



Electrical Safety Act 2002

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Also see endnotes for information about—

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Queensland

Electrical Safety Act 2002

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Electrical Safety Act 2002

[as amended by all amendments that commenced on or before 23 February 2012]

An Act about electrical safety, and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Electrical Safety Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act binds all persons

This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

Division 2 Purpose of Act

4 Purpose

- (1) This Act is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.

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- (2) Accordingly, the purpose of this Act is to establish a legislative framework for—
 - (a) preventing persons from being killed or injured by electricity; and
 - (b) preventing property from being destroyed or damaged by electricity.

5 How purpose of Act is to be achieved

The purpose of this Act is to be achieved in the following ways—

- (a) imposing obligations on persons who may affect the electrical safety of others by their acts or omissions;
- (b) establishing benchmarks for industry and the community generally through—
 - (i) making regulations, ministerial notices and codes of practice about achieving electrical safety; and
 - (ii) introducing safety management systems for particular electricity entities;
- (c) providing for the safety of all persons through licensing and discipline of persons who perform electrical work;
- (d) providing for protection for consumers against failures of persons who perform electrical work to properly perform and complete the work;
- (e) providing for the appointment of a commissioner of electrical safety to advise the Minister on electrical safety matters and to manage the activities of the Electrical Safety Board and its committees;
- (f) establishing the Electrical Safety Board and its committees to—
 - (i) allow industry and the community to participate in developing strategies for improving electrical safety; and

- (ii) participate in developing requirements for the licensing and discipline of persons who perform electrical work; and
- (iii) promote community awareness about electrical safety; and
- (iv) participate in developing requirements for the electrical safety of electrical equipment.

Division 3 Application of Act

6 Application of Act to mines, petroleum plant and GHG storage plant

- (1) An excluded provision does not have application at a mine, petroleum plant or GHG storage plant.
- (2) Also, a regulation under this Act has application at a mine, petroleum plant or GHG storage plant—
 - (a) only to the extent it is made other than for the purposes of an excluded provision; and
 - (b) only to the extent the regulation provides.
- (3) In this section—

excluded provision means—

 - (a) part 2; or
 - (b) part 3; or
 - (c) part 4, to the extent it relates to electrical contractor licences.

GHG storage plant means private plant or an electrical installation that is operated under the *Greenhouse Gas Storage Act 2009* and subject to inspection under the *Petroleum and Gas (Production and Safety) Act 2004*.

mine means—

- (a) a coal mine under the *Coal Mining Safety and Health Act 1999*; or

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- (b) a mine under the *Mining and Quarrying Safety and Health Act 1999*.

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

private plant means equipment used for generating electricity, other than equipment used by an electricity entity under an authority or special approval under the Electricity Act.

7 Application of Act to railways and light rail

Provisions of this Act, other than part 2, relating to the design of electrical equipment do not apply in relation to electrical equipment forming part of an electrical installation or electricity entity works—

- (a) providing, or intended to provide, electrical traction on a railway or light rail; or
- (b) used for signalling purposes on a railway or light rail.

Division 4 Interpretation

8 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

10 Meanings of ***electrical risk***, ***electrically safe*** and ***electrical safety***

- (1) ***Electrical risk*** means—
- (a) in relation to a person, the risk to the person of death, shock or injury caused directly by electricity or originating from electricity; or
- (b) in relation to property, the risk to the property of—

- (i) damage caused by a cathodic protection system; or
 - (ii) loss or damage caused directly by electricity or originating from electricity.
- (2) ***Electrically safe*** means—
- (a) for a person or property, that the person or property is free from electrical risk; and
 - (b) for electrical equipment or an electrical installation, that all persons and property are free from electrical risk from the equipment or installation; and
 - (c) for the way electrical equipment, an electrical installation or the works of an electricity entity are operated or used, that all persons and property are free from electrical risk from the operation or use of the equipment, installation or works; and
 - (d) for the way electrical work is performed, that all persons are free from electrical risk from the performance of the work; and
 - (e) for the way a business or undertaking is conducted, that all persons are free from electrical risk from the conduct of the business or undertaking; and
 - (f) for the way electrical equipment or an electrical installation is installed or repaired, that all persons are free from electrical risk from the installing or repairing of the equipment or installation.
- (3) ***Electrical safety***, for a person or property, means the person or property is electrically safe.
- (4) In this section—
- free from electrical risk***, for a person or property, means that the electrical risk to the person or property is as low as reasonably achievable, having regard to—
- (a) likelihood of harm; and
 - (b) likely severity of harm.

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11 Meaning of *serious electrical incident*

A *serious electrical incident* is an incident involving electrical equipment if, in the incident—

- (a) a person is killed by electricity; or
- (b) a person receives a shock or injury from electricity, and is treated for the shock or injury by or under the supervision of a doctor; or
- (c) a person receives a shock or injury from electricity at high voltage, whether or not the person is treated for the shock or injury by or under the supervision of a doctor.

12 Meaning of *dangerous electrical event*

A *dangerous electrical event* is any of the following—

- (a) the coming into existence of circumstances in which a person is not electrically safe, if—
 - (i) the circumstances involve high voltage electrical equipment; and
 - (ii) despite the coming into existence of the circumstances, the person does not receive a shock or injury;
- (b) the coming into existence of both of the following circumstances—
 - (i) if a person had been at a particular place at a particular time, the person would not have been electrically safe;
 - (ii) the person would not have been electrically safe because of circumstances involving high voltage electrical equipment;
- (c) an event that involves electrical equipment and in which significant property damage is caused directly by electricity or originates from electricity;

-
- (d) the performance of electrical work by a person not authorised under an electrical work licence to perform the work;
 - (e) the performance of electrical work by a person if, as a result of the performance of the work, a person or property is not electrically safe;

Examples for paragraph (e)—

- the connection of electrical equipment to a source of supply involving incorrect polarity or other incorrect connection
 - the performance of electrical work as a result of which an exposed wire is left in circumstances in which it can be energised by the operation of a switch or circuit breaker or the insertion of a fuse
- (f) the discovery by a licensed electrical worker of electrical equipment that has not been marked as required under this Act.

13 **Meaning of *appliance***

- (1) An ***appliance*** is a device that consumes electricity at a voltage greater than extra low voltage and in which the electricity is converted into heat, motion or another form of energy or is substantially changed in its electrical character.
- (2) Although a light fitting, including its bulb or tube, is an appliance, the bulb or tube, taken alone, is not an appliance.

14 **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

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- (c) operated by electricity at an extra low voltage, if the equipment forms part of an electrical installation located in a hazardous area; or
 - (d) 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

- (3) In this section—

hazardous area has the meaning given by AS/NZS 3000 as in force from time to time.

Editor's note—

AS/NZS 3000 (Electrical installations), known as the Australian/New Zealand Wiring Rules, is a standard published jointly by Standards Australia and Standards New Zealand. It may be purchased from Standards Australia.

15 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 of an electricity entity; and
 - (c) electricity can be supplied to the group from the works of an electricity entity 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 of an electricity entity must not be taken into consideration for deciding whether items of electrical equipment are electrically connected.

Examples of an electrical installation—

- 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

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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.

16 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

17 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

18 Meaning of *electrical work*

- (1) *Electrical work* is the manufacturing, constructing, installing, testing, maintaining, repairing, altering, removing, or replacing of electrical equipment.

