



Electricity Act 1994

Reprinted as in force on 1 July 2008

Reprint No. 7A

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Queensland

Electricity Act 1994

Contents

		Page
Chapter 1	Preliminary	
Part 1	Introductory provisions	
1	Short title	29
Part 2	Objects of Act	
3	Objects of Act	29
Part 3	Dictionary	
4	Definitions—the dictionary	30
Part 4	Some basic concepts of electricity industry operations	
5	Electricity	30
6	Transmission grid	30
7	Regional system control	30
8	Supply network	31
9	Network control	31
10	Network services	31
11	Ancillary services	32
12	Works, substations and operating works	32
13	Meaning of electrical equipment	33
14	Meaning of electrical installation	34
15	Meaning of electric line	35
16	Meaning of associated equipment for electric line	35
16A	Meaning of meter	35
17	Voltage	35
Part 5	Operation of Act	
18	Application of Act to government entities	36
19	Act subject to certain laws	36

Part 6	Exemptions from Act	
Division 1	On-suppliers	
Subdivision 1	Preliminary	
20	Definitions for div 1	37
Subdivision 2	Exemptions	
20A	Exemptions for on-suppliers	38
Subdivision 3	On-supply agreements	
20B	On-supply agreement	38
20C	Act prevails over on-supply agreement	39
Subdivision 4	Preliminary disclosure requirements about common area charges	
20D	Application of sdiv 4	39
20E	Preliminary consumption estimate	39
20F	Required contents for on-supply agreement	40
20G	Consequence of not complying with sdiv 4	40
Subdivision 5	Individual metering	
20H	Individual metering option	41
20I	Compensation for installation damage	41
20J	Maximum charge for metered supply	42
Subdivision 6	Disclosure requirements for common area consumption charges	
20K	Application of sdiv 6	43
20L	Periodic consumption estimates	43
20M	Audited statements	44
20N	Content requirements for audited statement	44
Subdivision 7	On-suppliers who operate a private network	
20O	National Electricity Rules exemption required	45
Division 2	Other exemptions	
20P	Exemption for connection of generating plant not supplying electricity to transmission grid or supply network	45
20Q	Exemptions for Queensland Rail	45
20R	Regulation may exempt person or thing from Act	47
Chapter 2	The electricity industry	
Part 1	Electricity industry and entities	
21	Electricity industry	47
22	Electricity entities	47
Part 2	Customers	
23	Customers and their types	48

24	Customers authorised to take electricity from transmission grid or supply network	49
Part 3	Generation entities and their authorities	
25	Generation entities	49
26	Generation authorities	49
27	Conditions of generation authority	50
28	Additional condition to comply with protocols, standards and codes	50
Part 4	Transmission entities and their authorities	
29	Transmission entities	51
30	Transmission authorities	51
31	Conditions of transmission authority	51
32	Additional condition to allow connection to grid by complying persons	52
33	Additional condition not to buy and sell electricity	53
34	Additional conditions about grid operation etc.	53
35	Additional condition to provide network services	54
36	Additional condition to comply with protocols, standards and codes	54
36A	Responsibility for regional system control	54
Part 5	Distribution entities and their authorities	
Division 1	Preliminary	
37	Distribution entities	54
38	Distribution authorities	55
39	Distribution area of distribution entity	55
Division 2	Applying for and obtaining customer connection services	
40	Applying for customer connection services	55
40A	When distribution entity must provide the services	55
40B	Information notice for refusal of services	56
40C	Things to which connection obligation is subject	56
40D	When connection obligation does not apply.	56
Division 3	Connection contracts	
Subdivision 1	Preliminary	
40DA	Distribution contract types	58
Subdivision 2	Standard connection contracts	
40DB	Supply if no negotiated connection contract.	58
Subdivision 3	Negotiated connection contracts	
40DC	Negotiation of connection contract.	59

40DD	General limit on what may be negotiated	60
40DE	Provisions for small customers	60
40DF	Provisions for large customers	60
Division 4	General provisions about customer connection services	
40E	Limitation on connection obligation	61
40H	Contracting out of s 40E, 40G(a) or (b) or 97.	62
41	Connection and supply of electricity outside distribution area . . .	62
Division 5	Conditions of distribution authorities	
42	Conditions of distribution authority	63
43	Additional condition to allow connection to supply network by complying persons	64
44	Additional condition to provide network services	64
44A	Additional condition to allow credit for electricity produced by photovoltaic generators	65
45	Additional condition to comply with protocols, standards and codes	66
45A	Responsibility for network control.	66
Part 6	Retail entities and their authorities	
46	Retail entities	66
47	Retail authorities.	67
48	Retail area of retail entity	67
48A	What a retail authority authorises.	67
48B	Restriction on providing customer retail service to excluded customer's premises.	68
Division 2	Applying for and obtaining customer retail services	
48C	Application	68
48D	When area retail entity must provide the services to an applicant	69
48E	When non-area retail entity must provide the services to an applicant	70
48F	Retail obligation	70
48G	Information notice for refusal of services to small customer	71
48H	Things to which retail obligation is subject	71
48I	When retail obligation does not apply	71
Division 3	Retail contracts	
Subdivision 1	Preliminary	
49	Retail contract types.	72
Subdivision 2	Retail contract if no negotiated retail contract	
50	Application of sdiv 2.	73

51	Retail contract with financially responsible retail entity	74
52	Terms of contract	74
53	Making or amending terms of standard large customer retail contract	75
54	Required and permitted terms of standard large customer retail contract	75
55	Charging for GST under standard contract	76
Subdivision 3	Negotiated retail contracts	
55A	Negotiation of retail contract	77
55B	General limit on what may be negotiated	77
55C	Provisions for small customers	78
Division 4	Conditions of retail authorities	
55D	Conditions of retail authority	78
55DA	Additional condition about community services agreement	79
55DB	Additional condition about electricity produced by small photovoltaic generators	80
55E	Additional condition to comply with protocols, standards and codes	81
55F	Additional condition to comply with Ambulance Cover Act	81
55G	Restriction on Ergon Energy and its subsidiaries	81
Part 6A	Coordination agreements between distribution and retail entities	
55H	Negotiation of coordination agreement	83
55I	Standard coordination agreement	83
Part 7	Special approval holders and their approvals	
56	Purpose of special approvals	84
57	Special approval holders	84
58	Special approvals	84
59	Authorisation given by special approval	84
60	Conditions of special approval	85
61	Additional condition to comply with protocols, standards and codes	86
61A	Additional condition to comply with Ambulance Cover Act	86
61B	Additional condition for electricity produced by photovoltaic generators	86
Part 8	Regulator	
62	Regulator	86
63	Functions	86
64	Delegation	87

Part 9	Electricity officers	
65	Appointment	87
66	Limitation of electricity officer's powers	88
67	Other limitation of electricity officer's powers	88
68	Electricity officer's appointment conditions	88
69	Electricity officer's identity card	88
70	Production or display of electricity officer's identity card	89
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	90
88	Prohibition on operating transmission grid unless authorised	90
88A	Prohibition on operating supply network unless authorised	90
89	Restriction on sale of electricity	91
Part 2	Pricing	
Division 1	Provisions for Mount Isa–Cloncurry supply network	
89A	Minister may decide distribution service pricing for Mount Isa–Cloncurry supply network	91
89B	Minister may direct QCA to decide distribution service pricing for Mount Isa–Cloncurry supply network	92
Division 2	General provisions for notified prices	
90	Deciding prices for non-market customers	93
90A	Obtaining relevant information for deciding prices or methodology for fixing prices	95
91	Retail entities charging for GST	95
91A	Retail entity must comply with notification or direction	96
Division 3	Annual indexation	
Subdivision 1	Preliminary	
91B	Operation and application of div 3	97
91C	Definitions for div 3	97
Subdivision 2	Indexation formula for relevant tariff year	
91D	Indexation formula	98
Subdivision 3	Benchmark retail cost index for relevant tariff year	
91E	Benchmark retail cost index	99
91F	Working out NEM load	99
91G	Total benchmark retail cost	99
92	Cost of energy	100
93	Network costs	101

94	Retail costs	101
Subdivision 4	Miscellaneous provisions	
95	Fixing of future principles	101
96	Gazettal of indexed prices	102
Part 3	Limitation of liability of electricity entities	
97	Limitation of liability of electricity entities and special approval holders that are not Registered participants	102
97A	Limitation of liability for National Electricity (Queensland) Law . .	103
Part 4	Works	
Division 1	Works generally	
98	Electricity entity entitled to access to its works.	103
99	Person to give notice of work affecting electricity entity's works. .	103
Division 2	Works on public places, other than railway land and protected areas	
100	Application of division.	104
101	Electricity entity may take action in publicly controlled places to provide electricity etc.	104
102	Works on roads	105
103	Electricity entity to consult with road authority before replacing works	105
104	Regulation may declare restricted road	106
105	Electricity entity to comply with road authority's agreement etc. .	106
106	Public entity may require electricity entity to alter position of works	107
Division 3	Works on railway land	
107	Agreement for works of electricity entities affecting railways	107
108	Removal of works	107
109	Works impairing railway signalling or communication lines	107
110	Building by railway operator of signalling or communication line likely to be affected by electricity entity's works etc.	108
Division 4	Works on protected areas	
111	Building of works on protected areas	108
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.	109
112A	Clearing native vegetation for operating works on freehold land .	110
113	Works remain property of electricity entity	110
113A	Authority to transmit over land	110
113B	Authority to supply over land	111

114	Compensation payable by electricity entity for damage etc.	111
Part 5	Entry onto and acquisition of land	
Division 1	Entry onto land	
115	Authority to enter onto land for proposed works etc.	111
Division 2	Acquisition of land	
116	Authority to acquire land.	112
116A	Authority to create easements over forest land	114
116B	Easements to include carriage services.	114
Part 6	Miscellaneous	
117	Resolution of certain disputes between electricity entities or between electricity entities and public entities	115
118	Financially responsible retail entity may recover amount for electricity consumed by person occupying premises	116
118A	Distribution entity may recover amount for connection and supply of electricity to a person	116
Chapter 5	Industry regulation	
Part 1	Regulator	
120	Regulator's power to require information from electricity entities	117
120AA	Regulator's powers concerning audit of compliance with Act etc.	117
120AB	Responsibility for cost of audit	118
120AC	Independent auditor may require reasonable help or information	118
120AD	Audit report and submissions on report	119
120AE	Disclosure of information	119
Part 1A	Industry codes	
Division 1	Preliminary	
120A	Definition for pt 1A	120
Division 2	Initial industry codes	
120B	Making of initial industry codes by Minister	120
120C	Specific matters for which code may provide	120
120D	Gazettal and taking of effect of code	122
120E	Tabling of code	122
Division 3	QCA industry codes	
120F	QCA may make industry code	123
120G	QCA code objective	123
120H	Required consultation.	123
120I	Ministerial approval.	124

120J	When approved QCA industry code takes effect	124
120K	Tabling of QCA industry code.	124
Division 4	Review of industry codes and related matters	
120L	Direction by Minister to review	125
120M	Terms of reference	125
120N	Notice of review or amended term of reference or direction	126
120O	Conduct of review.	126
Division 5	Amending Industry codes	
120P	Application of div 5	126
120PA	Required consultation for amendment	126
120PB	Application of div 3 other than its consultation provision	127
Division 6	Enforcing industry codes	
Subdivision 1	Code contravention notices	
120Q	Application of sdiv 1	127
120R	Criteria for deciding material contravention	128
120S	Warning notice may be given	128
120T	Requirements for warning notice	128
120U	Considering submissions on warning notice	129
120V	Giving of code contravention notice	130
120W	Duration of code contravention notice	130
Subdivision 2	Proceedings	
120X	Proceeding for civil penalty order	131
120Y	How order enforced	132
120Z	Injunctions	132
120ZA	Conduct by directors, servants or agents	133
Subdivision 3	Referrals to regulator	
120ZB	When QCA must refer material contravention	135
120ZC	When QCA may refer material contravention.	135
120ZD	Guidelines for exercise of QCA powers for civil penalties	135
Subdivision 4	Production of documents or information	
120ZE	Notice to produce documents or information	136
120ZF	Disclosure of information to regulator.	136
120ZG	Protection of confidential information given for investigation	137
Subdivision 5	Audits	
120ZH	QCA's powers concerning audit of compliance with industry code	137
120ZI	Responsibility for cost of audit	138

120ZJ	Independent auditor may require reasonable help or information	138
120ZK	Audit report and submissions on report	139
Division 7	Miscellaneous provisions	
120ZL	Relationship with Fair Trading Act 1989	139
120ZM	Compliance with particular requirements under Fair Trading Act 1989, s 61 for door-to-door contracts	140
Part 2	Restrictions and rationing	
Division 1	Electricity restriction regulations	
121	Purpose of electricity restriction regulations.	141
122	Electricity restriction regulations.	141
Division 2	Emergency rationing orders	
124	Making of emergency rationing orders	142
125	Making of emergency rationing orders other than by gazette notice	143
126	What order may provide	143
127	Advertisement of order	143
128	Period of operation of order	143
129	Emergency rationing order prevails over existing agreements with customers	144
Division 3	Limitation on restrictions and rationing	
129A	Limitation for Stanwell Magnesium Plant	144
129B	Expiry of div 3.	144
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	145
131	Effect of regulator taking over operation of relevant operations	146
Part 3A	Retailer of last resort	
131A	Retailer of last resort scheme	148
Part 4	Disciplinary action against electricity entities	
132	Grounds for disciplinary action	149
133	Types of disciplinary action.	150
134	Procedure for disciplinary action	154
135	Penalty recoverable as debt.	155
Chapter 5A	Queensland gas scheme	
Part 1	Introduction	
Division 1	Purposes of chapter	
135A	Main purposes of ch 5A	155

135AA	How main purposes are achieved	155
Division 2	Definitions for ch 5A	
135AB	Power stations and their nameplate capacity	157
135AC	Who is the economic operator of a power station	158
135AD	What is eligible fuel	158
135AE	What is auxiliary load for a power station	160
135AF	What is a major grid and a small grid	160
135AG	What is a substantive traceable link to a major grid	161
135AH	What is a direct supply arrangement	161
135AI	What is an electricity load and the electricity load of the State . .	161
135AJ	Who are the baseline customers of a power station	162
135AK	Other definitions for ch 5A	162
Part 2	Accreditation	
Division 1	Applying for and obtaining accreditation	
135AL	Who may apply for accreditation	166
135AM	Requirements for application	167
135AN	Deciding application	168
135AO	Provisions for deciding ancillary matters for power station	169
135AP	Provisional decision to grant	170
135AQ	Steps after deciding application	170
135AR	Term of accreditation	171
135AS	Withdrawal of nomination to be accredited generator	171
Division 2	Accredited generator's rights	
135AT	Right to create, mortgage and transfer GEC	172
Division 3	Standard accreditation conditions	
135AU	Operation of div 3	172
135AV	Obligation to give information when GEC created	173
135AW	Obligation to keep documents used for GEC creation	173
135AX	Compliance with directions by regulator	173
135AY	Condition not to improperly create GECs	173
135AZ	Notice to regulator of particular matters	174
135B	Periodic GEC reviews	174
135BA	Obligation to take action because of improper creation of GECs or GEC review	174
135BB	Obligation to keep GEC review documents	175
135BC	Access to power station	176
135BD	Obligation to provide information for annual loss factor	176

135BE	Annual fee and return	176
135BF	Obligation to keep documents used to make annual return	177
135BG	Conditions imposed under a regulation	177
135BH	Amounts payable under chapter or accreditation	177
135BI	Accreditation conditions must not be contravened	177
Division 4	Dealings with accreditation	
Subdivision 1	Transfers	
135BJ	Transfer only by application	177
135BK	Applying for transfer	178
135BL	Deciding transfer application	178
Subdivision 2	Surrenders	
135BM	Applying to surrender	178
135BN	Deciding surrender application	179
135BO	Effect of surrender	179
Division 5	Amendment, cancellation and suspension of accreditation	
Subdivision 1	Amendment by application	
135BP	Applying for amendment	180
135BQ	Deciding application	180
Subdivision 2	Amendment by regulator without proposed action notice	
135BR	Amendments for which proposed action notice not required	181
Subdivision 3	Other amendments, cancellation and suspension	
135BS	Partial suspension for non-payment of annual fee	181
135BT	Regulator's power to amend, cancel or suspend	182
135BU	Conditions for other amendments and for cancellation or suspension by regulator	183
135BV	Notice of proposed action	184
135BW	Considering submissions	184
135BX	Decision on proposed action	185
135BY	Notice and taking of effect of proposed action decision	185
135BZ	Effect of cancellation	186
135C	Final return on cancellation	186
Part 3	Eligible gas-fired electricity	
Division 1	Working out eligible gas-fired electricity	
Subdivision 1	Preliminary	
135CA	Operation of div 1	186

Subdivision 2	Power stations with nameplate capacity of more than 500kW	
135CB	Application of sdiv 2	187
135CC	General method	187
135CD	Alternate methods for direct supply arrangement	188
135CE	Adjustment for general method if a direct method used	189
135CF	Directions for working out eligible gas-fired electricity	189
Subdivision 3	Power stations with nameplate capacity of 500kW or less	
135CG	Application of sdiv 3	190
135CH	Power to prescribe method.	190
135CI	Obtaining approval to use method for working out	190
135CJ	Methods that otherwise apply.	191
Division 2	Eligible electricity guidelines	
135CK	Guidelines	191
135CL	Publication of guidelines.	191
Division 3	Queensland usage factors	
135CM	Annual QUFs	191
135CN	Baseline QUFs	192
135CO	Transmission zones	192
135CP	Power stations connected to national grid within same transmission zone	193
135CQ	QUFs may be differential as to time	194
Division 4	Loss factors	
135CR	Annual loss factor	194
135CS	Baseline loss factor	194
135CT	Provisions for working out loss factors	195
135CU	Publication of loss factors.	195
Division 5	Baselines for baseline customers	
Subdivision 1	Introduction	
135CV	What is a power station's baseline for a baseline customer.	196
135CW	Purpose of baseline	196
Subdivision 2	Baseline for existing baseline customers	
135CX	Application of sdiv 2	196
135CY	General method for working out baseline.	197
135CZ	Alternate method for direct supply arrangement	198
135D	Information notice about decision.	199

Subdivision 3	Baseline for other baseline customers	
135DA	Baseline for other customers	199
Subdivision 4	Changes to baseline	
135DB	Cessation of supply	200
135DC	Adjustment for customer transfer to another accredited power station	200
135DD	Adjustment for other customer transfers	200
Part 4	GECS	
Division 1	Creation and registration of GECs	
135DE	Electricity required to create GEC	201
135DF	Prohibition on creation if certificate created under corresponding law	201
135DG	Time limitation on creation right	201
135DH	How a GEC is created	201
135DI	When GEC takes effect	202
135DJ	Deciding on validity and registration.	202
135DK	Automatic registration.	203
135DL	Power to register GEC without prescribed fee	204
135DM	Effect of registration	204
135DN	Ownership of GEC on registration	204
Division 2	Improper creation or receipt of GECs	
135DO	Offence of improper creation of GEC	205
135DP	Defence to proceeding for improper creation of GEC	205
135DQ	Direction to accredited generator to surrender GECs	206
135DR	Improper receipt of invalidly created GEC	206
Division 3	Term of GECs	
135DS	Automatic expiry	207
135DT	Surrender and cancellation	207
Division 4	Dealings with GECs	
Subdivision 1	Transfers	
135DU	Conditions for transfer	207
135DV	Notice and taking effect of transfer.	208
135DW	Ownership of GEC on transfer	208
135DX	Market operating rules and arrangements	209
Subdivision 2	Mortgages	
135DY	Mortgage of GEC	209
135DZ	Notice of intention to exercise powers under mortgage	210

135E	Consequence of exercising powers under mortgage	210
Subdivision 3	Surrenders	
135EA	Surrender only by approval	210
135EB	Who may apply for surrender	210
135EC	Making surrender application	210
135ED	Power to accept application without prescribed fee	211
135EE	Deciding surrender application	211
Division 5	Amendment, cancellation and suspension of GECs	
Subdivision 1	Preliminary	
135EF	Application of div 5	212
Subdivision 2	Immediate suspension	
135EG	Immediate suspension	213
Subdivision 3	Amendment, cancellation or suspension (other than immediate suspension)	
135EH	Power to amend, cancel or suspend	214
135EI	Notice of proposed action	214
135EJ	Considering submissions	215
135EK	Decision on proposed action	215
135EL	Notice and taking of effect of proposed action decision	216
Part 5	Annual GEC liability	
Division 1	Preliminary	
135ELA	Definition for pt 5	216
135EM	Simplified explanation of pt 5	217
Division 2	The annual GEC liability	
Subdivision 1	Imposition of annual GEC liability in relation to major grids	
135EN	Application of sdiv 1	218
135EO	Liable person	218
135EP	Liability	218
135EQ	How and when liability must be met	218
Subdivision 2	Imposition of annual GEC liability in relation to small grids	
135ER	Application of sdiv 2	219
135ES	Liable person	219
135ET	How and when liability must be met	220
Subdivision 3	General provisions for annual GEC liability	
135EU	GECs that can not be used to meet annual GEC liability	220
135EV	Liability not subject to condition of GEC ownership	221
135EW	Obligation to keep documents relating to annual GEC liability	221

