



# Electricity Act 1994

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Queensland

# Electricity Act 1994

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# **Electricity Act 1994**

[as amended by all amendments that commenced on or before 15 June 2007]

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

## **Chapter 1 Preliminary**

### **Part 1 Introductory provisions**

#### **1 Short title**

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

### **Part 2 Objects of Act**

#### **3 Objects of Act**

The objects of this Act are to—

- (a) set a framework for all electricity industry participants that promotes efficient, economical and environmentally sound electricity supply and use; and
- (b) regulate the electricity industry and electricity use; and
- (c) establish a competitive electricity market in line with the national electricity industry reform process; and
- (d) ensure that the interests of customers are protected; and
- (e) take into account national competition policy requirements.

## Part 3 Dictionary and notes in text

### 4 Definitions—the dictionary

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

### 4A Notes in text

A note in the text of this Act is part of the Act.

## Part 4 Some basic concepts of electricity industry operations

### 5 Electricity

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

### 6 Transmission grid

- (1) A *transmission grid* is a system, or part of a system, of electric lines, substations and associated equipment providing connection between generation facilities and supply networks or customers not supplied through supply networks.
- (2) A transmission grid includes connections to other transmission grids.

### 7 Regional system control

For the Queensland system, *regional system control* is—

- (a) maintaining the operation and performance of the transmission grid; and
- (b) controlling switching of transmission elements and access to them for maintenance, inspection and testing; and



- (c) controlling switching of parts of the supply network relevant to the integrity of the Queensland system; and
- (d) carrying out other functions prescribed by regulation.

## **8 Supply network**

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

## **9 Network control**

For a supply network, *network control* is—

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

## **10 Network services**

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

*Examples of network services—*

- 1 providing electricity transfer capacity
- 2 controlling and regulating the characteristics of electricity being transferred

- 3 providing facilities to connect works of generation entities, transmission entities, distribution entities, or electrical installations of customers, to a transmission grid or supply network

## 11 Ancillary services

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

*Examples of ancillary services—*

- 1 providing reserve to the system, including through interruptibility of load
- 2 operating generating and other plant to ensure the stable and secure operation of the system
- 3 maintaining an ability to restore supply to the system after total failure of supply

## 12 Works, substations and operating works

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

*Example of works—*

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

- (2) A *substation* is works used for converting, transforming or controlling electricity.
- (3) *Operating works* are—
  - (a) for a generation entity—the generating plant, fuel stocks, electrical and other property used for generating electricity or connecting supply to a transmission grid or supply network; or
  - (b) for a transmission entity—the transmission grid and other property used for operating or managing the transmission grid; or

- (c) for a distribution entity—the supply network and other property used for operating or managing the supply network.

*Example of other property used for generating electricity—*

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

### 13 Meaning of *electrical equipment*

- (1) *Electrical equipment* is any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire—
- (a) used for controlling, generating, supplying, transforming or transmitting electricity at a voltage greater than extra low voltage; or
  - (b) operated by electricity at a voltage greater than extra low voltage; or
  - (c) that is, or that forms part of, a cathodic protection system.
- (2) However, *electrical equipment* does not include any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire forming part of a vehicle if—
- (a) it forms part of a unit of the vehicle that provides propulsion for the vehicle; or
  - (b) its source of electricity is a unit of the vehicle that provides propulsion for the vehicle.

*Examples of things that, under subsection (2), are not electrical equipment—*

- the headlights of a vehicle
- ignition spark plugs of a motor vehicle
- the interior lighting system of a vehicle, if powered from a battery charged by the engine that drives the vehicle or by the vehicle's movement

*Examples of things that are not prevented by subsection (2) from being electrical equipment—*

- interior lighting or a socket outlet in a caravan, if the lighting or outlet is operated by a low voltage generating set or connected to low voltage supply

- a refrigeration unit in a food delivery vehicle operating at low voltage from a source separate from the propulsion unit for the vehicle

## 14 Meaning of *electrical installation*

- (1) An *electrical installation* is a group of items of electrical equipment.
- (2) However, a group of items of electrical equipment is an electrical installation only if—
  - (a) all the items are permanently electrically connected together; and
  - (b) the items do not include items that are works; and
  - (c) electricity can be supplied to the group from works or from a generating source.
- (3) An item of electrical equipment can be part of more than 1 electrical installation.
- (4) For subsection (2)(a)—
  - (a) an item of electrical equipment connected to electricity by a plug and socket outlet is not permanently electrically connected; and
  - (b) connection achieved through using works must not be taken into consideration for deciding whether items of electrical equipment are electrically connected.

### *Examples of an electrical installation under this section—*

- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shop in a shopping centre
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a house or residential unit
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shopping centre. The electrical installation for the shopping centre generally includes the electrical installations for the individual shops
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a residential unit complex. The electrical installation for the residential unit complex generally includes the electrical installations for the individual residential units

- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected within a caravan

## 15 Meaning of *electric line*

- (1) An *electric line* is a wire or conductor or associated equipment used for transmitting, transforming, or supplying electricity at a voltage greater than extra low voltage.
- (2) However, an *electric line* does not include—
  - (a) a wire or conductor directly used in converting electricity into another form of energy; or
  - (b) a wire or conductor within the internal structure of a building.

*Examples of things that are not electric lines—*

- a cord for connecting an air conditioning unit, computer, lamp, television or toaster to a supply of electricity
- a power or lighting circuit within a building

## 16 Meaning of *associated equipment for electric line*

*Associated equipment*, for an electric line, means something ordinarily found in association with the electric line, especially for the purpose of protecting, insulating or supporting, or supporting the operation of, the electric line.

*Examples of associated equipment—*

- a bracket, casing, coating, covering, duct, frame, insulator, pillar, pipe, pole, tower or tube enclosing, surrounding or supporting a wire or conductor
- an air break, circuit breaker, switch, transformer or other apparatus connected to a wire or conductor

## 16A Meaning of *meter*

A *meter* is a device, including any associated equipment, used for measuring electricity.

**17 Voltage**

- (1) **Voltage** is the difference in electrical potential measured in volts.
- (2) For alternating current systems, **voltage** is taken to be the root mean square (RMS) value of the difference.
- (3) Unless otherwise provided, **voltage** is the nominal voltage between phases of a symmetrical 3 phase system.
- (4) For electricity supplied from a single wire earth return system originating from a symmetrical 3 phase system, **voltage** is the nominal voltage between phase and earth.

**Part 5 Operation of Act****18 Application of Act to government entities**

- (1) In this section—  
*government entity* includes—
  - (a) the State, the Commonwealth or another State; or
  - (b) an instrumentality or agent of the State, the Commonwealth or another State.
- (2) This Act binds a government entity only—
  - (a) to the extent that the entity is, or has a financial interest in, an electricity entity; or
  - (b) to the extent that the entity is a customer; or
  - (c) in relation to electricity restriction and rationing; or
  - (d) in relation to sections 287 and 287A.<sup>1</sup>

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<sup>1</sup> Section 287 (Gladstone power station provisions) and 287A (Gladstone power station arrangements)

**19 Act subject to certain laws**

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

**Part 6 Exemptions from Act****Division 1 On-suppliers****Subdivision 1 Preliminary****20 Definitions for div 1**

In this division—

***accounting period***, for an on-supply agreement, means a period of 1 year beginning on a day fixed by the on-supplier.

***common area***, of an on-supplier's premises, means a part of the premises that the on-supplier and each lessee or other person the on-supplier has given a right to use the premises have agreed is a common area of the premises.

*Examples of a part of an on-supplier's premises that may be a common area—*

- community, entertainment, information and leisure facilities in a caravan park
- elevators, escalators and stairways
- fountains and gardens
- malls and walkways
- parking areas
- rest rooms and toilets

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<sup>2</sup> This section prohibits certain acts (for example, destruction of forest products) without an appropriate authority.

***common area consumption***, for an on-supplier's premises, means the whole or part of the electricity consumed in a common area of the on-supplier's premises.

***first accounting period***, for an on-supply agreement, means the accounting period in which the agreement is made, or proposed to be made.

***on-supplier*** means a person who—

- (a) is the owner or occupier of premises or has the right to use premises; and
- (b) supplies, or supplies and sells, electricity for use in the premises.

*Examples of persons under paragraph (a)—*

- an owner, occupier or a person who has a right to use a caravan park, exhibition centre, hostel, hotel, industrial park, lodging house, marina, market arcade, motel or shopping centre
- a relevant body corporate

***on-supplier's premises***, for a person who is an on-supplier, means the premises for which the person is an on-supplier.

***on-supply agreement*** means an agreement made under section 20B.

***receiver*** means a person who owns, occupies or has the right to use premises and to whom electricity is supplied, or supplied and sold, by an on-supplier for the premises.

## **Subdivision 2 Exemptions**

### **20A Exemptions for on-suppliers**

If an on-supplier complies with subdivisions 3 to 7, the on-supplier is exempted from sections 88A and 89.<sup>3</sup>

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<sup>3</sup> Sections 88A (Prohibition on operating supply network unless authorised) and 89 (Restriction on sale of electricity)



### **Subdivision 3      On-supply agreements**

#### **20B      On-supply agreement**

- (1) An on-supplier and a receiver may agree about how—
  - (a) the on-supplier is to supply electricity to the receiver; or
  - (b) the on-supplier may charge the receiver for common area consumption for the on-supplier's premises.
- (2) The agreement may state a charge or no charge for the supply or common area consumption.
- (3) The agreement may be—
  - (a) written or oral; or
  - (b) made in any way permitted by law; or
  - (c) incorporated in a lease or other agreement between the on-supplier and the receiver.

#### **20C      Act prevails over on-supply agreement**

If there is an inconsistency between an on-supply agreement and this Act, this Act prevails to the extent of the inconsistency.

### **Subdivision 4      Preliminary disclosure requirements about common area charges**

#### **20D      Application of sdiv 4**

This subdivision applies if—

- (a) a person (the *prospective on-supplier*) proposes to enter into an on-supply agreement as an on-supplier; and
- (b) under the agreement, the on-supplier will charge another person (the *prospective receiver*) for common area consumption for the on-supplier's premises.

**20E Preliminary consumption estimate**

- (1) The prospective on-supplier must, within a reasonable period before making the on-supply agreement, give the prospective receiver—
  - (a) written notice of the accounting period that is to apply to the on-supply agreement; and
  - (b) an estimate of the common area consumption for the first accounting period for the agreement.
- (2) In deciding what is a reasonable period for subsection (1), regard must be had to whether the period is enough to allow the prospective receiver to estimate his or her liability for the common area consumption for the first accounting period for the agreement.

**20F Required contents for on-supply agreement**

- (1) The prospective on-supplier must not enter into the on-supply agreement unless it provides for—
  - (a) how the common area consumption is to be worked out; and
  - (b) if the receiver is only required to pay part of the common area consumption—how that part is to be worked out.
- (2) Subject to section 20G, failure to comply with subsection (1) does not invalidate the agreement.

**20G Consequence of not complying with sdiv 4**

- (1) This section applies if the prospective on-supplier—
  - (a) does not comply with section 20E(1) before entering into the on-supply agreement; or
  - (b) enters into an on-supply agreement in contravention of section 20F.
- (2) The receiver under the agreement may, by written notice to the on-supplier, terminate any liability that the receiver would, other than for this section, have had for common area consumption to which the agreement applies.

- (3) However, the notice may be given only within 2 months after the agreement is made.
- (4) A termination under this section ends any liability for common area consumption accrued or incurred under the agreement or otherwise at any time before or after the termination.
- (5) To remove any doubt, it is declared that a termination under this section does not, of itself, affect any other liability of the receiver to the on-supplier under the agreement or another agreement.
- (6) This section does not limit section 20A.

## **Subdivision 5 Individual metering**

### **20H Individual metering option**

- (1) This section applies if an on-supply agreement for the supply and sale of electricity between an on-supplier and a receiver is in force.
- (2) The receiver may, at any time—
  - (a) elect, by written notice to the on-supplier, to be charged on the basis of the receiver's consumption of electricity supplied from the on-supplier, as measured by a meter; and
  - (b) install the meter, at the receiver's expense.
- (3) However, the election has effect only if the installation is done in a way—
  - (a) that complies with any reasonable written directions the on-supplier gives the receiver within 5 business days after the giving of the notice; or
  - (b) if no written directions are given within the 5 business days—that is reasonable.
- (4) In deciding what is reasonable for subsection (3), regard must be had to the interests of the on-supplier and anyone who is an occupier of the on-supplier's premises.

**20I Compensation for installation damage**

- (1) This section applies if—
  - (a) a receiver has, under section 20H, given an on-supplier a written notice of election; and
  - (b) the receiver installs a meter for electricity supplied from the on-supplier to the receiver; and
  - (c) either—
    - (i) no written direction was given by the on-supplier under section 20H; or
    - (ii) the installation was done in a way that does not comply with the on-supplier's reasonable written directions under that section; or
    - (iii) the installation was not done in a way that is reasonable; and
  - (d) a person as follows (the *claimant*) suffers damage to property because of the installation—
    - (i) the on-supplier;
    - (ii) anyone who is an occupier of the on-supplier's premises.
- (2) Compensation for the damage is payable by the receiver to the claimant.
- (3) The compensation may be claimed and recovered in a proceeding brought in a court of competent jurisdiction.
- (4) A court may order payment of the compensation only if it is just to make the order in the circumstances of the particular case.
- (5) In making the order the court must have regard to—
  - (a) whether it was reasonable for the claimant to give the receiver an opportunity to fix the damage; and
  - (b) if paragraph (a) applies—whether the receiver was given a reasonable period to fix the damage.
- (6) This section does not limit a civil right or remedy that exists apart from this section, whether at common law or otherwise.

**20J Maximum charge for metered supply**

- (1) This section applies if electricity supplied and sold by an on-supplier to a receiver is charged on the basis of the receiver's electricity consumption as measured by a meter.
- (2) However, this section does not apply to electricity that is common area consumption for the on-supplier's premises.
- (3) If there is a relevant retail entity for the supply, the rate of the charge must not be more than the lowest rate that the receiver would have paid for the consumption had the receiver been a non-contestable customer of the entity.
- (4) If there is no relevant retail entity for the supply, the rate of charge must not be more than the lowest rate that the receiver would have paid for the consumption had the receiver been a non-contestable customer of the retail entity that sells electricity to the on-supplier.
- (5) In working out the lowest rate for subsections (3) and (4), any cost of connecting the receiver's premises to a supply network to allow the supply of electricity from the network to the premises must be disregarded.
- (6) The on-supplier can not recover an amount for the consumption to the extent the amount has been worked out at a rate that is more than the lowest rate allowed under subsection (3) or (4).
- (7) In this section—  
*relevant retail entity*, for the supply, means a retail entity whose retail authority states an area in which the receiver's premises are located.

**Subdivision 6 Disclosure requirements for common area consumption charges****20K Application of sdiv 6**

This subdivision applies if, under an on-supply agreement, the on-supplier may charge for common area consumption.

**20L Periodic consumption estimates**

- (1) The on-supplier must, for each accounting period after the first accounting period for the agreement, give the receiver an estimate of the common area consumption for the on-supplier's premises during the accounting period.
- (2) An estimate for an accounting period must be given at least 1 month before the accounting period begins.

**20M Audited statements**

- (1) The on-supplier must, for each accounting period, give the receiver audited statements of the common area consumption.
- (2) A statement for an accounting period must—
  - (a) comply with section 20N; and
  - (b) be given within 3 months after the accounting period ends.

**20N Content requirements for audited statement**

Each audited statement under section 20M must—

- (a) comply with the standards in the statements of accounting and auditing standards made by CPA Australia and the Institute of Chartered Accountants in Australia; and
- (b) be prepared by a person (the *auditor*) who is—
  - (i) registered, or taken to be registered, as an auditor under the Corporations Act; or
  - (ii) a member of, and holds a practising certificate from CPA Australia, The Institute of Chartered Accountants in Australia or the National Institute of Accountants; and
- (c) contain the auditor's opinion about whether the statement presents fairly the on-supplier's charges for the common area consumption during the period to which it relates, in accordance with the on-supplier's financial records; and

- (d) compare each relevant estimate given under this division with the amount actually spent by the on-supplier on the common area consumption during the period; and
- (e) compare the total amount actually spent by the on-supplier on common area consumption during the period with the amount actually paid for the period by anyone for the on-supplier's premises.

## **Subdivision 7      On-suppliers who operate a private network**

### **200      National Electricity Rules exemption required**

An on-supplier must be exempt from the requirement under the National Electricity Rules, clause 2.5,<sup>4</sup> to be registered as a network service provider if the on-supplier—

- (a) operates a supply network located solely within the on-supplier's premises; and
- (b) supplies, or supplies and sells, electricity using the network.

## **Division 2              Other exemptions**

### **20P      Exemption for connection of generating plant not supplying electricity to transmission grid or supply network**

Section 87<sup>5</sup> does not apply to the connection of a stand-by generating plant to a transmission grid or supply network if—

- (a) the connection is only when the operation of the plant is tested; and
- (b) electricity is not supplied by the plant into the grid or network.

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4 National Electricity Rules, clause 2.5 (Network service provider)

5 Section 87 (Connection of generating plant to transmission grid or supply network only if authorised)

**20Q Exemptions for Queensland Rail**

- (1) Queensland Rail is exempted from sections 88A and 89<sup>6</sup> in relation to the supply and sale of electricity to Airtrain Citylink Limited ACN 066 543 315 for electricity used—
  - (a) in connection with the building or use of electrical installations and other works by Airtrain Citylink Limited, as part of a system of electric traction or for signalling purposes, on the Brisbane Airport Rail Link; or
  - (b) for powering electric rolling stock and railway signals on the Brisbane Airport Rail Link.
- (2) Queensland Rail is also exempted from sections 88A and 89 in relation to the supply and sale of electricity to a third party access holder for electricity used by the third party access holder—
  - (a) in connection with the building or use of electrical installations and other works, as part of a system of electric traction or for signalling purposes, on the nominated network or connected to the nominated network; or
  - (b) for powering electric rolling stock and railway signals on the nominated network or rail transport infrastructure owned by the third party access holder and connected to the network.
- (3) In this section—

*Airtrain Citylink Limited* includes its successors and assigns.

*Brisbane Airport Rail Link* means the proposed railway shown on CMPS&F Pty Limited drawing no. RQ0159-C029(F)<sup>7</sup>—

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6 Sections 88A (Prohibition on operating supply network unless authorised) and 89 (Restriction on sale of electricity)

7 A copy of the drawing is available for inspection at the offices of Queensland Transport, Level 12, Capital Hill Building, 85 George Street, Brisbane.



- starting at a point 0.313km from Queensland Rail's north coast rail line (defined on the drawing as the *ownership transfer point*)
- finishing at the domestic terminal of Brisbane Airport.

*third party access holder* means a person who, under an arrangement with Queensland Rail, is entitled to access and use a nominated part of Queensland Rail's rail transport infrastructure (the *nominated network*).

## **20R Regulation may exempt person or thing from Act**

- (1) If the Governor in Council considers it necessary because of an emergency or other extraordinary circumstances, a regulation may—
  - (a) exempt a person or thing from this Act or a provision of this Act; and
  - (b) impose conditions on the exemption; and
  - (c) provide that the exemption ceases or continues if a condition of the exemption is contravened.
- (2) The regulation expires 6 months after it commences, unless it is earlier repealed.
- (3) A person must not contravene a condition of an exemption applying to the person.

Maximum penalty for subsection (3)—50 penalty units.

# **Chapter 2 The electricity industry**

## **Part 1 Electricity industry and entities**

### **21 Electricity industry**

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

**22 Electricity entities**

- (1) An *electricity entity* is an entity that is a participant in the electricity industry.
- (2) The following entities are the participants in the electricity industry—
  - (a) generation entities;
  - (b) transmission entities;
  - (c) distribution entities;
  - (d) retail entities.

**Part 2 Customers and contestable customers****23 Types of customers**

- (1) A *customer* is a person who receives, or wants to receive, a supply of electricity from an electricity entity or special approval holder.
- (1A) A *customer* includes a relevant body corporate.
- (2) A *contestable customer* is a customer declared to be a contestable customer under the regulations.
- (3) A *non-contestable customer* is a customer other than a contestable customer.

**23A Regulations concerning contestability declaration**

- (1) A regulation under section 23(2) declaring a customer to be a contestable customer may provide—
  - (a) that the declaration takes effect on the day on which the regulation commences or on another stated day; or
  - (b) for the effects of the customer being declared to be a contestable customer.

*Electricity Act 1994*

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*Examples of effects that may be provided for—*

- the specification of a contract, class of contract or type of contract as a customer connection contract or as a customer sale contract
  - the continuation of the customer's customer sale contract
  - the continuation of a customer connection contract that applies to the customer's premises
  - the change in status of the customer's customer sale contract, for example, from a standard customer sale contract to a negotiated customer sale contract
  - the change in status of the customer connection contract that applies to the customer's premises, for example, from a standard customer connection contract to a negotiated customer connection contract
  - the amendment of the customer's customer sale contract
  - the amendment of the customer connection contract that applies to the customer's premises
  - the ending of the customer's customer sale contract
  - the ending of the customer connection contract that applies to the customer's premises
  - anything necessary or convenient to help or give effect to a regulation under section 23(2)
- (2) The ending of a customer sale contract or a customer connection contract under a regulation made under section 23(2) does not give rise to a claim for compensation by a party to the contract because of the ending of the contract.
- (3) However, subsection (2) does not affect a right of a party that accrued before the ending of the contract.

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

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

## **Part 3**                      **Generation entities and their authorities**

### **25**      **Generation entities**

A *generation entity* is a person who holds a generation authority.

### **26**      **Generation authorities**

(1) A *generation authority* authorises its holder—

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

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

### **27**      **Conditions of generation authority**

A generation authority is subject to the following conditions—

- (a) the generation entity must provide electricity of a quality suitable for the transmission grid or supply network stated in the authority;
- (b) the generation entity must comply with—
  - (i) the technical conditions of connection to a transmission grid or supply network stated in the authority or prescribed under the regulations; and

- (ii) if the entity is a Registered participant—the National Electricity Rules; and
  - (iii) if the entity is connected to the Queensland system—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
  - (iv) conduct rules made by the QCA; and
  - (v) conditions imposed under the regulations; and
  - (vi) the condition stated in section 28; and
  - (vii) conditions stated in the authority;
- (c) the generation entity must properly take into account the environmental effects of its activities under the authority;
  - (d) the generation entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

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

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

## **Part 4 Transmission entities and their authorities**

**29 Transmission entities**

A *transmission entity* is a person who holds a transmission authority.

**30 Transmission authorities**

- (1) A *transmission authority* authorises its holder—
  - (a) to operate the transmission grid stated in the authority; and
  - (b) if stated in the authority—to connect the transmission grid to another transmission grid stated in the authority.
- (2) However, a transmission authority does not relieve its holder or anyone else from complying with laws applying to the development, building, operation or maintenance of a transmission grid.

**31 Conditions of transmission authority**

A transmission authority is subject to the following conditions—

- (a) the transmission entity must comply with—
  - (i) the technical conditions of operating the transmission grid stated in the authority or prescribed under the regulations; and
  - (ii) if the entity is a Registered participant—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
  - (iii) conduct rules made by the QCA; and
  - (iv) the conditions stated in sections 32, 33, 34, 35 and 36;<sup>8</sup> and
  - (v) conditions imposed under the regulations; and
  - (vi) conditions stated in the authority;

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<sup>8</sup> Sections 32 (Additional condition to allow connection to grid by complying persons), 33 (Additional condition not to buy and sell electricity), 34 (Additional conditions about grid operation etc.), 35 (Additional condition to provide network services) and 36 (Additional condition to comply with protocols, standards and codes)

- (b) the transmission entity must properly take into account the environmental effects of its activities under the authority;
- (c) the transmission entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

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

- (1) It is also a condition of a transmission authority that the transmission entity must allow, as far as technically and economically practicable, a person to connect supply to a transmission grid stated in the authority, or take electricity from the grid, on fair and reasonable terms if the conditions stated in subsection (2) are satisfied.
- (2) The conditions to be satisfied are as follows—
  - (a) the person must be authorised under this Act to connect supply or take electricity from the transmission grid;
  - (b) the grid must be capable of being used safely to connect supply or take electricity as proposed by the person;
  - (c) the person must have complied with all provisions of the regulations relevant to connecting supply to, or taking electricity from, the grid;
  - (d) the person must pay the reasonable cost of connection to the grid.
- (3) In deciding whether the condition mentioned in subsection (2)(b) is satisfied, all relevant matters must be considered, including, for example—
  - (a) the transmission entity's current obligations; and
  - (b) the current obligations of other persons connected directly or indirectly to the transmission grid; and
  - (c) the grid's capacity.

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

- (1) It is also a condition of a transmission authority held by a transmission entity that operates a regulated transmission grid that the transmission entity must not buy or sell electricity directly or indirectly.
- (2) Subsection (1) does not apply to generating, buying or selling electricity—
  - (a) necessary to operate the transmission entity's transmission grid or for a purpose associated with the planning, design, construction, maintenance or operation of the transmission grid; or
  - (b) for the entity's administrative purposes.
- (3) In this section—

*regulated transmission grid* means a transmission grid that is subject to the regulatory arrangements for transmission service pricing under the National Electricity Rules, chapter 6.<sup>9</sup>

**34 Additional conditions about grid operation etc.**

- (1) In addition, a transmission authority is subject to the following conditions—
  - (a) the transmission entity must operate, maintain (including repair and replace if necessary) and protect its transmission grid to ensure the adequate, economic, reliable and safe transmission of electricity;
  - (b) the transmission entity must operate the grid in coordination with transmission grids to which it is connected directly or indirectly.
- (2) Unless otherwise provided in its authority, it is also a condition of the transmission authority that the transmission entity must ensure, as far as technically and economically practicable, that the transmission grid is operated with enough capacity (and, if necessary, augmented or extended to provide enough capacity) to provide network services to persons

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<sup>9</sup> National Electricity Rules, chapter 6 (Transmission and distribution pricing)



authorised to connect to the grid or take electricity from the grid.

**35 Additional condition to provide network services**

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

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

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

**36A Responsibility for regional system control**

- (1) A transmission entity is responsible for regional system control of its transmission grid.
- (2) However, a transmission entity is subject to directions given to it under the National Electricity (Queensland) Law or the National Electricity Rules.

## **Part 5 Distribution entities and their authorities**

**37 Distribution entities**

A *distribution entity* is a person who holds a distribution authority.

**38 Distribution authorities**

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

**39 Distribution area of distribution entity**

A distribution entity's *distribution area* is the area stated in its authority as its distribution area.

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

- (1) The following persons may apply to a distribution entity for the provision of customer connection services to premises within the entity's distribution area—
  - (a) a customer who owns or occupies the premises;
  - (b) a retail entity who has entered into a negotiated sale and connection contract with a contestable customer who owns or occupies the premises.
- (2) A distribution entity to which an application is made has an obligation to provide to the applicant the customer connection services to the premises.
- (3) However, the obligation does not apply if another provision of this Act or a regulation—
  - (a) states that the obligation does not apply; or
  - (b) authorises the disconnection of premises from, or refusal to connect or reconnect premises to, a supply network.
- (4) The applicant and the distribution entity are taken to have entered into a contract on the terms of the distribution entity's standard customer connection contract, in effect from time to time, for the provision of the services to the premises if—
  - (a) the distribution entity provides the customer connection services applied for to the premises; and
  - (b) the applicant does not enter into a negotiated customer connection contract for the customer connection services applied for.

- (5) However, the terms of the contract only include the terms of the distribution entity's standard customer connection contract, in effect from time to time, that apply to the applicant.
- (6) The contract takes effect as a deed.
- (7) The contract is taken to end if the applicant and the distribution entity enter into a negotiated customer connection contract for the provision of the customer connection services applied for.
- (8) Each of the parties to a standard customer connection contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, as far as the provisions apply to each party.

#### **40AA Supply if no customer connection contract**

- (1) This section applies if—
  - (a) premises are connected to a distribution entity's supply network; and
  - (b) there is no customer connection contract in effect, or taken to be in effect, for the provision of customer connection services to the premises.
- (2) Unless subsection (4) applies, the customer who owns or occupies the premises and the host distribution entity are taken to have entered into a contract on the terms of the host distribution entity's standard customer connection contract, in effect from time to time, for the provision of the customer connection services to the premises.
- (3) Subsection (4) applies if a contestable customer enters into a negotiated sale and connection contract with a retail entity for the premises.
- (4) The retail entity and the host distribution entity are taken to have entered into a contract on the terms of the host distribution entity's standard customer connection contract, in effect from time to time, for the provision of customer connection services to the premises.
- (5) However, the terms of a contract under subsection (2) or (4) only include the terms of the host distribution entity's

standard customer connection contract, in effect from time to time, that apply to the customer.

- (6) The contract—
  - (a) takes effect as a deed; and
  - (b) does not prevent the customer giving a dispute notice under the *Queensland Competition Authority Act 1997*, section 112;<sup>10</sup> and
  - (c) is taken to end if there is a customer connection contract entered into, or taken to be entered into, for the provision of customer connection services to the premises.
- (7) Each of the parties to a standard customer connection contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, as far as the provisions apply to each party.
- (8) In this section—

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

#### **40A Terms of standard customer connection contract**

- (1) The terms of a distribution entity's standard customer connection contract are the terms stated for the contract, from time to time, in an approved industry code.
- (2) If the terms of the contract are inconsistent with this Act, the contract is unenforceable to the extent of the inconsistency.

#### **40C Customer connection contracts outside standard form**

- (1) Despite sections 40 and 40A, a customer or retail entity may contract with a distribution entity on terms different from the terms of the distribution entity's standard customer connection contract.
- (2) A contract under subsection (1) must not be inconsistent with this Act and is unenforceable to the extent that it is.

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<sup>10</sup> *Queensland Competition Authority Act 1997*, section 112 (Giving dispute notice)

**40D Connection and supply on fair and reasonable terms**

- (1) A distribution entity must connect and supply electricity to a customer's electrical installation or premises within its distribution area on fair and reasonable terms.
- (2) A regulation may declare what is or is not fair and reasonable, including, for example, whether or not and, if so, in what circumstances different terms of standard customer connection contracts for different types of customers are fair and reasonable.

**40E Limitation on obligation to connect and supply**

- (1) A distribution entity is not obliged to connect or supply electricity to a customer's electrical installation or premises and it will not be in breach of its customer connection contract for the installation or premises if—
  - (a) the connection or supply is, or needs to be, interrupted—
    - (i) in an emergency; or
    - (ii) for work that needs to be performed without delay to prevent an emergency happening; or
    - (iii) by circumstances beyond the distribution entity's control; or
    - (iv) for work—if it is reasonable to do the work when it is done, reasonable notice is given to the customer and supply is restored as soon as practicable; or
  - (b) the connection or supply would breach technical requirements under this or another Act; or
  - (c) the connection or supply would unreasonably interfere with the connection or supply of electricity by the distribution entity to other customers; or
  - (d) the connection or supply is denied or limited under an electricity restriction regulation or emergency rationing order; or
  - (e) a distribution entity is entitled, under its customer connection contract or under a regulation, to disconnect supply to the customer; or

- (f) after an electricity officer has acted under section 141 to disconnect supply to something that was unsafe, the thing is still unsafe; or
  - (g) the connection or supply is likely to cause fire or electric shock to anyone; or
  - (h) this Act otherwise authorises refusal to connect or supply (or reconnect or resupply); or
  - (i) a regulation provides that the obligation to connect or supply (or reconnect or resupply) does not apply.
- (2) Subsection (1)(c) does not apply if the customer pays an amount to the entity for works necessary to prevent the connection or supply from unreasonably interfering with the connection or supply of electricity by the entity to other customers.
- (3) The entity must give the customer an opportunity to pay the amount.

#### **40F Obligation to connect and supply subject to authority**

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

#### **40G Disconnection for failure to pay debts**

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

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

distribution entity to disconnect or refuse to connect or reconnect the customer.

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

- (1) The parties to a negotiated customer connection contract may in the contract agree to vary or exclude the operation of sections 40E, 40G(a) or (b) or 97 for the contract.
- (2) If the sections' operation is varied or excluded, they do not apply to the contract to the extent agreed.

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

- (1) A distribution entity may, if a customer's electrical installation or premises is outside the distribution entity's distribution area—
  - (a) connect the installation or premises to the entity's supply network; and
  - (b) supply electricity from its supply network to the installation or premises.
- (2) Subsection (1) applies only if the installation or premises—
  - (a) is not within another distribution entity's distribution area; or
  - (b) if it is in another distribution entity's area—
    - (i) but the other distribution entity claims that it is not technically and economically practicable for it to connect and supply electricity to the customer; or
    - (ii) the other distribution entity agrees to the connection and supply.
- (3) However, the distribution entity may connect and supply electricity to the customer only if the connection and supply is not likely to impair its capacity to fulfil its obligation to connect and supply in its own distribution area.

**42 Conditions of distribution authority**

A distribution authority is subject to the following conditions—

- (a) the distribution entity must comply with—
  - (i) if the entity is a Registered participant—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
  - (ii) conduct rules made by the QCA; and
  - (iii) the conditions stated in sections 43, 44 and 45;<sup>11</sup> and
  - (iv) conditions imposed under the regulations; and
  - (v) conditions stated in the authority;
- (b) the entity must operate, maintain (including repair and replace as necessary) and protect its supply network to ensure the adequate, economic, reliable and safe connection and supply of electricity to its customers;
- (c) the entity must properly take into account the environmental effects of its activities;
- (d) the entity must consider both demand side and supply side options to provide, as far as technically and economically practicable, for the efficient supply of electrical energy;
- (e) the entity must pay the amounts required under the authority or regulations for administering the authority and its conditions.

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<sup>11</sup> Sections 43 (Additional condition to allow connection to supply network by complying persons), 44 (Additional condition to provide network services) and 45 (Additional condition to comply with protocols, standards and codes)



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

- (1) It is also a condition of a distribution authority that the distribution entity must allow, as far as technically and economically practicable for the distribution entity, a person to connect supply to its supply network, or take electricity from its supply network, on fair and reasonable terms, if the conditions stated in subsection (2) are satisfied.
- (2) The conditions to be satisfied are as follows—
  - (a) the person must be a generation entity, a transmission entity or a distribution entity;
  - (b) the supply network must be capable of being safely used to connect supply or take electricity as proposed by the person;
  - (c) the person must have complied with all provisions of the regulations relevant to connecting supply to, or taking electricity from, the network;
  - (d) the person must pay the reasonable cost of connection to the network.
- (3) In deciding whether the condition mentioned in subsection (2)(b) is satisfied, all relevant matters must be considered, including, for example—
  - (a) the distribution entity's current obligations and its expected future obligations; and
  - (b) the current obligations of other persons connected directly or indirectly to the network; and
  - (c) the network's capacity.

**44 Additional condition to provide network services**

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

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

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

**45A Responsibility for network control**

- (1) A distribution entity is responsible for network control of its supply network.
- (2) However, a distribution entity is subject to directions given to it under the National Electricity (Queensland) Law or the National Electricity Rules.

**Part 6 Retail entities and their authorities****46 Retail entities**

A *retail entity* is a person who holds a retail authority.

**47 Retail authorities**

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

**48 Retail area of retail entity**

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

- (2) A retail area may consist of either or both of the following—
  - (a) 1 or more discrete geographical areas;
  - (b) particular premises.
- (3) A retail authority stating a retail area consisting of particular premises may describe the premises in the way the regulator considers appropriate including, for example, the street address or national metering identifier for the premises.

#### **48A Where retail authority does not state a retail area**

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

#### **48B Applying for customer retail services**

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

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

- (1) This section applies if a non-contestable customer makes an application under section 48B to a retail entity with a retail area in relation to premises within the retail entity's retail area.
- (2) A retail entity to which an application is made has an obligation to provide to the non-contestable customer the customer retail services to the premises.
- (3) However, the obligation does not apply if another provision of this Act or a regulation—
  - (a) states that the obligation does not apply; or
  - (b) authorises refusal to provide customer retail services.
- (4) While the customer is a non-contestable customer, the customer and the entity are taken to have entered into a contract on the terms of the retail entity's standard customer

sale contract, in effect from time to time for the provision of the customer retail services if—

- (a) the retail entity provides the customer retail services applied for the premises pursuant to the application; and
  - (b) the non-contestable customer does not, under section 52A, enter into a negotiated customer sale contract for the customer retail services applied for.
- (5) However, the terms of the contract only include the terms of the retail entity's standard customer sale contract, in effect from time to time, that apply to the non-contestable customer.
- (6) The contract takes effect as a deed.
- (7) A contract is taken to end if the customer and the retail entity enter into a negotiated customer sale contract, under section 52A, for the provision of the services applied for.
- (8) Each party to a standard customer sale contract is taken to have agreed to comply with the provisions of the contract, in effect from time to time, so far as the provisions apply to each party.

#### **49A Sale if no customer sale contract**

- (1) This section applies if—
- (a) premises are connected to a supply network; and
  - (b) there is no customer sale contract, or negotiated sale and connection contract, in effect or taken to be in effect for the provision of customer retail services to the premises.
- (2) The customer who owns or occupies the premises and the host retail entity are taken to have entered into a contract on the terms of the host retail entity's standard customer sale contract, in effect from time to time, for the provision of customer retail services to the premises—
- (a) the sale of electricity to the premises;
  - (b) if there is no customer connection contract in effect or taken to be in effect for the provision of customer connection services to the premises, providing for—

- (i) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
  - (ii) the supply of electricity from the supply network to the premises.
- (3) However, the terms of the contract only include the terms of the host retail entity's standard customer sale contract, in effect for the time being, that apply to the customer.
- (4) The contract—
  - (a) takes effect as a deed; and
  - (b) is taken to end if the customer and a retail entity enter into, or are taken to have entered into, a customer sale contract or negotiated sale and connection contract for the provision of customer retail services to the premises.
- (5) Each of the parties to a standard customer sale contract is taken to have agreed to comply with the provisions of the contract, in effect for the time being, so far as those provisions apply to each party.
- (6) In this section—

*host retail entity*, for premises, means—

  - (a) the retail entity in whose area the premises are located; and
  - (b) if there is no such retail entity—the retail entity or entities prescribed by regulation.

## **50 Terms of standard customer sale contract**

- (1) The terms of a retail entity's standard customer sale contract are the terms stated for the contract, from time to time, in an approved industry code.
- (2) If the terms of the contract are inconsistent with this Act, the contract is unenforceable to the extent of the inconsistency.

## **51AA Charging GST for standard customer sale contracts**

- (1) This section applies if—

- (a) there are notified prices for a retail entity; and
  - (b) the notification for the prices includes a GST statement; and
  - (c) the entity provides customer retail services to a non-contestable customer under a standard customer sale contract; and
  - (d) the entity charges the customer the notified prices.
- (2) If the GST statement provides that the notified prices exclude GST, the entity may also charge the customer an amount for GST for providing the service.
  - (3) If the GST statement provides that the notified prices exclude the net GST effect, the entity may also charge the customer the net GST effect for providing the service.
  - (4) The customer must pay any amount charged under subsection (2) or (3).
  - (5) To remove any doubt, it is declared that this section does not prevent the entity from charging, under any standard customer sale contract, an amount for GST for goods or for any services that are not customer retail services.
  - (6) Subsections (1) to (5) are taken to be terms of the standard customer sale contract.
  - (7) This section applies despite section 50.

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

- (1) Despite sections 49A and 50, a contestable customer and a retail entity may contract on terms different from the terms of the retail entity's standard customer sale contract.
- (2) A contract under subsection (1) must not be inconsistent with this Act and is unenforceable to the extent that it is.

## **52A Regulation may allow contract outside standard form**

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

- (2) However, a contract permitted by a regulation must not be inconsistent with this Act and is unenforceable to the extent that it is.
- (3) Without limiting subsection (1), a regulation may provide for the following matters—
  - (a) the non-contestable customer or class of non-contestable customers who may contract on different terms;
  - (b) when a non-contestable customer or class of non-contestable customer may contract on different terms.

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

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

- (a) a distribution entity is not required to connect or supply electricity to the relevant electrical installation or premises under section 40(3), 40E or 40G; or
- (b) of anything beyond the retail entity's control; or
- (c) a regulation provides that the obligation does not apply.

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

A retail entity's obligations under section 49 are subject to the conditions of its authority.

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

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

- (a) fails to pay an amount owing to the non-contestable customer's retail entity or distribution entity; or

- (b) breaches its customer sale contract with the customer's retail entity or its customer connection contract with its distribution entity.

### **55A Electricity must be sold on fair and reasonable terms**

- (1) A retail entity must provide the customer retail services to a non-contestable customer for an electrical installation or premises within its retail area on fair and reasonable terms.
- (2) A regulation may declare what is or is not fair and reasonable, including, for example, whether or not and, if so, in what circumstances requiring the following, is fair and reasonable—
  - (a) different advance payments or security deposits from different customers; or
  - (b) different standard customer sale contract terms for different types of customers.

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

- (1) The parties to a negotiated customer sale contract, or negotiated sale and connection contract, may in the contract agree to vary or exclude the operation of section 53, 55 or 97 for the contract.
- (2) If the sections' operation is varied or excluded, they do not apply to the contract to the extent agreed.

### **55C Sale of electricity outside retail area**

- (1) If a customer's electrical installation or premises is outside a retail entity's retail area, the entity may sell electricity to the customer for the installation or premises.
- (2) However, subsection (1) applies only if—
  - (a) the customer is a contestable customer; or
  - (b) the customer's electrical installation or premises is not within another retail entity's retail area; or
  - (c) for a non-contestable customer's electrical installation or premises in another retail entity's area—the other



retail entity agrees to electricity being sold to the customer.

### **55D Conditions of retail authority**

A retail authority is subject to the following conditions—

- (a) the retail entity must consider both demand side and supply side options to provide, as far as technically and economically practicable, for the efficient use of electrical energy;
- (b) the retail entity must pay the amounts required under the authority or the regulations to administer the authority and its conditions;
- (c) if the retail entity is a Registered participant—the entity must comply with—
  - (i) the National Electricity (Queensland) Law; and
  - (ii) the National Electricity Rules; and
  - (iii) directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules;
- (d) the retail entity must comply with conduct rules made by the QCA;
- (e) the condition under section 55E;
- (f) conditions imposed under a regulation;
- (g) conditions stated in the authority.

### **55E Additional condition to comply with protocols, standards and codes**

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

**55F Additional condition to comply with Ambulance Cover Act**

It is also a condition of a retail authority that the retail entity must comply with all requirements applying to it as an electricity retailer under the Ambulance Cover Act.

**Part 7 Special approval holders and their approvals****56 Purpose of special approvals**

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

**57 Special approval holders**

A *special approval holder* is a person who has a special approval.

**58 Special approvals**

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

**59 Authorisation given by special approval**

- (1) A special approval authorises its holder to do the things stated in the approval, even though the things would otherwise require the holder to be the holder of a generation, transmission, distribution or retail authority to do the things.
- (2) Despite subsection (1), a special approval does not make the holder an electricity entity, unless a regulation provides that the holder is to be treated as an electricity entity.

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

*Examples—*

- 1 If a special approval authorises the holder to connect generating plant to a transmission grid or supply network, the holder is taken, for that activity, to be the holder of a generation authority.
  - 2 If a special approval authorises the holder to operate a transmission grid, the holder is taken, for that activity, to be the holder of a transmission authority.
- (4) The approval does not relieve the holder or anyone else from complying with laws relevant to the doing of the things authorised by the approval.

## **60 Conditions of special approval**

- (1) A special approval is subject to the following conditions—
- (a) the holder must comply with—
    - (i) if the holder is a Registered participant—the National Electricity Rules; and
    - (ii) if connected to the Queensland system or a Registered participant—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
    - (iii) the condition stated in section 61; and
    - (iv) conditions imposed under the regulations; and
    - (v) if the approval is given by the regulator—conditions stated in the approval;
  - (b) the holder must pay amounts required under the approval or the regulations for administering the approval and its conditions.
- (2) A special approval may be subject to the condition that the holder must comply with the conduct rules made by the QCA.
- (3) In this section—

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

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

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

**61A Additional condition to comply with Ambulance Cover Act**

It is also a condition of a special approval that the holder must comply with all requirements applying to it as an electricity retailer under the Ambulance Cover Act.

## **Part 8 Regulator**

### **Division 1 General provisions about regulator**

**62 Regulator**

The chief executive of the department is the regulator.

**63 Functions**

- (1) The regulator's functions are—
- (a) to ensure only suitable persons are electricity entities; and
  - (b) to make standards and codes for regulating the electricity industry; and
  - (c) to assist the settlement of disputes between electricity entities and between electricity entities and others; and
  - (d) to investigate complaints by customers about the performance or operation of electricity entities; and

- (e) to monitor compliance with this Act, including compliance with conditions of authorities, approvals and licences; and
  - (f) to perform other functions given to the regulator under this Act or another Act.
- (2) In performing the regulator's functions, the regulator must consider the objects of the Act.

## **64 Delegation**

- (1) The regulator may delegate a power of the regulator to a public service employee or an employee of an electricity entity if satisfied the person has the expertise and experience necessary to exercise properly the power.
- (2) A regulation may provide that a particular power of the regulator—
  - (a) may not be delegated; or
  - (b) may be delegated only to a particular person.

## **Division 2 Funding for dispute resolution and complaint investigation functions**

### **64A Annual levy**

- (1) The regulator's functions mentioned in section 63(1)(c) and (d) are funded by an annual levy on each of the following (a *member entity*) for each financial year—
  - (a) a distribution entity;
  - (b) a retail entity whose retail authority states a retail area or that supplies customers whose consumption of electricity has been less than 200000kWh in any 12 month period;
  - (c) Country Energy while it holds special approval number SA21/98;
  - (d) another special approval holder prescribed under a regulation.

- (2) The levy for each member entity consists of—
- (a) a membership fee (the *membership fee*), payable in advance on each 1 July; and
  - (b) an amount (the *contribution fee*) worked out under section 64C, payable under section 64E; and
  - (c) the amount of the costs (the *user-pays fee*) worked out under section 64D, payable under section 64E.

### **64B Membership fee**

The membership fee for a member entity for each financial year is—

- (a) for a distribution entity—\$20000; or
- (b) for a retail entity or Country Energy—\$5000; or
- (c) for another member entity—nil.

### **64C Contribution fee**

- (1) The contribution fee for a distribution entity is nil.
- (2) The contribution fee for another member entity for each financial year is worked out by applying the following formula—

$$\frac{120000 \times EC}{TEC}$$

where—

*EC* means the number of customers the entity has at the start of the year.

*TEC* means the total number of customers of all relevant entities at the start of the year.

- (3) For subsection (2), customers—
  - (a) of Ergon Energy Pty Ltd ACN 078 875 902 are its customers in the State and the area under the *Local Government Act 1993* (NSW) named the ‘Tenterfield Area’; and

- (b) of another member entity are only its customers in the State.

#### **64D User-pays fee**

The user-pays fee for a member entity for each financial year is the amount of costs incurred quarterly by the State for the following, to the extent they relate to complaints by customers about the entity or disputes to which the entity is a party—

- (a) the regulator's performance of the functions mentioned in section 63(1)(d) and (e);
- (b) referrals to energy mediators and arbitrators;
- (c) mediation under chapter 5, part 1B;
- (d) arbitration under chapter 5, part 1C.

#### **64E Notice of contribution and user-pays fees and when they must be paid**

- (1) The regulator must, for each member entity—
  - (a) as soon as practicable after each financial year starts, work out its contribution fee for the year and give it an information notice about the fee; and
  - (b) as soon as practicable after each quarter year ends, work out its user-pays fee for the quarter and give it an information notice about the fee.
- (2) The member entity must pay the regulator the amount of the fee within 14 days after it receives the notice.

- (3) In this section—

*information notice*, about a fee, means a written notice stating—

- (a) the amount of the fee; and
- (b) how the fee was worked out; and
- (c) that the recipient of the notice may, within 28 days after receiving the notice, appeal to a Magistrates Court against the regulator's decision on the working out of the fee.

**64F Recovery of unpaid amounts**

If a member entity does not pay a membership, contribution or user-pays fee payable under this division, the State may recover the amount of the fee from the entity as a debt.

**Division 3 Industry codes****64FA Making of codes**

- (1) The regulator may make industry codes that apply to all or any of the following—
  - (a) distribution entities;
  - (b) retail entities;
  - (c) special approval holders authorised to perform activities for which a distribution authority or retail authority would otherwise be required under this Act.
- (2) An industry code must state the distribution entities, retail entities or special approval holders to which it applies.
- (3) The matters for which an industry code may provide include, but are not limited to, the following—
  - (a) minimum service standards for electricity supply to be met by distribution entities;
  - (b) the service levels to be provided by distribution entities and retail entities to customers;
  - (c) the payment of amounts by distribution entities or retail entities to affected customers for failure to provide a stated service level;
  - (d) the preparation, by a distribution entity, of plans about the operation and management of the entity's supply network;
  - (e) the rights and obligations of distribution entities, retail entities and customers about customer connection services and customer retail services;
  - (f) the terms of standard customer connection contracts and standard customer sale contracts;



- (g) the terms of contracts between distribution entities and retail entities relating to the provision of customer connection services and customer retail services;
  - (h) minimum requirements for distribution entities and retail entities in dealing with customer complaints.
- (4) The terms of a contract mentioned in subsection (3)(f) or (g) must not be inconsistent with this Act.
  - (5) To remove any doubt, it is declared that, in providing for the terms of a contract mentioned in subsection (3)(f) or (g), an industry code may provide for different terms to apply to different types of customer.
  - (6) An industry code is not subordinate legislation.
  - (7) In subsection (3)—

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

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

### **64FB Approval of code**

- (1) A regulation may approve an industry code.
- (2) When the regulation is tabled as required under the *Statutory Instruments Act 1992*, section 49, a copy of the approved code must also be tabled.

### **64FC When approved code has effect**

An approved industry code has effect on and from the later of the following days—

- (a) the day the regulation approving the code is gazetted;
- (b) the commencement day stated in the code.

**64FD Access to approved code**

- (1) The chief executive must keep a copy of each approved industry code available for inspection, without charge—
  - (a) during normal business hours at the department's head office; and
  - (b) on the department's web site on the Internet.
- (2) On payment of the fee, if any, decided by the chief executive, a person may obtain a copy of the code from the chief executive.
- (3) The fee decided by the chief executive for producing a copy of the code must not be more than the chief executive's reasonable cost of producing the copy.

**64FE Act prevails over approved code**

If an approved industry code is inconsistent with this Act, including a regulation made under this Act, the Act or regulation prevails to the extent of the inconsistency.

**Part 8A Energy mediators****Division 1 Appointment****64G Appointment of energy mediators**

- (1) The regulator, by gazette notice, may appoint a person as an energy mediator to deal with disputes to which section 119 applies.
- (2) A person may be appointed as an energy mediator only if the person—
  - (a) is a mediator graded by the Institute of Arbitrators and Mediators, Australia; or

- (b) has the qualifications and experience the regulator considers appropriate to perform the functions, and exercise the powers, of an energy mediator.

**64H Duration of appointment**

An energy mediator is appointed for a term of not more than 2 years stated in the gazette notice.

**64I Remuneration**

- (1) An energy mediator is to be paid the remuneration and allowances approved by the Governor in Council.
- (2) The remuneration and allowances must be paid out of fees paid to the regulator by member entities under part 8, division 2.

**64J Resignation**

- (1) An energy mediator may resign by signed notice of resignation given to the regulator.
- (2) The regulator must give notice of the resignation by gazette notice.

**64K Termination of appointment**

- (1) The regulator, by written notice given to an energy mediator, may terminate the person's appointment as an energy mediator if the regulator reasonably believes the person is not satisfactorily performing the functions of an energy mediator.
- (2) The notice must contain the regulator's reasons for terminating the appointment.
- (3) The regulator must give notice of the termination by gazette notice.

## **Division 2                      Functions and powers**

### **64L      Function**

An energy mediator's function is to mediate disputes referred to the energy mediator under section 119(5) or under the *Gas Supply Act 2003*, section 263.<sup>12</sup>

### **64M      Powers**

An energy mediator may do anything necessary or convenient to be done for performing the energy mediator's functions.

## **Part 8B                      Energy arbitrators**

### **Division 1                      Appointment**

#### **64N      Appointment of panel of energy arbitrators**

- (1) The regulator, by gazette notice, may appoint persons as energy arbitrators to deal with disputes to which section 119<sup>13</sup> applies.
- (2) A person may be appointed as an energy arbitrator only if the person—
  - (a) is an arbitrator graded by the Institute of Arbitrators and Mediators, Australia; or
  - (b) has the qualifications and experience the regulator considers appropriate to perform the functions, and exercise the powers, of an energy arbitrator.

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<sup>12</sup> *Gas Supply Act 2003*, section 263 (Further referral to energy mediator or arbitrator)

<sup>13</sup> Section 119 (Regulator's role in disputes between electricity entity and customers or occupiers)

**64O Duration of appointment**

An energy arbitrator is appointed for a term of not more than 2 years stated in the instrument of appointment.