Examples of electrical work—

- installing low voltage electrical wiring in a building
- installing electrical equipment into an installation coupler or interconnector
- replacing a low voltage electrical component of a washing machine
- maintaining an electricity entity's overhead distribution system

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

- (a) installing or removing electrical equipment by connecting it to electricity, or disconnecting it from electricity, by a plug and socket outlet;
- (b) repairing or replacing non-electrical components of electrical equipment;

Examples for paragraph (b)—

- repairing hydraulic components attached to an electric motor
 - replacing a drive belt on a washing machine
- (c) replacing a component forming part of electrical equipment if the electrical equipment has been designed so that the component is readily and safely able to be replaced by a person without electrical knowledge or skill;

Examples for paragraph (c)—

- replacing a fuse
 - replacing the bulb in a light fitting
- (d) assembling, making, modifying or repairing electrical equipment in a workplace under the *Workplace Health and Safety Act 1995* that is prescribed under a regulation for this paragraph, if that is the principal manufacturing process at the workplace, and arrangements are in place, and are detailed in written form, for ensuring that—

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- (i) the work is done safely and competently; and
 - (ii) the equipment is tested to ensure compliance with relevant standards;
- (e) building, under the supervision of an electricity entity, an overhead electric line on structures that do not already carry an energised overhead electric line;
- (f) building or repairing ducts, conduits or troughs (*channels*) where electrical wiring will be or is installed, if—
 - (i) the channels are not intended to be earthed; and
 - (ii) wiring installed in the channels is not energised; and
 - (iii) the work is done under the supervision of a person licensed to perform electrical installation work;
- (g) laying, cutting or sealing underground cables that are part of the works of an electricity entity before the initial connection of the cables to an electricity source;
- (h) recovering underground cables that are part of the works of an electricity entity after disconnection from an electricity source;
- (i) altering, repairing, maintaining or recovering an overhead electric line that is part of the works of an electricity entity, if the work is performed under the entity's supervision and—
 - (i) if the line is not on supports supporting another electric line—the line has been isolated from an electricity source so that the closure of a switch can not energise the section of the line where work is being done; or
 - (ii) if the line is on supports supporting another electric line—both lines have been isolated from an electricity source so that the closure of a switch can not energise the section of the line where the work is being done or an adjacent section of the other line;

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- (j) erecting structures for the support of electrical equipment;
Examples of structures—
 - electric poles and towers
 - (k) locating, mounting or fixing in place electrical equipment, other than—
 - (i) making or terminating electrical connections to the equipment; or
 - (ii) installing supply conductors that will connect the equipment to a supply of electricity;
 - (l) assisting a licensed electrical worker to perform work on electrical equipment under the direct supervision of the electrical worker, if performing the work does not involve the person directly contacting live electrical equipment;
 - (m) maintaining the structural parts of the electrical traction system on a railway, other than overhead electric lines, that forms part of the works of an electrical entity, if the work is structural work performed under a safe system of work;
 - (n) work performed by a person on electrical equipment if—
 - (i) the electrical equipment is not energised; and
 - (ii) the work is prescribed under a regulation for this paragraph; and
 - (iii) it is necessary for the person to perform the work to meet the eligibility requirements for an electrical work licence.

19 Types of electrical work for this Act

- (1) *Electrical installation work* is electrical work associated with an electrical installation, but does not include the following electrical work—

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- (a) testing, repairing or maintaining electrical equipment included in the electrical installation;
- (b) electric line work associated with the electrical installation.

Examples of electrical installation work—

- installing or altering wiring or fixed appliances in a building
- installing or altering a switchboard

- (2) ***Electric line work*** is electrical work associated with an electric line.

Examples of electric line work—

- erecting an aerial conductor that is part of the works of an electricity entity or of an electrical installation
- installing or maintaining street lighting circuits
- testing an overhead electrical line to ensure it is correctly connected

- (3) ***Electrical equipment work*** is electrical work other than electrical installation work or electric line work.

Examples of electrical equipment work—

- repairing substation electrical equipment
- repairing an electric range, whether or not it is part of an electrical installation
- installing, jointing or terminating covered cables

20 Meanings of *electrical work licence* and *electrical contractor licence*

- (1) An ***electrical work licence*** is a licence authorising an individual to perform electrical work.
- (2) An ***electrical contractor licence*** is a licence authorising a person to perform electrical work as part of a business or undertaking.

21 Meaning of *employer*

- (1) A person is an ***employer*** if—

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- (a) the person conducts a business or undertaking; and
 - (b) in the conduct of the business or undertaking, the person engages someone else to do work, other than under a contract for services, for or at the direction of the person.
- (2) For this section, a person engages someone else to do work even though the person engaged works on a voluntary basis.
 - (3) For an apprentice or trainee who is employed by a group training organisation, the apprentice's or trainee's employer is—
 - (a) when the apprentice or trainee is engaged to do work for a host employer—the host employer; or
 - (b) otherwise—the group training organisation.
 - (4) In this section—

group training organisation means a group training organisation under the Training and Employment Act.

host employer means a person who contracts with a group training organisation for the training of apprentices and trainees.

22 Meaning of *worker*

- (1) A person is a **worker** if the person does work, other than under a contract for services, for or at the direction of an employer.

Example for subsection (1)—

A subcontractor works under a contract for services and is not a worker for this Act.

- (2) A person may be a **worker** even though the person is not paid for work done by the person.
- (3) However, a person is not a **worker** only because the person does work for an organisation of which the person is a member.

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23 Meaning of *self-employed person*

A person is a *self-employed person* if—

- (a) the person conducts a business or undertaking; and
- (b) in the conduct of the business or undertaking, the person is not an employer or worker.

24 Meaning of *person in control of electrical equipment*

- (1) The *person in control*, of electrical equipment, is the person who controls the electrical equipment.
- (2) A person who is the occupier of a place where electrical equipment is located would ordinarily be the *person in control* of the equipment.

Examples—

- A manufacturer that owns a factory building used for the manufacturer's business would ordinarily be the person in control of all electrical equipment at the building.
 - The body corporate for a community titles scheme would ordinarily be the person in control of electrical equipment located on common property for the scheme.
 - A person who occupies a lot in a community titles scheme would ordinarily be the person in control of electrical equipment located within the lot.
- (3) If there is in place a contract or other arrangement to the effect that a person other than the occupier of a place where electrical equipment is located is to control the electrical equipment, the other person is the *person in control* of the equipment.

Examples—

- If a manufacturer occupies a factory building under a lease, and the lease provides that the lessor keeps responsibility for the maintenance and repair of particular electrical equipment at the building, the lessor is the person in control of the particular electrical equipment.
- If the body corporate for a community titles scheme enters into a contract under which a licensed electrical contractor assumes responsibility for the repair and maintenance of electrical

equipment located on common property for the scheme, the electrical contractor is the person in control of the electrical equipment.

- If the lessee under a retail shop lease occupies retail premises in a shopping centre under a lease, and the lease provides that the shopping centre management keeps responsibility for particular electrical equipment in the retail premises, the shopping centre management is the person in control of the particular electrical equipment.
 - If the lessee under a retail shop lease occupies retail premises in a shopping centre under a lease, and the lease provides that the lessee may interfere with particular electrical equipment at the retail premises only with the consent of the shopping centre management, both the lessee and the shopping centre management are persons in control of the electrical equipment.
- (4) Despite subsections (1) to (3), if premises are occupied as a residence other than by the owner of the premises, the owner is the *person in control* of electrical equipment located at the premises if it—
- (a) forms part of, or is supplied for use at, the premises; and
 - (b) is owned by the owner of the premises.
- (5) For subsection (1), a person does not control electrical equipment only because the electrical equipment—
- (a) is the subject of electrical work performed by the person or directed or supervised by the person; or
 - (b) is used for the carrying out of work—
 - (i) performed by the person as a worker; or
 - (ii) directed or supervised by the person.
- (6) In this section—
- control*, electrical equipment, includes having responsibility for the maintenance and repair of the electrical equipment.