Division 3	Civil penalty for not meeting annual GEC liability	
135EX	Application of div 3	221
135EY	Imposition of civil penalty for not meeting annual GEC liability . .	221
135EZ	Exemption to allow for meter data revisions or adjustments	222
135F	Amount of civil penalty	223
135FA	Shortfall charge	223
135FB	Interest on unpaid civil penalty	224
135FC	Recovery of unpaid civil penalty and interest	224
Division 4	Assessments	
Subdivision 1	Self-assessment	
135FD	Self-assessment report	225
135FE	Derivative use immunity for self-assessment report	226
135FF	Obligation to keep documents used to make self-assessment report	226
Subdivision 2	Assessments by regulator	
135FG	Purpose of sdiv 2	226
135FH	Default assessment	227
135FI	Reassessment	227
135FJ	Compromise assessment	228
135FK	Amended assessment	228
135FL	Assessments made on available relevant information	229
135FM	Notice of assessment and when it takes effect	229
135FN	Time for assessment by regulator	229
Subdivision 3	Credits and refunds	
135FO	Credit to future annual GEC liability for over surrender	230
135FP	Regulator to refund overpaid civil penalty and interest	230
Subdivision 4	Evidentiary provisions for assessments	
135FQ	Evidentiary provisions	230
Division 5	Liable persons in relation to major grids	
Subdivision 1	Liability hierarchy	
135FR	Operation of sdiv 1	231
135FS	Retailer	232
135FT	Special approval holder	232
135FU	Specific circumstance generator	233
135FV	Substantial on-site generator	234
135FW	Wholesale purchaser from spot market	234

Subdivision 2	Resolving disputes about who is the liable person	
135FX	Application of sdiv 2	235
135FY	Referral to regulator	235
135FZ	Submissions by other affected parties	235
135G	Regulator's power to require documents or information	235
135GA	Regulator may require confidentiality to be observed	236
135GB	Regulator may require mediation	236
135GC	Criteria for decision	237
135GD	Exclusion of other jurisdictions	237
135GE	Notice of decision	237
135GF	Decision binds parties to the dispute	237
Division 6	Exempted loads	
Subdivision 1	Preliminary	
135GG	Who is an interested person for an electricity load	238
135GH	Who obtains the benefit of liable load exemption	238
Subdivision 2	State development exemption	
135GI	Application and operation of sdiv 2	238
135GJ	Making application	239
135GK	Notice to other interested persons	240
135GL	Deciding application	240
135GM	Steps after deciding application	241
135GN	Condition for proposed supply	242
135GO	Amendment of applicant's supply schedule	242
135GP	Condition for continuity of supply	244
135GQ	Reporting condition	244
Subdivision 3	Renewable energy exemption	
135GR	Operation of sdiv 3	245
135GS	Making application	245
135GT	Notice to other interested persons	246
135GU	Deciding application	246
135GV	Steps after deciding application	247
135GW	Ineligible fuel allowance	248
135GX	General conditions of exemption	248
135GY	Reporting condition	248
Subdivision 4	Power station auxiliary load exemption	
135GZ	Operation of sdiv 4	249
135H	Making application	249

135HA	Notice to other interested persons	249
135HB	Deciding application	250
135HC	Steps after deciding application	250
135HD	General condition of exemption	251
135HE	Reporting condition	251
Subdivision 5	General conditions of liable load exemptions	
135HF	Annual fee and exemption compliance report	251
135HG	Obligation to keep documents relating to exemption	252
Subdivision 6	Amending liable load exemption by application	
135HH	Applying for amendment.	252
135HI	Notice to other interested persons	252
135HJ	Deciding application	253
Subdivision 7	Amendment of liable load exemption by regulator without proposed action notice	
135HK	Amendments for which proposed action notice not required	253
Subdivision 8	Other amendments, cancellation and suspension of liable load exemption	
135HL	Conditions for other amendments, cancellation or suspension	254
135HM	Notice of proposed action.	254
135HN	Considering submissions	255
135HO	Decision on proposed action	255
135HP	Notice and taking of effect of proposed action decision	256
Subdivision 9	Consequences of particular cancellations	
135HQ	Liable load exemption obtained because of false or misleading declaration or representation	256
135HR	Cancellation of State development exemption for contravention of condition for proposed supply.	256
135HS	Consequence of cancellation of State development exemption for contravention of condition for continuity of supply.	257
135HT	Consequence of cancellation of other exemptions for contravention of general condition	258
Division 7	Non-liable loads	
135HU	Emergency stand-by plant	258
135HV	Immaterial loads	259
135HW	Electricity sold under special remote area arrangement	259
135HX	Electricity sold under retailer of last resort scheme or similar scheme	259
135HY	Electricity sold under particular standard large customer retail contracts	259

135HZ	Electricity sold or supplied to Boyne Island Smelter.	260
Part 6	Scheme participants	
135I	Applying for registration	260
135IA	Right to registration	261
135IB	Term of registration.	261
135IC	Annual fee for particular scheme participants	261
135ID	Partial suspension for non-payment of annual fee	262
135IE	Surrender of registration.	262
Part 7	Monitoring	
Division 1	Approved auditors	
135IF	Appointment and qualifications	263
135IG	Appointment conditions and limit on powers	263
135IH	Applying for and obtaining appointment as an approved auditor	264
135II	Issue of identity card	265
135IJ	Production or display of identity card	265
135IK	When approved auditor ceases to hold office	265
135IL	Revocation of approved auditor's appointment.	266
135IM	Resignation	267
135IN	Return of identity card	267
Division 2	Required audits	
135IO	Who is an auditable person	268
135IP	Regulator may require audit.	268
135IQ	Required contents for audit notice	268
135IR	Failure to comply with audit notice	269
135IS	Costs of complying with audit notice	269
Division 3	Audits by regulator	
135IT	Regulator may carry out audit	269
135IU	Regulator's costs of audit or report	270
Division 4	General provisions for audits	
135IV	Who may carry out audit	270
135IW	False or misleading statement in audit report	271
Part 8	Miscellaneous provisions	
Division 1	Additional provisions for applications	
135IX	Meaning of application and applicant for div 1	271
135IY	Substantial compliance with application requirements may be accepted	271

135IZ	Additional information or inspection may be required.	272
135J	Regulator's costs of inspection.	272
Division 2	Measurement of electricity	
135JA	Regulator's power to decide measurement method.	273
135JB	Procedure for deciding measurement method	274
135JC	Decided method must be applied.	274
135JD	Obligation to notify regulator of change in circumstances for decided measurement method.	275
Division 3	Registers	
135JE	Registers	276
135JF	Required information for accredited generator register	276
135JG	Required information for GEC register	276
135JH	Required information for scheme participant register.	277
135JI	Required information for liable load exemption register	277
135JJ	General provisions for register keeping	278
135JK	Access to registers.	278
Division 4	General offences for ch 5A	
135JL	Who is an official	279
135JM	Confidentiality of particular information	279
135JN	False or misleading statement	280
135JO	False or misleading document	280
135JP	Obstructing approved auditor.	280
135JQ	Impersonating approved auditor.	281
135JR	Notice of change from small grid to major grid.	281
Division 5	Other miscellaneous provisions	
135JS	Additional information about reports and other matters	281
135JT	General evidentiary aids for ch 5A	282
135JU	Obligation of State to indemnify particular information-givers . . .	283
135JV	Approved forms	283
Part 9	Expiry of chapter	
135JW	Expiry	284
135JX	Saving of operation of chapter	284
Chapter 6	Electricity officers' powers	
Part 1	Operational powers	
136	Entry to repair etc. works or electrical installations	284
137	Entry to read meters etc.	284
138	Disconnection of supply if entry refused.	285

139	Entry to disconnect supply	286
140	Entry to place to protect electricity entity's works	286
140A	Entry to place to carry out remedial work	286
140B	Entry to place to carry out urgent remedial work	287
Part 2	Powers to prevent fire or electrical shock	
141	Entry to make works or electrical installations safe	288
Part 3	Other provisions about exercise of electricity officer's powers	
141A	Duty to avoid damage.	289
141B	Associated powers on entry	289
142	Electricity officer to give notice of damage	289
143	Compensation	290
Chapter 7	Enforcement of restrictions and rationing	
Part 1	Preliminary	
145	Definition for ch 7	291
Part 2	Inspection officers	
146	Appointment and qualifications	291
147	Appointment conditions and limit on powers	292
148	Issue of identity card	292
149	Production or display of identity card	292
150	When inspection officer ceases to hold office	293
151	Resignation	293
152	Return of identity card	293
Part 2A	Powers of inspection officers	
Division 1	Entry of places	
152A	Power to enter place.	294
Division 2	Procedure for entry	
152B	Entry with consent	295
152C	Application for warrant	296
152D	Issue of warrant	296
152E	Special warrant.	297
152F	Warrant—procedure before entry.	298
Division 3	General powers of inspection officers	
152G	General powers after entering place	299
152H	Power to seize evidence	300
152I	Powers supporting seizure	301
152J	Receipt for seized thing	302

152K	Forfeiture of seized thing	302
152L	Return of seized thing	303
152M	Access to seized thing	303
Part 3	Restriction regulations and rationing orders	
153	Entry to places to investigate compliance with emergency rationing orders	304
154	Disconnection for contravening regulation or order	304
Part 4	Other matters	
164	Notice of damage by authorised persons	305
165	Compensation	305
Chapter 8	Technical issues	
166	Connection to transmission grid or supply network to comply with conditions for connection	306
176	Removing anything built contrary to Act	306
Chapter 9	Authorities and approvals	
Part 1	Generation authorities	
Division 1	Issue of generation authority	
178	Issue of generation authorities	306
179	Application for generation authority	307
179A	Publication about application for generation authority	307
180	Consideration of application for generation authority	308
181	Notice of refusal to issue generation authority	309
Division 2	Amendment of generation authority	
182	Amendment of generation authorities	309
183	Amendment of conditions stated in generation authorities	310
183A	Amendment of generation authorities and conditions by notice to generation entity	310
Division 3	Transfer of authority	
184	Transfer of generation authorities	310
184A	Application for transfer	310
184B	Consideration of application for transfer	311
184C	Notice of refusal to transfer generation authority	311
Division 4	Surrender of generation authority	
185	Surrender of generation authorities	312
Part 2	Transmission authorities	
Division 1	Issue of transmission authority	
186	Issue of transmission authorities	312
187	Transmission authorities for same area	313

188	Application for transmission authority.	313
188A	Publication about application for transmission authority.	313
189	Consideration of application for authority.	314
190	Notice of refusal to issue transmission authority.	315
Division 2	Amendment of transmission authority	
191	Amendment of transmission authorities.	315
192	Amendment of conditions stated in transmission authorities.	316
192A	Amendment of transmission authorities and conditions by notice to transmission entity.	316
Division 3	Transfer of authority	
193	Transfer of transmission authorities.	316
193A	Application for transfer.	316
193B	Consideration of application for transfer.	317
193C	Notice of refusal to transfer transmission authority.	317
Division 4	Surrender of transmission authority	
194	Surrender of transmission authorities.	318
Part 3	Distribution authorities	
Division 1	Issue of distribution authority	
195	Issue of distribution authorities.	318
195A	Distribution authorities for same distribution area.	318
196	Application for authority.	318
196A	Publication about application for distribution authority.	319
197	Consideration of application for authority.	319
198	Notice of refusal to issue authority.	320
Division 2	Amendment of distribution authority	
199	Amendment of distribution authorities.	321
200	Amendment of conditions stated in distribution authorities.	321
200A	Amendment of distribution authorities and conditions by notice to distribution entity.	321
Division 3	Transfer of authority	
201	Transfer of distribution authorities.	322
201A	Application for transfer.	322
201C	Notice of refusal to transfer distribution authority.	323
Division 4	Surrender of distribution authority	
202	Surrender of distribution authorities.	323

Part 4	Retail authorities	
Division 1	Issue of retail authority	
203	Issue of retail authorities	323
204	Application for authority	324
204A	Publication about application for retail authority	324
205	Consideration of application for authority	324
206	Notice of refusal to issue authority	326
Division 2	Amendment of retail authority	
207	Amendment of retail authorities	326
207A	Amendment of conditions stated in retail authorities	326
207AB	Amendment of retail authorities and conditions by notice to retail entity	326
Division 3	Other matters about retail authorities	
207B	Retail authorities not transferable	327
207C	Surrender of retail authorities	327
207D	Recognition of interstate retail authority equivalents	327
Part 5	Special approvals	
Division 1	Giving of special approval	
208	Giving of special approvals	328
209	Application for special approval	328
210	Consideration of application for special approval	328
211	Notice of refusal to give special approval	329
Division 2	Amendment of special approval	
211A	Amendment of special approval	329
211B	Amendment of conditions stated in special approval	329
211C	Amendment of special approval and conditions by notice to holder of special approval	329
Division 3	Transfer of special approval	
212	Transfer of special approval	330
212A	Application for transfer	330
212B	Consideration of application for transfer	330
212C	Notice of refusal to transfer special approval	331
Division 4	Surrender of special approval	
213	Surrender of special approvals	331
Chapter 10	Review of and appeals against decisions	
Part 1	Review of decisions	
214	Who may apply for review etc.	331

215	Applying for review	332
216	Stay of operation of decision etc.	332
217	Review panels, arbitration and mediation.	333
218	Decision on reconsideration	333
Part 2	Appeals	
219	Who may make an appeal	334
220	Making appeals	335
221	Starting appeals	335
222	Stay of operation of decisions	335
223	Powers of court on appeal	336
224	Effect of court's decision on appeal	336
225	Procedure of court	336
226	Appeals	337
Chapter 11	General	
Part 1A	Provisions for civil penalty proceedings	
226A	Relationship with criminal proceedings	337
226B	Avoidance of multiple penalties	338
Part 1	Offences	
227	Unlawful to convey electricity etc. beyond own property	339
228	Unlawfully in or on premises where works situated	339
229	Potential damage to electric lines by projectiles.	339
230	Unlawful interference with electricity entity's works	339
231	Unlawful connection to transmission grid or supply network	340
232	Unlawful interference with supply of electricity to customer.	340
233	Offence to contravene emergency rationing order	340
235	Unlawful taking of electricity.	340
236	Obstruction of electricity officers and inspection officers	341
237	Impersonation of electricity officers and inspection officers.	341
238	False or misleading information	341
239	False, misleading or incomplete documents	341
240	Impersonation of person named in document	342
240A	Executive officers must ensure corporation complies with Act.	342
241	Attempts to commit offences	343
242	Proof of unlawfulness.	343
243	Offences are summary offences.	343
244	Start of offence proceedings	344

Part 2	Evidentiary provisions	
245	Application of part	344
246	Proof of appointments	344
247	Proof of signatures	344
248	Evidentiary certificates by regulator	345
249	Evidentiary certificate by electricity entity's chief executive officer etc.	345
251	Proof of taking of electricity etc.	346
251A	Evidentiary effect of code contravention notice	346
Part 3	Miscellaneous	
252	Condition may require compliance with standards, codes etc.	347
253	Advisory committees	347
253A	Reporting to Minister by QCA.	348
254	Protection from liability	349
254AA	Protection from liability of member or employee of QCA	349
254AB	Meaning of particular terms for a relevant body corporate.	350
254A	Attachment—words defined in other legislation referred to in this Act	350
254B	Registers QCA must keep	350
Chapter 12	State electricity entities	
Part 1	General	
255	State electricity entities do not represent the State	351
256	Application of Freedom of Information Act and Judicial Review Act	351
259A	Regulation may declare a State electricity entity	352
Part 2	Superannuation	
260	State electricity entities to take part in regulated superannuation scheme	352
262	Membership of certain superannuation schemes continued	353
Chapter 13	Regulations	
263	General regulation-making power	353
264	Regulation about matters in sch 2	353
266	Energy labelling and performance standards.	354
Chapter 14	Transitional and validation provisions	
Part 1	Provisions for original Act (1994 No. 64)	
269	Definition	355
276	Transfer of officers to the department.	355
280	First declaration of approved superannuation scheme.	355

285A	Electricity Act 1976 references	356
286	References to electricity boards, electricity authorities and electricity supply industry	356
287	Gladstone power station provisions	357
287A	Gladstone power station arrangements	358
288	Supply under special agreements under s 172 of repealed Act . .	359
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	359
302C	National Electricity Rules replace Queensland Grid Code	360
Part 3	Transitional provision for Electricity Amendment Act 2000	
303	Continuation of existing regional electricity councils	360
Part 4	Transitional provision for Integrated Planning and Other Legislation Amendment Act 2001	
304	Application of Acts Interpretation Act, s 20.	361
Part 5	Transitional provisions for Electricity And Other Legislation Amendment Act 2003	
305	Existing on-supply agreements	361
306	Particular existing agreements about common area consumption	362
307	Existing exemptions from Act	362
Part 6	Validation provision	
308	Validation of particular acts by relevant bodies corporate	362
Part 7	Transitional provision for Electricity Amendment Act 2004	
309	Existing electricity supply contracts	363
Part 8	Transitional provisions for Electricity and Other Legislation Amendment Act 2006	
310	Definitions for pt 8.	365
311	Extension of area retail obligation	365
312	Small customer may enter into negotiated retail contract before FRC day	366
313	Existing contestable customers who are receivers.	367
314	Existing standard customer connection contracts	367
315	Existing standard customer sale contracts.	367
316	References to other particular contracts under pre-amended Act	369
317	Exclusion of new s 40DB for existing negotiated sale and connection contracts	369
318	Particular unmetered street lighting	369

319	Other unmetered connection points	370
319A	Particular watchman lights	370
320	Obligation to decide notified prices for 2007–2008 financial year on basis of post-amended Act	371
321	Making of transitional conduct rules about marketing conduct. . .	371
322	Existing mediated agreements	371
323	Existing orders on arbitrated disputes	372
324	Preservation of appeal rights about former contribution and user-pays fees	372
325	Transitional provision for non-liaible loads.	372
Schedule 1	Appeals against administrative decisions	373
Schedule 2	Subject matter for regulations	379
1	Conditions of supply and sale	379
2	Requirements and standards	379
3	Generation, transmission and supply	380
3A	Conditions of authorities and approvals	380
3B	Prescribed things and prohibited interests	381
4	General.	383
Schedule 5	Dictionary	384
Attachment	Extracts from other legislation referred to in the Act	399

Endnotes

1	Index to endnotes.	402
2	Date to which amendments incorporated.	402
3	Key	403
4	Table of reprints	403
5	Tables in earlier reprints.	404
6	List of legislation.	404
7	List of annotations	409
8	List of forms notified or published in gazette	470
9	Information about retrospectivity	471

Electricity Act 1994

[as amended by all amendments that commenced on or before 1 July 2008]

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

4 Definitions—the dictionary

The dictionary in schedule 5 defines particular words used in this 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.¹

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 56.²

1 Sections 287 (Gladstone power station provisions) and 287A (Gladstone power station arrangements)

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

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

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 89.³

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

- (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-market 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-market 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 2.5,⁴ 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 87⁵ 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.

20Q Exemptions for Queensland Rail

- (1) Queensland Rail is exempted from sections 88A and 89⁶ in relation to the supply and sale of electricity to Airtrain Citylink Limited ACN 066 543 315 for electricity used—

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)

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

- (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)⁷—

- (a) starting at a point 0.313km from Queensland Rail's north coast rail line (defined on the drawing as the *ownership transfer point*); and
- (b) 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*).

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.

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

23 Customers and their types

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

- (10) A *large non-market customer*, for premises, is a large customer for the premises who is also a non-market customer for the premises.

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) conditions imposed under the regulations; and
 - (v) the condition stated in section 28; and
 - (vi) 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) the conditions stated in sections 32, 33, 34, 35 and 36; and
 - (iv) conditions imposed under the regulations; and
 - (v) conditions stated in the authority;
- (b) the transmission entity must properly take into account the environmental effects of its activities under the authority;
 - (c) the transmission entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

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.

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 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

Division 1 Preliminary

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.

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

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

40A When distribution entity must provide the services

- (1) This section applies if a customer makes a connection services application for premises.
- (2) The distribution entity to whom the application is made must provide the customer connection services applied for to the premises.

- (3) The obligation is the *connection obligation*.
- (4) The connection obligation is subject to sections 40C and 40D.
- (5) However, the sections do not prevent the distribution entity from lawfully providing the services even though it is not obliged to do so.

40B Information notice for refusal of services

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

40C Things to which connection obligation is subject

The connection obligation is subject to—

- (a) the other provisions of this part; and
- (b) any authorisation under section 130 for the taking over of the distribution entity's operations; and
- (c) the retailer of last resort scheme; and
- (d) any relevant electricity restriction regulation or emergency rationing order; and
- (e) the conditions of the distribution entity's distribution authority.

