



Queensland

*Electricity Act 1994*

# Electricity Regulation 2006

Reprinted as in force on 17 November 2006

Reprint No. 1A

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Queensland

# Electricity Regulation 2006

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# Electricity Regulation 2006

[as amended by all amendments that commenced on or before 17 November 2006]

## Chapter 1 Preliminary

### 1 Short title

This regulation may be cited as the *Electricity Regulation 2006*.

### 2 Commencement

This regulation commences on 1 September 2006.

### 3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

### 4 Purposes

The main purposes of this regulation are to—

- (a) ensure a secure, efficient and economic supply of electricity to customers on fair and reasonable terms; and
- (b) ensure customers' interests are adequately protected; and
- (c) provide for the proper measurement of the energy efficiency and performance of electrical equipment; and
- (d) inform the public about the energy efficiency and performance of electrical equipment; and
- (e) prescribe particular conditions of employment for employees in the GOE industry.

## **5 How purposes are to be achieved**

The purposes of this regulation are to be achieved mainly by—

- (a) prescribing standards and procedures for the design, building and maintenance of electric lines and works; and
- (b) specifying when the obligation to connect and supply a customer does not apply and conditions governing the provision of customer connection services by distribution entities; and
- (c) specifying when the obligation to provide customer retail services does not apply and conditions governing the provision of customer retail services; and
- (d) prescribing standards and procedures for measuring energy efficiency and the performance of electrical equipment; and
- (e) providing for the registration and labelling of electrical equipment; and
- (f) providing for continuity of service for leave purposes for employees transferring within the GOE industry; and
- (g) providing for long service leave and locality allowance entitlements for GOE industry employees; and
- (h) providing for award conditions and entitlements of employment for State electricity entities and their electricity industry employees.

## **6 Words have the same meaning as in wiring rules**

- (1) Words and expressions used in the wiring rules have the same respective meanings in this regulation.
- (2) However, for this regulation, the expression ‘point of supply’ in the wiring rules has the same meaning as ‘consumers terminals’ has in this regulation.

## 7 Way of describing electrical articles and appliances

An electrical article or appliance or type of electrical article or appliance may be described by reference to its model or in any other way.

# Chapter 2 Technical requirements

## Part 1 Preliminary

### 8 Application of ch 2

- (1) This chapter does not apply to—
  - (a) an electric line or works within the limits of a mine; or
  - (b) petroleum plant.

- (2) In this section—

***mine*** means—

- (a) a coal mine within the meaning of the *Coal Mining Safety and Health Act 1999*; or
- (b) a mine within the meaning of the *Mining and Quarrying Safety and Health Act 1999*.

***petroleum plant*** means private plant or an electrical installation, subject to inspection under the *Petroleum and Gas (Production and Safety) Act 2004*.

***private plant*** means generating plant not used by an electricity entity or special approval holder in accordance with an authority or special approval.

## **Part 2                      Design, building and    maintenance of electric lines    and works**

### **Division 1                Compliance with part**

#### **9                      Compliance with this part**

A person who designs, builds, maintains or operates an electric line or works must ensure the provisions of this part relevant to the line or works are complied with.

Maximum penalty—20 penalty units.

### **Division 2                Earthing, frequency and voltage**

#### **10                    Systems of earthing**

The system of earthing used by an electricity entity for low voltage supply to customers must be the multiple earthed neutral system, or, if that system is not effective, another suitable system that complies with the wiring rules.

#### **11                    Supply at low voltage**

- (1) Electricity for general supply must be alternating current having a nominal frequency of 50Hz.
- (2) The standard voltage for electricity supplied at low voltage from a 3 phase system must be—
  - (a) between a phase conductor and the neutral conductor—240V; and
  - (b) between 2 phase conductors—415V.
- (3) The standard voltage for electricity supplied at low voltage from a single phase system must be—



- (a) between a phase conductor and the neutral conductor—240V; or
- (b) between the phase conductors—480V.

## **12 Supply at high voltage**

If an electricity entity agrees with a customer to supply electricity to the customer at high voltage, the agreed voltage is the standard voltage for the supply.

## **13 Changes of voltage at customer's consumers terminals**

- (1) Supply of electricity by an electricity entity to a customer must be maintained at the standard voltage mentioned in section 11 or 12.
- (2) Electricity is taken to be maintained at the standard voltage if the voltage at a customer's consumers terminals is within the allowable margin for the voltage.
- (3) The allowable margin is—
  - (a) for low voltage—6% more or less than the standard voltage; or
  - (b) for high voltage of 22000V or less—5% more or less than the standard voltage; or
  - (c) for high voltage more than 22000V—the margin agreed between the electricity entity and the customer.

## **Division 3 Service lines**

### **14 Service lines on customer's premises—electricity entity's obligations**

- (1) An electricity entity must, in accordance with recognised practice in the electricity industry—
  - (a) decide the route, termination point, number of phases, lengths, type and size of its service lines; and
  - (b) provide and install or arrange for the provision and installation of its service lines.

- (2) The electricity entity must meet the cost of providing and installing a service line to a customer's premises.
- (3) However, the maximum length of a service line required to be provided and installed within a customer's premises by an electricity entity at the electricity entity's cost is—
  - (a) 20m for an overhead service line; or
  - (b) 7m for an underground service line.
- (4) Also, subsections (1)(b), (2) and (3) apply only to the provision and installation of 1 initial service line to a customer at particular premises, whether before or after the commencement of this section.

*Example—*

Subsection (1)(b) does not apply if a customer requires an additional service line, or the upgrading of the existing service line, at the customer's premises to operate 3-phase air conditioning equipment.

- (5) For subsections (1) and (3), a service line must be measured from the customer's property alignment or, if the line does not cross the property alignment, the point of origin of the service line.

## **15 Service lines on customer's premises—customer's obligations**

- (1) A customer must provide and maintain, free of cost to an electricity entity, the facilities the entity reasonably decides are necessary to attach an overhead service line to the customer's premises or for the entrance, support, protection and termination of an underground service line.

*Examples of facilities that may be provided by a customer—*

- a service riser bracket
  - timber backing for the electricity entity's 'J' hook
- (2) The customer must provide access for the entity to install, test, maintain or take away its service line without hindrance or obstruction.
  - (3) The customer must pay the reasonable cost of a service line provided, other than an initial service line provided under section 14.

## **Division 4                      Maintenance of works**

### **16                      Maintenance of works**

An electricity entity must, in accordance with recognised practice in the electricity industry, periodically inspect and maintain its works to ensure the works remain in good working order and condition.

### **17                      Clearing, lopping and pruning of trees on non-freehold land**

- (1) An electricity entity may clear, lop or prune trees growing on non-freehold land if—
  - (a) it is necessary to do so to build, maintain or operate an electric line or works on the land; and
  - (b) the entity holds the benefit of an easement, licence or other agreement in relation to the line or works.
- (2) Subsection (1) applies—
  - (a) whether or not the easement, licence or agreement authorises the clearing, lopping or pruning; and
  - (b) subject to—
    - (i) the conditions of the easement, licence or agreement; and
    - (ii) section 18.
- (3) To the extent a local planning instrument or a local law is inconsistent with subsection (1), the local planning instrument or local law is of no effect.
- (4) In this section—

*local planning instrument* see the *Integrated Planning Act 1997*.

*trees* see the *Forestry Act 1959*.

**Division 5                      Works on publicly controlled places****18            Notice to be given to public entity**

- (1) This section applies if an electricity entity intends to take action mentioned in subsection (2) in a publicly controlled place unless—
  - (a) the action is an action authorised under section 140 to 141 of the Act; and
  - (b) the entity complies with the section in relation to the entry to the place and the taking of the action.
- (2) The action is—
  - (a) opening or breaking up the soil or pavement of the place; or
  - (b) clearing, lopping or pruning a tree or other vegetation growing in or over the place, other than for routine maintenance; or
  - (c) opening or breaking up a sewer, drain or tunnel in or under the place; or
  - (d) temporarily stopping or diverting traffic on or from the place; or
  - (e) building a drain, excavation, subway or tunnel in or under the place.
- (3) The electricity entity must give at least 14 days written or oral notice of its intention to the public entity that has control of the publicly controlled place unless the notice is given in accordance with another period of notice agreed between the entities.
- (4) However, subsection (5) applies if, in the electricity entity's opinion, there is an emergency in which—
  - (a) there is an actual or a potential danger to persons or property; or
  - (b) the supply of electricity to a customer has been interrupted.

- (5) If this subsection applies, the electricity entity may act under section 101<sup>1</sup> of the Act to remedy a defect, eliminate an actual or potential danger or restore the supply of electricity to a customer, without first giving the notice under subsection (3).
- (6) If the electricity entity acts under subsection (5), it must give the notice mentioned in subsection (3) as soon as practicable.

## **19 Electricity entity must comply with public entity's requirements**

- (1) If an electricity entity goes on a publicly controlled place to take action for which notice must be given under section 18, the public entity that has control of the place may require the electricity entity to act on the days and at the times the public entity reasonably requires.
- (2) The electricity entity must comply with a reasonable requirement by the public entity under subsection (1).

## **20 Guarding of work on publicly controlled place**

- (1) An electricity entity that has opened or broken up a publicly controlled place must, at all times while the place is opened or broken up, ensure—
  - (a) it is barricaded and guarded; and
  - (b) signs and lights sufficient for the warning and guidance of traffic, including pedestrians, are set up and maintained against or near the place where it is opened or broken up.
- (2) If required by the public entity, the electricity entity must also set up and maintain additional warning or protection devices to safeguard the public whether before or during the work.

## **21 Restoration of publicly controlled place**

- (1) An electricity entity that has opened or broken up a publicly controlled place must—

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<sup>1</sup> Section 101 (Electricity entity may take action in publicly controlled places to provide electricity etc.) of the Act

- (a) with all convenient speed, finish the work; and
  - (b) on finishing the work, take away from the place all plant, materials and equipment not built into the work; and
  - (c) restore, as far as practicable, the place where the work was carried out and leave it tidy.
- (2) The way action under subsection (1) is to be carried out by or for the electricity entity is as agreed between the electricity entity and the public entity controlling the place and in accordance with reasonable conditions and requirements stated by the public entity.

## **22 Electricity entity to keep publicly controlled place in good repair after work**

- (1) An electricity entity must keep a publicly controlled place that has been opened or broken up and restored by it in good repair—
- (a) for 3 months after restoring the place; and
  - (b) if the ground subsides and continues to subside—for up to a further 9 months.
- (2) The way maintenance work is to be carried out by or for the electricity entity is as agreed between the electricity entity and the public entity that controls the place.

## **23 Warning signs on roads**

If an electricity entity or its contractor is building or maintaining an electric line or other works on a road, signs and lights set up and maintained by the entity and its contractor to safeguard the public must be the appropriate official traffic signs under the *Transport Operations (Road Use Management) Act 1995*.

## **Part 3**

# **Customers' electrical installations**

### **24 Installation and operation of electric line beyond person's property**

- (1) A person may install and operate, on a place beyond the person's property (including on a publicly controlled place), a low voltage electric line forming part of the person's electrical installation if—
  - (a) the person has consulted with all entities who may have an interest in the proposed location of the electric line; and
  - (b) the entities have stated in writing that they have no objection to the installation or operation of the electric line; and
  - (c) the installation and operation of the electric line is not likely to cause a fire or a person to suffer an electric shock.
- (2) The entities to be consulted include—
  - (a) the relevant supplier; and
  - (b) for a publicly controlled place—the local government or other entity with responsibility for the place; and
  - (c) for a place other than a publicly controlled place—the owner and each lessee or occupier of the place.
- (3) The electric line must be installed in accordance with—
  - (a) the wiring rules; and
  - (b) any requirement or condition imposed by an entity consulted.
- (4) If an electric line forming part of a person's electrical installation is installed on a place contrary to this section, the regulator may direct the person to take away the electric line, at the person's expense.
- (5) The regulator must give the person an information notice about the decision to give the direction.

- (6) If the person does not comply with the direction, the regulator may take away the electric line and recover the cost of the removal from the person as a debt payable to the State.
- (7) A person who complies with subsections (1) to (3) about an electric line does not need an authority or special approval under the Act to install or operate the line.

## **25 Power factor**

A customer must comply with any requirement of its supplier made of the customer under section 36 about the power factor of an electrical installation.

*Note—*

See section 37 for what action the distribution entity may take if the customer does not comply with the requirement.

## **26 Prevention of interference by motor installations and associated starting devices**

A person may connect a motor installation or associated starting device only if it is designed and operated to comply with any requirements of the regulator to prevent interference with supply of electricity to other customers.

*Note—*

See sections 36 and 37 for what action a distribution entity may take if the distribution entity considers the installation or device interferes, or is likely to interfere, with the supply of electricity to other customers.

## **27 Interference with supply of electricity**

A customer must not use electricity or an electrical article so the supply of electricity to other customers of the supplier who supplies the electricity is unreasonably interfered with.

*Note—*

See sections 36 and 37 for what action a distribution entity may take if the distribution entity considers the installation or device interferes, or is likely to interfere, with the supply of electricity to other customers.



**28 Customer's generating plant for interconnection to supply network**

- (1) A customer must not install generating plant for interconnection with a supplier's supply network without the supplier's agreement.

Maximum penalty—20 penalty units.

- (2) The agreement must include the conditions for securing safe and stable parallel operation of the supply network and the generating plant.

**29 Requirement for circuit-breaker**

- (1) If required by the relevant supplier, a customer must ensure the customer's electrical installation has a circuit-breaker as a main switch or a circuit-breaker instead of a fuse as part of the installation.

Maximum penalty—20 penalty units.

- (2) However, the customer may choose whether to have a circuit-breaker as a main switch or a circuit-breaker instead of a fuse if the relevant supplier does not state which is required.

**30 Coordination of customer's protection devices with electricity entity's protection system**

- (1) An electricity entity may cause the characteristics of a customer's protection device to be changed and tested to maintain discrimination between the customer's protection equipment and the electricity entity's protection system.

- (2) The electricity entity may seal the adjusted protection equipment.

- (3) A person must not unlawfully break or otherwise interfere with the seal.

Maximum penalty for subsection (3)—20 penalty units.

## **Chapter 3      Electricity supply and sale to customers**

### **Part 1            Distribution entities**

#### **Division 1        Obligations of distribution entities and customers**

##### **31      Limits on obligation to provide customer connection services**

- (1) For sections 40(3) and 40E(1)(e) and (i)<sup>2</sup> of the Act, if an event stated in subsection (2) happens, the distribution entity—
  - (a) is not obliged to provide customer connection services to the customer's premises; and
  - (b) may disconnect the customer's premises from a supply network or refuse to connect the premises to the network.
- (2) Subsection (1) applies if—
  - (a) the applicant does not ask for the services in a way approved by the entity; or
  - (b) the applicant asks for the services and the entity requires the applicant to give the entity evidence of the customer's correct name and address—the applicant does not give the evidence; or
  - (c) the applicant applies for the supply of electricity to the premises at a rate more than the maximum capacity of the connection to the entity's supply network; or
  - (d) the applicant does not give the following if required by the entity—

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<sup>2</sup> Sections 40 (Connection and supply of electricity in distribution area) and 40E (Limitation on obligation to connect and supply) of the Act

- (i) a reasonable advance payment for charges for providing the services;
  - (ii) a reasonable security or agreement for security to the entity for performing the applicant's obligations to the entity;
  - (iii) a capital contribution towards the costs incurred, or to be incurred, by the entity in extending, or increasing the capacity of, its supply network to provide the services to the premises; or
- (e) after disconnecting supply under the Act or under a customer connection contract, the entity is not reasonably satisfied the matter that caused the disconnection has been remedied, rectified or fixed; or
- (f) for supply to premises for which there is an existing agreement with the distribution entity for supply of electricity—
- (i) the applicant does not agree on similar terms for the rest of the existing agreement; and
  - (ii) the distribution entity does not otherwise agree; or
- (g) the customer does not provide and maintain space, equipment, access, facilities or anything else the customer must provide for the services under the Act or a customer connection contract; or

*Examples of anything else—*

- meters
  - substations
  - connection of service lines
- (h) the customer is not a party to a customer sale contract, or a negotiated sale and connection contract, with a retail entity under which the retail entity provides customer retail services to the customer's premises; or
- (i) the obligation to provide customer connection services does not apply under the Act; or
- (j) the Act allows the entity to disconnect the customer's premises from a supply network or refuse to connect the premises to the network.

- (3) Subsection (2)(c) does not apply if the customer pays an amount to the entity for works necessary to increase the maximum capacity to supply the customer at the rate the customer has applied for.
- (4) The entity must give the customer a reasonable opportunity to pay an amount mentioned in subsection (3).
- (5) Subsection (1) does not limit—
  - (a) the right to interrupt supply of electricity under a customer connection contract; or
  - (b) a right or obligation to disconnect premises, or refuse to connect or reconnect premises, under a customer connection contract.

### **32 Notice if services refused**

- (1) This section applies if—
  - (a) a customer or retail entity asks a distribution entity in the approved way for the provision of customer connection services; and
  - (b) the distribution entity decides it does not have an obligation to provide the services.
- (2) The distribution entity must as soon as practicable after, but within 1 month of, receiving the request give the customer or retail entity an information notice about the decision and the reasons for the decision.

### **33 Entity may provide services even if no obligation**

- (1) A distribution entity may agree to provide customer connection services to a customer's premises even though it has no obligation to provide them.
- (2) To remove any doubt, an agreement under subsection (1) is a negotiated customer connection contract.