25 Meaning of *works* of an electricity entity

Works, of an electricity entity, means the electrical equipment, and electric line associated equipment, controlled or operated

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by the entity to generate, transform, transmit or supply electricity.

Example of works of an electricity entity—

an overhead distribution system of a distribution entity, including transformers and switches

Example of what is not works of an electricity entity—

appliances or fixed wiring in an electricity entity's workshop or offices

Part 2 Electrical safety obligations

Division 1 Preliminary

26 Obligations for electrical safety

The following persons have obligations under division 2 for electrical safety—

- electricity entities
- employers
- self-employed persons
- designers of electrical equipment and electrical installations
- manufacturers of electrical equipment
- importers of electrical equipment
- suppliers of electrical equipment
- installers of electrical equipment and electrical installations
- repairers of electrical equipment and electrical installations
- persons in control of electrical equipment

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- workers at places where electrical equipment is located
 - other persons at places where electrical equipment is located.

Note—

The enforcement of the obligations is by criminal proceedings under the obligation offence provision (section 27) or disciplinary proceedings under part 9. A civil cause of action is not created—see section 48.

27 Obligation offence provision

A person on whom an electrical safety obligation is imposed must discharge the obligation.

Maximum penalty—

- (a) if the breach causes multiple deaths—2000 penalty units or 3 years imprisonment; or
- (b) if the breach causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
- (c) if the breach causes bodily harm—750 penalty units or 1 year's imprisonment; or
- (d) otherwise—500 penalty units or 6 months imprisonment.

28 Person may owe obligations in more than 1 capacity

A person may be the subject of electrical safety obligations in more than 1 capacity.

Examples—

- A person may be an employer, electrical entity and supplier of electrical equipment at the one time and be subject to obligations in each of the capacities.
- When electrical equipment leaves a manufacturer or importer, the manufacturer or importer will also have the obligations of a supplier.

Division 2 Electrical safety obligations

29 Obligation of electricity entity

- (1) An electricity entity has an obligation to ensure that its works—
 - (a) are electrically safe; and
 - (b) are operated in a way that is electrically safe.
- (2) Without limiting subsection (1), the obligation includes the requirement that the electricity entity inspect, test and maintain the works.

30 Obligation of employer or self-employed person

- (1) This section applies to an employer or self-employed person.
- (2) A person to whom this section applies has an obligation to ensure that the person's business or undertaking is conducted in a way that is electrically safe.
- (3) Without limiting subsection (2), the obligation includes—
 - (a) ensuring that all electrical equipment used in the conduct of the person's business or undertaking is electrically safe; and
 - (b) if the person's business or undertaking includes the performance of electrical work, ensuring the electrical safety of all persons and property likely to be affected by the electrical work; and
 - (c) if the person's business or undertaking includes the performance of work, whether or not electrical work, involving contact with, or being near to, exposed parts, ensuring persons performing the work are electrically safe.

31 Obligation of designer of electrical equipment

A designer of electrical equipment or an electrical installation has an obligation to ensure that—

- (a) the electrical equipment or installation is designed to be electrically safe; and
- (b) if the designer gives the design to another entity who is to give effect to the design, the design is accompanied by information about the way the electrical equipment or installation must be used and installed to ensure the equipment or installation is electrically safe.

32 Obligation of manufacturer of electrical equipment

(1) A manufacturer of electrical equipment has an obligation to ensure that—

- (a) the processes followed for the manufacture of the electrical equipment ensure that the electrical equipment, when made, will be electrically safe; and
- (b) the electrical equipment, when made, is electrically safe.

(2) Without limiting subsection (1)(b), the obligation includes ensuring that the electrical equipment, when made, is tested and examined to ensure it is electrically safe.

33 Obligation of importer of electrical equipment

(1) An importer of electrical equipment has an obligation to ensure that the electrical equipment is electrically safe.

(2) Without limiting subsection (1), the obligation includes ensuring that the electrical equipment—

- (a) is designed to be electrically safe; and
- (b) is tested and examined to ensure it is electrically safe.

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34 Obligation of supplier of electrical equipment

A supplier of electrical equipment has an obligation to ensure that when the electrical equipment leaves the supplier, it is accompanied by information about the way the electrical equipment must be used to ensure that its use is electrically safe.

35 Additional obligations of designer, manufacturer, importer or supplier of electrical equipment

- (1) A designer, manufacturer, importer or supplier of electrical equipment has an obligation to comply with the requirements of an electrical safety notification that apply to the designer, manufacturer, importer or supplier.

Editor's note—

See section 206 which provides for the issue of electrical safety notifications.

- (2) A designer, manufacturer or importer of electrical equipment has an obligation to comply with the requirements of a recall order that applies to the designer, manufacturer or importer.

Note—

See division 2A which provides for the making of recall orders.

36 Obligation of installer of electrical equipment or electrical installation

A person who installs electrical equipment or an electrical installation has an obligation to ensure that—

- (a) the way the electrical equipment or installation is installed is electrically safe; and
- (b) the processes followed for installing the electrical equipment or installation ensure that, when installed, it will be electrically safe; and
- (c) after the electrical equipment or installation is installed, the person tests and examines it to ensure it is electrically safe.

37 Obligation of repairer of electrical equipment or electrical installation

- (1) A person who repairs electrical equipment or an electrical installation has an obligation to ensure that—
 - (a) the way the electrical equipment or installation is repaired is electrically safe; and
 - (b) the processes followed for repairing the electrical equipment or installation ensure that, when repaired, it will be electrically safe; and
 - (c) the electrical equipment or installation, when repaired, is electrically safe.
- (2) Without limiting subsection (1), the obligation includes ensuring that the electrical equipment or installation, when repaired, is tested and examined to ensure it is electrically safe.

38 Obligation of person in control of electrical equipment

- (1) A person in control of electrical equipment has an obligation to ensure the electrical equipment is electrically safe.
- (2) Subsection (1) does not apply to the person in control of electrical equipment to the extent that the electrical equipment—
 - (a) is located at premises in which the person lives; or
 - (b) forms part of the works of an electricity entity.

39 Obligations of worker

A worker at a place where electrical equipment is located has the following obligations—

- (a) to comply with the instructions for the electrical safety of persons and property at the place given—
 - (i) by the worker's employer; and
 - (ii) to the extent the instructions are not inconsistent with instructions given by the worker's employer,

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- by the person in control of the electrical equipment;
- (b) to use personal protective equipment, if—
 - (i) the protective equipment is provided by the worker's employer or the person in control of the electrical equipment for electrical safety purposes; and
 - (ii) the worker is properly instructed in the use of the protective equipment provided;
 - (c) not to wilfully interfere with or misuse anything provided for electrical safety at the place;
 - (d) not to wilfully place any person, including the worker, at the place in electrical risk.

40 Obligations of other person

- (1) This section applies to a person at a place where electrical equipment is located, other than a worker at the place.
- (2) The person has the following obligations at the place—
 - (a) to comply with the instructions for the electrical safety of persons and property at the place given by the person in control of the electrical equipment;
 - (b) not to wilfully interfere with or misuse anything provided for electrical safety at the place;
 - (c) not to wilfully place any person at the place in electrical risk.

Division 2A Ministerial recall orders

40A Minister may make recall order

- (1) This section applies if the Minister considers that electrical equipment is placing, or will place, persons or property in electrical risk.

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- (2) The Minister may make an order (a *recall order*) that—
 - (a) is directed to a stated designer, manufacturer or importer (the *responsible person*); and
 - (b) requires stated electrical equipment, or a stated type of electrical equipment, be recalled from use.
 - (3) The Minister may make a recall order for electrical equipment whether or not—
 - (a) the responsible person has already undertaken a recall of the electrical equipment; or
 - (b) the electrical equipment has been installed at a place.