**64P Remuneration**

- (1) An energy arbitrator is to be paid the remuneration and allowances approved by the Governor in Council.
- (2) The remuneration and allowances must be paid out of fees paid to the regulator by member entities under part 8, division 2.

**64Q Resignation**

- (1) An energy arbitrator may resign by signed notice of resignation given to the regulator.
- (2) The regulator must give notice of the resignation by gazette notice.

**64R Termination of appointment**

- (1) The regulator, by written notice given to an energy arbitrator, may terminate the person's appointment as an energy arbitrator if the regulator reasonably believes the person is not satisfactorily performing the functions of an energy arbitrator.
- (2) The notice must contain the regulator's reasons for terminating the appointment.
- (3) The regulator must give notice of the termination by gazette notice.

## **Division 2                      Functions and powers**

### **64S      Function**

An energy arbitrator's function is to arbitrate disputes referred to the energy arbitrator under section 119(6) or under the *Gas Supply Act 2003*, section 263.<sup>14</sup>

### **64T      Powers**

An energy arbitrator may do anything necessary or convenient to be done for performing the energy arbitrator's functions.

## **Part 9                              Electricity officers**

### **65      Appointment**

- (1) The chief executive officer of an electricity entity may appoint a person as an electricity officer for the entity.
- (2) The chief executive officer may appoint a person as an electricity officer only if—
  - (a) the chief executive officer considers the person has the expertise or experience approved by the regulator to be an electricity officer; or
  - (b) the person has satisfactorily finished training approved by the regulator.

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

An electricity officer may exercise powers only—

- (a) in relation to the electricity entity's works; or

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<sup>14</sup> *Gas Supply Act 2003*, section 263 (Further referral to energy mediator or arbitrator)

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

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

An electricity officer's powers may be limited—

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

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

- (1) An electricity officer holds office on the conditions stated in the instrument of appointment.
- (2) An electricity officer—
  - (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
  - (b) may resign by signed notice of resignation given to the chief executive officer concerned; and
  - (c) if the conditions of appointment provide—ceases holding office as an electricity officer on ceasing to hold another office stated in the appointment conditions.

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

- (1) The chief executive officer of an electricity entity must give each electricity officer for the entity an identity card.
- (2) The identity card must—
  - (a) contain a recent photograph of the electricity officer;  
and

- (b) be in a form approved by the regulator; and
  - (c) display the electricity officer's usual signature; and
  - (d) identify the person as an electricity officer for the electricity entity.
- (3) A person who ceases to be an electricity officer for an electricity entity must return the person's identity card to the entity's chief executive officer within 21 days after the person ceases to be an electricity officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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

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

- (1) An electricity officer may exercise a power in relation to someone else only if the electricity officer—
- (a) first produces his or her identity card for the person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the person.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the electricity officer must produce the identity card for the person's inspection at the first reasonable opportunity.



## **Chapter 4      Electricity industry operations**

### **Part 1            Restriction on certain activities by unauthorised persons**

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

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

Maximum penalty—5000 penalty units.

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

#### **88      Prohibition on operating transmission grid unless authorised**

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

Maximum penalty—5000 penalty units.

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

#### **88A    Prohibition on operating supply network unless authorised**

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

Maximum penalty—5000 penalty units.

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

## **89 Restriction on sale of electricity**

- (1) A person must not sell electricity other than in accordance with—
  - (a) a generation authority or a retail authority held by the person; or
  - (b) any other authorisation to sell electricity under the Act.

Maximum penalty—5000 penalty units.

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

## **Part 2 Pricing**

### **89A Minister may decide distribution service pricing for Mount Isa–Cloncurry supply network**

- (1) This section applies to customer connection services provided by the owner of the Mount Isa–Cloncurry supply network and relating to the supply network.
- (2) The Minister may decide, in the way the Minister considers appropriate, the prices, or a methodology to fix the prices that the owner may charge to provide the services.
- (3) Without limiting subsection (2), a methodology to fix prices may include a methodology for fixing a maximum revenue that the owner may earn from operating the supply network.
- (4) The Minister must, in making a decision, consider the objects of the Act and relevant service standards.

- (5) The Minister must notify the prices, or methodology to fix the prices, by gazette notice.
- (6) The prices or methodology to fix the prices notified take effect—
  - (a) on a day stated in the notice; or
  - (b) if no day is stated in the notice—on the day the notice is gazetted.
- (7) The owner must charge the prices, or prices fixed under the methodology, notified under this section for the services.  
Maximum penalty—500 penalty units.
- (8) A decision by the Minister under this section has effect despite the *Queensland Competition Authority Act 1997*.

**89B Minister may direct the QCA to decide distribution service pricing for Mount Isa–Cloncurry supply network**

- (1) This section applies to a service provided by the owner of the Mount Isa–Cloncurry supply network and relating to the supply network that, if the supply network were part of the national grid, would be a distribution service for the National Electricity Rules.<sup>15</sup>
- (2) Instead of making a decision under section 89A(2), the Minister may, in writing, direct the QCA to regulate the pricing for the service under the National Electricity Rules as if the supply network were part of the national grid.
- (3) The QCA must—
  - (a) within 14 days after receiving the direction, give a copy of it to the owner; and
  - (b) comply with the direction.

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15 National Electricity Rules, chapter 10 (Glossary)—

***distribution service***

The services provided by a *distribution system* which are associated with the conveyance of electricity through the *distribution system*. *Distribution services* include *entry services*, *distribution use of system services* and *exit services* which are provided by part of a *distribution system*.

- (4) The owner must comply with the pricing regulation made by the QCA under the direction.

Maximum penalty for subsection (4)—500 penalty units.

## **90 Deciding retail prices for non-contestable customers**

- (1) The Minister may—
- (a) decide the prices, or the methodology for fixing the prices, that a retail entity may charge to provide the following to non-contestable customers—
    - (i) customer retail services;
    - (ii) other goods and services prescribed under a regulation; or
  - (b) delegate to the QCA all or part of the Minister's powers under paragraph (a).
- (2) The prices, or prices fixed under the methodology, are, for a retail entity, called the *notified prices*.
- (3) The Minister or the QCA (the *pricing entity*) must, in deciding the notified prices, consider the objects of the Act.
- (4) The pricing entity may decide that the notified prices exclude one of the following—
- (a) GST;
  - (b) the amount fixed by the pricing entity, or the amount worked out in a way fixed by the pricing entity, as the net effect on prices of GST and matters related to the imposition of GST (the *net GST effect*).
- (5) The pricing entity must, by gazette notice, publish the notified prices.
- (6) If the pricing entity has decided that GST or the net GST effect are excluded from the notified prices, the gazette notice must include a statement (a *GST statement*) as follows—
- (a) that the notified prices exclude GST or the net GST effect;

- (b) if the decision was that the net GST effect is excluded—the fixed amount of the effect or the way for working it out under subsection (4)(b).
- (7) The notified prices and any GST statement take effect—
  - (a) on a later day stated in the notice; or
  - (b) if no day is stated in the notice—on the day the notice is gazetted.

### **90A Obtaining relevant information for deciding prices or methodology for fixing prices**

- (1) A pricing entity may, in writing, ask a retail entity for relevant information the pricing entity requires to decide, under section 90, prices or a methodology for fixing prices for the retail entity.
- (2) The retail entity must, within the reasonable period stated in the request, give the relevant information to the pricing entity.  
Maximum penalty for subsection (2)—100 penalty units.

### **91 Retail entities charging for GST**

- (1) This section applies if—
  - (a) there are notified prices for a retail entity; and
  - (b) the notification for the prices includes a GST statement; and
  - (c) the entity charges non-contestable customers the notified prices for providing customer retail services.
- (2) If the GST statement provides that the notified prices exclude GST, the entity may also charge non-contestable customers an amount for GST for providing the services.
- (3) If the GST statement provides that the notified prices exclude the net GST effect, the entity may also charge non-contestable customers the net GST effect for providing the services.
- (4) The Minister may give the entity a written direction to charge non-contestable customers—

- (a) if the GST statement provides that the notified prices exclude GST—an amount for GST for providing the services; or
  - (b) if the GST statement provides that the notified prices exclude the net GST effect—the net GST effect for providing the services.
- (5) To remove any doubt, it is declared that this section does not prevent the entity from charging, under a standard customer sale contract, an amount for GST for goods or for any services that are not customer retail services.

### **91A Retail entity must comply with notification or direction**

- (1) This section applies if there are notified prices for providing customer retail services.
- (2) A retail entity must charge non-contestable customers the notified prices for providing the services.  
Maximum penalty—500 penalty units.
- (3) If a retail entity has been given a direction under section 91(4)(a) to charge an amount for GST for providing the services, it must also charge that amount.  
Maximum penalty—500 penalty units.
- (4) If a retail entity has been given a direction under section 91(4)(b) to charge the net GST effect for providing the services, it must also charge the net GST effect.  
Maximum penalty—500 penalty units.
- (5) This section does not limit section 91(2) and (3).

## Part 3 Limitation of liability of electricity entities

### 97 Limitation of liability of electricity entities and special approval holders that are not Registered participants

- (1) An electricity entity or special approval holder that is not a Registered participant is not liable for damages to a person for a partial or total failure to supply or sell electricity or perform an obligation under a contract in relation to the supply or sale of electricity, unless the failure is due to—
  - (a) anything done or omitted to be done by the electricity entity or special approval holder in bad faith; or
  - (b) the negligence of the electricity entity or special approval holder.
- (2) This section does not apply to the extent to which liability is otherwise agreed by the parties to a contract.
- (3) This section commences on the commencement of the *Electricity—National Scheme (Queensland) Act 1997*.
- (4) In subsection (1)—
 

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

### 97A Limitation of liability for National Electricity (Queensland) Law

- (1) The words ‘supply electricity’ in section 120 of the National Electricity (Queensland) Law are taken to include the sale of electricity and the performance of an obligation in a contract for the supply and sale of electricity.
- (2) In subsection (1)—
 

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

## **Part 4                      Works**

### **Division 1                      Works generally**

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

- (1) This section applies to an electricity entity's works on someone else's land, including land that is a publicly controlled place, railway land or a protected area.
- (2) The electricity entity (and its employees and agents) are entitled to have unrestricted access to the works at any reasonable time and, for that purpose, may enter and pass through the land.

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

- (1) A person proposing to do work near an electricity entity's works must give the entity at least 14 days written notice of the proposed work if, in performing the work—
  - (a) plant, if not properly controlled, is likely to come into contact with an overhead electric line; or
  - (b) soil or other material supporting or covering the entity's works may be disturbed.
- (2) If, because of an emergency, it is not practicable to give the notice under subsection (1), written notice must be given to the electricity entity as soon as practicable.
- (3) The person must, at the person's cost, take measures to protect or reinstate the electricity entity's works if required by the entity.



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

### **100      Application of division**

This division is subject to divisions 3 and 4.<sup>16</sup>

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

- (1) An electricity entity may take the action in a publicly controlled place it considers necessary to provide or supply electricity, including, for example<sup>17</sup>—
  - (a) opening and breaking up the soil and pavement of the place; and
  - (b) cutting, lopping, or removing trees and other vegetation growing in or over the place; and
  - (c) opening or breaking up a sewer, drain or tunnel in or under the place; and
  - (d) temporarily stopping or diverting traffic on or from the place; and
  - (e) building drains, excavations, subways and tunnels in or under the place.
- (2) A regulation may make provision about the obligations and rights of electricity entities taking action in publicly controlled places, including, for example—
  - (a) notice to be given before taking action; and
  - (b) timing of work; and
  - (c) procedures to be followed on the breaking up of anything in, on or under the place.
- (3) This section is subject to sections 102 and 104.<sup>18</sup>

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16 Divisions 3 (Works on railway land) and 4 (Works on protected areas)

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

18 Sections 102 (Works on roads) and 104 (Regulation may declare restricted road)

**102 Works on roads**

- (1) An electricity entity may do any of the following things on a road—
  - (a) build or remove, or alter (other than for maintenance or repair), its electric lines or other works;
  - (b) maintain, repair or alter for maintenance or repair, its electric lines or other works;
  - (c) stop obstruction or potential obstruction to, or interference or potential interference with, its electric lines or other works.
- (2) However, the electricity entity may do things mentioned in subsection (1)(a) only if it has the written agreement of the road authority.
- (3) The road authority must not unreasonably withhold agreement.
- (4) If asked in writing by the electricity entity, the road authority must give the entity information about lines and levels for any planned roadworks necessary to enable the entity to minimise possible adverse effects of the entity's works on roadworks.

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

- (1) Before an electricity entity replaces the whole or a substantial proportion of its electric lines or other works on a road, the entity must consult with the road authority responsible for the road.
- (2) The object of the consultation is to identify any mutually beneficial arrangements for the replacement of the works having regard to existing development plans for the road.

**104 Regulation may declare restricted road**

- (1) A regulation may—
  - (a) declare a road, or part of a road, to be a restricted road; and

- (b) for a restricted road—impose restrictions about building new works or altering or removing existing works on the road.
- (2) An electricity entity must comply with the regulation.

**105 Electricity entity to comply with road authority's agreement etc.**

- (1) If an electricity entity builds or removes, or alters (other than for maintenance or repair), its electric lines or other works in a road (the *contravening conduct*), without the agreement of the road authority for the road or in contravention of a regulation or an agreement with the road authority, the regulator may, by written notice given to the entity, require the entity, at its cost and within the period stated in the notice, to take action to remedy the contravening conduct.
- (2) If the electricity entity does not comply with the notice, the regulator may arrange for the action the regulator considers necessary to remedy the contravening conduct to be carried out.
- (3) The costs reasonably incurred by the regulator in arranging for the action to be carried out are a debt payable by the electricity entity to the State.
- (4) This section does not limit the powers of a road authority under another Act.

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

- (1) A public entity may require an electricity entity to alter the position of the electricity entity's works in a publicly controlled place if the works could interfere with the exercise of the public entity's powers for the place.
- (2) The public entity is responsible only for the cost of altering the position of the works.

### **Division 3                      Works on railway land**

#### **107      Agreement for works of electricity entities affecting railways**

- (1) An electricity entity may build, alter or remove works on a railway or break up a railway only if it has the railway operator's written agreement.
- (2) The railway operator must not unreasonably withhold its agreement.

#### **108      Removal of works**

- (1) A railway operator may require an electricity entity to remove or relocate the entity's works built with its agreement if the removal or relocation is in accordance with—
  - (a) the agreement or another agreement between the entity and operator; or
  - (b) a resolution of a dispute between the entity and operator.
- (2) The electricity entity must pay the cost of the removal or relocation, unless an agreement or resolution mentioned in subsection (1) otherwise provides.

#### **109      Works impairing railway signalling or communication lines**

- (1) An electricity entity must not build works, or carry out any other work for the supply of electricity, in a way that impairs, through induction or otherwise, the efficient use of a railway operator's existing signalling or communication line.
- (2) An electricity entity and a railway operator may agree to relocate or protect a signalling or communication line to ensure its efficient use is not impaired.
- (3) The electricity entity must pay the cost of relocating or protecting the signalling or communication line, unless an agreement between the entity and railway operator otherwise provides.

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

- (1) If a railway operator proposes to build or relocate a signalling or communication line that could be adversely affected by interference from an electricity entity's existing works, the operator must—
  - (a) ensure the signalling or communication line is built or relocated so as not to be adversely affected; or
  - (b) ask the entity to relocate or alter the works to protect adequately the signalling or communication line.
- (2) The railway operator must pay the cost of relocating or altering works under subsection (1)(b).

**Division 4 Works on protected areas**

**111 Building of works on protected areas**

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

Maximum penalty—8 penalty units.
- (2) In deciding whether to agree, the Minister must take into account—
  - (a) the extent and significance of the disturbance building the works will, or is likely to, cause to the protected area; and
  - (b) the electricity entity's report on alternative routes or positions for building the works outside the protected area; and
  - (c) the extent of any disability or disadvantage in using an alternative route or position.
- (3) Agreement may be given on conditions the Minister considers necessary to minimise interference to the protected area.

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

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

- (1) If electric lines or other works are built by an electricity entity in a place with the owner's consent, the occupier and a person who later becomes the owner or occupier of the place is taken to have also consented.
- (2) If electric lines or other works are built by an electricity entity in a place with the occupier's consent, a person who later becomes the occupier of the place is taken to have also consented.
- (3) However, the owner or occupier may require the electricity entity to remove and relocate the works if the owner or occupier pays the cost, or a contribution acceptable to the entity towards the cost, of the removal and relocation.
- (4) If, before the commencement, an electricity entity's works have been placed on land in which the entity does not have an interest (other than an interest in the works or their use), the entity is taken to have built and maintained the works on the land with the consent of the land's owner unless the contrary is proved.

### **112A    Clearing native vegetation for operating works on freehold land**

- (1) Subsection (2) has effect despite the *Integrated Planning Act 1997*, schedule 8, part 1.
- (2) Carrying out work that is the clearing of native vegetation on freehold land is exempt development if the clearing is for operating works for a transmission entity or distribution entity on land designated for the operating works by a Minister under the *Integrated Planning Act 1997*.
- (3) If a word used in subsection (2) is defined in the *Integrated Planning Act 1997*, the word used has the same meaning as in that Act.

**113 Works remain property of electricity entity**

- (1) Works built in a place by an electricity entity remain the entity's property even if the place is not under its control.
- (2) Despite subsection (1), the electricity entity may agree with the owner of the place that the works do not remain the entity's property.
- (3) In this section—  
*place* includes a building, railway, reserve, road, tramway and waterway.

**113A Authority to transmit over land**

- (1) A transmission entity is authorised to operate works to transmit electricity across, over or through the following land—
  - (a) land that it owns;
  - (b) land over which it holds the benefit of an easement, licence or other agreement or a consent mentioned in section 112 in relation to the works.
- (2) Subsection (1)(b) applies whether or not the easement, licence, agreement or consent authorises the transmission.

**113B Authority to supply over land**

- (1) A distribution entity is authorised to operate works to supply electricity using a supply network across, over or through the following land—
  - (a) land that it owns;
  - (b) land over which it holds the benefit of an easement, licence or other agreement or a consent mentioned in section 112 in relation to the works.
- (2) Subsection (1)(b) applies whether or not the easement, licence, agreement or consent authorises the supply.

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

- (1) In exercising a power under this part, an electricity entity must do as little damage as is practicable.
- (2) An electricity entity must fully compensate a person for damage to the person's property caused by the exercise of a power under this part.
- (3) Subsection (2) is subject to sections 97 and 97A.<sup>19</sup>

**Part 5 Entry onto and acquisition of land****Division 1 Entry onto land****115 Authority to enter onto land for proposed works etc.**

- (1) The Minister may, by gazette notice, authorise an electricity entity (and its employees and agents) to enter onto land, and remain on it for as long as necessary, to decide the suitability of the land for the entity's proposed works.
- (2) The authority must state—
  - (a) the electricity entity to which it is given; and
  - (b) whether it applies to any land or only to particular land; and
  - (c) whether it applies to any proposed works or only to particular works; and
  - (d) the things the entity may do on land entered under it; and
  - (e) the period of the authority.

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<sup>19</sup> Sections 97 (Limitation of liability of electricity entities and special approval holders that are not Registered participants) and 97A (Limitation of liability for National Electricity (Queensland) Law)



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

## **Division 2                      Acquisition of land**

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

- (1) The Minister may, by gazette notice, authorise an electricity entity to acquire land for works, including proposed works.
- (1A) The Minister must consider the objects of the Act when authorising an electricity entity under subsection (1).
- (2) The authority must state—
  - (a) the electricity entity to which it is given; and
  - (b) whether it applies to any land or only to particular land; and
  - (c) whether it applies to any works or only to particular works; and
  - (d) the period of the authority.
- (3) The authority may—
  - (a) state the conditions or restrictions to which it is subject; and
  - (b) make provision about the effect of breaches of the conditions or restrictions or the continuation or suspension of the authority.
- (3A) On the commencement of this subsection, each of the following electricity entities is taken to be authorised, under subsection (1), to acquire any land for any works, including proposed works, for the period starting on the commencement and ending on the revocation of the authorisation under subsection (7)—
  - (a) ENERGEX LIMITED ACN 078 849 055;

- (b) Ergon Energy;
  - (c) QETC.
- (4) The *Acquisition of Land Act 1967* applies to an authorised electricity entity acting under an authority given, or taken to be given, under subsection (1) as if—
- (a) it were a constructing authority; and
  - (b) land mentioned in the Act included land held from the State for a lesser interest than freehold; and
  - (c) the purposes for which land may be taken for the entity included—
    - (i) building works, including for example, relocating property for the works and lessening adverse environmental effects; and
    - (ii) any other public purpose within the meaning of the *Land Act 1994* related to works.
- (5) The *Land Act 1994*, section 218<sup>20</sup> applies to an authorised electricity entity as if it were a constructing authority.
- (6) A regulation may make provision about the acquisition of land by or for an authorised electricity entity.
- (7) To remove any doubt, it is declared that the Minister may, by gazette notice, amend or revoke an authorisation mentioned in subsection (3A).
- (8) In this section—
- authorised electricity entity* means an entity authorised, or taken to be authorised, under subsection (1), to acquire land.

### **116A Authority to create easements over forest land**

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

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20 *Land Act 1994*, section 218 (Resumption for constructing authorities)

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

(3) In this section—

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

### **116B Easements to include carriage services**

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

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

(3) In this section—

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

*content service* has the meaning given in the *Telecommunications Act 1997* (Cwlth).<sup>21</sup>

## **Part 6 Miscellaneous**

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

(1) This section applies to—

(a) disputes arising under part 4<sup>22</sup> between an electricity entity and a public entity; and

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<sup>21</sup> The attachment contains extracts of the relevant provisions of the *Telecommunications Act 1997* (Cwlth).

<sup>22</sup> Part 4 (Works)

- (b) disputes arising under this Act between electricity entities.
- (1A) However, this section does not apply to disputes that are regulated by the QCA or under the National Electricity Rules or to disputes that relate to chapter 5A (including a dispute about what is a chargeable amount under section 309).<sup>23</sup>
- (2) Any party to the dispute may refer the issue to the regulator.
- (3) The regulator may give instructions about procedures to be followed by the parties to attempt to resolve the dispute before the regulator will attempt to resolve it.
- (4) The regulator may require a party to supply information the regulator considers necessary to enable the dispute to be resolved.
- (5) The regulator may—
- (a) decline to act in a dispute; or
  - (b) seek to resolve the dispute with the parties or someone else, other than a court, responsible for dealing with disputes involving 1 or more of the parties.
- (6) If the regulator can not resolve the dispute, the matter may be decided by the Governor in Council.
- (7) The Governor in Council may decide the matter without giving the parties an opportunity to make representations to, or to be heard by, the Governor in Council.
- (8) The decision of the Governor in Council is binding on the parties.
- (9) This section does not prevent an entity from exercising another right before a court or tribunal.

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

If—

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<sup>23</sup> Chapter 5A (13% gas scheme)  
Section 309 (Existing electricity supply contracts)

- (a) a person occupies premises where electricity sold by a retail entity has been consumed during the person's occupancy; and
  - (b) the retail entity has not been paid for the electricity;
- the amount the retail entity is entitled to charge for the electricity is a debt owing by the person to the retail entity.

**118A Distribution entity may recover amount for connection and supply of electricity to a person**

If—

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

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

## **Chapter 5 Industry regulation**

### **Part 1 Regulator**

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

- (1) This section applies to disputes between—
  - (a) an electricity entity and a customer about the performance of a function or obligation or exercise of a power under this Act; or
  - (b) an electricity entity and an occupier of land onto which the entity enters or proposes to enter, or permits someone else to enter, under this Act.

- (2) However, this section does not apply to the following disputes—
- (a) a dispute to which section 117 applies;
  - (b) a dispute that may be dealt with under—
    - (i) the *Queensland Competition Authority Act 1997*;  
or
    - (ii) the *Electricity—National Scheme (Queensland) Act 1997*;
  - (c) a dispute between an electricity entity and a customer if the customer's consumption of electricity has been more than 200000kWh in any 12 month period;
  - (d) a dispute that relates to chapter 5A.
- (3) A party to a dispute may refer it to the regulator.
- (4) The referral to the regulator must be in the approved form.
- (5) The regulator must refer the dispute to an energy mediator if the customer or occupier requests it.
- (6) The regulator must refer the dispute to an energy arbitrator if—
- (a) the customer or occupier requests it, whether or not the dispute has already been referred to an energy mediator;  
<sup>24</sup>or
  - (b) mediation of the dispute by an energy mediator has ended without a mediated agreement about the whole of the dispute being made.<sup>25</sup>
- (7) A referral by the regulator or a request under subsection (5) or (6) must be written.
- (8) The regulator must not make a referral if—
- (a) the regulator knows a party to the dispute has started a proceeding concerning an issue in the dispute; or
  - (b) the dispute arose more than 1 year before—

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24 See also section 120ZN(1)(c) (When mediation ends).

25 See also chapter 5, part 1C (Disputes referred to energy arbitrator).

- (i) for subsection (5)—part 1B commenced; or
    - (ii) for subsection (6)—part 1C commenced; or
  - (c) the regulator considers the subject of the dispute, as referred to the regulator, is frivolous or vexatious.
- (9) A dispute must not be referred to an energy arbitrator to whom the dispute, or part of the dispute, has been referred to as an energy mediator.
- (10) This section does not prevent a party to the dispute exercising other rights before a court or tribunal.

### **119A Exclusion of disputes relating to community ambulance cover levy**

- (1) Section 119 does not apply to a dispute between an electricity entity and a customer about—
- (a) the performance of a function or exercise of a power under the Ambulance Cover Act; or
  - (b) the performance of a function or exercise of a power under this Act, to the extent that the performance of the function or exercise of the power is required, permitted or otherwise provided for under the Ambulance Cover Act.
- (2) A person must not refer a dispute to the regulator under section 119(3) if the dispute is, or is in the nature of, a dispute to which, because of subsection (1), section 119 does not apply.
- (3) A person must not refer to the regulator under 119(3) a dispute about—
- (a) the levy; or
  - (b) the levy amount paid or payable by a person; or
  - (c) the collection of a levy amount; or
  - (d) the collection of an amount for electricity, if the dispute arises, in substance, out of the collection of a levy amount.
- (4) Subsection (3) does not limit subsection (2).

- (5) The regulator must not refer a dispute to an energy mediator under section 119(5), or to an energy arbitrator under section 119(6), if the regulator is satisfied on reasonable grounds, having regard to subsections (1) to (3)—
  - (a) that section 119 does not apply to the dispute; or
  - (b) that the dispute is not a dispute that may be referred to the regulator under section 119.
- (6) Before the regulator refers a dispute under section 119(5) or (6), the regulator may require the person who referred the dispute under section 119(3) to satisfy the regulator, by a written or oral declaration, or in another way, that the dispute is not a dispute that, under this section, must not be referred to the regulator.
- (7) This section does not limit section 119.
- (8) In this section—

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

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

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

- (1) An electricity entity must give the regulator the information the regulator reasonably requires to enable the regulator to perform the regulator's functions.
- (2) The information must be given within a reasonable time after the regulator asks for it.
- (3) However, this section does not require the electricity entity to give information if giving the information might tend to incriminate the entity.

## **120AA Regulator's powers concerning audit of compliance with Act etc.**

- (1) The regulator may, by written notice given to an electricity entity or special approval holder, require the entity or holder—



- (a) to carry out an internal audit of all or any of the following—
    - (i) the entity or holder's compliance with this Act, industry codes, and the authority issued or approval given to it under this Act;
    - (ii) the reliability and quality of information given by the entity or holder to the regulator under this Act; or
  - (b) to appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).
- (2) The regulator may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the entity or holder—
- (a) instead of making a requirement of the entity or holder under subsection (1); or
  - (b) if the entity or holder fails to comply with a notice given to it under the subsection.
- (3) A person may be appointed as an independent auditor under subsection (1)(b) or (2) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

### **120AB Responsibility for cost of audit**

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

**120AC Independent auditor may require reasonable help or information**

- (1) An independent auditor appointed under section 120AA to carry out an audit concerning an electricity entity or special approval holder may require the entity or holder to give the auditor—
  - (a) reasonable help to carry out the audit; or  
*Examples—*
    - access to the entity's or holder's premises and records
    - help from the entity's or holder's employees
  - (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.
- (2) An electricity entity or special approval holder required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the entity or holder has a reasonable excuse.
- (3) If the entity or holder is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

*Note—*

A contravention of subsection (2) is a contravention of the entity's authority or holder's approval.

**120AD Audit report and submissions on report**

- (1) An electricity entity or special approval holder required under section 120AA(1) to carry out, or appoint an independent auditor to carry out, an audit must give a copy of the audit report to the regulator.
- (2) The copy must be given promptly after the audit is completed.
- (3) If the regulator appoints an independent auditor to carry out an audit concerning an electricity entity or special approval holder, the regulator must give the entity or holder—
  - (a) a copy of the draft audit report and an opportunity to make submissions to the regulator on the draft report; and

- (b) a copy of the final audit report and an opportunity to make further submissions to the regulator on the final report.

### **120AE Disclosure of information**

- (1) This section applies if an electricity entity or special approval holder gives the regulator written information about the entity or holder under this Act.
- (2) The regulator must disclose the information to QCA if—
  - (a) QCA requests the disclosure for performing its functions; and
  - (b) the entity or holder—
    - (i) consents to the disclosure; or
    - (ii) is required, under the entity's authority or holder's approval, to consent to the disclosure.

## **Part 1A                      Queensland competition authority**

### **Division 1                      Definitions**

#### **120A Definitions for pt 1A**

In this part—

*authority* includes a special approval.

*electricity entity* includes a special approval holder.

#### **120B References to person involved in a contravention**

In this part, a reference to a person involved in a contravention is a reference to a person who—

- (a) has aided, abetted, counselled or procured the contravention; or

- (b) has induced the contravention, whether through threats, promises or in another way; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

## **Division 2                      Conduct rules**

### **120C    QCA may prepare proposed conduct rules**

- (1) The QCA may prepare proposed conduct rules.
- (2) The proposed rules may state—
  - (a) the electricity entities or types or classes of entity to which the proposed rules are to apply; and
  - (b) the way market conduct is to be regulated to promote the efficient and equitable operation of the electricity market.
- (3) The matters the rules may deal with include the following—
  - (a) curtailing interference with customers seeking to change retail entity;
  - (b) assigning responsibility amongst distribution entities, retail entities and customers, so that customers can change retailer quickly and at minimum cost;
  - (c) the charges that may be levied by a distribution or retail entity on customers changing retailer;
  - (d) ensuring the advice distribution or retail entities give to customers to induce customers to change or not change retailer is accurate;
  - (e) ensuring a retail entity with contestable and non-contestable customers does not assign costs from one to the other to the detriment of non-contestable customers.

**120D Public notice of proposed conduct rules**

- (1) The QCA must give public notice of the proposed conduct rules.
- (2) The notice must—
  - (a) state that the QCA has prepared proposed conduct rules; and
  - (b) state the electricity entities to which the proposed rules are to apply; and
  - (c) be published in a newspaper circulating generally in the State; and
  - (d) state that the proposed rules may be inspected, and copies purchased, at the QCA's office between times stated in the notice; and
  - (e) state the cost of a copy of the proposed rules; and
  - (f) invite submissions from any interested person; and
  - (g) state a day, not earlier than 28 days from publication of the notice, by which submissions may be made to the QCA about the proposed rules.

**120E Submissions on proposed conduct rules**

- (1) A person may, no later than the last day for the making of submissions, make a submission to the QCA about the proposed conduct rules.
- (2) A submission must—
  - (a) be in writing and signed by or for each person making the submission; and
  - (b) state—
    - (i) the name and address of each person making the submission; and
    - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
  - (c) be given to the QCA.

**120F Changing proposed conduct rules**

The QCA must consider all submissions properly made to it and may change the proposed conduct rules after considering the submissions.

**120G Adopting and notifying conduct rules**

- (1) The proposed conduct rules, with or without change, become the conduct rules once adopted by the QCA by resolution after consideration of the submissions and notified by gazette notice.
- (2) The conduct rules take effect—
  - (a) on a day stated in the notice; or
  - (b) if no day is stated in the notice—on the day the notice is gazetted.

**120GA QCA must advise Minister**

The QCA must advise the Minister immediately after the conduct rules take effect.

**120GB Tabling of conduct rules in Legislative Assembly**

- (1) A copy of the conduct rules must be tabled in the Legislative Assembly by the Minister within 14 sitting days after the conduct rules take effect.
- (2) The copy of the conduct rules is tabled for information only.

**120H Conduct rules must not be contravened**

An electricity entity must not contravene a provision of the conduct rules that applies to the entity.

**120I Conduct rules to be open for inspection**

- (1) The QCA must keep a copy of the conduct rules available for inspection at its office at all times during which it is open for transaction of public business.

- (2) The QCA must, on payment by a person of the reasonable fee fixed by the QCA, give a copy of the rules to the person.

### **120J Amending conduct rules**

The QCA may, at any time, prepare a proposed amendment of the conduct rules.

### **120K Public notice of proposed amendment**

- (1) The QCA must give public notice of the proposed amendment of the conduct rules.
- (2) The notice must—
  - (a) state that the QCA has adopted a proposed amendment of the conduct rules for the site; and
  - (b) state the electricity entities affected by the amendment; and
  - (c) state the nature of the proposed amendment; and
  - (d) be published in a newspaper circulating generally in the State; and
  - (e) state that the proposed amendment may be inspected, and copies purchased, at the QCA's office between times stated in the notice; and
  - (f) state the cost of a copy of the proposed amendment; and
  - (g) invite submissions from any interested person; and
  - (h) state a day, not earlier than 14 days from publication of the notice, by which submissions may be made to the QCA about the proposed amendment.

### **120L Submissions on proposed amendment**

- (1) A person may, on or before the last day for the making of submissions, make a submission to the QCA about a proposed amendment of the conduct rules.
- (2) A submission must—

- (a) be in writing and signed by or for each person making the submission; and
- (b) state—
  - (i) the name and address of each person making the submission; and
  - (ii) the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (c) be given to the QCA.

### **120M Changing proposed amendment**

The QCA must consider all submissions properly made to it and may change the proposed amendment of the conduct rules after considering the submissions.

### **120N Adopting amendment**

- (1) The proposed amendment of the conduct rules, with or without change, becomes an amendment of the conduct rules once it is adopted by the QCA by resolution after consideration of the submissions and notified by gazette notice.
- (2) The amendment of the conduct rules takes effect—
  - (a) on a day stated in the notice; or
  - (b) if no day is stated in the notice—on the day the notice is gazetted.

### **120NA QCA must advise Minister**

The QCA must advise the Minister immediately after the amendment of the conduct rules takes effect.



**120NB Tabling of amendment of conduct rules in Legislative Assembly**

- (1) A copy of the amendment of the conduct rules must be tabled in the Legislative Assembly by the Minister within 14 sitting days after the amendment takes effect.
- (2) The copy of the amendment of the conduct rules is tabled for information only.

**Division 3                    Enforcing conduct rules****120O    Conduct notices**

- (1) If the QCA is satisfied an electricity entity has contravened the conduct rules, it may make a written notice (a *conduct notice*) stating that the entity has contravened, or is contravening, the conduct rules.
- (2) A conduct notice must give particulars of the contravention stated in the notice.

**120P    Conduct notice to be given to electricity entity**

As soon as practicable after making a conduct notice, the QCA must give a copy of the notice to the electricity entity concerned.

**120Q    Duration of conduct notice**

- (1) A conduct notice comes into effect—
  - (a) when it is made; or
  - (b) if the notice states a later time—at the later time.
- (2) A conduct notice ends—
  - (a) on the day stated in the notice; or
  - (b) if the notice is cancelled before that day—when it is cancelled.
- (3) The day stated in the notice must not be more than 1 year from when the notice comes into effect.

- (4) If a conduct notice ends, this division does not prevent the QCA from making a fresh conduct notice about the same matter as the expired notice.

**120R QCA to act promptly**

- (1) This section applies if the QCA has reason to suspect an electricity entity has contravened, or is contravening, the conduct rules.
- (2) The QCA must act promptly in deciding whether to issue a conduct notice in relation to the contravention.
- (3) A failure to comply with subsection (1) does not effect the validity of a conduct notice.

**120S Register of conduct notices**

- (1) The QCA must keep a register of conduct notices.
- (2) The register must include particulars of all conduct notices, including expired conduct notices.

**120T Penalty for breach of conduct rules**

- (1) This section applies if, on the application of the QCA, the Supreme Court is satisfied a person has—
  - (a) contravened the conduct rules; or
  - (b) attempted to contravene the conduct rules; or
  - (c) been involved in a contravention of the conduct rules.
- (2) The court may order the person to pay an amount to the State as a penalty of not more than—
  - (a) for an individual—\$100000; or
  - (b) for a corporation—\$500000.
- (3) In fixing a penalty, the court must consider the following—
  - (a) the nature and extent of—
    - (i) the contravention; and
    - (ii) loss or damage suffered because of the contravention;

- (b) the circumstances in which the contravention took place;
- (c) whether the person has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.

### **120U How order enforced**

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

### **120V Injunctions**

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

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

### **120W Actions for damages—breach of conduct rules**

- (1) A person who suffers loss or damage because of another person's conduct that contravened the conduct rules may recover the amount of the loss or damage by action in the Supreme Court against—
  - (a) the other person; or
  - (b) another person involved in the contravention.
- (2) The action may only be brought within 3 years from when the loss or damage was suffered.

**120X Other orders—compensation for breach of conduct rules**

- (1) This section applies if, in a proceeding under this division concerning a contravention of the conduct rules, the Supreme Court makes a finding that—
  - (a) a party to the proceeding (the *injured party*) has suffered, or is likely to suffer, loss or damage; and
  - (b) the loss or damage, or likely loss or damage, was caused by the alleged conduct of another party to the proceeding (the *contravener*) who engaged in the contravention.
- (2) The court may, on the application of the injured party, make orders it thinks appropriate against—
  - (a) the contravener; or
  - (b) another person involved in the contravention.
- (3) Before making an order, the court must be satisfied the order will—
  - (a) compensate the injured party, in whole or in part, for the loss or damage; or
  - (b) prevent or reduce the loss or damage.
- (4) The court may make an order whether or not it grants an injunction or makes another order under this division.
- (5) This section does not limit the court's power to grant an injunction under this division.
- (6) The court's powers under this section concerning a contract do not affect any powers that any other court may have concerning the contract in proceedings in that other court concerning the contract.

*Examples of orders the court may make under subsection (2)—*

- 1 An order declaring the whole or part of a contract or collateral agreement between the injured party and the contravener, or between the injured party and another person involved in the contravention—
  - (a) to be void; or
  - (b) to have been void from a stated day.
- 2 An order amending a contract or arrangement mentioned in example 1 in a way the court thinks appropriate and declaring the

contract or arrangement to have had effect, as so amended, from a stated day.

- 3 An order refusing to enforce the whole or part of a contract or collateral arrangement mentioned in example 1.
- 4 An order directing the contravener or another person involved in the contravention to—
  - (a) refund an amount or return property to the injured party; or
  - (b) pay the injured party the amount of the loss or damage; or
  - (c) at their own expense, supply stated goods or services to the injured party.

### **120Y Finding of fact to be evidence in proceedings**

- (1) This section applies if a finding of any fact is made by a court in proceedings under section 120T or 120V, in which a person has been found to have contravened, or to have been involved in a contravention of, the conduct rules.
- (2) The finding is evidence of the fact in—
  - (a) a proceeding under section 120W against the person; or
  - (b) an application under section 120X for an order against the person.
- (3) The finding may be proved by producing a document under the seal of the court from which the finding appears.

### **120Z Conduct by directors, servants or agents**

- (1) This section applies to a proceeding under this division.
- (2) If the proceeding concerns alleged conduct engaged in by a person to which the conduct rules apply and it is necessary to prove the person's state of mind, it is enough to prove that—
  - (a) a director, servant or agent (a *representative*) of a corporation that engaged in the conduct, acting within the scope of the representative's actual or apparent authority, had the state of mind; or
  - (b) a servant or agent of a person who engaged in the conduct, acting within the scope of the servant's or agent's actual or apparent authority, had the state of mind.

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

### **120ZA When QCA must refer a matter to the regulator**

If the Supreme Court decides that an electricity entity has contravened the conduct rules, the QCA must refer the contravention to the regulator.

**120ZB Action the regulator may take**

- (1) If a contravention of the conduct rules is referred to the regulator by the QCA the regulator may take action under section 133(1).
- (2) To remove doubt, the regulator must not take any other action concerning the contravention.

**Division 4                      Production of documents or information****120ZC Notice to produce documents or information**

- (1) This section applies if the QCA is conducting an investigation to find out whether an electricity entity is complying with the conduct rules.
- (2) The QCA may, by written notice to the entity, require the entity to give the QCA the following things it believes, on reasonable grounds, are relevant to the investigation—
  - (a) information within the entity's knowledge or possession;
  - (b) documents in the entity's custody, possession or power.
- (3) The notice must state—
  - (a) the information or documents required; and
  - (b) a period in which the documents or information are to be given of no less than 7 days; and
  - (c) a reasonable place at which the documents or information are to be given.
- (4) The entity must not contravene the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.

- (5) An electricity entity is not required to comply with the notice if the entity claims, on the ground of self-incrimination, a privilege the entity would be entitled to claim against giving the information were the entity a witness in a prosecution for an offence in the Supreme Court.



- (6) If the entity claims that complying with the notice may tend to incriminate the entity, the QCA or the entity may apply to the Supreme Court to decide the validity of the claim.

### **120ZCA Disclosure of information**

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

## **Part 1B                      Disputes referred to energy mediator**

### **120ZD Application of pt 1B**

This part applies if, under section 119(5),<sup>26</sup> a dispute has been referred to an energy mediator.

### **120ZE Notice of referral to parties to dispute**

The regulator must give the parties to the dispute written notice stating—

- (a) the dispute has been referred to an energy mediator; and
- (b) the mediator’s name.

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<sup>26</sup> Section 119 (Regulator’s role in disputes between electricity entity and customers or occupiers)

**120ZF Disclosure of interests**

- (1) An energy mediator must not mediate the dispute if—
  - (a) the mediator has a direct or indirect interest in the dispute; and
  - (b) the interest could conflict with the appropriate performance of the mediator's functions concerning the dispute.
- (2) However, subsection (1) does not apply if the interest consists only of the receipt of services, or information about electricity supply, that—
  - (a) are also available to members of the public; and
  - (b) are made available on the same terms that apply to members of the public.
- (3) If subsection (1) applies, the energy mediator must advise the regulator of the potential conflict of interest.
- (4) After receiving the advice, the regulator must refer the dispute to another energy mediator and give notice under section 120ZE about the referral.

**120ZG Presentation of cases**

- (1) Each party to the dispute must conduct their own case before the energy mediator.
- (2) A party may be represented by an agent only if the mediator agrees.
- (3) However, a party must not be represented by a lawyer unless—
  - (a) the parties to the dispute agree; and
  - (b) the mediator is satisfied there is no disadvantage to a party to the dispute.

**120ZH Parties bear own costs**

Each party to the mediation of the dispute must bear their own costs of the mediation.

**120ZI Conduct of mediation**

- (1) The energy mediator must act as an independent mediator and not make a decision or judgment about the dispute or part of the dispute.
- (2) The mediator may conduct the mediation of the dispute in the way he or she considers appropriate to attempt to resolve the dispute.

**120ZJ Energy mediator to maintain secrecy**

- (1) The energy mediator must not, without reasonable excuse, disclose information about a matter coming to the mediator's knowledge during the mediation of the dispute.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse to disclose information if the disclosure is made—
  - (a) with the agreement of all parties to the dispute; or
  - (b) for this Act; or
  - (c) for statistical purposes without revealing, or being likely to reveal, the identity of a person about whom the information relates; or
  - (d) for an inquiry or proceeding about an offence happening during the mediation; or
  - (e) for a proceeding founded on fraud alleged to be connected with, or to have happened during, the mediation; or
  - (f) under a requirement imposed under an Act.

**120ZK Ordinary protection and immunity allowed**

- (1) An energy mediator has, in mediating the dispute, the same protection and immunity as a judge performing the functions of a judge.
- (2) A party to the dispute in the mediation, and any lawyer or other agent representing the party under section 120ZG, has the same protection and immunity the party would have if the

mediation were a proceeding being heard before the Supreme Court.

- (3) A document produced at, or used for, the mediation has the same protection during the mediation it would have if produced before the Supreme Court.

### **120ZL Admissions made to energy mediators**

- (1) Evidence of anything done or said, or an admission made, at a mediation of the dispute is admissible in a proceeding before an energy arbitrator or elsewhere only if all parties to the dispute agree.
- (2) In this section—  
*proceeding* does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the mediation.

### **120ZM Mediated agreement**

- (1) If, at the mediation of the dispute, the parties to the dispute negotiate an agreement (a *mediated agreement*) about the dispute or part of the dispute, the agreement must be written down and signed by or for each party and by the energy mediator.
- (2) The agreement has the same effect as any other compromise.

### **120ZN When mediation ends**

- (1) The mediation of the dispute ends—
  - (a) on the making of a mediated agreement about the whole of the dispute; or
  - (b) if the parties to the dispute agree the mediation is ended; or
  - (c) if a party to the dispute requests, under section 119(6)(a), it be referred to an energy arbitrator.
- (2) The mediation of the dispute is taken to end on the later of the following days—

- (a) 28 days after the dispute is referred to the energy mediator;
  - (b) if the parties to the dispute agree within the 28 days to a later day—the later day.
- (3) The later day can not be more than 56 days after the referral.

### **120ZO Energy mediator's report to regulator**

The energy mediator must, as soon as practicable after the mediation ends, give the regulator—

- (a) a written report on the outcome of the mediation; and
- (b) a copy of any mediated agreement made between the parties to the dispute.

## **Part 1C                      Disputes referred to energy arbitrator**

### **Division 1                      Preliminary**

#### **120ZP Application of pt 1C**

This part applies for a referral, under section 119(6), of a dispute to an energy arbitrator.

#### **120ZQ Excluded Commercial Arbitration Act 1990**

The *Commercial Arbitration Act 1990* does not apply to a dispute to which this part applies.

#### **120ZR Exclusion of other jurisdictions**

- (1) If, under this part, a dispute has been referred to an energy arbitrator, the following matters are not justiciable by a court or tribunal at the instigation of an electricity entity that is a party to the dispute—

- (a) the issue in dispute;
  - (b) any issue that emerges in the course of the arbitration.
- (2) However, subsection (1) does not apply if—
- (a) the proceeding before the court or tribunal was started before the dispute was referred to the energy arbitrator;  
or
  - (b) the referral to the energy arbitrator has been withdrawn or struck out for want of jurisdiction; or
  - (c) the energy arbitrator decides that, because of the nature or complexity of an issue, the dispute should not be heard by the energy arbitrator.

## **Division 2                      Referring and arbitrating disputes**

### **120ZS Giving notice of referral to parties to dispute**

- (1) If the regulator refers a dispute to an energy arbitrator, the regulator must give the parties written notice of the referral.
- (2) The notice must state the following—
  - (a) that the dispute has been referred to an energy arbitrator;
  - (b) the arbitrator's name.

### **120ZT Disclosure of interests**

- (1) The energy arbitrator must not arbitrate a dispute if—
  - (a) the energy arbitrator has a direct or indirect interest in the dispute; and
  - (b) the interest could conflict with the appropriate performance of the energy arbitrator's functions concerning the dispute.
- (2) However, this section does not apply to the energy arbitrator if the interest consists only of the receipt of services, or information about electricity supply, that—
  - (a) are also available to members of the public; and

- (b) are made available on the same terms that apply to members of the public.
- (3) If subsection (1) applies, the energy arbitrator must advise the regulator of the potential conflict of interest.
- (4) After receiving the advice, the regulator must refer the dispute to another energy arbitrator and give notice under section 120ZS about the referral.

**120ZU Presentation of cases**

- (1) Each party to a dispute before the energy arbitrator must conduct their own case.
- (2) A party may only be represented by an agent if the energy arbitrator agrees.
- (3) A party must not be represented by a lawyer under subsection (2) unless—
  - (a) the parties to the dispute agree; and
  - (b) the energy arbitrator is satisfied there is no disadvantage to a party to the dispute.

**120ZV Conduct of arbitration**

- (1) Evidence in the dispute may be given to the energy arbitrator in the way the energy arbitrator considers appropriate.
- (2) Subject to this Act, the energy arbitrator—
  - (a) may conduct the arbitration in the way he or she considers appropriate; and
  - (b) is not bound by the rules of evidence and may inform himself or herself in the way he or she considers appropriate.
- (3) Without limiting subsection (2), the energy arbitrator may rely on evidence given to the regulator in the course of the regulator attempting to settle the dispute.

**120ZW Ordinary protection and immunity allowed**

- (1) An energy arbitrator has, in arbitrating the dispute, the same protection and immunity as a judge performing the functions of a judge.
- (2) A party to the dispute in the arbitration, and any lawyer or other agent representing the party under section 120ZU, has the same protection and immunity the party would have if the arbitration were a proceeding being heard before the Supreme Court.
- (3) A document produced at, or used for, an arbitration has the same protection during the arbitration it would have if produced before the Supreme Court.

**120ZX Power to require information from party to dispute**

- (1) A party to the dispute must give the energy arbitrator the information the energy arbitrator reasonably requires to perform the energy arbitrator's functions.
- (2) The information must be given within a reasonable time after the energy arbitrator asks for it.
- (3) A person must not contravene a requirement under this section without reasonable excuse.  
Maximum penalty—500 penalty units.
- (4) It is a reasonable excuse for a person not to comply with a requirement if doing so might tend to incriminate the person.

**Division 3                      Orders and enforcement****120ZY Orders that can be made**

- (1) The energy arbitrator may make the following orders against an electricity entity that is a party to a dispute—
  - (a) an order that the electricity entity must pay to another party to the dispute an amount of no more than \$20000;
  - (b) a non-monetary order the energy arbitrator considers appropriate against the electricity entity to remedy any issue in the dispute.



- (2) When making the order, the energy arbitrator must consider the following—
  - (a) the objects of this Act;
  - (b) the rights and obligations of the parties under this Act, including under any contract between the parties.
- (3) Despite subsection (1)(b), the energy arbitrator can not cancel, suspend or amend the authority of an electricity entity.

**120ZZ No costs**

Costs may not be awarded by the energy arbitrator to or against a party to the dispute.

**120ZZA Copy of order to be given to parties**

The energy arbitrator must give a copy of any order given concerning the dispute to the parties to the dispute.

**120ZZB Order final**

- (1) Subject to section 120ZZC, an order made by the energy arbitrator binds an electricity entity that is a party to the dispute.
- (2) The entity may not apply for review of, or appeal against, the order other than under the *Judicial Review Act 1991*.

**120ZZC Party, other than electricity entity, to advise whether order accepted**

- (1) A party to a dispute, other than the electricity entity, must give written notice to the regulator if the party decides not to accept the energy arbitrator's order against the electricity entity.
- (2) The notice must be given within 21 days after the party receives a copy of the order.
- (3) If a notice under subsection (1) is not given within the 21 days, the party is taken to have accepted the order and the order binds the party.

- (4) If the order is binding on the party, the party may not apply for a review of, or appeal against, the order other than under the *Judicial Review Act 1991*.

### **120ZZD When order takes effect**

An order by the energy arbitrator takes effect—

- (a) when the order is made; or
- (b) if the order states a later day or event for the order to take effect—on the later day or event.

### **120ZZE Failure to comply with order**

- (1) An electricity entity must comply with an order of the energy arbitrator.
- (2) If an electricity entity contravenes an order of the energy arbitrator, the other party to the dispute may refer the matter to the regulator.
- (3) If the matter is referred to the regulator by the other party, the regulator may take action against the electricity entity under section 133(1).

### **120ZZF How order enforced**

- (1) If the energy arbitrator orders an electricity entity to pay an amount to a person, the person may enforce the order by filing the order in a Magistrates Court.
- (2) Once the order is filed, it is taken to be a judgment of the Magistrates Court.

### **120ZZG Energy arbitrator's report to regulator**

The energy arbitrator must give the regulator—

- (a) a written report on the outcome of the arbitration; and
- (b) a copy of any order made by the energy arbitrator in the arbitration.

## **Part 2                                  Restrictions and rationing**

### **Division 1                                  Electricity restriction regulations**

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

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

*Example—*

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

#### **122      Electricity restriction regulations**

- (1) A regulation (an *electricity restriction regulation*) may restrict the use of electricity provided through a transmission grid or supply network in a way the Governor in Council considers necessary or desirable to achieve the regulation's purpose.
- (2) An electricity restriction regulation may restrict the use of electricity by regulating the use of electricity provided through a transmission grid or supply network, including, for example, by regulating—
  - (a) the customers that may receive electricity; and
  - (b) the maximum demand that may be imposed on the transmission grid or supply network by an electrical installation; and

- (c) the purposes for which electricity supplied through the transmission grid or supply network may be used; and
  - (d) the electrical equipment that may be used by customers entitled to be provided with electricity through the transmission grid or supply network.
- (3) An electricity restriction regulation must state the purpose to be achieved by the regulation.