**34 When distribution entity may refuse to connect or may disconnect**

- (1) A distribution entity may refuse to connect or reconnect any premises of a customer to the entity's supply network if the customer—
  - (a) contravenes the Act or this regulation in relation to the supply of electricity to any premises of the customer; or
  - (b) fails to pay a capital contribution or to make a reasonable advance payment for charges for providing customer connection services to any premises of the customer; or
  - (c) fails to pay an amount the customer owes the distribution entity under, or otherwise breaches, any customer connection contract between the customer and the distribution entity; or
  - (d) is a party to a customer sale contract, or a negotiated sale and connection contract, with a retail entity for providing customer retail services to other premises of the customer and the retail entity asks the distribution entity to disconnect the other premises from the distribution entity's supply network because the customer—
    - (i) contravenes the Act or this regulation in relation to the supply or sale of electricity to the other premises; or
    - (ii) fails to make a reasonable advance payment for charges for providing the customer retail services; or
    - (iii) fails to pay an amount the customer owes the retail entity under, or otherwise breaches, the customer sale contract or the negotiated sale and connection contract for the other premises.
- (2) A distribution entity may disconnect a customer's premises from the entity's supply network if the customer—
  - (a) contravenes the Act or this regulation in relation to the supply of electricity to the premises; or

- (b) fails to pay an amount the customer owes the distribution entity under, or otherwise breaches, its customer connection contract with the distribution entity for the premises; or
- (c) is a party to a customer sale contract, or a negotiated sale and connection contract, with a retail entity for providing customer retail services to the premises and the retail entity asks the distribution entity to disconnect the premises because the customer—
  - (i) contravenes the Act or this regulation in relation to the supply or sale of electricity to the premises; or
  - (ii) fails to pay an amount the customer owes the retail entity under, or otherwise breaches, its customer sale contract, or negotiated sale and connection contract, with the retail entity for the premises.
- (3) However, the distribution entity may only disconnect if the relevant conditions under the customer connection contract, customer sale contract or negotiated sale and connection contract, for disconnection have been complied with.

*Example of a relevant condition—*

a requirement in the customer connection contract, customer sale contract or negotiated sale and connection contract, for the distribution entity or retail entity to give notice of its intention to disconnect under subsection (2)

- (4) This section does not limit—
  - (a) a right to interrupt supply of electricity under a customer connection contract; or
  - (b) a right or obligation to disconnect premises, or refuse to connect or reconnect premises, under a customer connection contract.

### **35 Customer's liability for customer connection services**

- (1) A customer must pay the distribution entity for providing customer connection services to the customer's premises under the customer's customer connection contract with the entity until—
  - (a) supply is disconnected by the distribution entity; or

- (b) subject to subsection (2), the end of 3 business days after the customer gives the entity written or oral notice that supply is no longer needed; or
  - (c) electricity is supplied to the premises by arrangement with another customer.
- (2) If the customer gives notice under subsection (1)(b) but does not, if required by the distribution entity, give the distribution entity safe access to the premises for a final meter reading, the customer must pay the distribution entity for providing the customer connection services until the earlier of the following—
- (a) the end of 3 business days after the distribution entity is given safe access to the premises for a final meter reading;
  - (b) the end of the day the distribution entity reads the meter.
- (3) The obligation under subsection (1) includes an obligation to make minimum payments under the contract.
- (4) However, subsection (1) does not apply if the customer and the entity otherwise agree.

### **36 Regulating customer's use etc. of electricity**

- (1) This section applies if, in the distribution entity's opinion—
- (a) the use or intended use of an electrical article by a customer unreasonably interferes, or is likely to unreasonably interfere, with the entity's supply of electricity to other customers; or
  - (b) a customer uses or deals with electricity so the supply of electricity to other customers is, or is likely to be, unreasonably interfered with; or
  - (c) a customer's motor installation or associated starting device interferes, or is likely to interfere, with supply of electricity to other customers; or
  - (d) it is necessary to regulate the power factor of a customer's electrical installation.
- (2) The entity may, by written notice to the customer, require the customer to—

- (a) regulate the use of the electrical article; or
- (b) use or deal with electricity supplied in a stated way; or
- (c) ensure a motor installation or starting device connected to a source of electricity supply complies with the requirements of the regulator under section 26; or
- (d) ensure the power factor of an electrical installation measured over any 30 minutes at the customer's consumers terminals—
  - (i) for low voltage supply to the customer—
    - (A) is at least 0.8 lagging; and
    - (B) is not a leading power factor unless the entity agrees; or
  - (ii) for high voltage supply to the customer—is within the range stated in the National Electricity Rules, schedule 5.3.5.<sup>3</sup>
- (3) The notice must state when it must be complied with.
- (4) The notice must be accompanied by or include an information notice about the decision.

### **37 Action if notice not complied with**

If a customer does not comply with a notice under section 36, the distribution entity may—

- (a) refuse to provide customer connection services to the customer's electrical installation until the customer complies with the notice; or
- (b) if the customer agrees to comply with the entity's requirements—provide the service.

### **38 Providing metering information to retail entity**

If a retail entity asks, a distribution entity must promptly provide the retail entity with meter data information for mutual customers.

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<sup>3</sup> National Electricity Rules, schedule 3.15.21 (Power factor requirements)



## **Division 2                    Meter and control apparatus requirements for non-contestable customers**

### **39            Application of div 2**

This division applies to the supply of electricity to a premises of a customer, other than the supply to a premises for which the customer is a contestable customer.

### **40            Entity must provide meter and control apparatus**

The distribution entity must provide, install and maintain the following equipment for supply of electricity to a customer unless the entity and the customer otherwise agree—

- (a) a meter (other than the base of a plug-in meter) used or to be used to measure consumption of electricity supplied by the entity to the customer;
- (b) control apparatus (other than a meter) that the entity considers necessary.

Maximum penalty—20 penalty units.

### **41            Customer to change electrical installation for meter connection**

A distribution entity may require a customer to make changes to the customer's electrical installation necessary to allow connection of the entity's meter to measure consumption of electricity.

### **42            Customer to provide links connecting meters to incoming supply**

- (1) If a distribution entity requires, a customer must provide suitable links for connecting more than 1 meter to an incoming supply.
- (2) The distribution entity may seal the links.

**43 No breaking or interfering with meter seal or control apparatus**

A person must not break or interfere with a seal on a meter or control apparatus or links provided under an agreement with a distribution entity unless the entity permits the person to do so.

Maximum penalty—20 penalty units.

**44 Placing meter or control apparatus on customer's premises**

- (1) A customer must, at the customer's expense—
  - (a) provide on the customer's premises space, housing, mounting and connecting facilities for each meter and control apparatus provided under an agreement with a distribution entity; and
  - (b) maintain the facilities in a safe and sound condition.
- (2) The facilities must be in a position that meets the entity's reasonable requirements.

**45 Change of placement if building changes or works**

- (1) This section applies if the position of a meter or control apparatus no longer meets the distribution entity's requirements because of building changes or similar works.
- (2) The customer must, at the customer's expense—
  - (a) provide space, housing, mounting and connecting facilities in another position on the customer's premises that meets the entity's reasonable requirements; and
  - (b) relocate the meter and control apparatus to the position.

**46 Matters that may be considered for placement**

In deciding placement of a meter or control apparatus the distribution entity may consider—

- (a) safe, unhindered access; and
- (b) protection against damage from the following—

- (i) mechanisms;
  - (ii) vibration;
  - (iii) the effects of weather;
  - (iv) corrosive atmosphere;
  - (v) excessive dust, fibres or filings; and
- (c) adequate space, ventilation and lighting.

#### **47 Customers to provide safe access**

- (1) This section applies if a customer does not provide safe access at any reasonable time to read a meter and install, test, maintain or take away the supplier's works without hindrance or obstruction to—
- (a) the distribution entity; or
  - (b) an electricity officer of the entity; or
  - (c) a person authorised by the entity.
- (2) The entity may, by written notice to the customer, require the customer to provide the access within a stated period of at least 1 month.
- (3) If the customer does not comply with the notice, the entity may—
- (a) install alternative metering or other equipment to enable the consumption of electricity to be measured by remote or other suitable ways; or
  - (b) disconnect supply of electricity to the customer's premises and refuse to reconnect supply until the customer provides safe access.
- (4) Subsection (3)(b) does not limit another remedy the entity has against the customer.
- (5) The entity may recover from the customer as a debt the entity's costs reasonably incurred in acting under subsection (3).

**48 Meter accuracy test at customer's request**

- (1) A customer may ask the retail entity for the accuracy of the distribution entity's meter installed on the customer's premises to be tested.
- (2) The retail entity may require the request to be written.
- (3) The retail entity may require the customer to pay the retail entity before testing—
  - (a) a charge for electricity or another amount owing by the customer to the retail entity for customer retail services; and
  - (b) the prescribed test fee for each meter to be tested.
- (4) On receipt of the request and any payment required under subsection (3), the retail entity must—
  - (a) ask the distribution entity to test the accuracy of the distribution entity's meter installed on the customer's premises; and
  - (b) pay the distribution entity the amount of any prescribed test fee for the test.
- (5) The meter must be tested where it is installed.
- (6) However, for high voltage or current transformer metering, the meter may be taken away for testing at a place decided by the distribution entity.
- (7) The distribution entity must advise the retail entity when and where the test is to be performed.
- (8) The retail entity must advise the customer when and where the test is to be performed.
- (9) The customer or retail entity, or that person's nominee, may be present during the test.

**49 When meter taken to register accurately**

- (1) A meter measuring consumption of electricity supplied to a customer registers incorrectly only if it registers outside the prescribed margin of the correct amount of electricity supplied, whether greater or less.
- (2) The prescribed margin is 2.5%.

**50 Extent of inaccuracy**

If a properly conducted test shows a meter registers incorrectly, the meter is taken to be registering incorrectly to the extent to which the registration falls outside the prescribed margin.

**51 Report about test results**

- (1) If a meter is tested under section 48, the distribution entity must give written notice to the retail entity of the test results as soon as possible.
- (2) The retail entity must give a written notice to its customer of the test results as soon as possible after it receives the results.
- (3) If the test shows the meter is registering incorrectly, the notice must state the extent to which the registration falls outside the prescribed margin.

**52 Refund and adjustment if inaccuracy**

- (1) If a test under section 48 shows the meter is registering incorrectly, the distribution entity must—
  - (a) refund to the retail entity the amount paid by the retail entity under section 48(4)(b) for the test; and
  - (b) adjust the previous relevant accounts for customer connection services in the way provided for under subsections (5) and (6).
- (2) The distribution entity must give the retail entity an information notice about the decision to make the adjustment.
- (3) The retail entity must—
  - (a) refund to the customer any prescribed test fee paid by the customer for the test; and
  - (b) adjust the previous relevant accounts for the customer retail services in the way provided for under subsections (5) and (6).
- (4) The retail entity must give the customer an information notice about the decision to make the adjustment.

- (5) If the incorrect registering means the customer has been undercharged, the adjustment must be for the lesser of the following—
  - (a) the period during which the meter registered incorrectly;
  - (b) the 12 months before the meter reading date on the last account sent to the customer.
- (6) If the incorrect registering means the customer has been overcharged, the adjustment must be for all of the period during which the meter registered incorrectly.
- (7) For subsection (6), if there is insufficient evidence to work out the period, it is taken to be the period of 12 months before the meter reading date on the last account sent to the customer.

### **53 Referral of tested meter to regulator**

- (1) This section applies if the customer receives the results of a test on a meter from a retail entity under section 51.
- (2) The customer may by written notice within 7 days require the retail entity to refer the issue to the regulator for an inspection and test of the meter by a competent person (*competent person*) who is not an employee of the distribution entity.
- (3) The customer must pay the prescribed fee to the retail entity before the inspection and test.
- (4) On receiving the notice and prescribed fee, the retail entity—
  - (a) must refer the issue and give the fee to the regulator; and
  - (b) must advise the distribution entity of the referral.
- (5) The distribution entity must not interfere with the meter until the inspection and test by the competent person is finished.

### **54 Inspection and test after referral**

- (1) On referral of an issue under section 53 and receipt of the prescribed fee, the regulator must—
  - (a) arrange for a competent person to inspect and test the meter; and

- (b) give written notice of the test results to the retail entity, distribution entity and customer.
- (2) The retail entity must give a written notice to its customer of the test results as soon as possible after it receives the results.
- (3) If the test shows the meter is registering incorrectly, the notice must state the extent to which the registration falls outside the prescribed margin.

## **55 Refund and adjustment after test under s 54**

- (1) If a test under section 54 shows the meter is registering incorrectly by a margin substantially greater than the original test showed, the distribution entity must—
  - (a) refund to the retail entity the amount of any prescribed test fee paid by the customer under section 48 for the original test that is not already refunded; and
  - (b) refund to the retail entity the amount of the prescribed fee paid by the customer under section 53 for inspecting and testing the meter; and
  - (c) adjust the previous relevant accounts for customer connection services in the way provided for under section 52.
- (2) The distribution entity must give the retail entity an information notice about the decision to make the adjustment.
- (3) If a test under section 54 shows the meter is registering incorrectly by a margin substantially greater than the original test showed, the retail entity must—
  - (a) refund to the customer the amount of any test fee paid by the customer under section 48 for the original test that is not already refunded; and
  - (b) refund to the customer the amount of the prescribed fee paid by the customer under section 53 for inspecting and testing the meter; and
  - (c) adjust the previous relevant accounts for customer retail services in the way provided for under section 52.
- (4) The retail entity must give the customer an information notice about the decision to make the adjustment.

**56 Using testing instruments**

- (1) A distribution entity or competent person who uses a testing instrument for a test under this division must ensure the instrument is—
  - (a) appropriate for the test; and
  - (b) tested each year to ensure it is accurate and in proper working order.
- (2) The entity or person must keep a record of each test under subsection (1)(b) for at least 2 years.

**Division 3 Substations on customers' premises****57 Application of div 3**

- (1) This division applies if the supply of electricity required by customers in premises is more than, or is reasonably estimated by the distribution entity to be more than, a total maximum demand of 100kV.A worked out under the wiring rules.
- (2) This division also applies to supply of electricity to customers in premises if the regulator, in special circumstances, approves its application.

**58 Meaning of *owner* in div 3**

In this division—

*owner*, of premises, includes a person who is the proprietor, lessee or occupier of the premises or part of the premises.

**59 Owner to provide space for substation**

- (1) This section applies if, to meet an existing or likely demand for supply of electricity by customers who are, or in the future may be, in premises, the distribution entity reasonably considers it is necessary to install a substation on the premises.
- (2) The entity may require the owner of the premises to—



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- (a) provide, free of cost to the entity, the space for a substation; and
  - (b) give a right of way to the entity for its electric lines and cables to and from the substation; and
  - (c) provide to the entity, or persons authorised by it, access to the entity's equipment on the premises at all times to allow the entity to install, maintain or take away its equipment without hindrance or obstruction.
- (3) The owner must also provide permanent handling facilities, segregated access passageways or ventilating ducts if they are needed because of the location the owner proposes to provide for the substation.
- (4) An owner who provides space for a substation under this section must—
- (a) maintain the floor or foundation, walls or enclosure, ceiling and access door of the space in sound condition; and
  - (b) repair damage to or deterioration of the space, other than damage or deterioration directly attributable to the use of the space by the entity.
- (5) Repairs must be done within the time and to the extent reasonably directed by the entity.
- (6) If the owner does not comply with subsection (4), the entity may—
- (a) do anything necessary to carry out the maintenance or repair; and
  - (b) recover from the owner as a debt the reasonable costs of anything done by the entity under paragraph (a).
- (7) In this section—
- space*, for a substation, means—
- (a) necessary or suitable floor or foundation, walls or enclosure, ceiling and access doors in the part of the premises where the substation is to be located and installed, with the walls or enclosure, ceiling and access doors being suitably painted; and

- (b) necessary or suitable places for entry and exit of electric lines and cables for the substation; and
- (c) if required by the distribution entity—suitable lighting and general power outlets.

## **60 Supply to other customers from substation**

- (1) A distribution entity may only use an electric line or equipment installed by it on premises under this division for providing customer connection services to customers outside the premises if the owner of the premises agrees.
- (2) If the agreement is given, it continues in force while the substation is still being used to supply electricity to the premises.
- (3) Subsection (2) applies even if the total maximum demand for the electricity is less than the amount mentioned in section 57(1).

## **61 Limitation of compensation**

Unless agreed between the owner and the distribution entity, an owner of premises for a substation is not entitled to compensation from the distribution entity for—

- (a) the installation of the substation; or
- (b) complying with a requirement under section 59; or
- (c) carrying out an obligation imposed on the owner under section 59; or
- (d) agreeing under section 60 for the substation to be used for the purpose of supplying customers outside the premises, other than reasonable compensation for any additional space, over and above the space used to supply customers on the premises, occupied by the substation for that purpose.

## **62 Taking away distribution entity's equipment**

- (1) If supply of electricity to an owner's premises is no longer needed, the distribution entity must, within a reasonable

period, take away, at its own cost, its electric lines, cables and equipment from the premises if the owner asks.

- (2) Subsection (3) applies if the electric lines, cables and equipment are, under section 60, used to supply electricity to customers not on the premises.
- (3) In deciding what is a reasonable period for subsection (1), regard must be had to whether the period is enough to allow the distribution entity to provide an alternative supply of electricity to the customers mentioned in subsection (2).

## **Division 4                      What is not unfair or unreasonable**

### **63                      Differing methods of charging**

The mere use by a distribution entity, of differing methods of charging for the provision of customer connection services to different customers is not unfair or unreasonable.

### **64                      Negotiated customer connection contracts**

The mere making of, or compliance with, a negotiated customer connection contract by a distribution entity is not unfair or unreasonable.

### **65                      Differing security**

- (1) The mere requiring of differing security by a distribution entity is not unfair or unreasonable.

- (2) In this section—

*differing security* means an agreement, advance payment or amount as security for performance of the customer's obligations to the entity under a customer connection contract that is—

- (a) different to an agreement, payment or security the entity requires of another customer; and
- (b) not manifestly unfair to the customer.

**66 Different terms and capital contributions that are reasonable**

- (1) Subsection (2) applies if a distribution entity provides customer connection services on different terms to different customers or types of customers.
- (2) The mere imposition of the different terms is not unfair or unreasonable if—
  - (a) the circumstances required for providing the services are different; and
  - (b) the terms reasonably reflect the impact on the entity of the—
    - (i) differences between the customers or types of customers; or
    - (ii) different circumstances; or
    - (iii) provisions of the Act, this regulation or any code that applies.