Note—

Section 35(2) expressly provides for an obligation to comply with the recall order.

40B Notice required before making recall order

- (1) Before making the recall order, the Minister must—
 - (a) advise the responsible person by written notice that the Minister intends to make the order and the reasons for making the order; and
 - (b) give the responsible person a copy of the proposed order; and
 - (c) call on the responsible person to show cause why the Minister should not make the proposed order.
- (2) If the responsible person wishes to show cause why the recall order should not be made, the responsible person must make written submissions to the Minister within 7 days after receiving the notice and copy of the proposed order from the Minister.
- (3) The Minister must consider any written submissions made by the responsible person before making the recall order.

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40C Service of recall order

- (1) This section applies if, after considering any written submissions made by the responsible person under section 40B(2), the Minister still decides to make the recall order.
- (2) The recall order must be in writing and be given to the responsible person.
- (3) Information that is sufficient to alert the public about the electrical risk identified in the recall order must be published in—
 - (a) the gazette; and
 - (b) a newspaper circulating generally in the State.

40D Nature of recall order

- (1) The recall order must state—
 - (a) the reasons for the recall of the electrical equipment from use; and
 - (b) what the responsible person must do to recall the electrical equipment from use including, but not limited to, the following—
 - (i) the way in which, and the period for which, the responsible person must inform other persons about the electrical risk;
 - (ii) the information the responsible person must give other persons about the electrical risk, including the action the other persons should take to mitigate the electrical risk;
 - (iii) the action the responsible person must take to eliminate the electrical risk, for example, by repair, replacement or otherwise making the equipment electrically safe;
 - (iv) the information the responsible person must give to the chief executive about the progress of the recall.

- (2) The responsible person is liable for any cost incurred in relation to complying with the recall order, including costs incurred by a supplier giving reasonable help in relation to the recall order under section 40E.
- (3) The recall order remains in force until the end of 2 years after the order is made unless sooner revoked by the Minister.
- (4) Subsection (3) does not prevent a further recall order being made for the same electrical equipment to which the recall order applied while it was in force.

40E Supplier must help responsible person

- (1) This section applies if the responsible person—
 - (a) produces a copy of the recall order to a supplier of electrical equipment that is the subject of the order; and
 - (b) asks the supplier for help in relation to the recall order.
- (2) The supplier must give the responsible person reasonable help in relation to the recall order.

Examples of reasonable help—

- ceasing the supply of the recalled electrical equipment
- putting up a sign about the recall at the supplier's place of business
- providing a collection point for recalled electrical equipment
- identifying or contacting persons supplied with the recalled electrical equipment
- giving the responsible person information about the number of items of recalled electrical equipment sold, in stock or returned by customers

Maximum penalty—50 penalty units.

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Division 3 Regulations, ministerial notices and codes of practice relating to electrical safety obligations

41 Effect of regulation for discharge of electrical safety obligation

- (1) This section applies if a provision of a regulation (*regulation provision*) is identified in the regulation as a provision that prescribes a way of discharging a person's electrical safety obligation.
- (2) Unless otherwise stated in the regulation, the regulation provision does not prescribe all that a person to whom the provision applies must do, or must not do, to discharge the electrical safety obligation.
- (3) However, for applying the obligation offence provision, the person fails to discharge the electrical safety obligation if the person contravenes the regulation provision.
- (4) If the regulation provides for a penalty for a contravention of the regulation provision, the amount of the penalty is not a relevant consideration for an industrial magistrate required to fix a penalty for an offence against the obligation offence provision.

42 Ministerial notice about discharging electrical safety obligation

- (1) This section applies if the Minister has identified circumstances of electrical risk for persons or property and considers that urgent action should be taken to deal with the electrical risk.
- (2) The Minister may make a notice that prescribes a way of discharging a person's electrical safety obligation in relation to the electrical risk.
- (3) The notice expires—
 - (a) 1 year from the day it is notified in the gazette; or

- (b) on an earlier day stated in the notice.
- (4) However, a regulation may extend the notice's operation for a further period of not more than 1 year.
- (5) If a notice is inconsistent with a regulation or code of practice, the notice prevails to the extent of the inconsistency.
- (6) A notice is subordinate legislation.

43 Effect of ministerial notice for discharge of electrical safety obligation

- (1) Unless otherwise stated in a ministerial notice, the notice does not prescribe all that a person to whom the notice applies must do, or must not do, to discharge the person's electrical safety obligation in relation to the electrical risk mentioned in the notice.
- (2) However, for applying the obligation offence provision, the person fails to discharge the electrical safety obligation in relation to the electrical risk if the person contravenes the ministerial notice.

44 Code of practice about discharging electrical safety obligation

- (1) The Minister may make a code of practice that states a way of discharging a person's electrical safety obligation.
- (2) A code of practice, or an instrument amending or repealing a code of practice, has no effect unless the Minister gives notice of its making.
- (3) A notice under subsection (2) is subordinate legislation.
- (4) A code of practice, or an instrument amending or repealing a code of practice, commences on the later of the following—
 - (a) the day the notice under subsection (2) commences;
 - (b) the day the code or instrument provides that it commences.
- (5) A code of practice expires 10 years after its commencement.

[s 45]

- (6) The Minister must ensure that a copy of each code of practice as in force from time to time, and any document applied, adopted or incorporated by the code of practice, is made available for inspection without charge during normal business hours at each department office dealing with electrical safety.
- (7) A code of practice may be made available in written or electronic form.
- (8) If a code of practice is inconsistent with a regulation, the regulation prevails to the extent of the inconsistency.

45 Effect of code of practice for discharge of electrical safety obligation

- (1) Unless otherwise stated in a code of practice, the code of practice does not state all that a person to whom the code of practice applies must do, or must not do, to discharge the person's electrical safety obligation.
- (2) However, for applying the obligation offence provision, the person fails to discharge the electrical safety obligation if the person—
 - (a) contravenes, or otherwise acts inconsistently with, the code of practice; and
 - (b) does not follow a way that is as effective as, or more effective than, the code of practice for discharging the electrical safety obligation.

Division 4 Defences

46 Defence in proceeding for offence against obligation offence provision

- (1) It is a defence in a proceeding against a person for an offence against the obligation offence provision for the person to prove that the commission of the offence was due to causes over which the person had no control.

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- (2) However, the Criminal Code, sections 23 and 24, do not apply in relation to a contravention of the obligation offence provision.

47 Further defence if no regulation, ministerial notice or code of practice

- (1) This section applies to a person if—
- (a) the person is proceeded against for an offence against the obligation offence provision; and
 - (b) at the time of the alleged offence, there was no regulation, ministerial notice or code of practice prescribing or stating a way of discharging the person's electrical safety obligation in the circumstances of the alleged offence.
- (2) It is a defence in the proceeding for the person to prove that the person chose an appropriate way, and took reasonable precautions and exercised proper diligence, to discharge the person's electrical safety obligation.

Division 5 Effect of Act on civil liability

48 No civil cause of action based on contravention of Act

No provision of this Act creates a civil cause of action based on a contravention of the provision.

Part 3 Enforceable undertakings

49 Meaning of *electrical safety undertaking*

- (1) An *electrical safety undertaking* is a written undertaking made by a person (the *identified person* for the undertaking) that—

[s 49A]

- (a) recognises that the chief executive alleges (the *alleged contravention* for the undertaking) that the identified person has contravened—
 - (i) the obligation offence provision; or
 - (ii) the executive officer offence provision, because of a corporation's contravention of the obligation offence provision; and
 - (b) identifies facts and circumstances of the alleged contravention; and
 - (c) includes an assurance from the identified person about the identified person's future behaviour.
- (2) The chief executive of a public sector unit may give an electrical safety undertaking for the public sector unit.