## **Division 2                    Emergency rationing orders**

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

- (1) The Minister may, by gazette notice, make an order rationing the use of electricity (an *emergency rationing order*).
- (2) The Minister may make the order only if satisfied that—
  - (a) because of an emergency, an electricity entity can not supply the electricity needed by its customers; and
  - (b) the making of the order is necessary to enable continued supply of electricity by restricting electricity use to the level of available supply.
- (3) The order must outline the nature of the emergency.

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

- (1) If the Minister is satisfied that it is necessary, because of extraordinary circumstances, to make an emergency rationing order other than by gazette notice, the Minister may make the order and immediately advertise the making of the order in the way the Minister considers most appropriate to notify persons likely to be affected by the order.
- (2) The order expires if it is not notified in the gazette within 3 days after it is made.
- (3) The order also expires if it is not tabled in the Legislative Assembly on the next sitting day after it is made.

**126 What order may provide**

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

**127 Advertisement of order**

A distribution entity whose distribution area is affected by an emergency rationing order must advertise the order, the repeal or expiry of the order, and any amendment of the order, as prescribed under the regulations.

**128 Period of operation of order**

- (1) The Minister must repeal the emergency rationing order as soon as possible after the Minister is satisfied the order is no longer necessary to enable the continued supply of electricity or the emergency no longer exists.
- (2) The order expires 1 month after it is gazetted, unless it is earlier repealed or the order states it operates for a shorter period.
- (3) Subsection (1) does not stop the making of a fresh emergency rationing order.

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

- (1) If there is an inconsistency between an emergency rationing order and an agreement between an electricity entity or special approval holder and a customer, the order prevails to the extent of the inconsistency.
- (2) However, subsection (1) alone does not limit the liability of the electricity entity or special approval holder for failure to supply electricity to a customer.

## **Division 3                      Limitation on restrictions and rationing**

### **129A    Limitation for Stanwell Magnesium Plant**

- (1) This section applies if, apart from this section, an electricity restriction regulation or emergency rationing order applies to the supply of electricity to, or the use of electricity at, the Stanwell Magnesium Plant.
- (2) The regulation or rationing order applies only to the supply of electricity to, or the use of electricity at, the plant that is more than the demand prescribed under a regulation.
- (3) The prescribed demand—
  - (a) must be at least 50MW; but
  - (b) must not be more than 100MW.
- (4) Subsection (2) applies despite any other provision of this part.
- (5) In this section—

*Stanwell Magnesium Plant* means the magnesium production plant that Australian Magnesium Operations Pty Ltd (ABN 38 058 918 175) has built, or proposes to build, adjacent to the electricity generating facility at Stanwell called the ‘Stanwell Power Station.

### **129B    Expiry of div 3**

This division expires on 31 December 2033.

**Part 3****Action by regulator to ensure supply of electricity by electricity entities****130 Governor in Council may authorise regulator to take over operation of relevant operations**

- (1) This section applies if the regulator advises the Minister that the regulator is satisfied, on reasonable grounds, that—
- (a) an electricity entity (the *defaulting entity*)—
    - (i) has contravened this Act; or
    - (ii) has contravened a condition of its authority; or
    - (iii) if the defaulting entity is a Registered participant—
      - (A) has had its registration as a code participant cancelled or suspended; or
      - (B) is the subject of a direction given by NEMMCO or an order made by the Australian Energy Regulator or a court; or
    - (iv) has had its authority cancelled, amended or suspended; or
    - (v) is insolvent or is likely to become insolvent; or
    - (vi) is not, or is no longer, a suitable person to hold an authority of the type it holds; and
  - (b) to ensure customers receive an adequate, reliable and secure supply of electricity, it is necessary for the regulator to take over the operation of the whole or part of the defaulting entity's operating works and business (the *relevant operations*).
- (2) If this section applies, the Governor in Council may by gazette notice, authorise the regulator to take over the operation of the relevant operations for the time the regulator considers necessary to ensure customers receive an adequate, reliable and secure supply of electricity.
- (3) The authority may provide for any matter for which it is necessary or convenient to help the regulator take over the operation of the relevant operations.

- (4) The Governor in Council must notify the making of an authorisation under subsection (2) by gazette notice within 14 days.
- (5) Failure to notify under subsection (4) does not invalidate the authorisation.

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

- (1) On the regulator taking over the operation of a defaulting entity's relevant operations, the relevant operations may be operated by the person (the *operator*) appointed by the regulator.
- (2) The operator need not be an electricity entity.
- (3) The operator—
  - (a) must comply with the conditions that applied to the defaulting entity that the regulator states in the appointment; and
  - (b) must comply with any conditions imposed and directions given by the regulator; and
  - (c) must comply with provisions of this Act about the operation of the relevant operations; and
  - (d) may enter—
    - (i) the site of relevant operations; and
    - (ii) other property necessary for the efficient operation of the relevant operations (including necessary access to the relevant operations and other property).
- (4) The operator may do all things necessary or convenient to ensure the relevant operations continue to operate as required by the regulator.

*Examples of things that the operator may do—*

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



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

Maximum penalty—500 penalty units or 6 months imprisonment.

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

Maximum penalty—1000 penalty units or 6 months imprisonment.

- (7) Subsections (5) and (6) do not apply to an act done, or omission made, during or in connection with industrial action (within the meaning of the *Industrial Relations Act 1999*).
- (8) The owner of the relevant operations and the defaulting entity are liable for the cost of the operation of the relevant operations by the operator.
- (9) The person who would, apart from this section, have the right to the proceeds from the operation of the relevant operations has the right to receive the income received by the operator from operating the relevant operations less all costs (including operating fees approved by the regulator) properly included in operating the relevant operations.
- (10) The disposal of, or other dealing in, the relevant operations does not affect the operation of this section.
- (11) For this section—
- (a) an electricity entity is solvent if the entity is able to pay all of the entity's debts, as and when they become due and payable; and
  - (b) an electricity entity that is not solvent is insolvent.

## Part 3A                      Retailer of last resort

### 131A Retailer of last resort scheme

- (1) A regulation may provide for—
  - (a) the establishment of a scheme to be known as the ‘retailer of last resort scheme’; and
  - (b) the compulsory participation by electricity entities in the scheme.
- (2) The primary objects of the scheme are to provide for—
  - (a) the management of the effects of a retail entity not being able to provide customer retail services to its customers (*defaulting retailer*); and
  - (b) the protection of customers of a defaulting retailer from interruption in the supply and sale of electricity to them.
- (3) Without limiting subsections (1) and (2), a regulation may make provision about any of the following matters—
  - (a) other objects of the scheme;
  - (b) the circumstances in which the scheme will operate;
  - (c) the electricity entities required to participate in the scheme;
  - (d) the customers or class of customers to benefit from the scheme;
  - (e) establishing a regulated default customer sale contract or a regulated default customer connection contract (either of which may include different terms for different classes of customer);
  - (f) providing for the effects of a declaration that the scheme applies to a defaulting retailer and its affected customers, including, for example, the following—
    - (i) the charter of the scheme (including the duration of the scheme and other matters concerning its administration);
    - (ii) ending the defaulting retailer’s customer sale contracts with its affected customers;

- (iii) ending the defaulting retailer's customer connection contract for its affected customers' premises;
  - (iv) a regulated default customer sale contract taken to be entered into between each of the affected customers and the retailer of last resort;
  - (v) a regulated default customer connection contract taken to be entered into between the retailer of last resort and a distribution entity or entities for the premises of each affected customer;
- (g) the functions and the powers of the regulator concerning the scheme, including—
- (i) establishing the charter of the scheme for a particular defaulting retailer and its affected customers;
  - (ii) declaring the scheme applies to a particular defaulting retail entity and to particular customers or class of customers;
  - (iii) appointing the electricity entity or entities who is or are to be the retailer of last resort (including procedures to be followed in making the appointment);
  - (iv) supervising and giving directions to the retailer of last resort concerning the administration of a scheme;
- (h) imposing conditions in relevant authorities to give effect to the matters in this section;
- (i) anything necessary or convenient to help or give effect to the provisions of this part.



- (3) The regulator is limited to the disciplinary action under subsection (1) in relation to a contravention of the conduct rules.
- (4) If the ground for taking disciplinary action is that the electricity entity has contravened this Act, the Electrical Safety Act or a condition of its authority, the regulator may impose a penalty of not more than 1333 penalty units for each contravention.
- (5) If the ground for taking disciplinary action is that the electricity entity has contravened a condition of its authority by holding a prohibited interest, in addition to the penalty under subsection (4), the regulator may decide that 1 or more of the interests that gave rise to the contravention must be disposed of.
- (6) The regulator may make a decision under subsection (5) based on the information that the regulator considers sufficient in the circumstances.
- (7) If the regulator makes a decision under subsection (5), the regulator must give written notice of the decision to—
  - (a) the electricity entity that has contravened a condition of its authority by holding a prohibited interest (the *offending electricity entity*); or
  - (b) if the offending electricity entity does not hold the prohibited interest—to the person who holds the interest the subject of the decision.
- (8) The notice must require the offending electricity entity or the other person to dispose of the interest the subject of the decision within a stated time of not less than 90 days.
- (9) For subsection (8), the interest must not be disposed of to a person, if the disposal would result in a contravention of a condition of the offending electricity entity's authority.
- (10) A decision of the regulator under subsection (5) takes effect when written notice is given to the offending electricity entity or the other person.
- (11) If the offending electricity entity or person is given a notice requiring disposal of an interest and the person or entity does not comply with the notice within the time stated in the notice,

the interest the subject of the decision is forfeited to the State, free from any mortgage, charge, lien, pledge, restriction or other encumbrance.

- (12) The regulator must sell any forfeited interest under subsection (11).
- (13) An amount from the sale of a forfeited interest, after deduction of reasonable costs of forfeiture and sale, must be paid to the person from whom the interest was forfeited.
- (14) The regulator may, by written notice to the offending electricity entity or other person, amend or cancel a decision made by the regulator under subsection (5) with effect from the day of the decision or some other day fixed by the regulator.
- (15) The regulator may take action under this section even though the regulator issued, contrary to this Act, an authority that gave rise to the contravention of a condition of the offending electricity entity's authority by its holding a prohibited interest.
- (16) The regulator may take the action stated in subsection (17) if the regulator—
  - (a) makes a decision under subsection (5) and the ground for making the decision is that a person (the *offender*) has a prohibited interest, because the person is in a position to exercise control over a person, entity or authority or thing; or
  - (b) forms the opinion that the offender has a prohibited interest of the kind contemplated by schedule 2, section 3B(b)(iii).
- (17) For subsection (16), the regulator may, by written notice served on the offender, decide that the offender must do 1 or more of the following to the extent necessary to prevent there being a prohibited interest within a stated reasonable time of less than 90 days—
  - (a) stop exercising control over the person, entity or authority;
  - (b) end any relevant agreement, arrangement, understanding or undertaking;

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- (c) take, or refrain from taking, any other action stated in the notice.
- (18) Subsections (6), (10), (14) and (15) apply to a decision made by the regulator under subsection (16).
- (19) If an electricity entity fails to pay a penalty under this section within the time allowed by the regulator, the regulator may take further action for the contravention for which the penalty was imposed.
- (20) A reference in this section to amending an authority includes a reference to amending its conditions.
- (21) In this section—
- authority** (other than in subsections (1) and (20)) includes a special approval.
- electricity entity** (other than in subsections (1) and (20)) includes a special approval holder.
- interest** includes the following—
- (a) a legal or equitable interest in shares, stock, units or voting rights;
- (b) a legal or equitable right to acquire shares, stock, units or voting rights;
- (c) a right to decide the way in which a vote or other interest attaching to shares, stock, units or voting rights will be exercised;
- (d) a right under an agreement, an arrangement, a contract, a deed an understanding or an undertaking;
- (e) other rights or interests capable of conveyance, transfer, sale, disposal or assignment;
- (f) another interest prescribed by regulation.
- sell** means—
- (a) sell by wholesale, retail or auction; or
- (b) agree, attempt or offer to sell; or
- (c) possess, expose or advertise for sale; or
- (d) cause or permit to be sold.

**134 Procedure for disciplinary action**

- (1) If the regulator considers a ground exists to take disciplinary action against an electricity entity, the regulator must, before taking the disciplinary action, give the entity a written notice—
  - (a) stating the regulator is considering taking disciplinary action against the entity; and
  - (b) stating the proposed disciplinary action; and
  - (c) stating the grounds for the proposed disciplinary action; and
  - (d) outlining the facts and circumstances forming the basis for the grounds; and
  - (e) inviting the entity to show, within a stated time of at least 7 days, why the proposed disciplinary action should not be taken.
- (2) If, after considering all written representations made by the electricity entity within the stated time, the regulator still considers a ground exists to take the disciplinary action, the regulator may take the disciplinary action.
- (3) However, before cancelling or directing the cancellation of an electricity entity's authority, the regulator must consider the effect of the cancellation on persons who are provided or supplied with electricity or other services by the entity and the availability of alternative sources of electricity or services.
- (4) The regulator must inform the electricity entity of the decision by written notice.
- (5) If the regulator decides to take disciplinary action against the electricity entity, the notice must state the reasons for the decision.
- (6) The decision takes effect on the later of—
  - (a) the day when the notice is given to the electricity entity; or
  - (b) the day of effect stated in the notice.



**135 Penalty recoverable as debt**

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

**Chapter 5A 13% gas scheme****Part 1 Introduction****Division 1 Purposes of chapter****135A Main purposes of ch 5A**

The main purposes of this chapter are to—

- (a) reduce the growth in greenhouse gases associated with electricity use in the State; and
- (b) contribute to the diversification of the State's energy mix towards the greater use of gas in electricity generation; and
- (c) encourage the development of new gas sources and gas infrastructure to meet the State's future energy requirements.

**135AA How main purposes are achieved**

- (1) The main purposes of this chapter are achieved by providing for a certificate-based scheme.
- (2) The scheme consists of—
  - (a) persons (called 'accredited generators') who generate, or who are involved in the generation of, particular gas-fired electricity that supports the State's electricity load; and

- (b) persons (called ‘liable persons’), most of whom are retail entities and others who sell or use electricity in the State, who have a liability under the scheme.
- (3) Under the scheme—
  - (a) accredited generators can create gas electricity certificates (each called a **GEC**) for each MWh of particular gas-fired electricity worked out under part 3<sup>27</sup> (**eligible gas-fired electricity**) generated by the accredited power station; and
  - (b) accredited generators may sell GECs to liable persons and anyone else registered under this chapter as a scheme participant who wishes to trade in GECs; and
  - (c) liable persons must surrender to the regulator the number of GECs that, in general terms, equates to 13% of the electricity sold or used by them for each year from 2005 to 2019; and
  - (d) accredited generators and persons registered under part 6<sup>28</sup> as scheme participants may, subject to part 4, division 4,<sup>29</sup> sell, transfer or surrender their GECS.
- (4) Accredited generators and persons registered under part 6 are collectively called a **scheme participant**.<sup>30</sup>
- (5) It is Parliament’s expectation that income earned from the sale of GECs will help gas-fired electricity to compete with electricity generated from other more greenhouse-intensive energy sources.

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27 Part 3 (Eligible gas-fired electricity)

28 Part 6 (Scheme participants)

29 Part 4, division 4 (Dealings with GECs)

30 For persons who are taken to be registered under part 6 as a scheme participant, see sections 135BO (Effect of surrender), 135BZ (Effect of cancellation) and 135GH (Who obtains the benefit of liable load exemption).

**Division 2****Definitions for ch 5A****135AB Power stations and their nameplate capacity**

- (1) A **power station** is an electricity generating plant or system.
- (2) **Power station** also includes all buildings, components, equipment and infrastructure of the plant or system directly related to its operation or to its electricity production, including, for example, a thing needed—
  - (a) to store, retrieve, measure, distribute or prepare the fuel or energy source for the plant or system; or
  - (b) to combust, convert or otherwise use the fuel or energy source for the plant or system to generate electricity directly or to energise an intermediate medium; or

*Example of an intermediate medium—*

steam, produced from the burning of fuel in a boiler, that is used to drive a steam turbine to generate electricity

- (c) to convert the energy in an intermediate medium into electricity; or
- (d) to control, switch or transform the electricity generated; or
- (e) to control the processes involved in the main and auxiliary processes associated with the electricity generation; or
- (f) to control emissions to ensure compliance with a relevant environmental authority under the *Environmental Protection Act 1994* if the thing is directly related to the electricity generation; or
- (g) to do any of the following for a matter or process mentioned in paragraphs (a) to (f)—
  - (i) cooling;
  - (ii) heating;
  - (iii) preparing or distributing a fluid or gas to use in, or to control, the matter or process;
  - (iv) distributing or controlling electricity used;

- (v) metering, recording or transmitting relevant parameters;
  - (vi) waste disposal or removal; or
  - (h) to comply with the *Workplace Health and Safety Act 1995* or a requirement or standard under any other Act relating to safety if the thing is directly related to the electricity generation.
- (3) However, a thing mentioned in subsection (2) is not part of the power station if it—
- (a) is located more than 1km from the boundary of the plant or system; or
  - (b) is only used to—
    - (i) extract or mine a fuel source for the plant or system; or
    - (ii) separate or process wastes only part of which form a fuel source for the power station.
- (4) A power station's ***nameplate capacity*** is the capacity of its main generating unit or units, as stated by its manufacturer.

### **135AC Who is the *economic operator* of a power station**

The ***economic operator*** of a power station is—

- (a) the person who, under the National Electricity Rules, is registered as the generator for the power station; or
- (b) if no one is registered, or required to be registered, under the Rules as the generator for the power station—the person who has the physical control of the power station.

*Example for paragraph (b)—*

a person who has the physical control of a power station not connected to the national grid

### **135AD What is *eligible fuel***

- (1) An ***eligible fuel*** is—
- (a) natural gas formed naturally in the earth; or

*Electricity Act 1994**Examples—*

- liquefied natural gas or ‘LNG’
  - compressed natural gas or ‘CNG’
  - gas (commonly called ‘coal seam gas’) occurring naturally in association with coal and produced as a resource in its own right
  - gas (commonly called ‘waste mine gas’) occurring naturally in association with coal and—
    - (a) released during the process of coal mining, either directly or indirectly by disturbance of gas-bearing strata; or
    - (b) released before mining for the purpose of safety; or
    - (c) drained from underground areas previously mined for coal
- (b) a substance that is—
- (i) a by-product of processes carried out at a petroleum refinery; and
  - (ii) a gas at an absolute pressure of 101.325kPa and at a temperature of 15°C; or
- (c) a gas not formed naturally in the earth that consists predominately of methane and—
- (i) is of the prescribed quality for fuel gas under the *Petroleum and Gas (Production and Safety) Act 2004* (whether or not the gas is fuel gas as defined under that Act); or
  - (ii) is of another quality approved under that Act; or
  - (iii) is of a quality prescribed under a regulation; or
- (d) liquefied petroleum gas.
- (2) However, ***eligible fuel*** does not include an eligible renewable energy source under the *Renewable Energy (Electricity) Act 2000* (Cwlth).
- (3) In this section—

***petroleum refinery*** means an organised and coordinated arrangement of manufacturing processes the primary purpose of which is to separate and purify crude oil for the production and sale of liquid fuel products.

**135AE What is *auxiliary load* for a power station**

- (1) *Auxiliary load*, for a power station, is—
  - (a) electricity used within the power station as part of an electricity generation process; or
  - (b) electricity—
    - (i) used within its boundaries to power buildings, components, equipment or infrastructure that are not part of the power station; and
    - (ii) that is not separately metered from electricity mentioned in paragraph (a); or
  - (c) electricity used for a purpose mentioned in paragraph (a) or (b) at any time from when the power station first sends out electricity to a grid; or
  - (d) electricity used to run the power station in synchronous condenser mode if the electricity is able to be separately measured and is distinguishable from other energy uses for the power station.
- (2) However, if electricity used within a power station as part of an electricity generation process is a pumping load for a pumped storage hydro power station, only the proportion of the load that is equal to the amount of the electricity generated that is sent out by the power station is auxiliary load.

**135AF What is a *major grid* and a *small grid***

- (1) A *major grid* is—
  - (a) a supply network or transmission grid if—
    - (i) it is not interconnected with another transmission grid or supply network; and
    - (ii) the power stations connected to it have a combined nameplate capacity of more than 100MW; or
  - (b) a network of interconnected transmission grids or supply networks the power stations connected to which have a combined nameplate capacity of more than 100MW.

- (2) A ***small grid*** is—
- (a) a supply network or transmission grid if—
    - (i) it is not interconnected with another transmission grid or supply network; and
    - (ii) the power stations connected to it have a combined nameplate capacity of 100MW or less; or
  - (b) a network of interconnected transmission grids or supply networks the power stations connected to which have a combined nameplate capacity of 100MW or less.

### **135AG What is a *substantive traceable link* to a major grid**

A ***substantive traceable link***, to a major grid, is a connection of electric lines that allows electricity to be sent into or received from the grid.

### **135AH What is a *direct supply arrangement***

A ***direct supply arrangement*** is an arrangement under which—

- (a) a power station supplies electricity to an end user in the State using a dedicated line; or
- (b) electricity is supplied to a customer in the State through a grid if—
  - (i) the grid is not directly or indirectly connected to the national grid; and
  - (ii) 90% or more of the annual electricity supplied to the grid is generated from eligible fuels.

### **135AI What is an *electricity load***

- (1) An ***electricity load*** is an amount of electricity to supply all or part of the electricity of—
- (a) a customer or a group of customers; or
  - (b) an end user, or a group of end users, of electricity.

- (2) The *electricity load* of the State is the total amount of electricity to supply the needs of end users of electricity who are in the State.

### **135AJ Who are the *baseline customers* of a power station**

- (1) A *baseline customer*, of a power station, is each person mentioned in subsection (2)—
- (a) who is a customer of the power station or to whom the power station supplies electricity; and
  - (b) who is in the State; and
  - (c) to whom the power station delivers electricity generated from eligible fuels.
- (2) For subsection (1), the persons are—
- (a) a person to whom the power station supplies electricity under a direct supply arrangement; and
  - (b) NEMMCO; and
  - (c) if the power station is not directly or indirectly connected to the national grid—a retailer supplying electricity under a direct supply arrangement.
- (3) Subsection (1) applies even if, under part 3, division 5, the amount of the baseline for the person is 0.

### **135AK Other definitions for ch 5A**

In this chapter—

*13% liability* see section 135EM(1).

*accreditation* means accredited as an accredited generator under part 2.

*accredited generator* means a person who holds an accreditation that is in force.

*accredited generator register* see section 135JE(1)(a).

*accredited power station* means the power station or the parts of the power station, as decided by the regulator under section 135AN, for which an accreditation is held.



**amended assessment** see section 135FK(2).

**ancillary matters**, for a power station, see section 135AM(2).

**annual loss factor**, for a power station, see section 135CR(2).

**annual QUF**, for a power station, see section 135CM(2).

**applicant**, for part 8, division 1, see section 135IX(a).

**application**, for part 8, division 1, see section 135IX(b).

**approved auditor** means a person who, under part 7, division 1, holds an appointment as an approved auditor.

**approved form** means the form approved, under section 135JV, by the regulator.

**assessment**, by the regulator, means an assessment by the regulator made under part 5, division 4, subdivision 2.

**auditable person** see section 135IO.

**audit notice** see section 135IP(1).

**auxiliary load**, for a power station, see section 135AE.

**baseline**, for an accredited power station, see section 135CV(1).

**baseline customer**, of a power station, see section 135AJ.

**baseline loss factor**, for a power station, see section 135CS(3).

**baseline QUF**, for a power station, see section 135CN(3).

**baseline year**, for a power station—

- 1 Generally, the **baseline year** for a power station is the period mentioned in section 135CY(2).
- 2 However, if, under section 135CY(3) or 135CZ(3), the regulator has fixed a sent out or delivered amount by reference to another period, the **baseline year** for the power station is the other period.

**civil penalty** means the civil penalty imposed under section 135EY.

**complete suspension**, of the right to create GECs, see section 135BT(2)(a).

***compromise assessment*** see section 135FJ(2).

***dedicated line*** means an electric line that supplies only 1 end user or only 1 group of interrelated end users.

***default assessment*** see section 135FH(1).

***direct method*** means direct method A or direct method B under section 135CD.

***direct supply arrangement*** see section 135AH.

***economic operator***, of a power station, see section 135AC.

***electricity load*** see section 135AI.

***eligible electricity guidelines*** see section 135CK.

***eligible fuel*** see section 135AD.

***eligible gas-fired electricity*** see section 135AA(3)(a).

***eligible renewable electricity*** see section 135GR(2).

***end user***, of electricity, means any one who uses it.

***exempted load*** see section 135EM(4)(b).

***GEC*** see section 135AA(3)(a).

***GEC register*** see section 135JE(1)(b).

***GEC review*** see section 135B(1).

***GEC surrender direction*** see section 135DQ(2).

***general method*** see section 135CC.

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

- (a) the decision;
- (b) reasons for the decision;
- (c) all rights of review or appeal under this Act for the decision;
- (d) the period in which any review or appeal must be started;
- (e) how the rights of review or appeal must be exercised;
- (f) that a stay of a decision the subject of review or appeal under this Act may be applied for under this Act.

*interested person*, for an electricity load, see section 135GG.

*liable load* see section 135EM(5).

*liable load exemption* means an exemption granted under part 5, division 6 that is in force.

*liable load exemption register* see section 135JE(1)(d).

*liable person* see section 135EM(3).

*liable year*, for the 13% liability, see section 135EM(6).

*limited suspension* see section 135BT(2)(b).

*major grid* see section 135AF(1).

*measurement method*, for a power station, see section 135AM(3).

*nameplate capacity*, for a power station, see section 135AB(4).

*non-liable load* see section 135EM(4)(c).

*notice* means a written notice.

*official*, for part 8, division 4, see section 135JL.

*penalty imposition day*, for the 13% liability, see section 135EY(2).

*power station* see section 135AB.

*prescribed renewable energy source* see section 135GR(1)(a).

*proponent*, for a significant project, means the person who proposes or owns the project.

*reassessment* see section 135FI.

*recognised program* see section 135GR(1)(b).

*referrer* see section 135FY(1).

*registered owner*, of a GEC—

- 1 The *registered owner*, of a GEC, is the person who, under section 135DN or 135DW, is or becomes its registered owner.
- 2 However, the person ceases to be the registered owner if, under part 4, division 3, the GEC is cancelled.

*registration*, for a GEC, means registration under section 135DJ.

*retailer* means a person who holds a retail authority.

*scheme participant* see section 135AA(4).

*scheme participant register* see section 135JE(1)(c).

*self-assessment report* see section 135FD.

*significant project* see section 135GI(1).

*small grid* see section 135AF(2).

*special conditions*, for accreditation, see section 135AN(4)(a).

*standard accreditation conditions* see section 133AU(2).

*State development exemption* see section 135GI(4).

*substantive traceable link*, to a major grid, see section 135AG.

*surrender application*, for a GEC, means an application made under part 4, division 4, subdivision 3.

*transmission zone* see section 135CO(2).

*valid*, for the creation or purported creation of a GEC, means creation under the requirements of part 4, division 1.

*vintage year*, for a GEC, means the year in which it was registered.

## **Part 2                      Accreditation**

### **Division 1                Applying for and obtaining accreditation**

#### **135AL Who may apply for accreditation**

- (1) The following persons may apply to the regulator to become an accredited generator for a power station or proposed power

station—

- (a) for a power station—
    - (i) its economic operator; or
    - (ii) a person nominated by the economic operator;
  - (b) for a proposed power station—
    - (i) a person who proposes to become its economic operator; or
    - (ii) a person nominated by the proposed economic operator.
- (2) However, only 1 person can be nominated under subsection (1) for the same application.
  - (3) If more than 1 person is the economic operator or proposed economic operator—
    - (a) the application must be made by them jointly; but
    - (b) only 1 of them can be the nominated accredited generator.
  - (4) A person can not apply for an accreditation that applies for more than 1 power station or proposed power station.
  - (5) However, subsection (4) does not prevent the same person holding more than 1 accreditation.

### **135AM Requirements for application**

- (1) The application must—
  - (a) be in the approved form; and
  - (b) identify the power station or proposed power station, its location and each of its constituent parts; and
  - (c) state any relevant transmission zones known to the applicant; and
  - (d) state the nameplate capacity of the power station or proposed power station; and
  - (e) state details of the ownership of, and operating arrangements for, the power station or proposed power station; and

*Electricity Act 1994*

- 
- (f) state details of the fuels used or to be used by the power station or proposed power station; and
  - (g) give information that will allow the regulator to decide each of the following matters for the power station or proposed power station—
    - (i) its baseline customers;
    - (ii) the baseline for each of the customers;
    - (iii) its annual and baseline loss factors;
    - (iv) its approved measurement points;
      - Example of measurement points—*
      - meters measuring sent out electricity or, if a direct method is used, electricity delivered
    - (v) if the power station or proposed power station generates or uses unmetered electricity—a methodology to estimate the generation or use; and
  - (h) give information that will allow the regulator to decide, under section 135JA, a method for working out—
    - (i) the amount of electricity sent out from the power station or proposed power station or, if the applicant proposes to apply to use a direct method, delivered to an end user under a direct supply arrangement; or
    - (ii) an amount incidental to subparagraph (i); and
  - (i) give information relevant to the working out of eligible gas-fired electricity generated by the power station or proposed power station; and
  - (j) be accompanied by—
    - (i) evidence that, under section 135AL, the applicant is entitled to make the application; and
    - (ii) the fee prescribed under a regulation.
- (2) The matters mentioned in subsection (1)(g) are the ***ancillary matters*** for the power station or proposed power station.
- (3) The method mentioned in subsection (1)(h) is the ***measurement method*** for the power station or proposed power station.

**135AN Deciding application**

- (1) The regulator must decide whether to grant or refuse the application.
- (2) The regulator may grant the application only if—
  - (a) the regulator is satisfied—
    - (i) the power station or proposed power station generates, or will generate, eligible gas-fired electricity; and
    - (ii) the amount of the eligible gas-fired electricity is, or will be, able to be worked out from time to time; and
  - (b) the regulator is able to decide—
    - (i) the parts of the power station or proposed power station that are relevant to the accreditation; and
    - (ii) the ancillary matters for the power station or proposed power station.
- (3) If the power station or proposed power station is not in a transmission zone under a regulation, the regulator may defer the deciding of the application for a reasonable period to allow a transmission zone to be prescribed that includes the power station or proposed power station, and for the fixing of relevant QUFs.
- (4) If the regulator decides to grant the application—
  - (a) the regulator may impose conditions (*special conditions*) on the accreditation the regulator considers necessary or desirable;<sup>31</sup> and
  - (b) the regulator must decide the ancillary matters.

**135AO Provisions for deciding ancillary matters for power station**

- (1) This section applies if the regulator is deciding the ancillary matters for the power station or proposed power station.

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31 See also division 3 (Standard accreditation conditions).

- (2) The regulator need not decide its annual loss factor or baseline loss factor if the regulator has, under section 135CD(3),<sup>32</sup> approved direct method A for working out the eligible gas-fired electricity generated by the power station or proposed power station.
- (3) Different measurement methods may be approved for different measurement points for the power station or proposed power station.
- (4) If the regulator is satisfied arrangements for an approved measurement point comply with any relevant requirements under the National Electricity Rules, the regulator must approve the arrangements as the measurement methods for the measurement point.

### **135AP Provisional decision to grant**

- (1) This section applies if the regulator is deciding the application and the regulator is unable to decide whether or not the regulator is satisfied about a matter mentioned in section 135AN(2)<sup>33</sup> (the *undecided matter*).
- (2) The regulator may—
  - (a) defer the deciding of the application; and
  - (b) give the applicant a notice stating that, subject to being satisfied about the undecided matter as required under section 135AN(2), the regulator will grant the application.
- (3) If after giving the notice the applicant satisfies the regulator about the undecided matter as required under section 135AN(2), the regulator must grant the application.
- (4) However, subsection (3) ceases to apply if, because of a change in circumstances, the regulator is no longer satisfied about another matter mentioned in section 135AN(2).

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32 Section 135CD (Alternate methods for direct supply arrangement)

33 Section 135AN (Deciding application)



**135AQ Steps after deciding application**

- (1) If the regulator decides to grant the application, the regulator must issue the accreditation as soon as practicable.
- (2) The accreditation must—
  - (a) state—
    - (i) any special conditions imposed; and
    - (ii) the ancillary matters decided for the power station or proposed power station; and
    - (iii) a unique accreditation code for the accredited generator and the power station or proposed power station; and
  - (b) be accompanied by an information notice about the decisions about each of the ancillary matters and to impose any special conditions.
- (3) Subsection (2)(b) does not apply for a condition or ancillary matter that is the same, or is to the same effect as, a condition or ancillary matter agreed to or requested by the applicant.
- (4) If the regulator decides to refuse the application, the regulator must, as soon as practicable, give the applicant an information notice about the decision.

**135AR Term of accreditation**

- (1) An accreditation takes effect on the day of effect stated in the accreditation or, if it states no day of effect, the day it is issued.
- (2) The stated day of effect may be any day not before 1 January 2005.
- (3) Subject to suspension under division 5, subdivision 3,<sup>34</sup> the accreditation continues in force until 31 December 2020, unless it is sooner cancelled or surrendered under this part.

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34 Division 5, subdivision 3 (Other amendments, cancellation and suspension)

**135AS Withdrawal of nomination to be accredited generator**

- (1) This section applies if a person has applied to be, or is, the accredited generator of a power station or proposed power station and the person is not the economic operator of the power station or proposed power station.
- (2) The economic operator of the power station may, by notice to the regulator, withdraw the nomination given for the person to become the accredited generator.<sup>35</sup>
- (3) A change in the economic operator of the power station does not, of itself, affect the nomination.

**Division 2                      Accredited generator's rights****135AT Right to create, mortgage and transfer GEC**

- (1) An accredited generator has, from when the accredited generator's accreditation takes effect,<sup>36</sup> the following rights—
  - (a) to create, under part 4,<sup>37</sup> GECs for eligible gas-fired electricity generated by the power station on and from the day the accreditation takes effect until—
    - (i) the accreditation is cancelled or surrendered; or
    - (ii) the end of 31 December 2019;
  - (b) to mortgage or transfer GECs of which the accredited generator is the owner up to and including 31 December 2020.<sup>38</sup>
- (2) However—
  - (a) the rights are subject to part 4; and

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35 See also section 135BU(2)(c) (Conditions for other amendments and for cancellation or suspension by regulator).

36 For when an accreditation takes effect, see section 135AR (Term of accreditation).

37 Part 4 (GECs)

38 For the transfer of GECs by accredited generators or scheme participants see part 4, division 4 (Dealings with GECs).

For mortgages of GECS, see section 135DY (Mortgage of GEC).

- (b) the right to create GECs is subject to any suspension under division 5, subdivision 3.<sup>39</sup>

## **Division 3                      Standard accreditation conditions**

### **135AU Operation of div 3**

- (1) This division imposes conditions on each accreditation.
- (2) Conditions imposed under this division are the *standard accreditation conditions*.
- (3) The standard accreditation conditions apply as well as any special conditions stated in the accreditation.
- (4) If a standard accreditation condition conflicts with any of the special conditions, the standard accreditation condition prevails to the extent of the inconsistency.
- (5) As well as imposing a condition, section 135BI<sup>40</sup> also imposes a penalty for not complying with the conditions.

### **135AV Obligation to give information when GEC created**

If an accredited generator creates a GEC, the generator must immediately give the regulator the following information—

- (a) information relevant to the calculation of the eligible gas-fired electricity for which the GEC was created;
- (b) information that shows the accredited power station's baseline has been exceeded.

### **135AW Obligation to keep documents used for GEC creation**

An accredited generator must, unless the generator has a reasonable excuse, keep all documents the generator uses to work out eligible gas-fired electricity for the creation of a GEC by the generator for 5 years after the creation of the GEC.

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39 Division 5, subdivision 3 (Other amendments, cancellation and suspension)

40 Section 135BI (Accreditation conditions must not be contravened)

**135AX Compliance with directions by regulator**

If an accredited generator is given a GEC surrender direction or a direction under section 135CF or 135JC(2),<sup>41</sup> the generator must comply with the direction.

**135AY Condition not to improperly create GECs**

An accredited generator must comply with section 135DO.<sup>42</sup>

**135AZ Notice to regulator of particular matters**

An accredited generator must give the regulator notice within 20 business days after—

- (a) a change in the economic operator of the power station; or
- (b) a change to the accredited power station that may affect the generation of electricity or the working out of eligible gas-fired electricity generated by the power station; or
- (c) the happening of an arrangement or circumstance that may, under part 3, division 5, subdivision 4,<sup>43</sup> change the baseline for the power station's baseline customers; or
- (d) a change in a factor used to work out eligible gas-fired electricity generated by the power station.

**135B Periodic GEC reviews**

- (1) An accredited generator must, as soon as practicable after the end of each of the following periods during which the accreditation is in force, review (a *GEC review*) the accuracy of information the accredited generator has used to work out eligible gas-fired electricity generated by the power station in the year to date—

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41 Sections 135CF (Directions for working out eligible gas-fired electricity) and 135JC (Decided method must be applied)

42 Section 135DO (Offence of improper creation of GEC)

43 Part 3, division 5, subdivision 4 (Changes to baseline)

- (a) the period notified by the regulator to the accredited generator;
  - (b) if no period has been notified—each quarter.
- (2) In carrying out a GEC review, the accredited generator must comply with the eligible electricity guidelines.<sup>44</sup>

### **135BA Obligation to take action because of improper creation of GECs or GEC review**

- (1) This section applies if—
  - (a) an accredited generator discovers the generator has not complied with section 135DO;<sup>45</sup> or
  - (b) the result of a GEC review is that the information an accredited generator has used to work out eligible gas-fired electricity is not accurate.
- (2) The generator must take appropriate action—
  - (a) to correct the working out of the relevant eligible gas-fired electricity; and
  - (b) to ensure the generator does not create more than 1 GEC for each MWh of eligible gas-fired electricity; and
  - (c) if the generator did not comply with section 135DO before carrying out the review—to correct the effect of the failure to comply.

#### *Examples of appropriate action—*

- when the accredited generator next creates GECs, the generator creates less GECs than the generator is entitled to create, to ensure the entitlement is not exceeded at that time
- acquiring enough GECs (either by creation or transfer) to surrender the number of GECs equivalent to the number of GECs the accredited generator created improperly and that have since been transferred to others

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44 See section 135CK (Guidelines).

45 Section 135DO (Offence of improper creation of GEC)

See also section 135DP (Defence to proceeding for improper creation of GEC).

- (3) After taking the action, the accredited generator must give the regulator a notice describing the action taken and the reasons for taking it.

### **135BB Obligation to keep GEC review documents**

An accredited generator must, unless the generator has a reasonable excuse, keep the following documents in relation to a GEC review for 5 years after the end of the year in which the review was carried out—

- (a) documents the generator used to make the GEC review;
- (b) if, because of the review, action was taken under section 135BA—documents showing what the action was and the reasons for taking it.

### **135BC Access to power station**

An accredited generator must, on the giving of reasonable notice, allow, or make arrangements that allow, safe access to the accredited power station by an approved auditor, an inspection officer or a person authorised by the regulator to—

- (a) obtain information relevant to the accreditation; or
- (b) monitor compliance with this chapter or the conditions of the accreditation.

### **135BD Obligation to provide information for annual loss factor**

An accredited generator must, as soon as practicable after receiving a request from the regulator, give the regulator information the generator has that the regulator reasonably requires to allow the regulator to decide the accredited power station's annual loss factor.

### **135BE Annual fee and return**

- (1) An accredited generator must, on or before the relevant day in each year during which the accreditation is in force (the *current year*), give the regulator the following for each power station for which the generator is accredited—

- (a) an annual electricity generation return for the last year, in the approved form;
  - (b) the annual fee for the current year, as prescribed under a regulation.
- (2) In this section—
- relevant day* means—
- (a) generally—the last business day in April; or
  - (b) if the regulator has, by notice to all accredited generators given before the day mentioned in paragraph (a), fixed a later day—the later day.

### **135BF Obligation to keep documents used to make annual return**

An accredited generator must, unless the generator has a reasonable excuse, keep all documents the generator uses to make each electricity generation return given under section 135BE for 5 years after the giving of the return.

### **135BG Conditions imposed under a regulation**

An accredited generator must comply with any conditions of accreditation prescribed under a regulation.

### **135BH Amounts payable under chapter or accreditation**

An accredited generator must pay the regulator all amounts that this chapter or the accreditation requires the accredited generator to pay the regulator.

### **135BI Accreditation conditions must not be contravened**

An accredited generator must comply with the conditions of the accreditation.

Maximum penalty—500 penalty units.

## **Division 4            Dealings with accreditation**

### **Subdivision 1        Transfers**

#### **135BJ Transfer only by application**

- (1) An accreditation may be transferred only under this subdivision.
- (2) A purported transfer of an accreditation not made under this subdivision is of no effect.

#### **135BK Applying for transfer**

- (1) An accredited generator may apply to the regulator to transfer the accreditation.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be made by the accredited generator and the proposed transferee; and
  - (c) state reasons for the proposed transfer; and
  - (d) if the accredited generator is not the economic operator of the accredited power station—be accompanied by a written nomination of the proposed transferee by the economic operator; and
  - (e) if the proposed transferee is, or proposes to become, the economic operator of the accredited power station—be accompanied by evidence that the transferee is, or will become, the economic operator; and
  - (f) be accompanied by the fee prescribed under a regulation.

#### **135BL Deciding transfer application**

- (1) The regulator must decide whether to make or refuse to make the transfer.



- (2) If the regulator decides to refuse to make the transfer, the regulator must, as soon as practicable, give the applicants an information notice about the decision.
- (3) The regulator may impose conditions on giving the approval.

## **Subdivision 2      Surrenders**

### **135BM Applying to surrender**

- (1) An accredited generator may apply to surrender the accreditation.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state reasons for the proposed surrender; and
  - (c) be accompanied by the fee prescribed under a regulation.

### **135BN Deciding surrender application**

- (1) The regulator must decide whether to approve or refuse the surrender.
- (2) The regulator may impose conditions on giving the approval.

*Example of a possible condition—*

a requirement that the regulator be given a final electricity generation return

- (3) If the regulator decides to refuse the surrender or impose a condition on the surrender, the regulator must, as soon as practicable, give the applicant an information notice about the decision.
- (4) Subsection (3) does not apply for a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

**135BO Effect of surrender**

- (1) This section applies if the surrender of an accreditation is approved and all conditions of the approval have been complied with.
- (2) The accreditation ceases to have effect.
- (3) If, immediately before this section applies, the former accredited generator was the registered owner of a GEC, the former accredited generator is taken to be registered under part 6 as a scheme participant immediately after this section applies.

**Division 5                      Amendment, cancellation and suspension of accreditation****Subdivision 1                  Amendment by application****135BP Applying for amendment**

- (1) An accredited generator may apply to the regulator to amend the accreditation in a stated way, other than to—
  - (a) amend a condition imposed under division 3; or
  - (b) add another power station to the accreditation.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) state reasons for the proposed amendment; and
  - (c) be accompanied by the fee prescribed under a regulation.

**135BQ Deciding application**

- (1) The regulator must decide to make or refuse to make the amendment.
- (2) If the decision is to make the amendment, the regulator must, as soon as practicable, make the amendment to the accreditation and give the applicant notice of the decision.

- (3) If the decision is to refuse to make the amendment, the regulator, must, as soon as practicable, give the applicant an information notice about the decision.

## **Subdivision 2      Amendment by regulator without proposed action notice**

### **135BR Amendments for which proposed action notice not required**

The regulator may amend an accreditation at any time by giving the accredited generator notice of the amendment and recording particulars of the amendment in the register if the amendment—

- (a) is to correct a clerical or formal error; or
- (b) does not significantly affect the interests of the accredited generator or anyone else and the accredited generator has, in writing, agreed to the amendment.

## **Subdivision 3      Other amendments, cancellation and suspension**

### **135BS Partial suspension for non-payment of annual fee**

- (1) This section applies if an accredited generator does not pay an annual fee as required under section 135BE.
- (2) While the annual fee remains unpaid, the accreditation is suspended.
- (3) If the annual fee is paid, the suspension ends.
- (4) The suspension is a complete suspension of the right to create GECs.
- (5) Also, until the suspension ends, the accredited generator can not—
  - (a) transfer any GECs; or
  - (b) accept the transfer of any GECs.

- (6) The suspension does not—
- (a) affect the accredited generator's ownership of any GEC the generator owned immediately before the suspension;<sup>46</sup> or
  - (b) prevent the accredited generator from making a surrender application for a GEC mentioned in paragraph (a).
- (7) This section does not limit the regulator's powers under section 135BT.

### **135BT Regulator's power to amend, cancel or suspend**

- (1) The regulator may, if the conditions under section 135BU have been met, amend or cancel an accreditation or suspend an accredited generator's right, under section 135AT(1)(a),<sup>47</sup> to create GECs.
- (2) The suspension must be one of the following types—
- (a) a suspension that has the effect that, until it ends, the accredited generator can not create any GECs for eligible gas-fired electricity generated by the accredited power station during the period of the suspension (a *complete suspension* of the right to create GECs);
  - (b) a suspension that does not affect the right to, after the suspension ends, create GECs for eligible gas-fired electricity generated by the accredited power station during the period of the suspension, subject to section 135DG (a *limited suspension* of the right to create GECs).<sup>48</sup>
- (3) A complete or limited suspension of the right to create GECs does not—

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46 See sections 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer).

47 Section 135AT (Right to create, mortgage and transfer GEC)

48 Section 135DG (Time limitation on creation right)

- (a) affect the accredited generator's ownership of any GEC the generator owned immediately before the suspension;<sup>49</sup> or
- (b) prevent the accredited generator from—
  - (i) making a surrender application for a GEC mentioned in paragraph (a); or
  - (ii) transferring a GEC mentioned in paragraph (a); or
  - (iii) accepting a transfer of a GEC.
- (4) A complete or limited suspension is subject to any suspension under section 135BS.

### **135BU Conditions for other amendments and for cancellation or suspension by regulator**

- (1) For section 135BT(1), the conditions are that—
  - (a) the regulator considers the amendment, cancellation or suspension necessary or desirable; and
  - (b) an event mentioned in subsection (2) has happened; and
  - (c) the procedure under sections 135BV to 135BY is followed.
- (2) For subsection (1)(b), an event is that the accredited generator—
  - (a) obtained the accreditation because of a materially false or misleading declaration or representation, made orally or in writing; or
  - (b) has not complied with a provision of this chapter or a condition of the accreditation; or
  - (c) has not complied with a provision of the *Trade Practices Act 1974* (Cwlth), part IV,<sup>50</sup> in relation to the accreditation or the creation or transfer of GECs; or
  - (d) has created GECs under the accreditation and—

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49 See sections 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer).

50 *Trade Practices Act 1974* (Cwlth), part IV (Restrictive trade practices)

- (i) the generator is not the economic operator of the accredited power station; and
- (ii) either—
  - (A) the generator has not been nominated by the economic operator; or
  - (B) any nomination of the generator by the economic operator has been withdrawn.<sup>51</sup>

### **135BV Notice of proposed action**

- (1) The regulator must give the accredited generator notice stating each of the following—
  - (a) the action (the *proposed action*) the regulator proposes to take under this division;
  - (b) the grounds for the proposed action;
  - (c) the facts and circumstances that are the basis for the grounds;
  - (d) if the proposed action is to amend—the proposed amendment;
  - (e) if the proposed action is to suspend—
    - (i) the proposed suspension period; and
    - (ii) whether the proposed suspension is a complete or limited suspension of the right to create GECs;
  - (f) that the accredited generator may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the notice is given.

### **135BW Considering submissions**

- (1) The regulator must consider any written submission made under section 135BV(1)(f) by the accredited generator within the period stated in the notice.

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<sup>51</sup> See section 135AS (Withdrawal of nomination to be accredited generator).

- (2) If the regulator at any time decides not to take the proposed action, the regulator must, as soon as practicable, give the accredited generator notice of the decision.

### **135BX Decision on proposed action**

- (1) If, after complying with section 135BW, the regulator still believes a ground exists to take the proposed action, the regulator may decide to—
  - (a) if the proposed action was to amend—make the amendment; or
  - (b) if the proposed action was to suspend for a stated period—suspend for no longer than the proposed suspension period; or
  - (c) if the proposed action was to cancel—
    - (i) cancel the accreditation; or
    - (ii) suspend it for a stated period.
- (2) If the regulator decides to suspend the accreditation under subsection (1)(c)(ii), the regulator must decide whether it is a complete or limited suspension.

### **135BY Notice and taking of effect of proposed action decision**

- (1) The regulator must, as soon as practicable after making a decision under section 135BX, give the accredited generator an information notice about the decision.
- (2) The decision takes effect on the later of the following—
  - (a) the day the information notice is given;
  - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to amend, cancel or suspend because of a conviction, the amendment, cancellation or suspension—
  - (a) does not take effect until—
    - (i) the period to appeal against the conviction ends; and

- (ii) if an appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
- (b) has no effect if the conviction is quashed on appeal.

**135BZ Effect of cancellation**

- (1) This section applies if an accreditation is cancelled.
- (2) The accreditation ceases to have effect.
- (3) If, immediately before the cancellation, the former accredited generator was the registered owner of a GEC, the former accredited generator is taken to be registered under part 6 as a scheme participant immediately after the cancellation.

**135C Final return on cancellation**

If the accreditation is cancelled, the former accredited generator must, as soon as practicable, give the regulator an annual electricity generation return under section 135BE(1)(a) for the period from the end of the last year to the day the cancellation took effect.

Maximum penalty—100 penalty units.

**Part 3                      Eligible gas-fired electricity****Division 1                      Working out eligible gas-fired electricity****Subdivision 1                      Preliminary****135CA Operation of div 1**

- (1) This part provides for what is the eligible gas-fired electricity generated by an accredited power station.



- (2) If the power station has more than 1 baseline customer, the eligible gas-fired electricity must be worked out separately for each of the customers who have a baseline other than 0.
- (3) For applying subsection (2), a reference in this division to the power station is taken to be a reference to the power station to the extent it supplies gas-fired electricity to each of its customers.

## **Subdivision 2      Power stations with nameplate capacity of more than 500kW**

### **135CB Application of sdiv 2**

This subdivision applies if the power station's nameplate capacity is more than 500kW.

### **135CC General method**

Subject to sections 135CD to 135CF, the eligible gas-fired electricity is worked out using the following formula (the *general method*)—

$$EE = (SO \text{ Gen} \times \%EF \times QUF \times LF) - BL$$

where—

*EE* is the eligible gas-fired electricity, measured in MWh.

*SO Gen* is electricity sent out from the power station, less electricity imported into the power station, measured in MWh.

*%EF* is the proportion of electricity generated from an eligible fuel.

*QUF* is the power station's annual QUF.

*LF* is the power station's annual loss factor.

*BL* is the baseline for the baseline customer of the power station.

### 135CD Alternate methods for direct supply arrangement

- (1) This section applies if a power station sends out electricity to someone else under a direct supply arrangement.
- (2) The accredited generator for the power station, or an applicant for the accreditation, may apply in writing to the regulator for approval to use direct method A or direct method B to work out the eligible gas-fired electricity to the extent it is sent out under the arrangement.
- (3) The regulator must decide—
  - (a) whether to grant or refuse the approval; and
  - (b) if the regulator decides to grant the approval—whether direct method A or direct method B must be used for the working out.
- (4) If the regulator grants the approval, the direct method as decided by the regulator must be used to work out the eligible gas-fired electricity to the extent it is sent out under the direct supply arrangement.
- (5) If the regulator decides to refuse to grant the approval, the regulator must, as soon as practicable, give the applicant an information notice about the decision.
- (6) In this section—

*direct method A* means using the formula—

$$EE = (ED \times \%EF \times QUF) - BL$$

*direct method B* means using the formula—

$$EE = (ED \times \%EF \times QUF \times LF) - BL$$

*EE* means the eligible gas-fired electricity, measured in MWh.

*ED* means the electricity delivered to the person mentioned in subsection (1), less electricity imported into the power station multiplied by any relevant annual loss factor decided by the regulator, measured in MWh.

*%EF* means the proportion of electricity generated from an eligible fuel.

*QUF* means the power station's annual QUF.

*BL* means the baseline for the baseline customer of the power station.

*LF* means any annual loss factor the regulator decides for the power station.