*Examples of different circumstances—*

- the different nature of the plant or equipment required to provide the services
  - different geographical and electrical locations of the relevant connections
  - different periods for which the services are to be provided
  - the electricity supply capacity required to provide the services
  - the characteristics of the relevant load or generation
  - the performance characteristics at which the services are to be provided
- (3) If a distribution entity requires different customers to pay different capital contributions, the mere imposition of the different capital contributions is not unfair or unreasonable if the capital contributions are worked out under a capital contribution policy approved by the jurisdictional regulator.

## **Part 2                      Retail entities**

### **Division 1                      Obligations of retail entities and customers**

#### **67                      Application of div 1**

This division applies only to a retail entity with a retail area.

#### **68                      Limits on obligation to provide customer retail services**

- (1) For sections 49(3) and 53(c)<sup>4</sup> of the Act, a retail entity is not obliged to provide customer retail services to a non-contestable customer's premises within the entity's retail area if—
- (a) the customer does not ask for the provision of the services in a way approved by the retail entity; or
  - (b) if the customer asks for the services and the entity requires the customer to give the entity evidence of the customer's correct name and address—the customer does not give the evidence; or
  - (c) the customer does not give the following if required by the entity—
    - (i) a reasonable advance payment for charges for providing the services;
    - (ii) a reasonable security or agreement for security to the entity for performing the customer's obligations to the entity; or
  - (d) the customer's distribution entity does not have an obligation under the Act to provide customer connection services to the customer; or
  - (e) if the retail entity has asked the customer's distribution entity to disconnect supply under the Act or under a customer sale contract—the retail entity is not

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<sup>4</sup> Sections 49 (Obligation to provide customer retail services to non-contestable customers) and 53 (Limitations on obligation to sell) of the Act

reasonably satisfied the matter that caused it to ask for the disconnection has been remedied, rectified or fixed; or

- (f) the Act allows the entity not to provide customer retail services.
- (2) Subsection (1) does not limit—
- (a) a retail entity's right to ask the customer's distribution entity to interrupt the supply of electricity under the customer sale contract; or
  - (b) a retail entity's right or obligation to—
    - (i) ask the customer's distribution entity to disconnect premises, or refuse to connect or reconnect premises under a customer sale contract; or
    - (ii) refuse to provide customer retail services under a customer sale contract.

## **69 Notice if services refused**

- (1) This section applies if—
- (a) a non-contestable customer asks a retail entity in the approved way for the provision of customer retail services; and
  - (b) the entity decides it does not have an obligation to provide the services.
- (2) The retail entity must as soon as practicable after, but within 1 month of, receiving the request give the customer an information notice about the decision and the reasons for the decision.

## **70 Entity may supply even if no obligation**

A retail entity may agree to provide customer retail services to a non-contestable customer even though it has no obligation to provide them.

*Note—*

Under section 49(4) of the Act, the customer and the retail entity are taken to have entered into a contract on the terms of the entity's standard customer sale contract.

**71 When retail entity is not obliged to provide customer retail services**

- (1) A retail entity is not under an obligation to provide customer retail services to premises of a customer if the customer—
  - (a) contravenes the Act or this regulation in relation to the supply or sale of electricity to any premises of the customer; or
  - (b) the customer does not give the following if required by the entity—
    - (i) a reasonable advance payment for charges for providing the services;
    - (ii) a reasonable security or agreement for security to the entity for performing the customer's obligations to the entity; or
  - (c) fails to pay an amount the customer owes the retail entity under, or otherwise breaches, any customer sale contract between the customer and the retail entity.
- (2) If subsection (1) applies, the retail entity may ask its distribution entity to refuse to connect or reconnect any premises of the customer to the distribution entity's supply network.
- (3) Also, if there is a customer sale contract between a customer and a retail entity for a premises of the customer, the retail entity is not under an obligation to continue to provide customer retail services to the premises if the customer—
  - (a) contravenes the Act or this regulation in relation to the supply or sale of electricity to the premises; or
  - (b) fails to pay an amount the customer owes the retail entity under, or otherwise breaches, the customer's customer sale contract with the retail entity for the premises; or

- (c) fails to pay an amount the customer owes the retail entity under, or otherwise breaches, the customer's customer sale contract with the retail entity for other premises owned or occupied by the customer.
- (4) If subsection (3) applies, the retail entity may ask the customer's distribution entity to disconnect the customer's premises from the distribution entity's supply network.
- (5) However, the retail entity may only ask the distribution entity to disconnect if the relevant conditions under the customer sale contract for disconnection have been complied with.

*Example of a condition—*

a requirement in the customer sale contract for the retail entity to give notice of its intention to ask the distribution entity to disconnect under subsection (4)

- (6) This section does not limit—
  - (a) a retail entity's right to ask the customer's distribution entity to interrupt the supply of electricity under a customer sale contract; or
  - (b) a retail entity's right or obligation to—
    - (i) ask the customer's distribution entity to disconnect premises, or refuse to connect or reconnect premises under a customer sale contract; or
    - (ii) refuse to provide customer retail services under a customer sale contract.

## **72 Customer's liability for customer retail services**

- (1) A customer must pay the retail entity for providing customer retail services to the customer's premises under the customer's customer sale contract with the entity until—
  - (a) supply is disconnected by the distribution entity; or
  - (b) subject to subsection (2), the end of 3 business days after the customer gives the retail entity written or oral notice that supply is no longer needed;
  - (c) electricity is supplied to the premises by arrangement with another customer.



- (2) If the customer gives notice under subsection (1)(b) but does not, if required by the distribution entity, give the distribution entity safe access to the premises for a final meter reading, the customer must pay the retail entity for providing the customer retail services until the earlier of the following—
  - (a) the end of 3 business days after the distribution entity is given safe access to the premises for a final meter reading;
  - (b) the end of the day the distribution entity reads the meter.
- (3) The obligation under subsection (1) includes an obligation to make minimum payments under the contract.
- (4) However, subsection (1) does not apply if the customer and the entity otherwise agree.

## **Division 2                      Obligations of host retail entities and customers**

### **73            Application of div 2**

This division applies if, under the National Electricity Rules, clause 3.15.21(c),<sup>5</sup> NEMMCO suspends a retail entity, other than a retail entity with a retail area, from trading.

### **74            Corporations legislation displacement provision for div 2**

This division is declared to be a Corporations legislation displacement provision for the purposes of the Corporations Act, section 5G in relation to the provisions of chapter 5<sup>6</sup> of that Act.

*Note—*

The Corporations Act, section 5G, provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

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5 National Electricity Rules, clause 3.15.21 (Default procedure)

6 Corporations Act, chapter 5 (External administration)

**75 Statutory customer contract**

On the suspension, each of the suspended retail entity's affected customers is taken to have entered into a statutory customer contract with the host retail entity for—

- (a) the sale of electricity to the affected customer's premises in the host retail entity's retail area; and
- (b) if the affected customer has not entered into a customer connection contract with a distribution entity for the premises—the provision of customer connection services.

**76 Terms of statutory customer contract**

(1) The terms of the statutory customer contract are taken to be each of the following—

- (a) the price payable by the affected customer to the host retail entity for the customer retail services mentioned in section 75(a) is the regional reference price for the region in which the premises are located, as adjusted for any loss factors applying to the region;
- (b) the charges payable by the affected customer to the host retail entity for the customer connection services mentioned in section 75(b) are the charges—
  - (i) decided by the host retail entity; and
  - (ii) not exceeding the charges payable by the host retail entity to the local distribution or transmission entity for providing the services to the affected customer;
- (c) the charges payable by the affected customer to the host retail entity for customer retail services also include—
  - (i) the charges decided by the host retail entity as a reasonable apportionment, on a cost recovery basis, of the fees and charges payable by the host retail entity to a market participant or another entity under the National Electricity Rules; and

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*Example of fees and charges payable by the host retail entity—*

ancillary services fees, participant fees and fees relating to metering services, metering data and spot market transactions, within the meaning of the National Electricity Rules

- (ii) a reasonable apportionment of the 13% liability, and the cost of purchasing renewable energy certificates or paying the renewable energy shortfall charge under the *Renewable Energy (Electricity) Act 2000* (Cwth), incurred by the entity for the customer retail services;
- (d) the host retail entity must bill the affected customer for amounts payable by the customer to the entity for customer retail services and, if section 75(b) applies, customer connection services—
  - (i) on a quarterly basis; or
  - (ii) on the basis of a shorter period decided by the entity;
- (e) the affected customer must pay amounts for which the customer has been billed under paragraph (d) no later than the date stated in the bill as the date for payment;
- (f) the affected customer, if required by written notice given by the host retail entity to the customer, must, within the period stated in the notice, give an amount (a ***security deposit***) to the entity as security for amounts payable by the customer to the entity;
- (g) for paragraph (f), the security deposit is the amount, decided by the host retail entity, that is no more than the amount worked out using the following formula—

**EMA x 2.6**

where—

**EMA** means the average amount, reasonably estimated by the host retail entity, as payable by the affected customer to the host retail entity under the contract for a month;

- (h) the affected customer must, as soon as possible after a following change happens, inform the host retail entity of the change—
  - (i) a change to the customer's contact details;
  - (ii) a change to the purpose for which the customer's premises are used;
  - (iii) a change adversely affecting access to a meter on the customer's premises;
  - (iv) a proposed change to an electrical article or electrical line at the customer's premises, including a proposed change to the operation of an electrical article, that may affect the quality or safety of the supply of electricity to the customer or another person;
  - (v) a permanent change materially affecting the electrical load at the customer's premises.
- (2) In this section—

*regional reference price* has the meaning given by the National Electricity Rules.

## **77 Other provisions about statutory customer contract**

- (1) The statutory customer contract takes effect as a deed.
- (2) The statutory customer contract is taken to end if—
  - (a) under section 78, the affected customer and the host retail entity, or the affected customer and another retail entity, enter into a negotiated customer sale contract, or a negotiated sale and connection contract, for the premises covered by the statutory customer contract; or
  - (b) the supply of electricity to the affected customer's premises is disconnected under the Act.
- (3) The ending of the statutory customer contract does not affect a right or obligation that accrued to the host retail entity or affected customer under the contract before, or because, it ended.

*Example—*

The customer is obliged to pay the host retail entity for services provided under the statutory customer contract up to the end of the contract.

- (4) The host retail entity and affected customer are each taken to have agreed to comply with the provisions of the statutory customer contract, in effect for the time being, so far as the provisions apply to the party.

**78 Contract outside statutory customer contract**

- (1) This section applies at any time while the statutory customer contract is in force.
- (2) The affected customer and the host retail entity, or the affected customer and another retail entity, may enter into a negotiated customer sale contract, or a negotiated sale and connection contract, for the premises covered by the statutory customer contract.
- (3) The affected customer need not give notice to the host retail entity before entering into a contract with another retail entity under subsection (2).
- (4) A contract entered into under subsection (2) must not be inconsistent with the Act and is unenforceable to the extent of the inconsistency.

**79 Customer's liability to suspended retail entity for customer retail services provided after suspension**

- (1) This section applies to customer retail services and, if section 75(b) applies, customer connection services, provided to the affected customer's premises after the suspended retail entity is suspended.
- (2) The affected customer is not liable to pay the following entities for the services—
  - (a) the suspended retail entity;
  - (b) an insolvency official for the suspended retail entity.
- (3) A negotiated customer sale contract or a negotiated sale and connection contract entered into between the affected

customer and the suspended retail entity is unenforceable to the extent it is inconsistent with this section.

## **80 Giving necessary consents, details etc.**

- (1) The objects of this section are—
  - (a) to allow NEMMCO to transfer the suspended retail entity's affected customers from the suspended retail entity to the host retail entity without delay under NEMMCO's market administration systems (*systems*); and
  - (b) to assist the prompt and effective continuation of electricity supply to the affected customers; and
  - (c) to ensure the host retail entity obtains details about each affected customer that is necessary for—
    - (i) performing its obligations to the customer under the statutory customer contract; and
    - (ii) obtaining payment from the customer for amounts payable by the customer to the entity under the contract.
- (2) On the suspension of the suspended retail entity, each relevant person is taken to have—
  - (a) given any approval, authorisation or consent; and
  - (b) signed any document; and
  - (c) complied with any procedure;  
required by NEMMCO under its systems to achieve the objects.
- (3) On the suspension, the host retail entity, by written notice given to a relevant person mentioned in subsection (8)(b) to (e), may require the relevant person to give the retail entity the information—
  - (a) mentioned in subsection (4) about all or any of the affected customers; and
  - (b) held by the relevant person or within the relevant person's knowledge.

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- (4) A requirement under subsection (3) may be made about all or any of the following information—
- (a) the customer's name, contact details and address to which bills are to be sent;
  - (b) the national metering identifier issued under the National Electricity Rules for the metering installation relating to the customer's premises;

*Note—*

See the National Electricity Rules, clause 7.3.1 (Metering installation components).

- (c) the name and contact details of the metering provider and operator of an agency metering database, within the meaning of the National Electricity Rules, having responsibilities under the Rules in relation to the customer's premises;
  - (d) the address of the customer's premises to which electricity is to be supplied;
  - (e) the purpose for which the customer's premises are used;
  - (f) the average monthly consumption of electricity, based on the immediately preceding 12 months, at the customer's premises;
  - (g) the applicable loss factors and charges payable by the host retail entity to the local distribution entity and transmission entity for providing customer connection services mentioned in section 75(b) for the affected customer's premises.
- (5) The notice must state the day, that is at least 10 business days after the notice is given, by which the relevant person must give the information.
- (6) The relevant person must comply with the notice.
- Maximum penalty—20 penalty units.
- (7) The host retail entity—
- (a) must use the information only for the purpose for which it was given; and
  - (b) must not disclose the information to any other person, other than for the purpose for which it was given, unless

the affected customer consents to the disclosure or the host retail entity is otherwise required or permitted by law to make the disclosure.

Maximum penalty—20 penalty units.

(8) In this section—

*relevant person* means any of the following—

- (a) the host retail entity;
- (b) the suspended retail entity;
- (c) an affected customer of the suspended retail entity;
- (d) a transmission entity for an affected customer;
- (e) a distribution entity for an affected customer;
- (f) if an insolvency official is appointed for the suspended retail entity—the insolvency official.

## **81 Regulator may require host retail entity to give documents**

A host retail entity must, if required by the regulator, give the regulator a copy of the entity's plans and procedures for managing the operation of section 75 for the entity.

## **Division 3 What is not unfair or unreasonable**

### **82 Application of div 3**

This division applies to a retail entity providing customer retail services to a non-contestable customer for an electrical installation or premises within its retail area.

### **83 Differing methods of charging**

The mere use by a retail entity of differing methods of charging for the provision of customer retail services to different customers is not unfair or unreasonable.



**84 Negotiated customer sale contracts**

The mere making of, or compliance with, a negotiated customer sale contract by a retail entity is not unfair or unreasonable.

**85 Differing security**

(1) The mere requiring of differing security by a retail entity is not unfair or unreasonable.

(2) In this section—

*differing security* means an agreement, advance payment or amount as security for performance of the customer's obligations to the entity under a customer sale contract that is—

- (a) different from an agreement, payment or security the entity requires of another customer; and
- (b) not manifestly unfair to the customer.

**86 Different terms that are reasonable**

(1) This section applies if a retail entity provides customer retail services on different terms to different customers or types of customers.

(2) The mere imposition of the different terms is not unfair or unreasonable if—

- (a) the circumstances required for providing the services are different; and
- (b) the terms reasonably reflect the impact on the entity of the—
  - (i) differences between the customers or types of customers; or
  - (ii) different circumstances; or
  - (iii) provisions of the Act, this regulation or any code that applies.

*Examples of different circumstances—*

- the quantities of electricity purchased by the customers or types of customers
- the geographical location of the customers or types of customers
- the periods for which the services are to be provided

## **Part 3                      Approved industry code**

### **87            Approved industry code**

The Electricity Industry Code made by the regulator on 20 July 2006 is approved.

## **Part 4                      Disputes about what is fair and reasonable**

### **88            Dispute resolution**

(1) This section applies—

(a) if—

- (i) the Act or this regulation requires an electricity entity to do something on fair and reasonable terms or on a fair and reasonable basis; and
- (ii) there is a dispute about fairness or reasonableness; and
- (iii) the dispute is not an access dispute under the *Queensland Competition Authority Act 1997*, section 112(2);<sup>7</sup> and
- (iv) section 119 of the Act does not apply; or

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<sup>7</sup> *Queensland Competition Authority Act 1997*, section 112 (Giving dispute notice)

- (b) if there is a dispute about any of the following and section 119 of the Act does not apply—
  - (i) the fairness or reasonableness of a capital contribution worked out under a capital contribution policy of a distribution entity;
  - (ii) the correct application of a capital contribution policy approved by the jurisdictional regulator.
- (2) A party to the dispute may ask the regulator to resolve the dispute.
- (3) The regulator may—
  - (a) give instructions about procedures the parties must follow to attempt to resolve the dispute before the regulator takes steps to resolve it; or
  - (b) require a party to give the regulator information the regulator considers necessary to enable the dispute to be resolved.
- (4) The regulator must give each party a reasonable opportunity to make representations before making the decision.
- (5) After considering any representations, the regulator must decide the issue in dispute.
- (6) The regulator must give the parties an information notice about the decision.

## **89 Regulator may seek advice or information**

- (1) This section applies if, under section 88(2), the regulator has been asked to resolve a dispute.
- (2) To help resolve the dispute, the regulator may seek advice or information from any other person.
- (3) The regulator may take the advice or information into account in resolving the dispute.
- (4) If the regulator seeks information or advice or takes into account advice or information the regulator has been given for any other dispute, the regulator must—
  - (a) if the advice or information is written—give a copy of it to the parties; or

- (b) if the advice or information is oral—disclose the substance of the advice to the parties.