49A Giving electrical safety undertaking

- (1) This section applies if the identified person proposes to make an electrical safety undertaking.
- (2) The undertaking must be received by the chief executive within the time prescribed under a regulation.

50 Acceptance and publication of electrical safety undertaking

- (1) The chief executive may, by written notice given to the identified person for an electrical safety undertaking, accept the electrical safety undertaking.
- (2) When the chief executive accepts the electrical safety undertaking, the undertaking—
 - (a) starts operating; and
 - (b) becomes enforceable against the identified person.
- (3) The chief executive may publish details of the undertaking.

51 Proceeding for alleged contravention

- (1) If a proceeding for the alleged contravention for the electrical safety undertaking has been started before an industrial magistrate against the identified person for the undertaking before the undertaking starts operating, the chief executive must take the necessary action to bring the proceeding to an end.
- (2) If a proceeding for the alleged contravention has not been started before the undertaking starts operating, a proceeding for the alleged contravention must not be started.

52 Compliance with undertaking

The identified person for an operating electrical safety undertaking must not contravene the undertaking.

Maximum penalty—1000 penalty units.

53 Withdrawal or variation of undertaking

- (1) The identified person for an operating electrical safety undertaking may at any time, with the agreement of the chief executive—
 - (a) withdraw the undertaking; or
 - (b) change the provisions of the undertaking.
- (2) However, the provisions of the undertaking can not be changed to provide for a different alleged contravention for the undertaking.

54 Contravention of electrical safety undertaking

- (1) This section applies if the chief executive considers that the identified person for an operating electrical safety undertaking has contravened the undertaking.
- (2) The chief executive may apply to an industrial magistrate for an order under this section.

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- (3) If the magistrate is satisfied that the identified person has contravened the undertaking, the magistrate may make 1 or more of the following orders—
 - (a) an order directing the identified person to comply with the undertaking, or a stated aspect of the undertaking, or to comply with the undertaking, or a stated aspect of the undertaking, in a stated way;
 - (b) an order directing the person to pay to the State an amount that is not more than the direct or indirect financial benefit obtained by the person from, and reasonably attributable to, the breach;
 - (c) an order directing the person to give a security bond to the State for a stated period;
 - (d) another order the magistrate considers appropriate in the circumstances.
- (4) A prosecution for the offence of contravening the electrical safety undertaking does not prevent the magistrate from making an order under this section on the chief executive's application, even though the prosecution and the order are based on the same facts and circumstances.
- (5) The making of an order under this section, unless the order otherwise provides, does not prevent a prosecution for the offence of contravening the electrical safety undertaking, even though the order and the prosecution are based on the same facts and circumstances.

Part 4 Licences

Division 1 Requirements for electrical licences

55 Requirement for electrical work licence

- (1) A person must not perform or supervise electrical work unless—
- (a) the person is the holder of an electrical work licence in force under this Act; and
 - (b) the licence authorises the person to perform the work.

Maximum penalty—400 penalty units.

- (2) Only an individual may be the holder of an electrical work licence.
- (3) A person is not required under subsection (1) to hold an electrical work licence for the purpose of the following—
- (a) performance or supervision of electrical work for the purpose of installing or repairing telecommunications cabling;
 - (b) performance or supervision of electrical work in practising the person's profession as an electrical engineer;
 - (c) performance or supervision of remote rural installation work;
 - (d) performance or supervision of electrical work as part of the testing of electrical equipment that the person is authorised to do under a regulation;
 - (e) performance, as an apprentice, of electrical work in a calling that requires the apprentice to perform electrical work;
 - (f) performance, as a trainee, of electrical work in a calling that requires the trainee to perform electrical work of a type prescribed under a regulation;

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- (g) performance, as a student, of electrical work as part of training under the supervision of teaching staff at—
 - (i) a university; or
 - (ii) a college, school or similar institution conducted or approved by a department of the State or of the Commonwealth.

56 Requirement for electrical contractor licence

- (1) A person must not conduct a business or undertaking that includes the performance of electrical work unless the person is the holder of an electrical contractor licence that is in force.
Maximum penalty—400 penalty units.
- (2) Without limiting subsection (1), a person conducts a business or undertaking that includes the performance of electrical work if the person—
 - (a) advertises, notifies or states that, or advertises, notifies or makes a statement to the effect that, the person carries on the business of performing electrical work; or
 - (b) contracts for the performance of electrical work, other than under a contract of employment; or
 - (c) represents to the public that the person is willing to perform electrical work; or
 - (d) employs a worker to perform electrical work, other than for the person.
- (3) However, a person does not conduct a business or undertaking that includes the performance of electrical work only because the person—
 - (a) is a licensed electrical mechanic who—
 - (i) performs electrical work for the person or a relative of the person at premises owned or occupied by the person or relative; or
 - (ii) makes minor emergency repairs to make electrical equipment electrically safe; or

- (b) contracts for the performance of work that includes the performance of electrical work if the electrical work is intended to be subcontracted to the holder of an electrical contractor licence who is authorised under the licence to perform the electrical work.
- (4) This section does not authorise the performance of electrical work by a person who does not have an electrical work licence for the work.
- (5) A person does not contravene subsection (1) if—
 - (a) the person conducts a business or undertaking that includes the performance of electrical work as a partner in a partnership; and
 - (b) the partnership is the holder of an electrical contractor licence that is in force.

57 Compliance with conditions and restrictions

- (1) The holder of an electrical work licence who performs or supervises electrical work must comply with all conditions and restrictions included in the licence.

Maximum penalty—400 penalty units.

- (2) The holder of an electrical contractor licence who performs electrical work must comply with all conditions and restrictions included in the licence.

Maximum penalty for subsection (2)—400 penalty units.

57AA Employer or self-employed person must ensure workers are appropriately licensed

- (1) This section applies if an employer or self-employed person conducts a business or undertaking that includes the performance of electrical work.
- (2) The employer or self-employed person must ensure—

[s 57AB]

- (a) the electrical work is performed by the holder of an electrical work licence that authorises the performance of the work; and
- (b) any supervision of the electrical work is carried out by the holder of an electrical work licence that authorises the performance of the work.

Maximum penalty—400 penalty units.

- (3) Subsection (2) does not apply if the electrical work is performed or supervised by a person who, under section 55, is not required to hold an electrical work licence for the purpose of performing or supervising the work.

57AB Employers and self-employed persons must keep register of licensed workers

- (1) This section applies if—
 - (a) an employer or self-employed person (the *relevant employer*) conducts a business or undertaking that includes the performance of electrical work; and
 - (b) the relevant employer engages other persons to perform or supervise the electrical work.
- (2) The relevant employer must—
 - (a) keep a register of licensed workers in a way that complies with subsection (3); and
 - (b) if asked by an inspector, make the register of licensed workers available for immediate inspection by the inspector.

Maximum penalty—100 penalty units.

- (3) The register of licensed workers kept by the relevant employer must—
 - (a) include the prescribed details for each holder of an electrical work licence engaged by the relevant employer to perform or supervise electrical work—

- (i) while the holder is engaged by the employer to perform or supervise electrical work; or
 - (ii) if the holder ceases to be engaged by the employer to perform or supervise electrical work—for at least 5 years after the holder ceases to be engaged by the employer; and
 - (b) be updated within 7 days after the relevant employer is notified, under section 57AC, of a change in any of the prescribed details, for the holder of an electrical work licence, included in the register; and
 - (c) include the date on which the prescribed details for the holder of an electrical work licence are included in the register or are updated.
- (4) A register of licensed workers may be kept in electronic form.