### **135CE Adjustment for general method if a direct method used**

- (1) This section applies if—
  - (a) the regulator has approved the use of a direct method for a direct supply arrangement; and
  - (b) electricity is sent out from the power station other than under the arrangement.
- (2) The eligible gas-fired electricity sent out from the power station other than under the arrangement must be worked out under the general method.
- (3) However, in applying the general method, all amounts of electricity used in the application of the direct method must be deducted from the electricity sent out from the power station.

### **135CF Directions for working out eligible gas-fired electricity**

- (1) The regulator may give an accredited generator written directions about how to work out any factor used to work out the eligible gas-fired electricity under this subdivision.
- (2) In working out the factor, the direction must be complied with.<sup>52</sup>
- (3) The directions must be accompanied by or include an information notice about the decision to give the directions.
- (4) Subsection (3) does not apply if the accredited generator has agreed to the working out as required under the direction.

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<sup>52</sup> See also section 135AX (Compliance with directions by regulator).

### **Subdivision 3      Power stations with nameplate capacity of 500kW or less**

#### **135CG Application of sdiv 3**

This subdivision applies if the power station's nameplate capacity is 500kW or less.

#### **135CH Power to prescribe method**

If the baseline for all baseline customers of the power station is 0, a regulation may prescribe what is the eligible gas-fired electricity.

#### **135CI Obtaining approval to use method for working out**

- (1) This section applies only if the eligible gas-fired electricity is not prescribed.
- (2) The accredited generator for the power station, or an applicant for the accreditation, may apply in writing to the regulator for approval to use a proposed method to work out the eligible gas-fired electricity.
- (3) The proposed method may involve—
  - (a) the use of averages or estimates; or
  - (b) the application of annual or baseline loss factors or QUFs for the power station.
- (4) The regulator must decide whether to grant or refuse the approval.
- (5) The regulator may grant the approval only if satisfied the proposed method is generally consistent with the approach of the general method or, to the extent the proposed method relates to a direct supply arrangement, a direct method.
- (6) If the regulator grants the approval the proposed method must be used to work out the eligible gas-fired electricity.
- (7) If the regulator decides to refuse to grant the approval, the regulator must, as soon as practicable, give the applicant an information notice about the decision.

**135CJ Methods that otherwise apply**

If the eligible gas-fired electricity is not prescribed and no method is approved under section 135CI for the power station, the eligible gas-fired electricity is worked out under subdivision 2 as if the power station's nameplate capacity is more than 500kW.

**Division 2 Eligible electricity guidelines****135CK Guidelines**

The regulator may issue guidelines (*eligible electricity guidelines*) about the data that must be used under division 1 to work out eligible gas-fired electricity.<sup>53</sup>

**135CL Publication of guidelines**

- (1) The regulator must give each accredited generator to whom the eligible electricity guidelines apply a copy of the guidelines.
- (2) The guidelines do not take effect for an accredited generator to whom they apply until the later of the following days—
  - (a) their day of effect, as stated in the guidelines;
  - (b) the day the accredited generator's accreditation takes effect.

**Division 3 Queensland usage factors****135CM Annual QUFs**

- (1) Subject to section 135CP, the regulator must, for each financial year during which a power station is accredited, fix an estimated proportion of electricity sent out from the power

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<sup>53</sup> For the effect of the guidelines for the generators, see sections 135DP (Defence to proceeding for improper creation of GEC) and 135EK(2) (Decision on proposed action).

station that will be used during that year for the State's electricity load and not the electricity load of any other State.

- (2) The estimated proportion is the power station's *annual QUF*.
- (3) The annual QUF must be fixed by gazette notice.
- (4) Until the notice is gazetted, the last annual QUF fixed for the power station continues to apply.

### **135CN Baseline QUFs**

- (1) Subject to section 135CP, the regulator must, for each accredited power station, fix the proportion of electricity sent out from the power station that was, during the baseline year, used for the State's electricity load and not the electricity load of any other State.
- (2) However, subsection (1) does not apply if, under section 135DA,<sup>54</sup> the power station's baseline is 0 for all of its baseline customers.
- (3) The proportion is the power station's *baseline QUF*.
- (4) The baseline QUF must be fixed by gazette notice.
- (5) In fixing the baseline QUF, the regulator must consider relevant data for the baseline year for the power station.

### **135CO Transmission zones**

- (1) A regulation may, for the purpose of fixing annual or baseline QUFs, prescribe areas based on electricity grid areas in which incoming and outgoing electricity is predominately transported by high voltage transmission lines that are heavily loaded compared with their capacity.
- (2) An area prescribed under subsection (1) is called a *transmission zone*.
- (3) The area may be all of any State or include part of any State.

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54 Section 135DA (Baseline for other customers)

**135CP Power stations connected to national grid within same transmission zone**

- (1) The same annual QUF must be fixed for each power station that—
  - (a) supplies electricity into the same transmission grid or supply network within the same transmission zone; and
  - (b) is directly or indirectly connected to the national grid.
- (2) The same baseline QUF must be fixed for each power station that—
  - (a) has the same baseline year; and
  - (b) supplies electricity into the same transmission grid or supply network within the same transmission zone; and
  - (c) is directly or indirectly connected to the national grid.
- (3) In fixing the annual and baseline QUF, the regulator must consider each of the following matters—
  - (a) the electricity generated within the transmission zone;
  - (b) the electricity imported into the transmission zone;
  - (c) electricity sent out of the transmission zone and the relevant annual or baseline QUFs of the transmission zones to which it is initially sent out;
  - (d) the electricity load and losses within the transmission zone;
  - (e) whether end users in the transmission zone are located in the State or another State.
- (4) In considering the matters for fixing the annual QUF, the regulator must use estimates or forecasts of relevant data for the next financial year.
- (5) However, the regulator may use data for the previous financial year if—
  - (a) the estimates or forecasts are not available to the regulator; or
  - (b) the regulator considers the estimates or forecasts are inconsistent with the basis on which the transmission zone was prescribed.

**135CQ QUFs may be differential as to time**

In fixing an annual or baseline QUF, the regulator may fix a different proportion for different periods.

**Division 4                      Loss factors****135CR Annual loss factor**

- (1) Subject to section 135AO(2),<sup>55</sup> the regulator must, for each financial year during which a power station is accredited, fix a factor that represents the power station's estimated contribution during that year to electricity losses in the transmission grid or supply network through which it supplies electricity.
- (2) The factor is the power station's *annual loss factor*.
- (3) The annual loss factor for a particular financial year—
  - (a) must be fixed by an information notice given to the accredited generator; and
  - (b) takes effect on the day of effect stated in the notice, or if it states no day of effect, the day the notice is given.
- (4) Until the annual loss factor for a particular financial year takes effect, the last annual loss factor fixed for the power station continues to apply for that year.

**135CS Baseline loss factor**

- (1) The regulator must, for each accredited power station, fix a factor that represents the power station's contribution, during its baseline year, to electricity losses in the transmission grid or supply network through which it supplies electricity.
- (2) However, subsection (1) does not apply if—
  - (a) under section 135DA,<sup>56</sup> the baseline is 0; or

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55 Section 135AO (Provisions for deciding ancillary matters for power station)

56 Section 135DA (Baseline for other customers)



- (b) under section 135AO(2),<sup>57</sup> the regulator need not work out the baseline loss factor.
- (3) The factor is the power station's *baseline loss factor*.
- (4) The baseline loss factor —
  - (a) must be fixed by an information notice given to the accredited generator; and
  - (b) takes effect on the day of effect stated in the notice, or if it states no day of effect, the day the notice is given.

### **135CT Provisions for working out loss factors**

- (1) If the overall effect of a power station's supply to a transmission grid or supply network is to reduce electricity losses in the grid, its annual or baseline loss factor may be fixed as 1 or more than 1.
- (2) In fixing an annual or baseline loss factor for a power station the regulator may apply a relevant loss factor decided under the National Electricity Rules.
- (3) If a power station supplies electricity through a transmission grid and a supply network, its annual or baseline loss factor may consist of different components for each grid or network.

### **135CU Publication of loss factors**

If the regulator fixes a loss factor under this division, the regulator must, as soon as practicable, publish the loss factor by gazette notice.

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<sup>57</sup> Section 135AO (Provisions for deciding ancillary matters for power station)

## **Division 5                    Baselines for baseline customers**

### **Subdivision 1            Introduction**

#### **135CV What is a power station's *baseline* for a baseline customer**

- (1) An accredited power station's *baseline*, for a baseline customer of the power station, is the figure as provided for under this division, that, as at 24 May 2000, represented the power station's annual generation of electricity from eligible fuels delivered to the customer.
- (2) The figure must be in MWh.

#### **135CW Purpose of baseline**

The purpose of the baseline is to ensure only new or additional gas-fired electricity generated after 24 May 2000 can be used to create GECs.

### **Subdivision 2            Baseline for existing baseline customers**

#### **135CX Application of sdiv 2**

- (1) This subdivision applies for working out the baseline for a baseline customer of an accredited power station, or of a power station the subject of an application for accreditation, to whom the power station supplies electricity generated from eligible fuels under an arrangement that was in force on 24 May 2000.
- (2) However, the baseline worked out under this subdivision is subject to subdivision 4.<sup>58</sup>

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58    Subdivision 4 (Changes to baseline)

### 135CY General method for working out baseline

- (1) This section applies subject to section 135CZ.
- (2) The regulator must work out an amount (the *sent out amount*) that fairly represents the amount of electricity the power station generated from eligible fuels and sent the customer during the following period—
  - (a) generally—the 1999–2000 financial year;
  - (b) if the power station was commissioned or first started to generate electricity from eligible fuels during the 1999–2000 financial year—its first 12 months of commercial operation.
- (3) However, if the regulator considers the period does not represent the power station’s typical annual generation for the customer as at 24 May 2000, the regulator may fix the sent out amount by—
  - (a) reference to another 12 month period that the regulator considers is more representative of its typical annual generation as at 24 May 2000; or
  - (b) extrapolating the average monthly generation from a part of the period that the regulator considers is more representative of its typical annual generation as at 24 May 2000.
- (4) The baseline for the customer is worked out using the following formula—

$$BL = SO\ Gen \times \%EF \times QUF^B \times LF^B$$

where—

*BL* is the baseline for the baseline customer.

*SO Gen* is the electricity sent out from the power station, less electricity imported into the power station, measured in MWh in the baseline year.

*%EF* is the proportion of electricity generated from an eligible fuel in the baseline year.

*QUF<sup>B</sup>* is the power station’s baseline QUF.

*LF<sup>B</sup>* is the power station’s baseline loss factor.

- (5) For subsection (2)(b), a power station was commissioned—
- (a) when, under the relevant contract to build the power station, it reached a stage by which the building of the station was, in a practical sense, complete; or
  - (b) if there was no stage as mentioned in paragraph (a)—4 months after the power station first sent out electricity.

### **135CZ Alternate method for direct supply arrangement**

- (1) This section applies if—
- (a) the supply to the customer is under a direct supply arrangement; and
  - (b) the accredited generator for the power station, or an applicant for the accreditation, has agreed with the regulator to work out the customer's baseline on the basis of electricity delivered to the customer.
- (2) The regulator must work out an amount (the *delivered amount*) that fairly represents the amount of electricity the power station generated from eligible fuels and delivered to the customer during the period mentioned in section 135CY(2).
- (3) However, if the regulator considers the period does not represent the power station's typical annual delivered amount for the customer as at 24 May 2000, the regulator may fix the delivered amount by—
- (a) reference to another 12 month period that the regulator considers is more representative of its typical annual delivery as at 24 May 2000; or
  - (b) extrapolating the average monthly generation from a part of the period that the regulator considers is more representative of its typical annual delivery as at 24 May 2000.
- (4) The baseline for the customer is worked out using the following formula—

- (a) if the regulator has fixed a baseline loss factor for the power station—

$$\mathbf{BL} = \mathbf{ED} \times \% \mathbf{EF} \times \mathbf{QUF}^B \times \mathbf{LF}^B$$

- (b) if the regulator has not fixed a baseline loss factor for the power station—

$$\mathbf{BL} = \mathbf{ED} \times \% \mathbf{EF} \times \mathbf{QUF}^B$$

- (5) In this section—

*BL* means the baseline for the baseline customer.

*ED* means the electricity delivered to the customer, less electricity imported into the power station multiplied by any relevant baseline loss factor decided by the regulator, measured in MWh, in the baseline year.

*%EF* means the proportion of electricity generated from an eligible fuel in the baseline year.

*LF<sup>B</sup>* means the power station's baseline loss factor.

*QUF<sup>B</sup>* means the power station's baseline QUF.

### **135D Information notice about decision**

The regulator must give the customer an information notice about the baseline worked out under this subdivision.

## **Subdivision 3 Baseline for other baseline customers**

### **135DA Baseline for other customers**

- (1) This section applies if an accredited power station, or a power station the subject of an application for accreditation, sends electricity generated from eligible fuels to a person who was not a baseline customer of the power station on 24 May 2000.
- (2) Subject to subdivision 4, the baseline for the customer is 0.

## Subdivision 4 Changes to baseline

### 135DB Cessation of supply

- (1) If a baseline customer of an accredited power station ceases to be a customer of the station, the power station ceases to have a baseline for the customer.
- (2) The power station's baselines for its other baseline customers do not change.

### 135DC Adjustment for customer transfer to another accredited power station

- (1) This section applies if—
  - (a) a baseline customer ceases to be a customer of an accredited power station (the *first power station*); and
  - (b) within 12 months of the cessation, the customer becomes a customer of another accredited power station under a direct supply arrangement that provides for the supply of electricity generated from eligible fuels (the *second station*).
- (2) The second station has a separate baseline for the customer.
- (3) The amount of the separate baseline is the amount of the first station's baseline for the customer immediately before the customer ceased to be a customer of the first station.

### 135DD Adjustment for other customer transfers

If—

- (a) a baseline customer (the *former customer*) ceases to be a customer of an accredited power station; and
- (b) within 12 months of the cessation, the customer becomes a customer of another customer (the *other customer*) of the power station, other than NEMMCO;

the baseline for the other customer increases by the amount of the power station's baseline for the former customer immediately before the former customer ceased to be a customer of the power station.

## **Part 4                      GECs**

### **Division 1                Creation and registration of GECs**

#### **135DE Electricity required to create GEC**

A GEC may be created for each whole MWh of eligible gas-fired electricity, other than auxiliary load for a power station.<sup>59</sup>

#### **135DF Prohibition on creation if certificate created under corresponding law**

Despite section 135DE, a GEC can not be created for eligible gas-fired electricity if any of the following certificates has been created in relation to the generation of the electricity—

- (a) an abatement certificate under the *Electricity Supply Act 1995* (NSW), part 8A;<sup>60</sup>
- (b) a certificate (however called) under a law of the Commonwealth or another State the purposes of which include the promotion of the reduction of greenhouse gases.

#### **135DG Time limitation on creation right**

A GEC may be created only if the month in which the electricity was generated was no more than 12 months before the month in which the GEC is created.

#### **135DH How a GEC is created**

- (1) A GEC is created—
  - (a) either—

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<sup>59</sup> See also section 135AT (Right to create, mortgage and transfer GEC).

<sup>60</sup> *Electricity Supply Act 1995* (NSW), part 8A (Reduction of greenhouse gas emissions)

- (i) by paying the regulator the fee prescribed under a regulation to decide whether the GEC was validly created; or
    - (ii) if, under section 135DL, the regulator decides to make the decision required under section 135DJ, without payment of the prescribed fee;<sup>61</sup> and
  - (b) by electronically noting in the GEC register, in the way approved by the regulator, the creation of the GEC.
- (2) The approved way must require the giving of the following information—
- (a) an accreditation code for the accredited generator and power station;
  - (b) the amount of eligible gas-fired electricity generated for which the GEC was created;
  - (c) the period within which the eligible gas-fired electricity was generated.

### **135DI When GEC takes effect**

A GEC takes effect and continues to be in force only if it has been registered by the regulator.

### **135DJ Deciding on validity and registration**

- (1) The regulator must, as soon as practicable after a GEC is created, decide whether it was validly created.
- (2) In deciding whether it is practicable for the regulator to make the decision, regard must be had to any need to seek, under section 135IZ,<sup>62</sup> information and whether any information sought under the section has been given.
- (3) In making the decision the regulator may have regard to any relevant eligible electricity guidelines.

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61 Sections 135DL (Power to register GEC without prescribed fee) and 135DJ (Deciding on validity and registration)

62 Section 135IZ (Additional information or inspection may be required)



- (4) If the regulator decides the GEC was validly created, the regulator must, as soon as practicable—
  - (a) register the GEC in the GEC register by complying with section 135JG;<sup>63</sup> and
  - (b) give the accredited generator who created it a notice stating—
    - (i) that the GEC has been registered; and
    - (ii) the information about the GEC that, under section 135JG, the regulator must record in the GEC register.
- (5) If the regulator decides the GEC was not validly created, the regulator must, as soon as practicable give the accredited generator an information notice about the decision.<sup>64</sup>

### **135DK Automatic registration**

- (1) The regulator may establish a system under which the following are done or made automatically by electronic means—
  - (a) the decision under section 135DJ about whether a GEC was validly created;
  - (b) if the decision is that the GEC was validly created—the steps under section 135DJ(4).
- (2) However, the use of the automated system may allow a decision that the GEC was validly created only if the information noted under section 135DH on its face shows that the requirements under this chapter for the creation of a GEC have been met.
- (3) For chapter 10 and schedule 1,<sup>65</sup> a decision made under the automated system is taken to be a decision of the regulator under section 135DJ.

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63 Section 135JG (Required information for GEC register)

64 See also section 135JJ(1) (General provisions for register keeping).

65 Chapter 10 (Review of and appeals against decisions) and schedule 1 (Appeals against administrative decisions)

**135DL Power to register GEC without prescribed fee**

- (1) The regulator may decide whether a GEC was validly created even if the prescribed fee under section 135DH(1)(a)(i) has not been paid.
- (2) If the regulator makes a decision under subsection (1), the regulator may recover the amount of the prescribed fee as a debt.

**135DM Effect of registration**

If a GEC is registered, it is, other than for the following provisions, taken to have been validly created—

- (a) part 2, division 3;
- (b) divisions 2, 3 and 5.<sup>66</sup>

**135DN Ownership of GEC on registration**

- (1) If a GEC is registered, the accredited generator that created it becomes its registered owner.
- (2) The ownership is subject to—
  - (a) a mortgage of the GEC created by the accredited generator or to which the accredited generator is a party; and
  - (b) a transfer or surrender of the GEC made under division 4.
- (3) This section is subject to sections 135DO(4), 135DW and division 5.<sup>67</sup>

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66 Part 2, division 3 (Standard accreditation conditions)

Divisions 2 (Improper creation or receipt of GECs), 3 (Term of GECs) and 5 (Amendment, cancellation and suspension of GECs)

67 Sections 135DO (Offence of improper creation of GEC) and 135DW (Ownership of GEC on transfer) and division 5 (Amendment, cancellation and suspension of GECs)

## **Division 2                      Improper creation or receipt of GECs**

### **135DO Offence of improper creation of GEC**

- (1) A person must not create, or purport to create, a GEC if the person—
  - (a) is not an accredited generator; or
  - (b) knows that the creation or purported creation of the GEC is not, or would not be, valid.

Maximum penalty—750 penalty units or 6 months imprisonment.

- (2) A person must not, unless the person has a reasonable excuse—
  - (a) create a GEC if the creation of the GEC is not valid; or
  - (b) purport to create a GEC the creation of which would not be valid.

Maximum penalty—500 penalty units.

- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).<sup>68</sup>
- (4) In a proceeding for an offence against this section, the fact that the GEC has been registered must be disregarded.

### **135DP Defence to proceeding for improper creation of GEC**

It is a defence in a proceeding against a person for a failure to comply with section 135DO(1)(b) or (2) for the person to prove that, to the extent they are relevant, the person complied with the eligible electricity guidelines.

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<sup>68</sup> See also section 240A (Executive officers must ensure corporation complies with Act).

**135DQ Direction to accredited generator to surrender GECs**

- (1) This section applies if an accredited generator has not complied with section 135AY or 135BA and, to the extent they are relevant, the generator did not comply with the eligible electricity guidelines.<sup>69</sup>
- (2) The regulator may give the accredited generator a notice (a ***GEC surrender direction***) directing the generator to—
  - (a) make a surrender application for the number of GECs equivalent to the number of invalidly created GECs; and
  - (b) if the accredited generator does not own enough GECs to make the application—acquire, by creation or transfer under part 4, enough GECs to do so.
- (3) The notice must be accompanied by or include an information notice about the decision to make the direction.
- (4) The accredited generator must comply with the direction.  
Maximum penalty—500 penalty units.
- (5) The giving of the direction does not limit the regulator's powers under part 2, division 5 or division 5 of this part.<sup>70</sup>

**135DR Improper receipt of invalidly created GEC**

- (1) A person must not give the regulator a notice accepting the transfer of a GEC if the person knows the GEC was not validly created.  
Maximum penalty—500 penalty units.
- (2) A person must not give the regulator a notice accepting the transfer of a GEC if the person ought reasonably to have known that the GEC was not validly created.  
Maximum penalty—300 penalty units.
- (3) In a proceeding for an offence against subsection (1), if the court is not satisfied the defendant is guilty of the offence

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<sup>69</sup> Sections 135AY (Condition not to improperly create GECs) and 135BA (Obligation to take action because of improper creation of GECs or GEC review)

<sup>70</sup> Part 2, division 5 (Amendment, cancellation and suspension of accreditation) and division 5 (Amendment, cancellation and suspension of GECs)

charged but is satisfied the defendant is guilty of an offence against subsection (2), the court may find the defendant guilty of the offence against subsection (2).<sup>71</sup>

- (4) In a proceeding for an offence against this section, the fact that the GEC has been registered must be disregarded.

## **Division 3                      Term of GECs**

### **135DS Automatic expiry**

A GEC expires at the end of the second year after its vintage year.

*Example—*

A GEC registered on 1 May 2006 (2006 vintage) expires at the end of 2008.

### **135DT Surrender and cancellation**

- (1) A registered GEC ceases to be in force if it is surrendered under division 4, subdivision 3, or cancelled under division 5.
- (2) A registered GEC has no force during any period in which it is suspended under division 5.

## **Division 4                      Dealings with GECs**

### **Subdivision 1                Transfers**

#### **135DU Conditions for transfer**

- (1) The registered owner of a GEC may transfer the GEC only if—
- (a) it is in force; and
  - (b) the transferee is a scheme participant; and

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<sup>71</sup> See also section 240A (Executive officers must ensure corporation complies with Act).

- (c) section 135BS(4) or 135ID(4)<sup>72</sup> does not prevent the registered owner from transferring the GEC.
- (2) A purported transfer of a GEC that does not comply with subsection (1) is of no effect.

### **135DV Notice and taking effect of transfer**

- (1) A person who transfers a GEC must immediately give the regulator notice (a *transfer notice*) of the transfer.
- (2) The transfer notice must—
  - (a) state the names of the transferor and transferee; and
  - (b) identify the GEC; and
  - (c) be accompanied by the fee prescribed under a regulation.
- (3) The transfer does not take effect until—
  - (a) the transfer notice has been given; and
  - (b) the transferee has given the regulator notice stating that the transferee accepts the transfer.<sup>73</sup>

### **135DW Ownership of GEC on transfer**

- (1) When the transfer of a GEC takes effect, the transferee becomes its registered owner.<sup>74</sup>
- (2) Subsection (1) applies even if the person who created, or purported to create the GEC, was not entitled to create it under this chapter.
- (3) The ownership—
  - (a) is taken to be absolute and free of any other legal or equitable interest, or purported legal or equitable interest, in the GEC; but

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72 Section 135BS and 135ID (Partial suspension for non-payment of annual fee)

73 See however section 135DR (Improper receipt of invalidly created GEC).

For the requirement to record the transfer in the GEC register, see section 135JJ (General provisions for register keeping).

74 See also section 135JJ(3) and (4) (General provisions for register keeping).

- (b) is subject to—
  - (i) a mortgage of the GEC created by the transferee or to which the transferee is a party; and
  - (ii) an equity arising from the act of the registered owner; and
  - (iii) a transfer or surrender of the GEC made under this division.
- (4) Subsection (3)(a) applies—
  - (a) even if the transferee had actual or constructive notice of the interest or purported interest; and
  - (b) whether or not valuable consideration has been given for the transfer.
- (5) Subsections (1) to (3) do not apply if there has been fraud by the transferee in relation to the transfer or the registration.
- (6) This section applies subject to division 5.<sup>75</sup>

### **135DX Market operating rules and arrangements**

A regulation may—

- (a) make rules for the operation of services or systems that relate to the selling and buying of GECs; or
- (b) provide for arrangements that apply to persons who provide or use the services or systems; or
- (c) impose stated terms on the arrangements; or
- (d) provide for the legal effect or enforcement of the terms, including, for example by dispute resolution, arbitration or court proceedings.

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<sup>75</sup> Division 5 (Amendment, cancellation and suspension of GECs)

## **Subdivision 2      Mortgages**

### **135DY Mortgage of GEC**

The registered owner of a GEC may mortgage it without the approval of, or notice to, the regulator.

### **135DZ Notice of intention to exercise powers under mortgage**

- (1) This section applies if a registered owner of a GEC has mortgaged it and the owner has defaulted under the mortgage.
- (2) The mortgagee may exercise its powers under the mortgage only if the mortgagee has given the regulator notice of the mortgagee's intention to exercise powers under the mortgage that relate to the GEC.
- (3) Any purported exercise of a power under the mortgage relating to the GEC that does not comply with subsection (2) is of no effect.

### **135E      Consequence of exercising powers under mortgage**

If a mortgagee under a mortgage over a GEC exercises any power under the mortgage relating to the GEC, this chapter applies to the mortgagee as if the mortgagee were the registered owner of the GEC.

## **Subdivision 3      Surrenders**

### **135EA Surrender only by approval**

A GEC is surrendered only if an application to surrender the GEC has been made under this subdivision and the regulator has accepted the surrender.

### **135EB Who may apply for surrender**

- (1) The owner of a GEC may apply to surrender it.



- (2) The accredited generator who creates a GEC may, when the generator creates the GEC, apply to surrender it.<sup>76</sup>

### **135EC Making surrender application**

- (1) The application must be made by—
- (a) paying the regulator the fee prescribed under a regulation to decide whether to accept the surrender; and
  - (b) electronically noting in the GEC register, in the way approved by the regulator, an application to surrender the GEC.
- (2) The application must state the purpose of the proposed surrender.

*Examples—*

- to meet all or part of the 13% liability
- to comply with section 135BA(2)(c)<sup>77</sup>
- to comply with a GEC surrender direction

### **135ED Power to accept application without prescribed fee**

- (1) Despite section 135EC, the regulator may decide to accept the application and decide it even if the application is not accompanied by the prescribed fee required under the section.
- (2) If the regulator decides the application under subsection (1), the regulator may recover the amount of the prescribed fee as a debt.

### **135EE Deciding surrender application**

- (1) The regulator may accept the surrender only if the GEC is in force or was in force when the surrender application was made.<sup>78</sup>
- (2) Subsection (3) applies if—

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76 See section 135DH (How a GEC is created).

77 Section 135BA (Obligation to take action because of improper creation of GECs or GEC review)

78 See section 135DI (When GEC takes effect).

- (a) the purpose of the application is a purpose mentioned in the examples for section 135EC; and
  - (b) the regulator considers the applicant has applied to surrender too many GECs to achieve that purpose.
- (3) The regulator may accept the proposed surrender to the extent needed to achieve the purpose and—
- (a) refuse to accept the rest of the proposed surrender; or
  - (b) defer the deciding of the rest of the application for an appropriate period.
- (4) If the regulator decides not to accept all or part of the surrender the regulator must, as soon as practicable, give the applicant an information notice about the decision.

## **Division 5                  Amendment, cancellation and    suspension of GECs**

### **Subdivision 1        Preliminary**

#### **135EF Application of div 5**

- (1) This division applies if—
- (a) a GEC is registered; and
  - (b) because of information the regulator receives after the registration of the GEC, the regulator reasonably believes it was not validly created; and
  - (c) either—
    - (i) the registered owner of the GEC is the accredited generator that created it; or
    - (ii) if someone else is the registered owner—the regulator reasonably believes that, before the person became the registered owner, the person knew or ought reasonably to have known that the GEC was not validly created.
- (2) Also, if an accredited generator has not complied with a GEC surrender direction, this division applies for each GEC of

which the generator is the registered owner up to the number of GECs that the direction required the generator to apply to surrender.

- (3) This division also applies if the registered owner of a GEC gives the regulator notice asking the regulator to cancel the GEC.

## **Subdivision 2      Immediate suspension**

### **135EG Immediate suspension**

- (1) The regulator may, by notice to the registered owner, immediately suspend the GEC if the regulator reasonably suspects the owner may attempt to transfer the GEC.
- (2) The notice must—
  - (a) identify the GEC; and
  - (b) state each of the following—
    - (i) that the GEC is suspended immediately;
    - (ii) that the regulator believes the GEC was not validly created;
    - (iii) the facts and circumstances forming the basis for the belief;
    - (iv) the suspension period;
    - (v) that the registered owner may make written submissions to the regulator to show why the suspension should end; and
  - (c) include, or be accompanied by, an information notice about the decisions to give the notice and to fix the suspension period.
- (3) The suspension period must not be more than 40 business days.
- (4) The suspension has effect immediately after the registered owner is given the suspension notice.

- (5) This section does not limit the power to suspend under subdivision 3.
- (6) Section 216<sup>79</sup> does not apply to a decision under this section.

### **Subdivision 3      Amendment, cancellation or suspension (other than immediate suspension)**

#### **135EH Power to amend, cancel or suspend**

- (1) If the registered owner of the GEC has given the regulator notice asking the regulator to cancel the GEC, the regulator may cancel it.
- (2) Otherwise, the regulator may amend, cancel or suspend the GEC only by following the procedure under this subdivision.
- (3) To remove any doubt, it is declared that if the accredited generator has not complied with a GEC surrender direction, the cancellation may be made for any GEC.
- (4) However, the regulator may cancel a GEC with a different vintage year to the relevant vintage year only if the generator has no GECs of the relevant vintage year other than GECs that the regulator proposes to cancel under this subdivision.
- (5) In this section—  
*relevant vintage year* means the vintage year for the GECs that the direction required the generator to apply to surrender.

#### **135EI Notice of proposed action**

- (1) The regulator must give the registered owner notice stating each of the following—
  - (a) the action (the *proposed action*) the regulator proposes to take under this division;
  - (b) that the regulator believes the GEC was not validly created;

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79 Section 216 (Stay of operation of decision etc.)

- (c) the facts and circumstances forming the basis for the belief;
  - (d) if the proposed action is to amend—the proposed amendment;
  - (e) if the proposed action is to suspend—the proposed suspension period;
  - (f) that the registered owner may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the notice is given.

### **135EJ Considering submissions**

- (1) The regulator must consider any written submission made under section 135EI(1)(f) by the registered owner within the period stated in the notice.
- (2) If the regulator at any time decides not to take the proposed action, the regulator must, as soon as practicable, give the registered owner notice of the decision.

### **135EK Decision on proposed action**

- (1) If, after complying with section 135EJ, the regulator still believes the GEC was not validly created, the regulator may decide to—
  - (a) if the proposed action was to amend—make the amendment; or
  - (b) if the proposed action was to suspend for a stated period—suspend for no longer than the proposed suspension period; or
  - (c) if the proposed action was to cancel—
    - (i) cancel the GEC; or
    - (ii) suspend it for a stated period.
- (2) However, the regulator can not take the proposed action if the regulator is satisfied that, to the extent they are relevant, the

person who created the GEC complied with the eligible electricity guidelines.

- (3) Section 216<sup>80</sup> does not apply to a decision to suspend under this section.

### **135EL Notice and taking of effect of proposed action decision**

- (1) The regulator must, as soon as practicable after making a decision under section 135EK, give the registered owner an information notice about the decision.
- (2) The decision takes effect on the later of the following—
  - (a) the day the information notice is given;
  - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to amend or cancel because of a conviction, the amendment or cancellation—
  - (a) does not take effect until—
    - (i) the period to appeal against the conviction ends; and
    - (ii) if an appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
  - (b) has no effect if the conviction is quashed on appeal.
- (4) Also, if the decision was to suspend because of a conviction, the suspension ends if the conviction is quashed on appeal.

## **Part 5                      13% liability**

### **Division 1                Preliminary**

#### **135EM Simplified explanation of pt 5**

- (1) Sections 135EP and 135ET impose an annual liability (the

**13% liability**) on particular persons who sell or use electricity loads to surrender GECs to the regulator.

- (2) The liability only applies to—
  - (a) particular persons who have a relationship with a major grid; or
  - (b) an accredited generator for a power station connected to a small grid.
- (3) The liability only attaches to 1 person, the **liable person**, as provided for in section 135ES and division 5.<sup>81</sup>
- (4) The liability under subsection (2)(a) applies to all electricity loads, other than any of the following loads—
  - (a) a load for which, under division 5, there is no liable person;
  - (b) a load (an **exempted load**) the subject of a liable load exemption;<sup>82</sup>
  - (c) a load that, under division 7, is not a liable load (a **non-liable load**).
- (5) An electricity load to which the liability applies as mentioned in subsection (4) is called a **liable load**.
- (6) The relevant year to which the 13% liability attaches is the **liable year** for that liability.

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81 Section 135ES (Liable person) and division 5 (Liable persons in relation to major grids)

82 See division 6 (Exempted loads).

## **Division 2            The 13% liability**

### **Subdivision 1        Imposition of 13% liability in relation to major grids**

#### **135EN Application of sdiv 1**

This subdivision applies, subject to section 135EM(4), to a liable person for a liable load, other than an accredited generator for a power station connected to a small grid.

#### **135EO Liable person**

Division 5 provides for who is the liable person for the liable load.

#### **135EP Liability**

- (1) The liable person has, for each year from 2005, an annual liability to the regulator that equates to—
  - (a) for the person's liable loads generated from eligible fuels supplied under a direct supply arrangement that was in force on 24 May 2000—13% of the total of the liable loads, in MWh, above the baseline fixed for the customer to whom the load is supplied; and
  - (b) for the person's other liable loads—13% of the total of the liable loads, in MWh.
- (2) For subsection (1), if 13% of the total liable loads is a number of MWhs that ends in a fraction, the number is taken to be the whole number of MWhs, disregarding the fraction.

#### **135EQ How and when liability must be met**

- (1) The 13% liability must be met by surrendering, under part 4, division 4, subdivision 3, the number (the *required number*)



of GECs that equates to 13% of the person's liable load for the liable year.<sup>83</sup>

- (2) The surrenders must be made on or before the final surrender day for the next year after the liable year.
- (3) However, the 13% liability is taken to be complied with if—
  - (a) the liable person has, on or before the final surrender day made a surrender application for GECs; and
  - (b) should the surrenders be accepted, the required number of GECs are surrendered.

- (4) In this section—

*final surrender day* means—

- (a) generally—the last business day in April; or
- (b) if the regulator has, by notice given to the liable person, fixed a day between the last business day in April and the next penalty imposition day—that fixed day.

## **Subdivision 2      Imposition of 13% liability in relation to small grids**

### **135ER Application of sdiv 2**

This subdivision applies for a power station connected to a small grid.

### **135ES Liable person**

If there is an accredited generator for the power station and the generator creates GECs, the generator is the liable person.

### **135ET How and when liability must be met**

- (1) The liable person has, for each year from 2005, an annual liability to the regulator to surrender, under part 4, division 4, subdivision 3, the number of GECs that equates to 13% of the

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83 See however section 135FO (Credit to future 13% liability for over surrender).

GECs created by the person and registered during the liable year.<sup>84</sup>

- (2) The surrenders must be made on or before the final surrender day for the next year after the liable year.
- (3) However, the 13% liability is taken to be complied with if—
  - (a) the liable person has, on or before the final surrender day made a surrender application for GECs; and
  - (b) should the surrenders be accepted, the required number of GECs are surrendered.

- (4) In this section—

*final surrender day* means—

- (a) generally—the last business day in April; or
- (b) if the regulator has, by notice given to the liable person, fixed a day between the last business day in April and the next penalty imposition day—that fixed day.

### **Subdivision 3      General provisions for 13% liability**

#### **135EU GECs that can not be used to meet 13% liability**

In deciding whether the 13% liability has been met for a liable year the surrender of a GEC must be disregarded if the surrender is—

- (a) to comply with section 135BA;<sup>85</sup> or
- (b) under a GEC surrender direction.

#### **135EV Liability not subject to condition of GEC ownership**

To remove any doubt, it is declared that the 13% liability applies to a liable person even if the person does not own any GECs or does not own enough GECs to meet the liability.

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84 See however section 135FO (Credit to future 13% liability for over surrender).

85 Section 135BA (Obligation to take action because of improper creation of GECs or GEC review)

**135EW Obligation to keep documents relating to 13% liability**

- (1) The liable person must, unless the person has a reasonable excuse, keep during the relevant period all documents that will allow the person's 13% liability for a liable year to be worked out.

Maximum penalty—200 penalty units.

- (2) In this section—

*relevant period* means the period that ends 5 years after the giving of a self-assessment report for the 13% liability.

**Division 3                      Civil penalty for not meeting 13% liability****135EX Application of div 3**

This division applies if a liable person does not meet the 13% liability for any liable year.

**135EY Imposition of civil penalty for not meeting 13% liability**

- (1) Subject to section 135EZ, the liable person must, on the later of the following days, pay the regulator a civil penalty—
  - (a) the next 30 June after the 13% liability was not met;
  - (b) if the regulator has, by notice given to the liable person before the next 30 June, fixed a later day—the later day.
- (2) The day mentioned in subsection (1) is the *penalty imposition day* for the 13% liability.
- (3) If the liable person meets the 13% liability before the penalty imposition day, the obligation to pay the civil penalty ends.
- (4) If the liable person does not meet the 13% liability before the penalty imposition day, the obligation to pay the penalty applies whether or not the liable person later meets the liability.
- (5) However, if the penalty is paid the 13% liability for the liable year ends.

- (6) Subsection (5) is subject to any assessment, under division 4,<sup>86</sup> that increases the amount of the penalty or the 13% liability.

### **135EZ Exemption to allow for meter data revisions or adjustments**

Despite the liable person not having met all of the 13% liability for a particular liable year before the penalty imposition day for the 13% liability, the obligation to pay the civil penalty ends if—

- (a) the person has given the regulator a self-assessment report for that year; and
- (b) the person gives the regulator evidence that the failure to meet the 13% liability was because of meter data revisions or adjustments that were not available to the person when the report was given; and
- (c) before the penalty imposition day the person met the 13% liability other than to the extent it relates to the revisions or adjustments; and
- (d) the person meets all of the 13% liability on or before the next final surrender day under—
  - (i) if division 2, subdivision 1 applies—section 135EQ; or
  - (ii) if division 2, subdivision 2 applies—section 135ET.<sup>87</sup>

### **135F Amount of civil penalty**

The amount of the civil penalty is worked out using the following formula—

$$P = (13\% LL - \text{GECs surrendered}) \times SC$$

where—

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<sup>86</sup> Division 4 (Assessments)

<sup>87</sup> Division 2, subdivisions 1 (Imposition of 13% liability in relation to major grids) and 2 (Imposition of 13% liability in relation to small grids)

Sections 135EQ and 135ET (How and when liability must be met)

*P* is the amount of the penalty.

*13%LL* is 13% of the liable load, in MWh, for which the 13% liability was imposed.

*GECs surrendered* is the total number of—

- (a) GECs surrendered to meet the 13% liability for the liable year; and
- (b) GECs the subject of a surrender application under section 135EQ(3) or 135ET(3).<sup>88</sup>

*SC* is the amount of the shortfall charge for the liable year, as fixed under section 135FA.

### **135FA Shortfall charge**

- (1) For section 135F, the amount of the shortfall charge is the following—
  - (a) for 2005—\$11;
  - (b) for 2006—\$11, CPI indexed;
  - (c) for 2007—the shortfall charge for 2006, CPI indexed;
  - (d) for 2008—the shortfall charge for 2007, CPI indexed;
  - (e) for 2009—the shortfall charge for 2008, CPI indexed;
  - (f) for 2010—the shortfall charge for 2009, CPI indexed;
  - (g) for 2011—the shortfall charge for 2010, CPI indexed;
  - (h) for 2012 to 2019—the shortfall charge for 2011.
- (2) However, if the amount provided for under subsection (1) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest 5c, rounded up.
- (3) In this section—
 

*CPI* means—

  - (a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or

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88 Section 135EQ or 135ET (How and when liability must be met)

- (b) if the index ceases to be published, another similar index prescribed under a regulation.

***CPI indexed***, for a stated year, means the addition of an amount that equates to the percentage increase in the CPI from the December quarter for the previous year and the December quarter for the stated year.

### **135FB Interest on unpaid civil penalty**

- (1) The liable person must pay interest on an amount owing for the civil penalty unpaid from time to time.
- (2) Interest accrues daily at the rate of 10% a year on the unpaid amount on and from the day after it is owing until it is paid in full.
- (3) The regulator may waive payment of the interest.
- (4) The liability to pay the amount waived is extinguished.

### **135FC Recovery of unpaid civil penalty and interest**

- (1) If the liable person does not pay an amount owing under this division, the State may recover the amount from the person as a debt.
- (2) Despite the *Limitation of Actions Act 1974*, section 10(5),<sup>89</sup> the proceeding may be started within 6 years after the penalty imposition day for the relevant 13% liability.

## **Division 4                      Assessments**

### **Subdivision 1                Self-assessment**

#### **135FD Self-assessment report**

- (1) Each liable person must, on or before the report day in each year from 2006, give the regulator a report (a ***self-assessment***

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<sup>89</sup> *Limitation of Actions Act 1974*, section 10 (Actions of contract and tort and certain other actions)

*report*) that complies with subsection (2) about the person's 13% liability for the previous year.

Maximum penalty—200 penalty units.

- (2) The report must—
- (a) be in the approved form; and
  - (b) for an accredited generator for a power station connected to a small grid—state how many registered GECs the person created during the previous year; and
  - (c) for a liable person other than an accredited generator for a power station connected to a small grid—give all information needed to work out the person's liable load for the previous year, including, for example, any electricity loads the person claims were exempt or non-liable loads; and
  - (d) the liable person's 13% liability for the previous year, as worked out by the person; and
  - (e) state how many GECs the person has surrendered to meet the 13% liability.<sup>90</sup>
- (3) In this section—
- report day* means—
- (a) generally—the last business day in April; or
  - (b) if the regulator has, by notice given to the liable person before the day mentioned in paragraph (a), fixed a later day—the later day.

### **135FE Derivative use immunity for self-assessment report**

- (1) It is not a defence to a proceeding for an offence against section 135FD(1) that the giving of the report or information it contains might tend to incriminate the liable person.
- (2) However, if the liable person is an individual evidence of, or evidence directly or indirectly derived from, the report or information it contains that might tend to incriminate the

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90 See also section 135JS (Additional information about reports and other matters).

liable person is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding—

- (a) for an offence for which the falsity or misleading nature of the answer is relevant; or
- (b) to recover an amount under section 135FC.<sup>91</sup>

### **135FF Obligation to keep documents used to make self-assessment report**

If a liable person gives the regulator a self-assessment report, the person must, unless the person has a reasonable excuse, keep all documents the person used to make the report for 5 years after the giving of the report.

Maximum penalty—200 penalty units.

## **Subdivision 2 Assessments by regulator**

### **135FG Purpose of sdiv 2**

- (1) This subdivision gives the regulator power to make assessments of the 13% liability and any civil penalty for not meeting it.
- (2) Subdivision 4 provides for the evidentiary effect of the assessments in proceedings relating to the liability or the penalty.

### **135FH Default assessment**

- (1) If a liable person has not given the regulator a self-assessment report as required under section 135FD, the regulator may make an assessment (a *default assessment*) for the following that the regulator reasonably believes is outstanding—
  - (a) the 13% liability for the year for which the report ought to have been given;

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91 Section 135FC (Recovery of unpaid civil penalty and interest)



- (b) if the penalty imposition day for the 13% liability has passed—the civil penalty for not meeting the 13% liability.
- (2) A default assessment must state—
- (a) the amount of the 13% liability or civil penalty; and
  - (b) when, under section 135EY, the civil penalty became payable; and
  - (c) any interest payable, under section 135FB, on the civil penalty.<sup>92</sup>

### **135FI Reassessment**

If the regulator is not satisfied about the accuracy or completeness of a self-assessment report the regulator may make an assessment (a *reassessment*) for the following that the regulator reasonably believes is outstanding—

- (a) the 13% liability for the year for which the report was given;
- (b) if the penalty imposition day for the 13% liability has passed—the civil penalty for not meeting the 13% liability.

### **135FJ Compromise assessment**

- (1) This section applies if, because of a complexity or uncertainty or for another reason, it is difficult or impracticable for the liable person or the regulator to properly work out the amount of the liable person's 13% liability for any year.
- (2) The regulator may, under a written agreement with the liable person, make an assessment (a *compromise assessment*) of the 13% liability.
- (3) A compromise assessment must also state—

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<sup>92</sup> Sections 135EY (Imposition of civil penalty for not meeting 13% liability) and 135FB (Interest on unpaid civil penalty)

- (a) if the penalty imposition day for the 13% liability has passed—the amount of the civil penalty for not meeting the 13% liability; and
  - (b) when, under section 135EY, the civil penalty became payable; and
  - (c) any interest payable, under section 135FB, on the civil penalty.
- (4) Nothing in this part requires the regulator to make a compromise assessment for a liable person.

### **135FK Amended assessment**

- (1) The regulator may amend a default assessment, reassessment or compromise assessment in any way the regulator considers is reasonably necessary to correct the relevant 13% liability or civil penalty.
- (2) An amendment under subsection (1) is called an *amended assessment*.
- (3) An amended assessment must state—
  - (a) the 13% liability or the amount of the civil penalty; and
  - (b) for the civil penalty—
    - (i) when, under section 135EY, it became payable; and
    - (ii) any interest payable on it under section 135FB.
- (4) However, a compromise assessment may be amended only—
  - (a) with the written agreement of the relevant liable person; or
  - (b) if the regulator reasonably believes the compromise was agreed to by the regulator because of fraud or a false or misleading statement; or
  - (c) if, when the compromise was made, the regulator was unaware of information material to the making of the compromise.

**135FL Assessments made on available relevant information**

The regulator may make an assessment on the available information the regulator considers relevant.

**135FM Notice of assessment and when it takes effect**

- (1) As soon as practicable after making an assessment, the regulator must give the relevant liable person notice of the assessment.
- (2) The assessment takes effect on the later of the following—
  - (a) the day the notice is given;
  - (b) a later day of effect stated in the notice.
- (3) If the assessment is an assessment other than a compromise assessment, the notice must include or be accompanied by an information notice about the decision to make the assessment.

**135FN Time for assessment by regulator**

An assessment by the regulator may be made only within 5 years after the final surrender day under section 135EQ or 135ET for the relevant 13% liability.<sup>93</sup>

**Subdivision 3 Credits and refunds****135FO Credit to future 13% liability for over surrender**

- (1) This section applies if—
  - (a) under an amended assessment, compromise assessment or reassessment, a liable person's 13% liability for a year is decreased; and
  - (b) the liable person has, for that year, surrendered more than the number of GECs that the assessment states was required to meet the liability.

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93 Section 135EQ or 135ET (How and when liability must be met)

- (2) The amount of the over surrender is taken to have been made for the next year or years for which the liable person must meet the 13% liability.
- (3) Subsection (2) is subject to section 135DS.<sup>94</sup>

### **135FP Regulator to refund overpaid civil penalty and interest**

- (1) An entitlement to a refund of an amount paid for the civil penalty and interest on the penalty arises if, under an amended assessment, compromise assessment or reassessment, a liable person's liability for the civil penalty is decreased.
- (2) The regulator must refund the overpaid amount.
- (3) The liable person is not entitled to—
  - (a) a refund of any civil penalty or interest on the penalty paid, or purportedly paid, other than under this section; or
  - (b) interest on the overpaid amount.

## **Subdivision 4 Evidentiary provisions for assessments**

### **135FQ Evidentiary provisions**

- (1) This section applies to any proceeding under or in relation to this chapter.
- (2) Production of a document signed by the regulator purporting to be a copy of an assessment by the regulator—
  - (a) is conclusive evidence of the proper making of the assessment; and
  - (b) for a proceeding on an appeal against a decision to make the assessment, is evidence that the amount and all particulars of the assessment are correct; and
  - (c) for another proceeding, is conclusive evidence—

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94 Section 135DS (Automatic expiry)

- (i) of the 13% liability and any civil penalty and interest on the penalty as stated in the assessment; and
  - (ii) that all particulars of the assessment are correct.
- (3) The validity of an assessment by the regulator is not affected merely because a provision of this chapter has not been complied with.

## **Division 5            Liable persons in relation to major grids**

### **Subdivision 1        Liability hierarchy**

#### **135FR Operation of sdiv 1**

- (1) This subdivision provides for who is the liable person for a liable load other than in relation to a power station connected to a small grid.<sup>95</sup>
- (2) The general principle of this subdivision is—
  - (a) that the liable person is—
    - (i) any relevant retailer for the load; or
    - (ii) if there is no relevant retailer for the load—the relevant special approval holder for the load; or
    - (iii) if there is no relevant retailer or relevant special approval holder for the load—any other person who, in effect, acts as a retailer in relation to the load; but
  - (b) the person mentioned in paragraph (a) is not the liable person for the load if—
    - (i) the person sells the load to NEMMCO; or
    - (ii) NEMMCO later acquires the load.

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<sup>95</sup> For who is the liable person in relation to a power station connected to a small grid, see division 2, subdivision 2 (Imposition of 13% liability in relation to small grids).

- (3) If no liable person is provided for the load, the 13% liability does not apply to anyone.

**135FS Retailer**

- (1) If the liable load is electricity generated or used at premises with a substantive traceable link to a major grid and a retailer sells the electricity to any of the following in the State, the retailer is the liable person for the load—
- (a) a customer of the retailer, other than another retailer;
  - (b) an on-supplier;
  - (c) a special approval holder.
- (2) However—
- (a) the retailer is not the liable person for the load if—
    - (i) the retailer sells the load to NEMMCO; or
    - (ii) NEMMCO later acquires the load; and
  - (b) the retailer ceases to be the liable person for the load if it is sold later by another retailer.

**135FT Special approval holder**

- (1) A special approval holder is a liable person for the liable load if—
- (a) the liable load is electricity generated or used at premises with a substantive traceable link to a major grid; and
  - (b) the power station that generated the electricity—
    - (i) can not be identified; or
    - (ii) has a nameplate capacity of more than 5MW and an annual generation output of more than 100MWh; and
  - (c) no retailer is the liable person for the load; and
  - (d) the special approval holder sells the electricity to any of the following in the State—

- (i) a customer of the special approval holder;
  - (ii) an on-supplier;
  - (iii) another special approval holder; and
- (e) the load has not previously been sold by another special approval holder.
- (2) The special approval holder continues to be the liable person for the load even though another special approval holder later sells it to someone else.
- (3) Despite subsections (1) and (2), the special approval holder is not the liable person for the load if—
- (a) the special approval holder sells the load to NEMMCO; or
  - (b) NEMMCO later acquires the load.

**135FU Specific circumstance generator**

- (1) This section applies if—
- (a) a power station has a substantive traceable link to a major grid; and
  - (b) the liable load is electricity sold directly from the power station to an end user in the State; and
  - (c) the power station has—
    - (i) a nameplate capacity of more than 5MW; and
    - (ii) an annual generation output of more than 100MWh; and
  - (d) a dedicated line is used for the supply; and
  - (e) no retailer or special approval holder is the liable person for the load.
- (2) The person who sells the electricity to the end user is the liable person for the load.

**135FV Substantial on-site generator**

If—

- (a) the liable load is electricity—
  - (i) generated in the State; and
  - (ii) generated or used at premises with a substantive traceable link to a major grid; and
- (b) the power station at which the electricity is generated has—
  - (i) a nameplate capacity of more than 5MW; and
  - (ii) an annual generation output of more than 100MWh; and
- (c) the person who generated the electricity (the *generator*) also uses it in the State; and
- (d) no retailer or special approval holder is the liable person for the load;

the generator is the liable person for the load.

### **135FW Wholesale purchaser from spot market**

If—

- (a) the liable load is, under the National Electricity Rules, electricity bought directly from NEMMCO by someone (the *purchaser*) for their own use; and
- (b) the premises at which the electricity is used has a substantive traceable link to a major grid; and
- (c) no retailer or special approval holder is the liable person for the load;

the purchaser is the liable person for the load.

## **Subdivision 2 Resolving disputes about who is the liable person**

### **135FX Application of sdiv 2**

This subdivision applies if a dispute exists about who is the liable person for a liable load and the regulator is not a party to the dispute.



