applications for and granting of licences, certificates and permits;
  - (iv) the conditions and restrictions to which licences, certificates and permits are subject;
  - (v) suspension and cancellation of, and other disciplinary action that may be taken about, licences, certificates and permits;
  - (vi) appeals against decisions of the board about—
    - (A) licences, certificates and permits; or
    - (B) applications for or granting of licences, certificates and permits; or
    - (C) suspension and cancellation of, and other disciplinary action about, licences, certificates and permits;
  - (vii) the jurisdiction and powers of an appeal entity on appeal;
  - (viii) courses of instruction to qualify persons for licences, certificates or permits;
  - (ix) examinations and testing leading to qualification for licences, certificates or permits;
  - (x) standards of competency for qualification for licences, certificates and permits; and
- (c) the performing of electrical work, including, for example, the following matters—
- (i) regulating persons performing, or supervising the performing of, electrical work or electrical contracting;
  - (ii) establishing the powers of persons to take action to ensure that licensees and certificate and permit holders perform electrical work to appropriate standards;
  - (iii) prescribing certain electrical work that must only be performed by specified persons;
  - (iv) enabling complaints about electrical work to be made, investigated and resolved;

- (v) rectifying defective electrical work, including the power of the board to order, and enforce an order, for rectification of defective electrical work.

## CHAPTER 14—TRANSITIONAL

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

#### Definition

**269.** In this chapter—

“**repealed Act**” means the *Electricity Act 1976*.

#### Transfer of officers to the department

**276.(1)** On and from the commencement, the persons appointed, in writing, by the chief executive of the department who immediately before the commencement were employees of the Queensland electricity commission become officers of the department.

**(2)** A person mentioned in subsection (1) must be taken as having (for the calculation of leave entitlements as an officer of the department)—

- (a) continuous service with the department that includes continuous service as an employee up to the commencement; and
- (b) taken leave that the person as an employee of the Queensland electricity commission had taken or for which the person has received payment and that is attributable to that service.

#### Continuation of provisions of Electricity Act 1976 until approval of industry superannuation scheme

**279.(1)** Despite the repeal of the *Electricity Act 1976*, part 13 and schedule 5 of that Act, as in force immediately before the commencement,

continue to have effect.

(2) For the purpose of their continued operation under subsection (1), the provisions have effect as if—

- (a) a reference to a person employed in the electricity supply industry were a reference to an employee of a State electricity entity or another person prescribed under the regulations; and
- (b) a reference to an employer were a reference to a State electricity entity or a person prescribed under the regulations; and
- (c) the superannuation board consists of the members in office immediately before the commencement and anyone else appointed under the regulations to fill a casual vacancy of a member; and
- (d) a reference to the commission were a reference to QGC, QTSC, QETC, the department or, if prescribed under the regulations, another entity, as the case requires; and
- (e) a reference to the commissioner or general manager were a reference to the chief executive officer of QGC, QTSC, QETC, the department, a State authorised supplier or, if prescribed under the regulations, another entity, as the case requires; and
- (f) a reference to an electricity board were a reference to a State authorised supplier.

(3) This section expires on the approval day.

### **First declaration of approved superannuation scheme**

**280.(1)** The first regulation declaring an industry superannuation scheme to be an approved industry superannuation scheme must fix a commencement day for the approval (the “**approval day**”).

(2) The regulation may be made only if the Minister is satisfied the scheme’s conditions are acceptable to replace the conditions of the Queensland Electricity Supply Industry Employees’ Superannuation Scheme, and the Queensland Electricity Supply Industry Employer-funded Accumulations Superannuation Fund, established under the *Electricity Act 1976* (“**QESIESS**”).

(3) The approved industry superannuation scheme is a continuation of QESIESS.

### **Effect of approval of industry superannuation scheme on QESIESS**

**281.(1)** The continuation of QESIESS under section 280 does not affect a person's entitlements accrued under QESIESS.

(2) The assets and liabilities of QESIESS immediately before the approval day continue to be the assets and liabilities of the approved industry superannuation scheme.

(3) To remove doubt, stamp duty is not payable because of the operation of subsection (2) or section 280.

(4) On the approval day, all rights, entitlements and obligations of the Queensland electricity supply industry superannuation board (the “**board**”) under contracts and arrangements between it and other persons become the rights, entitlements and obligations of the trustee of the approved industry superannuation scheme.

(5) On the approval day, the board ceases to exist and its members and the trustees of the Queensland electricity supply industry employer-funded accumulations superannuation fund go out of office.

(6) Subsection (5) does not prevent a member or trustee from being appointed as a trustee of the approved industry superannuation scheme.

(7) This section is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

(8) This section expires on the approval day.

### **Effect of approval of industry superannuation scheme on entitlement under Restoration Act**

**281A.(1)** This section applies if, immediately before the approval day, a person has an amount of an entitlement in a fund created within QESIESS under the *Electricity Superannuation Restoration Act 1990* (the “**Restoration Act**”), section 6(1)(b).

(2) On the approval day—

(a) the amount in the fund for the person's entitlement, with interest



earned on the amount under the Restoration Act, section 6(1)(b)(ii) becomes part of the funds of the approved industry superannuation scheme and is to be held in an account for the person; and

- (b) the person ceases to have the entitlement, the entitlement to the interest earned on the amount under the Restoration Act, section 6(1)(b)(ii) or any other entitlement under that Act; and
- (c) the person has an entitlement in the approved industry superannuation scheme to accrual of interest and payment of the amount as if the amount had, immediately before the approval day, been preserved under the articles of the Queensland electricity supply industry employees' superannuation scheme, section 39(1)(b).

(3) This section is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

(4) This section expires on the approval day.

### ***Licences under s 138 of repealed Act***

**285.(1)** *A person who immediately before the commencement was the holder of a licence in force under section 138 of the repealed Act is taken to be the holder of a special approval to carry out any activity that—*

- (a) *the person could, immediately before the commencement, have carried out under the licence; and*
- (b) *would otherwise require the person to be a generation entity, transmission entity, distribution entity or retail entity.*

(2) *The approval continues in force until whichever of the following happens first—*

- (a) *the term of the licence ends;*
- (b) *the end of 3 years from the commencement.*

(3) *This section expires 3 years after the commencement.*<sup>20</sup>

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<sup>20</sup> This provision has expired and is included in this reprint for informational purposes only. It will be omitted in the next reprint.

**Electricity Act 1976 references**

**285A.** In an Act or document, a reference to the *Electricity Act 1976* may, if the context permits, be taken to be a reference to this Act.

**References to electricity boards, electricity authorities and electricity supply industry**

**286.(1)** A reference in any document, including an Act, to, or that is read as a reference to, an electricity board within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to a State authorised supplier or the State authorised supplier that is its successor, as the case requires unless the context or a regulation otherwise requires.

**(2)** A reference in any document, including an Act, to, or that is read as a reference to, the Queensland electricity commission within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to 1 or more of QGC, QTSC, QETC or the regulator according to the aspect, function, power, obligation or entitlement of the Queensland electricity commission in relation to which the reference is made unless the context or a regulation otherwise requires.

**(3)** A reference in any document, including an Act, to the electricity supply industry is taken, after the commencement, to be a reference to the electricity industry.

**(4)** A reference in any document, including an Act, to the electricity generating board or the State electricity commission is taken, after the commencement, to be a reference to the Queensland electricity commission mentioned in subsection (2).

**Gladstone power station provisions**

**287.(1)** The purpose of this section is to ensure that this Act does not adversely affect arrangements in place at the commencement of this Act under the *Gladstone Power Station Agreement Act 1993* and the State agreement under that Act.

**(2)** On the commencement of this subsection, the State will negotiate with the participants under the State agreement under the *Gladstone Power Station Agreement Act 1993* to amend the State agreement, to take effect

immediately after the commencement of this Act, so as to as nearly as possible maintain the rights and obligations had, immediately before the commencement of this Act, by the State, the parties to the State agreement and the parties to the transaction documents mentioned in the State agreement.

(3) In addition to the matters mentioned in subsection (2), the State must identify to the parties to the State agreement before the commencement which 1 or more of QGC, QTSC and QETC (a “**relevant entity**”) are to be substituted for the Queensland electricity commission in the arrangements contemplated by the *Gladstone Power Station Agreement Act 1993* and the State agreement.

(4) A relevant entity that is substituted for the Queensland electricity commission in the arrangements is, by this subsection, authorised to enter into the arrangements and do everything necessary or convenient to enable it to perform the commission’s obligations, and exercise its entitlements, under the arrangement.

(5) If the parties to the State agreement are unable to agree on the amendments of the State agreement required by subsection (2), the inability to agree is a dispute between the parties.

(6) A party to a dispute may give to the other parties to the dispute a written notice (a “**notice of dispute**”) specifying the dispute and requiring that it be dealt with under subsection (7).

(7) If a party gives a notice of dispute, the Minister (within the meaning of the State agreement) or the Minister’s nominee and the chief executive officer or the chief executive officer’s nominee of each of the other parties to the dispute must meet in Brisbane within 10 days of the giving of the notice of dispute to attempt in good faith, and using their best endeavours to resolve the dispute within a further 10 days.

(8) To avoid doubt, a dispute under this section is not a dispute for the purposes of clause 24 of the State agreement, but this does not limit the remedies the parties might otherwise have.

(9) The application of this Act may be changed under the regulations made under this Act or the *Gladstone Power Station Agreement Act 1993*, or by the State agreement, to give effect to subsections (1) to (4).

**Gladstone power station arrangements**

**287A.(1)** A regulation may limit the power of the Queensland System Operator to do anything, or to give a code participant a direction requiring it to do anything, that is inconsistent with the obligations of the Queensland System Operator or the code participant under a transaction document.

**(2)** The application of this Act may be changed under the State agreement or a further agreement under the *Gladstone Power Station Agreement Act 1993*.

**(3)** In this section—

**“State agreement”** has the meaning given in *Gladstone Power Station Agreement Act 1993*.

**“transaction document”** has the meaning given in *Gladstone Power Station Agreement Act 1993*.<sup>21</sup>

**Supply under special agreements under s 172 of repealed Act**

**288.(1)** An electricity entity does not discriminate merely because it acts in accordance with an agreement made under section 172 of the repealed Act.

**(2)** Subsection (1) does not apply to an agreement as far as it is renewed or extended after the commencement.

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<sup>21</sup> The attachment contains extracts of the relevant provisions of the *Gladstone Power Station Agreement Act 1993*.

**PART 2—TRANSITIONAL PROVISIONS FOR  
ELECTRICITY AMENDMENT ACT 1997,  
ELECTRICITY AMENDMENT ACT (No. 2) 1997 AND  
ELECTRICITY AMENDMENT ACT (No. 3) 1997**

**Continuation of tariffs**

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

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

**Expiry of QGC's generation authorities**

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

- (a) the authority dated 18 December 1995 for the Swanbank generation plant;
- (b) the authority 18 December 1995 for the Stanwell generation plant;
- (c) the authority dated 18 December 1995 for the Wivenhoe generation plant;
- (d) the authority dated 18 December 1995 for the Tarong generation plant;
- (e) the authority dated 18 December 1995 and amended on 27 May 1996 for the Callide A and Callide B generation plants;
- (f) the authority dated 18 December 1995 for the Rockhampton generation plant;
- (g) the authority dated 18 December 1995 for the Middle Ridge generation plant;
- (h) the authority dated 18 December 1995 for the Mackay generation plant;
- (i) the authority dated 18 December 1995 for the Kareeya generation plant;

(j) the authority dated 18 December 1995 for the Barron Gorge generation plant.