40D When connection obligation does not apply

- (1) The connection obligation does not apply to a distribution entity in relation to a customer if—
 - (a) the customer's connection services application is for supply at a rate more than the maximum capacity of the connection to the entity's supply network; or

Electricity Act 1994

- (b) the customer does not comply with a requirement of the entity to give any of the following—
 - (i) a reasonable advance payment for customer connection services;
 - (ii) a reasonable security or agreement for security for performing the customer's obligations to the entity;
 - (iii) a capital contribution towards the entity's costs incurred, or to be incurred, in extending or increasing the capacity of its supply network to provide the services; or
 - (c) after disconnecting supply under this Act or a connection contract, the entity is not reasonably satisfied the matter that caused the disconnection has been remedied, rectified or fixed; or
 - (d) for supply to premises for which there is an existing agreement with the entity for supply of electricity—
 - (i) the applicant does not agree on similar terms to those that apply for balance of the term of the existing agreement; and
 - (ii) the entity does not otherwise agree; or
 - (e) the customer does not provide and maintain space, equipment, access, facilities or anything else the customer must provide for the services, under this Act or a connection contract; or
- Examples of anything else—*
- meters, substations, connection of service lines
- (f) the customer is not a party to a retail contract with a retail entity under which the retail entity provides customer retail services to the customer's premises; or
 - (g) a regulation provides the obligation does not apply.
- (2) Subsection (1)(b)(iii) does not apply if the customer pays or agrees to pay an amount to the distribution entity for works necessary to increase the maximum capacity to supply the customer at the rate the customer has applied for.

- (3) The distribution entity must give the customer a reasonable opportunity to pay an amount mentioned in subsection (2).
- (4) This section does not limit—
 - (a) the right to interrupt supply of electricity under a connection contract; or
 - (b) a right or obligation under a connection contract to disconnect premises, or refuse to connect or reconnect premises.

Division 3 Connection contracts

Subdivision 1 Preliminary

40DA Distribution contract types

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

Subdivision 2 Standard connection contracts

40DB Supply if no negotiated connection contract

- (1) This section applies if—
 - (a) premises are connected to a distribution entity's supply network; and
 - (b) there is no negotiated connection contract in force for a customer who owns or occupies the premises.

- (2) The customer and the entity are taken to have entered into a standard connection contract for the provision of customer connection services to the premises.
- (3) The terms of the contract are the standard connection contract terms under an industry code that apply to the customer, as the terms are in force from time to time.
- (4) The customer and the entity are taken to have agreed to comply with the terms and to have entered into the contract as a deed.
- (5) The contract is taken to end if—
 - (a) the customer and the entity enter into a negotiated connection contract for the provision of the services and that contract comes into effect; or
 - (b) another customer and the entity enter into, or are taken to have entered into, a connection contract for the premises and that contract has come into effect.
- (6) Subsection (5) does not limit how or when the contract may end.
- (7) The contract does not prevent the customer giving a dispute notice under the QCA Act, section 112.
- (8) This section is subject to the retailer of last resort scheme.

Subdivision 3 Negotiated connection contracts

40DC Negotiation of connection contract

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

40DD General limit on what may be negotiated

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

40DE Provisions for small customers

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

40DF Provisions for large customers

- (1) The section applies to a negotiated connection contract for the provision of customer connection services to a large customer's premises.
- (2) The contract must provide for the provision of the services on fair and reasonable terms.
- (3) The services are taken to be provided on fair and reasonable terms if the contract is consistent with relevant industry code provisions about minimum terms for the provision of customer connection services to small customers.

Division 4 General provisions about customer connection services

40E Limitation on connection obligation

- (1) The connection obligation does not apply in relation to a customer's premises and a distribution entity is not in breach of a connection contract if the obligation or contract can not be performed because—
- (a) connection, reconnection or supply to the premises 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) connection, reconnection or supply to the premises would breach technical requirements under this or another Act; or
 - (c) the connection, reconnection or supply to the premises would unreasonably interfere with the connection, reconnection or supply of electricity by the distribution entity to the premises of other customers; or
 - (d) the distribution entity has, at the request of the customer's retail entity, disconnected or not reconnected supply to the premises; or
 - (e) the distribution entity is, under its connection contract, entitled to disconnect supply to the customer; or
 - (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) connection, reconnection or supply to the premises is likely to cause fire or electric shock to anyone; or

- (h) this Act otherwise authorises refusal to connect, reconnect or supply; or
 - (i) a regulation provides that the obligation to connect, reconnect or supply 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, reconnection or supply from unreasonably interfering with the connection, reconnection or supply of electricity by the entity to other customers.
- (3) The entity must give the customer an opportunity to pay the amount.

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 premises are outside the distribution entity's distribution area—
- (a) connect the premises to the entity's supply network; and
 - (b) supply electricity from its supply network to the premises.
- (2) Subsection (1) applies only if the premises—
- (a) are not within another distribution entity's distribution area; or
 - (b) if they are 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.

Division 5 Conditions of distribution authorities

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) the conditions stated in sections 43, 44 and 45; and
 - (iii) conditions imposed under the regulations; and
 - (iv) 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;

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

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.

44A Additional condition to allow credit for electricity produced by photovoltaic generators

- (1) It is also a condition of a distribution authority that the distribution entity—
- (a) allow, as far as technically and economically practicable, a small customer to connect a qualifying generator to its supply network; and
 - (b) credit against the charges payable by the small customer, for customer connection services provided to the small customer in a relevant supply period, the amount of \$0.44 per kilowatt hour for electricity that is, at any instant in the relevant supply period—
 - (i) being produced by the qualifying generator; and
 - (ii) being supplied to the network; and
 - (iii) in excess of the amount of electricity being used by the small customer, not including electricity supplied through a circuit controlled by the distribution entity; and

Example of a circuit controlled by the distribution entity—

a remotely switched circuit used for off-peak supply of hot water
 - (c) give the regulator a report, within 28 days after 30 June and 31 December each year, stating—
 - (i) the number of small customers who have connected a qualifying generator to the network under paragraph (a); and
 - (ii) the amount of electricity supplied to the network in the previous 6 month period for which credit was given under paragraph (b); and
 - (iii) the total generation capacity of all qualifying generators connected to the network.

- (2) The regulator must review this section to decide whether its provisions remain appropriate, after the first of the following to happen—
 - (a) the passing of 10 years after the commencement of this section;
 - (b) qualifying generators with sufficient capacity to produce a total of 8 megawatts or more of solar power are connected to the supply networks of 1 or more distribution entities under subsection (1)(a).
- (3) This section expires on 1 July 2028.

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) A retail authority may be issued for a particular area stated in the authority (a *retail area*) or for no particular area.
- (2) A retail area may consist of either or both of the following—
 - (a) 1 or more discrete geographical areas;
 - (b) particular premises.
- (3) A retail authority stating a retail area consisting of particular premises may describe the premises in the way the regulator considers appropriate including, for example, the street address or national metering identifier for the premises.

48A What a retail authority authorises

- (1) Unless otherwise provided for under this part, a retail authority that states a retail area authorises its holder to provide customer retail services to any customer in the State, including an excluded customer whose premises are in the retail area.
- (2) A retail authority without a retail area authorises its holder to provide customer retail services to any customer in the State.
- (3) Despite subsection (2), a retail authority without a retail area authorises its holder to provide customer retail services to an excluded customer's premises only if the provision of the services is required under the retail obligation.

Note—

For when the obligation applies, see section 48E(3).

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

48B Restriction on providing customer retail service to excluded customer's premises

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

- (a) the entity is the area retail entity for the premises; or
- (b) the entity is not the area retail entity for the premises, but the provision of the services is required under the retail obligation; or
- (c) the provision of the services is authorised or required under the retailer of last resort scheme.

Maximum penalty—500 penalty units.

Division 2 Applying for and obtaining customer retail services**48C Application**

- (1) A customer who owns or occupies premises may make an application (a *retail services application*) to a retail entity for the provision of customer retail services to the premises.
- (2) However, if the customer is other than an excluded customer, the customer can only make a retail services application for the premises if the premises are NMI premises.
- (3) Also, if the customer is an excluded customer for the premises, the customer can only make a retail services application to a retail entity if—
 - (a) the entity is the area retail entity for the premises; or
 - (b) all of the following apply—
 - (i) the premises are NMI premises;
 - (ii) the customer is a small customer for the premises;
 - (iii) the customer has been, or the immediately preceding customer for the premises was, a large market customer for the premises.
- (4) A retail services application must be made in the way, and give the information, reasonably required, by the retail entity.

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

- (1) This section applies if—
 - (a) a customer makes a retail services application for premises to the area retail entity for the premises; and
 - (b) the premises is, or is proposed to be, connected to a supply network; and
 - (c) the customer is not a large market customer for the premises.
- (2) The retail entity must provide the customer retail services applied for to the premises if—
 - (a) the customer is a small customer for the premises and—
 - (i) the entity is the financially responsible retail entity for the premises; or
 - (ii) the premises are not physically connected to a supply network; or
 - (b) the customer is a large customer for the premises and—
 - (i) both of the following apply—
 - (A) the entity is the financially responsible retail entity for the premises;
 - (B) the customer who owned or occupied the premises immediately before the applicant was a non-market customer for the premises; or
 - (ii) the premises have never been physically connected to a supply network.

Note—

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

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

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

supply network means a distribution entity's supply network.

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

- (1) Subsection (2) applies if—
 - (a) a customer makes a retail services application for premises to a retail entity who is not the area retail entity for the premises; and
 - (b) the customer is a small customer for the premises; and
 - (c) the entity is the financially responsible retail entity for the premises; and
 - (d) the customer is not an excluded customer for the premises.
- (2) The entity must provide the customer retail services applied for to the premises.

Note—

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

- (3) If, under section 48C(3)(b), an excluded customer for premises makes a retail services application to the financially responsible retail entity for the premises, the entity must provide the customer retail services applied for to the premises.

48F Retail obligation

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

48G Information notice for refusal of services to small customer

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

48H Things to which retail obligation is subject

The retail obligation is subject to—

- (a) the other provisions of this part; and
- (b) any authorisation under section 130 for the taking over of the retail entity's operations; and
- (c) the retailer of last resort scheme; and
- (d) any relevant electricity restriction regulation emergency rationing order; and
- (e) the conditions of the entity's retail authority; and
- (f) any relevant provision of an industry code about customer transfers or cooling-off periods for the provision of customer retail services.

48I When retail obligation does not apply

- (1) The retail obligation does not apply to a retail entity in relation to a customer if—
 - (a) the customer does not comply with a requirement of the entity to give either of the following—
 - (i) a reasonable advance payment for customer retail services;

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

Division 3 Retail contracts

Subdivision 1 Preliminary

49 Retail contract types

- (1) A *retail contract* is any contract under which a retail entity agrees to provide customer retail services to a customer's premises.

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

Subdivision 2 Retail contract if no negotiated retail contract

50 Application of sdiv 2

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

supply network means a distribution entity's supply network.

51 Retail contract with financially responsible retail entity

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

52 Terms of contract

- (1) The terms of the contract are the following terms to the extent they apply to the customer as they are in force from time to time—
 - (a) for a standard retail contract—the standard retail contract terms under an industry code;
 - (b) for a standard large customer retail contract—the entity's terms under sections 53 and 54.
- (2) The customer and the financially responsible retail entity are taken to have agreed to comply with the terms and to have entered into the contract as a deed.
- (3) The contract is taken to end if—
 - (a) the customer and the retail entity enter into a negotiated retail contract for the provision of the services and that contract comes into effect; or
 - (b) another retail entity becomes the financially responsible retail entity for the premises; or
 - (c) the retail entity commences the provision of customer retail services under a retail contract to another customer at the premises.
- (4) Section (3) does not limit how or when the contract may end.

53 Making or amending terms of standard large customer retail contract

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

54 Required and permitted terms of standard large customer retail contract

- (1) This section applies for a retail entity's terms or amended terms of a standard large customer retail contract to which it is a party (the *standard terms*).
- (2) The standard terms must—
 - (a) provide that the retail entity's charges for the provision of services that are, or relate to, customer retail services to large non-market customers are only the notified prices; and

Note—

The notified prices are only required for small and large non-market customers. For large market customers, see subsection (4)(a) and subdivision 3.

- (b) provide for the provision of the services on a fair and reasonable basis.

- (3) To remove any doubt, it is declared that subsection (2)(a) does not prevent the standard terms from charging or passing on distribution non-network charges under section 90.
- (4) Subject to subsection (2), the standard terms may—
 - (a) also include prices, or a methodology to fix the prices, for the provision by the entity of customer retail services to its large market customers; and
 - (b) be different for stated types of large customers; and
 - (c) be contained in a different document for any of the types.
- (5) Subject to any regulation made under subsection (6), the services are taken to be provided on a fair and reasonable basis if the standard terms are consistent with relevant industry code provisions about minimum terms for the provision of customer retail services to small customers.
- (6) A regulation may declare what is or is not fair and reasonable or not unfair or unreasonable, in relation to large non-market customers for subsection (2)(b), including, for example whether or not and, if so, in what circumstances requiring the following, is fair and reasonable—
 - (a) different advance payments or security deposits from different large non-market customers;
 - (b) different terms for different types of large non-market customers.

55 Charging for GST under standard contract

- (1) This section applies if—
 - (a) there are notified prices for a retail entity; and
 - (b) the notification for the prices includes a GST statement; and
 - (c) the entity provides customer retail services under a standard contract; and
 - (d) the entity charges the customer the notified prices.

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

Subdivision 3 Negotiated retail contracts

55A Negotiation of retail contract

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

55B General limit on what may be negotiated

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

55C Provisions for small customers

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

Division 4 Conditions of retail authorities**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, under section 53, make the terms of its standard large customer retail contract;

- (e) the retail entity must pay any amount that, under the *Energy Ombudsman Act 2006*, it must pay the energy ombudsman;
- (f) conditions imposed under a regulation;
- (g) conditions stated in the authority.

55DA Additional condition about community services agreement

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

Examples of community services—

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

- (4) In this section—

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

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

55DB Additional condition about electricity produced by small photovoltaic generators

- (1) It is also a condition of a retail authority that the retail entity must—
 - (a) reduce the amount payable by a small customer (the *amount due*), for electricity supplied to the small customer in a relevant supply period, by the amount of any credit (*owed credit*) given by a distribution entity in relation to the small customer for the relevant supply period under section 44A(1)(b); and
 - (b) if the owed credit is more than the amount due for the relevant supply period (the *first period*)—
 - (i) reduce the amount due for a subsequent relevant supply period by the unused amount of the owed credit; and
 - (ii) if, after the end of 12 months after the end of the first period, an amount of the owed credit has not been used under subparagraph (i)—pay the small customer an amount representing the amount of owed credit that has not been used; and
 - (c) give the small customer the following information for each relevant supply period—
 - (i) the amount of electricity supplied by the small customer to the distribution entity’s network for which credit was given under section 44A(1)(b);
 - (ii) the amount to be credited to the small customer under section 44A(1)(b); and
 - (d) give the regulator a report, within 28 days after 30 June and 31 December each year, stating—
 - (i) the number of small customers receiving credit under section 44A(1)(b) in the previous 6 month period; and
 - (ii) the amount credited to small customers under section 44A(1)(b) in the previous 6 month period.
- (2) The regulator must review this section to decide whether its provisions remain appropriate, after the first of the following to happen—

- (a) the passing of 10 years after the commencement of this section;
 - (b) qualifying generators with sufficient capacity to produce a total of 8 megawatts or more of solar power are connected to the supply networks of 1 or more distribution entities under section 44A(1)(a).
- (3) This section expires on 1 July 2028.

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.

55G Restriction on Ergon Energy and its subsidiaries

- (1) This section imposes conditions on a retail authority held by the GOC Ergon Energy or any of its subsidiaries (the *retailer*).
 - (2) The retailer must not enter into a negotiated retail contract, unless it is entered into—
 - (a) for, or as part of, the program known as the Solar cities programme, administered by the Commonwealth's Australian Greenhouse Office; or
 - (b) for, or as part of, a similar program prescribed under a regulation; or
 - (c) in the other circumstances prescribed under a regulation.
- Maximum penalty—500 penalty units.

- (3) If the retailer enters into a negotiated retail contract as permitted under subsection (2)(a), (b) or (c), the retailer must

Electricity Act 1994

comply with the conditions prescribed under a regulation for—

- (a) the provision of customer retail services under the contract; and
 - (b) if the contract is for, or is part of, a program mentioned in subsection (2)(a) or (b)—the carrying out of activities under the program.
- (4) The retailer can only provide customer retail services to a customer for premises if the retailer is an area retail entity for the premises and any of the following apply—
- (a) on the day this section commences, the customer was a non-market customer of the retailer for the premises;
 - (b) the retail obligation applies in relation to the premises;
 - (c) the retailer is the financially responsible retail entity for the premises and the customer was a small customer for the premises and becomes a large customer for the premises;
 - (d) the retailer is the financially responsible retail entity for the premises and the premises are—
 - (i) in the retailer’s retail area; and
 - (ii) connected to a supply network without the customer having made a retail services application for the premises to the retailer.

Maximum penalty—500 penalty units.

- (5) However, subsection (4) does not apply if the retailer provides customer retail services to a customer and the customer is required to be transferred to the retailer to correct an erroneous transfer, completed under the National Electricity Rules, from the retailer to another retail entity.
- (6) Also, it is a defence to a proceeding under subsection (4) if, because of information given by the customer, the retailer reasonably believed that the retail obligation applied in relation to the premises.

Part 6A Coordination agreements between distribution and retail entities

55H Negotiation of coordination agreement

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

55I Standard coordination agreement

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

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;
 - (c) the holder must pay any amount that, under the *Energy Ombudsman Act 2006*, the holder must pay the energy ombudsman.
- (2) 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.

61B Additional condition for electricity produced by photovoltaic generators

- (1) This section applies to a special approval holder prescribed under a regulation.
- (2) It is a condition of the special approval that the holder must comply with—
 - (a) if the holder is taken to be the holder of a distribution authority under section 59(3)—section 44A; and
 - (b) if the holder is taken to be the holder of a retail authority under section 59(3)—section 55DB.

Part 8 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 assist in the settlement of disputes arising under chapter 4, part 6, between electricity entities and between electricity entities and public entities; and
 - (c) to monitor compliance with the conditions of approvals, authorities and licences under this Act; and
 - (d) 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.

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
- (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

Division 1 Provisions for Mount Isa–Cloncurry supply network

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 QCA Act.

89B Minister may direct 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.⁸
- (2) Instead of making a decision under section 89A(2), the Minister may, in writing, direct QCA to regulate the pricing for the service under the National Electricity Rules as if the supply network were part of the national grid.

8 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*.

- (3) QCA must—
- (a) within 14 days after receiving the direction, give a copy of it to the owner; and
 - (b) comply with the direction.
- (4) The owner must comply with the pricing regulation made by QCA under the direction.

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

Division 2 General provisions for notified prices

90 Deciding prices for non-market customers

- (1) The Minister must, for each tariff year, decide the prices, or the methodology for fixing the prices, that a retail entity may charge its non-market customers for all or any of the following—
- (a) customer retail services;
 - (b) charges or fees relating to customer retail services;
Examples—
 - charges or fees for late or dishonoured payments
 - credit card surcharges for payments for the services
 - (c) other goods and services prescribed under a regulation.
- (2) The prices or methodology decided under subsection (1) must be in the form of a tariff schedule.
- (2A) To remove any doubt, the following is declared for decisions under subsection (1)—
- (a) they may be made from time to time and not just once a year;
 - (b) a tariff from the tariff schedule for the previous tariff year may be added to, removed or changed;
 - (c) they may include network charges;
 - (d) they can not be made for distribution non-network charges.

- (3) The Minister may delegate to QCA all or any of the Minister's functions under subsection (1).
- (4) The prices, or prices fixed under the methodology, are, for a retail entity, called the *notified prices*.
- (5) The Minister or the QCA (the *pricing entity*) must, in deciding the notified prices, comply with any indexation required under division 3.
- (6) 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*).
- (7) The pricing entity must, by gazette notice, publish the notified prices.
- (8) 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).
- (9) 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.
- (10) In this section—

distribution non-network charges means charges of a distribution entity, approved by the jurisdictional regulator under the National Electricity (Queensland) Law, that—

 - (a) are referable to a specific customer or retail entity request; and
 - (b) do not include network charges.

Examples of distribution non-network charges—

- a deenergisation or disconnection fee
- a reconnection fee
- a meter test fee

network charges means charges of a distribution entity for—

- (a) distribution use of system charges for the use of a shared supply network of the distribution entity; and
- (b) any transmission use of system charges payable by the distribution entity for the use of a transmission grid to which the supply network is connected.

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-market 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-market 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-market customers the net GST effect for providing the services.