**135FY Referral to regulator**

- (1) Any party to the dispute (the *referrer*) may refer it to the regulator to decide who is the liable person.
- (2) The referral must—
  - (a) be written; and
  - (b) include submissions about who the referrer believes is the liable person; and
  - (c) state the grounds for the belief; and
  - (d) include all documents or information the referrer has that will allow the regulator to resolve the dispute.

**135FZ Submissions by other affected parties**

Before deciding who is the liable person the regulator must—

- (a) give each party to the dispute other than the referrer a copy of the referral; and
- (b) invite each other party to make written submissions about the dispute; and
- (c) give the referrer a reasonable opportunity to give the regulator a written response to the submissions; and
- (d) consider the referral, submissions and response.

**135G Regulator's power to require documents or information**

- (1) The regulator may, by notice, require a party to the dispute to give the regulator a stated document or information the regulator reasonably requires to decide who is the liable person.
- (2) The notice must be accompanied by, or include, an information notice about the decision to make the requirement.
- (3) The document or information must be given within a reasonable period after giving the notice, unless the party has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) It is not a reasonable excuse not to give the document or information because it is confidential or because the party has agreed with another party or someone else not to give it to anyone else.

### **135GA Regulator may require confidentiality to be observed**

- (1) A person who gives the regulator information, or produces a document, may ask the regulator to keep the information or the contents of the document confidential.
- (2) After considering representations from the parties to the dispute, the regulator may impose conditions limiting access to, or disclosure of, the information or document.

*Example of a condition that may be imposed—*

a condition that the parties, or a stated party, may use the information or document only for the mediation

- (3) A person to whom a condition under subsection (2) applies must comply with the condition.

Maximum penalty for subsection (3)—200 penalty units.

### **135GB Regulator may require mediation**

Before deciding who is the liable person the regulator may require the parties to the dispute to undergo mediation of a stated type.

### **135GC Criteria for decision**

The matters the regulator must consider in deciding who is the liable person include each of the following—

- (a) each relevant agreement between the parties;
- (b) the purpose of each relevant agreement;

- (c) the ability of any party to the dispute to pass on the cost of meeting the 13% liability;<sup>96</sup>
- (d) the main purposes of this chapter;<sup>97</sup>
- (e) the general principle of subdivision 1.<sup>98</sup>

### **135GD Exclusion of other jurisdictions**

- (1) If the dispute has been referred to the regulator, the following matters are not justiciable by a court or tribunal at the instigation of a party to the dispute—
  - (a) an issue in the dispute;
  - (b) any issue that arises in the course of the regulator's deciding of the dispute.
- (2) However, subsection (1) does not apply if the proceeding before the court or tribunal was started before the dispute was referred to the regulator.

### **135GE Notice of decision**

After deciding who is the liable person, the regulator must give each party to the dispute an information notice about the decision.

### **135GF Decision binds parties to the dispute**

The regulator's decision about who is the liable person binds each party to the dispute.

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96 See section 309 (Existing electricity supply contracts).

97 See section 135A (Main purposes of ch 5A).

98 See section 135FR (Operation of sdiv 1).

## Division 6 Exempted loads

### Subdivision 1 Preliminary

#### 135GG Who is an *interested person* for an electricity load

- (1) An *interested person* for an electricity load is—
  - (a) each person who is, or may become, the liable person for the load; and
  - (b) the person who generates or uses the load.
- (2) Also, if a business or enterprise is, or is part of a significant project, the proponent of the project is an *interested person* for electricity loads supplied to the business or enterprise.

#### 135GH Who obtains the benefit of liable load exemption

- (1) If a liable load exemption is granted, the person who applied for it has the benefit of the exemption and is taken to be registered under part 6 as a scheme participant.
- (2) Another person who is a scheme participant and an interested person for the load may also claim the benefit of the exemption.

### Subdivision 2 State development exemption

#### 135GI Application and operation of sdiv 2

- (1) This subdivision applies if a business or enterprise is, or is part of any of the following projects (a *significant project*)—
  - (a) a project that, under the *State Development and Public Works Organisation Act 1971*, part 4,<sup>99</sup> has been declared to be a significant project;

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<sup>99</sup> *State Development and Public Works Organisation Act 1971*, part 4 (Environmental coordination)

- (b) another project that the regulator decides provides, or will provide, substantial strategic and economic benefits to the State.
- (2) In making the decision, the regulator may consider any matter mentioned in the *State Development and Public Works Organisation Act 1971*, section 27.
- (3) This subdivision gives the regulator power to grant a liable load exemption for the proportion of all electricity loads supplied, or proposed to be supplied, to the business or enterprise that is not eligible gas-fired electricity if the total of the loads is, or will be, more than 750GWh a year.
- (4) A liable load exemption granted under this division is a *State development exemption*.

### **135GJ Making application**

- (1) Any interested person for any of the loads may apply for the exemption.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) identify each of the following—
    - (i) the business or enterprise;
    - (ii) each relevant premises;
    - (iii) the electricity loads;
    - (iv) the proponent of the significant project; and
  - (c) state each of the following—
    - (i) the applicant's estimate of the proportion of the electricity supply or proposed supply that is not eligible gas-fired electricity;
    - (ii) each interested person for the electricity loads;
    - (iii) if the supply started before the 3 years before the making of the application—details of the electricity consumption of the business or enterprise during the 3 years;

- (iv) if the supply started during the 3 years before the making of the application—details of the electricity consumption of the business or enterprise from when the supply started to the making of the application; and
- (d) be accompanied by each of the following—
  - (i) evidence that the business or enterprise is, or will be, part of the significant project;
  - (ii) evidence that the supply or proposed supply is, or will be—
    - (A) more than 750GWh a year; and
    - (B) carried out as part of the same business or enterprise;
  - (iii) if the supply has not started or has not exceeded 750GWh a year—
    - (A) the parts of any environmental impact statement for the project, as made under another Act, that are relevant to the business or enterprise; and
    - (B) a schedule by the applicant for bringing the supply over 750GWh a year;
- (iv) the fee prescribed under a regulation.

### **135GK Notice to other interested persons**

The applicant must give any other interested person for any of the electricity loads—

- (a) a copy of the application; and
- (b) a notice stating that the interested person may make, within 20 business days after the person is given the notice, written submissions to the regulator about the application.

### **135GL Deciding application**

- (1) The regulator must decide whether to grant or refuse the application.

- (2) However, if section 135GK applies, the regulator—
  - (a) must not make the decision until the applicant has complied with that section; and
  - (b) must consider any written submissions made under that section.
- (3) Also, the regulator may grant the application only if satisfied of each of the following—
  - (a) the business or enterprise is, or is part of, a significant project;
  - (b) the total of the electricity loads supplied, or proposed to be supplied, to the business or enterprise is, or will be—
    - (i) more than 750GWh a year; and
    - (ii) carried out as part of the same business or enterprise;
  - (c) if the total of the supply is currently 750GWh a year or less—that the period to bring it over 750GWh a year will not be more than 4 years from when the business or enterprise first consumes or consumed electricity for production;
  - (d) all of the business or enterprise is carried out in the same locality;
  - (e) the supply or proposed supply does, or will, include a proportion of electricity that is not eligible gas-fired electricity.

### **135GM Steps after deciding application**

- (1) If the regulator decides to grant the application, the regulator must—
  - (a) decide the extent to which the liable load exemption is granted; and
  - (b) decide the term of the exemption; and
  - (c) give the applicant a certificate in the approved form about the exemption; and

- (d) give each interested person for any of the electricity loads a copy of the certificate.
- (2) The term of the exemption—
  - (a) must not be more than 15 years; and
  - (b) may start at any day not before 1 January 2005; and
  - (c) is subject to any cancellation or suspension under subdivision 8.
- (3) If the regulator makes any of the following decisions, the regulator must give the applicant and each interested person an information notice about the decision—
  - (a) a decision to refuse the application;
  - (b) a decision about the extent to which the liable load exemption is granted, other than an extent to which the applicant has agreed.

### **135GN Condition for proposed supply**

- (1) This section applies if the State development exemption is granted and, when it is granted, the total of the electricity loads supplied to the business or enterprise is 750GWh a year or less.
- (2) It is a condition of the exemption that the supply must comply with—
  - (a) the schedule that accompanied the application for the exemption; or
  - (b) if, under section 135GO, the schedule has been amended—the amended schedule.
- (3) If the schedule or amended schedule is complied with, the condition under section 135GP applies.

### **135GO Amendment of applicant's supply schedule**

- (1) If the State development exemption is granted, the proponent of the significant project may apply in writing to the regulator to amend either of the following (the *earlier schedule*)—



- (a) the schedule that accompanied the application for the exemption;
  - (b) the schedule that accompanied the application for the exemption, as previously amended under this section.
- (2) If there is any other interested person for any of the exempted loads—
- (a) the applicant must give the interested person—
    - (i) a copy of the application; and
    - (ii) a notice stating that the interested person may make, within 20 business days after the person is given the notice, written submissions to the regulator about the application; and
  - (b) the regulator—
    - (i) must not decide the application until the applicant has complied with paragraph (a); and
    - (ii) must consider any written submissions made under that paragraph.
- (3) The regulator may amend the earlier schedule only if satisfied—
- (a) the earlier schedule was given to the regulator in good faith; and
  - (b) the period to bring the electricity loads supplied to the relevant business or enterprise to more than 750GWh a year has not been, and will not be, more than 4 years from when the business or enterprise first consumes or consumed electricity for production; and
  - (c) either—
    - (i) the proponent has made all reasonable attempts to comply with the earlier schedule; or
    - (ii) any inability to comply with the earlier schedule was caused by a circumstance or event beyond the proponent's control that the proponent took all reasonable steps to avoid; or

- (iii) a material change in circumstances for the significant project has unavoidably caused a need to amend the earlier schedule.
- (4) If the regulator decides to refuse the application, the regulator must, as soon as practicable, give the applicant and any other interested person for any of the exempted loads of whom the regulator is aware an information notice about the decision.

### **135GP Condition for continuity of supply**

- (1) This section applies if the application is granted and, when it is granted, the total of the electricity loads supplied to the business or enterprise is more than 750GWh a year.
- (2) It is a condition of the State development exemption that the supply must not be reduced to 750GWh a year or less unless the reduction was caused by—
  - (a) energy efficiency initiatives and the production of the business or enterprise has not declined; or
  - (b) an unavoidable act of nature; or
  - (c) a circumstance or event that—
    - (i) was beyond the control of the proponent of the significant project; and
    - (ii) the proponent took all reasonable steps to avoid.

*Example of an event—*

an emergency water prohibition or reduction under the *Water Act 2000*, section 22<sup>100</sup>

### **135GQ Reporting condition**

- (1) It is a condition of the exemption that if an interested person for the exempted load becomes aware of the happening of an event as follows, the interested person must give the regulator notice of the event as soon as practicable—
  - (a) the supply falls to 750GWh a year or less;

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100 *Water Act 2000*, section 22 (Limiting or prohibiting taking, or interfering with, water during emergencies)

- (b) another material change in the circumstances under which the exemption was granted.
- (2) The notice must also state the reasons for the happening of the event.<sup>101</sup>

### **Subdivision 3 Renewable energy exemption**

#### **135GR Operation of sdiv 3**

- (1) This subdivision gives the regulator power to grant a liable load exemption for an electricity load supplied by an on-site generator or under a direct supply arrangement under which a power station supplies electricity to an end user in the State using a dedicated line to the extent the electricity is generated from a renewable energy source—
  - (a) of a type prescribed under a regulation (a *prescribed renewable energy source*); or
  - (b) recognised under a law or program prescribed under a regulation about renewable energy (a *recognised program*).
- (2) An electricity load mentioned in subsection (1) is called *eligible renewable electricity*.
- (3) Sections 135GV(2) and 135GW<sup>102</sup> adjust the extent mentioned in subsection (1) to allow for minor supplementation of electricity generation from fuels that are not a prescribed renewable energy source or under a recognised program.

#### **135GS Making application**

- (1) Any interested person for the load may apply for the exemption.
- (2) The application must—

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101 See also section 135JS (Additional information about reports and other matters).

102 Sections 135GV (Steps after deciding application) and 135GW (Ineligible fuel allowance)

- (a) be in the approved form; and
- (b) identify the electricity load; and
- (c) be accompanied by evidence—
  - (i) that the electricity is supplied by an on-site generator or of the direct supply arrangement; and
  - (ii) that the electricity load is generated from a prescribed renewable energy source or under a recognised program; and
- (d) include information that will allow the regulator to decide the extent to which the electricity is eligible renewable electricity; and
- (e) be accompanied by the fee prescribed under a regulation.

### **135GT Notice to other interested persons**

The applicant must give any other interested person for the electricity load—

- (a) a copy of the application; and
- (b) a notice stating that the interested person may make, within 20 business days after the person is given the notice, written submissions to the regulator about the application.

### **135GU Deciding application**

- (1) The regulator must decide whether to grant or refuse the application.
- (2) However, if section 135GT applies, the regulator—
  - (a) must not make the decision until the applicant has complied with that section; and
  - (b) must consider any written submissions made under that section.
- (3) Also, the regulator may grant the application only if satisfied the electricity is—

- (a) supplied by an on-site generator or under a direct supply arrangement using a dedicated line; and
- (b) generated—
  - (i) from a prescribed renewable energy source; or
  - (ii) under a recognised program.

### **135GV Steps after deciding application**

- (1) If the regulator decides to grant the application, the regulator must—
  - (a) decide the extent to which the electricity is eligible renewable electricity; and
  - (b) decide the term of the exemption; and
  - (c) give the applicant a certificate in the approved form about the exemption; and
  - (d) give each interested person for the load a copy of the certificate.
- (2) If—
  - (a) apart from this subsection, the regulator would have decided that the electricity is 90% or more eligible renewable electricity; and
  - (b) all of the electricity is supplied by an on-site generator or under a direct supply arrangement;the regulator must decide that 100% of the electricity is eligible renewable electricity.
- (3) The term of the exemption—
  - (a) must not be more than 15 years; and
  - (b) may start at any day not before 1 January 2005; and
  - (c) is subject to any cancellation or suspension under subdivision 8.
- (4) If the regulator makes any of the following decisions, the regulator must give the applicant and each interested person an information notice about the decision—
  - (a) a decision to refuse the application;

- (b) a decision about the extent to which the electricity is eligible renewable electricity, other than an extent to which the applicant has agreed.

### **135GW Ineligible fuel allowance**

If—

- (a) under section 135GV, the regulator has decided an extent to which the electricity is eligible renewable electricity; and
- (b) the extent is less than 90%;

the percentage is adjusted by an allowance of 1.112.

*Example—*

The decided extent is 80%. The adjusted percentage is 89% ( $0.80 \times 1.112$ ).

### **135GX General conditions of exemption**

It is a condition of the exemption that the electricity load the subject of the exemption must continue to be—

- (a) supplied by an on-site generator or under a direct supply arrangement; and
- (b) generated from a prescribed renewable energy source or under a recognised program.

### **135GY Reporting condition**

It is a condition of the exemption that, if an interested person for the exempted load becomes aware of the happening of an event as follows the interested person must give the regulator notice of the event as soon as practicable—

- (a) the electricity load the subject of the exemption ceases to be—
  - (i) supplied by an on-site generator or under a direct supply arrangement; or
  - (ii) generated from a prescribed renewable energy source or under a recognised program;

- (b) a change in the energy source for the electricity that is relevant to the extent of eligible renewable electricity decided by the regulator.<sup>103</sup>

## **Subdivision 4      Power station auxiliary load exemption**

### **135GZ Operation of sdiv 4**

This subdivision gives the regulator power to grant a liable load exemption for an electricity load used for an auxiliary load for a power station.

### **135H Making application**

- (1) Any interested person for the load may apply for the exemption.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) identify the power station and the electricity load; and
  - (c) state each person who is an interested person for the load; and
  - (d) include information that will allow the regulator to decide the extent to which the electricity is an auxiliary load; and
  - (e) be accompanied by—
    - (i) evidence that the load is an auxiliary load for the power station; and
    - (ii) the fee prescribed under a regulation.

### **135HA Notice to other interested persons**

The applicant must give any other interested person for the electricity load—

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103 See also section 135JS (Additional information about reports and other matters).

- (a) a copy of the application; and
- (b) a notice stating that the interested person may make, within 20 business days after the person is given the notice, written submissions to the regulator about the application.

### **135HB Deciding application**

- (1) The regulator must decide whether to grant or refuse the application.
- (2) However, if section 135HA applies, the regulator—
  - (a) must not make the decision until the applicant has complied with that section; and
  - (b) must consider any written submissions made under that section.
- (3) The regulator may grant the application only if satisfied the electricity load is an auxiliary load for the power station.

### **135HC Steps after deciding application**

- (1) If the regulator decides to grant the application, the regulator must—
  - (a) decide the extent to which the liable load exemption is granted; and
  - (b) decide the term of the exemption; and
  - (c) give the applicant a certificate in the approved form about the exemption; and
  - (d) give each interested person for the auxiliary load a copy of the certificate.
- (2) The term of the exemption—
  - (a) must not be more than 15 years; and
  - (b) may start at any day after 31 December 2004; and
  - (c) is subject to any cancellation or suspension under subdivision 8.



- (3) If the regulator decides to refuse the application or grant the exemption for a load less than the load sought in the application, the regulator must give the applicant and each interested person an information notice about the decision.

### **135HD General condition of exemption**

It is a condition of the exemption that the electricity load the subject of the exemption must continue to be an auxiliary load.

### **135HE Reporting condition**

It is a condition of the exemption that if an interested person for the exempted load becomes aware of a material change in the circumstances under which the exemption was granted, the interested person must give the regulator notice of the event as soon as practicable.<sup>104</sup>

## **Subdivision 5      General conditions of liable load exemptions**

### **135HF Annual fee and exemption compliance report**

- (1) It is a condition of each liable load exemption that each interested person for the exempted load must, on or before the relevant day in each year during which the exemption is in force (the *current year*), ensure the regulator is given the following for the previous year—
  - (a) an exemption compliance report for the last year, in the approved form;
  - (b) the annual fee prescribed for the current year, as prescribed under a regulation.
- (2) However, if there is more than 1 interested person for the load, only 1 exemption compliance report and only 1 annual fee need be given by them jointly.

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<sup>104</sup> See also section 135JS (Additional information about reports and other matters).

(3) In this section—

*relevant day* means—

- (a) generally—the last business day in April; or
- (b) if the regulator has, by notice given to each of the interested persons, fixed a later day—the later day.

### **135HG Obligation to keep documents relating to exemption**

(1) It is a condition of each liable load exemption that each interested person for the exempted load must ensure documents relevant to the exemption and compliance with its conditions are kept by an interested person for the exempted load for at least the required period.

(2) Each interested person for the exempted load must comply with the condition unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

(3) In this section—

*required period* means 5 years from the giving of the exemption compliance report under section 135HF to which the documents relate.

## **Subdivision 6 Amending liable load exemption by application**

### **135HH Applying for amendment**

(1) An interested person for an exempted load may, in the approved form, apply to the regulator to amend the exemption in a stated way, other than to change a condition imposed under this division.

(2) The application must be accompanied by the fee prescribed under a regulation.

### **135HI Notice to other interested persons**

The applicant must give any other interested person for the exempted load—

- (a) a copy of the application; and
- (b) a notice stating that the interested person may make, within 20 business days after the person is given the notice, written submissions to the regulator about the application.

### **135HJ Deciding application**

- (1) The regulator must decide to make or refuse to make the amendment.
- (2) However, if section 135HI applies, the regulator—
  - (a) must not make the decision until the applicant has complied with that section; and
  - (b) must consider any written submissions made under that section.
- (3) If the decision is to make the amendment, the regulator must, as soon as practicable—
  - (a) give the applicant an amended certificate of exemption that reflects the amendment; and
  - (b) give any interested person a copy of the amended certificate.
- (4) If the decision is to refuse to make the amendment, the regulator, must, as soon as practicable, give the applicant and any interested person an information notice about the decision.

## **Subdivision 7      Amendment of liable load exemption by regulator without proposed action notice**

### **135HK Amendments for which proposed action notice not required**

- (1) The regulator may amend a liable load exemption at any time by taking the action mentioned in subsection (2) if the amendment—

- (a) is to correct a clerical or formal error; or
  - (b) does not significantly affect the interests of any interested person for the relevant exempted load and each interested person has, in writing, agreed to the amendment.
- (2) For subsection (1), the action is giving each interested person for the load an amended certificate of exemption that reflects the amendment.

## **Subdivision 8      Other amendments, cancellation and suspension of liable load exemption**

### **135HL Conditions for other amendments, cancellation or suspension**

- (1) The regulator may amend, cancel or suspend a liable load exemption if—
- (a) the regulator considers it necessary or desirable; and
  - (b) an event mentioned in subsection (2) has happened; and
  - (c) the procedure under sections 135HM to 135HP is followed.
- (2) For subsection (1)(b), the event is that—
- (a) the exemption was obtained because of a materially false or misleading declaration or representation, made orally or in writing; or
  - (b) a condition of the exemption has not been complied with; or
  - (c) there has been a material change in the circumstances under which the exemption was granted.

### **135HM Notice of proposed action**

- (1) The regulator must give each interested person for the relevant exempted load of whom the regulator is aware, notice stating each of the following—

- (a) the action (the *proposed action*) the regulator proposes to take under this division;
  - (b) the grounds for the proposed action;
  - (c) the facts and circumstances that are the basis for the grounds;
  - (d) if the proposed action is to amend—the proposed amendment;
  - (e) if the proposed action is to suspend—the proposed suspension period;
  - (f) that the interested person may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the notice is given.

### **135HN Considering submissions**

- (1) The regulator must consider any written submission made under section 135HM(1)(f) within the period stated in the notice.
- (2) If the regulator at any time decides not to take the proposed action, the regulator must, as soon as practicable, give each interested person of whom the regulator is aware notice of the decision.

### **135HO Decision on proposed action**

If, after complying with section 135HN, the regulator still believes a ground exists to take the proposed action, the regulator may decide to—

- (a) if the proposed action was to amend—make the amendment; or
- (b) if the proposed action was to suspend for a stated period—suspend for no longer than the proposed suspension period; or
- (c) if the proposed action was to cancel—

- (i) cancel the exemption; or
- (ii) suspend it for a stated period.

**135HP Notice and taking of effect of proposed action decision**

- (1) The regulator must, as soon as practicable after making a decision under section 135HO, give each interested person for the relevant exempted load of whom the regulator is aware, an information notice about the decision.
- (2) Subject to subdivision 9, the decision takes effect on the later of the following—
  - (a) the day the information notice is given;
  - (b) a later day of effect stated in the notice.

**Subdivision 9 Consequences of particular cancellations****135HQ Liable load exemption obtained because of false or misleading declaration or representation**

If—

- (a) a liable load exemption is cancelled; and
- (b) a ground for the cancellation is that the exemption was obtained because of a materially false or misleading declaration or representation;

the cancelled exemption is, other than for section 135FD,<sup>105</sup> taken never to have had any effect.

**135HR Cancellation of State development exemption for contravention of condition for proposed supply**

- (1) This section applies if—
  - (a) a State development exemption is cancelled; and

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105 Section 135FD (Self-assessment report)

- (b) a ground for the cancellation is that the condition under section 135GN has been not been complied with.<sup>106</sup>
- (2) The liable load exemption is, other than for section 135FD, taken never to have had any effect.
- (3) Despite any other provision of this part, the user of the relevant electricity load is taken to have always been the liable person for the liable loads that were, other than for subsections (1) or (2), the subject of the cancelled liable load exemption.
- (4) Subsection (3) does not affect who, after the cancellation, is the liable person for the liable loads.

**135HS Consequence of cancellation of State development exemption for contravention of condition for continuity of supply**

- (1) This section applies if—
- (a) a State development exemption is cancelled; and
- (b) a ground for the cancellation is that the condition under section 135GP<sup>107</sup> has not been complied with.
- (2) The cancelled exemption is, other than for section 135FD, taken never to have had any effect from the beginning of the year in which the failure to comply happened.
- (3) Despite any other provision of this part, the user of the relevant electricity load is taken to have always been the liable person for the liable loads that were, other than for subsections (1) and (2), the subject of the cancelled liable load exemption for the year in which the failure to comply happened.
- (4) Subsection (3) does not affect who, for any later year, is the liable person for the liable loads.

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106 Section 135GN (Condition for proposed supply)

107 Section 135GP (Condition for continuity of supply)

**135HT Consequence of cancellation of other exemptions for contravention of general condition**

If—

- (a) a liable load exemption granted under subdivision 3 or 4<sup>108</sup> is cancelled; and
- (b) a ground for the cancellation is that the condition under section 135GX or 135HD has not been complied with;<sup>109</sup>

the cancelled exemption is, other than for section 135FD, taken never to have had any effect after the failure to comply happened.

**Division 7                      Non-liable loads****135HU Emergency stand-by plant**

- (1) Electricity generated by emergency stand-by plant is a non-liable load if—
  - (a) the generation happened during an emergency; or
  - (b) an electricity restriction regulation or emergency rationing order applies to the person generating the electricity and the purpose of the generation was to supplement electricity supply limited under the regulation or order.

- (2) In this section—

***emergency stand-by plant*** means generation plant that—

- (a) supplements the supply (the ***normal supply***) of electricity from another generation plant or a major grid; and

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108 Subdivisions 3 (Renewable energy exemption) and 4 (Power station auxiliary load exemption)

109 Section 135GX (General condition of exemption) or 135HD (General condition of exemption)



- (b) does not generate electricity as part of the normal operating cycle of the other plant or supply from the grid; and
- (c) only generates electricity—
  - (i) while all or part of the normal supply has failed; or
  - (ii) for start-up proving tests.

**135HV Immaterial loads**

If, other than for this section, the total of all liable loads for which a person would be the liable person is 100MWh or less in a year the loads are non-liable loads.

**135HW Electricity sold under special remote area arrangement**

An electricity load is a non-liable load if it is sold under special approval number 6/98 to the property called ‘Naryilco Pastoral Station’.

**135HX Electricity sold under retailer of last resort scheme or similar scheme**

- (1) An electricity load is a non-liable load if it is sold to a customer under a retailer of last resort scheme made under section 131A.
- (2) If—
  - (a) under a provision of a regulation, a retailer (the *host retailer*) is taken to have entered into a customer sale contract with a customer because of the suspension of another retailer from trading under the National Electricity Rules; and
  - (b) under the contract, the host retailer sells an electricity load to the customer;

the electricity load is a non-liable load.

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

- (1) This section applies if, under section 49A(2), a contestable customer and a host retail entity are taken to have entered into a contract and the contract is not, under section 49A(4), taken to have ended.
- (2) An electricity load sold under the contract is a non-liaible load if it is supplied within 3 months after the contract is taken to have been made under section 49A(1) and (2).

**135HZ Electricity sold or supplied to Boyne Island Smelter**

- (1) An electricity load is a non-liaible load if it is directly or indirectly sold or supplied to the smelter as defined under the State agreement.
- (2) Subsection (1) ceases to apply if clause 12<sup>110</sup> of the State agreement ceases to be in force.
- (3) In this section—

*State agreement* means the State agreement as defined under the *Gladstone Power Station Agreement Act 1993*.

## **Part 6                      Scheme participants**

**135I    Applying for registration**

- (1) Any person may, in the approved form, apply to the regulator to be registered as a scheme participant.
- (2) The application must state—
  - (a) whether the applicant is an interested or a liaible person for an electricity load; and
  - (b) if the application states that the applicant is not an interested or a liaible person—

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110 Clause 12 (No State electricity taxes) of the State agreement

- (i) the applicant's primary business; and
  - (ii) the applicant's reasons for seeking the registration.
- (3) The application must be accompanied by the fee prescribed under a regulation.

### **135IA Right to registration**

If the regulator is satisfied the application complies with section 135I, the regulator must, by complying with section 135JH,<sup>111</sup> register the person as a scheme participant in the scheme participant register.<sup>112</sup>

### **135IB Term of registration**

- (1) Registration as a scheme participant takes effect on the day of effect as stated in the scheme participant register, or if the register states no day of effect, the day the participant is registered.
- (2) The day of effect may be any day after 31 December 2004.
- (3) Subject to suspension under section 135ID, the registration continues in force until 31 December 2020, unless it is sooner surrendered under section 135IE.

### **135IC Annual fee for particular scheme participants**

- (1) This section applies to a scheme participant, other than—
  - (a) an accredited generator; or
  - (b) a person who, under section 135GH(1), is taken to be registered under part 6 as a scheme participant.<sup>113</sup>
- (2) The scheme participant must, on or before the last business day in April in each year, pay the regulator the annual fee for that year, as prescribed under a regulation.

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111 Section 135JH (Required information for scheme participant register)

112 For the rights of scheme participants to own, mortgage or transfer GECs, see part 4, division 4, subdivisions 1 (Transfers) and 2 (Mortgages).

113 Section 135GH (Who obtains the benefit of liable load exemption)

**135ID Partial suspension for non-payment of annual fee**

- (1) This section applies if a scheme participant does not comply with section 135IC.
- (2) While the scheme participant continues not to comply with section 135IC, the participant's registration as a scheme participant is suspended.
- (3) The suspension ends if the failure to comply ends.
- (4) The effect of the suspension is that until it ends the scheme participant can not—
  - (a) transfer any GECs; or
  - (b) accept the transfer of any GECs.
- (5) The suspension does not—
  - (a) affect the scheme participant's ownership of any GEC the participant owned immediately before the suspension;<sup>114</sup> or
  - (b) prevent the scheme participant from making a surrender application for a GEC mentioned in paragraph (a).

**135IE Surrender of registration**

- (1) A scheme participant, other than an accredited generator, may by notice to the regulator, surrender the participant's registration as a scheme participant.
- (2) However—
  - (a) the notice can not be given if the scheme participant is the registered owner of a GEC; and
  - (b) if the scheme participant owes the regulator an amount for an annual or other fee under this chapter, the participant may give the notice only if it is accompanied by payment of the amount.

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114 See sections 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer).

## **Part 7                      Monitoring**

### **Division 1                Approved auditors**

#### **135IF Appointment and qualifications**

- (1) The regulator may, by instrument, appoint a person, whether or not the person is an officer of the department, as an approved auditor.
- (2) However, the regulator may appoint a person as an approved auditor only if—
  - (a) the person makes application for appointment in the way prescribed under a regulation; and
  - (b) either—
    - (i) the regulator is satisfied the person is qualified for appointment because the person has the necessary expertise or experience to carry out an audit under this part; or
    - (ii) the person has satisfactorily finished training approved by the regulator.
- (3) Also, the regulator may appoint a corporation as an approved auditor only if satisfied it has employees or officers who are approved auditors and who are appropriate to carry out audits under this part for the corporation.

#### **135IG Appointment conditions and limit on powers**

- (1) An approved auditor holds office on any conditions stated in—
  - (a) the auditor's instrument of appointment; or
  - (b) a signed notice given to the auditor; or
  - (c) a regulation.<sup>115</sup>

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115 See also section 135IV (Who may carry out audit).

- (2) Without limiting subsection (1), the instrument of appointment, a signed notice given to the approved auditor or a regulation may impose a condition that—
  - (a) the approved auditor must hold, and continue to hold another stated office; and
  - (b) if the approved auditor ceases to hold the other office the auditor's appointment ceases.
- (3) The instrument of appointment, a signed notice given to the auditor or a regulation may limit the auditor's powers or functions under this Act.
- (4) In this section—

*signed notice* means a notice signed by the regulator.

### **135IH Applying for and obtaining appointment as an approved auditor**

- (1) A person may apply to the regulator for appointment under section 135IF as an approved auditor.
- (2) The application must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) evidence that the applicant is qualified as mentioned in section 135IF(2)(b)(i) or has satisfactorily finished training as mentioned in section 135IF(2)(b)(ii); and
    - (ii) the fee prescribed under a regulation.
- (3) The regulator must decide whether to grant or refuse the application.
- (4) If the regulator decides to grant the application, the regulator must issue the approved auditor's instrument of appointment as soon as practicable.
- (5) If the regulator makes any of the following decisions, the regulator must, as soon as practicable, give the applicant an information notice about the decision—
  - (a) a decision to refuse the application;

- (b) a decision under section 135IG(1)(a) or (b) to impose a condition on the applicant's instrument of appointment as an approved auditor.
- (6) However, subsection (5)(b) does not apply for a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

**135II Issue of identity card**

- (1) The regulator must issue an identity card to each approved auditor.
- (2) The identity card must—
  - (a) contain a recent photo of the auditor; and
  - (b) contain a copy of the auditor's signature; and
  - (c) identify the person as an approved auditor under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

**135IJ Production or display of identity card**

- (1) In exercising a power or performing a function under this Act in relation to a person, an approved auditor must produce the auditor's identity card for the person's inspection if asked by the person.
- (2) However, if it is not practicable to comply with subsection (1), the auditor must produce the identity card for the person's inspection at the first reasonable opportunity.

**135IK When approved auditor ceases to hold office**

- (1) An approved auditor ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;

- (b) under another condition of office, the auditor ceases to hold office;
  - (c) the auditor's resignation takes effect.
- (2) Subsection (1) does not limit the ways an approved auditor may cease to hold office.
- (3) In this section—
- condition of office* means a condition on which the auditor holds office.

### **135IL Revocation of approved auditor's appointment**

- (1) The regulator may revoke a person's appointment as an approved auditor's only if—
- (a) either—
    - (i) the person obtained the appointment because of a materially false or misleading declaration or representation, made orally or in writing; or
    - (ii) the person has not complied with a provision of this chapter or a condition of the appointment; or
    - (iii) the person is a corporation and it does not have employees or officers who are approved auditors and who are appropriate to carry out audits under this part for the corporation; and
  - (b) subsections (2) to (4) have been complied with.
- (2) The regulator must give the person notice stating—
- (a) that the regulator proposes to revoke the appointment; and
  - (b) the grounds for the proposed revocation; and
  - (c) that the person may make, within a stated period, written submissions to show why the appointment should not be revoked.
- (3) The stated period must end at least 20 business days after the notice is given.



- (4) The regulator must, before deciding whether to revoke the appointment, consider any written submission made under subsection (2)(c) by the person within the stated period.
- (5) If the regulator at any time decides not to revoke the appointment, the regulator must, as soon as practicable, give the person notice of the decision.
- (6) The regulator must, as soon as practicable after deciding to revoke the appointment, give the person an information notice about the decision.
- (7) A decision to revoke the appointment takes effect on the later of the following—
  - (a) the day the information notice is given;
  - (b) a later day of effect stated in the notice.
- (8) However, if the decision was to revoke because of a conviction, the revocation—
  - (a) does not take effect until—
    - (i) the period to appeal against the conviction ends; and
    - (ii) if an appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
  - (b) has no effect if the conviction is quashed on appeal.

### **135IM Resignation**

An approved auditor may resign by signed notice given to the regulator.

### **135IN Return of identity card**

A person who ceases to be an approved auditor must return the person's identity card to the regulator within 20 business days after ceasing to be an approved auditor, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## Division 2                      Required audits

### 135IO Who is an *auditable person*

Each of the following is an *auditable person*—

- (a) an accredited generator;
- (b) a liable person;
- (c) a person the regulator reasonably suspects may be a liable person;
- (d) an interested person for an exempted load;
- (e) a person who has made an application under this chapter that has not been decided.

### 135IP Regulator may require audit

- (1) The regulator may, by written notice that complies with section 135IQ (an *audit notice*) require an auditable person to commission an approved auditor to—

- (a) carry out an audit by an approved auditor about a stated matter relevant to this chapter; and

*Example of a stated matter—*

GEC creation by the accredited generator

- (b) give the regulator within a stated reasonable period a report about the audit that contains the information prescribed under a regulation and any other information required in the audit notice.<sup>116</sup>
- (2) For subsection (1), the regulator may, to monitor compliance with this chapter, give an audit notice on a random or another basis not directly connected with the auditable person.

### 135IQ Required contents for audit notice

- (1) An audit notice must state—

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<sup>116</sup> See also section 135JS (Additional information about reports and other matters).

- (a) the name of the person who must commission the audit; and
  - (b) each matter for which the audit is required; and
  - (c) that the person must—
    - (i) commission an approved auditor to carry out an audit about each of the matters; and
    - (ii) give the regulator a report by the auditor about the audit within a stated reasonable period.
- (2) Also, an audit notice must be accompanied by or include an information notice about the decision to give the notice and to fix the stated period.

**135IR Failure to comply with audit notice**

A person to whom an audit notice has been given must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

**135IS Costs of complying with audit notice**

A person to whom an audit notice has been given must pay any costs incurred by the person in relation to complying with the notice.

**Division 3 Audits by regulator****135IT Regulator may carry out audit**

- (1) The regulator may decide to commission an approved auditor to—
- (a) carry out an audit about a stated matter concerning an auditable person; and
  - (b) give the regulator within a stated reasonable period a report about the audit that contains the information prescribed under a regulation and any other information required in the audit notice.

- (2) The regulator may, to monitor compliance with this chapter, make a decision under subsection (1) on a random or another basis not directly connected with the auditable person.
- (3) If the regulator makes a decision under subsection (1), the regulator must give the auditable person an information notice about the decision.
- (4) The regulator must, within 10 business days after receiving the report, give the auditable person a copy.

### **135IU Regulator's costs of audit or report**

- (1) This section applies if the regulator has incurred costs in commissioning an audit under section 135IT, including, for example, the approved auditor's costs of carrying out the audit or giving the regulator a report about the audit.
- (2) The auditable person must pay the amount of the costs if—
  - (a) the costs were properly and reasonably incurred; and
  - (b) the regulator has by notice asked the party to pay the amount.
- (3) The regulator may recover the amount as a debt.

## **Division 4                    General provisions for audits**

### **135IV Who may carry out audit**

A person must not carry out, or purport to carry out, an audit under this part unless—

- (a) the person is an approved auditor; and
- (b) the conditions of the person's appointment as an approved auditor do not prevent the person from carrying out the audit; and
- (c) the person complies with the conditions.<sup>117</sup>

Maximum penalty—200 penalty units.

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117 For conditions of appointment, see section 135IG (Appointment conditions and limit on powers).

**135IW False or misleading statement in audit report**

- (1) An approved auditor must not give the regulator a report about an audit that contains a statement that the auditor knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough for a charge to state that the statement was, without specifying which, ‘false or misleading’.

**Part 8 Miscellaneous provisions****Division 1 Additional provisions for applications****135IX Meaning of *application* and *applicant* for div 1**

In this division—

- (a) the *applicant*, for the creation of a GEC that the regulator must make a decision about under section 135DJ,<sup>118</sup> means the accredited generator who created the GEC; and
- (b) an *application* includes the creation of a GEC that the regulator must make a decision about under section 135DJ.

**135IY Substantial compliance with application requirements may be accepted**

If—

- (a) a person has made, or purported to make, an application under this chapter; and

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118 Section 135DJ (Deciding of validity and registration)

- (b) the requirements under this chapter for making the application have not been complied with; and
- (c) the regulator is reasonably satisfied the information provided in or with the application is enough to allow the regulator to decide the application in the way required under this chapter;

the regulator may decide to allow the application to proceed as if it did comply with the requirements.

### **135IZ Additional information or inspection may be required**

- (1) This section applies if the regulator is deciding, or is required to decide, an application under this chapter.
- (2) The regulator may, by notice, require the applicant to—
  - (a) give the regulator within a stated reasonable period—
    - (i) additional information about, or a document relevant to, the application; or
    - (ii) a statutory declaration or independent evidence of a stated type verifying any information included in the application or any additional information required under subparagraph (i); and

*Example of independent evidence—*

a chemical analysis, by a chemist independent of the applicant, of gases the applicant claims are eligible fuel

- (b) allow a stated person authorised by the regulator to, at any reasonable time, inspect any power station or other premises relating to the application.
- (3) If the applicant does not comply with the notice, the regulator may refuse the application.
- (4) The applicant must pay any costs incurred in complying with the notice.

### **135J Regulator's costs of inspection**

- (1) This section applies if the regulator has incurred costs—

- (a) in the carrying out of an inspection mentioned in section 135IZ(2)(b); or
  - (b) in obtaining a report about the inspection.
- (2) The applicant to whom the notice under that section was given must pay the amount of the costs if—
- (a) the costs were properly and reasonably incurred; and
  - (b) the regulator has by notice asked the applicant to pay the amount.
- (3) The regulator may recover the amount as a debt.
- (4) Subsection (3) applies whether or not the regulator decides to grant the application.

## **Division 2                      Measurement of electricity**

### **135JA Regulator's power to decide measurement method**

- (1) The regulator may, under section 135JB, decide a method for working out—
- (a) the amount of an electricity load, including a liable electricity load; or
  - (b) the amount of electricity sent out from a power station or delivered to an end user; or
  - (c) an amount incidental to a matter mentioned in paragraph (a) or (b).
- (2) In making a decision under subsection (1), the regulator may fix—
- (a) if the electricity is metered—
    - (i) its approved measurement points; and
    - (ii) measurement arrangements for the meter; or

*Examples of measurement arrangements—*

- requirements for meter's tolerance for error
- required intervals to test the meter

- (b) if the electricity is unmetered—a methodology to estimate the amount.
- (3) For subsection (2)(a)—
  - (a) if the electricity is metered at periods that the regulator does not consider appropriate, the regulator may decide a method that, in part, uses estimates based on previous meter readings; and
  - (b) different measurement arrangements may be approved for different measurement points; and
  - (c) if the regulator is satisfied arrangements for an approved measurement point comply with any relevant requirements under the National Electricity Rules, the regulator must approve the arrangements as the measurement arrangements for the measurement point.

### **135JB Procedure for deciding measurement method**

- (1) Before making the decision, the regulator must—
  - (a) give any person of which the regulator is aware who will, under section 135JC, be required to use the method—
    - (i) notice of the proposed decision; and
    - (ii) a reasonable opportunity to make written submissions about the proposed decision; and
  - (b) consider any submissions made under paragraph (a)(ii).
- (2) If the person has not agreed to the decision, the notice must include, or be accompanied by, an information notice about the decision.

### **135JC Decided method must be applied**

- (1) If—
  - (a) for the purposes of this chapter, it is necessary to measure electricity; and
  - (b) the regulator has, under section 135JA, decided a method for measuring the electricity;



only the decided method may be used to make the measurement.

- (2) If the regulator reasonably believes an accredited generator or an interested person<sup>119</sup> for an electricity load is not complying with the decided method, the regulator may give the generator or person a written direction stating—
- (a) the decided method; and
  - (b) how the regulator believes the generator or person is not complying with the decided method; and
  - (c) that the generator or person is directed to comply with the decided method.
- (3) The accredited generator or interested person must comply with the direction.<sup>120</sup>

Maximum penalty—200 penalty units.

### **135JD Obligation to notify regulator of change in circumstances for decided measurement method**

If—

- (a) the regulator has, under section 135JA, decided a method for measuring an amount of electricity; and
- (b) a person who has been given an information notice about the decision becomes aware of a change in circumstances that may affect the appropriateness of the method;

the person must, as soon as practicable, give the regulator notice of the change.

Maximum penalty—60 penalty units.

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119 See section 135GG (Who is an *interested person* for an electricity load).

120 For an accredited generator, see also section 135AX (Compliance with directions by regulator).

## Division 3                      Registers

### 135JE Registers

- (1) The regulator must keep the following registers—
  - (a) a register of accredited generators (the *accredited generator register*);
  - (b) a register of GECs (the *GEC register*);
  - (c) a register of scheme participants (the *scheme participant register*);
  - (d) a register of liable load exemptions (the *liable load exemption register*).
- (2) The regulator may also keep other registers relating to this chapter that the regulator considers appropriate, including, for example, registers about undecided applications under this chapter.

### 135JF Required information for accredited generator register

The regulator must in the accredited generator register include the following information about each accredited generator—

- (a) the generator's name and accreditation code;
- (b) the name of the accredited power station;
- (c) the power station's accreditation code;
- (d) the name of the economic operator of the power station.

### 135JG Required information for GEC register

- (1) The regulator must, for each GEC that is in force,<sup>121</sup> record the following information in the GEC register—
  - (a) its registered owner;
  - (b) the day or period the relevant electricity was generated;

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121 For when a GEC is in force see part 4, divisions 3 (Term of GECs) and 5 (Amendment, cancellation and suspension of GECs).

- (c) its vintage year and the month in that year in which the GEC was registered;
  - (d) when, under section 135DS,<sup>122</sup> the GEC automatically expires;
  - (e) the accreditation code of the power station that generated the relevant eligible gas-fired electricity.
- (2) If, under section 135DJ,<sup>123</sup> the regulator decides a GEC was not validly created, the regulator may remove its notation from the GEC register.
- (3) Sections 135DI, 135DN and 135DW provide for the effect of registration.<sup>124</sup>

### **135JH Required information for scheme participant register**

The regulator must record in the scheme participant register—

- (a) the name of each scheme participant; and
- (b) a unique scheme code for each scheme participant.

### **135JI Required information for liable load exemption register**

The regulator must in the liable load exemption register include the following for each liable load exemption—

- (a) the name and the scheme code of—
  - (i) the person who applied for the exemption; and
  - (ii) each interested person for the exempted load of whom the regulator is aware;
- (b) the type of liable load exemption;
- (c) the name of the relevant project or premises.

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122 Section 135DS (Automatic expiry)

123 Section 135DJ (Deciding of validity and registration)

124 Sections 135DI (When GEC takes effect), 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer)

See also section 135JT (General evidentiary aids for ch 5A).

**135JJ General provisions for register keeping**

- (1) If an accreditation, GEC, liable load exemption or a scheme participant's registration is cancelled, suspended or surrendered the regulator must, as soon as practicable, record in the appropriate register—
  - (a) the cancellation, suspension or surrender, and when it took effect; and
  - (b) for a suspension—when the suspension started, and if it is for a period, when the period is to end.
- (2) The regulator may include in a register other information relevant to this chapter if it is not exempt matter under the *Freedom of Information Act 1992*.
- (3) If under this chapter there is a transfer or other change relating to information kept in a register the regulator must—
  - (a) amend the register to reflect the change; and
  - (b) record in the register when the information was amended.
- (4) For subsection (3), the change is made on the later of the following—
  - (a) if the change requires approval under this chapter—when it was approved;
  - (b) when it takes effect.
- (5) In this section—

***cancellation***, of a GEC, does not include a decision under section 135DJ<sup>125</sup> that the GEC was not validly created.

**135JK Access to registers**

- (1) The regulator must keep a register open for inspection by the public during office hours on business days.
- (2) Subsection (1) may be complied with by placing a link to the register on the department's web site on the internet.<sup>126</sup>

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125 See also part 4, division 5 (Amendment, cancellation and suspension of GECs).

126 At the commencement of this section, the department's web site on the internet could be located at <www.energy.qld.gov.au>.

**Division 4                      General offences for ch 5A<sup>127</sup>****135JL Who is an *official***

In this division, an *official* is any of the following—

- (a) the regulator;
- (b) an approved auditor;
- (c) an inspection officer;
- (d) a public service officer performing functions under this Act.

**135JM Confidentiality of particular information**

- (1) This section applies if a person gives any of the following information that is not a type that may or must be recorded in a register under this chapter—
  - (a) information for an application made under this chapter;
  - (b) information in response to a requirement under this chapter.
- (2) If an official acquires the information in the official's capacity as an official, the official must not disclose it to any one else, unless the disclosure is—
  - (a) made with the person's consent; or
  - (b) to another person carrying out functions under this Act; or
  - (c) expressly permitted or required under the *Freedom of Information Act 1992* or another Act; or
  - (d) under a direction, order or requirement made in a proceeding.

Maximum penalty—100 penalty units.

- (3) To remove any doubt, it is declared that subsection (2) continues to apply to the official even if the person ceases to be an official.

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127 For other relevant offences, see chapter 11, part 1 (Offences).

**135JN False or misleading statement**

- (1) A person must not state anything to an official the person knows is false or misleading in a material particular.  
Maximum penalty—60 penalty units.
- (2) In a proceeding for an offence against this section, it is enough for a charge to state that the statement was, without specifying which, ‘false or misleading’.

**135JO False or misleading document**

- (1) A person must not give an official a document containing information the person knows is false or misleading in a material particular.  
Maximum penalty—60 penalty units.
- (2) A person must not make an entry in a document required or permitted to be made or kept under this chapter knowing the entry to be false or misleading in a material particular.  
Maximum penalty—100 penalty units.
- (3) In a proceeding for an offence against this section, it is enough for a charge to state that the information or entry was, without specifying which, ‘false or misleading’.

**135JP Obstructing approved auditor**

- (1) A person must not obstruct an approved auditor in the exercise of a power under this chapter, unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (2) If a person has obstructed an approved auditor and the auditor decides to proceed with the exercise of the power, the auditor must warn the person that—
  - (a) it is an offence to obstruct the auditor unless the person has a reasonable excuse; and
  - (b) the auditor considers the person’s conduct an obstruction; and

- (c) if the person continues to obstruct the auditor, the auditor may ask a police officer to help the auditor exercise the power.
- (3) In this section—  
*obstruct* includes hinder and attempt to obstruct.

### **135JQ Impersonating approved auditor**

A person must not pretend to be an approved auditor.

Maximum penalty—80 penalty units.

### **135JR Notice of change from small grid to major grid**

If a small grid becomes a major grid, the person who operates the grid must, within 20 business days, give the regulator notice of the change.

Maximum penalty—200 penalty units.

## **Division 5                    Other miscellaneous provisions**

### **135JS Additional information about reports and other matters**

- (1) This section applies if—
  - (a) a person is required under this chapter to give the regulator a notice or copy of a document, a report or information (the *advice*); and
  - (b) the person gives the advice.
- (2) The regulator may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.
- (3) The person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—30 penalty units.

**135JT General evidentiary aids for ch 5A**

- (1) A certificate purporting to be signed by the regulator stating any of the following matters is, in the absence of evidence to the contrary, evidence of the matter—
  - (a) a stated document is any of the following things made, given, or issued under this chapter—
    - (i) an accreditation;
    - (ii) the eligible electricity guidelines;
    - (iii) a certificate for a liable load exemption;
    - (iv) an appointment as an approved auditor;
    - (v) a measurement method decided under section 135JA;<sup>128</sup>
    - (vi) an approval under this chapter;
    - (vii) a register under this chapter;
  - (b) a stated document is a copy of a thing mentioned in paragraph (a);
  - (c) on a stated day, or during a stated period, an accreditation, GEC, registration as a scheme participant, liable load exemption or appointment as an approved auditor—
    - (i) was, or was not, in force; or
    - (ii) was, or was not, subject to a stated condition; or
    - (iii) was, or was not, cancelled;
  - (d) on a stated day, a stated requirement was made of a stated person.
- (2) This section does not limit section 135FQ or 248.<sup>129</sup>

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128 Section 135JA (Regulator's power to decide measurement method)

129 Section 135FQ (Evidentiary provisions) or 248 (Evidentiary certificates by regulator)



**135JU Obligation of State to indemnify particular information-givers**

- (1) This section applies if—
  - (a) at the request of the regulator, a relevant entity gives the regulator a document or information; and
  - (b) the document or information was given for the purpose of fixing a QUF or the loss factor for a power station; and
  - (c) the entity or anyone else incurs a cost, damage or loss because of the giving of the information or document.
- (2) If—
  - (a) in a proceeding, the entity is found to be civilly liable for the cost, damage or loss; and
  - (b) the information was given honestly and without negligence;the State must indemnify the entity for the liability.
- (3) In this section—

*civil liability* includes liability for the payment of costs ordered to be paid in a proceeding.

*relevant entity* means—

  - (a) NEMMCO; or
  - (b) a distribution entity; or
  - (c) a transmission entity.

**135JV Approved forms**

The regulator may approve forms for use under this chapter.

## **Part 9                      Expiry of chapter**

### **135JW Expiry**

This chapter expires on 31 December 2020.

### **135JX Saving of operation of chapter**

This chapter is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.<sup>130</sup>

## **Chapter 6                  Electricity officers' powers**

### **Part 1                      Operational powers**

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

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

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

An electricity officer for an electricity entity may, at any reasonable time, enter a place where there is an electrical

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<sup>130</sup> *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

installation to which electricity is being, or has been, supplied or sold by the electricity entity to—

- (a) read a meter; or
- (b) calculate or measure electricity supplied or taken; or
- (c) check the accuracy of metered consumption; or
- (d) take action for deciding—
  - (i) the appropriate tariffs for the electrical installation; or
  - (ii) the electrical installation's load classification; or
- (e) check any electrical equipment located at the electricity entity's meter, including, for example, wiring and connections to the meter; or
- (f) replace meters, control apparatus and other electrical equipment of the electricity entity.

### **138 Disconnection of supply if entry refused**

- (1) If—
  - (a) an electricity officer for an electricity entity is allowed to enter a place under section 137;<sup>131</sup> and
  - (b) the electricity officer is refused entry to the place or the electricity officer's entry to the place is obstructed;the entity's chief executive officer may, by written notice to the occupier of the place, ask for consent to the entry.
- (2) The notice must state why the entry is needed and state a day and time for the proposed entry.
- (3) If the occupier again refuses to consent to the entry, the chief executive officer may authorise an electricity officer to—
  - (a) disconnect electricity supply to the place; and
  - (b) leave the electrical installation disconnected until the occupier consents to the entry and pays the

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131 Section 137 (Entry to read meters etc.)

disconnection and reconnection fees prescribed under the regulations.