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

(3) A decision under subsection (1)—

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

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

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

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

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

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

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

- (a) connect the generation plant approved by the Minister to the transmission grid of Queensland Electricity Transmission Corporation; and
- (b) sell electricity through the spot market in accordance with the Market Code or as otherwise approved by the Minister; and
- (c) perform other functions approved by the Minister.

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

- (a) the conditions in sections 27 and 28; and

- (b) the condition that the generation corporation complies with all laws that apply to it; and
  - (c) other conditions relating to the connection or operation of the generation corporation's generation plant that may be notified in writing by the Minister to the generation corporation.
- (5) This section expires 1 year after the commencement.

### **Expiry of QETC's transmission authority**

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

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

(3) A decision under subsection (1)—

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

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

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

**293.(1)** As soon as practicable after the commencement of this section, the regulator must issue a new transmission authority to Queensland Electricity Transmission Corporation.

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

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

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

- (4) An authorisation under subsection (3) is subject to—
- (a) the conditions in sections 31, 32, 33, 34, 35 and 36; and
  - (b) the condition that Queensland Electricity Transmission Corporation complies with all laws that apply to it; and
  - (c) other conditions relating to the operation of the transmission grid that may be notified in writing by the Minister to Queensland Electricity Transmission Corporation.
- (5) This section expires 1 year after the commencement.

### **Expiry of QTSC's supply entity authority**

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

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

- (3) A decision under subsection (1)—
- (a) must be notified by the Minister to the regulator and Queensland Transmission and Supply Corporation; and
  - (b) does not give rise to any claim for compensation by Queensland Transmission and Supply Corporation or anyone else.
- (4) This section expires 1 year after the commencement.

### **Expiry of State authorised supplier authorities**

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

- (a) the authority issued to South East Queensland Electricity Corporation dated 16 May 1996 and numbered 15/96;
- (b) the authority issued to South West Queensland Electricity Corporation dated 16 May 1996 and numbered 16/96;
- (c) the authority issued to Wide Bay-Burnett Electricity Corporation



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dated 16 May 1996 and numbered 14/96;

- (d) the authority issued to the Capricornia Electricity Corporation dated 16 May 1996 and numbered 13/96;
- (e) the authority issued to Mackay Electricity Corporation dated 16 May 1996 and numbered 12/96;
- (f) the authority issued to North Queensland Electricity Corporation dated 16 May 1996 and numbered 11/96;
- (g) the authority issued to Far North Queensland Electricity Corporation dated 16 May 1996 and numbered 10/96.

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

(3) A decision under subsection (1)—

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

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

### **New distribution authorities**

**296.(1)** As soon as practicable after the commencement, the regulator must issue a distribution authority to each of the following corporations (“**distribution corporations**”)—

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

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

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

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

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

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

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

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

(6) To remove doubt, it is declared that the contract approved by the Minister is the contract mentioned in sections 40(4) and 40AA(1)(b).

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

### **New retail authorities**

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

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

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

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

(a) in relation to customers with electrical installations or premises within the area approved by the Minister—

(i) to sell electricity to customers for their electrical installations or premises; and

(ii) to arrange for—

(A) customers' electrical installations or premises to be connected to a supply network to allow the supply of electricity from the supply network to customers' electrical installations or premises; and

(B) the supply of electricity from the supply network to customers' electrical installations or premises; and

(b) in relation to customers outside the area approved by the Minister—to act in accordance with section 55C; and

(c) to perform other functions approved by the Minister.

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

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

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

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

(a) section 51 does not apply to the contract; and

(b) the contract takes effect on and from the later of—

(i) the date specified in the Minister's approval; or

(ii) the date the contract is approved by the Minister.

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

Minister is the contract mentioned in sections 40AA(1)(a) and 49(3).

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

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

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

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

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

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

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

(3) The Ministers may give a direction only if they are satisfied it is necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, reforms concerning the Queensland electricity supply industry or to ensure a financially viable Queensland electricity supply industry.

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

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

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

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

(6) In this section—

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

### **Minister may give exemptions from holding an authority or being authorised to sell**

**300.(1)** The Minister may exempt a person or class of person from section 89(1).

(2) The exemption may be given on conditions.

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

(4) This section expires 2 years after the commencement.

### **Notifying exemption under s 300**

**300A.(1)** If the Minister gives an exemption under section 300, the Minister must notify the making of the exemption by gazette notice within 14 days.

(2) Failure to notify under subsection (1) does not invalidate the exemption.

(3) This section expires when section 300 expires.

### **Amending or cancelling exemption under s 300**

**300B.(1)** The Minister may amend or cancel an exemption under section 300.

(2) If an exemption is amended or cancelled, the Minister must notify the making of the amendment or the cancellation by gazette notice within 14 days.

(3) An amendment or cancellation takes effect—

(a) on a day stated in the notice; or

(b) if no day is stated in the notice—on the day the notice is gazetted.

(4) Failure to notify under subsection (2) does not invalidate the

amendment or cancellation.

(5) This section expires when section 300 expires.

### **Minister's powers about transmission and distribution pricing**

**301.(1)** The Minister may decide, in the way the Minister thinks fit, the prices, or a methodology to fix the prices that—

- (a) a transmission entity may charge for connection to a transmission grid; or
- (b) a transmission entity may charge for network services; or
- (c) a distribution entity may charge to provide customer connection services; or
- (d) a transmission or distribution entity may charge to provide other goods and services prescribed by regulation.

(2) Without limiting subsection (1), a methodology to fix prices may include a methodology for fixing a maximum revenue that a transmission or distribution entity may earn.

(3) The Minister must, in making a decision, consider the objects of the Act and the standards about quality of service.

(4) The Minister must notify the prices, or methodology to fix the prices, by gazette notice.

(5) The prices or methodology to fix the prices notified take effect—

- (a) on a day stated in the notice; or
- (b) if no day is stated in the notice—on the day the notice is gazetted.

(6) A transmission or distribution entity must charge the prices, or prices fixed under the methodology, notified under this section.

Maximum penalty—500 penalty units.

(7) A decision by the Minister under this section has effect despite the *Queensland Competition Authority Act 1997*.

(8) This section expires 3 years after the commencement.

**QTSC State electricity entity for limited purposes**

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

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

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

**Market Code replaces Queensland Grid Code**

**302C.(1)** This section applies for any reference in any Act or document to the Queensland Grid Code as applied under this Act.

**(2)** If the Market Code deals with matters that the Queensland Grid Code also deals with, the Market Code replaces the Queensland Grid Code to the extent that the Market Code deals with those matters.

**Transitional regulations**

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

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

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

(3) This section and any regulation made under it expires 2 years after this section commences.



**SCHEDULE 1****APPEALS AGAINST ADMINISTRATIVE DECISIONS**

sections 214(1) and 219

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
180(1)	Refusal to issue generation authority sought by applicant	Supreme
27(b)(vii)	Stating of conditions in generation authority	Supreme
189(1)	Refusal to issue transmission authority sought by applicant	Supreme
31(a)(v)	Stating of conditions in transmission authority	Supreme
197(1)	Refusal to issue distribution authority sought by applicant	Supreme
202	Refusal to agree to surrender of distribution authority	Supreme
42(a)(iv)	Stating of conditions in distribution authority	Supreme
205(1)	Refusal to issue retail authority sought by applicant	Supreme

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 SCHEDULE 1 (continued)

207C	Refusal to agree to surrender of retail authority	Supreme
55D(g)	Stating of conditions in retail authority	Supreme
210(1)	Refusal to give special approval sought by applicant	District
60(a)(v)	Stating of conditions in special approval	District
130(2)	Authorisation to take over operation of electricity entity's operating works	Supreme
133(5)	Decision that an electricity entity has a prohibited interest that must be disposed of	Supreme
134	Disciplinary action taken against electricity entity	Supreme
141	Disconnection of supply to works or installation on safety grounds	Magistrates
154(1)	Disconnection of supply for contravening electricity restriction regulation or emergency rationing order	Magistrates
154(2) or (3)	Refusal to reconnect supply	Magistrates

## SCHEDULE 1 (continued)

156(3)	Disconnection of unsafe electrical installation or works	Magistrates
156(4)	Requirement to disconnect unsafe electrical installation or works	Magistrates
160(5)	Making cathodic protection system inoperable	Magistrates
160(6)	Requirement to make cathodic protection system inoperable	Magistrates
161(1)	Direction not to sell or hire unsafe electrical articles	Magistrates
161(3) or (4)	Seizure of electrical articles	Magistrates
161(5)	Action required to make electrical articles safe	Magistrates
176(1)	Requirement to remove works built in contravention of Act	Magistrates
177(2)	Requirement about unsafe things	Magistrates
138(3)	Disconnection of supply if entry refused	Magistrates

## **SCHEDULE 2**

### **SUBJECT MATTER FOR REGULATIONS**

section 264

#### **Conditions of supply and sale**

**1.** Conditions of supply and sale, including, for example, the following matters—

- (a) conditions, guarantees and minimum payments;
- (b) amounts payable or chargeable for electricity and services (including interest), including for on-sale of electricity to occupiers of premises by a customer at the premises;
- (c) payment and charging for electricity and services, including payments in advance, security deposits and other methods of security;
- (d) capital contributions;
- (e) connection, disconnection and reconnection of supply;
- (f) fees, including, for example, fees for or in relation to connection, disconnection and reconnection;
- (g) liability for and payment for services;
- (h) temporary supply;
- (i) meter reading;
- (j) accounts;
- (k) publication of retail price tariffs.

#### **Requirements and standards**

**2.** Technical, operational and safety requirements and standards about the following matters and their monitoring (by inspection, testing or otherwise)—

## SCHEDULE 2 (continued)

- (a) network services;
- (b) electricity qualities, including, for example, frequency, voltage and power factor;
- (c) design, building, operation or maintenance of works;
- (d) clearances from electric lines or structures;
- (e) safety in relation to electricity and its use including safety of private plant;
- (f) safety of electrical articles and installations, including the safety of private plant;
- (g) promotion, training and education;
- (h) work practices and procedures;
- (i) equipment and apparatus, including testing apparatus and safety equipment;
- (j) rescue, resuscitation and first aid procedures;
- (k) accident investigation procedures and reports;
- (l) cathodic protection systems;
- (m) licensing, qualifications and approvals to perform electrical work;
- (n) works and installations;
- (o) substations and customers' premises;
- (p) stand-by supply;
- (q) conditions for connection to a transmission grid or supply network;
- (r) conditions for supply of electricity to customers;
- (s) meters and control apparatus;
- (t) connection, disconnection and reconnection of supply.

## SCHEDULE 2 (continued)

**Generation, transmission and supply**

**3.** Generation, transmission or supply of electricity, including, for example, the following matters—

- (a) interference with electricity supply;
- (b) rights of way for electric lines or cables;
- (c) obligations of electricity entities and land owners about electric lines, works or structures;
- (d) obligations and rights of electricity entities and other persons about electric lines, works or structures in, on, over, under, through or across roads, railways, tramways and waterways;
- (e) lopping and clearing of trees and vegetation.

**Conditions of authorities and approvals**

**3A.** Imposing conditions in an authority or a special approval prohibiting the holder of the authority or special approval from having a prohibited interest in 1 or more or the following—

- (a) a prescribed authority;
- (b) a prescribed entity;
- (c) a prescribed person;
- (d) a prescribed thing.