## **90 Parties to maintain secrecy of advice or information**

- (1) This section applies if under section 89(4) the regulator gives advice or information, or discloses the substance of advice or information, to a person who is a party to the dispute.
- (2) The person must not disclose the advice or information to another person unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) It is a reasonable excuse for a person to disclose the advice or information if the disclosure is for—
  - (a) the resolution of the dispute; or
  - (b) an appeal against the regulator’s decision on the dispute.

## **Part 5 Meters**

### **91 Meters must be read annually**

An electricity entity must ensure each meter recording the consumption of electricity for each of its customers is read—

- (a) at least once each year; and
- (b) if the contract between the electricity entity and the customer for the supply or sale of electricity provides for additional readings of the meter—when the contract states the meter must be read.

*Note—*

An electronic meter may be read remotely without the need to visit the premises in which the meter is located.

## **Part 6                      Electricity restrictions**

### **Division 1                Preliminary**

#### **92            Purpose of pt 6**

The purpose of this part is ensure a regular, economically efficient and constant supply of electricity within the available supply capacity of particular supply networks, or parts of them.

### **Division 2                Restrictions in Ergon Energy distribution area**

#### **93            Where restrictions apply**

The electricity restrictions under section 94 apply to electricity supplied by Ergon Energy in the localities mentioned in schedule 1 through its supply network.

#### **94            Restrictions**

- (1) The use of the following electrical articles by customers is prohibited—
  - (a) electric motors with a rating greater than—
    - (i) the rating stated for the relevant locality in schedule 1; and
    - (ii) if the motor is not installed and operated in accordance with the guidelines published by Ergon Energy—1.5kW;

*Editor's note—*

The guidelines are available from the Ergon Energy offices at 109 Lake Street, Cairns, 34 Dalrymple Road, Garbutt, Townsville and the corner of Fitzroy Street and Alma Street, Rockhampton

- (b) instantaneous water heaters with a rating of more than 2.4kW;

- (c) welding power sources.
- (2) Subsection (1) does not apply—
  - (a) to the following welding power sources—
    - (i) 415V, 3 phase input light industrial welding power sources;
    - (ii) 250V, single phase limited input welding power sources; or
  - (b) to electric motors that are part of a public water supply system or a community sewerage system installed and operated in the way required by Ergon Energy; or
  - (c) to electrical articles at Mapoon installed before 1 December 1998; or
  - (d) if the customer satisfies Ergon Energy, by the written advice of a doctor, that a stated electrical article must be used to reduce a threat to a person's life.

- (3) In this section—

*instantaneous water heater* means an instantaneous water heater described in—

- (a) AS/NZS 3350.2.35:1999—Safety of household and similar electrical appliances, part 2.35—Particular requirements— Instantaneous water heaters; or
- (b) AS/NZS 60335.2.35:2004—Household and similar electrical appliances—Safety, part 2.35—Particular requirements for instantaneous water heaters.

*welding power source* means a welding power source described in AS1966.1—1985 Electric arc welding power sources— Part 1—Transformer type.

## Part 7                      Contestable customers

### Division 1                General declarations

#### Subdivision 1        Preliminary

#### 95        Definitions for div 1

In this division—

*lot* includes a parcel of land.

*registered owner*, of a lot, means—

- (a) the person recorded in the freehold land register under the *Land Title Act 1994* as the person entitled to the fee simple interest in the lot; or
- (b) a lessee (other than a sublessee), licensee (other than a sublicencee) or permittee of the lot under the *Land Act 1994*.

*relevant distribution entity*, for single premises, means the distribution entity in whose distribution area the premises are located.

#### 96        Meaning of *single premises*

- (1) In this division, a *single premises*, of a customer, means any of the following if owned or occupied by the customer and used by the customer for the same business or enterprise—
  - (a) the whole of any single building or structure;
  - (b) a part of any single building or structure;
  - (c) 2 or more parts, whether or not adjoining, of any single building or structure;
  - (d) the whole of 2 or more buildings or structures that are on—
    - (i) the same lot of land; or
    - (ii) 2 or more adjoining lots of land.

(2) In this section—

*adjoining lots* includes lots that would be adjoining lots if they were not separated by a road, within the meaning of the *Land Act 1994*,<sup>8</sup> or an easement.

*same business or enterprise* means a business or enterprise carried out under the same name, other than a business or enterprise made up of parts carried out under different names.

## **Subdivision 2      Declarations as contestable customers**

### **97      Certification for premises**

(1) A customer is declared to be a contestable customer for the supply of electricity to any single premises of the customer if—

(a) the customer—

(i) has certification for the premises under section 103(1); or

(ii) is, under section 113(7), taken to have the certification; and

(b) the customer—

(i) has entered into a negotiated customer sale contract, or a negotiated sale and connection contract, with a retail entity for the sale, or sale and supply, of electricity to the premises; or

(ii) is, under the National Electricity Rules, chapter 2,<sup>9</sup> registered as a ‘Market Participant’ under the category ‘Market Customer’.

(2) The declaration takes effect—

(a) if subsection (1)(b)(i) applies—at the time the supply of electricity to the premises is to start under the contract;

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<sup>8</sup> See the *Land Act 1994*, section 93 (Meaning of *road*).

<sup>9</sup> National Electricity Rules, chapter 2 (Registered participants and registration)



- (b) if subsection (1)(b)(ii) applies—at the time for the customer to start taking supply as a ‘Market Customer’ under the National Electricity Rules.

*Note—*

For the provisions of the National Electricity Rules concerning supply to a ‘Market Customer’, see the Rules, chapter 3 (Market rules).

## **98 New or replacement single premises of same registered owner**

- (1) This section applies if—
  - (a) under this subdivision, a customer is declared to be a contestable customer for the supply of electricity to a single premises (the *original premises*) of the customer; and
  - (b) the customer is the registered owner of the lot or all of the lots that the original premises are on.
- (2) The customer is also declared to be a contestable customer for the supply of electricity to—
  - (a) a single premises on the lot or lots that replaces, or substantially replaces, the original premises; and
  - (b) any other single premises on the lot or lots, other than a premises—
    - (i) that existed before the declaration took effect; and
    - (ii) for which the customer was not declared to be a contestable customer under the declaration.

## **99 Subsequent registered owner**

- (1) This section applies if—
  - (a) under this subdivision, a customer (the *original customer*) is declared to be a contestable customer for the supply of electricity to a single premises of the customer; and
  - (b) the customer was, when the declaration took effect, the registered owner of the lot or all of the lots that the single premises are on; and

- (c) another person (the *new customer*) becomes the registered owner of the lot or all of the lots.
- (2) The new customer is declared to be a contestable customer for the supply of electricity to each single premises on the lot or lots, other than a single premises—
  - (a) that existed before the new customer became the registered owner of the lot or all of the lots; and
  - (b) for which the original customer was not a contestable customer under the declaration.

### **100 Declaration continues**

- (1) If a customer is declared under this regulation to be a contestable customer for a particular premises, the declaration continues while the premises are a single premises of the customer.
- (2) Subsection (1) applies despite—
  - (a) the actual consumption of electricity for the premises; or
  - (b) the purpose for which the premises are used.

## **Subdivision 3 Contestable customer certification**

### **101 Applying for certification**

- (1) A customer may apply to the relevant distribution entity for contestable customer certification for any single premises of the customer.
- (2) The application must—
  - (a) be written; and
  - (b) state the applicant's name and the premises to which the application relates; and
  - (c) be supported by enough other information, reasonably decided by the entity, to enable the entity to consider the application.

**102 Consideration of application**

- (1) The relevant distribution entity must either grant or refuse the application within 1 month after receiving all necessary information relevant to the application.
- (2) The entity must grant the application if satisfied—
  - (a) the customer has arranged for the provision of a ‘metering installation’ under the National Electricity Rules, chapter 7,<sup>10</sup> for each connection point to the premises; and
  - (b) either—
    - (i) the consumption for the premises during a consumption period was more than 0.1GWh; or
    - (ii) the estimated consumption for the premises in a future consumption period is more than 0.1GWh, and—
      - (A) the premises did not consume electricity before the start of the future consumption period; or
      - (B) the premises consumed electricity before the start of the future consumption period, but the premises or the customer’s business or enterprise for which the customer uses the premises was expanded after the start of the future consumption period and the expansion has caused the estimate to be more than 0.1GWh.
- (3) The entity must refuse the application if the entity is not satisfied under subsection (2).
- (4) Subsection (2)(b) does not apply if the application is for contestable customer certification starting on or after 1 July 2007.
- (5) If the entity does not grant the application within the relevant period, it is taken to have—

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10 National Electricity Rules, chapter 7 (Metering)

For the meaning of ‘metering installation’ under the National Electricity Rules, see chapter 10 (Glossary).

- (a) refused the application; and
  - (b) given the applicant a notice under section 104(1) of refusal of the application at the end of the period.
- (6) In this section—

**consumption**, for the premises during a consumption period, means the electricity, decided by the relevant distribution entity, that was—

- (a) consumed for the premises during the period; or
- (b) charged under an on-supply agreement by an on-supplier for the premises during the period.

**consumption period** means any period of 1 year beginning on or after the day that is 3 years before the relevant distribution entity receives all necessary information relevant to the application.

**estimated consumption**, for the premises during a future consumption period, means the electricity the relevant distribution entity estimates will be—

- (a) consumed for the premises during the period; or
- (b) charged under an on-supply agreement by an on-supplier for the premises during the period.

**future consumption period** means any period of 1 year that has not ended.

**relevant period** means the first of the following periods to end—

- (a) 1 month after the entity receives all necessary information relevant to the application;
- (b) 3 months after the application was made.

### **103 Issue of certification**

- (1) If the relevant distribution entity grants the application, it must give the certification applied for to the customer as soon as practicable after the application is granted.
- (2) The certification must be written and state the following—
  - (a) the customer's name;

- (b) the single premises of the customer to which the certification relates;
- (c) that the entity was satisfied under section 102(2).

#### **104 Refusal of application**

- (1) If the relevant distribution entity refuses the application under section 102(3), the entity must give the applicant written notice of refusal of the application as soon as practicable after the refusal.
- (2) The notice must state the following—
  - (a) that the entity has refused the application;
  - (b) the reasons for the refusal;
  - (c) that the applicant may, under section 113, ask the Minister to decide whether the application ought to have been granted.

#### **105 Certification continues**

- (1) If the relevant distribution entity grants the application, the certification continues while the premises are a single premises of the customer.
- (2) However, the relevant distribution entity may cancel the certification if the entity is satisfied on reasonable grounds that the certification was obtained by fraud or misrepresentation.

### **Subdivision 4 Actual or estimated consumption of less than 0.2GWh**

#### **106 Application of sdiv 4**

This subdivision applies to the making of a negotiated customer sale contract, or a negotiated sale and connection contract, for the provision of customer retail services by a retail entity to any single premises of a customer if—

- (a) the customer is not a contestable customer for the premises; and
- (b) within the meaning of section 102(2)(b), the consumption was, or estimated consumption is, for the premises less than 0.2GWh.

#### **107 Definition for sdiv 4**

In this subdivision—

*cooling-off period*, for the negotiated customer sale contract or the negotiated sale and connection contract, means a period of 5 business days starting on the day after the day the contract is made.

#### **108 Disclosures to customer**

- (1) The retail entity must not enter into the negotiated customer sale contract or the negotiated sale and connection contract unless—
  - (a) the retail entity has given the customer a disclosure statement in the approved form; and
  - (b) the customer has signed the disclosure statement.
- (2) The retail entity must keep a copy of each signed disclosure statement until the latest of the following days—
  - (a) the day the negotiated customer sale contract or the negotiated sale and connection contract ends;
  - (b) the day that is 5 years after the entity and the customer enter into the contract.

#### **109 Ending contract during cooling-off period**

- (1) The customer may end the negotiated customer sale contract or the negotiated sale and connection contract during the cooling-off period for the contract.
- (2) The customer ends the contract by giving the retail entity written notice of the ending of the contract.

- (3) The customer is not liable to the retail entity in any way for ending the contract.
- (4) The customer can not waive the cooling-off period for the contract.

### **110 Prohibition on providing customer retail services during cooling-off period**

- (1) The retail entity must not provide customer retail services to the customer under the negotiated customer sale contract or the negotiated sale and connection contract unless the cooling-off period for the contract has ended.
- (2) If the negotiated customer sale contract or the negotiated sale and connection contract is inconsistent with subsection (1), it is unenforceable to the extent of the inconsistency.

## **Division 2 Contestable customers in Country Energy's area**

### **111 Contestable customers in Country Energy's area**

- (1) A customer is declared to be a contestable customer for premises of the customer if—
  - (a) the premises are within Country Energy's area; and
  - (b) the customer would, if the premises were in New South Wales, be eligible to enter into a negotiated customer supply contract within the meaning of the *Electricity Supply Act 1995* (NSW).

- (2) In this section—

***Country Energy's area*** means Country Energy's—

- (a) supply area described in Country Energy's special approval no. SA21/98; or

*Editor's note—*

A copy of a map of the area may inspected at the department's office at 61 Mary Street, Brisbane.

- (b) distribution area under any distribution authority issued to it.

### **Division 3                    Other contestable customers**

#### **112    Customers declared to be contestable customers**

Each of the customers mentioned in schedule 2 is declared to be a contestable customer at the premises set out opposite in the schedule.

### **Division 4                    Resolving disputes about     contestability**

#### **113    Dispute resolution**

- (1) This section applies if—
  - (a) a customer's application for contestable customer certification has been refused or is, under section 102(5), taken to have been refused and the customer disputes the refusal; or
  - (b) there is a dispute about whether a customer is a contestable customer for a premises under section 111.
- (2) The customer may ask the Minister, or a person appointed by the Minister, (the *dispute resolver*) to resolve the dispute.
- (3) The dispute resolver may—
  - (a) give instructions about procedures the parties to the dispute must follow to attempt to resolve the dispute before the dispute resolver attempts to resolve it; or
  - (b) require a party to give the dispute resolver information the dispute resolver considers necessary to enable the dispute to be resolved.
- (4) The dispute resolver must give each party a reasonable opportunity to make representations before making the decision.



- (5) After considering any representations, the dispute resolver must decide—
  - (a) for a dispute mentioned in subsection (1)(a)—whether the application ought to have been granted; or
  - (b) for a dispute mentioned in subsection (1)(b)—whether the customer is a contestable customer for the premises to which the dispute relates.
- (6) The dispute resolver must inform the parties of the decision by written notice stating the—
  - (a) decision; and
  - (b) reasons for the decision.
- (7) If, under subsection (5)(a), the dispute resolver decides the application ought to have been granted, certification is taken to have been given under section 103(1) to the customer for the premises to which the application relates when the decision was made.
- (8) If, under subsection (5)(b), the dispute resolver decides the customer is a contestable customer for the premises to which the dispute relates, the customer is taken to have been a contestable customer for the premises from when the decision was made.

#### **114 Dispute resolver may seek advice or information**

- (1) This section applies if, under section 113(2), a dispute resolver has been asked to resolve a dispute.
- (2) To help resolve the dispute, the dispute resolver may seek advice or information from any other person.
- (3) The dispute resolver may take the advice or information into account in making a decision under section 113(5).
- (4) If the dispute resolver seeks information or advice or takes into account advice or information the dispute resolver has been given for any other dispute, the dispute resolver must—
  - (a) if the advice or information is written—give a copy of it to the parties; or

- (b) if the advice or information is oral—disclose the substance of the advice to the parties.

### **115 Parties to maintain secrecy of advice or information**

- (1) This section applies if under section 114(4) the dispute resolver gives advice or information, or discloses the substance of the advice or information, to a person who is a party to the dispute.
- (2) The person must not disclose the advice or information to another person unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) It is a reasonable excuse for a person to disclose the advice or information if the disclosure is for—
  - (a) the resolution of the dispute; or
  - (b) an appeal against the dispute resolver’s decision on the dispute.

### **116 Decision binding**

The dispute resolver’s decision under section 113 binds each party to the dispute.

## **Division 5 Metering obligation if customer is contestable for premises**

### **117 Customer’s metering obligation**

- (1) This section applies if a customer is a contestable customer for the supply of electricity to a premises of the customer.
- (2) The customer must provide, install and maintain a ‘metering installation’ under the National Electricity Rules, chapter 7,<sup>11</sup>

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11 National Electricity Rules, chapter 7 (Metering)

For the meaning of ‘metering installation’ under the National Electricity Rules, see the Rules, chapter 10 (Glossary).

for each connection point to the premises in the way required of a 'Market Customer' under that chapter.

Maximum penalty—20 penalty units.

## **Chapter 4      Market and system arrangements**

### **Part 1            System and network control**

#### **Division 1        Operating electrical installations**

##### **118      National Electricity Rules to be followed**

A person must comply with the National Electricity Rules in operating an electrical installation if the installation—

- (a) is connected directly to a transmission grid that is part of the Queensland system; or
- (b) is connected to a part of a supply network stated by NEMMCO or the System Operator for Queensland to be relevant to the security and reliability of the Queensland system; or
- (c) includes facilities for the provision of ancillary services stated by NEMMCO or the System Operator for Queensland to be relevant to the security and reliability or the economic operation of the Queensland system.

Maximum penalty—20 penalty units.

## **Division 2                      Network control**

### **119      Network operation not to interfere with Queensland system**

- (1) A distribution entity must not operate its supply network in a way that interferes with the performance of the Queensland system without the agreement of NEMMCO or the System Operator for Queensland.

Maximum penalty—20 penalty units.

- (2) In this section—

*operate* includes providing network control.

### **120      National Electricity Rules to be followed**

A person must comply with the National Electricity Rules in operating an electrical installation if the installation—

- (a) is connected directly to a supply network that is part of the Queensland system; or
- (b) includes facilities for the provision of ancillary services to the supply network.

Maximum penalty—20 penalty units.