### **139 Entry to disconnect supply**

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place to disconnect supply to an electrical installation to which electricity is being supplied by the entity.
- (2) The electricity officer may act under subsection (1) only if the electricity entity is allowed to disconnect supply.

### **140 Entry to place to protect electricity entity's works**

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place to prevent an obstruction or potential obstruction to, or interference or potential interference with, the building, maintenance or operation of an electric line or other works of the entity.
- (1A) Without limiting subsection (1), the electricity officer may enter the place to remove vegetation that is interfering, or has the potential to interfere, with the operation of an electric line or other works of the entity.
- (2) However, the electricity officer may enter the place only if—
  - (a) the occupier of the place consents to the entry; or
  - (b) the electricity officer or the electricity entity gives the occupier at least 7 days notice of the intended entry.
- (3) The notice must state a period of not more than 1 month when entry will be made.
- (4) The notice is sufficient notice for each entry made during the stated period.

### **140A Entry to place to carry out remedial work**

- (1) Subject to subsections (2) to (4), an electricity officer for an electricity entity may enter a place to fix damage or harm to the place caused by, or in connection with, works or an electrical installation of the entity.

- (2) The entry may be made only if it is made at a reasonable time and—
  - (a) any occupier of the place to be entered has consented to the entry; or
  - (b) the entity has given any occupier of the place to be entered at least 7 days written notice of the proposed entry.
- (3) The notice must state—
  - (a) the time or times or period of the proposed entry; and
  - (b) the purpose of the proposed entry; and
  - (c) that the proposed entry is, at the time or times or during the period, permitted under this Act without the occupier's consent.
- (4) This section does not authorise entry to a residence.

#### **140B Entry to place to carry out urgent remedial work**

- (1) Subject to subsections (3), (4) and (6), an electricity officer for an electricity entity may enter a place to fix damage or harm to the place caused by, or in connection with, works or an electrical installation of the entity if the entity is satisfied, on reasonable grounds—
  - (a) the damage or harm is, or is likely to be, serious; and
  - (b) the need to fix the damage or harm is urgent.
- (2) The power under subsection (1) may be exercised—
  - (a) at any time; and
  - (b) without the consent of, or notice to, the occupier of the place to be entered.
- (3) However, if the occupier is present at the place, before entering the place, the officer must do, or make a reasonable attempt to do, the following things—
  - (a) identify himself or herself to the occupier, in the way stated in section 70;<sup>132</sup>

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132 Section 70 (Production or display of electricity officer's identity card)

- (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier the officer is permitted under this Act to enter the place without the occupier's consent.
- (4) Also, if the occupier is not present at the place, the officer must take reasonable steps to advise the occupier of the officer's intention to enter the place.
- (5) Subsections (3) and (4) do not require the officer to take a step that the officer reasonably believes may frustrate or otherwise hinder the fixing of the damage or harm.
- (6) This section does not authorise entry to a residence.

## **Part 2                      Powers to prevent fire or    electrical shock**

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

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place where the electricity entity has works or an electrical installation to make the works or installation safe.
- (2) An electricity officer may, at any reasonable time, enter a place where someone else has an electrical installation to which electricity is supplied by the electricity entity to make the installation safe.
- (2A) Without limiting subsection (1) or (2), the electricity officer may enter the place to remove vegetation that is affecting, or may affect, the safety of works or an electrical installation mentioned in the subsection.
- (3) The electricity officer may disconnect supply to a works or installation until it is made safe.

(4) The powers conferred by this section are in addition to the powers conferred by part 1.<sup>133</sup>

(5) In this section—

*safe*, in relation to works or an electrical installation, means that the works or electrical installation can not cause fire or electrical shock.

## **Part 3                      Other provisions about exercise of electricity officer's powers**

### **141A    Duty to avoid damage**

In exercising a power under this chapter, an electricity officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage as is practicable.

*Example of a reasonable step—*

for an entry to a place, under section 140A, complying with any reasonable requirement of the owner or occupier of the place about fixing the damage or harm

### **141B    Associated powers on entry**

An electricity officer may take into or onto a place any person, equipment and materials the officer reasonably requires for exercising a power under this chapter.

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

(1) This section applies if an electricity officer damages anything when exercising or purporting to exercise a power under this chapter.

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133 Part 1 (Operational powers)

- (2) The electricity officer must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) If the electricity officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the officer's control, the officer may state this in the notice.
- (4) If, for any reason, it is not practicable to comply with subsection (2), the electricity officer must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.
- (5) This section does not apply to damage that the electricity officer believes, on reasonable grounds, is trivial.
- (6) In this section—  
*owner* of a thing includes the person in possession or control of the thing.

### **143 Compensation**

- (1) A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an electricity officer for an electricity entity may claim compensation from the entity.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person claiming compensation.
- (3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.



## **Chapter 7      Enforcement of restrictions and rationing**

### **Part 1            Preliminary**

#### **145      Definition for ch 7**

In this chapter—

*authorised person* means—

- (a) an electricity officer; or
- (b) an inspection officer.

### **Part 2            Inspection officers**

#### **146      Appointment and qualifications**

- (1) The regulator may appoint any of the following persons as an inspection officer—
  - (a) an inspector under the Electrical Safety Act;
  - (b) a public service officer;
  - (c) an employee of—
    - (i) an electricity entity; or
    - (ii) an electricity entity's subsidiary company;
  - (d) a person prescribed under a regulation.
- (2) However, the regulator may appoint a person mentioned in subsection (1)(b), (c) or (d) as an inspection officer only if—
  - (a) the regulator is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or
  - (b) the person has satisfactorily finished training approved by the regulator.

**147 Appointment conditions and limit on powers**

- (1) An inspection officer holds office on any conditions stated in—
  - (a) the inspection officer's instrument of appointment; or
  - (b) a signed notice given to the inspection officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the inspection officer or a regulation may limit the inspection officer's powers under this Act.
- (3) In this section—

*signed notice* means a notice signed by the regulator.

**148 Issue of identity card**

- (1) The regulator must issue an identity card to each inspection officer.
- (2) The identity card must—
  - (a) contain a recent photo of the inspection officer; and
  - (b) contain a copy of the inspection officer's signature; and
  - (c) identify the person as an inspection officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

*Example for subsection (3)—*

If the inspection officer is also an inspector under the Electrical Safety Act, the chief executive under that Act, and the regulator under this Act, could together issue a combined identity card covering the purposes of both Acts.

**149 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an inspection officer must—

- (a) produce the inspection officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the inspection officer must produce the identity card for the person's inspection at the first reasonable opportunity.

### **150 When inspection officer ceases to hold office**

- (1) An inspection officer ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the inspection officer ceases to hold office;
  - (c) the inspection officer's resignation takes effect.
- (2) Subsection (1) does not limit the ways an inspection officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the inspection officer holds office.

### **151 Resignation**

- (1) An inspection officer may resign by signed notice given to the regulator.
- (2) However, if holding office as an inspection officer is a condition of the inspection officer holding another office, the inspection officer may not resign as an inspection officer without resigning from the other office.

### **152 Return of identity card**

A person who ceases to be an inspection officer must return the person's identity card to the regulator within 21 days after

ceasing to be an inspection officer unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## **Part 2A                      Powers of inspection officers**

### **Division 1                      Entry of places**

#### **152A Power to enter place**

- (1) An inspection officer may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant; or
  - (d) the purpose of the entry is to help an approved auditor carry out an audit commissioned under section 135IT<sup>134</sup> and the occupier of the place is a person to whom the audit relates.
- (2) For the purpose of asking the occupier of a place for consent to enter, an inspection officer may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the inspection officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

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134 Section 135IT (Regulator may carry out audit)

## **Division 2                      Procedure for entry**

### **152B    Entry with consent**

- (1) This section applies if an inspection officer intends to ask an occupier of a place to consent to the inspection officer or another inspection officer entering the place.
- (2) Before asking for the consent, the inspection officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspection officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the inspection officer consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the inspection officer must immediately give a copy to the occupier.
- (6) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

**152C Application for warrant**

- (1) An inspection officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspection officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

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

**152D Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that a stated inspection officer may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the inspection officer's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

**152E Special warrant**

- (1) An inspection officer may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspection officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the inspection officer's remote location.
- (2) Before applying for the special warrant, the inspection officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspection officer may apply for the special warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must immediately fax a copy (*facsimile warrant*) to the inspection officer if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the inspection officer—
  - (a) the magistrate must tell the inspection officer—
    - (i) what the terms of the special warrant are; and
    - (ii) the date and time the special warrant is issued; and
  - (b) the inspection officer must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the special warrant; and
    - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the inspection officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.
- (7) The inspection officer must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and

- (b) if the inspection officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) If—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
  - (b) the warrant is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

### **152F Warrant—procedure before entry**

- (1) This section applies if an inspection officer named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the inspection officer must do or make a reasonable attempt to do the following things—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspection officer's identity card or other document evidencing the inspection officer's appointment;
  - (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form, a copy of the facsimile warrant or warrant form;
  - (c) tell the person the inspection officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the inspection officer immediate entry to the place without using force.
- (3) However, the inspection officer need not comply with subsection (2) if the inspection officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.



## **Division 3                      General powers of inspection officers**

### **152G    General powers after entering place**

- (1) This section applies to an inspection officer who enters a place.
- (2) However, if an inspection officer enters a place to get the occupier's consent to enter a place, this section applies to the inspection officer only if the consent is given or the entry is otherwise authorised.
- (3) The inspection officer may, for a prescribed purpose—
  - (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
  - (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
  - (d) copy a document at the place; or
  - (e) take into or onto the place any persons, equipment and materials the inspection officer reasonably requires for exercising a power under this part; or
  - (f) require a person at the place to give the inspection officer reasonable help to exercise the inspection officer's powers under paragraphs (a) to (e); or
  - (g) require a person at the place to answer questions by the inspection officer to help the inspection officer ascertain whether this Act is being or has been complied with.
- (4) When making a requirement mentioned in subsection (3)(f) or (g), the inspection officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) A person given a requirement under subsection (3)(f) or (g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

- (6) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.
- (7) A reasonable excuse does not include a matter of mere convenience.
- (8) In this section—
  - prescribed purpose* means—
    - (a) for monitoring and enforcing compliance with this Act; or
    - (b) if the purpose of the entry was to help an approved auditor carry out an audit commissioned under section 135IT<sup>135</sup> and the occupier of the place is a person to whom the audit relates—for the carrying out of the audit.

## **152H Power to seize evidence**

- (1) An inspection officer who enters a place under this part, other than with a warrant, may seize a thing at the place if—
  - (a) the inspection officer reasonably believes the thing is evidence of an offence against this Act; and
  - (b) for an entry made with the occupier's consent—seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (2) An inspection officer who enters a place with a warrant may seize the evidence for which the warrant was issued.
- (3) An inspection officer may also seize anything else at a place the officer enters under this part if the officer reasonably believes—
  - (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat the offence.

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135 Section 135IT (Regulator may carry out audit)

- (4) Also, an inspection officer may seize a thing at a place the inspection officer enters under this part if the inspection officer reasonably believes it has just been used in committing an offence against this Act.

## **152I Powers supporting seizure**

- (1) Having seized a thing, an inspection officer may—
- (a) move the thing from the place where it was seized (the *place of seizure*); or
  - (b) leave the thing at the place of seizure but take reasonable action to restrict access to it and, if the thing is electrical equipment, to disconnect it from its supply of electricity to the extent considered appropriate; or

*Example—*

sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted

- (c) if the thing is electrical equipment—dismantle it or cause it to be dismantled.
- (2) An inspection officer may direct an electricity entity to give the inspection officer the help the inspection officer reasonably requires to disconnect electrical equipment under subsection (1)(b).
- (3) An electricity entity must comply with a direction under subsection (2).
- (4) If an inspection officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspection officer's approval.

Maximum penalty for subsection (4)—100 penalty units.

- (5) If an inspection officer disconnects seized electrical equipment from its supply of electricity, a person must not reconnect, or attempt to reconnect, the electrical equipment to a source of supply without an inspection officer's approval.

Maximum penalty for subsection (5)—100 penalty units.

**152J Receipt for seized thing**

- (1) As soon as practicable after an inspection officer seizes a thing, the inspection officer must give a receipt for it to the person from whom it was seized.
- (2) However, if it is not practicable to comply with subsection (1), the inspection officer must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.
- (3) The receipt must describe generally the thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt required by the section, given the thing's nature, condition and value.

**152K Forfeiture of seized thing**

- (1) A seized thing is forfeited to the State if the inspection officer who seized the thing—
  - (a) can not find its owner after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against this Act.
- (2) Subsection (1)(a) does not require the inspection officer to make inquiries if it would be unreasonable to make inquiries to find the owner, and subsection (1)(b) does not require the inspection officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) If the inspection officer decides to forfeit a thing under subsection (1)(c), the inspection officer must tell the owner of the decision by written notice.
- (4) Subsection (3) does not apply if—
  - (a) the inspection officer can not find its owner, after making reasonable inquiries; or

- (b) it is impracticable or would be unreasonable to give the notice.
- (5) The written notice must include a notice stating the following—
  - (a) the reasons for the decision;
  - (b) the rights of review or appeal under this Act;
  - (c) the period in which the review or appeal must be started;
  - (d) how the rights of review or appeal are to be exercised;
  - (e) that a stay of the decision may be applied for under this Act.
- (6) In deciding whether, and if so what, inquiries or efforts are reasonable, or whether it would be unreasonable to give notice about a thing, regard must be had to the thing's nature, condition and value.

### **152L Return of seized thing**

- (1) If a seized thing has not been forfeited, the inspection officer must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if a proceeding for an offence involving it is started within 6 months, at the end of the proceeding and any appeal from the proceeding.
- (2) However, unless the thing has been forfeited, the inspection officer must immediately return a thing seized as evidence to its owner if the inspection officer stops being satisfied its continued retention as evidence is necessary.

### **152M Access to seized thing**

- (1) Until a seized thing is forfeited or returned, an inspection officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

## **Part 3**                      **Restriction regulations and rationing orders**

### **153**    **Entry to places to investigate compliance with emergency rationing orders**

An authorised person may, at any reasonable time, enter a place to investigate compliance with an emergency rationing order if the authorised person suspects, on reasonable grounds, the order is not being complied with in the place.

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

- (1) If a person contravenes an electricity restriction regulation or an emergency rationing order, an authorised person may, without notice to the person, disconnect supply to the person, including, for example, to any electrical installation or premises of the person.
- (2) An electricity entity may refuse to reconnect supply to the person until—
  - (a) whichever of the following happens first—
    - (i) the person agrees not to contravene the regulation or order;
    - (ii) the regulation or order ceases to be in force; and
  - (b) the person pays any reasonable disconnection or reconnection fees required by the entity.
- (3) However, despite the person's agreement not to contravene the regulation or order, the electricity entity may refuse to reconnect supply if it is of the opinion that, because of the person's previous conduct, the person will not comply with the agreement.

## Part 4 Other matters

### 164 Notice of damage by authorised persons

- (1) This section applies if an authorised person damages anything when exercising or purporting to exercise a power under this chapter.
- (2) The authorised person must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.
- (4) In this section—  
*owner* of a thing includes the person in possession or control of the thing.

### 165 Compensation

- (1) A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an authorised person may claim compensation against the State.
- (2) Compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of compensation; or
  - (b) for an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **Chapter 8      Technical issues**

### **166      Connection to transmission grid or supply network to comply with conditions for connection**

- (1) In connecting something to a transmission grid or supply network, a person must comply with the technical conditions for the connection.

Maximum penalty—8 penalty units.

- (2) An electricity entity or special approval holder may disconnect anything that is connected to its transmission grid or supply network in contravention of the technical conditions.

### **176      Removing anything built contrary to Act**

- (1) The regulator may, by written notice to a person, require the person to remove anything built by the person in contravention of this Act.
- (2) The person must comply with the notice within the reasonable period stated in the notice, unless the person has a reasonable excuse for not complying with the notice.

Maximum penalty—8 penalty units.

## **Chapter 9      Authorities and approvals**

### **Part 1              Generation authorities**

#### **Division 1          Issue of generation authority**

##### **178      Issue of generation authorities**

- (1) The regulator may issue a generation authority to a person.



- (2) The authority must state—
  - (a) the generating plant that may be connected; and
  - (b) the transmission grid or supply network to which it may be connected; and
  - (c) whether the person is authorised to sell electricity and, if so, the basis of the authorisation; and
  - (d) the term of the authority.
- (3) Generating plant may be stated in the authority even though it has not been built when the authority is issued.

### **179 Application for generation authority**

- (1) An application for the issue of a generation authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state—
    - (i) the generating plant proposed to be connected; and
    - (ii) the transmission grid or supply network to which it is proposed to be connected; and
    - (iii) whether the applicant intends to sell electricity and, if so, the basis on which the applicant intends to sell; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **179A Publication about application for generation authority**

- (1) Before issuing a generation authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

### **180 Consideration of application for generation authority**

- (1) The regulator must consider an application for the issue of a generation authority and may issue, or refuse to issue, the authority.
- (2) The regulator may issue the authority only if satisfied—
- (a) the applicant will operate the generating plant stated in the application; and
  - (b) the generating plant will be able to provide electricity of a quality suitable for the transmission grid or supply network stated in the application; and
  - (c) the applicant is a suitable person to be a generation entity; and
  - (d) the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner; and
  - (e) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a generation entity, or the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and

- (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be the operator; and
  - (f) additional matters prescribed under the regulations.
- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.
- (5) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and
  - (b) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the generating plant; and
  - (c) additional matters prescribed under the regulations.
- (6) In deciding whether to issue the authority, the regulator may consider matters prescribed under the regulations.
- (7) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

### **181 Notice of refusal to issue generation authority**

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

## **Division 2                      Amendment of generation authority**

### **182      Amendment of generation authorities**

The regulator may, with a generation entity's agreement and after considering the objects of this Act, amend its generation authority.

### **183      Amendment of conditions stated in generation authorities**

The regulator may, with a generation entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

### **183A    Amendment of generation authorities and conditions by notice to generation entity**

- (1) The regulator may amend a generation authority or the conditions of a generation authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a generation authority or the conditions of a generation authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, or reforms concerning the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 182 and 183.

## **Division 3                      Transfer of authority**

### **184      Transfer of generation authorities**

The regulator may transfer a generation authority.

#### **184A    Application for transfer**

- (1) An application for the transfer of a generation authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

#### **184B    Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the generation authority.
- (2) However, the regulator may transfer the authority only if satisfied—
  - (a) the proposed transferee will operate the generating plant to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a generation entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a generation entity, the regulator may consider the matters mentioned in section 180(3) as if the proposed transferee were applying for the issue of the authority.

**184C Notice of refusal to transfer generation authority**

As soon as practicable after deciding to refuse to transfer the generation authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

**Division 4 Surrender of generation authority****185 Surrender of generation authorities**

- (1) A generation entity may surrender its authority by giving the regulator written notice of surrender.
- (2) The notice must be given to the regulator at least—
  - (a) 6 months before it is to take effect; or
  - (b) if the authority requires a longer period of notice—the required period of notice before it is to take effect.
- (3) However, the regulator may agree to a shorter period of notice in a particular case.

**Part 2 Transmission authorities****Division 1 Issue of transmission authority****186 Issue of transmission authorities**

- (1) The regulator may issue a transmission authority to a person.
- (2) The authority must state—
  - (a) the transmission grid that may be operated; and
  - (b) if it may be connected to another transmission grid—the other transmission grid to which it may be connected; and
  - (c) the term of the authority.

- (3) A transmission grid may be stated in the authority even though it has not been built when the authority is issued.
- (4) The authority may, but need not, state—
  - (a) the precise limits of the transmission grid; or
  - (b) that the transmission grid is to operate in a stated area.
- (5) The transmission grid mentioned in subsection (2)(b) may be a transmission grid outside the State.

### **187 Transmission authorities for same area**

The regulator may issue 2 or more transmission authorities for the same area.

### **188 Application for transmission authority**

- (1) An application for the issue of a transmission authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state—
    - (i) the transmission grid proposed to be operated; and
    - (ii) if it is proposed the transmission grid be connected to another transmission grid—the transmission grid to which it is proposed to be connected; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **188A Publication about application for transmission authority**

- (1) Before issuing a transmission authority the regulator must publish a notice in a daily newspaper generally circulating in the State—

- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

### **189 Consideration of application for authority**

- (1) The regulator must consider an application for the issue of a transmission authority and may issue, or refuse to issue, the authority.
- (2) The regulator may issue the authority only if satisfied—
- (a) the applicant is operating, or will operate, the transmission grid stated in the application; and
  - (b) the transmission grid has, or will have, the technical capabilities to provide for transmission of electricity of a quality likely to be needed to be transmitted through the transmission grid and the proposed transmission of electricity is, or will be, adequate, safe and reliable; and
  - (c) the applicant is a suitable person to be a transmission entity; and
  - (d) the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner; and
  - (e) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a transmission entity, or the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and



- (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be the operator; and
  - (f) additional matters prescribed under the regulations.
- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.
- (5) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and
  - (b) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the transmission grid; and
  - (c) additional matters prescribed under the regulations.
- (6) In deciding whether to issue the authority, the regulator must not consider the matters prescribed by regulation.

### **190 Notice of refusal to issue transmission authority**

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

## **Division 2                      Amendment of transmission authority**

### **191      Amendment of transmission authorities**

The regulator may, with a transmission entity's agreement and after considering the objects of this Act, amend its authority—

- (a) to change the transmission grid that may be operated under the authority; or
- (b) to authorise connection to a transmission grid; or
- (c) to change a transmission grid to which connection may be made.

### **192      Amendment of conditions stated in transmission authorities**

The regulator may, with a transmission entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

### **192A    Amendment of transmission authorities and conditions by notice to transmission entity**

- (1) The regulator may amend a transmission authority or the conditions of a transmission authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a transmission authority or the conditions of a transmission authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms in relation to the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.

- (3) This section does not affect the power to amend under sections 191 and 192.

## **Division 3                      Transfer of authority**

### **193      Transfer of transmission authorities**

The regulator may transfer a transmission authority.

#### **193A    Application for transfer**

- (1) An application for the transfer of a transmission authority must—
- (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

#### **193B    Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the transmission authority.
- (2) However, the regulator may transfer the authority only if satisfied—
- (a) the proposed transferee will operate the transmission grid to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a transmission entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a transmission entity, the regulator may consider

the matters mentioned in section 189(3) as if the proposed transferee were applying for the issue of the authority.

### **193C Notice of refusal to transfer transmission authority**

As soon as practicable after deciding to refuse to transfer the transmission authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

## **Division 4 Surrender of transmission authority**

### **194 Surrender of transmission authorities**

- (1) A transmission entity may surrender its authority by giving the regulator written notice of surrender.
- (2) The notice must be given to the regulator at least—
  - (a) 6 months before it is to take effect; or
  - (b) if the authority requires a longer period of notice—the required period of notice before it is to take effect.
- (3) However, the regulator may agree to a shorter period of notice in a particular case.

## **Part 3 Distribution authorities**

### **Division 1 Issue of distribution authority**

#### **195 Issue of distribution authorities**

- (1) The regulator may issue a distribution authority to a person.
- (2) The authority may state the term of the authority.

**195A Distribution authorities for same distribution area**

The regulator may issue 2 or more distribution authorities for the same distribution area.

**196 Application for authority**

- (1) An application for the issue of a distribution authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state the proposed distribution area; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

**196A Publication about application for distribution authority**

- (1) Before issuing a distribution authority the regulator must publish a notice in a daily newspaper generally circulating in the State—
  - (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

**197 Consideration of application for authority**

- (1) The regulator must consider an application for the issue of a distribution authority and may give, or refuse to give, the authority.
- (2) The regulator may issue the authority only if satisfied—

- (a) the applicant is operating, or will operate, the supply network stated in the application; and
  - (b) the applicant is a suitable person to be a distribution entity; and
  - (c) the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner; and
  - (d) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a distribution entity, or the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
  - (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be a distribution entity; and
  - (f) additional matters prescribed under the regulations.
- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be a distribution entity.
- (5) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and

- (b) relevant government policies about environmental and energy issues and the likely environmental effects of the activities proposed to be done under the authority; and
  - (c) additional matters prescribed under the regulations.
- (6) In deciding whether to issue the authority, the regulator may consider additional matters prescribed under the regulations.
- (7) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

### **198 Notice of refusal to issue authority**

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

## **Division 2 Amendment of distribution authority**

### **199 Amendment of distribution authorities**

The regulator may, with a distribution entity's agreement and after considering the objects of this Act, amend its distribution authority.

### **200 Amendment of conditions stated in distribution authorities**

The regulator may, with a distribution entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

### **200A Amendment of distribution authorities and conditions by notice to distribution entity**

- (1) The regulator may amend a distribution authority or the conditions of a distribution authority by notice under subsection (2) given to the holder of the authority.

- (2) The regulator may amend a distribution authority or the conditions of a distribution authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 199 and 200.

## **Division 3                      Transfer of authority**

### **201      Transfer of distribution authorities**

The regulator may transfer a distribution authority.

### **201A    Application for transfer**

- (1) An application for the transfer of a distribution authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.



**201B Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the distribution authority.
- (2) However, the regulator may transfer the authority only if satisfied—
  - (a) the proposed transferee will operate the supply network to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a distribution entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a distribution entity, the regulator may consider the matters mentioned in section 197(3) as if the proposed transferee were applying for the issue of the authority.

**201C Notice of refusal to transfer distribution authority**

As soon as practicable after deciding to refuse to transfer the distribution authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

**Division 4 Surrender of distribution authority****202 Surrender of distribution authorities**

A distribution entity may surrender its authority only with the regulator's agreement.

## **Part 4                      Retail authorities**

### **Division 1                Issue of retail authority**

#### **203      Issue of retail authorities**

- (1) The regulator may issue a retail authority to a person.
- (2) The authority may state the term of the authority.
- (3) If the authority states a retail area, the authority may state when the right to the retail area ends.
- (4) The regulator must not issue more than 1 retail authority with a retail area for the same retail area.

#### **204      Application for authority**

- (1) An application for the issue of a retail authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) if the application relates to the sale of electricity to non-contestable customers—state the proposed retail area; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

#### **204A    Publication about application for retail authority**

- (1) Before issuing a retail authority the regulator must publish a notice in a daily newspaper generally circulating in the State—
  - (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and

- (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

## **205 Consideration of application for authority**

- (1) The regulator must consider an application for the issue of a retail authority and may give, or refuse to give, the authority.
- (2) The regulator may issue the authority only if satisfied—
  - (a) the applicant will sell the electricity and perform the services stated in the application; and
  - (b) the applicant is a suitable person to be a retail entity; and
  - (c) the applicant meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the applicant is a suitable person to be a retail entity, the regulator may consider—
  - (a) subject to subsection (4), the financial capacity of the applicant; and
  - (b) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
  - (c) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (d) the person's criminal history; and
  - (e) if the person is a corporation—the matters mentioned in paragraphs (b) to (d) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (f) for the applicant—the applicant's competence to be a retail entity; and
  - (g) additional matters prescribed under a regulation.
- (4) The regulator does not have to consider the matter in subsection (3)(a) if—

- (a) the applicant's authority will be subject to a condition requiring compliance with the National Electricity Rules; and
  - (b) the National Electricity Rules contain prudential requirements applying to the activities to be authorised.
- (5) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be a retail entity.
- (6) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and
  - (b) relevant government policies about energy issues; and
  - (c) additional matters prescribed under a regulation.
- (7) In deciding whether to issue the authority, the regulator may consider additional matters prescribed under a regulation.
- (8) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

## **206 Notice of refusal to issue authority**

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

## **Division 2 Amendment of retail authority**

### **207 Amendment of retail authorities**

The regulator may, with a retail entity's agreement and after considering the objects of this Act, amend its retail authority.

### **207A Amendment of conditions stated in retail authorities**

The regulator may, with a retail entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

**207AB Amendment of retail authorities and conditions by notice to retail entity**

- (1) The regulator may amend a retail authority or the conditions of a retail authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a retail authority or the conditions of a retail authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms about the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 207 and 207A.

**Division 3                      Other matters about retail authorities****207B Retail authorities not transferable**

A retail authority can not be transferred.

**207C Surrender of retail authorities**

A retail entity may surrender its authority only with the regulator's agreement.

**207D Recognition of interstate retail authority equivalents**

- (1) A person may apply for the issue of a retail authority if the person holds an equivalent authority or licence issued under the law of another State.

- (2) The application must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fees prescribed under a regulation including any fee for investigating whether an authority or licence should be issued.
- (3) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.
- (4) The regulator may dispense with any of the requirements of this part in relation to the application for or issue of a retail authority applied for under this section.
- (5) The applicant may not apply for a review of, or appeal against, the decision of the regulator.
- (6) To remove doubt, subsection (5) also precludes an application for review under the *Judicial Review Act 1991*.

## **Part 5                      Special approvals**

### **Division 1                Giving of special approval**

#### **208      Giving of special approvals**

A special approval may be given under the regulations or by the regulator.

#### **209      Application for special approval**

- (1) An application for a special approval must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state the things proposed to be done under the approval; and

- (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the approval should be given.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

## **210 Consideration of application for special approval**

- (1) The regulator must consider an application for the giving of a special approval and may give, or refuse to give, the approval.
- (2) Sections 180(2) to (7), 189(2) to (6), 197(2) to (7) and 205(2) to (8), to the extent the provisions are relevant to the proposed activities, apply to the giving of the approval as if the application were for the issue of a relevant authority.
- (3) In this section—

*proposed activities* means the activities proposed to be performed under the special approval.

*relevant authority* means a generation, transmission, distribution or retail authority the applicant would otherwise be required to hold to perform the proposed activities.

## **211 Notice of refusal to give special approval**

If the regulator refuses to give a special approval, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

## **Division 2 Amendment of special approval**

### **211A Amendment of special approval**

The regulator may, with a special approval holder's agreement and after considering the objects of this Act, amend its special approval.

**211B Amendment of conditions stated in special approval**

The regulator may, with a special approval holder's agreement and after considering the objects of this Act, amend the conditions stated in its special approval.

**211C Amendment of special approval and conditions by notice to holder of special approval**

- (1) The regulator may amend a special approval or the conditions of a special approval by notice under subsection (2) given to the holder of the special approval.
- (2) The regulator may amend a special approval or the conditions of a special approval by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the special approval an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 211A and 211B.

**Division 3 Transfer of special approval****212 Transfer of special approval**

The regulator may transfer a special approval.

**212A Application for transfer**

- (1) An application for the transfer of a special approval must—
  - (a) be made to the regulator in the form approved by the regulator; and



- (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **212B Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the special approval.
- (2) However, the regulator may transfer the special approval only if satisfied the proposed transferee is a suitable person to hold the special approval.
- (3) In deciding whether the proposed transferee is a suitable person to hold the special approval, the regulator may consider the matters the regulator considers appropriate.

### **212C Notice of refusal to transfer special approval**

As soon as practicable after deciding to refuse to transfer the special approval, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right of appeal.

## **Division 4 Surrender of special approval**

### **213 Surrender of special approvals**

- (1) The holder of a special approval may surrender the approval by giving the regulator written notice of surrender.
- (2) The notice must be given to the regulator at least—
  - (a) 6 months before it is to take effect; or
  - (b) if the approval requires a longer period of notice—the required period of notice before it is to take effect.
- (3) However, the regulator may agree to a shorter period of notice in a particular case.

## **Chapter 10      Review of and appeals against decisions**

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

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

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

#### **215      Applying for review**

- (1) An application by a person for review of a decision must be made within 28 days after notice of the decision is given to the person.
- (2) However, if—
  - (a) the notice did not state reasons for the decision; and
  - (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (1);the person may make the application within 28 days after the person is given the statement of reasons.
- (3) In addition, the regulator may extend the period for making an application for review.
- (4) An application for review must be written and state in detail the grounds on which the applicant seeks review of the decision.

#### **216      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 court mentioned opposite the decision in schedule 1.

- (2) The court may stay the decision to secure the effectiveness of the review and any later appeal to the court.
- (3) A stay—
  - (a) may be given on conditions the court considers appropriate; and
  - (b) operates for the period fixed by the court; and
  - (c) may be revoked or amended by the court.
- (4) The period of a stay under this section must not extend past the time when the regulator reviews the decision and any later period the court allows the applicant to enable the applicant to appeal against the regulator's decision.
- (5) The making of an application under this part for review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

## **217 Review panels, arbitration and mediation**

- (1) A regulation may make provision about referring applications under this part for review of decisions to—
  - (a) review panels for advice; or
  - (b) mediation for resolution; or
  - (c) arbitration for decision.
- (2) Without limiting subsection (1), a regulation may make provision about—
  - (a) the type of applications that must or may be referred to review panels, mediation or arbitration; and
  - (b) establishing review panels; and
  - (c) the composition of review panels; and
  - (d) the appointment of mediators and arbitrators; and
  - (e) the conduct of proceedings before review panels, mediators and arbitrators; and
  - (f) the making of recommendations by review panels, the resolving of applications by mediation and the making of decisions by arbitration.

**218 Decision on reconsideration**

- (1) This section applies to an application under this part for review of a decision (the *disputed decision*).
- (2) If the application is not referred to a review panel, resolved by mediation or decided by arbitration, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the applicant's representations.
- (3) If the application is referred to a review panel, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the review panel's advice.
- (4) If the application is resolved by mediation or decided by arbitration, the regulator must give effect to the resolution or decision and may, for the purpose, confirm the disputed decision, amend the disputed decision or substitute a new decision.
- (5) The regulator must immediately give the applicant written notice of the regulator's decision on the application.
- (6) If the decision is not the decision sought by the applicant, the notice must state—
  - (a) the reasons for the decision; and
  - (b) that the applicant may appeal against the decision to a stated court within 28 days.
- (7) If the regulator was not the decision maker and the regulator amends the decision or substitutes a new decision, the amended or substituted decision is, for this Act (other than this chapter), taken to be a decision of the decision maker.

**Part 2 Appeals****219 Who may make an appeal**

- (1) A person whose interests are affected by a decision of the regulator under section 218 may appeal against the decision to

the court mentioned in schedule 1 opposite the reference to the decision that was reviewed.

- (2) However, a regulation may provide that a person may not appeal against a decision of the regulator giving effect to a resolution by mediation or decision by arbitration.

## **220 Making appeals**

- (1) An appeal under this part against a decision of the regulator must be made within 28 days after the notice of the decision is given to the person.
- (2) However, if—
  - (a) the notice did not state reasons for the decision; and
  - (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (1);the person may make the application within 28 days after the person is given the statement of reasons.
- (3) In addition, the court may extend the period for making an appeal, even though the time for making the appeal has expired.

## **221 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 regulator.
- (3) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

## **222 Stay of operation of decisions**

- (1) A court to which an appeal against a decision lies under this part may grant a stay of the decision to secure the effectiveness of the appeal.
- (2) A stay—

- (a) may be given on the conditions the court considers appropriate; and
  - (b) operates for the period fixed by the court; and
  - (c) may be revoked or amended by the court.
- (3) The period of a stay under this section must not extend past the time when the court decides the appeal.
- (4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

### **223 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.

### **224 Effect of court's decision on appeal**

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

### **225 Procedure of court**

- (1) In this section—
- authorising Act* means—

- (a) for the Supreme Court—the *Supreme Court Act 1995*, part 19;<sup>136</sup> or
  - (b) for a District Court—the *District Court of Queensland Act 1967*; or
  - (c) for a Magistrates Court—the *Magistrates Courts Act 1921*.
- (2) The power to make rules of court for a court under its authorising Act includes power to make rules of court for appeals to the court under this part.
- (3) The procedure for appeal to a court under this part is—
- (a) in accordance with its rules of court; or
  - (b) in the absence of relevant rules, as directed by a judge or magistrate.

## **226 Appeals**

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

# **Chapter 11 General**

## **Part 1 Offences**

### **227 Unlawful to convey electricity etc. beyond own property**

A person, other than an electricity entity or special approval holder, must not operate an electric line beyond the person's property other than under a regulation.

Maximum penalty—40 penalty units.

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<sup>136</sup> *Supreme Court Act 1995*, part 19 (Provisions from *Supreme Court Act 1921*)

**228 Unlawfully in or on premises where works situated**

A person must not unlawfully be in or on premises or an enclosure where an electricity entity's works are situated.

Maximum penalty—40 penalty units.

**229 Potential damage to electric lines by projectiles**

A person must not unlawfully discharge a weapon near an electric line or associated equipment, or throw or otherwise project an object towards an electric line or associated equipment so that—

- (a) the electric line or associated equipment is likely to be damaged; or
- (b) the supply of electricity is likely to be interrupted.

Maximum penalty—40 penalty units or 6 months imprisonment.

**230 Unlawful interference with electricity entity's works**

A person must not wilfully and unlawfully interfere with an electricity entity's works.

*Example of interference—*

attaching something to an electricity entity's works

Maximum penalty—40 penalty units or 6 months imprisonment.

**231 Unlawful connection to transmission grid or supply network**

A person must not unlawfully connect anything to an electricity entity's transmission grid or supply network.

Maximum penalty—40 penalty units or 6 months imprisonment.



**232 Unlawful interference with supply of electricity to customer**

A person must not unlawfully connect or disconnect supply of electricity to a customer or interfere with supply of electricity to a customer.

Maximum penalty—40 penalty units or 6 months imprisonment.

**233 Offence to contravene emergency rationing order**

A person must not contravene an emergency rationing order, unless the person has a reasonable excuse for the contravention.

Maximum penalty—8 penalty units.

**235 Unlawful taking of electricity**

- (1) A person must not unlawfully take electricity.

Maximum penalty—1000 penalty units or 6 months imprisonment.

- (2) If the day or days on which a person is alleged to have been committing an offence against subsection (1) can not be established, the person may—
- (a) be charged with 1 offence of unlawfully taking electricity over, or at some unknown time during, a stated period; and
  - (b) be convicted and punished accordingly.
- (3) In a prosecution for an offence against this or another Act in which it is claimed electricity has been unlawfully taken, the electricity is taken to belong to any person through whose transmission grid, supply network or works the electricity was supplied.

**236 Obstruction of electricity officers and inspection officers**

A person must not obstruct an electricity officer or inspection officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

**237 Impersonation of electricity officers and inspection officers**

A person must not pretend to be an electricity officer or inspection officer.

Maximum penalty—80 penalty units.

**238 False or misleading information**

(1) A person must not—

(a) state anything to the regulator, an electricity officer or an inspection officer the person knows is false or misleading in a material particular; or

(b) omit from a statement made to the regulator, an electricity officer or an inspection officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states the statement made was false or misleading to the person's knowledge.

**239 False, misleading or incomplete documents**

(1) A person must not give the regulator, an electricity officer or an inspection officer a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) informs the regulator, inspection officer or electricity officer, to the best of the person's ability, how it is false, misleading or incomplete; and
  - (b) gives the correct information to the regulator, inspection officer or electricity officer if the person has, or can reasonably obtain, the correct information.
- (3) A complaint against a person for an offence against subsection (1) is sufficient if it states the document was false, misleading or incomplete to the person's knowledge.

#### **240 Impersonation of person named in document**

- (1) A person must not pretend to be a person named in a document issued or given under this Act.

Maximum penalty—8 penalty units.

- (2) In subsection (1)—

*document* includes a certificate, identity card, notice, record book and register.

#### **240A Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.

- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the maximum penalty for the contravention of the provision by an individual.

- (3) Evidence that a corporation has been convicted of an offence against a provision of this Act is evidence each of the corporation's executive officers committed the offence of failing to ensure the corporation complies with the provision.

- (4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—that the

officer took reasonable steps to ensure the corporation complied with the provision; or

- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

- (5) In this section—

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

## **241 Attempts to commit offences**

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—one-half maximum penalty for committing the offence.

- (2) The Criminal Code, section 4<sup>137</sup> applies to subsection (1).

## **242 Proof of unlawfulness**

If a provision of this Act that creates an offence mentions a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76 applies as if the doing of the act or the making of the omission with an authority were an exemption contained in the provision.

## **243 Offences are summary offences**

An offence against this Act is a summary offence.

## **244 Start of offence proceedings**

- (1) A proceeding for an offence against this Act must be started within—

- (a) 1 year after the offence is committed; or

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137 Criminal Code, section 4 (Attempts to commit offences)

- (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.
- (2) However, if section 235(2) (which deals with unlawful taking of electricity over or during a period) applies to the offence, a proceeding for the offence may be started within—
- (a) 1 year after the end of the relevant period; or
  - (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the end of the relevant period.

## **Part 2                      Evidentiary provisions**

### **245      Application of part**

This part applies to a proceeding under or in relation to this Act.

### **246      Proof of appointments**

It is not necessary to prove the appointment of the following persons—

- (a) the chief executive of the department (the regulator);
- (b) electricity officers;
- (c) inspection officers.

### **247      Proof of signatures**

A signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the Minister;
- (b) the regulator;

- (c) an electricity officer;
- (d) an inspection officer.

#### **248 Evidentiary certificates by regulator**

A certificate purporting to be signed by the regulator and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given by the regulator under this Act or a copy of it;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or an approval given by the regulator under this Act;
- (c) on a stated day, or during a stated period, a stated person did or did not have an obligation to supply electricity;
- (d) an authority or approval was or was not issued or granted by the regulator for a stated term, or was or was not subject to stated conditions;
- (e) on a stated day, a stated person was given a notice under this Act by the regulator;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;
- (g) a stated amount is the amount of costs or expenses incurred by the regulator in taking stated action under this Act.

#### **249 Evidentiary certificate by electricity entity's chief executive officer etc.**

A certificate purporting to be signed by the chief executive officer of an electricity entity, or an employee of the entity authorised by its chief executive officer, and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given under this Act by the entity or a copy of it;

- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or approval given by the entity under this Act;
- (c) an authority given by the entity was or was not given for a stated term, or was or was not subject to stated conditions;
- (d) on a stated day, a stated person was given a notice by or for the entity under this Act;
- (e) a stated amount is payable under this Act to the entity by a stated person and has not been paid;
- (f) a stated amount is the amount of costs or expenses incurred by the entity in taking action under this Act.

## **251 Proof of taking of electricity etc.**

The existence on, or in association with, a customer's electrical installation of ways to—

- (a) take electricity provided from an electricity entity's transmission grid or supply network; or
- (b) change or interfere with a meter or the works of an electricity entity and connected (directly or indirectly) to an electricity entity's transmission grid or supply network if the meter is or works are in the custody or control of the customer;

is evidence that electricity has been taken by the customer and the change or interference has been caused by the customer.

## **251A Evidentiary effect of conduct notice**

- (1) A document purporting to be a certified copy of a conduct notice is evidence—
  - (a) that the notice was made under section 120O; and
  - (b) of the contravention or other matters stated in it; and
  - (c) that the notice has been given to the entity stated in it under section 120P.
- (2) In subsection (1)—

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

## Part 3                      Miscellaneous

### 252      **Condition may require compliance with standards, codes etc.**

- (1) A condition that may be imposed under this Act may require compliance with a protocol, standard, code, intergovernmental agreement or another agreement stated in the condition.
- (2) This section does not limit the *Statutory Instruments Act 1992*, section 23.<sup>138</sup>

### 253      **Advisory committees**

- (1) For this Act, advisory committees may be established under the regulations or by the Minister.
- (2) An advisory committee established under the regulations has the functions stated in the regulation.
- (3) An advisory committee established by the Minister has the functions stated by the Minister.
- (4) Without limiting subsection (2) or (3), an advisory committee's function may be to give information and advice on matters impacting on communities in a particular region to the following—
  - (a) the Minister;
  - (b) the department;
  - (c) distribution entities or retail entities.

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<sup>138</sup> *Statutory Instruments Act 1992*, section 23 (Statutory instrument may make provision by applying another document)



*Electricity Act 1994*

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*Examples of matters impacting on communities in a particular region for subsection (4)—*

- 1 service levels provided by electricity entities
  - 2 reliability of electricity supply
  - 3 environmental concerns
  - 4 major electricity infrastructure projects
  - 5 proposed changes to the local electricity network
- (5) A member of an advisory committee is entitled to be paid the fees and allowances that may be approved by the Governor in Council.

**254 Protection from liability**

- (1) In this section—  
*official* means—
- (a) the Minister; and
  - (b) the regulator; and
  - (c) officers of the department assisting the regulator to perform functions mentioned in section 63(1)(c) and (e); and
  - (d) an operator under section 131 and employees of an operator; and
  - (e) inspection officers; and
  - (f) members of advisory committees appointed by the Minister or under a regulation; and
  - (g) members of any board established under this Act.
- (2) An official does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

**254AA Protection from liability of member or employee of QCA**

- (1) A member or employee of the QCA is not civilly liable for an act done, or omission made, in good faith under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to the QCA.

**254AB Meaning of particular terms for a relevant body corporate**

For a relevant body corporate, a reference in this Act—

- (a) to a customer's premises or to premises owned or occupied by a customer, is a reference to the premises for which the relevant body corporate is established; and
- (b) to a customer or person who owns or occupies premises or has the right to use premises, is a reference to the relevant body corporate established for the premises.

**254A Attachment—words defined in other legislation referred to in this Act**

- (1) Attached to this Act is an attachment containing relevant provisions from other legislation referred to in this Act.<sup>139</sup>
- (2) The attachment is not part of this Act.
- (3) The attachment must be revised so that it is an accurate copy of the provisions as amended from time to time.
- (4) The revision under subsection (3) must happen in the first reprint of this Act after an amendment of a provision.

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<sup>139</sup> The attachment appears immediately after schedule 5 (Dictionary).

## Chapter 12 State electricity entities

### Part 1 General

#### 255 State electricity entities do not represent the State

State electricity entities do not represent the State.

#### 256 Application of Freedom of Information Act and Judicial Review Act

(1) In this section—

*commercial activities* means activities conducted on a commercial basis.<sup>140</sup>

*community service obligations* has the same meaning as in the GOC Act.

*excluded activities* means—

- (a) commercial activities; or
  - (b) community service obligations prescribed under the regulations.
- (2) A regulation may declare the activities of a State electricity entity that are taken to be, or are taken not to be, activities conducted on a commercial basis.
- (3) The *Freedom of Information Act 1992* does not apply to a document received or brought into existence by a State electricity entity in carrying out its excluded activities.
- (4) The *Judicial Review Act 1991* does not apply to a decision of a State electricity entity made in carrying out its excluded activities.

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<sup>140</sup> Section 16 of the GOC Act (*Meaning of corporatisation*) defines corporatisation as a structural reform process for nominating government entities that, among other things, changes the conditions and (where required) the structure under which the entities operate so that they operate, as far as practicable, on a commercial basis and in a competitive environment (emphasis added).

**259A Regulation may declare a State electricity entity**

(1) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for section 256 or 262—

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

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

(2) A regulation may also declare an entity that is a subsidiary of a GOC but is not a State electricity entity to be a State electricity entity for—

- (a) awards, or a stated award, under the *Industrial Relations Act 1999*; or
- (b) employment conditions, or stated employment conditions, of its employees.

## **Part 2 Superannuation**

**260 State electricity entities to take part in regulated superannuation scheme**

Each State electricity entity must take part in a regulated superannuation scheme under the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

**262 Membership of certain superannuation schemes continued**

(1) A person who, immediately before the commencement is—

- (a) an employee of the electricity supply industry under the repealed Act; and
  - (b) a contributor to the Brisbane City Council Superannuation Fund, GO Super (Government Officers Superannuation Scheme), State Service Superannuation Scheme, Q-Super (State Public Sector Superannuation Scheme) or Local Government Superannuation Scheme; continues to be a contributor while the person continues to be an employee of a State electricity entity.
- (2) The person's employer must deduct from the person's salary the contributions the person is required to make under the scheme and remit them to the relevant fund.
  - (3) The person's employer is also liable to make any contributions that under the scheme an employer of the person is required to make.
  - (4) This section does not prevent a person being a contributor to the Electricity Supply Industry Superannuation Fund (Qld), but a person may not be a contributor to a scheme under this section and also be a contributor to the Electricity Supply Industry Superannuation Fund (Qld).

## Chapter 13 Regulations

### 263 General regulation-making power

The Governor in Council may make regulations under this Act.

### 264 Regulation about matters in sch 2

- (1) Without limiting section 263, a regulation may make provision about the matters mentioned in schedule 2, including for example—
  - (a) regulating persons and things in relation to the matters; and

- (b) imposing conditions in an authority or special approval prohibiting electricity entities or special approval holders from having a prohibited interest in 1 or more of the following—
    - (i) a prescribed authority;
    - (ii) a prescribed entity;
    - (iii) a prescribed person;
    - (iv) a prescribed thing; and
  - (c) the functions, entitlements, obligations and powers of persons in relation to the matters.
- (2) A regulation under subsection (1)(b) may make different provision for different electricity entities or special approval holders.

## **266 Energy labelling and performance standards**

Without limiting section 263, a regulation may make provision about appliances that use electricity (*electrical appliances*), including, for example, provision about—

- (a) minimum energy performance standards for electrical appliances; and
- (b) efficiency labelling for electrical appliances; and
- (c) registering of efficiency labels for electrical appliances; and
- (d) testing and labelling electrical appliances, including, for example, payment of the cost of testing (whether or not required) and limitation of liability for damage to electrical appliances during testing; and
- (e) selling and hiring electrical appliances; and
- (f) offering, exposing or advertising electrical appliances for sale or hire.

## **Chapter 14      Transitional and validation provisions**

### **Part 1                      Provisions for original Act (1994 No. 64)**

#### **269      Definition**

In this chapter—

*repealed Act* means the *Electricity Act 1976*.

#### **276      Transfer of officers to the department**

- (1) On and from the commencement, the persons appointed, in writing, by the chief executive of the department who immediately before the commencement were employees of the Queensland electricity commission become officers of the department.
- (2) A person mentioned in subsection (1) must be taken as having (for the calculation of leave entitlements as an officer of the department)—
  - (a) continuous service with the department that includes continuous service as an employee up to the commencement; and
  - (b) taken leave that the person as an employee of the Queensland electricity commission had taken or for which the person has received payment and that is attributable to that service.

#### **280      First declaration of approved superannuation scheme**

- (1) The first regulation declaring an industry superannuation scheme to be an approved industry superannuation scheme must fix a commencement day for the approval (the *approval day*).

*Notes—*

- 1 For the definition of *approved industry superannuation scheme*, see this Act as passed, section 261.
  - 2 For the approval day, see the *Electricity Regulation 1994*, section 241.
- (2) The regulation may be made only if the Minister is satisfied the scheme's conditions are acceptable to replace the conditions of the Queensland Electricity Supply Industry Employees' Superannuation Scheme, and the Queensland Electricity Supply Industry Employer-funded Accumulations Superannuation Fund, established under the *Electricity Act 1976 (QESI ESS)*.
- (3) The approved industry superannuation scheme is a continuation of QESI ESS.

**285A Electricity Act 1976 references**

In an Act or document, a reference to the *Electricity Act 1976* may, if the context permits, be taken to be a reference to this Act.

**286 References to electricity boards, electricity authorities and electricity supply industry**

- (1) A reference in any document, including an Act, to, or that is read as a reference to, an electricity board within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to a State authorised supplier or the State authorised supplier that is its successor, as the case requires unless the context or a regulation otherwise requires.
- (2) A reference in any document, including an Act, to, or that is read as a reference to, the Queensland electricity commission within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to 1 or more of QGC, QTSC, QETC or the regulator according to the aspect, function, power, obligation or entitlement of the Queensland electricity commission in relation to which the reference is made unless the context or a regulation otherwise requires.



- (3) A reference in any document, including an Act, to the electricity supply industry is taken, after the commencement, to be a reference to the electricity industry.
- (4) A reference in any document, including an Act, to the electricity generating board or the State electricity commission is taken, after the commencement, to be a reference to the Queensland electricity commission mentioned in subsection (2).

### **287 Gladstone power station provisions**

- (1) The purpose of this section is to ensure that this Act does not adversely affect arrangements in place at the commencement of this Act under the *Gladstone Power Station Agreement Act 1993* and the State agreement under that Act.
- (2) On the commencement of this subsection, the State will negotiate with the participants under the State agreement under the *Gladstone Power Station Agreement Act 1993* to amend the State agreement, to take effect immediately after the commencement of this Act, so as to as nearly as possible maintain the rights and obligations had, immediately before the commencement of this Act, by the State, the parties to the State agreement and the parties to the transaction documents mentioned in the State agreement.
- (3) In addition to the matters mentioned in subsection (2), the State must identify to the parties to the State agreement before the commencement which 1 or more of QGC, QTSC and QETC (a **relevant entity**) are to be substituted for the Queensland electricity commission in the arrangements contemplated by the *Gladstone Power Station Agreement Act 1993* and the State agreement.
- (4) A relevant entity that is substituted for the Queensland electricity commission in the arrangements is, by this subsection, authorised to enter into the arrangements and do everything necessary or convenient to enable it to perform the commission's obligations, and exercise its entitlements, under the arrangement.
- (5) If the parties to the State agreement are unable to agree on the amendments of the State agreement required by subsection (2), the inability to agree is a dispute between the parties.