**Prescribed things and prohibited interests**

**3B.** Making provision about any of the following matters—

- (a) the specifying of—
  - (i) a prescribed authority;
  - (ii) a prescribed entity;
  - (iii) a prescribed person;
- (b) the specifying of a “**prohibited interest**” by reference to 1 or

## SCHEDULE 2 (continued)

more of the following—

- (i) the holding of an authority;
- (ii) the holding of an interest, either directly or indirectly, in an authority;
- (iii) the exercise of control, either directly or indirectly, over an authority, entity or person;
- (iv) the entitlement to a stated number or percentage of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
- (v) the entitlement to a stated value or percentage of value of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
- (vi) the entitlement to a stated amount or percentage of generation capacity;
- (vii) another thing prescribed by regulation;
- (c) what constitutes an entitlement to shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
- (d) what constitutes an entitlement to generation capacity;
- (e) that certain shares, stock, votes or interests, or particular classes of shares, votes or other interests are, or in some circumstances are, to be disregarded for the prescribed purposes;
- (f) that particular generation capacity or particular amounts, percentages or types of generation capacity are, or in some circumstances are, to be disregarded for prescribed purposes;
- (g) that certain transactions, agreements, arrangements, understandings, undertakings or practices or particular types of them are, or in some circumstances are, to be disregarded for the prescribed purposes;
- (h) when a person is, or is taken to be, in a position to exercise control in relation to—
  - (i) a person;

## SCHEDULE 2 (continued)

- (ii) an entity;
- (iii) an authority;
- (iv) a thing;
- (i) when a person is not, or is taken not to be, in a position to exercise control in relation to—
  - (i) a person;
  - (ii) an entity;
  - (iii) an authority;
  - (iv) a thing;
- (j) the method of calculating the number, percentage or value of shares, stock, votes or other interests, directly and indirectly, in an entity or person;
- (k) the method of calculating the amount or percentage of generation capacity;
- (l) the tracing of interests through a series of entities or persons;
- (m) the extraterritorial application of a regulation and the application of a regulation to partnerships, unincorporated joint ventures, companies limited by guarantee, trusts, superannuation funds and other vehicles;
- (n) anything necessary or convenient to help or give effect to a regulation.

**General****4.** The following matters—

- (a) establishment, functions and powers of entities to achieve objects of this Act;
- (b) obligations of entities;
- (c) inspection and testing;
- (d) reporting and remedying of defects;



## SCHEDULE 2 (continued)

- (e) qualifications and functions of authorised persons;
- (f) penalties (of not more than 20 penalty units) for contraventions of a regulation;
- (g) applications, including, for example, applications by electricity entities for authorities to enter and remain on land;
- (h) registers to be kept under this Act;
- (i) liability for and recovery of costs and compensation for actions taken under this Act;
- (j) lighting on roads and other places whether for private or public purposes;
- (k) entitlements and conditions of employment of employees of electricity industry participants;
- (l) superannuation for persons within the electricity industry;
- (m) obligations of industry participants to employees;
- (n) transfer of funds between industry participants on transfer of employees;
- (o) assisting proof for matters under the regulations.

**SCHEDULE 5****DICTIONARY**

section 4

**“affected land”**, for chapter 4, part 4, division 4A, see section 111A.

**“ancillary services”** see section 11.

**“approval day”** see section 280(1).

**“approved industry superannuation scheme”** see section 261.

**“authorised person”** means a person who is appointed under this Act as an authorised person.

**“build”** includes erect, lay down and place.

**“cathodic protection system”** see section 15.

**“channels”** see section 16(2)(c).

**“code participant”** has the meaning given in the National Electricity (Queensland) Law.

**“conduct notice”** see section 120O(1).

**“conduct rules”** means—

- (a) the conduct rules made by the QCA under chapter 5, part 1A; and
- (b) any amendment of the conduct rules.

**“contestable customer”** see section 23(2).

**“criminal history”** of a person means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

**“customer”** see section 23(1).

**“customer connection contract”** means a contract under which a distribution entity agrees to provide customer connection services to a customer’s premises.

## SCHEDULE 5 (continued)

**“customer connection services”**, for premises, means—

- (a) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
- (b) the supply of electricity from the supply network to the premises.

**“customer retail services”**, for premises, means—

- (a) the sale of electricity to the premises; or
- (b) the sale of electricity to the premises and providing for—
  - (i) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
  - (ii) the supply of electricity from the supply network to the premises.

**“customer sale contract”** means a contract under which a retail entity agrees to provide customer retail services to a customer’s premises.

**“defaulting entity”** see section 130(1)(a).

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

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

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

**“electrical article”** see section 14(1).

**“electrical contracting”** means contracting to perform electrical installation work.

**“electrical installation”** see section 13.

**“electrical installation work”** see section 16(4).

**“electrical work”** see section 16(1) to (3).

**“electricity”** see section 5.

**“electricity entity”** means—

- (a) in general—see section 22(1); and
- (b) for chapter 5, part 1A—see also section 120A; and

## SCHEDULE 5 (continued)

(c) for chapter 5, part 1B—see also section 120ZE.<sup>22</sup>

**“electricity industry”** see section 21.

**“electricity officer”** means a person who is appointed under this Act as an electricity officer.

**“electricity restriction regulation”** see section 122(1).

**“electric line”** see section 14(2).

**“emergency rationing order”** see section 124(1).

**“generation authority”** see section 26.

**“generation entity”** see section 25.

**“GOC”** has the same meaning as in the GOC Act.

**“GOC Act”** means the *Government Owned Corporations Act 1993*.

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

**“government entity”** see section 18.

**“hire”** includes—

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

**“in”** a road, railway land or other place includes on, under or over.

**“LGPE Act”**, for chapter 4, part 4, division 4A, see section 111A.

**“licensed electrical contractor”** means a person who is licensed as an electrical contractor.

**“licensed electrical worker”** means a person who is licensed as an electrical worker.

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<sup>22</sup> Paragraph (c) of the definition “electricity entity” was inserted by Act No. 77 of 1997 but has not commenced.

## SCHEDULE 5 (continued)

**“Market Code”** means—

- (a) the Code of Conduct called the National Electricity Code under the National Electricity Law applied as a law of Queensland; and
- (b) any amendment of the Code.

**“meter”** see section 14(3).

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

**“National Electricity Tribunal”** has the meaning given in the National Electricity (Queensland) Law.

**“NECA”** has the meaning given in the National Electricity (Queensland) Law.

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

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

**“NEMMCO”** has the meaning given in the National Electricity (Queensland) Law.

**“network control”** see section 9.

**“network services”** see section 10.

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

**“occupier”** of a place includes, in chapter 7 (Authorised persons’ powers), a person who reasonably appears to be the occupier, or in charge, of the place.

**“on”** a road, railway land or other place includes in, under or over.

**“operating works”** see section 12(3).

**“permissible use”**, for chapter 4, part 4, division 4A, see section 111A.

**“place”** includes premises and a place on or in waters or on land, but does not include a boat or other vehicle.

## SCHEDULE 5 (continued)

**“planning instrument”**, for chapter 4, part 4, division 4A, see section 111A.

**“planning scheme”**, for chapter 4, part 4, division 4A, see section 111A.

**“planning scheme maps”**, for chapter 4, part 4, division 4A, see section 111A.

**“premises”** includes—

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

**“prohibited interest”** means—

- (a) a prescribed interest that an electricity entity must not hold in a prescribed authority, a prescribed entity, a prescribed person or a prescribed thing under section 264; or
- (b) a prohibited interest under schedule 2, section 3A.

**“protected area”** means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under the Act.

**“public entity”** means—

- (a) a government entity within the meaning of the *Government Owned Corporations Act 1993*; or
- (b) a local government.

**“publicly controlled place”** means any place under the control of a public entity that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money, but does not include an area declared under the regulations not to be a publicly controlled place.

*Example—*

A road or reserve under the control of a public entity.

**“public place”** means any place that the public is entitled to use, is open to

## SCHEDULE 5 (continued)

the public, or used by the public, whether or not on payment of money.

“**QCA**” means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*.

“**QESIESS**” see section 280(2).

“**QETC**” means Queensland Electricity Transmission Corporation.

“**QGC**” means Queensland Generation Corporation.

“**QTSC**” means Queensland Transmission and Supply Corporation.

“**Queensland grid code**” means the Code of Conduct for the Interconnected Queensland Network first published by the department on 28 November 1994.

“**Queensland system**” means the interconnected power system that is connected to and includes the 275 kV transmission grid in Queensland.

“**Queensland System Operator**” see section 90.

“**railway land**” means land in which a railway operator has an interest.

“**regulator**” see section 62.

“**relevant planning scheme**”, for chapter 4, part 4, division 4A, see section 111A.

“**repealed Act**” in chapter 14, see section 269.

“**retail area**” see section 48.

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

“**retail entity**” see section 46.

“**road authority**” means—

- (a) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive under the Act; or
- (b) for another road—the local government or other person having control or management of the road.

## SCHEDULE 5 (continued)

**“sell”** includes—

- (a) sell by wholesale, retail or auction; and
- (b) agree, attempt or offer to sell; and
- (c) possess, expose or advertise for sale; and
- (d) cause or permit to be sold; and
- (e) give away or swap.

**“special approval”** see section 58.

**“special approval holder”** see section 57.

**“spot market”** has the meaning given in the Market Code.

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

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

**“state”** includes describe.

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

**“statutory GOC”** has the same meaning as in the GOC Act.

**“subsidiary”** of a GOC has the same meaning as in the GOC Act.

**“substation”** see section 12(2).

**“supply network”** see section 8.

**“take”** electricity includes waste, divert and use.

**“trade or commerce”** includes—

- (a) a business activity; and
- (b) anything else done for gain or reward.

**“trading arrangements”** see section 90.



## SCHEDULE 5 (continued)

**“trading arrangements”** means arrangements about trading in electricity under this Act or the Market Code by electricity entities, customers, electricity brokers and other persons.

**“transmission authority”** see section 30.

**“transmission entity”** see section 29.

**“transmission grid”** see section 6.

**“unlawfully”** means without authority under this Act or other legal authority, justification or excuse.

*Example of legal authority—*

A person does something in relation to property with the owner’s consent.

**“used for”** includes used in, intended for use for or in, or capable of being used for or in.

**“voltage”** see section 17.

**“weapon”** has the same meaning as in the *Weapons Act 1990*.

**“wilfully”** means—

- (a) intentionally; or
- (b) recklessly; or
- (c) with gross negligence.

**“works”** see section 12(1).

## ATTACHMENT

### EXTRACTS FROM OTHER LEGISLATION REFERRED TO IN THE ACT

#### GLADSTONE POWER STATION AGREEMENT ACT 1993

##### Definitions

2. In this Act—

“**State agreement**” means the agreement made under section 3, and the agreement as amended by a further agreement under section 5 or 6;

“**transaction document**” has the meaning given in the State agreement.<sup>23</sup>

## SCHEDULE

### STATE AGREEMENT

#### 1. Definitions

In this Agreement, unless the context otherwise requires or indicates—

“**Transaction Document**” means each of—

- (a) any Capacity Purchase Agreement; and
- (b) the Interconnection and Power Pooling Agreement; and
- (c) the Power Station Sale Agreement; and
- (d) the Ash Management Agreement; and
- (e) the Rail Haulage Agreement; and

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<sup>23</sup> These definitions are referred to in section 287A of the Act.

- (f) the Curragh On-Sale Contract; and
- (g) the Seawater Usage Agreement; and
- (h) the Refurbishment and Testing Deed; and
- (i) the Inter Creditor Deed; and
- (j) the Participants Charge; and
- (k) the Callide Assignment Deed or the Callide On-Sale Contract, whichever is entered into; and
- (l) any permitted variations of any of the documents mentioned in paragraphs (a) to (k).

## **TELECOMMUNICATIONS ACT 1997 (CWLTH)**

### **Definitions**

7. In this Act, unless the contrary intention appears:

**“carriage service”** means a service for carrying communications by means of guided and/or unguided electromagnetic energy.