- (4) The Minister may give the entity a written direction to charge non-market 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 retail contract or standard large customer retail 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-market 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).

Division 3 Annual indexation

Subdivision 1 Preliminary

91B Operation and application of div 3

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

91C Definitions for div 3

In this division—

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

c/kWh means cents per kilowatt hour.

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

fixed principle means a principle fixed under section 95(1).

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

relevant tariff year see section 91B(1).

Subdivision 2 Indexation formula for relevant tariff year

91D Indexation formula

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

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

where—

T_y is the tariff component for the relevant tariff year.

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

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

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

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

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

Examples of tariff components—

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

Subdivision 3 Benchmark retail cost index for relevant tariff year

91E Benchmark retail cost index

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

$$B = R/L$$

where—

B is the benchmark retail cost index for the year.

R is the total benchmark retail cost for the year.

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

91F Working out NEM load

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

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

91G Total benchmark retail cost

- (1) For section 91E, the total benchmark retail cost, expressed in cents per kilowatt hour, for the relevant tariff year is the estimated total cost of supplying customers in the State during that year, as worked out by the pricing entity.

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

92 Cost of energy

- (1) The cost of energy must reflect the pricing entity's view of the likely total of the costs to be incurred during the relevant tariff year to purchase energy to supply all of the NEM load of the State for the relevant tariff year.
- (2) The view must be based on the pricing entity's most recent estimate of the long run marginal cost of energy in the part of the State connected to the national grid, after taking into account—
 - (a) the Queensland gas scheme under chapter 5A; and
 - (b) the scheme under the *Renewable Energy (Electricity) Act 2000* (Cwlth).
- (3) The estimate must take into account the most efficient combination of generating plant to supply all of the NEM load of the State for relevant tariff year.
- (4) Unless the cost of energy is subject to a fixed principle, the long run marginal cost estimate must be prepared at least every 3 years.

- (5) Subsection (4) does not prevent the pricing entity preparing the long run marginal cost estimate more frequently.
- (6) In estimating the long run marginal cost, the pricing entity must comply with any methodology prescribed under a regulation.

93 Network costs

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

94 Retail costs

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

Subdivision 4 Miscellaneous provisions

95 Fixing of future principles

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

Example of a fixed principle—

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

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

96 **Gazettal of indexed prices**

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

**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 4.⁹

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 example¹⁰—
 - (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.

⁹ Divisions 3 (Works on railway land) and 4 (Works on protected areas)

¹⁰ The application of this section could, in a particular case, be affected by the *Native Title Act 1993* (Cwlth).

- (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.

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.¹¹

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

¹¹ 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)

remain on it for as long as necessary, to decide the suitability of the land for the entity's proposed works.

- (2) The authority must state—
 - (a) the electricity entity to which it is given; and
 - (b) whether it applies to any land or only to particular land; and
 - (c) whether it applies to any proposed works or only to particular works; and
 - (d) the things the entity may do on land entered under it; and
 - (e) the period of the authority.
- (3) The authority may—
 - (a) state the conditions or restrictions to which it is subject; and
 - (b) make provision about the effect of breaches of the conditions or restrictions or the continuation or suspension of the authority.

Division 2 Acquisition of land

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 218¹² 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.

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

- (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.
- (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).¹³

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 4¹⁴ between an electricity entity and a public entity; and
 - (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).¹⁵
- (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

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

14 Part 4 (Works)

15 Chapter 5A (Queensland gas scheme)
Section 309 (Existing electricity supply contracts)

- (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 Financially responsible retail entity may recover amount for electricity consumed by person occupying premises

If—

- (a) a person occupies premises where electricity has been consumed during the person's occupancy; and
- (b) the financially responsible retail entity has not been paid for the electricity;

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

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 notice may state terms of reference for carrying out the audit.

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

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.

Maximum penalty—1000 penalty units.

- (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.

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 Industry codes

Division 1 Preliminary

120A Definition for pt 1A

In this part—

electricity entity includes a special approval holder.

Division 2 Initial industry codes

120B Making of initial industry codes by Minister

- (1) The Minister may make initial industry codes to apply to all or any of the following and their customers—
- (a) distribution entities;
 - (b) retail entities;
 - (c) special approval holders authorised to carry out activities for which a distribution authority or retail authority would otherwise be required under this Act.
- (2) A code must state the electricity entities to which it applies.
- (3) A code is not subordinate legislation.

Note—

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

120C Specific matters for which code may provide

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

Electricity Act 1994

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

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

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

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

120D Gazettal and taking of effect of code

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

120E Tabling of code

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

Division 3 QCA industry codes

120F QCA may make industry code

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

120G QCA code objective

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

electricity services means electricity services as defined under the National Electricity (Queensland) Law.

120H Required consultation

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

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

120I Ministerial approval

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

120J When approved QCA industry code takes effect

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

120K Tabling of QCA industry code

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

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

Division 4 Review of industry codes and related matters

120L Direction by Minister to review

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

120M Terms of reference

The direction may do all or any of the following—

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

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

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

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

120O Conduct of review

- (1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the review—
 - (a) as if a reference in the applied part to an investigation were a reference to the review; and
 - (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review; and
 - (c) with other necessary changes.
- (2) However, the applied part applies subject to any requirement or direction of the Minister.
- (3) Any definitions under the QCA Act relevant to the applied part also applies.

Division 5 Amending Industry codes**120P Application of div 5**

This division applies if QCA proposes to amend an industry code.

120PA Required consultation for amendment

- (1) Before QCA may make the amendment it must prepare a draft of the amendment and engage in the consultation prescribed under a regulation.

- (2) However, subsection (1) does not apply if QCA considers the amendment—
- (a) is needed urgently; or
 - (b) does not materially detriment anyone's interests; or
 - (c) is of an uncontroversial nature; or
 - (d) corrects an error.
- (3) To remove any doubt, it is declared that subsection (2)(d) applies even if the correction is materially detrimental to someone's interests.

120PB Application of div 3 other than its consultation provision

The provisions of division 3, other than section 120H, apply to the amendment—

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

Division 6 Enforcing industry codes

Subdivision 1 Code contravention notices

120Q Application of sdiv 1

This subdivision applies if QCA suspects—

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

120R Criteria for deciding material contravention

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

120S Warning notice may be given

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

120T Requirements for warning notice

- (1) The warning notice must state each of the following—
 - (a) particulars of the contravention or likely contravention;
 - (b) that QCA proposes to give the electricity entity a code contravention notice unless the entity—
 - (i) takes steps reasonably necessary to remedy the contravention or avoid the likely contravention; and
 - (ii) gives QCA a written assurance (a *conduct assurance*), in the terms stated in the warning notice, that the entity will—

- (A) avoid any similar future contravention; and
 - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
- (c) a period (the *warning period*) after which the code contravention notice may be given unless the warning notice is complied with;
- (d) that the entity may make, within the period, written submissions to show why the proposed code contravention notice should not be given.
- (2) The warning period must be—
- (a) if the warning notice is given because QCA considers the contravention or likely contravention is of a type that requires urgent action—a period that QCA considers is reasonable in the circumstances; or
 - (b) otherwise—at least 20 business days.
- (3) The warning notice may also state the steps QCA reasonably believes are necessary to remedy the contravention or avoid its future recurrence, or avoid the likely contravention.

Examples of steps that may remedy a contravention—

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

120U Considering submissions on warning notice

- (1) QCA must consider any written submission made under section 120T(1)(d) by the electricity entity within the period stated in the warning notice.
- (2) If QCA at any time decides not to give the proposed code contravention notice, it must, as soon as practicable, give the electricity entity notice of the decision.

120V Giving of code contravention notice

- (1) QCA may give the proposed code contravention notice if—
 - (a) the electricity entity has not complied with the warning notice; and
 - (b) after complying with section 120U, QCA still believes the code contravention notice ought to be given.
- (2) The code contravention notice must state—
 - (a) that the electricity entity—
 - (i) has contravened, or is contravening, an industry code; or
 - (ii) is likely to contravene an industry code; and
 - (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code; and
 - (c) particulars of the contravention or likely contravention.
- (3) Subsection (4) applies if the warning notice was given on the basis of a contravention of the industry code and the electricity entity—
 - (a) has taken steps reasonably necessary to remedy the contravention; but
 - (b) has not given the conduct assurance required under the warning notice.
- (4) QCA may give the code contravention notice on the basis that the electricity entity is still involved in an activity that is, or is likely to result in, a material contravention of the industry code.

Note—

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

120W Duration of code contravention notice

The code contravention notice—

- (a) comes into effect—
 - (i) when it is made; or

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

Subdivision 2 Proceedings

120X Proceeding for civil penalty order

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

- (4) For subsection (1)(c), an electricity entity is involved in a contravention if the entity —
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced the contravention, whether through threats, promises or in another way; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
 - (d) has conspired with others to effect the contravention.

Note—

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

120Y How order enforced

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

120Z Injunctions

- (1) The Supreme Court may, on the application of QCA, grant an injunction if satisfied an electricity entity has engaged or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
- (a) a contravention of an industry code;
 - (b) attempting to contravene an industry code;
 - (c) aiding, abetting, counselling or procuring an electricity entity to contravene an industry code;
 - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, an electricity entity to contravene an industry code;
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by an electricity entity of an industry code;
 - (f) conspiring with others to contravene an industry code.
- (2) An injunction may be granted on conditions.

- (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied an electricity entity has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
- (4) The court may grant an interim injunction pending its decision on the application.
- (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) The court may amend an injunction or interim injunction.
- (7) An injunction or interim injunction restraining an electricity entity from engaging in conduct may be granted whether or not—
 - (a) it appears to the court that the entity intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) the entity has previously engaged in conduct of that kind; and
 - (c) there is an imminent danger of substantial damage to another person if the person engages in conduct of that kind.
- (8) An injunction or interim injunction requiring an electricity entity to do an act or thing may be granted whether or not—
 - (a) it appears to the court that the entity intends to fail again, or to continue to fail, to do that act or thing; and
 - (b) the entity has previously failed to do the act or thing; and
 - (c) there is an imminent danger of substantial damage to another person if the entity does not do the act or thing.

120ZA Conduct by directors, servants or agents

- (1) This section applies to a proceeding under this subdivision.
- (2) If—
 - (a) the proceeding concerns alleged conduct engaged in by an electricity entity to which an industry code applies; and

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

Subdivision 3 Referrals to regulator

120ZB When QCA must refer material contravention

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

Note—

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

120ZC When QCA may refer material contravention

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

Note—

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

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

120ZD Guidelines for exercise of QCA powers for civil penalties

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

Subdivision 4 Production of documents or information

120ZE Notice to produce documents or information

- (1) This section applies if QCA is conducting an investigation to find out whether an electricity entity is complying with an industry code.
- (2) QCA may, by written notice to the entity, require it to give QCA the following things QCA believes, on reasonable grounds, are relevant to the investigation—
 - (a) information within the entity's knowledge or possession;
 - (b) documents in the entity's custody, possession or power.
- (3) The notice must state—
 - (a) the information or documents required; and
 - (b) a period in which the documents or information are to be given of no less than 7 days; and
 - (c) a reasonable place at which the documents or information are to be given.
- (4) The entity must comply with the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.
- (5) An electricity entity is not required to comply with the notice if it claims, on the ground of self-incrimination, a privilege the entity would be entitled to claim against giving the information were the entity a witness in a prosecution for an offence in the Supreme Court.
- (6) If the entity claims that complying with the notice may tend to incriminate it, QCA or the entity may make an application to the Supreme Court to decide the validity of the claim.

120ZF Disclosure of information to regulator

- (1) This section applies if an electricity entity gives QCA written information about the entity under this Act, the

Electricity–National Scheme (Queensland) Act 1997 or the National Electricity Rules.

- (2) QCA must disclose the information to the regulator if—
 - (a) the regulator requests the disclosure for performing the regulator’s functions; and
 - (b) the entity—
 - (i) consents to the disclosure; or
 - (ii) is required, under the entity’s approval or authority, to consent to the disclosure.

120ZG Protection of confidential information given for investigation

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

information includes a document.

Subdivision 5 Audits

120ZH QCA’s powers concerning audit of compliance with industry code

- (1) QCA may, by written notice to an electricity entity, require the entity to—
 - (a) carry out an internal audit of all or any of the following—

- (i) the entity's compliance with an industry code, either generally or about a stated particular matter or matters;
 - (ii) the reliability and quality of information given by the entity to QCA, under this Act; or
- (b) appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).
- (2) The notice may state terms of reference for carrying out the audit.
- (3) QCA may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the entity if—
 - (a) the entity does not comply with a notice given to it under the subsection; or
 - (b) QCA reasonably considers that a person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit.
- (4) A person may be appointed as an independent auditor under subsection (1)(b) or (3) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

120ZI Responsibility for cost of audit

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

120ZJ Independent auditor may require reasonable help or information

- (1) An independent auditor appointed under section 120ZH to carry out an audit concerning an electricity entity may require the entity to give the auditor—

- (a) reasonable help to carry out the audit; or
- Examples—*
- access to the entity’s premises and records
 - help from the entity’s employees
- (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.
- (2) An electricity entity required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the entity has a reasonable excuse.
- Maximum penalty—1000 penalty units.
- (3) If the entity is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

120ZK Audit report and submissions on report

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

Division 7

Miscellaneous provisions

120ZL Relationship with Fair Trading Act 1989

To remove any doubt, it is declared that, subject to section 120ZN, an industry code does not limit or otherwise affect the operation of the *Fair Trading Act 1989*.

120ZM Compliance with particular requirements under Fair Trading Act 1989, s 61 for door-to-door contracts

- (1) This section applies if—
 - (a) a retail entity enters into, or proposes to enter into, a negotiated retail contract with a small customer; and
 - (b) the contract is, or would if entered into be, a prescribed contract under the *Fair Trading Act 1989 (FTA)*, part 3, division 4; and
 - (c) an industry code applies to the contract.
- (2) The contract is taken to include the statement required under FTA, section 61(1)(f) (*paragraph (f)*) if a statement included in the contract as otherwise required under paragraph (f) states the cooling-off period that the industry code requires for the contract instead of the cooling-off period mentioned in paragraph (f).

Note—

See clause 4.2.4 (Cooling-off) of the initial industry code commencing on the FRC day.

- (3) The notices required to be given under FTA, section 61(1)(g) (*paragraph (g)*) are taken to have been given, and the requirements for the notices stated in FTA, section 61(1)(h) to (j) are taken to be complied with, if—
 - (a) the customer is given a notice (the *substitute notice*) by or for the retail entity in relation to the entering into of the contract, as required under the industry code; and
 - (b) the substitute notice complies with—
 - (i) all requirements under the industry code about explaining the customer's right to rescind the contract; and

Note—

See clause 7.6 (Written disclosure statement) of the initial industry code commencing on the FRC day.

- (ii) the requirements for a notice or notices, stated in FTA, section 61(1)(h)(i) and (ii), (i) and (j); and
 - (c) the substitute notice gives all information that—

- (i) is required to be given under the approved forms of notice under paragraph (g); and
 - (ii) is relevant to the goods and services to be provided under the contract.
- (4) The substitute notice need not comply with FTA, section 61(1)(h)(iii).

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 retail contract (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 retail contracts with its affected customers;

- (c) the entity has contravened a condition of its authority;
 - (d) the entity is not, or is no longer, a suitable person to be the holder of an authority of the relevant type;
 - (e) for a generation entity, transmission entity or distribution entity—the owner of the generating plant, transmission grid or supply network is not, or is no longer, a suitable person to be the owner;
 - (f) for a retail entity—the entity has been suspended from trading under the National Electricity Rules.
- (2) The question whether a person is, or continues to be, a suitable person is decided in the same way as the question whether the person would be a suitable person for the issue of an authority of the relevant type.

133 Types of disciplinary action

- (1) The regulator may take the following disciplinary action against an electricity entity—
- (a) for a generation entity or transmission entity—cancel, suspend or amend its authority;
 - (b) for a distribution entity—cancel, suspend or amend its authority for its distribution area or part of its distribution area;
 - (c) for a retail entity—cancel, suspend or amend its authority.
- (2) The regulator may only take disciplinary action against an electricity entity for a material contravention of an industry code if the contravention has been referred to the regulator by QCA, whether or not a proceeding has been started in relation to the contravention.

Note—

For when QCA must or may make the referral, see sections 120ZB and 120ZC.

- (3) If the ground for taking disciplinary action is that the electricity entity has contravened this Act, the Electrical Safety Act, the *Energy Ombudsman Act 2006*, an industry code or a condition of its authority, the regulator may impose

a civil penalty of not more than the amount of 1333 penalty units for each contravention.

Note—

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

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

Electricity Act 1994

- (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 Queensland 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 megawatt hour of particular gas-fired electricity worked out under part 3¹⁶ (**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 6¹⁷ as scheme participants may, subject to part 4, division 4,¹⁸ sell, transfer or surrender their GECS.
- (4) Accredited generators and persons registered under part 6 are collectively called a **scheme participant**.¹⁹
- (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.

16 Part 3 (Eligible gas-fired electricity)

17 Part 6 (Scheme participants)

18 Part 4, division 4 (Dealings with GECs)

19 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* and the electricity load of the State

- (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—

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 GEC liability see section 135EM(1).

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.

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 annual GEC 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 annual GEC 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
 - (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;

*Electricity Act 1994**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;²⁰ 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.
- (2) The regulator need not decide its annual loss factor or baseline loss factor if the regulator has, under section 135CD(3),²¹ 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.

²⁰ See also division 3 (Standard accreditation conditions).

²¹ Section 135CD (Alternate methods for direct supply arrangement)

- (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) (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).

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 3,²² the accreditation continues in force until 31 December 2020, unless it is sooner cancelled or surrendered under this part.

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.²³
- (3) A change in the economic operator of the power station does not, of itself, affect the nomination.

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

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

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,²⁴ the following rights—
 - (a) to create, under part 4,²⁵ 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 2020.²⁶
- (2) However—
 - (a) the rights are subject to part 4; and
 - (b) the right to create GECs is subject to any suspension under division 5, subdivision 3.²⁷

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.

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

25 Part 4 (GECs)

26 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).

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

- (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 135BI²⁸ 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.

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),²⁹ the generator must comply with the direction.

135AY Condition not to improperly create GECs

An accredited generator must comply with section 135DO.³⁰

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

29 Section 135CF (Directions for working out eligible gas-fired electricity) or 135JC (Decided method must be applied)

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

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 4,³¹ 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—
 - (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.³²

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

- (1) This section applies if—

³¹ Part 3, division 5, subdivision 4 (Changes to baseline)

³² See section 135CK (Guidelines).

- (a) an accredited generator discovers the generator has not complied with section 135DO;³³ 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 megawatt hour 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
- (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;

³³ Section 135DO (Offence of improper creation of GEC)

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

- (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;³⁴ 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),³⁵ 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).³⁶
- (3) A complete or limited suspension of the right to create GECs does not—

34 See sections 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer).

35 Section 135AT (Right to create, mortgage and transfer GEC)

36 Section 135DG (Time limitation on creation right)

- (a) affect the accredited generator's ownership of any GEC the generator owned immediately before the suspension;³⁷ 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,³⁸ in relation to the accreditation or the creation or transfer of GECs; or
 - (d) has created GECs under the accreditation and—

37 See sections 135DN (Ownership of GEC on registration) and 135DW (Ownership of GEC on transfer).

38 *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.³⁹

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.

³⁹ 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*)—

$$EE = (SO\ Gen \times \%EF \times QUF \times LF) - BL$$

where—

EE is the eligible gas-fired electricity, measured in megawatt hours.

SO Gen is electricity sent out from the power station, less electricity imported into the power station, measured in megawatt hours.

%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 megawatt hours.

%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.⁴⁰
- (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.

⁴⁰ 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.⁴¹

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

⁴¹ 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) An estimated proportion is an *annual QUF* for the power station.
- (3) An 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,⁴² 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.

42 Section 135DA (Baseline for other customers)

135CP Power stations connected to national grid within same transmission zone

- (1) This section applies only in relation to the portion of a power station's supply of electricity sent out directly or indirectly to the national grid.
- (2) The same annual QUF must be fixed for each power station that sends out electricity into the same transmission grid or supply network within the same transmission zone.
- (3) The same baseline QUF must be fixed for each power station that—
 - (a) has the same baseline year; and
 - (b) sends out electricity into the same transmission grid or supply network within the same transmission zone.
- (4) 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.
- (5) In considering the matters for fixing the annual QUF, the regulator must use estimates or forecasts of relevant data for the next financial year.
- (6) 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),⁴³ 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,⁴⁴ the baseline is 0; or

43 Section 135AO (Provisions for deciding ancillary matters for power station)

44 Section 135DA (Baseline for other customers)

- (b) under section 135AO(2),⁴⁵ 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.

45 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 megawatt hours.

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 4.⁴⁶

46 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 megawatt hours in the baseline year.

%EF is the proportion of electricity generated from an eligible fuel in the baseline year.