- (6) A party to a dispute may give to the other parties to the dispute a written notice (a ***notice of dispute***) specifying the dispute and requiring that it be dealt with under subsection (7).
- (7) If a party gives a notice of dispute, the Minister (within the meaning of the State agreement) or the Minister's nominee and the chief executive officer or the chief executive officer's nominee of each of the other parties to the dispute must meet in Brisbane within 10 days of the giving of the notice of dispute to attempt in good faith, and using their best endeavours to resolve the dispute within a further 10 days.
- (8) To avoid doubt, a dispute under this section is not a dispute for the purposes of clause 24 of the State agreement, but this does not limit the remedies the parties might otherwise have.
- (9) The application of this Act may be changed under the regulations made under this Act or the *Gladstone Power Station Agreement Act 1993*, or by the State agreement, to give effect to subsections (1) to (4).

## **287A Gladstone power station arrangements**

- (1) A regulation may limit the power of the System Operator in Queensland to do anything, or to give a Registered participant a direction requiring it to do anything, that is inconsistent with the obligations of the System Operator in Queensland or the Registered participant under a transaction document.
- (2) The application of this Act may be changed under the State agreement or a further agreement under the *Gladstone Power Station Agreement Act 1993*.
- (3) In this section—

***State agreement*** has the meaning given in *Gladstone Power Station Agreement Act 1993*.

*transaction document* has the meaning given in *Gladstone Power Station Agreement Act 1993*.<sup>141</sup>

**288 Supply under special agreements under s 172 of repealed Act**

- (1) An electricity entity does not discriminate merely because it acts in accordance with an agreement made under section 172 of the repealed Act.
- (2) Subsection (1) does not apply to an agreement as far as it is renewed or extended after the commencement.

**Part 2 Transitional provisions for Electricity Amendment Act 1997, Electricity Amendment Act (No. 2) 1997 and Electricity Amendment Act (No. 3) 1997**

**299 Directions to State electricity entities**

- (1) A State electricity entity must comply with a direction given to it by the Ministers.
- (2) A direction must be in writing and signed by the Ministers.
- (3) The Ministers may give a direction only if they are satisfied it is necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, reforms concerning the Queensland electricity supply industry or to ensure a financially viable Queensland electricity supply industry.
- (4) The board of a State electricity entity must implement a direction given under subsection (1) but an act or decision of

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<sup>141</sup> The attachment contains extracts of the relevant provisions of the *Gladstone Power Station Agreement Act 1993*.

the board is not invalid merely because of a failure to comply with the direction.

- (5) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for this section—
- (a) a GOC;
  - (b) a subsidiary of a GOC;
  - (c) a government company;

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

- (6) In this section—

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

### **302C National Electricity Rules replace Queensland Grid Code**

- (1) This section applies for any reference in any Act or document to the Queensland Grid Code as applied under this Act.
- (2) If the National Electricity Rules deal with matters that the Queensland Grid Code also deals with, the National Electricity Rules replace the Queensland Grid Code to the extent that the National Electricity Rules deal with those matters.

## **Part 3**

## **Transitional provisions for Electricity Amendment Act 2000**

### **303 Continuation of existing regional electricity councils**

- (1) This section applies to a regional electricity council—

- (a) established by the Minister to provide information about regional electricity issues and requirements to the State and electricity retailers; and
  - (b) in existence immediately before the commencement of the *Electricity Amendment Act 2000*.
- (2) The council continues in existence as if it had been established as an advisory committee under section 253<sup>142</sup> with the function of giving information and advice on matters impacting on the region for which it was established.

## **Part 4**                      **Transitional provision for Integrated Planning and Other Legislation Amendment Act 2001**

### **304**      **Application of Acts Interpretation Act, s 20**

The *Acts Interpretation Act 1954*, section 20 applies to the repeal of chapter 4, part 4, division 4A.

## **Part 5**                      **Transitional provisions for Electricity And Other Legislation Amendment Act 2003**

### **305**      **Existing on-supply agreements**

- (1) This section applies to an on-supply agreement under the *Electricity Regulation 1994* that is in force immediately before the commencement of this section.

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142 Section 253 (Advisory committees)

- (2) From the commencement, the agreement is taken to be an on-supply agreement under this Act.

**306 Particular existing agreements about common area consumption**

Chapter 1, part 6, division 1, subdivisions 4 and 6 do not apply to an on-supply agreement made before 13 October 2000.

**307 Existing exemptions from Act**

- (1) This section applies to an exemption from this Act given by the *Electricity Regulation 1994* and in force immediately before the commencement of this section.
- (2) From the commencement, the exemption continues in force as if it were given under the following section of this Act—
- (a) for an exemption for connection of generating plant not supplying electricity to a transmission grid or supply network—section 20P;
  - (b) for an exemption for Brisbane Airport Rail Link—section 20Q(1);
  - (c) for an exemption for an on-supplier—section 20A.

## **Part 6 Validation provision**

**308 Validation of particular acts by relevant bodies corporate**

- (1) This section applies to a relevant body corporate that, before the commencement of this section, entered into an agreement to supply and sell electricity for use in the premises for which the body corporate was established.
- (2) The agreement and all acts, matters and things done by the body corporate under the agreement are taken to be, and always to have been, as validly made or done, as if the agreement were entered into after the commencement.

**Part 7****Transitional provisions for  
Electricity Amendment Act  
2004****309 Existing electricity supply contracts**

- (1) This section applies if—
  - (a) immediately before 1 January 2003, a contract was in force for the sale of electricity from a liable person to a contestable customer; and
  - (b) under chapter 5A, the 13% liability is imposed on the liable person for electricity sold under the contract.
- (2) However, this section does not apply, or ceases to apply, if a review opportunity arose or arises for the contract on or after 1 January 2003.
- (3) The liable person may, by notice to the customer, charge the customer all or any of the following (*chargeable amounts*)—
  - (a) the amount of the liable person's reasonable costs incurred in meeting or managing the 13% liability for electricity sold under the contract; and

*Examples of reasonable costs that may be incurred in meeting the liability—*

- the cost of working out the relevant liable load
- the cost of acquiring GECs to surrender to meet the liability
- any fee paid to surrender the GECs
- an appropriate proportion of the costs of giving the relevant self-assessment report
- if the liable person is an accredited generator—an appropriate proportion of the relevant annual fee
- if the liable person is not an accredited generator—an appropriate proportion of the fee to apply to become a scheme participant and the relevant annual fee

*Example of a reasonable cost that may be incurred in managing the liability—*

- the cost of setting up an internal information technology system to manage the liability

- (b) an amount equivalent to the amount of any civil penalty paid to meet the 13% liability and any reasonable costs of paying the civil penalty.<sup>143</sup>
- (4) The notice must state the amount of each chargeable amount charged to the customer separately from any other amount charged for the sale of the electricity.
- (5) If the customer does not pay a chargeable amount charged to the customer within a reasonable period after receiving the notice, the liable person may recover the chargeable amount from the customer as a debt.
- (6) In deciding what is a reasonable period for subsection (5), regard must be had to the provisions of the contract.
- (7) Subsections (3) to (6)—
  - (a) apply despite any other provision of this Act; but
  - (b) do not apply for a particular chargeable amount if the contract, by express words, provides for who is liable to pay that amount.
- (8) In this section—

***review opportunity***, for a contract, means an opportunity for the liable person, acting either alone or with the agreement of 1 or more of the other parties to the contract—

  - (a) to change how much the customer must pay for electricity sold under the contract; or
  - (b) to carry out a general review, renegotiation or alteration of how much the customer must pay for electricity sold under the contract.

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143 See section 135EY(4) (Imposition of civil penalty for not meeting 13% liability).



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

### 310 **Definitions for pt 8**

In this part—

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

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

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

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

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

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

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

### 311 **Extension of area retail obligation**

- (1) This section applies to a retail entity in relation to premises if—
  - (a) it is not the area retail entity for the premises; and
  - (b) it is the financially responsible retail entity for the premises; and
  - (c) immediately before the FRC day, the premises were owned or occupied by a customer who, under the

post-amended Act, is a large non-market customer for the premises.

- (2) New section 48D applies to the retail entity as if it were an area retail entity for the premises and as if the circumstances mentioned in section 48D(2)(b) existed.

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

- (1) This section applies if—
  - (a) under the pre-amended Act, a customer is a non-contestable customer for premises; and
  - (b) the customer would, under the post-amended Act, be a small customer for the premises.
- (2) Despite former sections 52 and 52A, the customer may enter into a negotiated retail contract under the post-amended Act with a retail entity for the provision of customer retail services to the premises even though this Act is not in force in the form of the post-amended Act.
- (3) However, until the FRC day—
  - (a) customer retail services can not be provided under the negotiated retail contract; and
  - (b) any standard customer sale contract or standard contract between the customer and the retail entity under any of the following continues to apply for the provision of the services to the premises—
    - (i) former section 49 or 49A;
    - (ii) former section 310;
    - (iii) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.
- (4) Also, it is taken to be a term of the negotiated contract that the customer may, by written notice to the retail entity given within 10 business days after the FRC day, terminate the contract without penalty.
- (5) The notice need not state a ground for the termination.

**313 Existing contestable customers who are receivers**

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

**314 Existing standard customer connection contracts**

- (1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under former section 40 or 40AA, taken to have been in force between a customer and a distribution entity for the provision of customer connection services to premises.
- (2) The existing contract ends.
- (3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- (4) The customer and the entity are, under new section 40DB, taken to have entered into a standard connection contract for the provision of the services to the premises.
- (5) New section 40DB(3) to (6) apply as if the standard connection contract as if were a contract taken to have been entered into under that section.
- (6) This section is subject to the retailer of last resort scheme.

**315 Existing standard customer sale contracts**

- (1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under any of the following provisions, taken to have been in force between a customer and a retail entity for the provision of customer retail services to premises—
  - (a) former section 49 or 49A;

- (b) former section 310;
  - (c) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.
- (2) However, subsections (3) to (6) do not apply if the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 applies to the existing contract.
  - (3) The existing contract ends.
  - (4) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
  - (5) The customer and the financially responsible retail entity for the premises are, under new section 51, taken to have entered into a retail contract of the following type for the provision of the services to the premises—
    - (a) if the customer is a small customer for the premises—a standard retail contract;
    - (b) if the customer is a large customer for the premises—a standard large customer retail contract.
  - (6) New section 52(3) and (4) applies to the retail contract as if it were a contract taken to have been entered into under that section.
  - (7) The FRC entity is taken to be the financially responsible retail entity for the premises under the post-amended Act.
  - (8) To remove any doubt, it is declared that subsection (7) applies even though the FRC entity would not, other than for subsection (7), be the financially responsible retail entity for the premises.
  - (9) Subsection (7) ceases to apply if, under the post-amended Act—
    - (a) another retail entity becomes the financially responsible retail entity for the premises because of a completed transfer under the National Electricity Rules taking effect after the FRC day; or
    - (b) the FRC entity becomes the financially responsible retail entity.
  - (10) In this section—

**FRC entity** means—

- (a) Ergon Energy; or
- (b) an acquiring entity or a sale entity under the *Energy Assets (Restructuring and Disposal) Act 2006*.

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

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

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

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

**318 Particular unmetered street lighting**

- (1) This section applies to a customer for street lighting that—
  - (a) has an unmetered connection point or supply point for the delivery of electricity; and
  - (b) is in a public place.

- (2) From the FRC day to relevant day the post-amended Act applies to the customer in relation to the street lighting as if the customer were an excluded customer for the street lighting.
- (3) In this section—  
*relevant day* means—
  - (a) if, before 1 July 2008, a day after 1 July 2008 is prescribed under a regulation—the prescribed day; or
  - (b) otherwise—1 July 2008.*street lighting* includes a system of street lighting.

### **319 Other unmetered connection points**

- (1) This section applies to a customer for premises, other than street lighting mentioned in new section 318, to the extent that the premises has an unmetered connection point or supply point for the delivery of electricity.  
*Example—*  
a telephone booth
- (2) From the FRC day to the day prescribed under a regulation the the post-amended Act applies to the customer in relation to the premises as if the customer were an excluded customer for the premises.

### **319A Particular watchman lights**

- (1) This section applies to NMI premises that, when the FRC day starts, consist only of a watchman light.
- (2) However, this section applies only if the financially responsible retail entity for the premises is not an area retail entity.
- (3) From the FRC day to the day prescribed under a regulation the post-amended Act applies to a customer in relation to the premises as if the customer were an excluded customer for the premises.

- (4) Despite new sections 48A and 48B, the financially responsible retail entity for the premises may provide customer retail services to the customer for the premises.

**320 Obligation to decide notified prices for 2007–2008 financial year on basis of post-amended Act**

- (1) The pricing entity must, as soon as practicable after the commencement, decide notified prices for customer retail services.
- (2) New section 90, new chapter 4, part 2, division 3 and any other relevant provisions of the post-amended Act apply for the deciding of the notified prices, instead of former section 90.

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

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

**322 Existing mediated agreements**

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

**323 Existing orders on arbitrated disputes**

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

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

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

**325 Transitional provision for non-liable loads**

- (1) This section applies if—
  - (a) immediately before the FRC day, a customer was, under former section 49A, taken to have entered into a contract (the *old contract*) for the provision of customer retail services for premises; and
  - (b) under either of the following, the old contract is taken to have ended and the customer is taken to have entered into a standard large customer retail contract (the *new contract*) for the provision of the services to the premises on the FRC day—
    - (i) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 (the *EARD section*);
    - (ii) new section 315.
- (2) An electricity load sold under the new contract is taken to be a non-liable load for—
  - (a) if the new contract is with the same retail entity under the old contract—3 months from the day the old contract was, under former section 49A, taken to have been entered into; or
  - (b) if the new contract is with a different retail entity to the retail entity under the old contract—3 months from the FRC day.



**326 Provision for new s 23**

- (1) The words ‘, inserted section 23(6)’ and ‘*omit*,’ are taken never to have been included in the amending provision.
- (2) This section expires at the end of the day after it commences.
- (3) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.
- (4) In this section—

*amending provision* means the *Community Ambulance Cover and Other Acts Amendment Act 2007*, section 38(4).

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## **Schedule 1      Appeals against administrative decisions**

sections 214(1), 216(1) and 219

### **Part 1                      Decisions about authorities and special approvals**

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
180(1)	Refusal to issue generation authority	Supreme
27(b)(vii)	Stating conditions in generation authority	Supreme
184B(1)	Refusal to transfer a generation authority	Supreme
189(1)	Refusal to issue transmission authority	Supreme
31(a)(vi)	Stating conditions in transmission authority	Supreme
193B(1)	Refusal to transfer a transmission authority	Supreme
197(1)	Refusal to issue distribution authority	Supreme
201B(1)	Refusal to transfer a distribution authority	Supreme
202	Refusal to agree to surrender of distribution authority	Supreme
42(a)(v)	Stating conditions in distribution authority	Supreme
205(1)	Refusal to issue retail authority	Supreme
207C	Refusal to agree to surrender of retail authority	Supreme
55D(g)	Stating conditions in retail authority	Supreme
210(1)	Refusal to give special approval	District
60(1)(a)(v)	Stating conditions in special approval	District
212B(1)	Refusal to transfer a special approval	District

## Schedule 1 (continued)

**Part 2**                      **Decisions under chapter 5A**

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
135AN(1)	Refusal of accreditation application	District
135AN(4)(a)	Imposition of accreditation condition, other than a condition mentioned in section 135AQ(3)	District
135AN(4)(b)	Deciding of ancillary matter, other than an ancillary matter mentioned in section 135AQ(3)	District
135BL(1)	Refusal to transfer accreditation	District
135BN(1)	Refusal to accept surrender of accreditation	District
135BQ(1)	Refusal to amend accreditation	District
135BX	Decision to take proposed action in relation to accreditation	District
135CD(3)	Refusal to approve a direct method to work out eligible gas-fired electricity	District
135CF(1)	Decision to give directions about how to work out factor used to work out eligible gas-fired electricity	District
135CI(4)	Refusal to approve method to work out eligible gas-fired electricity	District
135CR(1)	Fixing of annual loss factor	District
135CS(1)	Fixing of baseline loss factor	District
135CY or 135CZ	Fixing of baseline for baseline customer of accredited power station	District
135DJ(1)	Decision that GEC was not validly created	District
135DQ	Decision to give GEC surrender direction	District
135EE	Refusal to accept surrender of GEC	District

## Schedule 1 (continued)

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
135EG(1)	Decision to immediately suspend GEC	District
135EG(2)	Fixing of suspension period for GEC	District
135EK(1)	Decision to take proposed action in relation to GEC	District
135FH	Decision to make default assessment	District
135FI	Decision to make reassessment	District
135FK	Decision to make amended assessment	District
135FY	Decision about who is the liable person for liable load	District
135G(1)	Decision to require party to dispute to give stated document or information	District
135GL	Refusal of application for State development exemption application	District
135GM(1)	Decision about extent to which liable load exemption is granted, other than an extent to which the applicant has agreed	District
135GO	Refusal of application to amend schedule for State development exemption	District
135GU	Refusal of liable load exemption application under part 5, division 6, subdivision 3	District
135GV(1)	Decision about extent to which liable load exemption is granted, other than an extent to which the applicant has agreed	District
135HB	Refusal of liable load exemption application under part 5, division 6, subdivision 4	District
135HC(1)	Decision to grant liable load exemption application under part 5, division 6, subdivision 4 for a load less than the load sought in the application	District

## Schedule 1 (continued)

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
135HJ	Refusal to amend liable load exemption	District
135HO	Decision to take proposed action in relation to liable load exemption	District
135IH(3)	Refusal of application for approval as an auditor	District
135IG(1)(a) and 135IH	Imposition of condition on instrument of appointment as an approved auditor, other than a condition mentioned in section 135IH(6)	District
135IL(1)	Revocation of approved auditor's appointment	District
135IP(1)	Decision to give audit notice	District
135IT(1)	Decision to carry out audit	District
135JA	Decision about method for working out amount of electricity load or amount of electricity sent out from a power station or delivered to an end user	District

### **Part 3**                      **Other decisions**

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
40	Decision by distribution entity that it does not have an obligation to supply	District
49	Decision by retail entity that it does not have an obligation to supply	District
64E(1)	Working out of contribution or user-pays fee	Magistrates
130(2)	Authorisation to take over operation of electricity entity's operating works	Supreme

## Schedule 1 (continued)

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
133(5)	Decision that an electricity entity has a prohibited interest that must be disposed of	Supreme
134	Disciplinary action taken against electricity entity	Supreme
138(3)	Disconnection of supply if entry refused	Magistrates
141	Disconnection of supply to works or installation on safety grounds	Magistrates
152K(1)(c)	Forfeiture of something	Magistrates
154(1)	Disconnection of supply for contravening electricity restriction regulation or emergency rationing order	Magistrates
154(2) or (3)	Refusal to reconnect supply	Magistrates
176(1)	Requirement to remove works built in contravention of Act	Magistrates

## **Schedule 2      Subject matter for regulations**

section 264

### **1      Conditions of supply and sale**

Conditions of supply and sale, including, for example, the following matters—

- (a) conditions, guarantees and minimum payments;
- (b) amounts payable or chargeable for electricity and services (including interest), including for on-sale of electricity to occupiers of premises by a customer at the premises;
- (c) payment and charging for electricity and services, including payments in advance, security deposits and other methods of security;
- (d) capital contributions;
- (e) connection, disconnection and reconnection of supply;
- (f) fees, including, for example, fees for or in relation to connection, disconnection and reconnection;
- (g) liability for and payment for services;
- (h) temporary supply;
- (i) meter reading;
- (j) accounts;
- (k) publication of retail price tariffs.

### **2      Requirements and standards**

Technical and operational requirements and standards about the following matters and their monitoring (by inspection, testing or otherwise)—

- (a) network services;
- (b) electricity qualities, including, for example, frequency, voltage and power factor;

**Schedule 2 (continued)**

- (c) design, building, operation or maintenance of works;
- (d) works and installations;
- (e) substations and customers' premises;
- (f) stand-by supply;
- (g) conditions for connection to a transmission grid or supply network;
- (h) conditions for supply of electricity to customers;
- (i) meters and control apparatus, including meter testing apparatus;
- (j) connection, disconnection and reconnection of supply.

**3 Generation, transmission and supply**

Generation, transmission or supply of electricity, including, for example, the following matters—

- (a) interference with electricity supply;
- (b) rights of way for electric lines or cables;
- (c) obligations of electricity entities and land owners about electric lines, works or structures;
- (d) obligations and rights of electricity entities and other persons about electric lines, works or structures in, on, over, under, through or across roads, railways, tramways and waterways;
- (e) lopping and clearing of trees and vegetation.

**3A Conditions of authorities and approvals**

Imposing conditions in an authority or a special approval prohibiting the holder of the authority or special approval from having a prohibited interest in 1 or more or the following—

- (a) a prescribed authority;
- (b) a prescribed entity;



## Schedule 2 (continued)

- (c) a prescribed person;
- (d) a prescribed thing.

**3B Prescribed things and prohibited interests**

Making provision about any of the following matters—

- (a) the specifying of—
  - (i) a prescribed authority;
  - (ii) a prescribed entity;
  - (iii) a prescribed person;
- (b) the specifying of a *prohibited interest* by reference to 1 or more of the following—
  - (i) the holding of an authority;
  - (ii) the holding of an interest, either directly or indirectly, in an authority;
  - (iii) the exercise of control, either directly or indirectly, over an authority, entity or person;
  - (iv) the entitlement to a stated number or percentage of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
  - (v) the entitlement to a stated value or percentage of value of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
  - (vi) the entitlement to a stated amount or percentage of generation capacity;
  - (vii) another thing prescribed by regulation;
- (c) what constitutes an entitlement to shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
- (d) what constitutes an entitlement to generation capacity;
- (e) that certain shares, stock, votes or interests, or particular classes of shares, votes or other interests are, or in some

**Schedule 2 (continued)**

circumstances are, to be disregarded for the prescribed purposes;

- (f) that particular generation capacity or particular amounts, percentages or types of generation capacity are, or in some circumstances are, to be disregarded for prescribed purposes;
- (g) that certain transactions, agreements, arrangements, understandings, undertakings or practices or particular types of them are, or in some circumstances are, to be disregarded for the prescribed purposes;
- (h) when a person is, or is taken to be, in a position to exercise control in relation to—
  - (i) a person;
  - (ii) an entity;
  - (iii) an authority;
  - (iv) a thing;
- (i) when a person is not, or is taken not to be, in a position to exercise control in relation to—
  - (i) a person;
  - (ii) an entity;
  - (iii) an authority;
  - (iv) a thing;
- (j) the method of calculating the number, percentage or value of shares, stock, votes or other interests, directly and indirectly, in an entity or person;
- (k) the method of calculating the amount or percentage of generation capacity;
- (l) the tracing of interests through a series of entities or persons;
- (m) the extraterritorial application of a regulation and the application of a regulation to partnerships, unincorporated joint ventures, companies limited by

**Schedule 2 (continued)**

guarantee, trusts, superannuation funds and other vehicles;

- (n) anything necessary or convenient to help or give effect to a regulation.

**4 General**

The following matters—

- (a) establishment, functions and powers of entities to achieve objects of this Act;
- (b) obligations of entities;
- (c) inspection and testing;
- (d) reporting and remedying of defects;
- (f) penalties (of not more than 20 penalty units) for contraventions of a regulation;
- (g) applications, including, for example, applications by electricity entities for authorities to enter and remain on land;
- (h) registers to be kept under this Act;
- (i) liability for and recovery of costs and compensation for actions taken under this Act;
- (j) lighting on roads and other places whether for private or public purposes;
- (k) entitlements and conditions of employment of employees of electricity industry participants;
- (l) superannuation for persons within the electricity industry;
- (m) obligations of industry participants to employees;
- (n) transfer of funds between industry participants on transfer of employees;
- (o) assisting proof for matters under the regulations.

## Schedule 5      Dictionary

### section 4

**13% liability** see section 135EM(1).

**accounting period**, for an on-supply agreement, see section 20.

**accreditation** see section 135AK.

**accredited generator** see section 135AK.

**accredited generator register** see section 135JE(1)(a).

**accredited power station** see section 135AK.

**Ambulance Cover Act** means the *Community Ambulance Cover Act 2003*.

**amended assessment** see section 135FK(2).

**ancillary matters**, for a power station, see section 135AM(2).

**ancillary services** see section 11.

**annual loss factor**, for a power station, see section 135CR(2).

**annual QUF**, for a power station, see section 135CM(2).

**applicant**, for chapter 5A, part 8, division 1, see section 135IX(a).

**application**, for chapter 5A, part 8, division 1, see section 135IX(b).

**approval day** see section 280(1).

**approved auditor** see section 135AK.

**approved form**, for chapter 5A, see section 135AK.

**approved industry code** means an industry code approved under section 64FB.

**assessment**, by the regulator, see section 135AK.

**associated equipment**, for an electric line, see section 16.

**auditable person** see section 135IO.

## Schedule 5 (continued)

**audit notice** see section 135IP(1).

**Australian Energy Regulator** or **AER** has the meaning given in the National Electricity (Queensland) Law.

**authorised person**, for chapter 7, see section 145.

**auxiliary load**, for a power station, see section 135AE.

**baseline**, for an accredited power station, see section 135CV(1).

**baseline customer**, of a power station, see section 135AJ.

**baseline loss factor**, for a power station, see section 135CS(3).

**baseline QUF**, for a power station, see section 135CN(3).

**baseline year**, for a power station, see section 135AK.

**build** includes erect, lay down and place.

**civil penalty** means the civil penalty imposed under section 135EY.

**common area**, of an on-supplier's premises, see section 20.

**common area consumption**, see section 20.

**complete suspension**, of the right to create GECs, see section 135BT(2)(a).

**compromise assessment** see section 135FJ(2).

**conduct notice** see section 120O(1).

**conduct rules** means—

- (a) the conduct rules made by the QCA under chapter 5, part 1A; and
- (b) any amendment of the conduct rules.

**contestable customer** see section 23(2).

**contribution fee** see section 64A(2)(b).

**Country Energy** means Country Energy established under the *Energy Services Corporations Act 1995* (NSW).

## Schedule 5 (continued)

***criminal history*** of a person means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

***customer*** see section 23(1) or (1A).

***customer connection contract*** means a contract under which a distribution entity agrees to provide customer connection services to a customer's premises.

***customer connection services***, for premises, means—

- (a) the connection of the premises to a supply network to allow the supply of electricity from the supply network to the premises; and
- (b) the supply of electricity from the supply network to the premises.

***customer retail services***, for premises, means the sale of electricity to the premises.

***customer sale contract*** means a contract, other than a negotiated sale and connection contract, under which a retail entity agrees to provide customer retail services to a customer's premises.

***damage or harm*** includes likely damage or harm.

***dedicated line*** see section 135AK.

***default assessment*** see section 135FH(1).

***defaulting entity*** see section 130(1)(a).

***direct method*** see section 135AK.

***direct supply arrangement*** see section 135AH.

***distribution area*** see section 39.

***distribution authority*** see section 38.

***distribution entity*** see section 37.

***economic operator***, of a power station, see section 135AC.

***electrical equipment*** see section 13.

***electrical installation*** see section 14.

## Schedule 5 (continued)

***Electrical Safety Act*** means the *Electrical Safety Act 2002*.

***electricity*** see section 5.

***electricity entity*** means—

(a) in general—see section 22(1); and

(b) for chapter 5, part 1A—see also section 120A.

***electricity industry*** see section 21.

***electricity load*** see section 135AI.

***electricity officer*** means a person who is appointed under this Act as an electricity officer.

***electricity restriction regulation*** see section 122(1).

***electric line*** see section 15.

***eligible electricity guidelines*** see section 135CK.

***eligible fuel*** see section 135AD.

***eligible gas-fired electricity*** see section 135AA(3)(a).

***eligible renewable electricity*** see section 135GR(2).

***emergency rationing order*** see section 124(1).

***end user***, of electricity, see section 135AK.

***energy arbitrator*** means a person appointed as an energy arbitrator under section 64N(1).

***energy mediator*** means a person appointed as an energy mediator under section 64G.

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

***exempted load*** see section 135EM(4)(b).

***first accounting period***, for an on-supply agreement, see section 20.

***fix***, damage or harm, includes—

(a) minimising the damage or harm; and

(b) if the damage or harm has not yet happened—preventing it from being caused.

## Schedule 5 (continued)

*GEC* see section 135AA(3)(a).

*GEC register* see section 135JE(1)(b).

*GEC review* see section 135B(1).

*GEC surrender direction* see section 135DQ(2).

*general method* see section 135CC.

*generation authority* see section 26.

*generation entity* see section 25.

*GOC* has the same meaning as in the GOC Act.

*GOC Act* means the *Government Owned Corporations Act 1993*.

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

*government entity* see section 18.

*GST statement* see section 90(6).

*in* a road, railway land or other place includes on, under or over.

*information notice*, for chapter 5A, see section 135AK.

*inspection officer* means a person appointed as an inspection officer under chapter 7, part 2.

*interested person*, for an electricity load, see section 135GG.

*liable load* see section 135EM(5).

*liable load exemption* see section 135AK.

*liable load exemption register* see section 135JE(1)(d).

*liable person* see section 135EM(3).

*liable year* for the 13% liability, see section 135EM(6).

*limited suspension* see section 135BT(2)(b).

*major grid* see section 135AF(1).

*measurement method*, for a power station, see section 135AM(3).



## Schedule 5 (continued)

**mediated agreement** see section 120ZM(1).

**member entity** see section 64A(1).

**membership fee** see section 64A(2)(a).

**meter** see section 16A.

**Mount Isa–Cloncurry supply network**—

- 1 The *Mount Isa–Cloncurry supply network* means the supply network, other than the 220kV supply network—
  - (a) located in the Mount Isa–Cloncurry region; and
  - (b) owned by Ergon Energy at the commencement of this section; and
  - (c) not connected to the national grid.
- 2 The *Mount Isa–Cloncurry supply network* includes any increase in the supply network after the commencement.

**nameplate capacity**, for a power station, see section 135AB(4).

**National Electricity (Queensland) Law** has the meaning given in the *Electricity—National Scheme (Queensland) Act 1997*.

**National Electricity Rules** or **Rules** has the meaning given in the National Electricity (Queensland) Law.

**national grid** has the meaning given in the National Electricity Rules.

**national metering identifier** means a NMI under the National Electricity Rules.

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

**negotiated customer sale contract** means a contract, other than a negotiated sale and connection contract, entered into under section 52 or 52A in relation to a customer's electrical installation or premises, including any amendments of the contract.

## Schedule 5 (continued)

***negotiated sale and connection contract*** means a contract entered into under section 52 for the provision of customer retail services and customer connection services to a contestable customer's premises.

***NEMMCO*** has the meaning given in the National Electricity (Queensland) Law.

***net GST effect***, for providing customer retail services, see section 90(4)(b).

***network control*** see section 9.

***network services*** see section 10.

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

***non-liable load*** see section 135EM(4)(c).

***notice***, for chapter 5A, see section 135AK.

***notified prices***, for a retail entity, see section 90(2).

***official***, for chapter 5A, part 8, division 4, see section 135JL.

***on*** a road, railway land or other place includes in, under or over.

***on-supplier*** see section 20.

***on-supplier's premises*** see section 20.

***on-supply agreement*** see section 20.

***operating works*** see section 12(3).

***penalty imposition day***, for the 13% liability, see section 135EY(2).

***place*** includes premises and a place on or in waters or on land, but does not include a boat or other vehicle.

***power station*** see section 135AB.

***premises*** includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) land where a building or other structure is situated.

## Schedule 5 (continued)

**prescribed renewable energy source** see section 135GR(1)(a).

**pricing entity** see section 90(3).

**prohibited interest** means—

- (a) a prescribed interest that an electricity entity must not hold in a prescribed authority, a prescribed entity, a prescribed person or a prescribed thing under section 264; or
- (b) a prohibited interest under schedule 2, section 3A.

**proponent**, for a significant project, see section 135AK.

**prospective on-supplier** see section 20D(a).

**prospective receiver** see section 20D(b).

**protected area** means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under the Act.

**public entity** means—

- (a) a government entity within the meaning of the *Government Owned Corporations Act 1993*; or
- (b) a local government.

**publicly controlled place** means any place under the control of a public entity that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money, but does not include an area declared under the regulations not to be a publicly controlled place.

*Example—*

a road or reserve under the control of a public entity

**public place** means any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money.

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

## Schedule 5 (continued)

**QESI** see section 280(2).

**QETC** means Queensland Electricity Transmission Corporation Limited ACN 078 849 233.

**QGC** means Queensland Generation Corporation.

**QTSC** means Queensland Transmission and Supply Corporation.

**Queensland grid code** means the Code of Conduct for the Interconnected Queensland Network first published by the department on 28 November 1994.

**Queensland system** means the interconnected power system that is connected to and includes the 275kV transmission grid in Queensland.

**railway land** means land in which a railway operator has an interest.

**reasonably believes** means believes on grounds that are reasonable in the circumstances.

**reassessment** see section 135FI.

**receiver**, see section 20.

**recognised program** see section 135GR(1)(b).

**referrer** see section 135FY(1).

**registered owner**, of a GEC, see section 135AK.

**Registered participant** has the meaning given in the National Electricity (Queensland) Law.

**registration**, for a GEC, see section 135AK.

**regulator** see section 62.

**relevant body corporate** means—

- (a) a body corporate established under a following Act for premises—
- *Body Corporate and Community Management Act 1997*
  - *Integrated Resort Development Act 1987*

## Schedule 5 (continued)

- *Mixed Use Development Act 1993*
  - *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*
  - *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*
  - *Sanctuary Cove Resort Act 1985*; or
- (b) a body corporate for a leasehold building units plan established under the *South Bank Corporation Act 1989* for the premises the subject of the plan.

**repealed Act** in chapter 14, see section 269.

**residence** means a structure or a part of a structure where a person resides.

**retail area** see section 48.

**retail authority** see section 47.

**retail entity** see section 46.

**retailer** see section 135AK.

**road authority** means—

- (a) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive under the Act; or
- (b) for another road—the local government or other person having control or management of the road.

**scheme participant** see section 135AA(4).

**scheme participant register** see section 135JE(1)(c).

**self-assessment report** see section 135FD.

**sell** includes—

- (a) sell by wholesale, retail or auction; and
- (b) agree, attempt or offer to sell; and
- (c) possess, expose or advertise for sale; and

## Schedule 5 (continued)

(d) cause or permit to be sold; and

(e) give away or swap.

**significant project** see section 135GI(1).

**small grid** see section 135AF(2).

**special approval** see section 58.

**special approval holder** see section 57.

**special conditions**, for accreditation, see section 135AN(4)(a).

**spot market** has the meaning given in the National Electricity Rules.

**standard accreditation conditions** see section 135AU(2).

**standard customer connection contract** means a customer connection contract under section 40A.

**standard customer sale contract** means a customer sale contract under section 50.

**state** includes describe.

**State development exemption** see section 135GI(4).

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

**statutory GOC** has the same meaning as in the GOC Act.

**subsidiary** of a GOC has the same meaning as in the GOC Act.

**substantive traceable link**, to a major grid, see section 135AG.

**substation** see section 12(2).

**supply network** see section 8.

**surrender application**, for a GEC, see section 135AK.

**System Operator** has the meaning given in the National Electricity Rules.

**take** electricity includes waste, divert and use.

## Schedule 5 (continued)

**trading arrangements** means arrangements about trading in electricity under this Act or the National Electricity Rules by electricity entities, customers, electricity brokers and other persons.

**transmission authority** see section 30.

**transmission entity** see section 29.

**transmission grid** see section 6.

**transmission zone** see section 135CO(2).

**unlawfully** means without authority under this Act or other legal authority, justification or excuse.

*Example of legal authority—*

a person does something in relation to property with the owner's consent

**used for** includes used in, intended for use for or in, or capable of being used for or in.

**user-pays fee** see section 64A(2)(c).

**valid**, for the creation or purported creation of a GEC, see section 135AK.

**vintage year**, for a GEC, see section 135AK.

**voltage** see section 17.

**weapon** has the same meaning as in the *Weapons Act 1990*.

**wilfully** means—

- (a) intentionally; or
- (b) recklessly; or
- (c) with gross negligence.

**works** see section 12(1).

## **Attachment      Extracts from other legislation referred to in the Act**

### **Gladstone Power Station Agreement Act 1993**

#### **2      Definitions**

In this Act—

*State agreement* means the agreement made under section 3, and the agreement as amended by a further agreement under section 5 or 6;

*transaction document* has the meaning given in the State agreement.<sup>144</sup>

## **Schedule 1      State agreement**

#### **1      Definitions**

In this Agreement, unless the context otherwise requires or indicates—

*Transaction Document* means each of—

- (a) any Capacity Purchase Agreement; and
- (b) the Interconnection and Power Pooling Agreement; and
- (c) the Power Station Sale Agreement; and
- (d) the Ash Management Agreement; and
- (e) the Rail Haulage Agreement; and
- (f) the Curragh On-Sale Contract; and
- (g) the Seawater Usage Agreement; and

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<sup>144</sup> These definitions are referred to in section 287A of this Act.



**Attachment (continued)**

- (h) the Refurbishment and Testing Deed; and
- (i) the Inter Creditor Deed; and
- (j) the Participants Charge; and
- (k) the Callide Assignment Deed or the Callide On-Sale Contract, whichever is entered into; and
- (l) any permitted variations of any of the documents mentioned in paragraphs (a) to (k).

**Telecommunications Act 1997  
(Cwlth)****7 Definitions**

In this Act, unless the contrary intention appears:

*carriage service* means a service for carrying communications by means of guided and/or unguided electromagnetic energy.

*content service* has the meaning given by section 15.<sup>145</sup>

**15 Content service**

- (1) For the purposes of this Act, a content service is:
  - (a) a broadcasting service; or
  - (b) an on-line information service (for example, a dial-up information service); or
  - (c) an on-line entertainment service (for example, a video-on-demand service or an interactive computer game service); or
  - (d) any other on-line service (for example, an education service provided by a State or Territory government); or

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<sup>145</sup> These definitions are referred to in section 116B of this Act.

**Attachment (continued)**

- (e) a service of a kind specified in a determination made by the Minister for the purposes of this paragraph.
- (2) The Minister may make a written determination for the purposes of paragraph (1)(e).
- (3) A determination made for the purposes of paragraph (1)(e) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

## 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 15 June 2007. Future amendments of the Electricity Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

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

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
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 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 to	Effective	Reprint date
1	none	1 January 1995	13 January 1995
2	1995 Act No. 57	28 November 1995	1 February 1996
2A	1996 Act No. 28	15 August 1996	28 August 1996
2B	1997 Act No. 26	1 July 1997	25 July 1997
2C	1997 Act No. 50	1 October 1997	3 October 1997
2D	1997 Act No. 77	1 January 1998	19 June 1998
2E	1997 Act No. 77	13 December 1998	18 December 1998
3	1997 Act No. 77	22 February 1999	5 March 1999
3A	1999 Act No. 33	1 July 1999	7 March 2000
3B	2000 Act No. 20	1 July 2000	13 July 2000
3C	2000 Act No. 39	13 October 2000	18 October 2000
3D	2001 Act No. 47	28 June 2001	11 July 2001
3E	2001 Act No. 100	1 January 2002	18 January 2002
4	2001 Act No. 100	1 February 2002	1 February 2002

Reprint No.	Amendments included	Effective	Notes
4A	2001 Act No. 82	1 July 2002	
4B	2001 Act No. 100	1 October 2002	
	2002 Act No. 42		
4C	2002 Act No. 56	1 November 2002	
4D	—	20 December 2002	provs exp 19 December 2002
4E	2003 Act No. 34	29 May 2003	
4F	2003 Act No. 28	1 July 2003	R4F withdrawn, see R5
	2003 Act No. 29		
5	—	1 July 2003	
5A rv	2004 Act No. 51	29 November 2004	
	2004 Act No. 53		
5B rv	2004 Act No. 50	10 December 2004	R5B rv withdrawn, see R6
6	—	10 December 2004	
6A	2005 Act No. 51	2 November 2005	
6B	2006 Act No. 9	15 March 2006	
6C	2005 Act No. 51	1 April 2006	
6D rv	2004 Act No. 51	1 September 2006	
6E	2006 Act No. 42	13 October 2006	
6F	2006 Act No. 60	7 December 2006	
6G	2007 Act No. 17	23 April 2007	
6H	2007 Act No. 29	15 June 2007	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	2
Corrected minor errors	2

## 6 List of legislation

### **Electricity Act 1994 No. 64**

date of assent 1 December 1994

ss 1–2, 287 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 January 1995 (1994 SL No. 467)

Note—The approval day is 1 July 1995 (see s 280(1) and 1994 SL No. 468 s 351A)

amending legislation—

### **Statutory Authorities Superannuation Legislation Amendment Act 1995 No. 36 pts**

**1–2**

date of assent 16 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1994 (see s 2)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Electricity Amendment Act 1996 No. 28**

date of assent 15 August 1996  
commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Electricity Amendment Act 1997 No. 26**

date of assent 22 May 1997  
ss 1–2 commenced on date of assent  
s 53 (other than for ins ss 289–298, 300–303) commenced 26 June 1997 (1997 SL No. 177)  
remaining provisions commenced 1 July 1997 (1997 SL No. 177)

**Electricity Amendment Act (No. 2) 1997 No. 50**

date of assent 8 September 1997  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 1997 (1997 SL No. 312)

**Electricity Amendment Act (No. 3) 1997 No. 77 pts 1–2 (this Act is amended, see amending legislation below)**

date of assent 5 December 1997  
ss 1–2 commenced on date of assent  
ss 3–4, 6, 8 (except to the extent it commences s 27(b)(iii)), 9 (except to the extent it commences s 31(a)(ii)), 10–12, 14–19, 20 (except to the extent it commences s 42(a)(i)), 21–22, 24–29, 30 (except to the extent it commences s 55D(c)), 31 (except to the extent it commences s 60(a)(ii)), 32(2), 35–38, 40–43, 45–65, 66 (except to the extent it commences s 254(1)(c)), 66A–72, 74–82, 83(1) (except to the extent it commences the om of the defs “code participant”, “Market Code”, “pool” and “power system”), 83(2) (except to the extent it commences the ins of the defs “code participant”, “dispute”, “Market Code”, “National Electricity (Queensland) Law”, “National Electricity Tribunal”, “NECA”, “NEMMCO” and “Office” and the ins of para (c) in the def “electricity entity”) commenced 19 December 1997 (1997 SL No. 472)  
s 79 commenced 1 January 1998 (1997 SL No. 472)  
ss 5, 7, 8(2), 9(2), 13, 20(2), 23, 30(2), 31(2), 34, 44, 73, 83(1) (to the extent the subsections of ss 8(2), 9(2), 20(2), 30(2), 83(1) have not already commenced) and 83(2) (except to the extent it commences the ins of the defs “dispute”, “electricity entity”, para (c) and “Office”) commenced 13 December 1998 (1998 SL No. 328)  
s 39 (to the extent it ins pt 1A) commenced 22 February 1999 (1999 SL No. 9)  
remaining provisions (ss 32(1), 33, 39 (to the extent it ins ch 5, pt 1B), 66(2) (to the extent it ins s 254(1)(c), s 83(2) (to the extent it ins defs “dispute”, “electricity entity” para (c) and “Office”)) never proclaimed into force and rep 2001 No. 82 s 21

amending legislation—

**Electricity and Gas Legislation Amendment Act 1999 No. 82 pts 1–2  
(amends 1997 No. 77 above)**

date of assent 14 December 1999

commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch (amends  
1997 No. 77 above)**

date of assent 25 October 2000

commenced on date of assent

**Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3**

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

**Electricity Amendment Act 2000 No. 39**

date of assent 13 October 2000

commenced on date of assent

**State Development and Other Legislation Amendment Act 2001 No. 46 ss 1, 2(2)–(4),  
pt 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 28 June 2001 (2001 SL No. 101)

**Electricity Amendment Act 2001 No. 47**

date of assent 28 June 2001

commenced on date of assent

**Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 221)

**Electricity Legislation Amendment and Repeal Act 2001 No. 82 pts 1–2, sch**

date of assent 3 December 2001

ss 1–2 commenced on date of assent

pt 2 (other than ss 4 and 5), sch (other than item 1) commenced 1 February 2002  
(2002 SL No. 2)

remaining provisions commenced 1 July 2002 (2002 SL No. 2)

**Integrated Planning and Other Legislation Amendment Act 2001 No. 100 ss 1,  
2(2)–(3), pt 4**

date of assent 19 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 258)

**Electrical Safety Act 2002 No. 42 ss 1–2, 242 sch 1**

date of assent 12 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 259)

**Treasury Legislation Amendment Act 2002 No. 56 ss 1–2(1), pt 3**

date of assent 1 November 2002

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(1))

**Electricity and Other Legislation Amendment Act 2003 No. 28 pts 1–2, ss 3, 33, schs 1–2**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 120)

**Gas Supply Act 2003 No. 29 ss 1–2, ch 8 pt 2**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 121)

**Community Ambulance Cover Act 2003 No. 34 ss 1–2, pt 13**

date of assent 29 May 2003

commenced on date of assent

**Electricity Amendment Act 2004 No. 50**

date of assent 29 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 10 December 2004 (2004 SL No. 278)

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commenced on date of assent

**Energy Assets (Restructuring and Disposal) Act 2006 No. 42 s 1, pt 8 div 2**

date of assent 13 October 2006

commenced on date of assent



**Electricity and Other Legislation Amendment Act 2006 No. 60 pts 1–2, s 177 sch (this Act is amended, see amending legislation below)**

date of assent 7 December 2006

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date of assent 23 April 2007

commenced on date of assent (see s 2(2))

**Revenue and Other Legislation Amendment Act 2007 No. 29 s 1, pt 4 (amends 2006 No. 60 above)**

date of assent 15 June 2007

commenced on date of assent

**Government Owned Corporations Amendment Act 2007 No. 10 ss 1–2, 62 sch**

date of assent 20 March 2007

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)**Community Ambulance Cover and Other Acts Amendment Act 2007 No. 17 ss 1, 2(2), pt 3**

date of assent 23 April 2007

commenced on date of assent (see s 2(2))

**Revenue and Other Legislation Amendment Act 2007 No. 29 s 1, pt 3**

date of assent 15 June 2007

commenced on date of assent

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s 97A ins 1997 No. 26 s 30  
sub 1997 No. 77 s 35  
amd 2005 No. 51 s 3 sch

**Application of division**

s 100 amd 2004 No. 53 s 2 sch

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

s 101 amd 2004 No. 53 s 2 sch

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

div hdg ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

**Definitions for div 4A**

s 111A ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

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

s 111B ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

**Existing projects**

s 111C ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

**Chalumbin to Woree transmission line**

s 111D ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

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

s 111E ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

**Planning scheme maps**

s 111F ins 1996 No. 28 s 3  
om 2001 No. 100 s 90

**Applications about affected land**

s 111G ins 1996 No. 28 s 30  
om 2001 No. 100 s 90

**Clearing native vegetation for operating works on freehold land**

s 112A ins 2001 No. 100 s 91  
amd 2005 No. 51 s 4

**Authority to transmit over land**

s 113A ins 2004 No. 50 s 5

**Authority to supply over land**

s 113B ins 2004 No. 50 s 5

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

s 114 amd 2004 No. 50 s 6

**Authority to acquire land**

s 116 amd 1997 No. 77 s 36; 2003 No. 28 s 8

**Authority to create easements over forest land**

s 116A ins 1997 No. 26 s 31

**Easements to include carriage services**

s 116B ins 1997 No. 50 s 19

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

s 117 amd 1997 No. 77 s 37; 2004 No. 53 s 2 sch; 2004 No. 50 s 7; 2005 No. 51 s 3 sch

**Retail entity may recover amount for electricity sold to a person occupying premises**  
**s 118** ins 1997 No. 26 s 32

**Distribution entity may recover amount for connection and supply of electricity to a person**  
**s 118A** ins 1997 No. 26 s 32

**Regulator's role in disputes between electricity entity and customers or occupiers**  
**s 119** amd 1997 No. 77 s 38; 2000 No. 39 s 9; 2001 No. 82 s 11; 2004 No. 51 s 19;  
 2004 No. 50 s 8

**Exclusion of disputes relating to community ambulance cover levy**  
**s 119A** ins 2003 No. 34 s 170

**Regulator's powers concerning audit of compliance with Act etc.**  
**s 120AA** ins 2004 No. 51 s 20

**Responsibility for cost of audit**  
**s 120AB** ins 2004 No. 51 s 20

**Independent auditor may require reasonable help or information**  
**s 120AC** ins 2004 No. 51 s 20

**Audit report and submissions on report**  
**s 120AD** ins 2004 No. 51 s 20

**Disclosure of information**  
**s 120AE** ins 2004 No. 51 s 20

**PART 1A—QUEENSLAND COMPETITION AUTHORITY**  
**pt hdg** ins 1997 No. 77 s 39

**Division 1—Definitions**  
**div hdg** ins 1997 No. 77 s 39

**Definitions for pt 1A**  
**s 120A** ins 1997 No. 77 s 39

**References to person involved in a contravention**  
**s 120B** ins 1997 No. 77 s 39

**Division 2—Conduct rules**  
**div hdg** ins 1997 No. 77 s 39

**QCA may prepare proposed conduct rules**  
**s 120C** ins 1997 No. 77 s 39

**Public notice of proposed conduct rules**  
**s 120D** ins 1997 No. 77 s 39

**Submissions on proposed conduct rules**  
**s 120E** ins 1997 No. 77 s 39

**Changing proposed conduct rules**  
**s 120F** ins 1997 No. 77 s 39

**Adopting and notifying conduct rules**  
**s 120G** ins 1997 No. 77 s 39

**QCA must advise Minister**

s 120GA ins 1997 No. 77 s 39

**Tabling of conduct rules in Legislative Assembly**

s 120GB ins 1997 No. 77 s 39

**Conduct rules must not be contravened**

s 120H ins 1997 No. 77 s 39

**Conduct rules to be open for inspection**

s 120I ins 1997 No. 77 s 39

**Amending conduct rules**

s 120J ins 1997 No. 77 s 39

**Public notice of proposed amendment**

s 120K ins 1997 No. 77 s 39

**Submissions on proposed amendment**

s 120L ins 1997 No. 77 s 39

**Changing proposed amendment**

s 120M ins 1997 No. 77 s 39

**Adopting amendment**

s 120N ins 1997 No. 77 s 39

**QCA must advise Minister**

s 120NA ins 1997 No. 77 s 39

**Tabling of amendment of conduct rules in Legislative Assembly**

s 120NB ins 1997 No. 77 s 39

**Division 3—Enforcing conduct rules**

div hdg ins 1997 No. 77 s 39

**Conduct notices**

s 120O ins 1997 No. 77 s 39

**Conduct notice to be given to electricity entity**

s 120P ins 1997 No. 77 s 39

**Duration of conduct notice**

s 120Q ins 1997 No. 77 s 39

**QCA to act promptly**

s 120R ins 1997 No. 77 s 39

**Register of conduct notices**

s 120S ins 1997 No. 77 s 39

**Penalty for breach of conduct rules**

s 120T ins 1997 No. 77 s 39

**How order enforced**

s 120U ins 1997 No. 77 s 39

**Injunctions**

s 120V ins 1997 No. 77 s 39

**Actions for damages—breach of conduct rules**

s 120W ins 1997 No. 77 s 39

**Other orders—compensation for breach of conduct rules**

s 120X ins 1997 No. 77 s 39

**Finding of fact to be evidence in proceedings**

s 120Y ins 1997 No. 77 s 39

**Conduct by directors, servants or agents**

s 120Z ins 1997 No. 77 s 39

**When QCA must refer a matter to the regulator**

s 120ZA ins 1997 No. 77 s 39

**Action the regulator may take**

s 120ZB ins 1997 No. 77 s 39

**Division 4—Production of documents or information**

div hdg ins 1997 No. 77 s 39

**Notice to produce documents or information**s 120ZC ins 1997 No. 77 s 39  
amd 2000 No. 20 s 29 sch 3; 2004 No. 51 s 21**Disclosure of information**s 120ZCA ins 2004 No. 51 s 22  
amd 2005 No. 51 s 3 sch**PART 1B—DISPUTES REFERRED TO ENERGY MEDIATOR**

pt hdg ins 2001 No. 82 s 12

**Application of pt 1B**

s 120ZD ins 2001 No. 82 s 12

**Notice of referral to parties to dispute**s 120ZE ins 2001 No. 82 s 12  
amd 2004 No. 50 s 9**Disclosure of interests**

s 120ZF ins 2001 No. 82 s 12

**Presentation of cases**

s 120ZG ins 2001 No. 82 s 12

**Parties bear own costs**

s 120ZH ins 2001 No. 82 s 12

**Conduct of mediation**

s 120ZI ins 2001 No. 82 s 12

**Energy mediator to maintain secrecy**

s 120ZJ ins 2001 No. 82 s 12



**Ordinary protection and immunity allowed**

s 120ZK ins 2001 No. 82 s 12

**Admissions made to energy mediators**

s 120ZL ins 2001 No. 82 s 12

**Mediated agreement**

s 120ZM ins 2001 No. 82 s 12

**When mediation ends**

s 120ZN ins 2001 No. 82 s 12

**Energy mediator's report to regulator**

s 120ZO ins 2001 No. 82 s 12

**PART 1C—DISPUTES REFERRED TO ENERGY ARBITRATOR**

pt hdg ins 2000 No. 39 s 10

**Division 1—Preliminary**

div hdg ins 2000 No. 39 s 10

**Application of pt 1C**

s 120ZP ins 2000 No. 39 s 10

sub 2001 No. 82 s 13

**Excluded Commercial Arbitration Act 1990**

s 120ZQ ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch

**Exclusion of other jurisdictions**

s 120ZR ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch

**Division 2—Referring and arbitrating disputes**

div hdg ins 2000 No. 39 s 10

**Giving notice of referral to parties to dispute**

s 129ZS ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch

amd 2004 No. 50 s 10

**Disclosure of interests**

s 129ZT ins 2000 No. 39 s 10

amd 2001 No. 82 s 15

renum 2001 No. 82 s 3 sch

**Presentation of cases**

s 129ZU ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch

**Conduct of arbitration**

s 129ZV ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch

**Ordinary protection and immunity allowed**

s 120ZW ins 2001 No. 82 s 16

renum 2001 No. 82 s 3 sch

**Power to require information from party to dispute**

**prov hdg** amd 2005 No. 51 s 3 sch  
**s 129ZX** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Division 3—Orders and enforcement**