**“content service”** has the meaning given by section 15.<sup>24</sup>

### **Content service**

**15.(1)** For the purposes of this Act, a content service is:

- (a) a broadcasting service; or
- (b) an on-line information service (for example, a dial-up information service); or
- (c) an on-line entertainment service (for example, a video-on-demand service or an interactive computer game service); or
- (d) any other on-line service (for example, an education service

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<sup>24</sup> These definitions are referred to in section 116B of the Act.

provided by a State or Territory government); or

- (e) a service of a kind specified in a determination made by the Minister for the purposes of this paragraph.

**(2)** A Minister may make a written determination for the purposes of paragraph (1)(e).

**(3)** A determination made for the purposes of paragraph (1)(e) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 18 December 1998. Future amendments of the Electricity Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

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

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

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	13 January 1995
2	to Act No. 57 of 1995	1 February 1996
2A	to Act No. 28 of 1996	28 August 1996
2B	to Act No. 26 of 1997	27 June 1997
2C	to Act No. 50 of 1997	3 October 1997
2D	to Act No. 77 of 1997	19 June 1998

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	2
Corrected minor errors	2

## 6 List of legislation

### **Electricity Act 1994 No. 64**

date of assent 1 December 1994

ss 1–2, 287 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 January 1995 (1994 SL No. 467)

**Note**— The approval day is defined in s 280(1)

as amended by—

### **Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 pts 1–2**

date of assent 16 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1994 (see s 2)

### **Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Electricity Amendment Act 1996 No. 28**

date of assent 15 August 1996  
commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Electricity Amendment Act 1997 No. 26**

date of assent 22 May 1997  
ss 1–2 commenced on date of assent  
s 53 (other than for inserted ss 289–298, 300–303) commenced 26 June 1997 (1997 SL No. 177)  
remaining provisions commenced 1 July 1997 (1997 SL No. 177)

**Electricity Amendment Act (No. 2) 1997 No. 50**

date of assent 8 September 1997  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 1997 (1997 SL No. 312)

**Electricity Amendment Act (No. 3) 1997 No. 77 pts 1–2**

date of assent 5 December 1997  
ss 1–2 commenced on date of assent  
ss 3–4, 6, 8 (except to the extent it commences s 27(b)(iii)), 9 (except to the extent it commences s 31(a)(ii)), 10–12, 14–19, 20 (except to the extent it commences s 42(a)(i)), 21–22, 24–29, 30 (except to the extent it commences s 55D(c)), 31 (except to the extent it commences s 60(a)(ii)), 32(2), 35–38, 40–43, 45–65, 66 (except to the extent it commences s 254(1)(c)), 66A–72, 74–82, 83(1) (except to the extent it commences the om of the defs “code participant”, “Market code”, “pool” and “power system”), 83(2) (except to the extent it commences the ins of the defs “code participant”, “dispute”, “Market code”, “National Electricity (Queensland) Law”, “National Electricity Tribunal”, “NECA”, “NEMMCO” and “Office” and the ins of para (c) in the def “electricity entity”) commenced 19 December 1997 (1997 SL No. 472)  
s 79 commenced 1 January 1998 (1997 SL No. 472)  
ss 5, 7, 8(2), 9(2), 13, 20(2), 23, 30(2), 31(2), 34, 44, 73, 83(1) (to the extent the subsections of ss 8(2), 9(2), 20(2), 30(2), 83(1) have not already commenced) and 83(2) (except to the extent it commences the ins of the defs “dispute”, “electricity entity”, para (c) and “Office”) commenced 13 December 1998 (1998 SL No. 328)  
remaining provisions not yet commenced into force (automatic commencement under AIA s 15DA(2) deferred to 4 December 1999 (1998 SL No. 314 s 2(2))

**7 List of annotations****Commencement**

s 2 om R2 (see RA s 37)

**Objects of Act**

s 3 amd 1997 No. 77 s 4

**Regional system control**

s 7 amd 1997 No. 26 s 4  
prev s 7 om 1997 No. 50 s 4  
pres s 7 ins 1997 No. 77 s 5

**Network services**

s 10 amd 1997 No. 26 s 5

**Works, substations and operating works**

s 12 amd 1997 No. 26 s 6

**Application of Act to government entities**

s 18 amd 1997 No. 50 s 5

**Electricity industry**

s 21 amd 1997 No. 26 s 7

**Electricity entities**

s 22 amd 1997 No. 26 s 8

**Types of customers**

prov hdg sub 1997 No. 26 s 9(1)

s 23 amd 1997 No. 26 s 9(2)

**Regulations concerning contestability declaration**

s 23A ins 1997 No. 77 s 6

**Generation authorities**

s 26 amd 1997 No. 50 s 6; 1997 No. 77 s 7

**Conditions of generation authority**

s 27 amd 1997 No. 50 s 7; 1997 No. 77 s 8

**Conditions of transmission authority**

s 31 amd 1997 No. 50 s 8; 1997 No. 77 s 9

**Additional condition to allow connection to grid by complying persons**

s 32 amd 1997 No. 77 s 10

**Additional condition not to buy and sell electricity**

s 33 sub 1997 No. 77 s 11  
(2)(c) exp 23 May 1998 (see s 33(3))

**Additional condition to provide network services**

s 35 sub 1997 No. 77 s 12

**Responsibility for regional system control**

s 36A ins 1997 No. 77 s 13

**PART 5—Supply entities and their authorities**

pt hdg amd 1997 No. 26 s 10

**Distribution entities**

s 37 sub 1997 No. 26 s 11



**Distribution authorities**

s 38 sub 1997 No. 26 s 12

**Distribution area of distribution entity**

s 39 sub 1997 No. 26 s 13

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

s 40 sub 1997 No. 26 s 14; 1997 No. 77 s 14

**Supply if no customer connection contract**

s 40AA ins 1997 No. 26 s 14

sub 1997 No. 77 s 14

**Standard customer connection contract**

s 40A ins 1997 No. 26 s 14

amd 1997 No. 77 s 15

**Approval of standard customer connection contract by regulator**

s 40B ins 1997 No. 26 s 14

sub 1997 No. 77 s 16

**Amendment of standard customer connection contract**

s 40BA ins 1997 No. 77 s 16

**Customer connection contracts outside standard form**

s 40C ins 1997 No. 26 s 14

**Connection and supply on nondiscriminatory terms**

s 40D ins 1997 No. 26 s 14

amd 1997 No. 77 s 17

**Limitation on obligation to connect and supply**

s 40E ins 1997 No. 26 s 14

amd 1997 No. 77 s 18

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

s 40F ins 1997 No. 26 s 14

**Disconnection for failure to pay debts**

s 40G ins 1997 No. 26 s 14

**Contracting out of s 40E, 40G(a) or (b), 96 or 97**

prov hdg amd 1997 No. 77 s 19(1)

s 40H ins 1997 No. 26 s 14

amd 1997 No. 77 s 19(2)

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

s 41 sub 1997 No. 26 s 15

**Conditions of distribution authority**

prov hdg sub 1997 No. 26 s 16(1)

s 42 amd 1997 No. 26 s 16(2)–(4); 1997 No. 50 s 9; 1997 No. 77 s 20

**Additional condition to allow connection to supply network by complying persons**

s 43 amd 1997 No. 26 s 17; 1997 No. 77 s 21

**Additional condition to provide network services**

s 44            amd 1997 No. 26 s 18; 1997 No. 77 s 22

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

s 45            amd 1997 No. 26 s 19

**Responsibility for network control**

s 45A          ins 1997 No. 77 s 23

**PART 6—RETAIL ENTITIES AND THEIR AUTHORITIES**

pt hdg        sub 1997 No. 26 s 20

**Retail entities**

s 46            sub 1997 No. 26 s 20

**Retail authorities**

s 47            sub 1997 No. 26 s 20; 1997 No. 77 s 24

**Retail area of retail entity**

s 48            sub 1997 No. 26 s 20; 1997 No. 77 s 24

**Where retail authority does not state a retail area**

s 48A          ins 1997 No. 77 s 24

**Applying for customer retail services**

s 48B          ins 1997 No. 77 s 24

**Obligation to provide customer retail services to non-contestable customers**

s 49            sub 1997 No. 26 s 20; 1997 No. 77 s 24

**Sale if no customer sale contract**

s 49A          ins 1997 No. 77 s 24

**Standard customer sale contract**

s 50            sub 1997 No. 26 s 20  
                  amd 1997 No. 77 s 25

**Approval of standard customer sale contract by regulator**

s 51            sub 1997 No. 26 s 20; 1997 No. 77 s 26

**Amendment of standard customer sale contract**

s 51A          ins 1997 No. 77 s 26

**Customer sale contracts outside standard form**

s 52            sub 1997 No. 26 s 20; 1997 No. 77 s 27

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s 52A          ins 1997 No. 77 s 27

**Limitations on obligation to sell**

s 53            sub 1997 No. 26 s 20

**Obligation to sell subject to authority**

s 54            sub 1997 No. 26 s 20

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**Electricity must be sold on fair and reasonable terms**

- prov hdg** amd 1997 No. 77 s 28(1)  
**s 55A** ins 1997 No. 26 s 20  
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**Contracting out of s 53, 55, 96 or 97**

- prov hdg** amd 1997 No. 77 s 29(1)  
**s 55B** ins 1997 No. 26 s 20  
 amd 1997 No. 77 s 29(2)

**Sale of electricity outside retail area**

- s 55C** ins 1997 No. 26 s 20

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- s 55D** ins 1997 No. 26 s 20  
 amd 1997 No. 50 s 10; 1997 No. 77 s 30

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- s 55E** ins 1997 No. 26 s 20

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- s 56** amd 1997 No. 26 s 21

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- s 58** amd 1997 No. 26 s 22

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- s 59** amd 1997 No. 26 s 23

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- s 60** amd 1997 No. 50 s 11; 1997 No. 77 s 31

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**PART 8A—ELECTRICITY INDUSTRY OMBUDSMAN**

- pt hdg** ins 1997 No. 77 s 33

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- div hdg** ins 1997 No. 77 s 33

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- s 64A** ins 1997 No. 77 s 33

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- s 64B** ins 1997 No. 77 s 33

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- s 64C** ins 1997 No. 77 s 33

**Division 2—Appointment of electricity industry ombudsman**

- div hdg** ins 1997 No. 77 s 33

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**Powers**

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**Division 4—Staff of Office**

**div hdg** [ins 1997 No. 77 s 33](#)

**Staff**

**s 64L** [ins 1997 No. 77 s 33](#)

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**s 64M** [ins 1997 No. 77 s 33](#)

**Delegation**

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**Division 5—Funding and reporting**

**div hdg** [ins 1997 No. 77 s 33](#)

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**PART 11—STATE ELECTRICITY ENTITIES****pt 11 (ss 76–80)** om 1997 No. 26 s 25**Electrical Workers and Contractors Board is statutory body****s 81A** ins 1996 No. 54 s 9 sch**CHAPTER 3—OBLIGATION TO SUPPLY****ch 3 (ss 82–86)** om 1997 No 26 s 26**Connection of generating plant to transmission grid or supply network only if authorised****s 87** amd 1997 No. 50 s 12**Prohibition on operating transmission grid unless authorised****s 88** amd 1997 No. 50 s 13**Prohibition on operating supply network unless authorised****s 88A** ins 1997 No. 26 s 27  
amd 1997 No. 50 s 14**Restriction on sale of electricity****s 89** sub 1997 No. 26 s 28  
amd 1997 No. 50 s 15**PART 2—PRICING AND SERVICE QUALITY STANDARDS****pt hdg** sub 1997 No. 50 s 16; 1997 No. 77 s 34**Division 1—Queensland System Operator****div hdg** ins 1997 No. 50 s 17  
om 1997 No. 77 s 34**Minister may decide retail price for non-contestable customers****s 90** sub 1997 No. 50 s 17; 1997 No. 77 s 34**Retail entity must comply with prices or methodology****s 91** sub 1997 No. 50 s 17; 1997 No. 77 s 34**Standards about quality of service****s 92** amd 1997 No. 26 s 29  
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**Action that may be taken for failure to comply with direction or for a breach of the Market Code**