QUF^B is the power station’s baseline QUF.

LF^B 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 megawatt hours, in the baseline year.

%EF means the proportion of electricity generated from an eligible fuel in the baseline year.

LF^B means the power station's baseline loss factor.

QUF^B means the power station's baseline QUF.

135D Information notice about decision

- (1) The regulator must give the customer an information notice about the baseline worked out under this subdivision.
- (2) This section does not apply if the customer is NEMMCO.

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 megawatt hour of eligible gas-fired electricity, other than auxiliary load for a power station.⁴⁷

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;⁴⁸
- (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—

⁴⁷ See also section 135AT (Right to create, mortgage and transfer GEC).

⁴⁸ *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; 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,⁴⁹ 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.
- (4) If the regulator decides the GEC was validly created, the regulator must, as soon as practicable—

49 Section 135IZ (Additional information or inspection may be required)

- (a) register the GEC in the GEC register by complying with section 135JG;⁵⁰ 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.⁵¹

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 1,⁵² a decision made under the automated system is taken to be a decision of the regulator under section 135DJ.

50 Section 135JG (Required information for GEC register)

51 See also section 135JJ(1) (General provisions for register keeping).

52 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 5.⁵³

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 5.⁵⁴

53 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)

54 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).⁵⁵
- (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.

⁵⁵ 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.⁵⁶
- (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.⁵⁷

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

⁵⁶ Sections 135AY (Condition not to improperly create GECs) and 135BA (Obligation to take action because of improper creation of GECs or GEC review)

⁵⁷ 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).⁵⁸

- (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

⁵⁸ See also section 240A (Executive officers must ensure corporation complies with Act).

- (c) section 135BS(4) or 135ID(4)⁵⁹ 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.⁶⁰

135DW Ownership of GEC on transfer

- (1) When the transfer of a GEC takes effect, the transferee becomes its registered owner.⁶¹
- (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

59 Section 135BS or 135ID (Partial suspension for non-payment of annual fee)

60 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).

61 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.

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.

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.⁶²

135EC Making surrender application

- (1) The application must be made by—

62 See section 135DH (How a GEC is created).

- (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 annual GEC liability
- to comply with section 135BA(2)(c)⁶³
- 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.⁶⁴
- (2) Subsection (3) applies if—
 - (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—

63 Section 135BA (Obligation to take action because of improper creation of GECs or GEC review)

64 See section 135DI (When GEC takes effect).

- (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 216⁶⁵ does not apply to a decision under this section.

65 Section 216 (Stay of operation of decision etc.)

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;
 - (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 216⁶⁶ 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 Annual GEC liability**Division 1 Preliminary****135ELA Definition for pt 5**

In this part—

the *prescribed percentage* means—

- (a) for 2008 and 2009—13%; or
- (b) for 2010—15%; or
- (c) for any year after 2010—a percentage, not more than 18%, prescribed under a regulation.

135EM Simplified explanation of pt 5

- (1) Sections 135EP and 135ET impose an annual liability (the *annual GEC 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 5.⁶⁷
- (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;⁶⁸
 - (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 annual GEC liability attaches is the *liable year* for that liability.

67 Section 135ES (Liable person) and division 5 (Liable persons in relation to major grids)

68 See division 6 (Exempted loads).

Division 2 The annual GEC liability

Subdivision 1 Imposition of annual GEC 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—the prescribed percentage of the total of the liable loads, in megawatt hours, above the baseline fixed for the customer to whom the load is supplied; and
 - (b) for the person's other liable loads—the prescribed percentage of the total of the liable loads, in megawatt hours.
- (2) For subsection (1), if the prescribed percentage of the total liable loads is a number of megawatt hours that ends in a fraction, the number is taken to be the whole number of megawatt hours, disregarding the fraction.

135EQ How and when liability must be met

- (1) The annual GEC liability must be met by surrendering, under part 4, division 4, subdivision 3, the number (the *required*

number) of GECs that equates to the prescribed percentage of the person's liable load for the liable year.⁶⁹

- (2) The surrenders must be made on or before the final surrender day for the next year after the liable year.
- (3) However, the annual GEC 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 annual GEC 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.

⁶⁹ See however section 135FO (Credit to future annual GEC liability for over surrender).

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 the prescribed percentage of the GECs created by the person and registered during the liable year.⁷⁰
- (2) The surrenders must be made on or before the final surrender day for the next year after the liable year.
- (3) However, the annual GEC 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 annual GEC liability**135EU GECs that can not be used to meet annual GEC liability**

In deciding whether the annual GEC liability has been met for a liable year the surrender of a GEC must be disregarded if the surrender is—

⁷⁰ See however section 135FO (Credit to future annual GEC liability for over surrender).

- (a) to comply with section 135BA;⁷¹ 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 annual GEC 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.

135EW Obligation to keep documents relating to annual GEC 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 annual GEC 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 annual GEC liability.

Division 3 Civil penalty for not meeting annual GEC liability

135EX Application of div 3

This division applies if a liable person does not meet the annual GEC liability for any liable year.

135EY Imposition of civil penalty for not meeting annual GEC liability

- (1) Subject to section 135EZ, the liable person must, on the later of the following days, pay the regulator a civil penalty—

⁷¹ Section 135BA (Obligation to take action because of improper creation of GECs or GEC review)

- (a) the next 30 June after the annual GEC 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 annual GEC liability.
- (3) If the liable person meets the annual GEC liability before the penalty imposition day, the obligation to pay the civil penalty ends.
- (4) If the liable person does not meet the annual GEC 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 annual GEC liability for the liable year ends.
- (6) Subsection (5) is subject to any assessment, under division 4, that increases the amount of the penalty or the annual GEC liability.

135EZ Exemption to allow for meter data revisions or adjustments

Despite the liable person not having met all of the annual GEC liability for a particular liable year before the penalty imposition day for the annual GEC 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 annual GEC 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 annual GEC liability other than to the extent it relates to the revisions or adjustments; and
- (d) the person meets all of the annual GEC 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.⁷²

135F Amount of civil penalty

The amount of the civil penalty is worked out using the following formula—

$$P = (\text{GEC LL} - \text{GECs surrendered}) \times \text{SC}$$

where—

P is the amount of the penalty.

GEC LL is the prescribed percentage of the liable load, in megawatt hours, for which the annual GEC liability was imposed.

GECs surrendered is the total number of—

- (a) GECs surrendered to meet the annual GEC liability for the liable year; and
- (b) GECs the subject of a surrender application under section 135EQ(3) or 135ET(3).⁷³

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;

⁷² Division 2, subdivision 1 (Imposition of annual GEC liability in relation to major grids) or 2 (Imposition of annual GEC liability in relation to small grids)
Section 135EQ or 135ET (How and when liability must be met)

⁷³ Section 135EQ or 135ET (How and when liability must be met)

- (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
 - (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),⁷⁴ the proceeding may be started within 6 years after the penalty imposition day for the relevant annual GEC 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 report*) that complies with subsection (2) about the person's annual GEC 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 annual GEC liability for the previous year, as worked out by the person; and
 - (e) state how many GECs the person has surrendered to meet the annual GEC liability.⁷⁵
- (3) In this section—

74 *Limitation of Actions Act 1974*, section 10 (Actions of contract and tort and certain other actions)

75 See also section 135JS (Additional information about reports and other matters).

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 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.

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 annual GEC 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 annual GEC liability for the year for which the report ought to have been given;
 - (b) if the penalty imposition day for the annual GEC liability has passed—the civil penalty for not meeting the annual GEC liability.
- (2) A default assessment must state—
- (a) the amount of the annual GEC 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.⁷⁶

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 annual GEC liability for the year for which the report was given;
- (b) if the penalty imposition day for the annual GEC liability has passed—the civil penalty for not meeting the annual GEC liability.

⁷⁶ Sections 135EY (Imposition of civil penalty for not meeting annual GEC liability) and 135FB (Interest on unpaid civil penalty)

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 annual GEC liability for any year.
- (2) The regulator may, under a written agreement with the liable person, make an assessment (a *compromise assessment*) of the annual GEC liability.
- (3) A compromise assessment must also state—
 - (a) if the penalty imposition day for the annual GEC liability has passed—the amount of the civil penalty for not meeting the annual GEC 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 annual GEC liability or civil penalty.
- (2) An amendment under subsection (1) is called an *amended assessment*.
- (3) An amended assessment must state—
 - (a) the annual GEC 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 annual GEC liability.⁷⁷

⁷⁷ Section 135EQ or 135ET (How and when liability must be met)

Subdivision 3 Credits and refunds

135FO Credit to future annual GEC liability for over surrender

- (1) This section applies if—
 - (a) under an amended assessment, compromise assessment or reassessment, a liable person's annual GEC 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.
- (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 annual GEC liability.

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—
 - (i) of the annual GEC 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.⁷⁸
- (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

⁷⁸ For who is the liable person in relation to a power station connected to a small grid, see division 2, subdivision 2 (Imposition of annual GEC liability in relation to small grids).

- (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.
- (3) If no liable person is provided for the load, the annual GEC 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 annual GEC liability;⁷⁹
- (d) the main purposes of this chapter;⁸⁰
- (e) the general principle of subdivision 1.⁸¹

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.

79 See section 309 (Existing electricity supply contracts).

80 See section 135A (Main purposes of ch 5A).

81 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 4,⁸² has been declared to be a significant project;

82 *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 22⁸³

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;

⁸³ *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.⁸⁴

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 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—
 - (a) be in the approved form; and
 - (b) identify the electricity load; and

⁸⁴ See also section 135JS (Additional information about reports and other matters).

- (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% (0.80×1.112).

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.⁸⁵

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—

85 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.⁸⁶

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.

⁸⁶ 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,⁸⁷ 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

87 Section 135FD (Self-assessment report)

- (b) a ground for the cancellation is that the condition under section 135GN has been not been complied with.⁸⁸
- (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 135GP⁸⁹ 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.

88 Section 135GN (Condition for proposed supply)

89 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 4⁹⁰ is cancelled; and
- (b) a ground for the cancellation is that the condition under section 135GX or 135HD has not been complied with;⁹¹

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
- (b) does not generate electricity as part of the normal operating cycle of the other plant or supply from the grid; and

90 Subdivision 3 (Renewable energy exemption) or 4 (Power station auxiliary load exemption)

91 Section 135GX or 135HD (General condition of exemption)

- (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 the retailer of last resort scheme.
- (2) If—
 - (a) under a provision of a regulation, a retailer (the *host retailer*) is taken to have entered into a retail 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 particular standard large customer retail contracts

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

- (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,⁹³ register the person as a scheme participant in the scheme participant register.⁹⁴

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.⁹⁵
- (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.

93 Section 135JH (Required information for scheme participant register)

94 For the rights of scheme participants to own, mortgage or transfer GECs, see part 4, division 4, subdivisions 1 (Transfers) and 2 (Mortgages).

95 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;⁹⁶ 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.

⁹⁶ 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.⁹⁷

⁹⁷ 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.⁹⁸
- (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—

⁹⁸ 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.⁹⁹

Maximum penalty—200 penalty units.

⁹⁹ 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,¹⁰⁰ 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

100 Section 135DJ (Deciding on 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 person¹⁰¹ 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.¹⁰²

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.

101 See section 135GG (Who is an *interested person* for an electricity load).

102 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,¹⁰³ record the following information in the GEC register—
 - (a) its registered owner;
 - (b) the day or period the relevant electricity was generated;

¹⁰³ 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,¹⁰⁴ 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,¹⁰⁵ 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.¹⁰⁶

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.

104 Section 135DS (Automatic expiry)

105 Section 135DJ (Deciding on validity and registration)

106 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 135DJ¹⁰⁷ 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.¹⁰⁸

107 See also part 4, division 5 (Amendment, cancellation and suspension of GECs).

108 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 5A¹⁰⁹**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.

109 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;¹¹⁰
 - (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 248.¹¹¹

110 Section 135JA (Regulator's power to decide measurement method)

111 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.¹¹²

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

¹¹² *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; and
 - (b) the electricity officer is refused entry to the place or the electricity officer's entry to the place is obstructed;the entity's chief executive officer may, by written notice to the occupier of the place, ask for consent to the entry.
- (2) The notice must state why the entry is needed and state a day and time for the proposed entry.
- (3) If the occupier again refuses to consent to the entry, the chief executive officer may authorise an electricity officer to—
 - (a) disconnect electricity supply to the place; and
 - (b) leave the electrical installation disconnected until the occupier consents to the entry and pays the disconnection and reconnection fees prescribed under the regulations.

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;¹¹³
 - (b) tell the occupier the purpose of the entry;

113 Section 70 (Production or display of electricity officer's identity card)

- (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 1.¹¹⁴

114 Part 1 (Operational powers)

(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.
- (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 135IT¹¹⁵ 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.

115 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 135IT¹¹⁶ 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.

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

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 is for a retail authority with a retail area—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 Statewide newspaper—
 - (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 following entity (the *reviewer*) for a review of the decision—

- (a) for a decision mentioned in section 40B or 48G about a connection services application or retail services application by a large customer—QCA;
 - (b) for another decision mentioned in schedule 1—the regulator.
- (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 reviewer 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 reviewer reviews the decision and any later period the court allows the applicant to enable the applicant to appeal against the reviewer'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 reviewer 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 reviewer 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 reviewer 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 reviewer must immediately give the applicant written notice of the reviewer'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 reviewer was not the decision maker and the reviewer 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 reviewer 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 reviewer 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 reviewer 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 reviewer.
- (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;¹¹⁷ or

117 *Supreme Court Act 1995*, part 19 (Provisions from *Supreme Court Act 1921*)

- (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 1A Provisions for civil penalty proceedings

226A Relationship with criminal proceedings

- (1) This section applies if—
 - (a) action (the *civil penalty proceeding*) is taken against or in relation to a person, consisting of—
 - (i) an application under section 120X for a civil penalty order; or

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

226B Avoidance of multiple penalties

If—

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

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

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.

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 4¹¹⁸ 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.

118 Criminal Code, section 4 (Attempts to commit offences)

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
 - (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 code contravention notice

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

- (c) that the notice has been given to the entity stated in it the notice.
- (2) In this section—
- certified copy* means a copy with a certificate purporting to be signed by a member of QCA stating the copy is a true copy of the document it purports to be.

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 23.¹¹⁹

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;

¹¹⁹ *Statutory Instruments Act 1992*, section 23 (Statutory instrument may make provision by applying another document)

Electricity Act 1994

- (b) the department;
- (c) distribution entities or retail entities.

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 established under subsection (1) is entitled to be paid the fees and allowances that may be approved by the Governor in Council.
 - (6) QCA must establish a consumer advisory committee to advise it on—
 - (a) the performance of its functions under this Act and its corresponding functions under the *Gas Supply Act 2003*, including, for example, the making or amendment of an industry code under the Acts; and
 - (b) any other matter about the electricity supply industry or reticulated processed natural gas markets.
 - (7) The members of the consumer advisory committee must be appointed after consultation with groups who represent the interests of consumers.
 - (8) QCA must give the consumer advisory committee necessary support to allow the committee to perform its functions.
 - (9) QCA may also establish other advisory committees to advise it on stated matters about the administration of industry codes under either Act.

253A Reporting to Minister by QCA

- (1) QCA must, on or before each 31 December and 30 June, give the Minister a written report about the performance of—
 - (a) its functions under this Act; or

- (b) any of the Minister's functions under this Act that have been delegated to QCA.
- (2) QCA may, from time to time, give the Minister reports about any significant events in the State's electricity market of which it considers the Minister ought to be aware, including, for example, systemic issues materially affecting consumers.
- (3) In this section a reference to the performance of a function includes the exercise of a power.

254 Protection from liability

- (1) In this section—

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

official means—

- (a) the Minister; and
 - (b) the regulator; and
 - (c) officers of the department assisting the regulator to perform functions under section 63; 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 or QCA 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 or QCA, the liability attaches instead to the State.

254AA Protection from liability of member or employee of QCA

- (1) A member or employee of QCA is not civilly liable for an act done, or omission made, in good faith under this Act.

- (2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to QCA.

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.¹²⁰
- (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.

254B Registers QCA must keep

QCA must keep a register of each of the following—

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

¹²⁰ The attachment appears immediately after schedule 5 (Dictionary).

Note—

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

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.¹²¹

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.

121 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).

- (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.

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 (QESIESS)*.
- (3) The approved industry superannuation scheme is a continuation of QESIESS.

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*.¹²²

122 The attachment contains extracts of the relevant provisions of the *Gladstone Power Station Agreement Act 1993*.

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 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 provision 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 253¹²³ 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.
- (2) From the commencement, the agreement is taken to be an on-supply agreement under this Act.

123 Section 253 (Advisory committees)

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 provision 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 customer who, under this Act as it was in force on that day, was 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.¹²⁴
- (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.

124 See section 135EY(4) (Imposition of civil penalty for not meeting annual GEC 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;

Electricity Act 1994

- (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.

Schedule 1 Appeals against administrative decisions

sections 214(1), 216(1) and 219

Part 1 Decisions about authorities and special approvals

Section	Description of decision	Court
180(1)	refusal to issue generation authority	Supreme
27(b)(vi)	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)(v)	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)(iv)	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(i)	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**

Section	Description of decision	Court
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)

Section	Description of decision	Court
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)

Section	Description of decision	Court
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

Schedule 1 (continued)

Part 3 **Other decisions**

Section	Description of decision	Court
40A to 40D	<p>1 If a customer makes a connection services application for premises, the distribution entity to whom the application is made decides the connection obligation does not apply for the services applied for.</p> <p>2 However, item 1 applies only if, had the services been provided, the customer would have been a large customer for the premises.</p> <p><i>Note—</i> For small customers' referral rights, see the <i>Energy Ombudsman Act 2006</i>, sections 18 and 19.</p>	District
48E to 48I	<p>1 If a customer makes a retail services application for premises, the retail entity to whom the application is made decides the retail obligation does not apply for the services applied for.</p> <p>2 However, item 1 applies only if, had the services been provided, the customer would have been a large customer for the premises.</p> <p><i>Note—</i> For small customers' referral rights, see the <i>Energy Ombudsman Act 2006</i>, sections 18 and 19.</p>	District
130(2)	authorisation to take over operation of electricity entity's operating works	Supreme
133(5)	decision that an electricity entity has a prohibited interest that must be disposed of	Supreme
134	disciplinary action taken against electricity entity	Supreme

Schedule 1 (continued)

Section	Description of decision	Court
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 of 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; or
 - (ii) a prescribed entity; or
 - (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; or
 - (ii) an entity; or
 - (iii) an authority; or
 - (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; or
 - (ii) an entity; or
 - (iii) an authority; or
 - (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

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 GEC liability see section 135EM(1).

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.

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

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.

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

build includes erect, lay down and place.

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

c/kWh see section 91C.

code contravention notice see section 120S(1).

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

connection contract see section 40DA(1).

connection obligation see section 40A(3).

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

connection services application see section 40(1).

Schedule 5 (continued)

Country Energy means Country Energy established under the *Energy Services Corporations Act 1995* (NSW).

criminal history of a person means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

customer see section 23(1).

customer connection 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.

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.

Electrical Safety Act means the *Electrical Safety Act 2002*.

electricity see section 5.

electricity entity means—

- (a) in general—see section 22(1); and

Schedule 5 (continued)

(b) for chapter 5, part 1A—see also section 120A.

electricity industry see section 21.

electricity load—

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

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

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

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

excluded customer see section 23(6).

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

financially responsible retail entity, for premises, means—

(a) if the premises are an excluded customer's premises—the area retail entity with a retail authority for the area; or

(b) if the premises are NMI premises and are, or are proposed to be, connected to a distribution entity's supply network that is part of the national grid—

(i) if, under the National Electricity Rules the person (the **responsible entity**) responsible for paying NEMMCO for electricity consumed at the

Schedule 5 (continued)

premises is an area retail entity or other retail entity—that entity; or

- (ii) if the responsible entity does not hold a retail authority, the area retail entity or other retail entity—
 - (A) who, under the Corporations Act, is a related body corporate of the responsible entity; and
 - (B) who acquires, directly or indirectly, the electricity consumed at the premises from the responsible entity; or
- (c) if the premises are NMI premises and are, or are proposed to be, connected to a distribution entity's supply network that is not part of the national grid—
 - (i) generally—the retail entity who, from time to time, provides customer retail services to a customer at the premises; or
 - (ii) if a customer is a new customer at the premises and has not entered into a retail contract with another retail entity—the retail entity who provided customer retail services to the customer at the premises who immediately preceded the new customer.

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.

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

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

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

GEC review see section 135B(1).

Schedule 5 (continued)

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(8).

in a road, railway land or other place includes on, under or over.

industry code means—

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

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

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

Schedule 5 (continued)

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

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

inspection officer means a person appointed as an inspection officer under chapter 7, part 2.

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

large customer see section 23(5).

large market customer see section 23(9).

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

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 annual GEC liability, see section 135EM(6).

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

major grid see section 135AF(1).

market customer see section 23(7).