57AC Licence holder engaged by employer or self-employed person must notify particular changes

- (1) This section applies if the holder of an electrical work licence is engaged to perform or supervise electrical work for an employer or self-employed person (the *relevant employer*) who conducts a business or undertaking that includes the performance of electrical work.
- (2) The holder must notify, in writing, the relevant employer if any of the following happens within 14 days after it happens—
 - (a) the electrical work licence held by the person—
 - (i) is suspended or cancelled; or
 - (ii) is surrendered; or
 - (iii) expires and is not renewed; or
 - (iv) is amended in a way that changes—
 - (A) the work or activities that are authorised to be performed under the licence; or

[s 57A]

- (B) the conditions or restrictions applying to the way work or activities may be performed under the licence;
- (b) the electrical work licence held by the holder is renewed or reinstated;
- (c) any other prescribed details for the holder change.

Example for paragraph (c)—

the holder's name changes

Maximum penalty—

- (a) for paragraph (a)—40 penalty units; or
- (b) for paragraph (b) or (c)—10 penalty units.

Division 1A Rectification of defective electrical work

57A Power of chief executive to direct defective electrical work to be rectified

- (1) This section applies if—
 - (a) the chief executive considers that a person has contravened section 55 or 56; and
 - (b) the chief executive considers that —
 - (i) the way the electrical work was performed was not electrically safe; or
 - (ii) the person who actually performed the electrical work was negligent or incompetent in performing the work; or
 - (iii) because of the performance of the work, a person or property is not electrically safe.
- (2) The chief executive may direct the person to rectify the electrical work.

57B Notice of proposed action

- (1) Before the chief executive gives a direction to rectify the electrical work, the chief executive must give the person a written notice—
 - (a) stating that the chief executive proposes to direct the person to rectify the electrical work within the period stated in the direction (the *proposed action*); and
 - (b) stating the grounds for the proposed action; and
 - (c) outlining the facts and circumstances forming the basis for the grounds; and
 - (d) inviting the person to show, within a stated time of at least 14 days, why the proposed action should not be taken.
- (2) The chief executive must consider any representations made by the person within the stated time.
- (3) If the chief executive still considers a ground exists to take the proposed action, the chief executive may direct the person to rectify the electrical work within the period stated in the direction.
- (4) The chief executive must give the person—
 - (a) written notice of the decision; and
 - (b) include with the written notice an information notice for the decision.
- (5) If the direction is given to a person who is not currently licensed to carry out the required work, the person must have the work carried out by a licensed contractor.
- (6) The person to whom the direction is given must comply with the requirement, unless the person has a reasonable excuse.
Maximum penalty—100 penalty units.
- (7) It is not a reasonable excuse for a person not to comply with the requirement that a contractor engaged by the person to perform the work had failed to perform the work.

Division 2 Electrical licence applications

58 Definition for div 2

In this division—

electrical licence application means an application to the chief executive for—

- (a) the issue of an electrical licence; or
- (b) the renewal of an electrical licence; or
- (c) the reinstatement of an electrical licence.

59 Application for issue of electrical licence

- (1) A person may apply to the chief executive for the issue of an electrical licence.
- (2) The application for the electrical licence—
 - (a) must be made in the approved form; and
 - (b) must otherwise comply with the requirements prescribed under a regulation about applying for the issue of the electrical licence, including any requirements about the payment of fees.
- (3) The chief executive may issue, or refuse to issue, the electrical licence.
- (4) In deciding whether to issue the electrical licence, the chief executive must apply any eligibility requirements prescribed under a regulation for the issue of the licence.

60 Application for renewal of electrical licence

- (1) The holder of an electrical licence may, before the licence expires (the *licence expiry*), apply to the chief executive for the renewal of the licence.
- (2) The application for the renewal of the electrical licence—
 - (a) must be made in the approved form; and

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- (b) must otherwise comply with the requirements prescribed under a regulation about applying for the renewal of the electrical licence, including any requirements about—
 - (i) the payment of fees; and
 - (ii) the day by which the application must be made.
 - (3) The chief executive may renew, or refuse to renew, the electrical licence.
 - (4) In deciding whether to renew the electrical licence, the chief executive must apply any eligibility requirements prescribed under a regulation for the renewal of the licence.
 - (5) If the electrical licence is renewed before the licence expiry, the renewal has effect from the licence expiry.
 - (6) If the electrical licence is not renewed before the licence expiry—
 - (a) the licence as in force immediately before the licence expiry continues in force until—
 - (i) it is renewed; or
 - (ii) the chief executive gives written notice of a refusal to renew; and
 - (b) if the licence is renewed, the licence, as renewed, ends on the day it would have ended if it had been renewed with effect from the licence expiry.

61 Application for reinstatement of electrical licence

- (1) If an electrical licence expires (the *licence expiry*), the person who was the holder of the licence may, within 1 year after the licence expiry, apply to the chief executive for the reinstatement of the licence.
- (2) The application must—
 - (a) be made in the approved form; and
 - (b) otherwise comply with the requirements prescribed under a regulation about applying for the reinstatement

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of an electrical licence, including any requirements about the payment of fees.

- (3) The chief executive may reinstate, or refuse to reinstate, the electrical licence.
- (4) In deciding whether to reinstate the electrical licence, the chief executive must apply any eligibility requirements prescribed under a regulation for the reinstatement of the licence.
- (5) The reinstatement has effect from the end of the day of reinstatement.
- (6) The electrical licence, as reinstated, is not taken to have been in force for the period from the licence expiry to the reinstatement.
- (7) However, the electrical licence, as reinstated, ends on the day it would have ended if it had been renewed with effect from the licence expiry instead of being reinstated.

62 Further information or documents to support electrical licence application

- (1) The chief executive may, by written notice given to the applicant under an electrical licence application, require the applicant to give the chief executive, within a reasonable period of at least 21 days stated in the notice, further information or a document the chief executive reasonably requires to decide the application.
- (2) The chief executive may, in the notice, require the applicant to verify the further information or document by statutory declaration.
- (3) The applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) or (2) within the stated period.

63 Electrical licence conditions and restrictions

An electrical licence, as issued, renewed or reinstated, may include conditions or restrictions the chief executive considers necessary or desirable for the proper performance of electrical work.

Examples of conditions—

- a condition that the licence holder satisfactorily finish a particular training course or examination
- a condition that the licence holder keep in place insurance of a kind, and in an amount, prescribed under a regulation

Examples of restrictions—

- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence
- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence for an employer stated in the licence
- a restriction that limits electrical work that may be performed under the licence to a kind stated in the licence in a locality stated in the licence
- a restriction that limits the extent to which the holder may supervise the performance of electrical work

64 Chief executive to give reasons for refusal of application or for conditions

- (1) If, after considering an electrical licence application, the chief executive refuses to issue, renew or reinstate an electrical licence, the chief executive must—
 - (a) give written notice of the refusal to the applicant within 30 days of the decision to refuse; and
 - (b) include with the written notice an information notice for the decision to refuse.
- (2) If, after considering an electrical licence application, the chief executive decides to include additional conditions or restrictions in an electrical licence, or change conditions or restrictions in an electrical licence, the chief executive must—

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- (a) give written notice of the inclusion or change to the applicant within 30 days of the decision to include or change the conditions or restrictions; and
- (b) include with the written notice an information notice for the decision to include or change the conditions or restrictions.

Division 2A Miscellaneous requirements

64A Chief executive may ask for further information or documents from licence holder

- (1) The chief executive may, by written notice given to a person who is the holder of an electrical licence, require the person to give the chief executive, within a reasonable period of at least 21 days stated in the notice, information or a document the chief executive reasonably requires to satisfy the chief executive that the person continues to satisfy the eligibility requirements for the issue of the licence.