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**Limitation of liability of Queensland System Operator**

s 92E ins 1997 No. 50 s 17  
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s 92F ins 1997 No. 50 s 17  
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**s 93**      amd 1997 No. 50 s 18  
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**Transmission entity's building or use of operating works and affected land prevails over other uses of affected land under planning scheme**

**s 111E**    ins 1996 No. 28 s 3

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**s 111F**    ins 1996 No. 28 s 3

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**s 111G**    ins 1996 No. 28 s 30

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s 131A ins 1997 No. 77 s 42

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s 132 amd 1997 No. 26 s 34

**Types of disciplinary action**

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**s 137**      amd 1997 No. 26 s 36

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**s 166**      amd 1997 No. 77 s 46

**Occupier to give notice of electrical accident**

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**s 169**      amd 1997 No. 26 s 39

**Electricity entity to advise regulator immediately of accident**

**s 170**      amd 1997 No. 26 s 40

**Issue of generation authorities**

**s 178**      amd 1997 No. 50 s 22

**Application for generation authority**

**s 179**      amd 1997 No. 50 s 23

**Publication about application for generation authority**

**s 179A**     ins 1997 No. 77 s 47

**Consideration of application for generation authority**

**s 180**      amd 1997 No. 77 s 48

**Amendment of generation authorities and conditions by notice to generation entity**

**s 183A**     ins 1997 No. 77 s 49

**Publication about application for transmission authority**

**s 188A**     ins 1997 No. 77 s 50

**Consideration of application for authority**

**s 189**      amd 1997 No. 77 s 51

**Amendment of transmission authorities and conditions by notice to transmission entity**

**s 192A**     ins 1997 No. 77 s 52

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amd 1997 No. 77 s 57**Application for authority****s 204** sub 1997 No. 26 s 50  
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s 207 sub 1997 No. 26 s 50

**Amendment of conditions stated in retail authorities**

s 207A ins 1997 No. 26 s 50

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**Surrender of retail authorities**

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s 211B ins 1997 No. 77 s 63

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s 211C ins 1997 No. 77 s 63

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s 240A ins 1997 No. 77 s 64

**Evidentiary effect of conduct notice**

s 251A ins 1997 No. 77 s 65

**Protection from liability**

s 254 amd 1997 No. 77 s 66(1); 1997 No. 77 s 66(2)

**Protection from liability of member or employee of QCA**

s 254AA ins 1997 No. 77 s 66A

**Attachment—words defined in other legislation referred to in this Act**

s 254A ins 1997 No. 50 s 33

**Application of Freedom of Information Act and Judicial Review Act**

s 256 amd 1995 No. 57 s 4 sch 1

**Transmission and distribution entities are constructing authorities**

s 257 sub 1997 No. 77 s 67  
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**Regulation may declare a constructing authority**

s 257A ins 1997 No. 77 s 67

**Fixing of prices by State electricity entities**

s 258 om 1997 No. 77 s 68

**Regulations about generating capacity**

s 259 om 1997 No. 77 s 68

**Regulation may declare a State electricity entity**

s 259A ins 1997 No. 26 s 51

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s 260 sub 1997 No. 77 s 69

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s 261 om 1997 No. 77 s 70

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s 264 sub 1997 No. 77 s 71

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pt hdg ins 1997 No. 26 s 52

**QGC to be issued generation authority etc.**

s 270 exp 1 January 1996 (see s 270(3))

**QETC to be issued transmission authority etc.**

s 271 exp 1 January 1996 (see s 271(3))

**QTSC to be issued supply entity authority etc.**

s 272 exp 1 January 1996 (see s 272(3))

**State authorised suppliers to be issued authorised supplier authority etc.**

s 273 exp 1 January 1996 (see s 273(3))

**Continuation of tariff schedules**

s 274 exp 1 July 1995 (see s 274(2))

**Installation inspectors are electricity officers**

s 275 exp 1 July 1995 (see s 275(4))

**Transfer of assets and liabilities to the department**

s 277 exp 1 July 1995 (see s 277(3))

**Regulations about certificates of employees' entitlements**

s 278 exp 1 July 1995 (see s 278(2))

**Continuation of provisions of Electricity Act 1976 until approval of industry superannuation scheme**

prov hdg amd 1995 No. 36 s 4(1)

s 279 amd 1995 No. 36 s 4(2)

exp on the approval day (see s 279(3))**First declaration of approved superannuation scheme**

s 280 amd 1995 No. 36 s 5

**Effect of approval of industry superannuation scheme on QESIESS**

s 281 prev s 281 exp on the day after the transfer day (see prev s 281(6))

s 20A AIA applies (see s 281(7))

pres s 281 sub 1995 No. 36 s 6

exp on the approval day (see s 281(8))

s 20A AIA applies (see s 281(7))

**Effect of approval of industry superannuation scheme on entitlement under Restoration Act**

- s 281A ins 1995 No. 36 s 6  
exp on the approval day (see s 281A(4))  
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**Continuation of rationing orders**

- s 282 exp 1 April 1995 (see s 282(2))

**Continuation of restriction orders**

- s 283 exp 1 January 1996 (see s 283(2))

**Certain New South Wales Councils are authorised suppliers**

- s 284 exp 1 January 1996 (see s 284(5))

**Licences under s 138 of repealed Act**

- s 285 amd 1997 No. 50 s 24  
 exp 1 January 1998 (see s 285(3))

**Electricity Act 1976 references**

- s 285A ins 1995 No. 57 s 4 sch 1

**References to electricity boards, electricity authorities and electricity supply industry**

- s 286 amd 1995 No. 57 s 4 sch 1

**Gladstone power station arrangements**

- s 287A ins 1997 No. 50 s 25

**PART 2—TRANSITIONAL PROVISIONS FOR ELECTRICITY AMENDMENT ACT 1997, ELECTRICITY AMENDMENT ACT (No. 2) 1997 AND ELECTRICITY AMENDMENT ACT (No. 3) 1997**

- pt hdg ins 1997 No. 26 s 53  
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**Continuation of tariffs**

- s 289 prev s 289 exp 1 January 1996 (see prev s 289(3))  
 pres s 289 ins 1997 No. 26 s 53  
exp 1 July 1998 (see s 289(2))

**Expiry of QGC's generation authorities**

- s 290 prev s 290 exp 1 January 1997 (see prev s 290(2))  
 pres s 290 ins 1997 No. 26 s 53  
exp 1 July 1998 (see s 290(4))

**Generation authorities for new generation entities**

- s 291 prev s 291 exp 1 January 1996 (see prev s 291(3))  
 pres s 291 ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 27; 1997 No. 77 s 73  
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**CHAPTER 15—REPEALS AND AMENDMENTS**

- ch hdg om R1 (see RA s 37)



**Expiry of QETC's transmission authority**

**s 292** prev s 292 om R1 (see RA s 40)  
 pres s 292 ins 1997 No. 26 s 53  
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**New transmission authority for QETC**

**s 293** prev s 293 om R1 (see RA s 40)  
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exp 1 July 1998 (see s 293(5))

**Expiry of QTSC's supply entity authority**

**s 294** ins 1997 No. 26 s 53  
exp 1 July 1998 (see s 294(4))

**Expiry of State authorised supplier authorities**

**s 295** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 28  
exp 1 July 1998 (see s 295(4))

**New distribution authorities**

**s 296** ins 1997 No. 26 s 53  
exp 1 July 1998 (see s 296(7))

**New retail authorities**

**s 297** ins 1997 No. 26 s 53  
exp 1 July 1998 (see s 297(7))

**Dispensing with formal requirements for the issue of authorities**

**prov hdg** amd 1997 No. 50 s 29(1)  
**s 298** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 29(2)  
exp 1 July 1998 (see s 298(2))

**Directions to State electricity entities**

**s 299** ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 74

**Minister may give exemptions from holding an authority or being authorised to sell**

**prov hdg** amd 1997 No. 50 s 30(1)  
**s 300** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 30(2); 1997 No. 77 s 75  
exp 1 July 1999 (see s 300(4))

**Notifying exemption under s 300**

**s 300A** ins 1997 No. 50 s 31  
 amd 1997 No. 77 s 76  
exp 1 July 1999 (see ss 300(4), 300A(3))

**Amending or cancelling exemption under s 300**

**s 300B** ins 1997 No. 50 s 31  
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exp 1 July 1999 (see ss 300(4), 300B(5))

**Minister's powers about transmission and distribution pricing**

- s 301** ins 1997 No. 26 s 53  
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**QTSC State electricity entity for limited purposes**

- s 302** ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 78  
exp 1 July 1998 (see s 302(2))

**Interim registration under s 92I**

- s 302A** ins 1997 No. 50 s 32  
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**Amending or cancelling grant under s 302A**

- s 302B** ins 1997 No. 50 s 32  
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**Market Code replaces Queensland Grid Code**

- s 302C** ins 1997 No. 50 s 32

**Transitional regulations**

- s 303** ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 80  
exp 1 July 1999 (see s 303(3))

**SCHEDULE 1—APPEALS AGAINST ADMINISTRATIVE DECISIONS**

amd 1997 No. 26 s 54; 1997 No. 50 s 34; 1997 No. 77 s 81

**SCHEDULE 2—SUBJECT MATTER FOR REGULATIONS****Conditions of supply and sale**

- prov hdg** amd 1997 No. 26 s 55(1)  
**s 1** amd 1997 No. 26 s 55(2)–(3)

**Conditions of authorities and approvals**

- s 3A** ins 1997 No. 77 s 82

**Prescribed things and prohibited interests**

- s 3B** ins 1997 No. 77 s 82

**SCHEDULE 3—ACTS REPEALED**

om R1 (see RA s 40)

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**SCHEDULE 5—DICTIONARY**

- def “**affected land**” ins 1996 No. 28 s 4  
 def “**approval day**” ins 1995 No. 36 s 7(2)  
 def “**authorised supplier**” om 1997 No. 26 s 56(1)  
 def “**authorised supplier authority**” om 1997 No. 26 s 56(1)  
 def “**code participant**” ins 1997 No. 50 s 35  
 sub 1997 No. 77 s 83  
 def “**conduct notice**” ins 1997 No. 77 s 83(2)  
 def “**conduct rules**” ins 1997 No. 77 s 83(2)