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

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.

Schedule 5 (continued)

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 connection contract see section 40DA(2).

negotiated retail contract see section 49(2).

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

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.

NMI premises—

1 A premises, part of a premises or a group of premises is an *NMI premises* if—

- (a) it is, or is proposed to be, connected to a distribution entity's supply network that is part of the national grid and the premises has, or is proposed to have, a connection point; or
- (b) it is, or is proposed to be, connected to a distribution entity's supply network that is not part of the national grid and the premises has, or is

Schedule 5 (continued)

proposed to have, a supply point for the delivery of electricity.

- 2 However, the term does not include premises of an excluded customer.

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

non-market customer see section 23(8).

notice, for chapter 5A, see section 135AK.

notified prices, for a retail entity, see section 90(4).

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 annual GEC 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—

- 1 ***premises*** includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) land where a building or other structure is situated.

- 2 ***premises***, of a customer, means premises owned or occupied by the customer.

prescribed percentage, for chapter 5A, part 5, see section 135ELA.

Schedule 5 (continued)

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

pricing entity see section 90(5).

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 QCA Act.

Schedule 5 (continued)

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

QCA code objective see section 120G(1).

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.

qualifying generator means a small photovoltaic generator that—

- (a) is installed at the premises of a small customer in a way that allows electricity generated by the generator to be first used by the small customer and, if not used by the small customer, supplied to a supply network; and
- (b) complies with any safety or technical requirements prescribed under a regulation.

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.

Schedule 5 (continued)

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*
 - *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.

relevant supply period means a period for which an account has been issued by a retail entity for the supply of electricity to a small customer.

relevant tariff year see section 91B(1).

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(1).

retail authority see section 47.

retail contract see section 49(1).

retail entity see section 46.

retailer see section 135AK.

Schedule 5 (continued)

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

retail obligation see section 48F(1).

retail services application see section 48C(1).

reviewer see section 214(1).

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
- (d) cause or permit to be sold; and
- (e) give away or swap.

significant project see section 135GI(1).

small customer see section 23(3).

small grid see section 135AF(2).

small photovoltaic generator means a photovoltaic system with capacity up to 10 kilovolt amperes for a single phase connection and up to 30 kilovolt amperes for a 3 phase connection.

special approval see section 58.

special approval holder see section 57.

Schedule 5 (continued)

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 connection contract see section 40DA(3).

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

standard retail contract see section 49(3).

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.

Statewide newspaper means a newspaper circulating generally throughout the State.

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.

tariff includes fee or charge.

tariff year means—

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

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.

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.

warning notice see section 120S(1).

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.¹²⁵

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

¹²⁵ 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 15.¹²⁶

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

¹²⁶ 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

	Page
2 Date to which amendments incorporated	402
3 Key	403
4 Table of reprints	403
5 Tables in earlier reprints	404
6 List of legislation	404
7 List of annotations	409
8 List of forms notified or published in gazette	470
9 Information about retrospectivity	471

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 1 July 2008. 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. 69	1 January 2002	18 January 2002
4	2001 Act No. 82	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	
6I	—	17 June 2007	prov exp end of 16 June 2007
7	2006 Act No. 60 (amd 2007 Act No. 17; 2007 Act No. 29)	1 July 2007	
7A	2008 Act No. 33	1 July 2008	

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)

Electricity Amendment Act (No. 2) 2004 No. 51

date of assent 29 November 2004

ss 1–2 commenced on date of assent

ss 4–13, 26(3)–(7), 27, sch amdts 7–8, 13–15 commenced 1 September 2006 (2006 SL No. 199)

remaining provisions commenced on date of assent (see s 2(1))

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004

commenced on date of assent

Energy Legislation Amendment Act 2005 No. 51 pts 1–2, s 3 sch

date of assent 2 November 2005

ss 1–2 commenced on date of assent

s 4 commenced 1 April 2006 (see s 2)

remaining provisions commenced on date of assent

Audit Legislation Amendment Act 2006 No. 9 pts 1, 8

date of assent 15 March 2006
 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 3 sch (this Act is amended, see amending legislation below)

date of assent 7 December 2006
 ss 1–2, pt 2 hdg, s 3 (to the extent it relates to the amdts under s 51), 51 commenced on date of assent (see s 2)
 remaining provisions commenced 1 July 2007 (2007 SL No. 15)
 amending legislation—

Community Ambulance Cover and Other Acts Amendment Act 2007 No. 17 ss 1, 2(2), 37–44 (amends 2006 No. 60 above)

date of assent 23 April 2007
 commenced on date of assent (see s 2(2))

Revenue and Other Legislation Amendment Act 2007 No. 29 ss 1, 10–12 (amends 2006 No. 60 above) (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 (automatic commencement under AIA s 15DA(2)) deferred to commence 21 March 2009 (2008 SL No. 54 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

Clean Energy Act 2008 No. 33 ss 1–2, pt 12, s 125 sch 1

date of assent 21 May 2008
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 July 2008 (2008 SL No. 191)

7 List of annotations

CHAPTER 1—PRELIMINARY

Commencement

s 2 om R2 (see RA s 37)

Objects of Act

s 3 amd 1997 No. 77 s 4; 2002 No. 42 s 242 sch 1

PART 3—DICTIONARY

pt hdg sub 2004 No. 51 s 3 sch
amd 2006 No. 60 s 3 sch

Notes in text

s 4A ins 2004 No. 51 s 3 sch
om 2006 No. 60 s 3 sch

Regional system control

s 7 amd 1997 No. 26 s 4
prev s 7 om 1997 No. 50 s 4
pres s 7 ins 1997 No. 77 s 5

Network services

s 10 amd 1997 No. 26 s 5

Works, substations and operating works

s 12 amd 1997 No. 26 s 6; 2002 No. 42 s 242 sch 1

Meaning of “electrical equipment”

s 13 sub 2002 No. 42 s 242 sch 1

Meaning of “electrical installation”

s 14 sub 2002 No. 42 s 242 sch 1

Meaning of “electric line”

s 15 sub 2002 No. 42 s 242 sch 1

Meaning of “associated equipment” for electric line

s 16 sub 2002 No. 42 s 242 sch 1

Meaning of “meter”

s 16A ins 2002 No. 42 s 242 sch 1

Application of Act to government entities

s 18 amd 1997 No. 50 s 5; 2002 No. 42 s 242 sch 1; 2004 No. 53 s 2 sch

PART 6—EXEMPTIONS FROM ACT

pt hdg ins 2003 No. 28 s 4

Division 1—On-suppliers

div hdg ins 2003 No. 28 s 4

Subdivision 1—Preliminary

sdiv hdg ins 2003 No. 28 s 4

Definitions for div 1

s 20 sub 2003 No. 28 s 4

Subdivision 2—Preliminary**sdiv 2 (s 20A)** ins 2003 No. 28 s 4**Subdivision 3—On-supply agreements****sdiv 3 (ss 20B–20C)** ins 2003 No. 28 s 4**Subdivision 4—Preliminary disclosure requirements about common area charges****sdiv 4 (ss 20D–20G)** ins 2003 No. 28 s 4**Subdivision 5—Individual metering****sdiv hdg** ins 2003 No. 28 s 4**Individual metering option****s 20H** ins 2003 No. 28 s 4**Compensation for installation damage****s 20I** ins 2003 No. 28 s 4**Maximum charge for metered supply****s 20J** ins 2003 No. 28 s 4
amd 2006 No. 60 s 4**Subdivision 6—Disclosure requirements for common area consumption charges****sdiv hdg** ins 2003 No. 28 s 4**Application of sdiv 6****s 20K** ins 2003 No. 28 s 4**Periodic consumption estimates****s 20L** ins 2003 No. 28 s 4**Audited statements****s 20M** ins 2003 No. 28 s 4**Content requirements for audited statement****s 20N** ins 2003 No. 28 s 4
amd 2006 No. 9 s 19**Subdivision 7—On-suppliers who operate a private network****sdiv hdg** ins 2003 No. 28 s 4**National Electricity Rules exemption required****prov hdg** amd 2005 No. 51 s 3 sch**s 20O** ins 2003 No. 28 s 4
amd 2005 No. 51 s 3 sch**Division 2—Other exemptions****div hdg** ins 2003 No. 28 s 4**Exemption for connection of generating plant not supplying electricity to transmission grid or supply network****s 20P** ins 2003 No. 28 s 4**Exemptions for Queensland Rail****s 20Q** ins 2003 No. 28 s 4
amd 2008 No. 33 s 50

Regulation may exempt person or thing from Act

s 20R ins 2003 No. 28 s 4

CHAPTER 2—THE ELECTRICITY INDUSTRY**Electricity industry**

s 21 amd 1997 No. 26 s 7

Electricity entities

s 22 amd 1997 No. 26 s 8

PART 2—CUSTOMERS

pt hdg amd 2006 No. 60 s 3 sch

Customers and their types

prov hdg sub 1997 No. 26 s 9(1); 2006 No. 60 s 5
 s 23 amd 1997 No. 26 s 9(2); 2002 No. 56 s 6
 sub 2006 No. 60 s 5 (amd 2007 No. 17 s 38)
 amd 2008 No. 33 s 51

Regulations concerning contestability declaration

s 23A ins 1997 No. 77 s 6
 om 2006 No. 60 s 5

Generation authorities

s 26 amd 1997 No. 50 s 6; 1997 No. 77 s 7; 2005 No. 51 s 3 sch

Conditions of generation authority

s 27 amd 1997 No. 50 s 7; 1997 No. 77 s 8; 2004 No. 51 s 3 sch; 2005 No. 51 s 3 sch; 2006 No. 60 s 6

Additional condition to comply with protocols, standards and codes

s 28 amd 2004 No. 51 s 3 sch

Conditions of transmission authority

s 31 amd 1997 No. 50 s 8; 1997 No. 77 s 9; 2004 No. 53 s 2 sch; 2005 No. 51 s 3 sch; 2006 No. 60 s 7

Additional condition to allow connection to grid by complying persons

s 32 amd 1997 No. 77 s 10

Additional condition not to buy and sell electricity

s 33 sub 1997 No. 77 s 11
 (2)(c) exp 23 May 1998 (see s 33(3))
 amd 2003 No. 28 s 5; 2005 No. 51 s 3 sch

Additional condition to provide network services

s 35 sub 1997 No. 77 s 12

Additional condition to comply with protocols, standards and codes

s 36 amd 2004 No. 51 s 3 sch

Responsibility for regional system control

s 36A ins 1997 No. 77 s 13; 2005 No. 51 s 3 sch

PART 5—DISTRIBUTION ENTITIES AND THEIR AUTHORITIES

pt hdg amd 1997 No. 26 s 10

Division 1—Preliminary**div hdg** ins 2006 No. 60 s 3 sch**Distribution entities****s 37** sub 1997 No. 26 s 11**Distribution authorities****s 38** sub 1997 No. 26 s 12**Distribution area of distribution entity****s 39** sub 1997 No. 26 s 13**Division 2—Applying for and obtaining customer connection services****div hdg** ins 2006 No. 60 s 8**Applying for customer connection services****s 40** sub 1997 No. 26 14; 1997 No. 77 s 14
amd 2004 No. 51 s 4
sub 2006 No. 60 s 8**Supply if no customer connection contract****s 40AA** ins 1997 No. 26 s 14
sub 1997 No. 77 s 14
amd 2004 No. 51 s 5
om 2006 No. 60 s 8**When distribution entity must provide the services****s 40A** ins 1997 No. 26 s 14
amd 1997 No. 77 s 15
sub 2004 No. 51 s 6
sub 2006 No. 60 s 8**Information notice for refusal of services****s 40B** ins 1997 No. 26 s 14
sub 1997 No. 77 s 16
om 2004 No. 51 s 6
sub 2006 No. 60 s 8**Amendment of standard customer connection contract****s 40BA** ins 1997 No. 77 s 16
om 2004 No. 51 s 6**Things to which connection obligation is subject****s 40C** ins 1997 No. 26 s 14
sub 2006 No. 60 s 8**When connection obligation does not apply****prov hdg** amd 2000 No. 39 s 3
s 40D ins 1997 No. 26 s 14
amd 1997 No. 77 s 17
sub 2006 No. 60 s 8**Division 3—Connection contracts****div hdg** ins 2006 No. 60 s 8

Subdivision 1—Preliminary**sdiv hdg** ins 2006 No. 60 s 8**Distribution contract types****s 40DA** ins 2006 No. 60 s 8**Subdivision 2—Standard connection contracts****sdiv hdg** ins 2006 No. 60 s 8**Supply if no negotiated connection contract****s 40DB** ins 2006 No. 60 s 8**Subdivision 3—Negotiated connection contracts****sdiv hdg** ins 2006 No. 60 s 8**Negotiation of connection contract****s 40DC** ins 2006 No. 60 s 8**General limit on what may be negotiated****s 40DD** ins 2006 No. 60 s 8**Provisions for small customers****s 40DE** ins 2006 No. 60 s 8**Provisions for large customers****s 40DF** ins 2006 No. 60 s 8**Division 4—General provisions about customer connection services****div hdg** ins 2006 No. 60 s 8**Limitation on connection obligation****prov hdg** sub 2006 No. 60 s 9(1)**s 40E** ins 1997 No. 26 s 14

amd 1997 No. 77 s 18; 2002 No. 42 s 242 sch 1; 2006 No. 60 s 9

Obligation to connect and supply subject to authority**s 40F** ins 1997 No. 26 s 14

om 2006 No. 60 s 10

Disconnection for failure to pay debts**s 40G** ins 1997 No. 26 s 14

amd 2004 No. 51 s 7

om 2006 No. 60 s 10

Contracting out of s 40E, 40G(a) or (b) or 97**prov hdg** amd 1997 No. 77 s 19(1); 2004 No. 51 s 3 sch**s 40H** ins 1997 No. 26 s 14

amd 1997 No. 77 s 19(2); 2004 No. 51 s 3 sch

Connection and supply of electricity outside distribution area**s 41** sub 1997 No. 26 s 15

amd 2006 No. 60 s 11

Division 5—Conditions of distribution authorities**div hdg** ins 2006 No. 60 s 3 sch

Conditions of distribution authority

- prov hdg** sub 1997 No. 26 s 16(1)
s 42 amd 1997 No. 26 s 16(2)–(4); 1997 No. 50 s 9; 1997 No. 77 s 20; 2004 No. 53 s 2 sch; 2005 No. 51 s 3 sch; 2006 No. 60 s 12

Additional condition to allow connection to supply network by complying persons

- s 43** amd 1997 No. 26 s 17; 1997 No. 77 s 21

Additional condition to provide network services

- s 44** amd 1997 No. 26 s 18; 1997 No. 77 s 22

Additional condition to allow credit for electricity produced by photovoltaic generators

- s 44A** ins 2008 No. 33 s 52
exp 1 July 2028 (see s 44A(3))

Additional condition to comply with protocols, standards and codes

- s 45** amd 1997 No. 26 s 19; 2004 No. 51 s 3 sch

Responsibility for network control

- s 45A** ins 1997 No. 77 s 23; 2005 No. 51 s 3 sch

PART 6—RETAIL ENTITIES AND THEIR AUTHORITIES

- pt hdg** sub 1997 No. 26 s 20

Retail entities

- s 46** sub 1997 No. 26 s 20

Retail authorities

- s 47** sub 1997 No. 26 s 20; 1997 No. 77 s 24

Retail area of retail entity

- s 48** sub 1997 No. 26 s 20; 1997 No. 77 s 24
 amd 2006 No. 42 s 67
 sub 2006 No. 60 s 13

What a retail authority authorises

- s 48A** ins 1997 No. 77 s 24
 sub 2006 No. 60 s 13 (amd 2007 No. 17 s 39(1)–(3))

Restriction on providing customer retail service to excluded customer's premises

- s 48B** ins 1997 No. 77 s 24
 sub 2006 No. 60 s 13 (amd 2007 No. 17 s 39(4)–(5))

Division 2—Applying for and obtaining customer retail services

- div hdg** ins 2006 No. 60 s 13

Application

- s 48C** ins 2006 No. 60 s 13 (amd 2007 No. 17 s 39(6))

When area retail entity must provide the services to an applicant

- s 48D** ins 2006 No. 60 s 13 (amd 2007 No. 17 s 39(7)–(10))

When non-area retail entity must provide the services to an applicant

- s 48E** ins 2006 No. 60 s 13 (amd 2007 No. 17 s 39(11)–(12))

Retail obligation

s 48F ins 2006 No. 60 s 13

Information notice for refusal of services to small customer

s 48G ins 2006 No. 60 s 13

Things to which retail obligation is subject

s 48H ins 2006 No. 60 s 13

When retail obligation does not apply

s 48I ins 2006 No. 60 s 13

Division 3—Retail contracts

div hdg ins 2006 No. 60 s 13

Subdivision 1—Preliminary

sdiv hdg ins 2006 No. 60 s 13

Retail contract types

s 49 sub 1997 No. 26 s 20; 1997 No. 77 s 24
amd 2004 No. 51 s 8
sub 2006 No. 60 s 13

Subdivision 2—Retail contract if no negotiated retail contract

sdiv hdg ins 2006 No. 60 s 13

Sale if no customer sale contract

s 49A ins 1997 No. 77 s 24
amd 2004 No. 51 s 9
om 2006 No. 60 s 13

Application of sdiv 2

s 50 sub 1997 No. 26 s 20
amd 1997 No. 77 s 25
sub 2004 No. 51 s 10; 2006 No. 60 s 13 (amd 2007 No. 17 s 39(13))

Retail contract with financially responsible retail entity

s 51 sub 1997 No. 26 s 20; 1997 No. 77 s 26
om 2004 No. 51 s 10
sub 2006 No. 60 s 13

Amendment of standard customer sale contract

s 51A ins 1997 No. 77 s 26
om 2004 No. 51 s 11

Charging GST for standard customer sale contracts

s 51AA ins 2000 No. 20 s 29 sch 3
amd 2004 No. 51 s 3 sch
om 2006 No. 60 s 13

Terms of contract

s 52 sub 1997 No. 26 s 20; 1997 No. 77 s 27; 2006 No. 60 s 13

Regulation may allow contract outside standard form

s 52A ins 1997 No. 77 s 27
om 2006 No. 60 s 13

Making or amending terms of standard large customer retail contract

- s 53** sub 1997 No. 26 s 20; 2002 No. 42 s 242 sch 1
 amd 2004 No. 51 s 3 sch
 sub 2006 No. 60 s 13

Required and permitted terms of standard large customer retail contract

- s 54** sub 1997 No. 26 s 20
 amd 2004 No. 51 s 3 sch
 sub 2006 No. 60 s 13 (amd 2007 No. 17 s 39(14))

Charging for GST under standard contract

- s 55** sub 1997 No. 26 s 20
 amd 2004 No. 51 s 3 sch
 sub 2006 No. 60 s 13

Subdivision 3—Negotiated retail contracts

- sdiv hdg** ins 2006 No. 60 s 13

Negotiation of retail contract

- prov hdg** amd 1997 No. 77 s 28(1)
s 55A ins 1997 No. 26 s 20
 amd 1997 No. 77 s 28(2)–(4)
 sub 2006 No. 60 s 13

General limit on what may be negotiated

- prov hdg** amd 1997 No. 77 s 29(1)
s 55B ins 1997 No. 26 s 20
 amd 1997 No. 77 s 29(2); 2004 No. 51 s 12
 sub 2006 No. 60 s 13

Provisions for small customers

- s 55C** ins 1997 No. 26 s 20
 sub 2004 No. 51 s 13; 2006 No. 60 s 13

Division 4—Conditions of retail authorities

- div hdg** ins 2006 No. 60 s 13

Conditions of retail authority

- s 55D** ins 1997 No. 26 s 20
 amd 1997 No. 50 s 10; 1997 No. 77 s 30; 2005 No. 51 s 3 sch; 2006 No. 60 s
 14

Additional condition about community services agreement

- s 55DA** ins 2006 No. 60 s 15

Additional condition about electricity produced by small photovoltaic generators

- s 55DB** ins 2008 No. 33 s 53
exp 1 July 2028 (see s 55DB(3))

Additional condition to comply with protocols, standards and codes

- s 55E** ins 1997 No. 26 s 20
 amd 2004 No. 51 s 3 sch

Additional condition to comply with Ambulance Cover Act

- s 55F** ins 2003 No. 34 s 168

Restriction on Ergon Energy and its subsidiaries

s 55G ins 2006 No. 60 s 16 (amd 2007 No. 17 s 40)
amd 2008 No. 33 s 54

PART 6A—COORDINATION AGREEMENTS BETWEEN DISTRIBUTION AND RETAIL ENTITIES

pt hdg ins 2006 No. 60 s 16

Negotiation of coordination agreement

s 55H ins 2006 No. 60 s 16

Standard coordination agreement

s 55I ins 2006 No. 60 s 16

Purpose of special approvals

s 56 amd 1997 No. 26 s 21

Special approvals

s 58 amd 1997 No. 26 s 22

Authorisation given by special approval

s 59 amd 1997 No. 26 s 23

Conditions of special approval

s 60 amd 1997 No. 50 s 11; 1997 No. 77 s 31; 2004 No. 51 s 3 sch; 2005 No. 51 s 3 sch; 2006 No. 60 s 17