### **121      Dealings to be impartial**

An electricity entity, in carrying out network control, must be impartial in its dealings with all other electricity entities, special approval holders, contestable customers and other customers.

### **122      Confidentiality**

- (1) An electricity entity may publish or release to a person information acquired by the entity in carrying out network control, and that gives or is likely to give the person a material commercial advantage over anyone else, only if—

- (a) the giving of the information is for another lawful purpose; and

- (b) any commercial advantage is only incidental to the purpose.
- (2) Subsection (1) does not apply to the giving to a person information about—
  - (a) the person; or
  - (b) with another person's written permission, the other person.

### **123 Reasonable charges for services**

An electricity entity may charge electricity entities, special approval holders and contestable customers for the reasonable cost of carrying out its network control functions for the entity, holder or customer.

## **Part 2 Conditions of authorities and special approvals**

### **124 Separation of distribution and retail sectors**

It is a condition of a distribution authority that its holder must not hold a retail authority.

### **125 Compliance with National Electricity Rules instruments**

- (1) This section applies to the holder of an authority or special approval if the holder is a Registered participant.
- (2) It is a condition of an authority or special approval that its holder must comply with any National Electricity Rules instrument applying to the activities authorised by the authority or special approval.
- (3) In this section—

*authority* means a generation authority, transmission authority, distribution authority or retail authority.

*National Electricity Rules instrument* means a guideline, power system operating procedure or other procedure, protocol or standard made under the Rules.

### **126 Compliance with regulator's decisions under s 113**

- (1) It is a condition of an electricity entity's authority that the entity must comply with a decision by the regulator under section 113 about a dispute to which the entity was a party.
- (2) However, the condition does not apply if the decision has been stayed.

### **127 Compliance with disclosure requirements**

- (1) This section applies to a retail entity if—
  - (a) the entity proposes to enter into a negotiated customer sale contract, or a negotiated sale and connection contract, with a customer to provide customer retail services to the customer's premises; and
  - (b) chapter 3, part 7, division 1, subdivision 4, applies to the making of the contract.
- (2) It is a condition of the retail entity's retail authority that the entity must, before entering into the contract, comply with the requirements of section 108(1).

## **Part 3 Special approvals**

### **128 Approval to connect for generation plant of particular State electricity entities installed immediately before 1 January 1995**

- (1) Ergon Energy has a special approval authorising it to connect the generating plant installed before 1 January 1995 and vested in Capricornia Electricity Corporation, Far North Queensland Electricity Corporation or North Queensland Electricity Corporation as at 1 January 1995 to the

transmission grid or supply network to which the generating plant was connected on 1 January 1995.

- (2) Section 27(a) and (c)<sup>12</sup> of the Act applies to Ergon Energy acting under the special approval as if it were a generation entity.

**129 Approval to connect for mobile generating plant for emergency or maintenance work by distribution entities**

- (1) A distribution entity has a special approval to connect mobile generating plant to its supply network to supply electricity during an emergency or maintenance work on the supply network.
- (2) Section 27(a) and (c) of the Act applies to a distribution entity acting under the special approval as if the supplier were a generation entity.

**130 Approval to connect particular generating plant with 30MW or less capacity**

- (1) A person who operates generating plant with a capacity of 30MW or less has a special approval to connect the generating plant to a transmission grid or supply network and sell electricity generated by that plant.
- (2) Section 27(a) and (c)<sup>13</sup> of the Act applies to the person acting under the special approval as if the person were a generation entity.

**131 Special approval holders treated as electricity entities—Act, s 59(2)**

- (1) A special approval holder stated in schedule 3, column 1, is to be treated as an electricity entity for the provisions of the Act stated in schedule 3, column 2, opposite the special approval holder.

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12 Section 27 (Conditions of generation authority) of the Act

13 Section 27 (Conditions of generation authority) of the Act

- (2) To remove any doubt, it is declared that if a special approval holder is mentioned in more than 1 item in schedule 3, each of the items in which the holder is mentioned applies to the holder.

### **132 Special approval for QETC**

QETC has a special approval to generate and sell electricity for a purpose or function mentioned in section 33(2)<sup>14</sup> of the Act.

## **Chapter 5 Prohibited interests**

### **133 Distribution authorities**

Holding a retail authority is a prohibited interest for a distribution entity.

## **Chapter 6 13% gas scheme**

### **Part 1 General provisions**

#### **134 Prescribed transmission zones**

For section 135CO(1) of the Act, the following areas are prescribed—

- (a) each area identified in the zone forecasts under the latest annual planning report from time to time of Powerlink Queensland;

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<sup>14</sup> Section 33 (Additional condition not to buy and sell electricity) of the Act



*Editor's note—*

At the commencement of this section the document was available on the Internet at <[www.powerlink.com.au](http://www.powerlink.com.au)>.

- (b) the area of the national electricity market north of the Hunter Valley at Liddell and Newcastle on the coast through to the border between New South Wales and Queensland.

### **135 Prescribed programs**

For section 135GR(1)(b) of the Act, the following are prescribed—

- (a) the *Renewable Energy (Electricity) Act 2000* (Cwlth);
- (b) the program under the document called the 'National Green Power Accreditation Document' made by the National Green Power Accreditation Steering Group.

*Editor's note—*

At the commencement of this section the document was available on the Internet at <[www.greenpower.com.au](http://www.greenpower.com.au)>.

## **Part 2 Monitoring**

### **136 Appointment conditions for approved auditors**

- (1) This section states, for section 135IG(1)(c) of the Act, conditions on which an approved auditor holds office.
- (2) The auditor must personally not create, or become the registered owner of, a GEC.
- (3) In carrying out an audit, the auditor must act honestly and in good faith.
- (4) If an auditable person or the regulator commissions the auditor to carry out an audit, the auditor must not carry out, or negotiate the carrying out, of other work for reward for the

auditable person until the regulator has, under section 135IP or 135IT<sup>15</sup> of the Act, been given a report about the audit.

- (5) If the auditor becomes aware of a possible conflict of interest relating to an audit, the auditor must, as soon as possible, give the regulator a written notice—
  - (a) describing the possible conflict; and
  - (b) stating all relevant circumstances.
- (6) If the regulator commissions the auditor to carry out an audit and the regulator asks, the auditor must demonstrate to the regulator that the auditor's costs of carrying out the audit and giving the regulator a report about the audit were properly and reasonably incurred.
- (7) In this section—

*audit* means an audit under chapter 5A, part 7 of the Act.

### **137 Prescribed contents for audit reports**

For sections 135IP(1)(b) and 135IT(1)(b) of the Act, all of the following information is prescribed—

- (a) the approved auditor's name and details of appointment;
- (b) the day the audit started;
- (c) the day the audit finished;
- (d) the address at which the audit took place;
- (e) the duration of the audit;
- (f) the name of the person who commissioned the audit;
- (g) the name of the auditable person to whom the audit related;
- (h) each matter (a *required matter*) for which the audit was required;
- (i) the period to which the audit applied;

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15 Section 135IP (Regulator may require audit) or 135IT (Regulator may carry out audit) of the Act

- (j) details of sites, activities, material or matters examined for each required matter;
- (k) the names of any individuals appointed by the auditable person to give the approved auditor help and information;
- (l) whether, in the approved auditor's opinion, the auditable person complied with chapter 5A of the Act for each required matter;
- (m) if the approved auditor's opinion is that the auditable person did not comply with chapter 5A of the Act for any required matter—
  - (i) details of the noncompliance; and
  - (ii) the facts and circumstances used to form the opinion;
- (n) any recommendations of the approved auditor.

## **Chapter 7      Energy efficiency and performance of electrical equipment**

### **Part 1            Minimum energy efficiency and performance**

#### **Division 1        Registration**

##### **138      Application for registration**

- (1) An application for registration of an item of prescribed electrical equipment must be made to the regulator in the form for the application set out in the relevant standard.
- (2) The application must be accompanied by each of the following—

- (a) subject to subsection (7), the prescribed fee;
  - (b) the test results and calculations mentioned in the relevant standard;
  - (c) the other test results mentioned in the relevant standard, in the form for the results set out in the standard;
  - (d) for an item mentioned in schedule 4, part 1—a sample of a label for the item;
  - (e) for an item mentioned in schedule 4, part 3, that is to be labelled—a sample of a label for the item;
  - (f) if required by the regulator, a sample of the equipment;
  - (g) any other relevant information the regulator requires to decide the application.
- (3) The application may specify a range of models of the 1 brand in the same application if each of the models has the same relevant physical characteristics, energy efficiency and performance characteristics.
- (4) If a person other than the applicant signs the application, the application must be accompanied by the applicant's written authority for the person to sign the application.
- (5) If the application is made by electronic communication, subsection (4) is taken to be complied with if—
- (a) a method is used to identify the applicant and to indicate the applicant's authority; and
  - (b) having regard to all the relevant circumstances when the method was used, the method was as reliable as was appropriate for the purposes for which the authority was communicated; and
  - (c) the regulator consents to the requirement being met by using the method mentioned in paragraph (a).
- (6) The regulator may waive the requirement under subsection (2)(b) and (c).
- (7) If the application is made by electronic communication, the applicant must give the regulator the prescribed fee for the application before the regulator can register the item of prescribed electrical equipment.

- (8) If the application is made by electronic communication, the regulator—
  - (a) may decide the application; but
  - (b) cannot register the item the subject of the application until the prescribed fee is paid.

### **139 Requirements for registration**

- (1) The regulator may register an item of prescribed electrical equipment only if the regulator considers—
  - (a) the item complies with section 140; and
  - (b) for equipment mentioned in schedule 4, part 1—the equipment’s label complies with section 152; and
  - (c) for equipment mentioned in schedule 4, part 3, that is to be labelled—the equipment’s label complies with section 152.
- (2) If the regulator refuses to register the item, the regulator must give the applicant an information notice about the refusal.

### **140 Minimum energy efficiency and performance criteria**

- (1) This section states the requirements an item of prescribed electrical equipment must comply with for section 139(1)(a).
- (2) An item of prescribed electrical equipment mentioned in schedule 4, part 1 or 3, must, if tested in accordance with part 1 of the relevant standard, comply with the performance criteria for the item in the relevant standard.
- (3) An item of prescribed electrical equipment mentioned in schedule 4, part 2, must comply with the energy efficiency requirements for the item in the relevant standard.

### **141 Notice of registration**

Within 28 days after registering an item of prescribed electrical equipment, the regulator must give written notice of the registration, and the date of registration, to the applicant.

**142 Term of registration**

Registration of an item of prescribed electrical equipment is for the term of not more than 5 years stated in the notice of registration given under section 141 unless the registration is cancelled earlier.

**143 Change of name or address**

- (1) The holder of a registration of an item of prescribed electrical equipment whose name or address changes must, within 14 days after the change, give written notice of it to the regulator.

Maximum penalty—8 penalty units.

- (2) The regulator must enter details of the new name or address in the register.

**144 Changing energy efficiency label identifying electrical equipment**

- (1) The holder of a registration of an item of prescribed electrical equipment with an energy efficiency label may apply to the regulator for approval of a change to the label to reflect a change in the way an item of electrical equipment of the type to which the label relates is identified.
- (2) The regulator may approve the change if the application—
  - (a) is made in the approved form; and
  - (b) is accompanied by—
    - (i) subject to subsection (3), the prescribed fee; and
    - (ii) a sample of the changed energy efficiency label.
- (3) If the application is made by electronic communication, the applicant must give the regulator the prescribed fee for the application before the regulator can approve the change.

**145 Refusal to change energy efficiency label**

If the regulator refuses to approve a change to an energy efficiency label for which application is made, the regulator must give the applicant an information notice about the refusal.

**146 Notice of change to energy efficiency label**

Within 28 days after approving a change to an energy efficiency label, the regulator must give written notice of the change to the holder of the label.

**Division 2                      Transfer and cancellation of registration****147 Transfer of registration**

- (1) If the holder of a registration of an item of prescribed electrical equipment proposes to transfer the registration to someone else (the *proposed transferee*), the proposed transferee may apply to the regulator for approval of the transfer.
- (2) The regulator must approve the transfer if the application—
  - (a) is made in the approved form; and
  - (b) is accompanied by—
    - (i) subject to subsection (4), the prescribed fee; and
    - (ii) the holder's written agreement to the transfer.
- (3) If the regulator refuses to approve the transfer, the regulator must give the applicant an information notice about the refusal.
- (4) If the application is made by electronic communication, the applicant must give the regulator the prescribed fee for the application before the regulator can approve the change.

**148 Notice of transfer**

Within 28 days after approving the transfer, the regulator must give written notice of the transfer to the proposed transferee and the former holder of the registration.

**149 Cancellation of registration**

- (1) The regulator may, subject to section 150, cancel the registration of an item of prescribed electrical equipment if—

- (a) the regulator examines or tests the item and finds that it does not comply with the relevant standard; or
  - (b) the holder of the registration engages in conduct likely to mislead the public about the performance, rating, capacity or the characteristics of the item required by the relevant standard; or
  - (c) the holder gave the regulator false or misleading information about the application for registration, or transfer of registration, of the item; or
  - (d) the holder fails to pay the fee, if any, for the registration; or
  - (e) the holder asks for the cancellation.
- (2) If registration of an item (the *primary item*) of prescribed electrical equipment is cancelled, the regulator may also cancel the registration of any other item of prescribed electrical equipment that the regulator is satisfied—
- (a) has the same relevant physical characteristics, energy efficiency and performance characteristics as the primary item; and
  - (b) was registered on the basis of the same test results as the test results for the primary item.
- (3) If the regulator decides to cancel the registration, the regulator must give the holder an information notice about the decision.

## **150 Procedure before cancellation**

- (1) If the regulator considers a ground exists to cancel the registration of an item of prescribed electrical equipment, other than at the request of the registration holder, the regulator must, before taking the action, give the holder written notice—
- (a) stating the regulator is considering cancelling the registration; and
  - (b) stating the grounds for the proposed cancellation; and
  - (c) outlining the facts and circumstances forming the basis for the grounds; and



- (d) inviting the holder to show, within a stated time of at least 15 business days, why the registration should not be cancelled.
- (2) If, after considering all written representations made by the holder within the stated time, the regulator still considers a ground exists to cancel the registration, the regulator may cancel the registration.
- (3) Cancellation of the registration takes effect on the sixth business day after the holder is given an information notice under section 149(3).

### **151 Notice, by holder, of cancellation of registration**

- (1) Immediately on receipt of an information notice about cancellation of the registration of an item of prescribed electrical equipment, the holder of the registration must give written notice of the cancellation to each person to whom the holder has sold an item of the type that was registered.
- (2) Subsection (1) does not require the giving of a notice to a person to whom the type of item had been sold by retail or had been sold at least 1 year before the notice was received.

## **Division 3 Energy efficiency label**

### **152 Energy efficiency label**

- (1) An energy efficiency label for an item of prescribed electrical equipment mentioned in schedule 4, part 1 or 3, must—
  - (a) comply with the labelling requirements of the relevant standard for the item; and
  - (b) not contain any figures, symbols or other words likely to mislead the public about the item's comparative energy consumption, energy efficiency rating or performance characteristics; and
  - (c) accompany the item in the way approved by the regulator.

- (2) If the item is displayed for sale, the energy efficiency label for the item must—
- (a) be attached to the item—
    - (i) in the way shown in the relevant standard; or
    - (ii) in another way approved by the regulator; and
  - (b) not be attached in a way that it is obscured from view.

*Note—*

See part 3 (Offences) for when equipment must be labelled.

## **Division 4                      Register**

### **153      Register**

- (1) The regulator must keep a register of each item of prescribed electrical equipment registered by the regulator.
- (2) The regulator may enter in the register any particulars contained in an application for registration, or transfer of registration, of the item.
- (3) The register may be kept in a way the regulator considers appropriate.
- (4) The register may form part of a national register.

### **154      Inspection of register**

The regulator must—

- (a) keep the register open for inspection, on payment of the prescribed fee, by members of the public during office hours on business days; and
- (b) on payment of the prescribed fee, give the person a copy of an entry in the register.

## **Part 2                      Testing and test reports**

### **Division 1                Preliminary**

#### **155    Testing of prescribed electrical equipment**

- (1) An item of prescribed electrical equipment mentioned in schedule 4, part 1 or 3, must be tested under this part in accordance with part 1 of the relevant standard to find out whether it complies with the performance criteria in the relevant standard.
- (2) An item of prescribed electrical equipment mentioned in schedule 4, part 2, item 1, must be tested under this part to find out whether it complies with the energy efficiency requirements in the relevant standard.
- (3) An item of prescribed electrical equipment mentioned in schedule 4, part 2, item 2, must be tested under this part in accordance with part 102.3 of the relevant standard to find out whether it complies with the minimum energy performance requirements in part 5 of the relevant standard.
- (4) An item of prescribed electrical equipment mentioned in schedule 4, part 2, item 3, 4 or 5, must be tested under this part to find out whether it complies with the minimum energy performance requirements in the relevant standard for the item.
- (5) The testing may be done only by an entity approved by the regulator.

#### **156    Test reports**

- (1) The results of the test must be recorded in a test report.
- (2) The test report must be in the approved form and contain the following information about the test—
  - (a) the provision of this regulation under which the testing was conducted;
  - (b) the name of the entity that conducted the test;
  - (c) the date of the test;

- (d) the date of the report;
- (e) the results of the test, in the form set out in the relevant standard;
- (f) other information required to be included in the report under this part.

## **Division 2                      Check testing**

### **157      Requirement by regulator to make available prescribed electrical equipment for testing**

- (1) The regulator may, by written notice given to the holder of the registration of an item of prescribed electrical equipment, require the holder to make an item of the type registered available for the testing (*check testing*) mentioned in section 155.
- (2) The requirement must state—
  - (a) the period, of at least 1 month from the giving of the requirement, within which the item must be made available; and
  - (b) the place where the item is to be made available; and
  - (c) an amount estimated to cover the actual, reasonable cost of the check testing and when it is to be paid to the regulator.
- (3) The holder must make the item available and pay the amount as stated in the requirement.