- def **“customer connection contract”** ins 1997 No. 26 s 56(2)
  - sub 1997 No. 77 s 83(1)–(2)
- def **“customer connection services”** ins 1997 No. 77 s 83(2)
- def **“customer retail services”** ins 1997 No. 77 s 83(2)
- def **“customer sale contract”** ins 1997 No. 26 s 56(2)
  - sub 1997 No. 77 s 83(1)–(2)
- def **“dispute”** ins 1997 No. 77 s 83(2)
- def **“distribution area”** ins 1997 No. 26 s 56(2)
- def **“distribution authority”** ins 1997 No. 26 s 56(2)
- def **“distribution entity”** ins 1997 No. 26 s 56(2)
- def **“electricity entity”** om 1997 No. 77 s 83(1)
  - ins 1997 No. 77 s 83(2)
- def **“government company”** ins 1997 No. 26 s 56(2)
- def **“LGPE Act”** ins 1996 No. 28 s 4
- def **“Market Code”** ins 1997 No. 50 s 35
  - sub 1997 No. 77 s 83
- def **“National Electricity (Queensland) Law”** ins 1997 No. 77 s 83(2)
- def **“National Electricity Tribunal”** ins 1997 No. 77 s 83(2)
- def **“NECA”** ins 1997 No. 77 s 83(2)
- def **“NEMMCO”** ins 1997 No. 77 s 83(2)
- def **“negotiated customer connection contract”** ins 1997 No. 26 s 56(2)
- def **“negotiated customer sale contract”** ins 1997 No. 26 s 56(2)
- def **“non–contestable customer”** ins 1997 No. 26 s 56(2)
- def **“Office”** ins 1997 No. 77 s 83(2)
- def **“obligated supplier”** om 1997 No. 26 s 56(1)
- def **“obligation to supply”** om 1997 No. 26 s 56(1)
- def **“permissible use”** ins 1996 No. 28 s 4
- def **“planning instrument”** ins 1996 No. 28 s 4
- def **“planning scheme”** ins 1996 No. 28 s 4
- def **“planning scheme maps”** ins 1996 No. 28 s 4
- def **“pool”** ins 1997 No. 50 s 35
  - om 1997 No. 77 s 83(1)
- def **“power system”** om 1997 No. 77 s 83(1)
- def **“prohibited interest”** ins 1997 No. 77 s 83(2)
- def **“QCA”** ins 1997 No. 77 s 83(2)
- def **“Queensland grid code”** ins 1997 No. 50 s 35
- def **“Queensland system”** ins 1997 No. 50 s 35
- def **“Queensland System Operator”** ins 1997 No. 50 s 35
- def **“relevant planning scheme”** ins 1996 No. 28 s 4
- def **“retail area”** ins 1997 No. 26 s 56(2)
- def **“retail authority”** ins 1997 No. 26 s 56(2)
- def **“retail entity”** ins 1997 No. 26 s 56(2)
- def **“sell”** sub 1997 No. 77 s 83(1)–(2)
- def **“spot market”** ins 1997 No. 77 s 83(2)
- def **“standard customer connection contract”** ins 1997 No. 26 s 56(2)
- def **“standard customer sale contract”** ins 1997 No. 26 s 56(2)
- def **“State authorised supplier”** om 1997 No. 26 s 56(1)
- def **“State electricity entity”** sub 1997 No. 26 s 56
- def **“supply area”** om 1997 No. 26 s 56(1)

def “**supply entity**” om 1997 No. 26 s 56(1)  
def “**supply entity authority**” om 1997 No. 26 s 56(1)  
def “**system control**” om 1997 No. 77 s 83(1)  
def “**system control entity**” om 1997 No. 77 s 83(1)  
def “**trading arrangements**” ins 1997 No. 50 s 35  
def “**transfer day**” om 1995 No. 36 s 7(1)

**ATTACHMENT—EXTRACTS FROM OTHER LEGISLATION REFERRED  
TO IN THE ACT**

ins 1997 No. 50 s 36

**8 Provisions that have not commenced and are not  
incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Electricity Amendment Act (No. 3) 1997 No. 77 ss 31(2), 32(1), 33, 39, 66(2), 83(2)**  
(defs “dispute”, “Office” and the ins of para (c) in the def “electricity entity”)  
read as follows—

**Amendment of s 63 (Functions)**

**32.(1)** Section 63(d)—

*omit, insert—*

‘(d) to help settle certain disputes between electricity entities and  
between electricity entities and other persons; and’.

**Insertion of new ch 2, pt 8A**

**33.** After chapter 2, part 8—

*insert—*

## **‘PART 8A—ELECTRICITY INDUSTRY OMBUDSMAN**

### *‘Division 1—General*

#### **‘Electricity industry ombudsman and Office**

**‘64A.(1)** There is to be an electricity industry ombudsman.

**‘(2)** An office called the Office of the Electricity Industry Ombudsman (the “**Office**”) is established.

**‘(3)** The Office consists of the ombudsman and the staff of the Office.

#### **‘Control of Office**

**‘64B.(1)** The ombudsman is to control the Office.

**‘(2)** Subsection (1) does not prevent the attachment of the Office to a department to ensure the Office is supplied with the administrative support services it requires to carry out its functions effectively and efficiently.

#### **‘Functions of Office**

**‘64C.** The functions of the Office are to help the ombudsman perform the ombudsman’s functions.

### *‘Division 2—Appointment of electricity industry ombudsman*

#### **‘Appointment**

**‘64D.(1)** The electricity industry ombudsman is to be appointed by the Governor in Council.

**‘(2)** Subject to sections 64F and 64G, the ombudsman holds office for a term stated in the appointment of no more than 5 years.

**‘(3)** The Minister must notify the appointment by gazette notice.

**‘(4)** The appointment takes effect—

- (a) on a day stated in the notice; or
- (b) if no day is stated in the notice—on the day the notice is gazetted.

‘(5) The ombudsman is to be appointed under this Act, and not under the *Public Service Act 1996*.

#### **‘Terms of appointment**

‘64E.(1) The electricity industry ombudsman is to be paid the remuneration and allowances decided by the Governor in Council.

‘(2) The ombudsman holds office on the terms not provided for by this Act that are decided by the Governor in Council.

#### **‘Resignation**

‘64F. The electricity industry ombudsman may resign by signed notice given to the Minister.

#### **‘Termination of appointment**

‘64G. The Governor in Council may terminate the appointment of the electricity industry ombudsman if the ombudsman—

- (a) is found guilty of an indictable offence; or
- (b) becomes incapable of performing the duties of the ombudsman because of physical or mental incapacity; or
- (c) becomes a bankrupt or takes advantage of the laws in effect relating to bankruptcy; or
- (d) is guilty of misconduct of a kind that could warrant dismissal from the public service if the ombudsman were an officer of the public service.

#### **‘Preservation of rights**

‘64H.(1) This section applies if an officer of the public service is appointed as the electricity industry ombudsman.

‘(2) The person keeps all rights accrued or accruing to the person as an

officer of the public service, as if service as the ombudsman were a continuation of service as an officer of the public service.

‘(3) At the end of the person’s term of office or on resignation—

- (a) the person has the right to be appointed to an office in the public service at a salary level not less than the current salary level of an office equivalent to the office the person held before being appointed as the ombudsman; and
- (b) the person’s service as the ombudsman is taken to be service of a like nature in the public service for deciding the person’s rights as an officer of the public service.

### *‘Division 3—Ombudsman’s functions and powers*

#### **‘Functions**

‘64I.(1) The ombudsman must perform the following functions if they are stated as functions or roles of the ombudsman in a customer connection contract or customer sale contract—

- (a) to investigate complaints by customers about the performance by distribution entities and retail entities of their obligations under a contract;
- (b) to resolve disputes, between distribution entities and customers, and retail entities and customers, about the performance of obligations under a contract.

‘(2) The ombudsman may also—

- (a) for complaint handling procedures prepared by distribution and retail entities—approve the procedures prepared by entities; and
- (b) perform another function prescribed by regulation.

#### **‘Powers**

‘64J.(1) Without limiting the powers the ombudsman has as an individual, the ombudsman may do anything else necessary or convenient to be done for, or in connection with, the performance of the ombudsman’s

functions.

‘(2) The ombudsman may exercise the ombudsman’s powers inside and outside the State.

### **‘Ombudsman not subject to direction about investigations**

‘64K. The electricity industry ombudsman is not subject to direction by anyone about—

- (a) the way the ombudsman investigates complaints or resolves disputes; or
- (b) orders made concerning a dispute referred to the ombudsman; or
- (c) the priority given to investigations or the resolution of disputes.

### ***‘Division 4—Staff of Office***

#### **‘Staff**

‘64L. The staff of the Office of the Electricity Industry Ombudsman are to be employed under the *Public Service Act 1996*.

#### **‘Alternative staffing arrangements**

‘64M. The ombudsman may arrange with the chief executive of a government agency for the services of staff, or for facilities, of the agency to be made available to the ombudsman.

#### **‘Delegation**

‘64N.(1) The ombudsman may delegate to an appropriately qualified member of the Office’s staff the power to hear a dispute referred to the ombudsman.

‘(2) In subsection (1)—

“**appropriately qualified**” includes having the qualifications, experience or standing to exercise the power.



*Example of standing—*

A person's classification level in the public service.

### ***‘Division 5—Funding and reporting***

#### **‘Funding of Office**

**‘64O.(1)** The Office is to be funded in the way prescribed by regulation.

**‘(2)** Without limiting subsection (1), the Office may be funded by electricity entities, by—

- (a) a levy on the entities; or
- (b) payment of an amount payable as a condition of an entity's authority; or
- (c) payment of an amount payable on the issue of an entity's authority by the regulator.

#### **‘Annual report by ombudsman**

**‘64P.(1)** As soon as practicable after the end of each financial year, but within 4 months after the end of the financial year, the electricity industry ombudsman must prepare and give to the Minister a written report about the operations of the Office during the year.

**‘(2)** Without limiting subsection (1), the ombudsman must include in the report—

- (a) a description of the following matters for the year—
  - (i) complaints received by the ombudsman;
  - (ii) complaints by customers investigated by the ombudsman;
  - (iii) the disputes referred to the ombudsman;
  - (iv) the orders of the ombudsman;
  - (v) the matters referred by the ombudsman to the regulator; and
- (b) details of other functions performed by the ombudsman or officers of the ombudsman during the year.

‘(3) A description may include statistics.

‘(4) The report must not be prepared in a way that discloses confidential information.

### **‘Minister must lay report before Legislative Assembly**

‘**64Q.(1)** The Minister must lay a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives it.

‘(2) If, at the time the Minister would otherwise be required to lay a copy of the report before the Legislative Assembly, the Legislative Assembly is not in session or not actually sitting, the Minister must give a copy of the report to the clerk of the Parliament.

‘(3) The clerk must lay a copy of the report before the Legislative Assembly on its next sitting day.

‘(4) For the purposes of its printing and publication, a report that is given to the clerk under subsection (2) is taken to have been laid before the Legislative Assembly, and to have been ordered to be printed by the Legislative Assembly, when it is given to the clerk.

## ***‘Division 6—Miscellaneous***

### **‘Application of certain Acts**

‘**64R.** The Office of the Electricity Industry Ombudsman is—

- (a) a unit of public administration under the *Criminal Justice Act 1989*; and
- (b) an agency under the *Equal Opportunity in Public Employment Act 1992*; and
- (c) a statutory body under the *Financial Administration and Audit Act 1977*; and
- (d) a public authority under the *Libraries and Archives Act 1988*.’

**Insertion of new ch 5, pts 1A and 1B**

**39.** Chapter 5, after part 1—

*insert—*

**‘PART 1A—QUEENSLAND COMPETITION  
AUTHORITY**

*‘Division 1—Definitions*

**‘Definitions for pt 1A**

**‘120A.** In this part—

**“authority”** includes a special approval.

**“electricity entity”** includes a special approval holder.

**‘References to person involved in a contravention**

**‘120B.** In this part, a reference to a person involved in a contravention is a reference to a person who—

- (a) has aided, abetted, counselled or procured the contravention; or
- (b) has induced the contravention, whether through threats, promises or in another way; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

*‘Division 2—Conduct rules*

**‘QCA may prepare proposed conduct rules**

**‘120C.(1)** The QCA may prepare proposed conduct rules.

**‘(2)** The proposed rules may state—

- (a) the electricity entities or types or classes of entity to which the

proposed rules are to apply; and

- (b) the way market conduct is to be regulated to promote the efficient and equitable operation of the electricity market.