Additional condition to comply with protocols, standards and codes

s 61 amd 2004 No. 51 s 3 sch

Additional condition to comply with Ambulance Cover Act

s 61A ins 2003 No. 34 s 169

Additional condition for electricity produced by photovoltaic generators

s 61B ins 2008 No. 33 s 55

PART 8—REGULATOR**Division 1—General provisions about regulator**

div hdg ins 2001 No. 82 s 4
om 2006 No. 60 s 3 sch

Functions

s 63 amd 1997 No. 77 s 32(2); 2000 No. 39 s 4; 2001 No. 82 s 3 sch; 2002 No. 42 s 242 sch 1; 2004 No. 51 s 14; 2006 No. 60 s 18

Delegation

s 64 amd 2002 No. 42 s 242 sch 1

Division 2—Funding for dispute resolution and complaint investigation functions

div hdg ins 2001 No. 82 s 5
om 2006 No. 60 s 19

Annual levy

s 64A ins 2001 No. 82 s 5
amd 2002 No. 42 s 242 sch 1; 2004 No. 50 s 4
om 2006 No. 60 s 19

Funding for dispute resolution and complaint investigation functions

s 64AA ins 2000 No. 39 s 5
om 2001 No. 82 s 5

Membership fee

s 64B ins 2001 No. 82 s 5
om 2006 No. 60 s 19

Contribution fee

s 64C ins 2001 No. 82 s 5
amd 2006 No. 42 s 68
om 2006 No. 60 s 19

User-pays fee

s 64D ins 2001 No. 82 s 5
om 2006 No. 60 s 19

Notice of contribution and user-pays fees and when they must be paid

s 64E ins 2001 No. 82 s 5
om 2006 No. 60 s 19

Recovery of unpaid amounts

s 64F ins 2001 No. 82 s 5
om 2006 No. 60 s 19

Division 3—Industry codes

div 3 (ss 64FA–64FE) ins 2004 No. 51 s 15
om 2006 No. 60 s 19

PART 8A—ENERGY MEDIATORS

pt hdg ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Division 1—Appointment

div hdg ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Appointment of energy mediators

s 64G ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Duration of appointment

s 64H ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Remuneration

s 64I ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Resignation

s 64J ins 2001 No. 82 s 6

Termination of appointment

s 64K ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Division 2—Functions and powers

div hdg ins 2001 No. 82 s 6
om 2006 No. 60 s 19

Function

s 64L ins 2001 No. 82 s 6
amd 2003 No. 29 s 344
om 2006 No. 60 s 19

Powers

s 64M ins 2001 No. 82 s 6
om 2006 No. 60 s 19

PART 8B—ENERGY ARBITRATORS

pt hdg ins 2000 No. 39 s 6
om 2006 No. 60 s 19

Division 1—Appointment

div hdg ins 2000 No. 39 s 6
om 2006 No. 60 s 19

Appointment of panel of energy arbitrators

s 64N (prev s 64S) ins 2000 No. 39 s 6
amd 2001 No. 82 s 7
renum 2001 No. 82 s 3 sch
amd 2002 No. 56 s 8
om 2006 No. 60 s 19

Duration of appointment

s 64O (prev s 64T) ins 2000 No. 39 s 6
amd 2001 No. 82 s 3 sch
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 19

Remuneration

s 64P (prev s 64U) ins 2000 No. 39 s 6
amd 2001 No. 82 s 8
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 19

Resignation

s 64Q (prev s 64V) ins 2000 No. 39 s 6
amd 2001 No. 82 s 9
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 19

Termination of appointment

s 64R (prev s 64W) ins 2000 No. 39 s 6
amd 2001 No. 82 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 19

Division 2—Functions and powers

div hdg ins 2000 No. 39 s 6
om 2006 No. 60 s 19

Function

prov hdg amd 2003 No. 29 s 345(1)
s 64S (prev s 64X) ins 2000 No. 39 s 6
amd 2001 No. 82 s 3 sch
renum 2001 No. 82 s 3 sch
amd 2003 No. 29 s 345(2)
om 2006 No. 60 s 19

Powers

s 64T (prev s 64Y) ins 2000 No. 39 s 6
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 19

Limitation of electricity officer's powers

s 66 amd 1997 No. 26 s 24

Electricity officer's identity card

s 69 amd 2000 No. 39 s 7

PART 10—AUTHORISED PERSONS

pt hdg om 2002 No. 42 s 242 sch 1

Appointment

s 71 om 2002 No. 42 s 242 sch 1

Limitation of authorised person's powers

s 72 om 2002 No. 42 s 242 sch 1

Authorised person's appointment conditions

s 73 om 2002 No. 42 s 242 sch 1

Authorised person's identity card

s 74 amd 2000 No. 39 s 8
om 2002 No. 42 s 242 sch 1

Production or display of authorised person's identity card

s 75 om 2002 No. 42 s 242 sch 1

PART 11—STATE ELECTRICITY ENTITIES

pt 11 (ss 76–80) om 1997 No. 26 s 25

PART 12—ELECTRICAL WORKERS AND CONTRACTORS BOARD

pt hdg om 2002 No. 42 s 242 sch 1

Electrical workers and contractors board

s 81 om 2002 No. 42 s 242 sch 1

Electrical Workers and Contractors Board is statutory body

s 81A ins 1996 No. 54 s 9 sch
om 2002 No. 42 s 242 sch 1

CHAPTER 3—OBLIGATION TO SUPPLY

ch 3 (ss 82–86) om 1997 No. 26 s 26

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

s 87 amd 1997 No. 50 s 12; 2005 No. 51 s 3 sch

Prohibition on operating transmission grid unless authorised

s 88 amd 1997 No. 50 s 13; 2005 No. 51 s 3 sch

Prohibition on operating supply network unless authorised

s 88A ins 1997 No. 26 s 27
amd 1997 No. 50 s 14; 2005 No. 51 s 3 sch

Restriction on sale of electricity

s 89 sub 1997 No. 26 s 28
amd 1997 No. 50 s 15; 2005 No. 51 s 3 sch

PART 2—PRICING

pt hdg sub 1997 No. 50 s 16; 1997 No. 77 s 34
amd 2004 No. 51 s 16

Division 1—Provisions for Mount Isa–Cloncurry supply network

div hdg prev div 1 hdg ins 1997 No. 50 s 17
om 1997 No. 77 s 34
pres div 1 hdg ins 2006 No. 60 s 20

Minister may decide distribution service pricing for Mount Isa–Cloncurry supply network

s 89A ins 2001 No. 47 s 3
amd 2004 No. 51 s 3 sch; 2006 No. 60 s 3 sch

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

prov hdg amd 2006 No. 60 s 3 sch
s 89B ins 2001 No. 47 s 3
amd 2005 No. 51 s 3 sch; 2006 No. 60 s 3 sch

Division 2—General provisions for notified prices

div hdg prev div 2 hdg ins 1997 No. 50 s 17
om 1997 No. 77 s 34
pres div 2 hdg ins 2006 No. 60 s 21

Deciding prices for non-market customers

prov hdg sub 2003 No. 28 s 6(1); 2006 No. 60 s 22(2)
s 90 sub 1997 No. 50 s 17; 1997 No. 77 s 34
amd 2000 No. 20 s 29 sch 3; 2003 No. 28 s 6(2)–(4); 2004 No. 51 s 17; 2006
No. 60 s 22 (amd 2007 No. 17 s 41)

Obtaining relevant information for deciding prices or methodology for fixing prices

s 90A ins 2003 No. 28 s 7

Retail entities charging for GST

s 91 sub 1997 No. 50 s 17; 1997 No. 77 s 34; 2000 No. 20 s 29 sch 3
amd 2006 No. 60 s 23

Retail entity must comply with notification or direction

s 91A ins 2000 No. 20 s 29 sch 3
amd 2006 No. 60 s 24

Division 3—Annual indexation

div hdg ins 2006 No. 60 s 25

Subdivision 1—Preliminary

sdiv hdg ins 2006 No. 60 s 25

Operation and application of div 3

s 91B ins 2006 No. 60 s 25 (amd 2007 No. 17 s 42)

Definitions for div 3

s 91C ins 2006 No. 60 s 25
def “fixed principle” ins 2008 No. 33 s 56

Subdivision 2—Indexation formula for relevant tariff year

sdiv hdg ins 2006 No. 60 s 25

Indexation formula

s 91D ins 2006 No. 60 s 25

Subdivision 3—Benchmark retail cost index for relevant tariff year

sdiv hdg ins 2006 No. 60 s 25

Benchmark retail cost index

s 91E ins 2006 No. 60 s 25

Working out NEM load

s 91F ins 2006 No. 60 s 25
amd 2008 No. 33 s 125 sch 1

Total benchmark retail cost

s 91G ins 2006 No. 60 s 25
amd 2008 No. 33 s 57

Cost of energy

s 92 prev s 92 amd 1997 No. 26 s 29
sub 1997 No. 50 s 17; 1997 No. 77 s 34
amd 2000 No. 20 s 29 sch 3
om 2004 No. 51 s 18
pres s 92 ins 2006 No. 60 s 25
amd 2008 No. 33 s 58

Responsibility for network control

s 92A ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Queensland System Operator may give directions

s 92B ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Code participant or other persons must comply with direction

s 92C ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Action that may be taken for failure to comply with direction or for a breach of the Market Code

s 92D ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Limitation of liability of Queensland System Operator

s 92E ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Approval of Queensland Interim Market Code

s 92F ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Amendment of Market Code

s 92G ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Market Code to be open for inspection

s 92H ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Registration with Queensland System Operator

s 92I ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Queensland System Operator to operate market

s 92J ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Proceedings in relation to the Market Code

s 92K ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Recovery of amounts payable under the Market Code

s 92L ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Limitation of liability of other persons

s 92M ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Regulation making power about market and system arrangements

s 92N ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Division 3—Pricing

div hdg ins 1997 No. 50 s 17
om 1997 No. 77 s 34

Network costs

s 93 prev s 93 amd 1997 No. 50 s 18
om 1997 No. 77 s 34
pres s 93 ins 2006 No. 60 s 25

Retail costs

s 94 prev s 94 om 1997 No. 77 s 34
pres s 94 ins 2006 No. 60 s 25

Subdivision 4—Miscellaneous provisions

sdiv hdg ins 2006 No. 60 s 25

Fixing of future principles

prov hdg amd 2008 No. 33 s 59(1)
s 95 prev s 95 om 1997 No. 77 s 34
pres s 95 ins 2006 No. 60 s 25
amd 2008 No. 33 s 59(2)–(3)

Gazettal of indexed prices

s 96 prev s 96 sub 1997 No. 77 s 35
exp 23 May 1998 (see s 96(3))
pres s 96 ins 2006 No. 60 s 25

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

prov hdg amd 2005 No. 51 s 3 sch
s 97 sub 1997 No. 26 s 30; 1997 No. 77 s 35; 2005 No. 51 s 3 sch

Limitation of liability for National Electricity (Queensland) Law

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

Financially responsible retail entity may recover amount for electricity consumed by person occupying premises

prov hdg sub 2006 No. 60 s 26(1)

s 118 sub 1997 No. 26 s 32
amd 2006 No. 60 s 26(2)–(3)

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
om 2006 No. 60 s 27

Exclusion of disputes relating to community ambulance cover levy

s 119A ins 2003 No. 34 s 170
om 2006 No. 60 s 27

Regulator's powers concerning audit of compliance with Act etc.

s 120AA ins 2004 No. 51 s 20
amd 2006 No. 60 s 28

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
amd 2006 No. 60 s 29

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—INDUSTRY CODES

pt hdg ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Division 1—Preliminary

div hdg ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Definition for pt 1A

s 120A ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Division 2—Initial industry codes

div hdg ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Making of initial industry codes by Minister

s 120B ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Specific matters for which code may provide

s 120C ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Gazettal and taking of effect of code

s 120D ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Tabling of code

s 120E ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Division 3—QCA industry codes

div hdg ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

QCA may make industry code

s 120F ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

QCA code objective

s 120G ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

QCA must advise Minister

s 120GA ins 1997 No. 77 s 39
om 2006 No. 60 s 30

Tabling of conduct rules in Legislative Assembly

s 120GB ins 1997 No. 77 s 39
om 2006 No. 60 s 30

Required consultation

s 120H ins 1997 No. 77 s 39
sub 2006 No. 60 s 30 (amd 2007 No. 17 s 43(1))

Ministerial approval

s 120I ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

When approved QCA industry code takes effect

s 120J ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Tabling of QCA industry code

s 120K ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Division 4—Review of industry codes and related matters

div hdg ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Direction by Minister to review

s 120L ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Terms of reference

s 120M ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Notice of review or amended term of reference or direction

s 120N ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

QCA must advise Minister

s 120NA ins 1997 No. 77 s 39
om 2006 No. 60 s 30

Tabling of amendment of conduct rules in Legislative Assembly

s 120NB ins 1997 No. 77 s 39
om 2006 No. 60 s 30

Conduct of review

s 120O ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Division 5—Amending Industry codes

div hdg ins 2006 No. 60 s 30

Application of div 5

s 120P ins 1997 No. 77 s 39
sub 2006 No. 60 s 30 (amd 2007 No. 17 s 43(2))

Required consultation for amendment

s 120PA ins 2006 No. 60 s 30 (amd 2007 No. 17 s 43(2))

Application of div 3 other than its consultation provision

s 120PB ins 2006 No. 60 s 30 (amd 2007 No. 17 s 43(2))

Division 6—Enforcing industry codes

div hdg ins 2006 No. 60 s 30

Subdivision 1—Code contravention notices

sdiv hdg ins 2006 No. 60 s 30

Application of sdiv 1

s 120Q ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Criteria for deciding material contravention

s 120R ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Warning notice may be given

s 120S ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Requirements for warning notice

s 120T ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Considering submissions on warning notice

s 120U ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Giving of code contravention notice

s 120V ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Duration of code contravention notice

s 120W ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Subdivision 2—Proceedings

sdiv hdg ins 2006 No. 60 s 30

Proceeding for civil penalty order

s 120X ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

How order enforced

s 120Y ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Injunctions

s 120Z ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Conduct by directors, servants or agents

s 120ZA ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

Subdivision 3—Referrals to regulator

sdiv hdg ins 2006 No. 60 s 30

When QCA must refer material contravention

s 120ZB ins 1997 No. 77 s 39
sub 2006 No. 60 s 30

When QCA may refer material contravention

s 120ZC ins 1997 No. 77 s 39
amd 2000 No. 20 s 29 sch 3; 2004 No. 51 s 21
sub 2006 No. 60 s 30

Disclosure of information

s 120ZCA ins 2004 No. 51 s 22
amd 2005 No. 51 s 3 sch
om 2006 No. 60 s 30

PART 1B—DISPUTES REFERRED TO ENERGY MEDIATOR

pt hdg ins 2001 No. 82 s 12
om 2006 No. 60 s 30

Guidelines for exercise of QCA powers for civil penalties

s 120ZD ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Subdivision 4—Production of documents or information

sdiv hdg ins 2006 No. 60 s 30

Notice to produce documents or information

s 120ZE ins 2001 No. 82 s 12
amd 2004 No. 50 s 9
sub 2006 No. 60 s 30

Disclosure of information to regulator

s 120ZF ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Protection of confidential information given for investigation

s 120ZG ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Subdivision 5—Audits

sdiv hdg ins 2006 No. 60 s 30

QCA's powers concerning audit of compliance with industry code

s 120ZH ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Responsibility for cost of audit

s 120ZI ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Independent auditor may require reasonable help or information

s 120ZJ ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Audit report and submissions on report

s 120ZK ins 2001 No. 82 s 12
sub 2006 No. 60 s 30

Division 7—Miscellaneous provisions

div hdg ins 2006 No. 60 s 30 (amd 2007 No. 29 s 11)

Relationship with Fair Trading Act 1989

s 120ZL ins 2001 No. 82 s 12
sub 2006 No. 60 s 30 (amd 2007 No. 29 s 11)

Compliance with particular requirements under Fair Trading Act 1989, s 61 for door-to-door contracts

s 120ZM ins 2001 No. 82 s 12
sub 2006 No. 60 s 30 (amd 2007 No. 29 s 11)
amd 2008 No. 33 s 60

When mediation ends

s 120ZN ins 2001 No. 82 s 12
om 2006 No. 60 s 30

Energy mediator's report to regulator

s 120ZO ins 2001 No. 82 s 12
om 2006 No. 60 s 30

PART 1C—DISPUTES REFERRED TO ENERGY ARBITRATOR

pt hdg ins 2000 No. 39 s 10
om 2006 No. 60 s 30

Division 1—Preliminary

div hdg ins 2000 No. 39 s 10
om 2006 No. 60 s 30

Application of pt 1C

s 120ZP (prev s 120ZY) ins 2000 No. 39 s 10
sub as s 120ZP 2001 No. 82 s 13
om 2006 No. 60 s 30

Excluded Commercial Arbitration Act 1990

s 120ZQ (prev s 120ZZ) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Exclusion of other jurisdictions

s 120ZR (prev s 120ZZA) ins 2000 No. 39 s 10
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Division 2—Referring and arbitrating disputes

div hdg ins 2000 No. 39 s 10
 om 2006 No. 60 s 30

Giving notice of referral to parties to dispute

s 120ZS (prev s 120ZZC) ins 2000 No. 39 s 10
 renum 2001 No. 82 s 3 sch
 amd 2004 No. 50 s 10
 om 2006 No. 60 s 30

Disclosure of interests

s 120ZT (prev s 120ZZD) ins 2000 No. 39 s 10
 amd 2001 No. 82 s 15
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Presentation of cases

s 120ZU (prev s 120ZZE) ins 2000 No. 39 s 10
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Conduct of arbitration

s 120ZV (prev s 120ZZF) ins 2000 No. 39 s 10
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Ordinary protection and immunity allowed

s 120ZW (prev s 120ZZFA) ins 2001 No. 82 s 16
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Power to require information from party to dispute

prov hdg amd 2005 No. 51 s 3 sch
s 120ZX (prev s 120ZZG) ins 2000 No. 39 s 10
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

Division 3—Orders and enforcement

div hdg ins 2000 No. 39 s 10
 om 2006 No. 60 s 30

Orders that can be made

s 120ZY (prev s 120ZZH) ins 2000 No. 39 s 10
 amd 2001 No. 82 s 17
 renum 2001 No. 82 s 3 sch
 om 2006 No. 60 s 30

No costs

s 120ZZ (prev s 120ZZI) ins 2000 No. 39 s 10

renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Copy of order to be given to parties

s 120ZZA (prev s 120ZZJ) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Order final

s 120ZZB orig 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)
prev s 120ZZB (prev s 120ZZK) ins 2000 No. 39 s 10
amd 2001 No. 82 s 3 sch
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Party, other than electricity entity, to advise whether order accepted

s 120ZZC (prev s 120ZZL) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
amd 2004 No. 50 s 11
om 2006 No. 60 s 30

When order takes effect

s 120ZZD (prev s 120ZZM) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Failure to comply with order

s 120ZZE (prev s 120ZZN) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

How order enforced

s 120ZZF (prev s 120ZZO) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

Energy arbitrator's report to regulator

s 120ZZG (prev s 120ZZP) ins 2000 No. 39 s 10
renum 2001 No. 82 s 3 sch
om 2006 No. 60 s 30

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
amd 2006 No. 60 s 31

Grounds for disciplinary action

s 132 amd 1997 No. 26 s 34; 2002 No. 42 s 242 sch 1; 2008 No. 33 s 61

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; 2006 No. 60 s 32; 2008 No. 33 s 125 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—QUEENSLAND GAS SCHEME

ch hdg ins 2004 No. 50 s 12
amd 2008 No. 33 s 62
exp 31 December 2020 (see s 135JW)
AIA s 20A applies to ch 5A (ss 135A–135JX) (see s 135JX)

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
amd 2008 No. 33 s 125 sch 1
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 135AH ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

What is an electricity load and the electricity load of the State

prov hdg amd 2006 No. 60 s 3 sch
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
 def “**13% liability**” om 2008 No. 33 s 63(1)
 def “**annual GEC liability**” ins 2008 No. 33 s 63(2)
 def “**information notice**” om 2006 No. 60 s 3 sch
 def “**liable year**” amd 2008 No. 33 s 63(3)
 def “**penalty imposition day**” amd 2008 No. 33 s 63(3)
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 hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Operation of div 3

s 135AU ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to give information when GEC created

s 135AV ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to keep documents used for GEC creation

s 135AW ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Compliance with directions by regulator

s 135AX ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Condition not to improperly create GECs

s 135AY ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Notice to regulator of particular matters

s 135AZ ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Periodic GEC reviews

s 135B ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to take action because of improper creation of GECs or GEC review

s 135BA ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Obligation to keep GEC review documents

s 135BB ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Access to power station

s 135BC ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to provide information for annual loss factor

s 135BD ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Annual fee and return

s 135BE ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to keep documents used to make annual return

s 135BF ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Conditions imposed under a regulation

s 135BG ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Amounts payable under chapter or accreditation

s 135BH ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Accreditation conditions must not be contravened

s 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 hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 1—Preliminary

sdiv 1 (s 135CA) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 2—Power stations with nameplate capacity of more than 500kW