Example of information—

The person continues to hold public liability insurance of the required amount under a contract of insurance approved by the chief executive.

- (2) The chief executive may, in the notice, require the person to verify the further information or document by statutory declaration.
- (3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 3 External licences

65 External licence recognition provision

- (1) A regulation may prescribe particular external licences to be equivalent to particular electrical work licences.

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- (2) An external licence is taken to be the electrical work licence to which it is equivalent.

Part 5 Safety management systems for electricity entities

66 Definitions for pt 5

In this part—

prescribed electricity entity means an electricity entity, other than a generation entity, declared under a regulation to be a prescribed electricity entity for this part.

safety management system, for a prescribed electricity entity, means a written document having the following characteristics—

- (a) the document is devised by the entity in consultation with—
 - (i) persons who are broadly representative of industrial organisations of employees whose members are employees of the entity; and
 - (ii) principal or primary contractors with the entity for the performance of electrical and other work for the entity;
- (b) the document details the hazards and risks associated with the design, construction, operation and maintenance of the entity's works;
- (c) the document details how the electricity entity is to manage the hazards and risks to ensure that its electrical safety obligation is properly discharged;
- (d) the document details what the entity will do to ensure that contractors for the performance of electrical and other work for the entity comply with the requirements of the safety management system;

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- (e) the document otherwise complies with requirements prescribed under a regulation for safety management systems, including requirements for the following—
 - (i) how the document is to be developed and periodically updated;
 - (ii) lodging the document with the chief executive;
 - (iii) initial and subsequent periodic assessments and validations of the document by accredited auditors to ensure that the document comprehensively identifies and addresses the hazards and risks associated with the design, construction, operation and maintenance of the entity's works.

67 Obligation of prescribed electricity entity

A prescribed electricity entity must have, and must give effect to, a safety management system for the entity.

Maximum penalty—400 penalty units.

Part 6 Commissioner for electrical safety

68 Appointment of commissioner

- (1) There is to be a commissioner for electrical safety.
- (2) The commissioner is to be appointed by the Governor in Council by gazette notice.
- (3) The commissioner is to be appointed under this Act, and not under the *Public Service Act 2008*.
- (4) The commissioner's term of appointment is the term, not longer than 5 years, stated in the gazette notice of the commissioner's appointment.

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- (5) Subsection (4) does not prevent the commissioner from being reappointed.

69 Qualifications for appointment

To be appointed as commissioner, a person must have—

- (a) an electrical trade or qualification; and
- (b) professional experience in electrical safety.

70 Employment provisions

- (1) The person appointed as commissioner is entitled to the salary and allowances decided by the Governor in Council.
- (2) The Governor in Council may set conditions of employment to apply to the person.
- (3) The conditions of employment must, to the greatest practicable extent, be equivalent to the conditions of employment for a person appointed at a comparable level under the *Public Service Act 2008*.
- (4) The person appointed as commissioner must enter into a written contract of employment with the chief executive.
- (5) The contract must include any conditions of employment approved by the Governor in Council.

71 End of appointment

The commissioner's appointment ends if—

- (a) the commissioner resigns by signed notice of resignation given to the Minister; or
- (b) the commissioner's employment under the contract of employment is ended in accordance with the provisions of the contract.

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72 Acting commissioner

- (1) The Governor in Council may appoint a person, who is eligible for appointment as commissioner, to act in the office of commissioner during—
 - (a) any vacancy, or all vacancies, in the office; or
 - (b) any period, or all periods, when the commissioner is absent from duty, or can not, for another reason, perform the functions of the office.
- (2) An appointment under subsection (1) is for the term, and on the conditions, decided by the Minister, and may be ended at any time in accordance with the conditions.

73 Commissioner's functions

The functions of the commissioner are—

- (a) to manage the activities of the board, having regard to its objectives, strategies and policies, and to ensure its efficient operation; and
- (b) to manage the activities of each committee, having regard to its objectives, strategies and policies, and to ensure each committee's efficient operation; and
- (c) to fulfil the roles of chairperson of the board and chairperson of the Electrical Licensing Committee; and
- (d) to advise the Minister on electrical safety matters generally; and
- (e) to advise the Minister on proposed codes of practice after appropriate board and committee consideration and endorsement; and
- (f) to perform the functions given to the commissioner under other provisions of this Act.

74 Commissioner's powers

The commissioner has the powers necessary or convenient to carry out the commissioner's functions.

Part 7 Electrical Safety Board

Division 1 The board and its functions

75 Establishment

The Electrical Safety Board is established.

76 Functions of board

- (1) The primary function of the board is to give advice and make recommendations to the Minister about policies, strategies, and legislative arrangements for electrical safety.
- (2) Without limiting subsection (1), the board may discharge its primary function by—
 - (a) developing a 5-year strategic plan for improving electrical safety; and
 - (b) periodically evaluating, and at least once each year updating, the 5-year strategic plan; and
 - (c) advising the Minister about state, national and international electrical safety issues; and
 - (d) considering, and making recommendations on, issues the Minister refers to it; and
 - (e) reviewing the appropriateness of provisions of this Act, including regulations, ministerial notices and codes of practice made under this Act; and
 - (f) as considered appropriate, establishing working parties, including appointing members of the working parties and setting their procedures; and
 - (g) ensuring industry has been adequately consulted on proposed codes of practice; and
 - (h) promoting electrical safety in workplaces and in the broader community to foster an increased awareness of—

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- (i) the potential risks associated with electricity; and
 - (ii) ways to improve electrical safety.
- (3) A secondary function of the board is to give advice and make recommendations to the regulator under the Electricity Act, as requested by the regulator, about the energy efficiency and performance of electrical equipment.
- (4) The chief executive must give the board the necessary administrative and other support to enable the board to perform its functions efficiently and effectively.

Division 2 Board membership

77 Composition of board

- (1) The board consists of the following members—
 - (a) the commissioner, who is the chairperson of the board;
 - (b) the chief executive;
 - (c) 6 members appointed by the Minister.
- (2) In choosing the appointed members of the board, the Minister must—
 - (a) consider each proposed member's practical experience and competence in the management of electrical safety; and
 - (b) ensure that—
 - (i) 2 of the appointed members are representative of employers; and
 - (ii) 2 of the appointed members are representative of workers; and
 - (iii) 2 of the appointed members are representative of the community; and
 - (c) seek to appoint both men and women as members.

78 Conditions of appointment to board

- (1) The appointment of an appointed member of the board is for the term, of not longer than 3 years, decided by the Minister when the member is appointed.
- (2) An appointed member of the board is appointed on a part-time basis.
- (3) An appointed member of the board is entitled to be paid the remuneration and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.

79 When appointed member's office becomes vacant

- (1) The office of an appointed member of the board becomes vacant if—
 - (a) the member resigns by signed notice of resignation given to the Minister; or
 - (b) the Minister ends the member's appointment.
- (2) The Minister may end the appointment of an appointed member of the board—
 - (a) in either of the following events—
 - (i) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the board;
 - (ii) the member is found guilty of an indictable offence, whether or not dealt with summarily, or an offence against this Act; or
 - (b) at any time, for any reason or without stating a reason.

80 Leave of absence

- (1) The Minister may approve a leave of absence for an appointed member of the board.

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- (2) If a leave of absence is approved, the Minister may appoint someone else as an acting member during the member's approved leave of absence.
- (3) In appointing a person as an acting member, the Minister must have regard to requirements of this division for the composition of the board.

Division 3 Conduct of board proceedings

81 Times of board meetings

- (1) The board may hold its meetings when it decides.
- (2) However, the board must meet at least 4 times a year.
- (3) The chairperson of the board—
 - (a) may call a meeting of the board at any time; and
 - (b) must call a meeting if the meeting is asked for by at least a third of the other members.
- (4) The Minister may call a meeting of the board at any time.