‘(3) The matters the rules may deal with include the following—

- (a) curtailing interference with customers seeking to change retail entity;
- (b) assigning responsibility amongst distribution entities, retail entities and customers, so that customers can change retailer quickly and at minimum cost;
- (c) the charges that may be levied by a distribution or retail entity on customers changing retailer;
- (d) ensuring the advice distribution or retail entities give to customers to induce customers to change or not change retailer is accurate;
- (e) ensuring a retail entity with contestable and non-contestable customers does not assign costs from one to the other to the detriment of non-contestable customers.

### **‘Public notice of proposed conduct rules**

‘120D.(1) The QCA must give public notice of the proposed conduct rules.

‘(2) The notice must—

- (a) state that the QCA has prepared proposed conduct rules; and
- (b) state the electricity entities to which the proposed rules are to apply; and
- (c) be published in a newspaper circulating generally in the State; and
- (d) state that the proposed rules may be inspected, and copies purchased, at the QCA’s office between times stated in the notice; and
- (e) state the cost of a copy of the proposed rules; and
- (f) invite submissions from any interested person; and
- (g) state a day, not earlier than 28 days from publication of the notice,

by which submissions may be made to the QCA about the proposed rules.

### **‘Submissions on proposed conduct rules**

**‘120E.(1)** A person may, no later than the last day for the making of submissions, make a submission to the QCA about the proposed conduct rules.

**‘(2)** A submission must—

- (a) be in writing and signed by or for each person making the submission; and
- (b) state—
  - (i) the name and address of each person making the submission; and
  - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (c) be given to the QCA.

### **‘Changing proposed conduct rules**

**‘120F.** The QCA must consider all submissions properly made to it and may change the proposed conduct rules after considering the submissions.

### **‘Adopting and notifying conduct rules**

**‘120G.(1)** The proposed conduct rules, with or without change, become the conduct rules once adopted by the QCA by resolution after consideration of the submissions and notified by gazette notice.

**‘(2)** The conduct rules take effect—

- (a) on a day stated in the notice; or
- (b) if no day is stated in the notice—on the day the notice is gazetted.

**‘QCA must advise Minister**

**‘120GA.** The QCA must advise the Minister immediately after the conduct rules take effect.

**‘Tabling of conduct rules in Legislative Assembly**

**‘120GB.(1)** A copy of the conduct rules must be tabled in the Legislative Assembly by the Minister within 14 sitting days after the conduct rules take effect.

**‘(2)** The copy of the conduct rules is tabled for information only.

**‘Conduct rules must not be contravened**

**‘120H.** An electricity entity must not contravene a provision of the conduct rules that applies to the entity.

**‘Conduct rules to be open for inspection**

**‘120I.(1)** The QCA must keep a copy of the conduct rules available for inspection at its office at all times during which it is open for transaction of public business.

**‘(2)** The QCA must, on payment by a person of the reasonable fee fixed by the QCA, give a copy of the rules to the person.

**‘Amending conduct rules**

**‘120J.** The QCA may, at any time, prepare a proposed amendment of the conduct rules.

**‘Public notice of proposed amendment**

**‘120K.(1)** The QCA must give public notice of the proposed amendment of the conduct rules.

**‘(2)** The notice must—

- (a) state that the QCA has adopted a proposed amendment of the conduct rules for the site; and

- (b) state the electricity entities affected by the amendment; and
- (c) state the nature of the proposed amendment; and
- (d) be published in a newspaper circulating generally in the State; and
- (e) state that the proposed amendment may be inspected, and copies purchased, at the QCA's office between times stated in the notice; and
- (f) state the cost of a copy of the proposed amendment; and
- (g) invite submissions from any interested person; and
- (h) state a day, not earlier than 14 days from publication of the notice, by which submissions may be made to the QCA about the proposed amendment.

#### **'Submissions on proposed amendment**

**'120L.(1)** A person may, on or before the last day for the making of submissions, make a submission to the QCA about a proposed amendment of the conduct rules.

**'(2)** A submission must—

- (a) be in writing and signed by or for each person making the submission; and
- (b) state—
  - (i) the name and address of each person making the submission; and
  - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (c) be given to the QCA.

#### **'Changing proposed amendment**

**'120M.** The QCA must consider all submissions properly made to it and may change the proposed amendment of the conduct rules after considering the submissions.

**‘Adopting amendment**

**‘120N.(1)** The proposed amendment of the conduct rules, with or without change, becomes an amendment of the conduct rules once it is adopted by the QCA by resolution after consideration of the submissions and notified by gazette notice.

**‘(2)** The amendment of the conduct rules takes effect—

- (a) on a day stated in the notice; or
- (b) if no day is stated in the notice—on the day the notice is gazetted.

**‘QCA must advise Minister**

**‘120NA.** The QCA must advise the Minister immediately after the amendment of the conduct rules takes effect.

**‘Tabling of amendment of conduct rules in Legislative Assembly**

**‘120NB.(1)** A copy of the amendment of the conduct rules must be tabled in the Legislative Assembly by the Minister within 14 sitting days after the amendment takes effect.

**‘(2)** The copy of the amendment of the conduct rules is tabled for information only.

***‘Division 3—Enforcing conduct rules*****‘Conduct notices**

**‘120O.(1)** If the QCA is satisfied an electricity entity has contravened the conduct rules, it may make a written notice (a **“conduct notice”**) stating that the entity has contravened, or is contravening, the conduct rules.

**‘(2)** A conduct notice must give particulars of the contravention stated in the notice.



**‘Conduct notice to be given to electricity entity**

**‘120P.** As soon as practicable after making a conduct notice, the QCA must give a copy of the notice to the electricity entity concerned.

**‘Duration of conduct notice**

**‘120Q.(1)** A conduct notice comes into effect—

- (a) when it is made; or
- (b) if the notice states a later time—at the later time.

**‘(2)** A conduct notice ends—

- (a) on the day stated in the notice; or
- (b) if the notice is cancelled before that day—when it is cancelled.

**‘(3)** The day stated in the notice must not be more than 1 year from when the notice comes into effect.

**‘(4)** If a conduct notice ends, this division does not prevent the QCA from making a fresh conduct notice about the same matter as the expired notice.

**‘QCA to act promptly**

**‘120R.(1)** This section applies if the QCA has reason to suspect an electricity entity has contravened, or is contravening, the conduct rules.

**‘(2)** The QCA must act promptly in deciding whether to issue a conduct notice in relation to the contravention.

**‘(3)** A failure to comply with subsection (1) does not effect the validity of a conduct notice.

**‘Register of conduct notices**

**‘120S.(1)** The QCA must keep a register of conduct notices.

**‘(2)** The register must include particulars of all conduct notices, including expired conduct notices.

**‘Penalty for breach of conduct rules**

**‘120T.(1)** This section applies if, on the application of the QCA, the Supreme Court is satisfied a person has—

- (a) contravened the conduct rules; or
- (b) attempted to contravene the conduct rules; or
- (c) been involved in a contravention of the conduct rules.

**‘(2)** The court may order the person to pay an amount to the State as a penalty of not more than—

- (a) for an individual—\$100 000; or
- (b) for a corporation—\$500 000.

**‘(3)** In fixing a penalty, the court must consider the following—

- (a) the nature and extent of—
  - (i) the contravention; and
  - (ii) loss or damage suffered because of the contravention;
- (b) the circumstances in which the contravention took place;
- (c) whether the person has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.

**‘How order enforced**

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

**‘Injunctions**

**‘120V.(1)** The Supreme Court may, on the application of the QCA or any other person, grant an injunction if satisfied a person has engaged or is proposing to engage, in conduct that constitutes, or would constitute the following—

- (a) a contravention of the conduct rules;

- (b) attempting to contravene the conduct rules;
- (c) aiding, abetting, counselling or procuring a person to contravene the conduct rules;
- (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene the conduct rules;
- (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the conduct rules;
- (f) conspiring with others to contravene the conduct rules.

‘(2) An injunction may be granted on conditions.

‘(3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied a person has engaged, or is proposing to engage, in conduct of a kind mentioned in subsection (1).

‘(4) The court may grant an interim injunction pending its decision on the application.

‘(5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.

‘(6) The court may amend an injunction or interim injunction.

‘(7) An injunction or interim injunction restraining a person from engaging in conduct may be granted whether or not—

- (a) it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
- (b) the person has previously engaged in conduct of that kind; and
- (c) there is an imminent danger of substantial damage to another person if the person engages in conduct of that kind.

‘(8) An injunction or interim injunction requiring a person to do an act or thing may be granted whether or not—

- (a) it appears to the court that the person intends to fail again, or to continue to fail, to do that act or thing; and
- (b) the person has previously failed to do that act or thing; and
- (c) there is an imminent danger of substantial damage to another person if the person does not do that act or thing.

**‘Actions for damages—breach of conduct rules**

**‘120W.(1)** A person who suffers loss or damage because of another person’s conduct that contravened the conduct rules may recover the amount of the loss or damage by action in the Supreme Court against—

- (a) the other person; or
- (b) another person involved in the contravention.

**‘(2)** The action may only be brought within 3 years from when the loss or damage was suffered.

**‘Other orders—compensation for breach of conduct rules**

**‘120X.(1)** This section applies if, in a proceeding under this division concerning a contravention of the conduct rules, the Supreme Court makes a finding that—

- (a) a party to the proceeding (the **“injured party”**) has suffered, or is likely to suffer, loss or damage; and
- (b) the loss or damage, or likely loss or damage, was caused by the alleged conduct of another party to the proceeding (the **“contravener”**) who engaged in the contravention.

**‘(2)** The court may, on the application of the injured party, make orders it thinks appropriate against—

- (a) the contravener; or
- (b) another person involved in the contravention.

**‘(3)** Before making an order, the court must be satisfied the order will—

- (a) compensate the injured party, in whole or in part, for the loss or damage; or
- (b) prevent or reduce the loss or damage.

**‘(4)** The court may make an order whether or not it grants an injunction or makes another order under this division.

**‘(5)** This section does not limit the court’s power to grant an injunction under this division.

**‘(6)** The court’s powers under this section concerning a contract do not

affect any powers that any other court may have concerning the contract in proceedings in that other court concerning the contract.

*Examples of orders the court may make under subsection (2)—*

1. An order declaring the whole or part of a contract or collateral agreement between the injured party and the contravener, or between the injured party and another person involved in the contravention—

- (a) to be void; or
- (b) to have been void from a stated day.

2. An order amending a contract or arrangement mentioned in example 1 in a way the court thinks appropriate and declaring the contract or arrangement to have had effect, as so amended, from a stated day.

3. An order refusing to enforce the whole or part of a contract or collateral arrangement mentioned in example 1.

4. An order directing the contravener or another person involved in the contravention to—

- (a) refund an amount or return property to the injured party; or
- (b) pay the injured party the amount of the loss or damage; or
- (c) at their own expense, supply stated goods or services to the injured party.

### **‘Finding of fact to be evidence in proceedings**

‘**120Y.(1)** This section applies if a finding of any fact is made by a court in proceedings under section 120T or 120V, in which a person has been found to have contravened, or to have been involved in a contravention of, the conduct rules.

‘**(2)** The finding is evidence of the fact in—

- (a) a proceeding under section 120W against the person; or
- (b) an application under section 120X for an order against the person.

‘**(3)** The finding may be proved by producing a document under the seal of the court from which the finding appears.

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

‘**120Z.(1)** This section applies to a proceeding under this division.

‘(2) If the proceeding concerns alleged conduct engaged in by a person to which the conduct rules apply and it is necessary to prove the person’s state of mind, it is enough to prove that—

- (a) a director, servant or agent (a **“representative”**) of a corporation that engaged in the conduct, acting within the scope of the representative’s actual or apparent authority, had the state of mind; or
- (b) a servant or agent of a person who engaged in the conduct, acting within the scope of the servant’s or agent’s actual or apparent authority, had the state of mind.