### **158      What happens if check testing shows noncompliance**

- (1) This section applies if a check test shows that an item of prescribed electrical equipment does not comply with a performance criteria or energy efficiency requirement of the relevant standard.
- (2) If the actual cost of testing the item is greater than the amount paid under section 157(3) for the check test, the difference

may be recovered by the regulator from the holder as a debt owing to the State.

- (3) This section does not affect section 149.

### **159 What happens if check testing shows compliance**

- (1) This section applies if a check test shows that an item of prescribed electrical equipment complies with the performance criteria or energy efficiency requirements of the relevant standard.
- (2) The regulator must refund to the holder the amount paid under section 157(3) for the check test.
- (3) The amount may be recovered by the holder from the regulator as a debt owing by the State to the holder.

### **160 Return of equipment made available to the regulator**

- (1) This section applies if, at the regulator's request, a person makes available to the regulator free of charge an item of prescribed electrical equipment for testing or with an application under this chapter.
- (2) The regulator must give the person written or oral notice that the equipment is available for collection by the person at a stated place as soon as practicable after—
- (a) for an item made available for testing—
- (i) if the regulator believes, on reasonable grounds, that the item is required as evidence in a prosecution for an offence—the prosecution and any appeal from the prosecution; or
- (ii) if subparagraph (i) does not apply—the testing; or
- (b) for an item made available with an application—the regulator decides the application.
- (3) Despite subsection (2)(a)(i), the regulator must give the person written or oral notice immediately after the earlier of the following—
- (a) the regulator decides the equipment is not required as evidence;

- (b) a prosecution for an offence involving the type of equipment is not started within 6 months from when the notice would have been given if subsection (2)(a)(i) had not applied.
- (4) If, at the end of 6 months after the notice is given, the equipment has not been collected, the regulator may dispose of the item as the regulator considers appropriate and the person is not entitled to claim for the appliance or any loss or damage to it.

## **Part 3                      Offences**

### **161      Part does not apply to second-hand prescribed electrical equipment**

This part does not apply to a second-hand item of prescribed electrical equipment.

### **162      Prescribed electrical equipment in sch 4, pt 1, must be registered and labelled**

- (1) A person must not display for sale or sell an item (the *sale item*) of prescribed electrical equipment mentioned in schedule 4, part 1, unless—
  - (a) an item of the same type of prescribed electrical equipment as the sale item is registered under section 139; and
  - (b) either—
    - (i) if the item is displayed for sale—an energy efficiency label is attached to the sale item and the label complies with, and accompanies the sale item in the way required by, section 152(1); or
    - (ii) if the item is sold—an energy efficiency label accompanies the sale item and the label complies with, and accompanies the sale item, in the way required by section 152(1).

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the sale item is registered under a corresponding law; and
  - (b) an energy efficiency label is attached to or accompanies the sale item and the label complies with, and is attached or accompanies the item, in the way required by the corresponding law.

**163 Prescribed electrical equipment in sch 4, pt 2, must be registered**

A person must not sell an item of prescribed electrical equipment mentioned in schedule 4, part 2, unless an item of the same type of prescribed electrical equipment as the item is registered under section 139.

Maximum penalty—20 penalty units.

**164 Prescribed electrical equipment in sch 4, pt 3, must be registered and may be labelled**

- (1) A person must not sell an item (the *sale item*) of prescribed electrical equipment mentioned in schedule 4, part 3, unless—
- (a) an item of the same type of prescribed electrical equipment as the sale item is registered under section 139; and
  - (b) if an energy efficiency label is attached to or accompanies the sale item—the label complies with, and is attached to or accompanies the item in the way required by, section 152.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the sale item is registered under a corresponding law; and
  - (b) if an energy efficiency label is attached to or accompanies the sale item—the label complies with,

and is attached to or accompanies the item in the way required by, the corresponding law.

### **165 Representations about 3-phase cage induction motors**

A person must not represent that a 3-phase cage induction motor mentioned in schedule 4, part 2, item 2, is a high efficiency motor unless the motor complies with the high efficiency performance requirements for the item in part 5 of the relevant standard.

Maximum penalty—20 penalty units.

### **166 Fluorescent lamp ballast**

- (1) This section applies to a fluorescent lamp ballast, other than a ballast to which the standard mentioned in schedule 4, part 1, item 6, applies.
- (2) A person must not mark the ballast with an energy efficiency label unless the label—
  - (a) complies with the labelling requirements of the standard mentioned in subsection (1); and
  - (b) is marked on the ballast in the way shown in the standard.

Maximum penalty—20 penalty units.

- (3) If an energy efficiency label is marked on the ballast, a person must not sell the ballast unless it conforms with the energy efficiency rating shown on the label.

Maximum penalty—20 penalty units.



## Chapter 8      Employment in government owned electricity industry

### Part 1              Preliminary

#### 167      Definitions for ch 8

In this chapter—

*employment entitlement*, of an employee, means each of the following—

- (a) the employee's leave entitlement;
- (b) the period of service that would be relevant for working out the redundancy payment to which the employee would be entitled if the employee was made redundant.

*future employer* see section 168(2)(d).

*previous employer* see section 168(2)(a).

*redundancy payment* means a payment made to a person because the person became redundant.

*redundant* see section 168(1).

*redundant employee* see section 168(2).

*State electricity entity* includes an entity declared to be a State electricity entity under section 224.

*suitable alternative employment* see section 169.

#### 168      Meaning of *redundant* and *redundant employee*

- (1) An employee becomes *redundant* if the person's employer no longer needs or has a substantially diminished need for services of a particular kind performed by the person.
- (2) A person is a *redundant employee* if—
  - (a) the person was employed by a State electricity entity (the *previous employer*); and
  - (b) the person's employment ended because the person was redundant; and

- (c) the person has received, or is eligible to receive, a redundancy payment from the previous employer; and
- (d) the person has not been offered suitable alternative employment by the previous employer or another State electricity entity (each a *future employer*).

### **169 Meaning of *suitable alternative employment***

- (1) Alternative employment offered to a person by a future employer is *suitable alternative employment* only if the following conditions are satisfied—
  - (a) the person's employment entitlements are continued under the alternative employment;
  - (b) either—
    - (i) the person and the previous employer have agreed the alternative employment is the same or substantially the same as the person's previous employment with the employer; or
    - (ii) the Industrial Relations Commission has decided the alternative employment is the same or substantially the same as the person's previous employment;
  - (c) if, on the offer day, the person is a member of a superannuation scheme and the future employer is a subsidiary of a GOC—
    - (i) the person's membership in the scheme is not affected; and
    - (ii) the employer makes, or agrees to make, the superannuation contributions the employer is required to make for the person to the scheme for the benefit of the person.
- (2) Subsection (1)(c) does not apply if the person and future employer enter into an agreement about the superannuation arrangements for the person.
- (3) In this section—

*offer day*, for a person to whom alternative employment is offered, means the day the alternative employment is offered to the person.

## **170 Industrial Relations Commission may decide particular matters**

If a person and the person's previous employer cannot agree, after genuinely attempting to come to an agreement, whether alternative employment offered to the person is the same or substantially the same as the person's previous employment with the employer—

- (a) the person and employer must—
  - (i) treat the disagreement as an industrial dispute; and
  - (ii) immediately give the registrar under the Industrial Relations Act a notice complying with section 229(3) of that Act for the dispute; and
- (b) chapter 7, part 2,<sup>16</sup> of the Industrial Relations Act applies to the disagreement as if—
  - (i) the disagreement were an industrial dispute; and
  - (ii) the notice given under paragraph (a)(ii) were given under section 229(2) of that Act; and
- (c) without limiting section 230(3) and (4) of the Industrial Relations Act, the Industrial Relations Commission may decide whether or not the alternative employment is the same or substantially the same as the person's previous employment.

## **Part 2 General employment conditions and entitlements**

### **171 Definitions for pt 2**

In this part—

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<sup>16</sup> Industrial Relations Act, chapter 7 (Industrial disputes), part 2 (Action for settling industrial disputes)

**EGTS award** means the Electricity Generation Transmission and Supply Award—State.

**industrial instrument** means an industrial instrument under the Industrial Relations Act.

## **172 EGTS award is binding**

The EGTS award binds a State electricity entity and each of its electricity industry employees.

## **173 Secondment does not affect employment in the GOE industry**

A person employed by a State electricity entity is taken, while performing duties on secondment to another entity, to continue to be employed by the State electricity entity.

## **174 Continuous service**

If an employee works, takes authorised leave, or is paid for an absence under the *Workers' Compensation and Rehabilitation Act 2003* for an injury sustained by the employee, a period when the employee is or would be rostered for work is a period of continuous service by the employee.

*Examples of continuous service—*

- 1 A full-time employee has a fortnight of continuous service, even though a rostered day off is taken in the fortnight.
- 2 A part-time employee has a fortnight of continuous service if the employee works the days rostered for the employee in the fortnight.

## **175 Calculation at a proportionate rate for particular employee**

- (1) If this chapter provides, for a part-time employee, a quantity or amount (the **proportionate amount**) to be a proportion of another quantity or amount relating to a full-time employee (the **regular amount**), the proportionate amount must be worked out as follows—

**regular amount x work hours**

**36.25**

- (2) In subsection (1)—

*work hours* means the period (in hours and, if necessary, a fraction of an hour) for which the part-time employee is scheduled to work.

## **176 Chapter 8 prevails over industrial instruments**

If there is any inconsistency between this chapter and the EGTS award or another industrial instrument that applies to electricity industry employees of State electricity entities, this chapter prevails to the extent of the inconsistency.

## **Part 3 Transfer of employment within GOE industry**

### **177 Application of pt 3**

This part applies to a person who transfers employment within the GOE industry (the *transferred employee*).

### **178 When there is transfer of employment within GOE industry**

- (1) In this part, a person employed in the GOE industry transfers employment within the GOE industry if the person resigns from employment with a State electricity entity (the *former employer*) to be employed by another State electricity entity (the *new employer*).
- (2) For subsection (1), a person does not resign from employment with a State electricity entity if the person becomes a redundant employee for the entity.
- (3) The transfer is effective when the employee starts employment with the new employer (the *transfer day*).

**179 When employment with former employer and new employer is taken to be continuous service**

- (1) This section applies if the transfer day is no more than 1 month after the transferred employee ends employment with the former employer.
- (2) To decide employment entitlements of the transferred employee as an employee of the new employer—
  - (a) the employee's continuous service in the GOE industry immediately before ending employment with the former employer is taken to be service continuous with service with the new employer from the transfer day; and
  - (b) the employee's leave entitlement is reduced by leave accrued (or a pro rata amount for leave not yet accrued) during the service and taken or paid for by an employer of the employee.

**180 Transferred employee may elect for leave entitlement to become leave entitlement with new employer**

- (1) This section applies if the transferred employee is entitled to payment by the former employer of an amount as cash equivalent for accrued leave (or a pro rata amount for leave not yet accrued).
- (2) Before the transfer day, the employee may, by written notice to the former employer, elect for payment not to be made to the employee and, instead, an equivalent amount of leave to be treated as leave accrued by the employee as an employee of the new employer or, for the pro rata amount, as service with the new employer.
- (3) The election may be for all or part of the payment.
- (4) On the making of the election, the former employer must pay the amount stated in the notice not to the employee but to the new employer and give the new employer a certificate of the amount of the leave, or service for which a pro rata amount would have been paid, to which the payment relates.
- (5) The new employer must treat the employee as having accrued the leave or, for the pro rata amount, having the service with the new employer.

**181 Payment by former employer to new employer towards long service leave entitlements not accrued on transfer**

- (1) This section applies if—
  - (a) at the transfer day, the transferred employee did not have accrued long service leave entitlements; and
  - (b) the employee later accrues a long service leave entitlement by counting service with the former employer as service with the new employer.
- (2) If asked by the new employer, the former employer must pay the new employer an amount for the long service leave entitlements that would have accrued to the former employee because of the employee's service with the former employer had there been no limit on the employee's period of service before the leave entitlement accrued.
- (3) The amount is the amount the employee would have been paid by the former employer if the employee had, immediately before the transfer day, taken the proportion of the leave accrued relating to the service up to the transfer day.

**182 Transferred employees not made redundant**

A transferred employee is not made redundant merely because of the transfer.

**183 Particular new employers must pay superannuation into transferred employee's existing scheme**

- (1) This section applies if—
  - (a) the new employer is a subsidiary of a GOC; and
  - (b) immediately before the transfer day, the transferred employee was a member of a superannuation scheme (the *employee's existing scheme*).
- (2) However, this section does not apply if the transferred employee and new employer have entered into an agreement about the superannuation arrangements for the employee.
- (3) The new employer must ensure—

- (a) the transferred employee's membership in the employee's existing scheme is not affected; and
- (b) the superannuation contributions the employer is required to make for the employee are paid, for the benefit of the employee, into the employee's existing scheme.

## **Part 4**                          **Recognition of previous service other than on transfer**

### **184**     **Application of pt 4**

- (1) This part applies to a person who was formerly employed in the GOE industry or the Queensland electricity supply industry within the meaning of the repealed *Electricity Act 1976* (the *former employment*), and is later employed in the GOE industry (the *new employment*), if the person—
  - (a) had been compulsorily retired from the former employment because of ill health, or voluntarily finished employment because of ill health, and the former employer certifies accordingly; or
  - (b) resigned the former employment within 3 months before starting the new employment; or
  - (c) is not a redundant employee.
- (2) For subsection (1)(b), an employee finishes employment on the day when all leave entitlements for which the employee was paid a cash equivalent on finishing the employment would have ended if the entitlements had been taken as leave.

### **185**     **Recognition of previous service**

- (1) The new employer must recognise the period of service of the former employment in working out the period of service in the new employment.
- (2) An employer may recognise, or agree to recognise, previous service of an employee for leave or other purposes only if—



- (a) this part applies; or
  - (b) the employer is satisfied special circumstances exist in the particular case.
- (3) Subsection (2) is subject to any Act, law or award binding on the employer providing for recognition of the previous service of the employee on conditions more favourable to the employee than the conditions in the subsection.
- (4) An employee in the GOE industry is entitled to any leave or other entitlement accruing because of the recognition of service under this part, but leave or other entitlement availed of, or for which the employee was paid a cash equivalent, must be deducted from the accrued entitlement.
- (5) An appeal does not lie against a decision of the employer about the existence or otherwise of special circumstances under subsection (2)(b).
- (6) The new employer must give the employee a written notice about a decision made under this section.

## **Part 5 Long service leave**

### **Division 1 Entitlement**

#### **Subdivision 1 General entitlement provision**

##### **186 Entitlement to long service leave**

- (1) A GOE industry employee is entitled to long service leave under this part if—
- (a) the employee has at least 10 years continuous service; or
  - (b) the employee resigns because of a domestic or other pressing necessity and has at least 7 years continuous service ending when the person resigns; or

- (c) the person dies or resigns and has at least 5 years continuous service ending when the person dies or resigns.
- (2) However, subsection (1)(c) applies to an employee who resigns before reaching 55 only if the employee gives to the employer a certificate, from an appropriate doctor, stating the person can not continue in the person's present employment because of the employee's ill health.
- (3) This part does not limit another entitlement to long service leave that the employee may have.
- (4) In this section—  
*appropriate doctor* means a doctor who the employer is satisfied has the appropriate expertise to decide whether or not the person is able to continue in the person's present employment.

## **Subdivision 2      Service and continuity of service**

### **187      Service recognised for long service leave purposes**

For this part, continuous service for a GOE industry employee means—

- (a) service that is actually continuous or taken to be continuous under section 179; and
- (b) a period of former service that is, under section 185, recognised for working out the period of service of the employee in the GOE industry; and
- (c) for an employee who became a GOE industry employee on 1 January 1995 because of the repealed *Government Owned Corporations (QGC Corporatisation) Regulation 1994* or the repealed *Government Owned Corporations (QTSC Corporatisation) Regulation 1994*—previous service, including broken service, recognised as service for long service leave purposes under the repealed *Electricity Act 1976*.

**188 Casual employees**

- (1) The service of a GOE industry employee with a State electricity entity (the *employer*) who has been employed more than once by 1 or more State electricity entities over a period is continuous service with the employer even though—
  - (a) the employment is broken; or
  - (b) any of the employment is not full-time employment; or
  - (c) the employee is employed by the entity or entities under 2 or more employment contracts; or
  - (d) the employee would, apart from this section, be taken to be engaged in casual employment; or
  - (e) the employee has engaged in other employment during the period.
- (2) However, the continuous service ends if the employment is broken by more than 3 months between the end of 1 employment contract and the start of the next employment contract.
- (3) In working out the length of a the employee's continuous service—
  - (a) service by the employee before 23 June 1990 must not be taken into account; and
  - (b) subject to subsection (2), a period when the employee was not employed by the entity or entities must be taken into account.

**189 Periods of absence without pay that count as service**

In this part, an employee's absence without pay from employment is counted as the employee's service only if—

- (a) the absence is as sick leave for no more than 3 months; or
- (b) the employee is paid for the absence under the *Workers' Compensation and Rehabilitation Act 2003* for an injury sustained by the employee; or
- (c) the absence is for leave, other than sick leave, of no more than 2 weeks granted by the employer; or

- (d) the employer has approved the inclusion of the period of the absence in the employee's period of service for this part; or
- (e) the employee is a casual employee and section 188 applies.

### **Subdivision 3      Calculation of entitlement**

#### **190      Calculation of long service leave**

- (1) Long service leave is calculated at the rate of 1.3 weeks on the appropriate pay for each year of the employee's continuous service.
- (2) The appropriate pay is—
  - (a) for a full-time employee—at the full pay rate; and
  - (b) for a part-time employee—at a proportionate amount of full pay rate; and
  - (c) for a casual employee—the hourly rate for ordinary time payable to the employee—
    - (i) if the employee takes the long service leave—on the day the employee starts the leave; or
    - (ii) if the employee's employment is terminated—on the day the termination takes effect.
- (3) The minimum amount payable to a casual employee for long service leave is worked out using the formula—

$$\frac{\text{actual service}}{52} \times \frac{13}{10} \times \text{hourly rate}$$

where—

*actual service* means the total ordinary working hours actually worked by the employee during the employee's period of continuous service.