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Application of sdiv 2

s 135CB ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

General method

s 135CC ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Alternate methods for direct supply arrangement

s 135CD ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Adjustment for general method if a direct method used

s 135CE ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Directions for working out eligible gas-fired electricity

s 135CF ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 3—Power stations with nameplate capacity of 500kW or less

sdiv 3 (ss 135CG–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 hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Annual QUFs

s 135CM ins 2004 No. 50 s 12

amd 2008 No. 33 s 64
exp 31 December 2020 (see s 135JW)

Baseline QUFs

s 135CN ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Transmission zones

s 135CO ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Power stations connected to national grid within same transmission zone

s 135CP ins 2004 No. 50 s 12
amd 2008 No. 33 s 65
exp 31 December 2020 (see s 135JW)

QUFs may be differential as to time

s 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 hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 1—Introduction

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

What is a power station's baseline for a baseline customer

s 135CV ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Purpose of baseline

s 135CW ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 2—Baseline for existing baseline customers

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Application of sdiv 2

s 135CX ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

General method for working out baseline

s 135CY ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Alternate method for direct supply arrangement

s 135CZ ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Information notice about decision

s 135D ins 2004 No. 50 s 12
 amd 2008 No. 33 s 66
exp 31 December 2020 (see s 135JW)

Subdivision 3—Baseline for other baseline customers

sdiv 3 (s 135DA) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 4—Changes to baseline

sdiv 4 (ss 135DB–135DD) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

PART 4—GECS

pt hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Division 1—Creation and registration of GECs

div hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Electricity required to create GEC

s 135DE ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Prohibition on creation if certificate created under corresponding law

s 135DF ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Time limitation on creation right

s 135DG ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

How a GEC is created

s 135DH ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

When GEC takes effect

s 135DI ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Deciding on validity and registration

s 135DJ ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Automatic registration

s 135DK ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Power to register GEC without prescribed fee

s 135DL ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Effect of registration

s 135DM ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Ownership of GEC on registration

s 135DN ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Division 2—Improper creation or receipt of GECs

div 2 (ss 135DO–135DR) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Division 3—Term of GECs

div 3 (ss 135DS–135DT) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Division 4—Dealings with GECs

div hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 1—Transfers

sdiv 1 (ss 135DU–135DX) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 2—Mortgages

sdiv 2 (ss 135DY–135E) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 3—Surrenders

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Surrender only by approval

s 135EA ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Who may apply for surrender

s 135EB ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Making surrender application

s 135EC ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Power to accept application without prescribed fee

s 135ED ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Deciding surrender application

s 135EE ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Division 5—Amendment, cancellation and suspension of GECs

div hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 1—Preliminary

sdiv 1 (s 135EF) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 2—Immediate suspension

sdiv 2 (s 135EG) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 3—Amendment, cancellation or suspension (other than immediate suspension)

sdiv 3 (ss 135EH–135EL) ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

PART 5—ANNUAL GEC LIABILITY

pt hdg ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Division 1—Preliminary

div hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Definition for pt 5

s 135ELA ins 2008 No. 33 s 67
exp 31 December 2020 (see s 135JW)

Simplified explanation of pt 5

s 135EM ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Division 2—The annual GEC liability

div hdg ins 2004 No. 50 s 12

amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Subdivision 1—Imposition of annual GEC liability in relation to major grids

sdiv hdg ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Application of sdiv 1

s 135EN ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Liable person

s 135EO ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Liability

s 135EP ins 2004 No. 50 s 12
 amd 2008 No. 33 s 68
exp 31 December 2020 (see s 135JW)

How and when liability must be met

s 135EQ ins 2004 No. 50 s 12
 amd 2008 No. 33 s 69
exp 31 December 2020 (see s 135JW)

Subdivision 2—Imposition of annual GEC liability in relation to small grids

sdiv hdg ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Application of sdiv 2

s 135ER ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Liable person

s 135ES ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

How and when liability must be met

s 135ET ins 2004 No. 50 s 12
 amd 2008 No. 33 s 70
exp 31 December 2020 (see s 135JW)

Subdivision 3—General provisions for annual GEC liability

sdiv hdg ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

GECs that can not be used to meet annual GEC liability

prov hdg amd 2008 No. 33 s 125 sch 1
s 135EU ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Liability not subject to condition of GEC ownership

s 135EV ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Obligation to keep documents relating to annual GEC liability

prov hdg amd 2008 No. 33 s 125 sch 1
s 135EW ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Division 3—Civil penalty for not meeting annual GEC liability

div hdg ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Application of div 3

s 135EX ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Imposition of civil penalty for not meeting annual GEC liability

prov hdg amd 2008 No. 33 s 125 sch 1
s 135EY ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Exemption to allow for meter data revisions or adjustments

s 135EZ ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Amount of civil penalty

s 135F ins 2004 No. 50 s 12
 amd 2008 No. 33 s 71
exp 31 December 2020 (see s 135JW)

Shortfall charge

s 135FA ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Interest on unpaid civil penalty

s 135FB ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Recovery of unpaid civil penalty and interest

s 135FC ins 2004 No. 50 s 12
 amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Division 4—Assessments

div hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 1—Self-assessment

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Self-assessment report

s 135FD ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Derivative use immunity for self-assessment report

s 135FE ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Obligation to keep documents used to make self-assessment report

s 135FF ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 2—Assessments by regulator

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Purpose of sdiv 2

s 135FG ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Default assessment

s 135FH ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Reassessment

s 135FI ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Compromise assessment

s 135FJ ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Amended assessment

s 135FK ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Assessments made on available relevant information

s 135FL ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Notice of assessment and when it takes effect

s 135FM ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Time for assessment by regulator

s 135FN ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Subdivision 3—Credits and refunds

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Credit to future annual GEC liability for over surrender

prov hdg amd 2008 No. 33 s 72(1)
s 135FO ins 2004 No. 50 s 12
amd 2008 No. 33 s 72
exp 31 December 2020 (see s 135JW)

Regulator to refund overpaid civil penalty and interest

s 135FP ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Subdivision 4—Evidentiary provisions for assessments

sdiv hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Evidentiary provisions

s 135FQ ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
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
amd 2008 No. 33 s 125 sch 1
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 hdg ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Application of sdiv 2

s 135FX ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Referral to regulator

s 135FY ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Submissions by other affected parties

s 135FZ ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Regulator's power to require documents or information

s 135G ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Regulator may require confidentiality to be observed

s 135GA ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Regulator may require mediation

s 135GB ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Criteria for decision

s 135GC ins 2004 No. 50 s 12
amd 2008 No. 33 s 125 sch 1
exp 31 December 2020 (see s 135JW)

Exclusion of other jurisdictions

s 135GD ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Notice of decision

s 135GE ins 2004 No. 50 s 12
exp 31 December 2020 (see s 135JW)

Decision binds parties to the dispute

s 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; 2006 No. 60 s 33
exp 31 December 2020 (see s 135JW)

Electricity sold under particular standard large customer retail contracts

s 135HY ins 2004 No. 50 s 12
amd 2004 No. 51 s 3 sch
sub 2006 No. 60 s 34
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 places 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 accidents 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 authoritys 179A ins 1997 No. 77 s 47
amd 2006 No. 60 s 3 sch**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 entitys 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 authoritys 188A ins 1997 No. 77 s 50
 amd 2006 No. 60 s 3 sch**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 entitys 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
amd 2006 No. 60 s 3 sch

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 authoritiess 203 sub 1997 No. 26 s 50
amd 1997 No. 77 s 57; 2006 No. 60 s 35**Application for authority**s 204 sub 1997 No. 26 s 50
amd 1997 No. 77 s 58; 2006 No. 60 s 36**Publication about application for retail authority**s 204A ins 1997 No. 77 s 59
amd 2006 No. 60 s 3 sch**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 authoritiess 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 approvals 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 apply for review etc.

s 214 amd 2006 No. 60 s 37

Applying for review

s 215 amd 2006 No. 60 s 38

Stay of operation of decision etc.

s 216 amd 2006 No. 60 s 39

Decision on reconsideration

s 218 amd 2006 No. 60 s 40

Who may make an appeal

s 219 amd 2004 No. 53 s 2 sch; 2006 No. 60 s 41

Making appeals

s 220 amd 2006 No. 60 s 42

Starting appeals

s 221 amd 2006 No. 60 s 43

Procedure of court

s 225 amd 2005 No. 51 s 3 sch

CHAPTER 11—GENERAL**PART 1A—PROVISIONS FOR CIVIL PENALTY PROCEEDINGS**

pt hdg ins 2006 No. 60 s 44

Relationship with criminal proceedings

s 226A ins 2006 No. 60 s 44 (amd 2007 No. 29 s 12)

Avoidance of multiple penalties

s 226B ins 2006 No. 60 s 44 (amd 2007 No. 29 s 12)

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 code contravention notice

s 251A ins 1997 No. 77 s 65
 sub 2006 No. 60 s 45

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; 2006 No. 60 s 46

Reporting to Minister by QCA

s 253A ins 2006 No. 60 s 47

Protection from liability

s 254 amd 2001 No. 82 s 18; 2002 No. 42 s 242 sch 1; 2006 No. 60 s 48

Protection from liability of member or employee of QCA

s 254AA ins 1997 No. 77 s 66A
 amd 2006 No. 60 s 3 sch

Meaning of particular terms for a relevant body corporate

s 254AB ins 2002 No. 56 s 8

Attachment—words defined in other legislation referred to in this Act

s 254A ins 1997 No. 50 s 33

Registers QCA must keep

s 254B ins 2006 No. 60 s 49

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 2s 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 QESIESS

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 PROVISION FOR ELECTRICITY AMENDMENT ACT 2000

pt hdg ins 2000 No. 39 s 12
 amd 2008 No. 33 s 125 sch 1

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 PROVISION FOR ELECTRICITY AMENDMENT ACT 2004

pt hdg ins 2004 No. 50 s 17
amd 2008 No. 33 s 125 sch 1

Existing electricity supply contracts

s 309 ins 2004 No. 50 s 17
amd 2006 No. 60 s 50

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 (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; 2006 No. 60 ss 52, 3 sch; 2008 No. 33 s 73

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
 amd 2008 No. 33 s 125 sch 1

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
om 2008 No. 33 s 74(1)
- 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 GEC liability**” ins 2008 No. 33 s 74(2)
- 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)
om 2008 No. 33 s 74(1)
- def “**approved industry superannuation scheme**” om 2005 No. 51 s 6(1)
- def “**area retail entity**” ins 2006 No. 60 s 53(2)
- 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 “**benchmark retail cost element**” ins 2006 No. 60 s 53(2)
- 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 “**c/kWh**” ins 2006 No. 60 s 53(2)
- def “**code contravention notice**” ins 2006 No. 60 s 53(2)
- 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 assurance**” ins 2006 No. 60 s 53(2)
 def “**conduct notice**” ins 1997 No. 77 s 83(2)
 om 2006 No. 60 s 53(1)
 def “**conduct rules**” ins 1997 No. 77 s 83(2)
 om 2006 No. 60 s 53(1)
 def “**connection contract**” ins 2006 No. 60 s 53(2)
 def “**connection obligation**” ins 2006 No. 60 s 53(2)
 def “**connection point**” ins 2006 No. 60 s 53(2)
 def “**connection services application**” ins 2006 No. 60 s 53(2)
 def “**contestable customer**” om 2006 No. 60 s 53(1)
 def “**contribution fee**” ins 2001 No. 82 s 20
 om 2006 No. 60 s 53(1)
 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); 2006 No. 60 s 53(2)
 def “**customer connection contract**” ins 1997 No. 26 s 56(2)
 sub 1997 No. 77 s 83(1)–(2)
 om 2006 No. 60 s 53(1)
 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)
 om 2006 No. 60 s 53(1)
 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
 sub 2006 No. 60 s 53(1)–(2)
 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
 om 2006 No. 60 s 53(1)
- def “**energy mediator**” ins 2001 No. 82 s 20
 om 2006 No. 60 s 53(1)
- def “**energy ombudsman**” ins 2006 No. 60 s 53(2)
- def “**Ergon Energy**” ins 2001 No. 47 s 4
- def “**excluded customer**” ins 2006 No. 60 s 53(2) (amd 2007 No. 17 s 44(1))
- def “**exempted load**” ins 2004 No. 50 s 19
- def “**financially responsible entity**” ins 2006 No. 60 s 53(2) (amd 2007 No. 17 s 44(2)–(4))
- def “**first accounting period**” ins 2003 No. 28 s 35(2)
- def “**fix**” ins 2004 No. 50 s 19
- def “**fixed principle**” ins 2006 No. 60 s 53(2)
- 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
 amd 2006 No. 60 s 53(4)
- def “**hire**” om 2002 No. 42 s 242 sch 1
- def “**industry code**” ins 2006 No. 60 s 53(2)
- def “**information notice**” ins 2004 No. 50 s 19
 sub 2006 No. 60 s 53(1)–(2)
- def “**initial industry code**” ins 2006 No. 60 s 53(2)
- def “**inspection officer**” ins 2002 No. 42 s 242 sch 1
- def “**interested person**” ins 2004 No. 50 s 19
- def “**large customer**” ins 2006 No. 60 s 53(2) (amd 2007 No. 17 s 44(5))
- def “**large market customer**” ins 2006 No. 60 s 53(2)
- def “**large non-market customer**” ins 2006 No. 60 s 53(2)
- 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
 amd 2008 No. 33 s 74(3)
- 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 “**market customer**” ins 2006 No. 60 s 53(2)
- def “**measurement method**” ins 2004 No. 50 s 19
- def “**mediated agreement**” ins 2001 No. 82 s 20
om 2006 No. 60 s 53(1)
- def “**member entity**” ins 2001 No. 82 s 20
om 2006 No. 60 s 53(1)
- def “**membership fee**” ins 2001 No. 82 s 20
om 2006 No. 60 s 53(1)
- 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 connection contract**” ins 2006 No. 60 s 53(2)
- def “**negotiated customer connection contract**” ins 1997 No. 26 s 56(2)
om 2006 No. 60 s 53(1)
- def “**negotiated customer sale contract**” ins 1997 No. 26 s 56(2)
amd 2004 No. 51 s 26(7)
om 2006 No. 60 s 53(1)
- def “**negotiated retail contract**” ins 2006 No. 60 s 53(2)
- def “**negotiated sale and connection contract**” ins 2004 No. 51 s 26(4)
om 2006 No. 60 s 53(1)
- def “**NEM load**” ins 2006 No. 60 s 53(2)
- def “**NEMMCO**” ins 1997 No. 77 s 83(2)
- def “**net GST effect**” ins 2000 No. 20 s 29 sch 3
- def “**NMI premises**” ins 2006 No. 60 s 53(2) (amd 2007 No. 17 s 44(6))
- def “**non-contestable customer**” ins 1997 No. 26 s 56(2)
om 2006 No. 60 s 53(1)
- def “**non-liable load**” ins 2004 No. 50 s 19
- def “**non-market customer**” ins 2006 No. 60 s 53(2)
- def “**notice**” ins 2004 No. 50 s 19
- def “**notified prices**” ins 2000 No. 20 s 29 sch 3
amd 2006 No. 60 s 53(5)
- 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
amd 2008 No. 33 s 74(3)
- 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 “**premises**” sub 2006 No. 60 s 53(1)–(2)
- def “**prescribed percentage**” ins 2008 No. 33 s 74(2)
- def “**prescribed renewable energy source**” ins 2004 No. 50 s 19
- def “**pricing entity**” ins 2003 No. 28 s 35(2)
 - amd 2006 No. 60 s 53(6)
- 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)
 - amd 2006 No. 60 s 3 sch
- def “**QCA Act**” ins 2006 No. 60 s 53(2)
- def “**QCA code objective**” ins 2006 No. 60 s 53(2)
- def “**QETC**” amd 2003 No. 28 s 35(3)
- def “**qualifying generator**” ins 2008 No. 33 s 74(2)
- def “**Queensland grid code**” ins 1997 No. 50 s 35
- def “**Queensland system**” ins 1997 No. 50 s 35
- def “**Queensland System Operator**” ins 1997 No. 50 s 35
 - om 2005 No. 51 s 6(1)
- def “**reasonably believes**” ins 2000 No. 39 s 13
- def “**reassessment**” ins 2004 No. 50 s 19
- 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 body corporate**” ins 2002 No. 56 s 10(1)
- def “**relevant planning scheme**” ins 1996 No. 28 s 4
 - om 2004 No. 53 s 2 sch
- def “**relevant supply period**” 2008 No. 33 s 74(2)
- def “**relevant tariff year**” ins 2006 No. 60 s 53(2)
- def “**residence**” ins 2004 No. 50 s 19
- def “**retail area**” ins 1997 No. 26 s 56(2)
 - amd 2006 No. 60 s 53(7)
- def “**retail authority**” ins 1997 No. 26 s 56(2)
- def “**retail contract**” ins 2006 No. 60 s 53(2)
- def “**retail entity**” ins 1997 No. 26 s 56(2)
- def “**retailer**” ins 2004 No. 50 s 19

- def “**retailer of last resort scheme**” ins 2006 No. 60 s 53(2)
- def “**retail obligation**” ins 2006 No. 60 s 53(2)
- def “**retail services application**” ins 2006 No. 60 s 53(2)
- def “**reviewer**” ins 2006 No. 60 s 53(2)
- 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 customer**” ins 2006 No. 60 s 53(2) (amd 2007 No. 17 s 44(7))
- def “**small grid**” ins 2004 No. 50 s 19
- def “**small photovoltaic generator**” ins 2008 No. 33 s 74(2)
- 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 connection contract**” ins 2006 No. 60 s 53(2)
- def “**standard customer connection contract**” ins 1997 No. 26 s 56(2)
sub 2004 No. 51 s 26(3)–(4)
om 2006 No. 60 s 53(1)
- def “**standard customer sale contract**” ins 1997 No. 26 s 56(2)
sub 2004 No. 51 s 26(3)–(4)
om 2006 No. 60 s 53(1)
- def “**standard large customer retail contract**” ins 2006 No. 60 s 53(2)
- def “**standard retail contract**” ins 2006 No. 60 s 53(2)
- 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 “**Statewide newspaper**” ins 2006 No. 60 s 53(2)
- 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 “**tariff**” ins 2006 No. 60 s 53(2)
- def “**tariff year**” ins 2006 No. 60 s 53(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
om 2006 No. 60 s 53(1)
- def “**valid**” ins 2004 No. 50 s 19

def “**vintage year**” ins 2004 No. 50 s 19
 def “**warning notice**” ins 2006 No. 60 s 53(2)

**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 and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

Form 5A–01 Version—1.2 Power Station Accreditation Application Form

pubd gaz 7 September 2007 p 122

Form 5A–02 Version—1.2 Application to be a Scheme Participant

pubd gaz 7 September 2007 p 122

**Form 5A–03 Version—1.2 Application for State Development Exemption for a Liable
 Electricity Load**

pubd gaz 7 September 2007 p 122

**Form 5A–04 Version—1.2 Application for Renewable Energy Exemption for a Liable
 Electricity Load**

pubd gaz 7 September 2007 p 122

**Form 5A–05 Version—1.2 Application for Power Station Auxiliary Load Exemption
 for a Liable Electricity Load**

pubd gaz 7 September 2007 p 122

Form 5A–07 Version—1.2 13% Liability Self Assessment Report

pubd gaz 7 September 2007 p 122

Form 5A–12 Version—2.0 GEC Review

pubd gaz 7 September 2007 p 122

Form 5A–13 Version—1.2 Special Conditions

pubd gaz 7 September 2007 p 122

Form 5A–14 Version—1.2 Application to amend Power Station Accreditation

pubd gaz 7 September 2007 p 122

Form 5A–15 Version—1.2 Application for Transfer of Power Station Accreditation

pubd gaz 7 September 2007 p 122

Form 5A–16 Version—1.2 Application for Surrender of Accreditation

pubd gaz 7 September 2007 p 122

**Form 5A–17 Version—1.2 Application to amend Power Station Auxiliary Load
 Exemption for a Liable Electricity Load**

pubd gaz 7 September 2007 p 122

Form 5A–18 Version—1.2 Application to amend Renewable Energy Exemption for a Liable Electricity Load

pubd gaz 7 September 2007 p 122

Form 5A–19 Version—1.2 Application to amend State Development Exemption for a Liable Electricity Load

pubd gaz 7 September 2007 p 122

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.