‘(3) Conduct engaged in for a corporation by the following persons is taken to have been engaged in by the corporation—

- (a) a representative of the corporation, acting within the scope of the representative’s actual or apparent authority; or
- (b) another person at the direction, or with the consent or agreement, of a representative of the corporation, if the giving of the direction, consent or agreement was within the scope of the representative’s actual or apparent authority.

‘(4) Conduct engaged in for a person (the **“principal”**) by the following persons is taken to have been engaged in by the principal—

- (a) a servant or agent of the principal, acting within the scope of the servant’s or agent’s actual or apparent authority; or
- (b) another person at the direction or with the consent or agreement, of a servant or agent of the principal, if the giving of the direction, consent or agreement was within the scope of the servant’s or agent’s actual or apparent authority.

‘(5) In this section—

**“consent or agreement”** includes an implied consent or agreement.

**“state of mind”**, of a person, includes—

- (a) knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person’s reasons for the person’s intention, opinion, belief or purpose.

**‘When QCA must refer a matter to the regulator**

**‘120ZA.** If the Supreme Court decides that an electricity entity has contravened the conduct rules, the QCA must refer the contravention to the regulator.

**‘Action the regulator may take**

**‘120ZB.(1)** If a contravention of the conduct rules is referred to the regulator by the QCA the regulator may take action under section 133(1).

**‘(2)** To remove doubt, the regulator must not take any other action concerning the contravention.

***‘Division 4—Production of documents or information*****‘Notice to produce documents or information**

**‘120ZC.(1)** This section applies if the QCA is conducting an investigation to find out whether an electricity entity is complying with—

- (a) the conduct rules; or
- (b) any prescribed standard under section 92 about the quality of service the entity must provide; or
- (c) this Act.

**‘(2)** The QCA may, by written notice to the entity, require the entity to give the QCA the following things it believes, on reasonable grounds, are relevant to the investigation—

- (a) information within the entity’s knowledge or possession;
- (b) documents in the entity’s custody, possession or power.

**‘(3)** The notice must state—

- (a) the information or documents required; and
- (b) a period in which the documents or information are to be given of no less than 7 days; and
- (c) a reasonable place at which the documents or information are to be given.

‘(4) The entity must not contravene the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.

‘(5) An electricity entity is not required to comply with the notice if the entity claims, on the ground of self-incrimination, a privilege the entity would be entitled to claim against giving the information were the entity a witness in a prosecution for an offence in the Supreme Court.

‘(6) If the entity claims that complying with the notice may tend to incriminate the entity, the QCA or the entity may apply to the Supreme Court to decide the validity of the claim.

## **‘PART 1B—DISPUTES REFERRED TO ELECTRICITY INDUSTRY OMBUDSMAN**

### *‘Division 1—Preliminary*

#### **‘Definitions for pt 1B**

‘120ZD. In this part—

“**dispute**” means a dispute between—

- (a) a customer and an electricity entity about the performance of obligations under a customer connection contract or customer sale contract; or
- (b) a prescribed person and an electricity entity concerning another dispute referred to the electricity industry ombudsman under this Act.

“**electricity entity**” includes a special approval holder.

#### **‘Application of part**

‘120ZE.(1) This part applies to a dispute.

‘(2) Nothing in this part prevents a customer or prescribed person



referring a dispute relating to more than 1 electricity entity.

‘(3) To remove doubt, it is declared that the jurisdictional limit of orders that may be made under section 120ZN is not increased because a dispute relates to more than 1 entity.

### **‘Exclusion of other jurisdictions**

‘**120ZF.(1)** If a dispute has been referred for hearing by the electricity industry ombudsman, the following are not justiciable by a court or tribunal at the instigation of an electricity entity that is a party to the dispute—

- (a) the issue in dispute;
- (b) any issue that emerges in the course of the hearing.

‘(2) However, subsection (1) does not apply if—

- (a) the proceeding before the court or tribunal was started before the claim was referred to the ombudsman; or
- (b) the claim before the ombudsman has been withdrawn or struck out for want of jurisdiction; or
- (c) the ombudsman decides that, because of the nature or complexity of an issue, the dispute should not be heard by the ombudsman.

### ***‘Division 2—Referring and hearing disputes***

#### **‘How dispute is referred**

‘**120ZG.(1)** Subject to section 120ZH, a customer or prescribed person may refer a dispute for hearing by the electricity industry ombudsman.

‘(2) To remove doubt, it is declared that an electricity entity may not refer a dispute.

‘(3) A regulation may prescribe—

- (a) the way a dispute must be referred; and
- (b) the time within which a dispute must be referred; and
- (c) any filing fees to be paid.

**‘No reference if customer or prescribed person has started a proceeding**

**‘120ZH.** A customer or prescribed person must not refer a dispute to the electricity industry ombudsman if the customer or person has started an action in a court or tribunal concerning any issue in dispute.

**‘Disclosure of interests**

**‘120ZI.(1)** The electricity industry ombudsman must not hear a dispute if—

- (a) the ombudsman has a direct or indirect interest in a dispute; and
- (b) the interest could conflict with the appropriate performance of the ombudsman’s functions concerning the dispute.

**‘(2)** However, this section does not apply to the ombudsman if the interest consists only of the receipt of goods or services that—

- (a) also are available to members of the public; and
- (b) are made available on the same terms that apply to members of the public.

**‘(3)** If subsection (1) applies, the ombudsman must delegate the power to hear the dispute to an appropriately qualified member of the Office’s staff under section 64N.

**‘Presentation of cases**

**‘120ZJ.(1)** Each party to a dispute before the electricity industry ombudsman is to conduct their own case.

**‘(2)** A party may only be represented by an agent if the ombudsman agrees.

**‘(3)** A party must not be represented by a lawyer unless—

- (a) the parties to the dispute agree; and
- (b) the ombudsman is satisfied there is no disadvantage to a party to the dispute.

**‘Taking of evidence**

‘**120ZK.(1)** Evidence in a dispute must be taken by the electricity industry ombudsman in private.

‘**(2)** Evidence—

- (a) may be given orally or in writing; and
- (b) must be given on oath, or on affirmation or declaration instead of oath if permitted by law.

‘**(3)** The ombudsman may administer the oath or take or receive an affirmation or declaration.

‘**(4)** The ombudsman is not bound by rules or practice about evidence and may take evidence in the way the ombudsman considers appropriate.

**‘Procedure if party absent**

‘**120ZL.(1)** If a party to a dispute does not attend on the day and time appointed to hear the dispute, the electricity industry ombudsman may proceed to hear and decide the dispute in the party’s absence.

‘**(2)** If the ombudsman hears a dispute in the party’s absence, the ombudsman must postpone any order made for 7 days.

‘**(3)** If, before the 7 day period ends, the absent party contacts the ombudsman and satisfies the ombudsman there was a good reason for the party’s absence, the ombudsman may order the dispute be reheard.

**‘Power to require information from electricity entity**

‘**120ZM.(1)** The following persons must give the electricity industry ombudsman the information the ombudsman reasonably requires to perform the ombudsman’s functions—

- (a) a customer or a prescribed person who refers a dispute to the ombudsman;
- (b) an electricity entity—
  - (i) that is a party to a dispute; or
  - (ii) about which a complaint has been made to the ombudsman.

‘(2) The information must be given within a reasonable time after the ombudsman asks for it.

‘(3) A person must not contravene a requirement under this section without reasonable excuse.

Maximum penalty—500 penalty units.

‘(4) It is a reasonable excuse for a person not to comply with a requirement if doing so might tend to incriminate the person.

### *‘Division 3—Orders and enforcement*

#### **‘Orders that can be made**

‘**120ZN.(1)** The electricity industry ombudsman may make the following orders against an electricity entity that is a party to a dispute—

- (a) an order that the electricity entity must pay an amount of no more than \$10 000;
- (b) a non-monetary order the ombudsman considers appropriate against the electricity entity to remedy any issue in the dispute.

‘(2) The amount in relation to which the ombudsman has jurisdiction under subsection (1) may be increased by regulation to an amount of no more than \$20 000.

‘(3) The ombudsman must consider the objects of this Act when making an order.

‘(4) Despite subsection (1)(b), the ombudsman can not cancel, suspend or amend the authority of an electricity entity.

#### **‘Costs**

‘**120ZO.(1)** Costs must not be awarded by the electricity industry ombudsman to or against a party to a dispute.

‘(2) However, subsection (1) does not apply to any filing fee paid to refer a dispute to the ombudsman.

**‘Copy of order to be given to parties**

‘**120ZP.** The electricity industry ombudsman must give a copy of any order given concerning a dispute to the parties to the dispute.

**‘Order final**

‘**120ZQ.(1)** Subject to section 120ZR, an order made by the electricity industry ombudsman binds an electricity entity that is a party to the dispute.

‘(2) The entity may not apply for review of, or appeal against, the order.

‘(3) However, the entity may apply for a review of the order under the *Judicial Review Act 1991*.

**‘Customer or prescribed person to advise whether order accepted**

‘**120ZR.(1)** A customer or prescribed person that is a party to a dispute must give written notice to the electricity industry ombudsman if the customer or person decides not to accept the ombudsman’s order against the electricity entity.

‘(2) The notice must be given within 21 days.

‘(3) If the notice is not given within 21 days the customer or prescribed person is taken to have accepted the order and the order binds the customer or person.

‘(4) A customer or prescribed person may not apply for a review of or appeal against the order if it is binding on the customer or person.

‘(5) However, the customer or prescribed person may apply for a review of the order under the *Judicial Review Act 1991*.

**‘When order takes effect**

‘**120ZS.** An order by the electricity industry ombudsman takes effect—

- (a) when the order is made; or
- (b) if the order states a later day or event for the order to take effect—on the later day or event.

**‘Failure to comply with order**

‘**120ZT.** An electricity entity must comply with an order of the electricity industry ombudsman.

**‘Referral of matter to the regulator**

‘**120ZU.** If an electricity entity contravenes an order of the electricity industry ombudsman, the ombudsman must refer the matter to the regulator.

**‘Action the regulator may take**

‘**120ZV.** If a matter is referred to the regulator by the electricity industry ombudsman, the regulator may take action under section 133(1).

**‘How order enforced**

‘**120ZW.(1)** If the electricity industry ombudsman orders an amount to be paid to a customer or prescribed person, the customer or person may enforce the order by filing the order in the Magistrates Court.

‘**(2)** Once the order is filed, it is taken to be a judgment of the Magistrates Court.

***‘Division 4—Regulations*****‘Regulation about disputes and enforcement of orders**

‘**120ZX.(1)** A regulation may provide for any matter necessary or convenient to help or give effect to dispute resolution by, and the enforcement of orders of, the electricity industry ombudsman.

‘**(2)** Without limiting subsection (1), a regulation may prescribe—

- (a) the records to be kept by the ombudsman; and
- (b) the reporting procedures to be followed by the ombudsman.’.

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

**66.(2)** Section 254(1)—

*insert—*

‘(c) the electricity industry ombudsman and employees in the Office of the Electricity Industry Ombudsman; and’.

**Amendment of sch 5 (Dictionary)**

**83.(2)** Schedule 5—

*insert—*

‘**“dispute”**, for chapter 5, part 1B, see section 120ZD.

**“electricity entity”** means—

(a) *in general—see section 22(1); and*

(b) *for chapter 5, part 1A—see also section 120A; and*

(c) *for chapter 5, part 1B—see also section 120ZE.*<sup>25</sup>

**“Office”** see section 64A(2).’.

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<sup>25</sup> The definition “electricity entity” paragraphs (a) and (b) commenced on 19 December 1997, see 1997 SL No. 472. Paragraph (c) has not yet commenced.