*hourly rate* means the hourly rate under subsection (2)(c).

**191 Casual employees—conversion to full time equivalent**

- (1) A State electricity entity may agree with a casual employee that the employee's entitlement to long service leave may be taken in the form of its full-time equivalent.

*Example for subsection (1)—*

If a casual employee—

- (a) is entitled to be paid for 290 hours long service leave; and
  - (b) works under an award that provides for a full-time working week of 36.25 ordinary working hours;
- the employee and the employer may agree that the employee takes 8 weeks leave ( $290 \div 36.25 = 8$ ).
- (2) This section applies subject to an industrial instrument about the employee's long service leave.

**Division 2 Obtaining long service leave****192 Application for long service leave**

An employee who has an entitlement to long service leave and wishes to take long service leave must make written application for the leave to the employer giving timely notice of the wish to start the leave.

**193 Employer's right to refuse or defer long service leave**

- (1) An employer may refuse an employee's application for long service leave if—
- (a) timely notice was not given; or
  - (b) the granting of the leave applied for would be unreasonably detrimental to the work of the work unit in which the applicant is employed.
- (2) If the application is refused, the employer must arrange with the employee for the leave applied for to be taken as soon as is mutually convenient.

## **Division 3                      Miscellaneous provisions**

### **194      Minimum period**

The minimum period of long service leave that may be granted at a time is 2 weeks.

### **195      Employer's right to recall an employee from leave**

- (1) If special circumstances exist, an employer may cancel long service leave already granted or recall an employee to duty from long service leave.
- (2) If an employer acts under subsection (1), the employee has a discretion—
  - (a) to agree with the employer to take the long service leave, or the balance of long service leave, at a mutually convenient time; or
  - (b) to require the employer to credit the leave or balance of leave to the employee's undrawn long service leave entitlement.

### **196      Public holidays happening during long service leave**

If an employee is entitled under the employee's terms of employment to a particular public holiday and the public holiday happens during a period when the employee is absent on long service leave, a day is added to the employee's period of leave.

### **197      Illness during long service leave**

- (1) This section applies if, for a period of at least 1 week while an employee is on long service leave, the employee could not, if the employee had not been on leave, have performed the employee's normal duties because of illness or injury.
- (2) The employer must approve the granting of sick leave instead of long service leave for the period of the inability to perform normal duties if—

- (a) the employee makes written application for the leave; and
  - (b) the employee produces a medical certificate from a doctor stating the employee, if the employee had not been on leave, could not have performed the employee's normal duties because of illness or injury; and
  - (c) the entire period mentioned in subsection (1) is covered by the medical certificate produced; and
  - (d) sick leave is available to the employee.
- (3) Subsection (2) may apply to more than 1 period of sick leave if subsection (2) is complied with for each period.
- (4) The period of sick leave granted instead of long service leave under subsection (2) (the *adjusted period*) is the period for which the employee would have been absent on sick leave had the employee not been on long service leave.
- (5) If an employee is granted a period of sick leave under subsection (2)—
- (a) the day the employee is to resume duties after the long service leave is not affected; and
  - (b) the adjusted period is added to the employee's entitlement to long service leave.
- (6) As soon as practicable after being granted a period of sick leave under subsection (2), the employee may ask the employer for an extension of the period for which the employee is currently absent on long service leave.
- (7) If the employer agrees to the request—
- (a) the period for which the employee is currently absent on long service leave is extended by the adjusted period; and
  - (b) the employee's entitlement to long service leave is not affected.
- (8) This section applies despite section 189 but subject to section 195.

**198 Payment of cash equivalent of long service leave**

- (1) This section applies if, on the day an employee's employment ends (the *last day*), the employee is entitled to a period of long service leave.
- (2) The employer must make a payment instead of granting the employee the period of long service leave.
- (3) The amount of the payment is an amount equal to the amount that would have been paid to the employee if the employee had, on the last day, taken all long service leave to which the employee was entitled on the last day.
- (4) If the employee has not died, the employer must pay the amount to the employee on the last day.
- (5) If the employee has died, the employer must pay the amount as soon as is practicable—
  - (a) to the persons (if any) who, the employer is satisfied, are completely or substantially dependent on the earnings of the employee; or
  - (b) in other cases—to the employee's personal representative.

**199 Preservation of particular existing rights**

- (1) This section applies to an employee (the *affected employee*) who—
  - (a) became a GOE industry employee on 1 January 1995 because of the repealed—
    - (i) *Government Owned Corporations (QGC Corporatisation) Regulation 1994*; or
    - (ii) *Government Owned Corporations (QTSC Corporatisation) Regulation 1994*; and
  - (b) under the long service leave arrangements under the repealed *Electricity Act 1976*, would have been entitled—
    - (i) to a greater period of long service leave than the entitlement under this regulation; or



- (ii) to an amount of cash equivalent of long service leave greater than the amount of cash equivalent of long service leave to which the employee is entitled under this part; or
  - (iii) either to long service leave or to a cash equivalent of long service leave under the arrangements and who is not entitled to long service leave or a cash equivalent of long service leave under this part.
- (2) The affected employee is entitled to be—
  - (a) granted the greater period of long service leave; or
  - (b) paid the amount of cash equivalent of long service leave that is greater in amount; or
  - (c) granted the long service leave or paid the cash equivalent of long service leave to which the employee would have been entitled if the long service leave arrangements had remained in force.
- (3) The granting of long service leave or the payment of a cash equivalent of long service leave under this section is otherwise subject to this part.

## **Part 6**                      **Locality allowances**

### **200**      **Application of pt 6**

This part does not apply for a casual employee.

### **201**      **Allowance payable to a GOE industry employee with a dependent spouse or dependent child**

- (1) A State electricity entity must pay a locality allowance to its employee who—
  - (a) is stationed at a centre for which a locality allowance is payable under a directive issued under the *Public Service Act 1996*; and

- (b) proves to the satisfaction of the employer that the employee has a dependent spouse or dependent child.
- (2) The locality allowance is payable—
  - (a) for a full-time employee—at the appropriate rate set out in the directive; and
  - (b) for a part-time employee—at a proportionate amount of the rate payable under paragraph (a).
- (3) Subsection (2) is subject to section 203.
- (4) An employee who is paid the locality allowance must notify the employer immediately an event affecting the entitlement to receive the allowance happens.

## **202 Allowance payable to other employees**

- (1) A State electricity entity must pay a locality allowance to its employee (other than an employee who has a dependent spouse or dependent child) who is stationed at a centre for which a locality allowance is payable under a directive issued under the *Public Service Act 1996*.
- (2) The locality allowance is payable—
  - (a) for a full-time employee—at one-half the appropriate rate set out in the directive; and
  - (b) for a part-time employee—at a proportionate amount of the rate payable under paragraph (a).
- (3) If the State electricity entity is satisfied special circumstances exist, the entity may pay the employee a greater locality allowance, not more than the locality allowance payable to an employee who has a dependent spouse or dependent child stationed at the same centre.

## **203 Allowance payable if both spouses are entitled**

- (1) This section applies to a GOE industry employee who—
  - (a) is entitled to be paid a locality allowance under this part; and
  - (b) has a spouse who—

- (i) is also entitled to be paid a locality allowance under this part; or
  - (ii) is employed by the State or a State instrumentality and is also entitled to be paid a locality allowance under an Act.
- (2) The locality allowance payable to the GOE employee is as stated in section 202 and not as stated in section 201.
- (3) This section applies whether or not the employee has a dependent child.

**204 Allowance payable to an employee absent from headquarters on duty**

The locality allowance for a GOE industry employee must not be reduced because the employee is necessarily absent from headquarters overnight on duty and is given free board and accommodation or paid an away from home allowance in place of board and accommodation.

**205 Allowance payable to an employee on leave**

- (1) The locality allowance for a GOE industry employee must not be reduced because the employee is absent on recreation leave, sick leave or long service leave.
- (2) If the employee is absent on special leave, the employer may pay the allowance to the employee.
- (3) No locality allowance is payable to an employee who is absent on leave without pay.

**206 Building projects where site allowance is paid**

If a GOE industry employee is stationed at a building project site and is paid a site allowance for employment at the site, the employer must, instead of paying the locality allowance prescribed by this part, pay the employee—

- (a) the divisional allowance or district parity allowance, or both, generally applying at the building project site under awards of the Industrial Relations Commission; and

- (b) the site allowance payable; and
- (c) so much of the locality allowance prescribed by this part (if any) that is more than the total of the amounts under paragraphs (a) and (b).

## **Part 7                      Overtime payments**

### **207      Overtime payments**

- (1) This section applies to a GOE industry employee who is employed—
  - (a) by an employer declared by the Governor in Council; and
  - (b) for a salary of more than the amount declared by the Governor in Council.
- (2) The working of overtime by the employee, and the rate at which payment for the overtime is paid, is in the employer's discretion.

## **Chapter 9                  Review of and appeals    against decisions**

### **Part 1                      Review of decisions**

#### **208      Who may apply for review etc.**

- (1) A person whose interests are affected by a decision mentioned in schedule 5 may apply to the regulator for a review of the decision.
- (2) A person who seeks a review of a decision is entitled to receive a statement of reasons for the decision.

**209 Applying for review**

- (1) An application by a person for review of a decision must be made within 28 days after an information notice about, or other written notice of, the decision is given to the person.
- (2) However, if the notice did not state reasons for the decision and 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.

**210 Stay of operation of decision etc.**

- (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 Magistrates Court.
- (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.

**211 Decision on review**

- (1) This section applies to an application under this part for review of a decision (the *disputed decision*).
- (2) The regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the applicant's representations.
- (3) The regulator must immediately give the applicant written notice of the regulator's decision on the application.
- (4) If the decision is not the decision sought by the applicant, the notice must be an information notice.
- (5) 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 regulation (other than this part) taken to be a decision of the decision maker.

**Part 2 Appeals****Division 1 Appeals against decisions on what is fair and reasonable****212 Who may appeal**

If the regulator makes a decision under section 88, any party to the dispute may appeal against the decision.

**213 Making appeals**

An appeal under section 212 must be made to the District Court as if the appeal were to the District Court under chapter 10, part 2<sup>17</sup> of the Act.

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17 Chapter 10, part 2 (Appeals) of the Act

## **Division 2                      Other appeals**

### **214      Who may appeal**

- (1) A person whose interests are affected by a decision of the regulator mentioned in schedule 6 may appeal against the decision to a Magistrates Court.
- (2) A person whose interests are affected by a decision under section 185 of the person's employer may appeal against the decision to an Industrial Magistrates Court.

### **215      Making appeals**

- (1) An appeal under this part must be made within—
  - (a) for an appeal against a decision of the regulator—28 days after an information notice about the decision is given to the person; or
  - (b) for an appeal against a decision of the person's employer under section 185—3 months after written notice about the decision is given to the person.
- (2) However, subsection (3) applies if—
  - (a) the notice under subsection (1)(b) did not state reasons for the decision; and
  - (b) the person asked for a statement of reasons for the decision within the appropriate period mentioned in subsection (1).
- (3) The person may make the appeal within 3 months after the person is given the statement of reasons.
- (4) The court may extend the period for making an appeal, even though the time for making the appeal has ended.

### **216      Starting appeals**

- (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 decision maker.

- (3) An appeal may be made to the Magistrates Court or Industrial Magistrates Court nearest the place where the applicant resides or carries on business.

## **217 Stay of operation of decisions**

- (1) A court 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.

## **218 Powers of court on appeal**

- (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.



**219 Effect of court's decision on appeal**

If the court substitutes another decision, the substituted decision is, for this regulation (other than this chapter), taken to be the decision maker's decision.

**220 Procedure of court**

- (1) 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.
- (2) 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 magistrate or industrial magistrate.
- (3) The court may make any order about costs it considers just.
- (4) In this section—

*authorising Act* means—

  - (a) for a Magistrates Court—the *Magistrates Courts Act 1921*; or
  - (b) for an Industrial Magistrates Court—the *Industrial Relations Act 1999*.

**221 Appeals**

- (1) An appeal to the District Court from a decision of a Magistrates Court may be made only on a question of law.
- (2) An appeal to the Industrial Court from a decision of an Industrial Magistrates Court may be made only on a question of law.

## Chapter 10      General provisions

### Part 1                      Application of Freedom of Information Act and Judicial Review Act to State electricity entities

#### 222      Commercial and excluded activities for Act, s 256

- (1) For section 256(1),<sup>18</sup> definition *excluded activities*, of the Act, a community service obligation for the charging of customers by a State electricity entity in accordance with price equalisation, or at a price fixed by the Minister, is a prescribed community service obligation.
- (2) For section 256(2) of the Act, negotiations between the Ministers and a State electricity entity about costs and charges for providing electricity as a community service obligation are declared to be commercial activities of the State electricity entity.
- (3) For section 256(2) of the Act, the activities of the System Operator for Queensland are declared to be commercial activities.
- (4) In this section—

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

**price equalisation** means a system for charging customers the same price for the supply of electricity, whether or not the cost of the supply is the same.

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18 Section 256 (Application of Freedom of Information Act and Judicial Review Act) of the Act

## **Part 2**                      **Declared State electricity entities**

### **223**    **Declaration—Act, ss 259A(1) and 299**

Queensland Power Trading Corporation is declared to be a State electricity entity for sections 256(2) and 299<sup>19</sup> of the Act.

### **224**    **Declarations—Act, s 259A(2)**

- (1) Each of the following entities is declared to be a State electricity entity for the employment conditions, under chapter 8, of its employees—
  - (a) Service Essentials Pty Ltd ACN 101 691 409;
  - (b) SPARQ Solutions Pty Ltd ACN 110 073 400.
- (2) Kogan Creek Power Pty Ltd ACN 088 229 789 is declared to be a State electricity entity for the employment conditions, under sections 167 to 169 and chapter 8, parts 3, 4 and 5, of its employees.

## **Part 3**                      **Miscellaneous**

### **225**    **Approved industry superannuation scheme**

On and from 1 July 1995 the Electricity Supply Industry Superannuation Fund (Qld) is an approved industry superannuation scheme.

### **226**    **Fees**

- (1) The fees payable to the regulator under the Act are in schedule 7.

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<sup>19</sup> Sections 256 (Application of Freedom of Information Act and Judicial Review Act), and 299 (Directions to State electricity entities) of the Act

- (2) Schedule 8 states the maximum fees payable to an electricity entity for the matters stated in the schedule.

## **227 Forms**

The regulator may approve forms for use under the Act.

## **Part 4 Transitional provisions**

### **228 Definition for pt 4**

In this part—

*1994 regulation* means the expired *Electricity Regulation 1994*.

### **229 Continuation of agreements for substations**

An agreement under the repealed *Electricity Act 1976*, section 173<sup>20</sup> or the 1994 regulation, section 57(1) is taken to be an agreement under section 60.

### **230 Electric lines installed or operated before 1 October 2002**

- (1) This section applies to an electric line installed or operated immediately before 1 October 2002 under section 157 or 157A as in force immediately before that day.
- (2) On and from 1 October 2002, the electric line is taken to have been installed and to be operated under section 21(1) to (3) of the 1994 regulation and section 24(1) to (3) of this regulation.

### **231 Existing registrations of items of prescribed electrical equipment**

- (1) This section applies to an existing registration in force immediately before 1 September 2006.

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20 Repealed *Electricity Act 1976*, section 173 (Substations on consumers' premises)

- (2) On 1 September 2006, the registration is taken to have been given—
- (a) under chapter 7; and
  - (b) despite section 142, for the remainder of its term unless it is cancelled earlier.
- (3) In this section—
- existing registration* means a registration, under the 1994 regulation, of an item of prescribed electrical equipment.

### **232 Existing approvals, notices, decisions, directions and requirements under 1994 regulation**

- (1) This section applies to an approval, notice, decision, direction or requirement—
- (a) given or made by the regulator or an electricity entity (the *relevant entity*) under a provision (the *expired provision*) of chapter 2, 3 or 6 of the 1994 regulation; and
  - (b) in force immediately before 1 September 2006.
- (2) On 1 September 2006, the approval, notice, decision, direction or requirement is taken to have been given or made by the relevant entity, under the provision of this regulation that corresponds, or substantially corresponds, to the expired provision.

### **233 Existing applications**

An application made by a person under chapter 6 of the 1994 regulation and not decided before 1 September 2006, is taken to have been made under chapter 7 of this regulation.

### **234 Unfinished appeals**

An appeal that has been started under the 1994 regulation and not finished before 1 September 2006 continues as if it were an appeal made under chapter 9, part 2, of this regulation.

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## **Schedule 1            Maximum permitted rating of electric motors**

sections 93 and 94(1)

<b>Locality</b>	<b>Maximum rating</b>
Aurukun	16kW
Badu Island	13kW
Bamaga	46kW
Boigu Island	10kW
Boulia	16kW
Burketown	16kW
Camooweal	16kW
Coconut Island	10kW
Coen	13kW
Darnley Island	8kW
Dauan Island	7kW
Doomadgee	37kW
Gununa	37kW
Hammond Island	5kW
Kowanyama	37kW
Lockhart River	16kW
Mabuiag Island	7kW
Mapoon	12kW
Moa Island (Kubin and St Pauls communities)	10kW

## Schedule 1 (continued)

<b>Locality</b>	<b>Maximum rating</b>
Murray Island	13kW
Palm Island	38kW
Pormpuraaw	16kW
Saibai Island	8kW
Stephens Island	4kW
Warraber Island	7kW
Wasaga	37kW
Yam Island	10kW
Yorke Island	10kW

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## **Schedule 2      Other contestable customers**

section 112

<b>Customer</b>	<b>Premises</b>
Australian Magnesium Corporation Pty Ltd (ACN 058 918 175)	magnesium metal demonstration plant at Reid Road, Gladstone
CS Energy Limited (ACN 078 848 745)	Callide A and B power stations Middle Ridge power station Swanbank power station
Queensland Power Trading Corporation	Gladstone power station
Stanwell Corporation Limited (ACN 078 848 674)	Barron Gorge power station Kareeya power station Mackay gas turbine facility Rockhampton gas turbine facility Stanwell power station
Sun Metals Corporation Pty Ltd (ACN 074 241 982)	Townsville zinc smelter
Tarong Energy Limited (ACN 078 848 736)	Tarong power station Wivenhoe power station.