**div hdg** ins 2000 No. 39 s 10

**Orders that can be made**

**s 120ZY** ins 2000 No. 39 s 10  
 amd 2001 No. 82 s 17  
 renum 2001 No. 82 s 3 sch

**No costs**

**s 120ZZ** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Copy of order to be given to parties**

**s 120ZZA** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Order final**

**s 120ZZB** prev s 120ZZB ins 2000 No. 39 s 10  
 om 2001 No. 82 s 14  
 renum 2001 No. 82 s 3 sch (amdt could not be given effect)  
 pres s 120ZZB ins 2000 No. 39 s 10  
 amd 2001 No. 82 s 3 sch  
 renum 2001 No. 82 s 3 sch

**Party, other than electricity entity, to advise whether order accepted**

**s 120ZZC** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch  
 amd 2004 No. 50 s 11

**When order takes effect**

**s 120ZZD** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Failure to comply with order**

**s 120ZZE** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**How order enforced**

**s 120ZZF** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Energy arbitrator's report to regulator**

**s 120ZZG** ins 2000 No. 39 s 10  
 renum 2001 No. 82 s 3 sch

**Electricity restriction regulations**

**s 122** amd 2002 No. 42 s 242 sch 1

**Expiry of electricity restriction regulation**

**s 123** om 205 No. 51 s 5

**Advertisement of order**

s 127      amd 1997 No. 26 s 33

**Division 3—Limitation on restrictions and rationing**

div 3 (ss 129A–129B) ins 2001 No. 46 s 6  
exp 31 December 2033 (see s 129B)

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

s 130      sub 1997 No. 77 s 40  
             amd 2005 No. 51 s 3 sch

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

prov hdg    amd 1997 No. 77 s 41(1)  
 s 131      amd 1997 No. 77 s 41(2)–(8); 1999 No. 33 s 747 sch

**PART 3A—RETAILER OF LAST RESORT**

pt hdg      ins 1997 No. 77 s 42

**Retailer of last resort scheme**

s 131A     ins 1997 No. 77 s 42

**Grounds for disciplinary action**

s 132      amd 1997 No. 26 s 34; 2002 No. 42 s 242 sch 1

**Types of disciplinary action**

s 133      amd 1997 No. 26 s 35; 1997 No. 50 s 20;  
             sub 1997 No. 77 s 43;  
             amd 2002 No. 42 s 242 sch 1

**Disciplinary action under the Market Code**

s 133A     ins 1997 No. 50 s 21  
             om 1997 No. 77 s 44

**Procedure for disciplinary action**

s 134      amd 1997 No. 77 s 45

**CHAPTER 5A—13% GAS SCHEME**

ch hdg      ins 2004 No. 50 s 12  
             exp 31 December 2020 (see s 135JW)

**PART 1—INTRODUCTION**

pt hdg      ins 2004 No. 50 s 12  
             exp 31 December 2020 (see s 135JW)

**Division 1—Purposes of chapter**

div hdg     ins 2004 No. 50 s 12  
             exp 31 December 2020 (see s 135JW)

**Main purposes of ch 5A**

s 135A     ins 2004 No. 50 s 12  
             exp 31 December 2020 (see s 135JW)

**How main purposes are achieved**

s 135AA    ins 2004 No. 50 s 12  
             exp 31 December 2020 (see s 135JW)

**Division 2—Definitions for ch 5A**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Power stations and their nameplate capacity**

**s 135AB** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Who is the economic operator of a power station**

**s 135AC** ins 2004 No. 50 s 12  
amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**What is eligible fuel**

**s 135AD** ins 2004 No. 50 s 12  
amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**What is auxiliary load for a power station**

**s 135AE** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**What is a major grid and a small grid**

**s 135AF** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**What is a substantive traceable link to a major grid**

**s 135AG** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**What is a direct supply arrangement**

**s 135 AH** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**What is an electricity load**

**s 135AI** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Who are the baseline customers of a power station**

**s 135AJ** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Other definitions for ch 5A**

**s 135AK** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 2—ACCREDITATION**

**pt hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 1—Applying for and obtaining accreditation**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Who may apply for accreditation**

s 135AL ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Requirements for application**

s 135AM ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Deciding application**

s 135AN ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Provisions for deciding ancillary matters for power station**

s 135AO ins 2004 No. 50 s 12  
 amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Provisional decision to grant**

s 135AP ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Steps after deciding application**

s 135AQ ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Term of accreditation**

s 135AR ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Withdrawal of nomination to be accredited generator**

s 135AS ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 2—Accredited generator’s rights**

div 2 (s 135AT) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 3—Standard accreditation conditions**

div 3 (ss 135AU–135BI) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 4—Dealings with accreditation**

div 4 (ss 135BJ–135BO) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 5—Amendment, cancellation and suspension of accreditation**

div 5 (ss 135BP–135C) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 3—ELIGIBLE GAS-FIRED ELECTRICITY**

pt hdg ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 1—Working out eligible gas-fired electricity**

div 1 (ss 135CA–135CJ) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 2—Eligible electricity guidelines**

**div 2** (ss 135CK–135CL) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 3—Queensland usage factors**

**div 3** (ss 135CM–135CQ) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 4—Loss factors**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Annual loss factor**

**s 135CR** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Baseline loss factor**

**s 135CS** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Provisions for working out loss factors**

**s 135CT** ins 2004 No. 50 s 12  
amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Publication of loss factors**

**s 135CU** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 5—Baselines for baseline customers**

**div 5** (ss 135CV–135DD) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 4—GECS**

**pt 4** (ss 135DE–135EL) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 5—13% LIABILITY**

**pt hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 1—Preliminary**

**div 1** (s 135EM) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 2—The 13% liability**

**div 2** (ss 135EN–135EW) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 3—Civil penalty for not meeting 13% liability**

**div 3** (ss 135EX–135FC) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 4—Assessments**

**div 4** (ss 135FD–135FQ) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 5—Liable persons in relation to major grids**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Subdivision 1—Liability hierarchy**

**sdiv hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Operation of sdiv 1**

**s 135FR** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Retailer**

**s 135FS** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Special approval holder**

**s 135FT** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Specific circumstance generator**

**s 135FU** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Substantial on-site generator**

**s 135FV** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Wholesale purchaser from spot market**

**s 135FW** ins 2004 No. 50 s 12  
amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Subdivision 2—Resolving disputes about who is the liable person**

**sdiv 2** (ss 135FX–135GF) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 6—Exempted loads**

**div 6** (ss 135GG–135HT) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 7—Non-liable loads**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Emergency stand-by plant**

**s 135HU** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Immaterial loads**

**s 135HV** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Electricity sold under special remote area arrangement**

**s 135HW** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Electricity sold under retailer of last resort scheme or similar scheme**

**s 135HX** ins 2004 No. 50 s 12  
 amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Electricity sold under s 49A(2) contract**

**s 135HY** ins 2004 No. 50 s 12  
 amd 2004 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Electricity sold or supplied to Boyne Island Smelter**

**s 135HZ** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 6—SCHEME PARTICIPANTS**

**pt 6 (ss 135I–135IE)** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 7—MONITORING**

**pt 7 (ss 135IF–135IW)** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 8—MISCELLANEOUS PROVISIONS**

**pt hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 1—Additional provisions for applications**

**div 1 (ss 135IX–135J)** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 2—Measurement of electricity**

**div hdg** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Regulator’s power to decide measurement method**

**s 135JA** ins 2004 No. 50 s 12  
 amd 2005 No. 51 s 3 sch  
exp 31 December 2020 (see s 135JW)

**Procedure for deciding measurement method**

**s 135JB** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Decided method must be applied**

**s 135JC** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Obligation to notify regulator of change in circumstances for decided measurement method**

**s 135JD** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 3—Registers**

**div 3 (ss 135JE–135JK)** ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)



**Division 4—General offences for ch 5A**

**div 4** (ss 135JL–135JR) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Division 5—Other miscellaneous provisions**

**div 5** (ss 135JS–135JV) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**PART 9—EXPIRY OF CHAPTER**

**pt 9** (ss 135JW–135JX) ins 2004 No. 50 s 12  
exp 31 December 2020 (see s 135JW)

**Entry to read meters etc.**

**s 137** amd 1997 No. 26 s 36; 2002 No. 42 s 242 sch 1; 2003 No. 28 s 9

**Disconnection of supply if entry refused**

**s 138** amd 2004 No. 53 s 2 sch; 2005 No. 51 s 3 sch

**Entry to place to protect electricity entity's works**

**prov hdg** amd 2002 No. 42 s 242 sch 1  
**s 140** amd 2002 No. 42 s 242 sch 1; 2004 No. 51 s 23

**Entry to place to carry out remedial work**

**s 140A** ins 2004 No. 50 s 13

**Entry to place to carry out urgent remedial work**

**s 140B** ins 2004 No. 50 s 13

**PART 2—POWERS TO PREVENT FIRE OR ELECTRICAL SHOCK**

**pt hdg** sub 2002 No. 42 s 242 sch 1

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

**s 141** amd 2002 No. 42 s 242 sch 1; 2004 No. 51 s 24; 2004 No. 53 s 2 sch

**PART 3—OTHER PROVISIONS ABOUT EXERCISE OF ELECTRICITY OFFICER'S POWERS**

**pt hdg** sub 2004 No. 51 s 3 sch

**Duty to avoid damage**

**s 141A** ins 2004 No. 50 s 14

**Associated powers on entry**

**s 141B** ins 2004 No. 51 s 25

**CHAPTER 7—ENFORCEMENT OF RESTRICTIONS AND RATIONING**

**ch hdg** sub 2002 No. 42 s 242 sch 1

**PART 1—PRELIMINARY**

**pt hdg** sub 2002 No. 42 s 242 sch 1

**Entry to places**

**s 144** om 2002 No. 42 s 242 sch 1

**Definition for ch 7**

**s 145** sub 2002 No. 42 s 242 sch 1

**PART 2—INSPECTION OFFICERS**

**pt hdg** sub 2002 No. 42 s 242 sch 1

**Appointment and qualifications**

**s 146** sub 2002 No. 42 s 242 sch 1  
amd 2003 No. 28 s 10

**Appointment conditions and limit on powers**

**s 147** sub 2002 No. 42 s 242 sch 1

**Issue of identity card**

**s 148** sub 2002 No. 42 s 242 sch 1

**Production or display of identity card**

**s 149** sub 2002 No. 42 s 242 sch 1

**When inspection officer ceases to hold office**

**s 150** sub 2002 No. 42 s 242 sch 1

**Resignation**

**s 151** sub 2002 No. 42 s 242 sch 1

**Return of identity card**

**s 152** sub 2002 No. 42 s 242 sch 1

**Division 1—Electricity restriction regulations and emergency rationing orders**

**div hdg** om 2002 No. 42 s 242 sch 1

**PART 2A—POWERS OF INSPECTION OFFICERS**

**pt hdg** ins 2003 No. 28 s 11

**Power to enter place**

**s 152A** ins 2003 No. 28 s 11  
amd 2004 No. 50 s 15

**Entry with consent**

**s 152B** ins 2003 No. 28 s 11

**Application for warrant**

**s 152C** ins 2003 No. 28 s 11

**Issue of warrant**

**s 152D** ins 2003 No. 28 s 11

**Special warrant**

**s 152E** ins 2003 No. 28 s 11

**Warrant—procedure before entry**

**s 152F** ins 2003 No. 28 s 11

**General powers after entering place**

**s 152G** ins 2003 No. 28 s 11  
amd 2004 No. 50 s 16

**Power to seize evidence**

**s 152H** ins 2003 No. 28 s 11

**Powers supporting seizure**

**s 152I** ins 2003 No. 28 s 11

**Receipt for seized thing**

s 152J ins 2003 No. 28 s 11

**Forfeiture of seized thing**

s 152K ins 2003 No. 28 s 11

**Return of seized thing**

s 152L ins 2003 No. 28 s 11

**Access to seized thing**

s 152M ins 2003 No. 28 s 11

**PART 3—RESTRICTION REGULATIONS AND RATIONING ORDERS**

pt hdg ins 2002 No. 42 s 242 sch 1

**Division 2—Safety issues**

div 2 (ss 155–159) (orig pt 2 div 2) om 2002 No. 42 s 242 sch 1

**Division 3—Cathodic protection systems**

div 2 (s 160) (orig pt 2 div 3) om 2002 No. 42 s 242 sch 1

**Division 4—Other powers of authorised persons**

div 4 (ss 161–163) (orig pt 2 div 4) om 2002 No. 42 s 242 sch 1

**Division 5—Other enforcement matters**

div hdg (orig pt 2 div 5) om 2002 No. 42 s 242 sch 1

**PART 4—OTHER MATTERS**

pt hdg ins 2002 No. 42 s 242 sch 1

**CHAPTER 8—TECHNICAL ISSUES**

ch hdg sub 2002 No. 42 s 242 sch 1

**Connection to transmission grid or supply network to comply with conditions for connection**

s 166 amd 1997 No. 77 s 46

**Occupier to give notice of electrical accident**s 167 amd 1997 No. 26 s 37  
om 2002 No. 42 s 242 sch 1**Licensed electrical contractor to give notice of electrical accident**s 168 amd 1997 No. 26 s 38  
om 2002 No. 42 s 242 sch 1**Special approval holders to give notice of electrical accident**s 169 amd 1997 No. 26 s 39  
om 2002 No. 42 s 242 sch 1**Electricity entity to advise regulator immediately of accident**s 170 amd 1997 No. 26 s 40  
om 2002 No. 42 s 242 sch 1**Electricity entity to ensure accident investigated and reported to regulator**

s 171 om 2002 No. 42 s 242 sch 1

**Misrepresentations about electrical articles or work**

s 172 om 2002 No. 42 s 242 sch 1

**Works and electrical installations not to be unsafe**

s 173 om 2002 No. 42 s 242 sch 1

**Examination, inspection and testing of certain electrical installation work**

s 174 om 2002 No. 42 s 242 sch 1

**Safety standards for works and electrical installations to be complied with**

s 175 om 2002 No. 42 s 242 sch 1

**Making unsafe things safe**

s 177 om 2002 No. 42 s 242 sch 1

**Division 1—Issue of generation authority**

div hdg ins 2003 No. 28 s 33 sch 2

**Issue of generation authorities**

s 178 amd 1997 No. 50 s 22

**Application for generation authority**

s 179 amd 1997 No. 50 s 23

**Publication about application for generation authority**

s 179A ins 1997 No. 77 s 47

**Consideration of application for generation authority**

s 180 amd 1997 No. 77 s 48; 2003 No. 28 s 12

**Division 2—Amendment of generation authority**

div hdg ins 2003 No. 28 s 33 sch 2

**Amendment of generation authorities**

s 182 amd 2003 No. 28 s 13

**Amendment of conditions stated in generation authorities**

s 183 amd 2003 No. 28 s 14

**Amendment of generation authorities and conditions by notice to generation entity**s 183A ins 1997 No. 77 s 49  
amd 2005 No. 51 s 3 sch**Division 3—Transfer of authority**

div hdg ins 2003 No. 28 s 15

**Transfer of generation authorities**

s 184 sub 2003 No. 28 s 15

**Application for transfer**

s 184A ins 2003 No. 28 s 15

**Consideration of application for transfer**

s 184B ins 2003 No. 28 s 15

**Notice of refusal to transfer generation authority**

s 184C ins 2003 No. 28 s 15

**Division 4—Surrender of generation authority**

div hdg ins 2003 No. 28 s 33 sch 2

**PART 2—TRANSMISSION AUTHORITIES****Division 1—Issue of transmission authority****div hdg** ins 2003 No. 28 s 33 sch 2**Publication about application for transmission authority****s 188A** ins 1997 No. 77 s 50**Consideration of application for authority****s 189** amd 1997 No. 77 s 51; 2003 No. 28 s 16**Division 2—Amendment of transmission authority****div hdg** ins 2003 No. 28 s 33 sch 2**Amendment of transmission authorities****s 191** amd 2003 No. 28 s 17**Amendment of conditions stated in transmission authorities****s 192** amd 2003 No. 28 s 18**Amendment of transmission authorities and conditions by notice to transmission entity****s 192A** ins 1997 No. 77 s 52  
amd 2005 No. 51 s 3 sch**Division 3—Transfer of authority****div hdg** ins 2003 No. 28 s 19**Transfer of transmission authorities****s 193** sub 2003 No. 28 s 19**Application for transfer****s 193A** ins 2003 No. 28 s 19**Consideration of application for transfer****s 193B** ins 2003 No. 28 s 19**Notice of refusal to transfer transmission authority****s 193C** ins 2003 No. 28 s 19**Division 4—Surrender of transmission authority****div hdg** ins 2003 No. 28 s 33 sch 2**PART 3—DISTRIBUTION AUTHORITIES****pt hdg** sub 1997 No. 26 s 41**Division 1—Issue of distribution authority****div hdg** ins 2003 No. 28 s 33 sch 2**Issue of distribution authorities****s 195** sub 1997 No. 26 s 42**Distribution authorities for same distribution area****s 195A** ins 1997 No. 77 s 53**Application for authority****s 196** amd 1997 No. 26 s 43

**Publication about application for distribution authority**

s 196A ins 1997 No. 77 s 54

**Consideration of application for authority**

s 197 amd 1997 No. 26 s 44; 1997 No. 77 s 55; 2003 No. 28 s 20

**Notice of refusal to issue authority**

s 198 amd 1997 No. 26 s 45

**Division 2—Amendment of distribution authority**

div hdg ins 2003 No. 28 s 33 sch 2

**Amendment of distribution authorities**

s 199 sub 1997 No. 26 s 46

amd 2003 No. 28 s 21

**Amendment of conditions stated in distribution authorities**

s 200 sub 1997 No. 26 s 47

amd 2003 No. 28 s 22

**Amendment of distribution authorities and conditions by notice to distribution entity**

s 200A ins 1997 No. 77 s 56

amd 2005 No. 51 s 3 sch

**Division 3—Transfer of authority**

div hdg ins 2003 No. 28 s 23

**Transfer of distribution authorities**

s 201 sub 1997 No. 26 s 48; 2003 No. 28 s 23

**Application for transfer**

s 201A ins 2003 No. 28 s 23

**Consideration of application for transfer**

s 201B ins 2003 No. 28 s 23

**Notice of refusal to transfer distribution authority**

s 201C ins 2003 No. 28 s 23

**Division 4—Surrender of distribution authority**

div hdg ins 2003 No. 28 s 33 sch 228 s 33 sch 2

**Surrender of distribution authorities**

s 202 sub 1997 No. 26 s 49

**PART 4—RETAIL AUTHORITIES**

pt hdg sub 1997 No. 26 s 50

**Division 1—Issue of retail authority**

div hdg ins 2003 No. 28 s 33 sch 2

**Issue of retail authorities**

s 203 sub 1997 No. 26 s 50

amd 1997 No. 77 s 57

**Application for authority**

s 204 sub 1997 No. 26 s 50

amd 1997 No. 77 s 58

**Publication about application for retail authority**

s 204A ins 1997 No. 77 s 59

**Consideration of application for authority**

s 205 sub 1997 No. 26 s 50

amd 1997 No. 77 s 60; 2003 No. 28 s 24; 2005 No. 51 s 3 sch

**Notice of refusal to issue authority**

s 206 sub 1997 No. 26 s 50

**Division 2—Amendment of retail authority**

div hdg ins 2003 No. 28 s 33 sch 2

**Amendment of retail authorities**

s 207 sub 1997 No. 26 s 50

amd 2003 No. 28 s 25

**Amendment of conditions stated in retail authorities**

s 207A ins 1997 No. 26 s 50

amd 2003 No. 28 s 26

**Amendment of retail authorities and conditions by notice to retail entity**

s 207AB ins 1997 No. 77 s 61

amd 2005 No. 51 s 3 sch

**Division 3—Other matters about retail authorities**

div hdg ins 2003 No. 28 s 33 sch 2

**Retail authorities not transferable**

s 207B ins 1997 No. 26 s 50

**Surrender of retail authorities**

s 207C ins 1997 No. 26 s 50

**Recognition of interstate retail authority equivalents**

s 207D ins 1997 No. 77 s 62

**PART 5—SPECIAL APPROVALS****Division 1—Giving of special approval**

div hdg ins 2003 No. 28 s 33 sch 2

**Consideration of application for special approval**

s 210 amd 2003 No. 28 s 27

**Division 2—Amendment of special approval**

div hdg ins 2003 No. 28 s 33 sch 2

**Amendment of special approval**

s 211A ins 1997 No. 77 s 63

amd 2003 No. 28 s 28

**Amendment of conditions stated in special approval**

s 211B ins 1997 No. 77 s 63

amd 2003 No. 28 s 29

**Amendment of special approval and conditions by notice to holder of special approval**

s 211C ins 1997 No. 77 s 63  
amd 2003 No. 28 s 30; 2005 No. 51 s 3 sch

**Division 3—Transfer of special approval**

div hdg ins 2003 No. 28 s 31

**Transfer of special approval**

s 212 sub 2003 No. 28 s 31

**Application for transfer**

s 212A ins 2003 No. 28 s 31

**Consideration of application for transfer**

s 212B ins 2003 No. 28 s 31

**Notice of refusal to transfer special approval**

s 212C ins 2003 No. 28 s 31

**Division 4—Surrender of special approval**

div hdg ins 2003 No. 28 s 33 sch 2

**Who may make an appeal**

s 219 amd 2004 No. 53 s 2 sch

**Procedure of court**

s 225 amd 2005 No. 51 s 3 sch

**Potential damage to electric lines by projectiles**

s 229 amd 2002 No. 42 s 242 sch 1

**Climbing poles etc. of electricity entity prohibited**

s 234 om 2002 No. 42 s 242 sch 1

**Obstruction of electricity officers and authorised persons**

prov hdg amd 2002 No. 42 s 242 sch 1

s 236 amd 2002 No. 42 s 242 sch 1

**Impersonation of electricity officers and authorised persons**

prov hdg amd 2002 No. 42 s 242 sch 1

s 237 amd 2002 No. 42 s 242 sch 1

**False or misleading information**

s 238 amd 2002 No. 42 s 242 sch 1

**False, misleading or incomplete documents**

s 239 amd 2002 No. 42 s 242 sch 1

**Executive officers must ensure corporation complies with Act**

s 240A ins 1997 No. 77 s 64

**Attempts to commit offences**

s 241 amd 2004 No. 53 s 2 sch

**Proof of appointments**

s 246 amd 2002 No. 42 s 242 sch 1



**Proof of signatures**

s 247      amd 2002 No. 42 s 242 sch 1

**Evidentiary certificates by regulator**

s 248      amd 2002 No. 42 s 242 sch 1

**Evidentiary certificate by member etc. of electrical workers and contractors board**

s 250      om 2002 No. 42 s 242 sch 1

**Evidentiary effect of conduct notice**

s 251A     ins 1997 No. 77 s 65

**Condition may require compliance with standards, codes etc.**

s 252      amd 2004 No. 53 s 2 sch

**Advisory committees**

s 253      amd 2000 No. 39 s 11

**Protection from liability**

s 254      amd 2001 No. 82 s 18; 2002 No. 42 s 242 sch 1

**Protection from liability of member or employee of QCA**

s 254AA    ins 1997 No. 77 s 66A

**Attachment—words defined in other legislation referred to in this Act**

s 254A     ins 1997 No. 50 s 33

**Meaning of particular terms for a relevant body corporate**

s 254AB    ins 2002 No. 56 s 8

**Application of Freedom of Information Act and Judicial Review Act**

s 256      amd 1995 No. 57 s 4 sch 1

**Transmission and distribution entities are constructing authorities**

s 257      sub 1997 No. 77 s 67  
exp 19 December 2002 (see s 257(2))

**Regulation may declare a constructing authority**

s 257A     ins 1997 No. 77 s 67  
om 2003 No. 28 s 3 sch 1

**Fixing of prices by State electricity entities**

s 258      om 1997 No. 77 s 68

**Regulations about generating capacity**

s 259      om 1997 No. 77 s 68

**Regulation may declare a State electricity entity**

s 259A     ins 1997 No. 26 s 51  
amd 2004 No. 50 s 16A

**State electricity entities to take part in regulated superannuation scheme**

s 260      sub 1997 No. 77 s 69

**Declaration of approved industry superannuation scheme**

s 261      om 1997 No. 77 s 70

**Membership of certain superannuation schemes continued**

s 262      amd 2005 No. 51 s 3 sch

**Regulation about matters in sch 2**s 264      sub 1997 No. 77 s 71  
            amd 2004 No. 51 s 3 sch**Cathodic protection**

s 265      om 2002 No. 42 s 242 sch 1

**Energy labelling and performance standards**

s 266      amd 2004 No. 51 s 3 sch; 2005 No. 51 s 3 sch

**Electrical articles**

s 267      om 2002 No. 42 s 242 sch 1

**Regulations about electrical workers and contractors**

s 268      om 2002 No. 42 s 242 sch 1

**CHAPTER 14—TRANSITIONAL AND VALIDATION PROVISIONS**

ch hdg      amd 2002 No. 56 s 9(1)

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

pt hdg      ins 1997 No. 26 s 52

**QGC to be issued generation authority etc.**

s 270      exp 1 January 1996 (see s 270(3))

**QETC to be issued transmission authority etc.**

s 271      exp 1 January 1996 (see s 271(3))

**QTSC to be issued supply entity authority etc.**

s 272      exp 1 January 1996 (see s 272(3))

**State authorised suppliers to be issued authorised supplier authority etc.**

s 273      exp 1 January 1996 (see s 273(3))

**Continuation of tariff schedules**

s 274      exp 1 July 1995 (see s 274(2))

**Installation inspectors are electricity officers**

s 275      exp 1 July 1995 (see s 275(4))

**Transfer of assets and liabilities to the department**

s 277      exp 1 July 1995 (see s 277(3))

**Regulations about certificates of employees' entitlements**

s 278      exp 1 July 1995 (see s 278(2))

**Continuation of provisions of Electricity Act 1976 until approval of industry superannuation scheme**

prov hdg    amd 1995 No. 36 s 4(1) (retro)

s 279      amd 1995 No. 36 s 4(2) (retro)  
            exp on the approval day (see s 279(3))**First declaration of approved superannuation scheme**

s 280      amd 1995 No. 36 s 5 (retro); 2005 No. 51 s 3 sch

**Effect of approval of industry superannuation scheme on QESI ESS**

- s 281** prev s 281 exp on the day after the transfer day (see prev s 281(6))  
 AIA s 20A applies (see s 281(7))  
 new s 281 sub 1995 No. 36 s 6 (retro)  
 exp on the approval day (see s 281(8))  
 AIA s 20A applies (see s 281(7))

**Effect of approval of industry superannuation scheme on entitlement under Restoration Act**

- s 281A** ins 1995 No. 36 s 6 (retro)  
 exp on the approval day (see s 281A(4))  
 AIA s 20A applies (see s 281A(3))

**Continuation of rationing orders**

- s 282** exp 1 April 1995 (see s 282(2))

**Continuation of restriction orders**

- s 283** exp 1 January 1996 (see s 283(2))

**Certain New South Wales Councils are authorised suppliers**

- s 284** exp 1 January 1996 (see s 284(5))

**Licences under s 138 of repealed Act**

- s 285** amd 1997 No. 50 s 24  
 exp 1 January 1998 (see s 285(3))

**Electricity Act 1976 references**

- s 285A** ins 1995 No. 57 s 4 sch 1

**References to electricity boards, electricity authorities and electricity supply industry**

- s 286** amd 1995 No. 57 s 4 sch 1

**Gladstone power station arrangements**

- s 287A** ins 1997 No. 50 s 25  
 amd 2005 No. 51 s 3 sch

**PART 2—TRANSITIONAL PROVISIONS FOR ELECTRICITY AMENDMENT ACT 1997, ELECTRICITY AMENDMENT ACT (No. 2) 1997 AND ELECTRICITY AMENDMENT ACT (No. 3) 1997**

- pt hdg** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 26  
 sub 1997 No. 77 s 72

**Continuation of tariffs**

- s 289** prev s 289 exp 1 January 1996 (see prev s 289(3))  
 new s 289 ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 289(2))

**Expiry of QGC's generation authorities**

- s 290** prev s 290 exp 1 January 1997 (see prev s 290(2))  
 new s 290 ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 290(4))

**Generation authorities for new generation entities**

- s 291** prev s 291 exp 1 January 1996 (see prev s 291(3))  
 new s 291 ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 27; 1997 No. 77 s 73  
 exp 1 July 1998 (see s 291(5))

**CHAPTER 15—REPEALS AND AMENDMENTS**

- ch hdg** om R1 (see RA s 37)

**Expiry of QETC's transmission authority**

- s 292** prev s 292 om R1 (see RA s 40)  
 new s 292 ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 292(4))

**New transmission authority for QETC**

- s 293** prev s 293 om R1 (see RA s 40)  
 new s 293 ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 293(5))

**Expiry of QTSC's supply entity authority**

- s 294** ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 294(4))

**Expiry of State authorised supplier authorities**

- s 295** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 28  
 exp 1 July 1998 (see s 295(4))

**New distribution authorities**

- s 296** ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 296(7))

**New retail authorities**

- s 297** ins 1997 No. 26 s 53  
 exp 1 July 1998 (see s 297(7))

**Dispensing with formal requirements for the issue of authorities**

- prov hdg** amd 1997 No. 50 s 29(1)  
**s 298** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 29(2)  
 exp 1 July 1998 (see s 298(2))

**Directions to State electricity entities**

- s 299** ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 74

**Minister may give exemptions from holding an authority or being authorised to sell**

- prov hdg** amd 1997 No. 50 s 30(1)  
**s 300** ins 1997 No. 26 s 53  
 amd 1997 No. 50 s 30(2); 1997 No. 77 s 75  
 exp 1 July 1999 (see s 300(4))

**Notifying exemption under s 300**

**s 300A** ins 1997 No. 50 s 31  
 amd 1997 No. 77 s 76  
 exp 1 July 1999 (see ss 300(4), 300A(3))

**Amending or cancelling exemption under s 300**

**s 300B** ins 1997 No. 50 s 31  
 sub 1997 No. 77 s 77  
 exp 1 July 1999 (see ss 300(4), 300B(5))

**Minister's powers about transmission and distribution pricing**

**s 301** ins 1997 No. 26 s 53  
 sub 1997 No. 77 s 77  
 amd 2000 No. 20 s 29 sch 3  
 exp 19 December 2000 (see s 301(8))

**QTSC State electricity entity for limited purposes**

**s 302** ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 78  
 exp 1 July 1998 (see s 302(2))

**Interim registration under s 92I**

**s 302A** ins 1997 No. 50 s 32  
 om 1997 No. 77 s 79

**Amending or cancelling grant under s 302A**

**s 302B** ins 1997 No. 50 s 32  
 om 1997 No. 77 s 79

**National Electricity Rules replace Queensland Grid Code**

**prov hdg** amd 2005 No. 51 s 3 sch  
**s 302C** ins 1997 No. 50 s 32  
 amd 2005 No. 51 s 3 sch

**PART 3—TRANSITIONAL PROVISIONS FOR ELECTRICITY AMENDMENT ACT 2000**

**pt hdg** ins 2000 No. 39 s 12

**Continuation of existing regional electricity councils**

**s 303** prev s 303 ins 1997 No. 26 s 53  
 amd 1997 No. 77 s 80  
 exp 1 July 1999 (see s 303(3))  
 pres s 303 ins 2000 No. 39 s 12

**PART 4—TRANSITIONAL PROVISION FOR INTEGRATED PLANNING AND OTHER LEGISLATION AMENDMENT ACT 2001**

**pt 4 (s 304)** ins 2001 No. 100 s 92

**PART 5—TRANSITIONAL PROVISIONS FOR ELECTRICITY AND OTHER LEGISLATION AMENDMENT ACT 2003**

**pt 5 (ss 305–307)** ins 2003 No. 28 s 32

**PART 6—VALIDATION PROVISION**

**pt hdg** (prev pt 4 hdg) renum 2003 No. 28 s 3 sch 1

**Valuation of particular acts by relevant bodies corporate**

**s 308** (prev s 304) ins 2002 No. 56 s 9(2)  
renum 2003 No. 28 s 3 sch 1

**PART 7—TRANSITIONAL PROVISIONS FOR ELECTRICITY AMENDMENT ACT 2004**

**pt hdg** ins 2004 No. 50 s 17

**Existing electricity supply contracts**

**s 309** ins 2004 No. 50 s 17

**PART 8—TRANSITIONAL PROVISIONS FOR ELECTRICITY AND OTHER LEGISLATION AMENDMENT ACT 2006**

**pt hdg** ins 2004 No. 51 s 27  
sub 2006 No. 60 s 51

**Definitions for pt 8**

**s 310** ins 2004 No. 51 s 27  
sub 2006 No. 60 s 51

**Extension of area retail obligation**

**s 311** ins 2004 No. 51 s 27  
sub 2006 No. 60 s 51

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

**s 312** ins 2004 No. 51 s 27  
sub 2006 No. 60 s 51

**Existing contestable customers who are receivers**

**s 313** ins 2006 No. 60 s 51

**Existing standard customer connection contracts**

**s 314** ins 2006 No. 60 s 51

**Existing standard customer sale contracts**

**s 315** ins 2006 No. 60 s 51

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

**s 316** ins 2006 No. 60 s 51

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

**s 317** ins 2006 No. 60 s 51

**Particular unmetered street lighting**

**prov hdg** amd 2007 No. 17 s 33(1)  
**s 318** ins 2006 No. 60 s 51  
amd 2007 No. 17 s 33(2)

**Other unmetered connection points**

**s 319** ins 2006 No. 60 s 51  
amd 2007 No. 17 s 34

**Particular watchman lights**

**s 319A** ins 2007 No. 17 s 35

**Obligation to decide notified prices for 2007–2008 financial year on basis of post-amended Act**

**prov hdg** amd 2007 No. 17 s 36(1)  
**s 320** ins 2006 No. 60 s 51  
 amd 2007 No. 17 s 36(2)

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

**s 321** ins 2006 No. 60 s 51

**Existing mediated agreements**

**s 322** ins 2006 No. 60 s 51

**Existing orders on arbitrated disputes**

**s 323** ins 2006 No. 60 s 51

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

**s 324** ins 2006 No. 60 s 51

**Transitional provision for non-liable loads**

**s 325** ins 2006 No. 60 s 51

**Provision for new s 23**

**s 326** ins 2007 No. 29 s 9  
exp at the end of 16 June 2007 (see s 326(2))  
 AIA s 20A applies to (see s 326(3))

**SCHEDULE 1—APPEALS AGAINST ADMINISTRATIVE DECISIONS**

amd 1997 No. 26 s 54; 1997 No. 50 s 34; 1997 No. 77 s 81; 2001 No. 82 s 19;  
 2002 No. 42 s 242 sch 1  
 sub 2003 No. 28 s 34  
 amd 2004 No. 50 s 18

**SCHEDULE 2—SUBJECT MATTER FOR REGULATIONS****Conditions of supply and sale**

**prov hdg** amd 1997 No. 26 s 55(1)  
**s 1** amd 1997 No. 26 s 55(2)–(3)

**Requirements and standards**

**s 2** amd 2002 No. 42 s 242 sch 1

**Conditions of authorities and approvals**

**s 3A** ins 1997 No. 77 s 82

**Prescribed things and prohibited interests**

**s 3B** ins 1997 No. 77 s 82

**General**

**s 4** amd 2002 No. 42 s 242 sch 1

**SCHEDULE 3—ACTS REPEALED**

om R1 (see RA s 40)

**SCHEDULE 4—ACTS AMENDED**

om R1 (see RA s 40)

**SCHEDULE 5—DICTIONARY**

def “13% liability” ins 2004 No. 50 s 19

- def “**accounting period**” ins 2003 No. 28 s 35(2)
- def “**accreditation**” ins 2004 No. 50 s 19
- def “**accredited generator**” ins 2004 No. 50 s 19
- def “**accredited generator register**” ins 2004 No. 50 s 19
- def “**accredited power station**” ins 2004 No. 50 s 19
- def “**affected land**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**Ambulance Cover Act**” ins 2003 No. 34 s 171
- def “**amended assessment**” ins 2004 No. 50 s 19
- def “**ancillary matters**” ins 2004 No. 50 s 19
- def “**annual loss factor**” ins 2004 No. 50 s 19
- def “**annual QUF**” ins 2004 No. 50 s 19
- def “**applicant**” ins 2004 No. 50 s 19
- def “**application**” ins 2004 No. 50 s 19
- def “**approval day**” ins 1995 No. 36 s 7(2) (retro)
- def “**approved auditor**” ins 2004 No. 50 s 19
- def “**approved form**” ins 2004 No. 50 s 19
- def “**approved industry code**” ins 2004 No. 51 s 26(2)
- def “**approved industry superannuation scheme**” om 2005 No. 51 s 6(1)
- def “**assessment**” ins 2004 No. 50 s 19
- def “**associated equipment**” ins 2002 No. 42 s 242 sch 1
- def “**auditable person**” ins 2004 No. 50 s 19
- def “**audit notice**” ins 2004 No. 50 s 19
- def “**Australian Energy Regulator or AER**” ins 2005 No. 51 s 6(2)
- def “**authorised person**” sub 2002 No. 42 s 242 sch 1
- def “**authorised supplier**” om 1997 No. 26 s 56(1)
- def “**authorised supplier authority**” om 1997 No. 26 s 56(1)
- def “**auxiliary load**” ins 2004 No. 50 s 19
- def “**baseline**” ins 2004 No. 50 s 19
- def “**baseline customer**” ins 2004 No. 50 s 19
- def “**baseline loss factor**” ins 2004 No. 50 s 19
- def “**baseline QUF**” ins 2004 No. 50 s 19
- def “**baseline year**” ins 2004 No. 50 s 19
- def “**cathodic protection system**” om 2002 No. 42 s 242 sch 1
- def “**channels**” om 2002 No. 42 s 242 sch 1
- def “**civil penalty**” ins 2004 No. 50 s 19
- def “**code participant**” ins 1997 No. 50 s 35  
sub 1997 No. 77 s 83(1)–(2)  
om 2005 No. 51 s 6(1)
- def “**common area**” ins 2003 No. 28 s 35(2)
- def “**common area consumption**” ins 2003 No. 28 s 35(2)
- def “**complete suspension**” ins 2004 No. 50 s 19
- def “**compromise assessment**” ins 2004 No. 50 s 19
- def “**conduct notice**” ins 1997 No. 77 s 83(2)
- def “**conduct rules**” ins 1997 No. 77 s 83(2)
- def “**contribution fee**” ins 2001 No. 82 s 20
- def “**Country Energy**” ins 2001 No. 82 s 20  
sub 2003 No. 28 s 35(1)–(2)
- def “**customer**” amd 2002 No. 56 s 10(2)



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- def “**customer connection contract**” ins 1997 No. 26 s 56(2)  
sub 1997 No. 77 s 83(1)–(2)
- def “**customer connection services**” ins 1997 No. 77 s 83(2)
- def “**customer retail services**” ins 1997 No. 77 s 83(2)  
amd 2004 No. 51 s 26(5)
- def “**customer sale contract**” ins 1997 No. 26 s 56(2)  
sub 1997 No. 77 s 83(1)–(2)  
amd 2004 No. 51 s 26(6)
- def “**damage or harm**” ins 2004 No. 50 s 19
- def “**dedicated line**” ins 2004 No. 50 s 19
- def “**default assessment**” ins 2004 No. 50 s 19
- def “**direct method**” ins 2004 No. 50 s 19
- def “**direct supply arrangement**” ins 2004 No. 50 s 19
- def “**distribution area**” ins 1997 No. 26 s 56(2)
- def “**distribution authority**” ins 1997 No. 26 s 56(2)
- def “**distribution entity**” ins 1997 No. 26 s 56(2)
- def “**economic operator**” ins 2004 No. 50 s 19
- def “**electrical article**” om 2002 No. 42 s 242 sch 1
- def “**electrical contracting**” om 2002 No. 42 s 242 sch 1
- def “**electrical equipment**” ins 2002 No. 42 s 242 sch 1
- def “**electrical installation**” sub 2002 No. 42 s 242 sch 1
- def “**electrical installation work**” om 2002 No. 42 s 242 sch 1
- def “**Electrical Safety Act**” ins 2002 No. 42 s 242 sch 1
- def “**electrical work**” om 2002 No. 42 s 242 sch 1
- def “**electricity entity**” om 1997 No. 77 s 83(1)  
ins 1997 No. 77 s 83(2)
- def “**electricity load**” ins 2004 No. 50 s 19
- def “**electric line**” sub 2002 No. 42 s 242 sch 1
- def “**eligible electricity guidelines**” ins 2004 No. 50 s 19
- def “**eligible fuel**” ins 2004 No. 50 s 19
- def “**eligible gas-fired electricity**” ins 2004 No. 50 s 19
- def “**eligible renewable electricity**” ins 2004 No. 50 s 19
- def “**end user**” ins 2004 No. 50 s 19
- def “**energy arbitrator**” ins 2000 No. 39 s 13  
amd 2001 No. 82 s 3 sch
- def “**energy mediator**” ins 2001 No. 82 s 20
- def “**Ergon Energy**” ins 2001 No. 47 s 4
- def “**exempted load**” ins 2004 No. 50 s 19
- def “**first accounting period**” ins 2003 No. 28 s 35(2)
- def “**fix**” ins 2004 No. 50 s 19
- def “**GEC**” ins 2004 No. 50 s 19
- def “**GEC register**” ins 2004 No. 50 s 19
- def “**GEC review**” ins 2004 No. 50 s 19
- def “**GEC surrender direction**” ins 2004 No. 50 s 19
- def “**general method**” ins 2004 No. 50 s 19
- def “**government company**” ins 1997 No. 26 s 56(2)
- def “**GST statement**” ins 2000 No. 20 s 29 sch 3
- def “**hire**” om 2002 No. 42 s 242 sch 1
- def “**information notice**” ins 2004 No. 50 s 19
- def “**inspection officer**” ins 2002 No. 42 s 242 sch 1

- def “**interested person**” ins 2004 No. 50 s 19
- def “**LGPE Act**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**liable load**” ins 2004 No. 50 s 19
- def “**liable load exemption**” ins 2004 No. 50 s 19
- def “**liable load exemption register**” ins 2004 No. 50 s 19
- def “**liable person**” ins 2004 No. 50 s 19
- def “**liable year**” ins 2004 No. 50 s 19
- def “**licensed electrical contractor**” om 2002 No. 42 s 242 sch 1
- def “**licensed electrical worker**” om 2002 No. 42 s 242 sch 1
- def “**limited suspension**” ins 2004 No. 50 s 19
- def “**major grid**” ins 2004 No. 50 s 19
- def “**Market Code**” ins 1997 No. 50 s 35  
sub 1997 No. 77 s 83(1)–(2)  
om 2005 No. 51 s 6(1)
- def “**measurement method**” ins 2004 No. 50 s 19
- def “**mediated agreement**” ins 2001 No. 82 s 20
- def “**member entity**” ins 2001 No. 82 s 20
- def “**membership fee**” ins 2001 No. 82 s 20
- def “**meter**” sub 2002 No. 42 s 242 sch 1
- def “**Mount Isa-Cloncurry supply network**” ins 2001 No. 47 s 4
- def “**nameplate capacity**” ins 2004 No. 50 s 19
- def “**National Electricity (Queensland) Law**” ins 1997 No. 77 s 83(2)
- def “**National Electricity Rules or Rules**” ins 2005 No. 51 s 6(2)
- def “**National Electricity Tribunal**” ins 1997 No. 77 s 83(2)  
om 2005 No. 51 s 6(1)
- def “**national grid**” ins 2001 No. 47 s 4  
amd 2005 No. 51 s 6(3)
- def “**national metering identifier**” ins 2006 No. 42 s 69
- def “**NECA**” ins 1997 No. 77 s 83(2)  
om 2005 No. 51 s 6(1)
- def “**negotiated customer connection contract**” ins 1997 No. 26 s 56(2)
- def “**negotiated customer sale contract**” ins 1997 No. 26 s 56(2)  
amd 2004 No. 51 s 26(7)
- def “**negotiated sale and connection contract**” ins 2004 No. 51 s 26(4)
- def “**NEMMCO**” ins 1997 No. 77 s 83(2)
- def “**net GST effect**” ins 2000 No. 20 s 29 sch 3
- def “**non-contestable customer**” ins 1997 No. 26 s 56(2)
- def “**non-liable load**” ins 2004 No. 50 s 19
- def “**notice**” ins 2004 No. 50 s 19
- def “**notified prices**” ins 2000 No. 20 s 29 sch 3
- def “**obligated supplier**” om 1997 No. 26 s 56(1)
- def “**obligation to supply**” om 1997 No. 26 s 56(1)
- def “**occupier**” om 2002 No. 42 s 242 sch 1
- def “**official**” ins 2004 No. 50 s 19
- def “**on-supplier**” ins 2003 No. 28 s 35(2)
- def “**on-supplier’s premises**” ins 2003 No. 28 s 35(2)
- def “**on-supply agreement**” ins 2003 No. 28 s 35(2)
- def “**penalty imposition day**” ins 2004 No. 50 s 19

- def “**permissible use**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**planning instrument**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**planning scheme**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**planning scheme maps**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**pool**” ins 1997 No. 50 s 35  
om 1997 No. 77 s 83(1)
- def “**power station**” ins 2004 No. 50 s 19
- def “**power system**” om 1997 No. 77 s 83(1)
- def “**prescribed renewable energy source**” ins 2004 No. 50 s 19
- def “**pricing entity**” ins 2003 No. 28 s 35(2)
- def “**prohibited interest**” ins 1997 No. 77 s 83(2)
- def “**proponent**” ins 2004 No. 50 s 19
- def “**prospective on-supplier**” ins 2003 No. 28 s 35(2)
- def “**prospective receiver**” ins 2003 No. 28 s 35(2)
- def “**QCA**” ins 1997 No. 77 s 83(2)
- def “**QETC**” amd 2003 No. 28 s 35(3)
- def “**Queensland grid code**” ins 1997 No. 50 s 35
- def “**Queensland system**” ins 1997 No. 50 s 35
- def “**Queensland System Operator**” ins 1997 No. 50 s 35  
om 2005 No. 51 s 6(1)
- def “**reassessment**” ins 2004 No. 50 s 19
- def “**reasonably believes**” ins 2000 No. 39 s 13
- def “**receiver**” ins 2003 No. 28 s 35(2)
- def “**recognised program**” ins 2004 No. 50 s 19
- def “**referrer**” ins 2004 No. 50 s 19
- def “**registered owner**” ins 2004 No. 50 s 19
- def “**Registered participant**” ins 2005 No. 51 s 6(2)
- def “**registration**” ins 2004 No. 50 s 19
- def “**relevant planning scheme**” ins 1996 No. 28 s 4  
om 2004 No. 53 s 2 sch
- def “**relevant body corporate**” ins 2002 No. 56 s 10(1)
- def “**residence**” ins 2004 No. 50 s 19
- def “**retail area**” ins 1997 No. 26 s 56(2)
- def “**retail authority**” ins 1997 No. 26 s 56(2)
- def “**retail entity**” ins 1997 No. 26 s 56(2)
- def “**retailer**” ins 2004 No. 50 s 19
- def “**scheme participant**” ins 2004 No. 50 s 19
- def “**scheme participant register**” ins 2004 No. 50 s 19
- def “**self-assessment report**” ins 2004 No. 50 s 19
- def “**sell**” sub 1997 No. 77 s 83(1)–(2)
- def “**service quality standard**” ins 2000 No. 20 s 29 sch 3  
om 2004 No. 51 s 26(1)
- def “**significant project**” ins 2004 No. 50 s 19
- def “**small grid**” ins 2004 No. 50 s 19
- def “**special conditions**” ins 2004 No. 50 s 19

- def “**spot market**” ins 1997 No. 77 s 83(2)  
 amd 2005 No. 51 s 6(4)
- def “**standard accreditation conditions**” ins 2004 No. 50 s 19
- def “**standard customer connection contract**” ins 1997 No. 26 s 56(2)  
 sub 2004 No. 51 s 26(3)–(4)
- def “**standard customer sale contract**” ins 1997 No. 26 s 56(2)  
 sub 2004 No. 51 s 26(3)–(4)
- def “**State authorised supplier**” om 1997 No. 26 s 56(1)
- def “**State development exemption**” ins 2004 No. 50 s 19
- def “**State electricity entity**” sub 1997 No. 26 s 56
- def “**substantive traceable link**” ins 2004 No. 50 s 19
- def “**supply area**” om 1997 No. 26 s 56(1)
- def “**supply entity**” om 1997 No. 26 s 56(1)
- def “**supply entity authority**” om 1997 No. 26 s 56(1)
- def “**surrender application**” ins 2004 No. 50 s 19
- def “**system control**” om 1997 No. 77 s 83(1)
- def “**system control entity**” om 1997 No. 77 s 83(1)
- def “**System Operator**” ins 2005 No. 51 s 6(2)
- def “**trade or commerce**” om 2002 No. 42 s 242 sch 1
- def “**trading arrangements**” om 2004 No. 53 s 2 sch
- def “**trading arrangements**” ins 1997 No. 50 s 35  
 amd 2005 No. 51 s 6(5)
- def “**transfer day**” om 1995 No. 36 s 7(1) (retro)
- def “**transmission zone**” ins 2004 No. 50 s 19
- def “**user-pays fee**” ins 2001 No. 82 s 20
- def “**valid**” ins 2004 No. 50 s 19
- def “**vintage year**” ins 2004 No. 50 s 19

**ATTACHMENT—EXTRACTS FROM OTHER LEGISLATION REFERRED TO  
 IN THE ACT**

ins 1997 No. 50 s 36

## **8 List of forms notified or published in gazette**

(The following information about forms is taken from the gazette. Because failure to notify or publish a form in the gazette does not invalidate the form, it may be necessary to check with the relevant government department for the latest information about forms (see SIA s 58(8)).)

**Form 5A Version 7—13% Liability Self Assessment Report**

pubd gaz 9 June 2006 p 676

**Form 5A Version 8—Annual Electricity Generation Return**

pubd gaz 9 June 2006 p 676

**Form 5A Version 9—Exemption Compliance Report—State Development  
 Exemption**

pubd gaz 9 June 2006 p 676

**Form 5A Version 10—Exemption Compliance Report—Renewable Energy Exemption**

pubd gaz 9 June 2006 p 676

**Form 5A Version 11—Exemption Compliance Report—Power Station Auxiliary Load Exemption**

pubd gaz 9 June 2006 p 676

**Form 5A Version 12—GEC Review**

pubd gaz 10 November 2006 p 1210

**Form 24 Version 3—Property Transfer Information**

pubd gaz 22 August 2003 pp 1327–8

## **9 Information about retrospectivity**

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in footnotes to the text.