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## **Schedule 3      Special approval holders treated as electricity entities**

section 131

<b>Column 1 Special approval holder</b>	<b>Column 2 Provisions of Act</b>
1    the holder of a special approval authorising the holder to provide electricity to a customer	chapter 2, part 2 <sup>a</sup>
2    the holder of a special approval under chapter 4, part 3 of this regulation	chapter 5, part 4 <sup>b</sup>
3    Country Energy, under special approval no. SA 21/98	chapter 5, parts 1, 1B, 1C and 3A <sup>c</sup>

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a    Chapter 2, part 2 (Customers and contestable customers) of the Act  
b    Chapter 5, part 4 (Disciplinary action against electricity entities) of the Act  
c    Chapter 5, parts 1 (Regulator) and 1C (Disputes referred to energy arbitrator) of the Act

## **Schedule 4      Prescribed electrical equipment and relevant standards**

schedule 9, definitions *prescribed electrical equipment* and *relevant standard*

### **Part 1                      Equipment requiring registration and labelling**

<b>Prescribed electrical equipment</b>	<b>Relevant standard</b>
1      clothes washing machines	AS/NZS 2040—Performance of household electrical appliances—clothes washing machines, part 1 Energy consumption and performance and part 2 Energy labelling requirements
2      dishwashers	AS/NZS 2007—Dishwashers, part 1 Energy consumption and performance and part 2 Energy labelling requirements
3      refrigerating appliances	AS/NZS 4474—Performance of household electrical appliances—refrigerating appliances, part 1 Energy consumption and performance and part 2 Energy labelling and minimum performance standard requirements

## Schedule 4 (continued)

<b>Prescribed electrical equipment</b>	<b>Relevant standard</b>
4 single phase refrigerative airconditioners and heat pumps	AS/NZS 3823—Performance of electrical appliances—Airconditioners and heat pumps, part 1.1 Non-ducted airconditioners and heat pumps—testing and rating for performance and part 2 Energy labelling and minimum energy performance standard (MEPS) requirements
5 rotary clothes dryers	AS/NZS 2442—Performance of household electrical appliances—Rotary clothes dryers, part 1 Energy consumption and performance and part 2 Energy labelling requirements
6 fluorescent lamp ballasts	AS/NZS 4783—Performance of electrical lighting equipment—Ballasts for fluorescent lamps, part 1 Method of measurement to determine energy consumption and performance of ballasts lamp circuits, and part 2 Energy labelling and minimum energy performance standards requirements

## Schedule 4 (continued)

## Part 2                      Equipment requiring registration only

Prescribed electrical equipment	Relevant standard
1     storage water heaters that are unvented and have no attached feed tank	AS 1056—Storage water heaters, part 1 General requirements, clause 2.4 Thermal insulation
2     3-phase cage induction motors	AS/NZS 1359—Rotating electrical machines—General requirements, part 5 High efficiency and minimum energy performance standards requirements.
3     double-capped fluorescent lamps	AS/NZS 4782—Double-capped fluorescent lamps—Performance specifications, part 1 General and part 2 Minimum energy performance standard (MEPS)
4     refrigerated display cabinets	AS/NZS 1731—Refrigerated display cabinets, part 1 Terms and definitions and part 14 Minimum energy performance standard (MEPS) requirements
5     power transformers	AS/NZS 2374—Power transformers, part 1 General and part 1.2 Minimum energy performance standard (MEPS) requirements for distribution transformers

## Schedule 4 (continued)

**Part 3****Equipment requiring registration that may be labelled****Prescribed electrical equipment****Relevant standard**

- 1 room airconditioners with 3-phase motors

AS/NZS 3823—Performance of electrical appliances—  
Airconditioners and heat pumps,  
part 1.2 Ducted airconditioners  
and air-to-air heat pumps—testing  
and rating for performance and  
part 2 Energy labelling and  
minimum energy performance  
standard (MEPS) requirements.

## **Schedule 5      Review of decisions by the regulator**

section 208

<b>Section</b>	<b>Description of decision</b>
15(1)	facilities electricity entity decides are necessary to attach an overhead service line to the customer's premises or for the entrance, support, protection and termination of an underground service line
36(2)(a)	requirement by distribution entity for customer to regulate the use of an electrical article
36(2)(b)	requirement by distribution entity for customer to use or deal with electricity supplied in the stated way
36(2)(c)	requirement by distribution entity for customer to ensure a motor installation or starting device connected to a source of electricity supply complies with the requirements of the regulator
36(2)(d)	requirement by distribution entity for customer about the power factor of an electrical installation
37	refusal by distribution entity to provide customer connection services to customer's electrical installation
41	requirement by distribution entity for changes to a customer's electrical installation
42	requirement by distribution entity for provision of links for connecting meters to an incoming supply
45(2)	requirement by distribution entity about space, housing, mounting and connecting facilities for a meter or control apparatus
47(2)	requirement by distribution entity for provision of safe access

## Schedule 5 (continued)

<b>Section</b>	<b>Description of decision</b>
47(3)	action by distribution entity to install remote measuring or other equipment or to disconnect supply of electricity to a customer's premises
52(1)(b)	adjustment by distribution entity of accounts for customer connection services
52(3)(b)	adjustment by retail entity of accounts for customer retail services
55(1)(c)	adjustment by distribution entity of accounts for customer connection services
55(3)(c)	adjustment by retail entity of accounts for customer retail services
59(2)	requirement by distribution entity for provision of space for a substation, a right of way or access to the supplier's equipment

## **Schedule 6      Appeals against administrative decisions to Magistrates Court**

section 214(1)

<b>Section</b>	<b>Description of decision</b>
24(4)	direction by the regulator to a person to take away an electric line
139(1)	refusal to register an item of prescribed electrical equipment
144	refusal to change an energy efficiency label
147(2)	refusal to approve transfer of registration of item of prescribed electrical equipment
149(1) or (2)	decision to cancel a registration of item of prescribed electrical equipment other than at the request of the holder of the registration
211	decision by the regulator on review



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## **Schedule 7      Fees payable to regulator**

section 226(1)

### **Part 1                      General**

	\$
1    Application for generation authority (Act, s 179) . . . . .	1 130.00
2    Application for transmission authority (Act, s 188) . . . . .	1 130.00
3    Application for distribution authority (Act, s 196) . . . . .	1 130.00
4    Application for retail authority (Act, s 204) . . . . .	1 130.00
5    Application for retail authority (Act, s 207D) . . . . .	330.00
6    Application for special approval (Act, s 209) . . . . .	330.00
7    Application for transfer of a generation, transmission or distribution authority or special approval (Act, s 184A, 193A, 201A or 212A) . . . . .	105.00
8    Application for registration of an item of prescribed electrical equipment (s 138) . . . . .	150.00
9    Application for approval of a change to an energy efficiency label (s 144). . . . .	150.00
10   Application for transfer of registration of an item of prescribed electrical equipment (s 147). . . . .	50.00
11   Inspection of the register (s 154). . . . .	10.00
12   Copy of 1 entry in the register (s 154). . . . .	20.00

## Schedule 7 (continued)

**Part 2 Fees for chapter 5A of the Act****Division 1 Accreditation**

\$

- 1 Application fee (Act, s 135AM(1)(j)(ii)), if nameplate capacity of accredited power station or proposed accredited power station is—
- |  |          |
|--|----------|
| (a) 1MW or less . . . . .                      | 257.25   |
| (b) more than 1MW but less than 10MW . . . . . | 1 029.00 |
| (c) 10MW or more but less than 30MW . . . . .  | 2 058.00 |
| (d) 30MW or more but less than 100MW . . . . . | 3 087.00 |
| (e) 100MW or more . . . . .                    | 4 116.00 |
- 2 Annual fee (Act, s 135BE(1)(b)), if nameplate capacity of accredited power station or proposed accredited power station is—
- |  |          |
|--|----------|
| (a) 1MW or less . . . . .                      | 257.25   |
| (b) more than 1MW but less than 10MW . . . . . | 514.50   |
| (c) 10MW or more but less than 30MW . . . . .  | 1 029.00 |
| (d) 30MW or more but less than 100MW . . . . . | 1 543.50 |
| (e) 100MW or more . . . . .                    | 2 058.00 |

**Division 2 GEC creation fee**

\$

- 1 For regulator to decide whether GEC was validly created—for each GEC (Act, s 135DH(1)(a)(i)) . . . . . 0.1543

## Schedule 7 (continued)

**Division 3 Exempted loads**

	\$
1 State development exemption (Act, ch 5A, pt 5, div 6, sdiv 2)—	
(a) application fee . . . . .	3 087.00
(b) annual fee. . . . .	514.50
2 Renewable energy exemption (Act, ch 5A, pt 5, div 6, sdiv 3)—	
(a) application fee . . . . .	257.25
(b) annual fee. . . . .	102.90
3 Auxiliary load exemption (Act, ch 5A, pt 5, div 6, sdiv 4)—	
(a) application fee . . . . .	257.25
(b) annual fee. . . . .	102.90

**Division 4 Scheme participants**

	\$
1 Application fee (Act, s 135I(3)) . . . . .	257.25
2 Annual fee (Act, s 135IC(2)). . . . .	102.90

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## **Schedule 8      Maximum fees payable to electricity entity**

section 226(2)

	\$
1 Disconnection and reconnection of supply of electricity to a customer after disconnection under section 34—	
(a) if the reconnection is made during ordinary business hours .....	30.20
(b) if the reconnection is made outside ordinary business hours at the customer's request .....	72.45
2 Testing of a meter by the distribution entity (section 48) ..	12.05
3 Inspection and testing of a meter by a competent person (section 53) .....	120.80

## Schedule 9      Dictionary

### section 3

***affected customer***, for a suspended retail entity, means a person who, immediately before the retail entity became a suspended retail entity, was a customer of the retail entity.

***approved form*** means a form approved by the regulator under section 227.

***AS/NZS*** means a joint Standards Australia and Standards New Zealand standard.

***capital contribution*** means—

- (a) for a customer connecting to the Mount Isa-Cloncurry supply network or a supply network that is part of the national grid—the amount worked out under a capital contribution policy approved by the jurisdictional regulator; or
- (b) for a customer connecting to another supply network—the amount worked out under the distribution entity’s applicable policy.

***casual employee*** means a GOE industry employee mentioned in section 188.

***check testing***, for an item of prescribed electrical equipment, see section 157.

***competent person*** see section 53(2).

***consumers terminals*** means the point where a customer’s electrical installation is connected to the relevant supplier’s works.

***cooling-off period***, for chapter 3, part 7, division 1, subdivision 4, see section 107.

***corresponding law***, for chapter 7, means 1 of the following laws—

- *Electrical Products Act 2000 (SA)*

**Schedule 9 (continued)**

- *Electricity Safety Act 1945* (NSW)
- *Electricity Safety Act 1998* (Vic).

***decision maker***, for chapter 9, part 2, division 2, means the entity whose decision is appealed against.

***distribution entity***, for an electrical installation or premises or a customer, means the distribution entity who provides customer connection services to the electrical installation or premises or to the customer's electrical installation or premises.

***EGTS award*** see section 171.

***electrical appliance*** means an appliance that uses electricity.

***electrical installation*** includes part of an electrical installation.

***Electricity Industry Code*** means the industry code approved under section 87.

***electricity industry employee***, for a State electricity entity, means a person—

- (a) who is employed by the entity; and
- (b) whose employment is—
  - (i) in, or relates to, the electricity industry; and
  - (ii) under a classification and salary level or point mentioned in the ESIE award or EGTS award.<sup>21</sup>

***employment entitlement***, for chapter 8, see section 167.

***ESIE award*** see section 171.

***former employer***, for chapter 8, part 3, see section 178(1).

***former employment***, for chapter 8, part 4, see section 184(1).

***future employer***, for chapter 8, see section 168(2)(d).

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<sup>21</sup> See the ESIE award, part 3 (Definition, wages, allowances) and the EGTS award, part 3 (Definitions, salaries, allowances).

## Schedule 9 (continued)

**GOE industry** means all State electricity entities collectively, including entities declared to be State electricity entities under section 224.

**GOE industry employee**—

- (a) means a person employed by a State electricity entity, including an entity declared to be a State electricity entity under section 224, in a full-time, part-time or casual capacity; and
- (b) includes the chief executive officer of the entity.

**high voltage** means a voltage of more than 1000V.

**host retail entity**, for chapter 3, part 2, division 2, means—

- (a) generally—the retail entity in whose retail area the premises covered by the contract are located; or
- (b) for the supply area described in Country Energy's special approval no. SA21/98—Country Energy.

**industrial instrument**, for chapter 8, part 2, see section 171.

**Industrial Relations Act** means the *Industrial Relations Act 1999*.

**Industrial Relations Commission** means the Queensland Industrial Relations Commission continued in existence under section 255 of the Industrial Relations Act.

**information notice**, for an action or decision of the regulator or another entity, means a notice stating each of the following—

- (a) the action or decision;
- (b) for an action or decision of the regulator—the reasons for the decision;
- (c) for an action or decision of another entity—that a person who may seek a review or appeal can ask the entity for a written statement of reasons for the action or decision;
- (d) all rights of review or appeal under this regulation;
- (e) the period in which any review or appeal under this regulation must be started;

## Schedule 9 (continued)

- (f) how rights of review or appeal under this regulation are to be exercised.

***insolvency official*** means an administrator, liquidator, provisional liquidator, receiver or receiver and manager.

***jurisdictional regulator*** has the meaning given in the National Electricity Rules.

***locality allowance*** means an allowance payable to an employee stationed in a centre distant from Brisbane to assist in offsetting the disadvantages associated with residence in the centre.

***loss factor*** has the meaning given in the National Electricity Rules.

***lot***, for chapter 3, part 7, division 1, see section 95.

***low voltage*** means a voltage of no more than 1000V.

***new employer***, for chapter 8, part 3, see section 178(1).

***new employment***, for chapter 8, part 4, see section 184(1).

***owner***, for chapter 3, part 1, division 3, see section 58.

***power factor*** has the meaning given in the National Electricity Rules.

***prescribed electrical equipment*** means an item of electrical equipment stated in schedule 4, column 1, as defined in the relevant standard.

***previous employer***, for chapter 8, see section 168(2)(a).

***proportionate amount***, for chapter 8, see section 175.

***proposed transferee***, for prescribed electrical equipment, see section 157.

***redundancy payment***, for chapter 8, see section 167.

***redundant***, for chapter 8, see section 168(1).

***redundant employee***, for chapter 8, see section 168(2).

***register*** means the register the regulator keeps under section 153.



## Schedule 9 (continued)

**registered owner**, for chapter 3, part 7, division 1, see section 95.

**relevant distribution entity**, for chapter 3, part 7, division 1, see section 95.

**relevant standard**, for an item of prescribed electrical equipment, means the standard stated in schedule 4 for the equipment item.

**relevant supplier**, for an electrical installation or premises or an electric line, means the distribution entity or the special approval holder who provides customer connection services to the electrical installation or premises or the line.

**retail entity**, for an electrical installation or premises or a customer, means the retail entity who provides customer retail services to the electrical installation or premises or to the customer's electrical installation or premises.

**service line** means an electric line that—

- (a) forms part of the works of a relevant supplier; and
- (b) connects consumers terminals to—
  - (i) other parts of the relevant supplier's works; or
  - (ii) the works of another electricity entity.

**single premises** see section 96.

**State electricity entity**, for chapter 8, see section 167.

**statutory customer contract**, for chapter 3, part 2, division 2, means a contract taken, under section 75, to have been entered into between the host retail entity for that division and an affected customer.

**suitable alternative employment**, for chapter 8, see section 169.

**supplier** means a distribution entity or special approval holder who provides customer connection services to an electrical installation or premises.

## Schedule 9 (continued)

*suspended retail entity* means a retail entity suspended, under the National Electricity Rules, clause 3.15.21(c), from trading.

*transfer day*, for chapter 8, part 3, see section 178(3).

*transferred employee*, for chapter 8, part 3, see section 177.

*wiring rules* means AS/NZS 3000—Electrical installations (known as the Australian/New Zealand Wiring Rules).

## 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 17 November 2006. Future amendments of the Electricity Regulation 2006 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

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

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

## 4 Table of reprints

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

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

Reprint No.	Amendments included	Effective	Notes
1	none	1 September 2006	
1A	2006 SL No. 279	17 November 2006	

## 5 List of legislation

### **Electricity Regulation 2006 SL No. 200**

made by the Governor in Council on 10 August 2006

notfd gaz 11 August 2006 pp 1725–8

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2006 (see s 2)

exp 1 September 2016 (see SIA s 54)

Note—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

amending legislation—

### **Electricity Amendment Regulation (No. 1) 2006 SL No. 279**

notfd gaz 17 November 2006 pp 1321–2

commenced on date of notification

## 6 List of annotations

### **CHAPTER 10—GENERAL PROVISIONS**

#### **PART 2—DECLARED STATE ELECTRICITY ENTITIES**

##### **Declarations—Act, s 259A(2)**

s 224 amd 2006 SL No. 279 s 3

#### **PART 5—AMENDMENT OF STATE PENALTIES ENFORCEMENT REGULATION 2000**

pt 5 (ss 235–236) om R1 (see RA ss 7(1)(k) and 40)