82 Conduct of proceedings

- (1) The chairperson of the board presides at all board meetings at which the chairperson is present.
- (2) The chief executive's attendance at a board meeting may be through a representative nominated by the chief executive.
- (3) If the chairperson is absent, the member chosen by the members present is to preside.
- (4) At a meeting of the board—
 - (a) a quorum is at least 4 members; and
 - (b) a question is decided by a majority of the votes of the members present and voting; and
 - (c) each member present has a vote on each question to be decided and, if the votes are equal, the member

presiding has an additional vote in the form of a casting vote.

- (5) The board may otherwise conduct its proceedings, including its meetings, as it considers appropriate.
- (6) The board may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (7) A member who takes part in a board meeting under subsection (6) is taken to be present at the meeting.
- (8) A resolution is a valid resolution of the board, even though it is not passed at a board meeting, if—
 - (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board.

83 Disclosure of interests

- (1) If there is a reasonable possibility that a member's participation in the board's consideration of an issue will give the member, or an entity associated with the member, a professional or commercial advantage, or will otherwise be a conflict of interest, the member must disclose the possibility to the board.
- (2) The disclosure must be recorded in the board's minutes and, unless the board otherwise directs, the member must not—
 - (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board on the issue.
- (3) If, because of subsection (2), the member is not present for the board's consideration of the issue, but there would be a quorum if the member were present, the remaining members

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present are a quorum for the board's consideration of the issue.

- (4) For subsection (1), an entity is associated with a member if the member is an employee or member of, or an adviser to, the entity.

84 Minutes

The board must keep minutes of its proceedings.

Division 4 General

85 Annual report

- (1) As soon as practical, but within 4 months, after the end of each financial year, the commissioner, as chairperson of the board, must prepare and give to the Minister a report on the board's operations for the year.
- (2) The report must include a summary of the work of each of the board committees.
- (3) The report must—
 - (a) be approved by the board before it is submitted to the Minister; or
 - (b) indicate the extent to which any part of the report has not been approved by the board.
- (4) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.

Part 8 Board committees

Division 1 Introduction

86 Establishment of board committees

- (1) This part establishes, and otherwise provides for, 3 named committees.
- (2) This part also provides for the establishment of advisory committees.
- (3) Committees are established to support the board in the performance of its functions.
- (4) Additionally, the licensing committee has independent functions for particular licensing matters.

Division 2 Electrical Licensing Committee

87 Establishment

The Electrical Licensing Committee is established.

88 Functions of licensing committee

- (1) The functions of the licensing committee are—
 - (a) to give advice and make recommendations to the board about electrical licences and training; and
 - (b) to take necessary disciplinary action against holders of electrical licences and against previous holders of electrical contractor licences; and
 - (c) to review decisions of the chief executive about electrical licences.
- (2) Without limiting subsection (1), the licensing committee may discharge its functions by—

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- (a) recommending training modules and courses to qualify persons for electrical licences; and
 - (b) advising on issues the board refers to it; and
 - (c) making recommendations about the safety of electrical work and the standards for qualifications required for an electrical licence; and
 - (d) receiving and investigating complaints about electrical work; and
 - (e) taking action to ensure holders of electrical licences perform work, or conduct their businesses or undertakings, to appropriate standards, including by cancelling or suspending licences and taking other disciplinary action; and
 - (f) reviewing decisions of the chief executive about electrical licences, including by confirming, setting aside or substituting decisions or referring decisions back to the chief executive.
- (3) The chief executive must give the licensing committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

89 Composition of licensing committee

- (1) The licensing committee consists of the following members—
- (a) the commissioner, who is the chairperson of the committee;
 - (b) 4 other members appointed by the Minister.
- (2) In choosing the appointed members of the committee, the Minister must—
- (a) consider each proposed member's practical experience and competence in the management of electrical safety and in electrical training; and
 - (b) ensure that—

- (i) 1 of the appointed members is representative of employers; and
 - (ii) 1 of the appointed members is representative of workers; and
 - (iii) 1 of the appointed members is representative of the community; and
- (c) ensure that an appointed member who is other than an appointed member under paragraph (b) is a technical expert who is—
- (i) a licensed electrical worker; or
 - (ii) an electrical engineer; and
- (d) seek to appoint both men and women as members.

Division 3 Electrical Safety Education Committee

90 Establishment

The Electrical Safety Education Committee is established.

91 Function of safety education committee

- (1) The function of the safety education committee is to give advice and make recommendations to the board about the promotion of electrical safety in workplaces and in the broader community.
- (2) Without limiting subsection (1), the safety education committee may discharge its function by—
 - (a) recommending to the board strategies and marketing campaigns on electrical safety; and
 - (b) recommending information and education strategies for electrical safety; and
 - (c) advising on issues the board refers to it; and

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- (d) examining the appropriateness of, and the need for, marketing campaigns and promotional programs; and
 - (e) making recommendations to the board, when appropriate for responding to particular electrical safety issues, for the establishment of working parties.
- (3) The chief executive must give the safety education committee the necessary administrative and other support to enable the committee to perform its function efficiently and effectively.

92 Composition of safety education committee

- (1) The safety education committee consists of the following members—
- (a) 1 member appointed by the Minister to be chairperson of the committee;
 - (b) at least 6 other members appointed by the Minister.
- (2) In choosing the members of the committee, the Minister must—
- (a) consider each proposed member's practical experience and competence in the promotion and marketing of electrical safety; and
 - (b) seek to appoint both men and women as members.

Division 4 Electrical Equipment Committee

93 Establishment

The Electrical Equipment Committee is established.

94 Functions of equipment committee

- (1) The primary function of the equipment committee is to give advice and make recommendations to the board about the safety of electrical equipment.

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- (2) A secondary function of the equipment committee is to give advice and make recommendations to the board about the energy efficiency and performance of electrical equipment.
 - (3) Without limiting subsections (1) and (2), the equipment committee may discharge its functions by—
 - (a) investigating and reporting on issues the board refers to it about the safety of electrical equipment; and
 - (b) advising on other issues the board refers to it; and
 - (c) advising on strategies to improve the safety of electrical equipment; and
 - (d) advising on safety standards for electrical equipment; and
 - (e) advising on certificates for electrical equipment and the suitability of electrical equipment for connection to electricity; and
 - (f) advising on the approval, hire, sale and use of electrical equipment; and
 - (g) advising on actions the department might take about unsafe electrical equipment.
 - (4) The chief executive must give the equipment committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

95 Composition of equipment committee

- (1) The equipment committee consists of the following members—
 - (a) 1 member appointed by the Minister to be chairperson of the committee;
 - (b) at least 6 other members appointed by the Minister.
- (2) In choosing the members of the committee, the Minister must—

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- (a) consider each proposed member's practical experience and competence in relation to electrical equipment; and
- (b) seek to appoint both men and women as members.

Division 5 Advisory committees

96 Establishment

- (1) The Minister may, by gazette notice, establish advisory committees to support the board as the Minister considers appropriate.
- (2) The gazette notice establishing an advisory committee must include information about the committee's terms of reference and the composition of the committee's membership.

97 Function of advisory committee

An advisory committee has the function of advising the board in relation to the particular issues that, in accordance with its terms of reference, the board refers to it.

98 Composition of advisory committee

- (1) An advisory committee consists of the chairperson and other members appointed by the Minister in accordance with the requirements for the composition of the committee as stated in the gazette notice establishing the committee.
- (2) In choosing the members of the committee, the Minister must—
 - (a) consider each proposed member's practical experience and competence in relation to the terms of reference stated in the gazette notice; and
 - (b) seek to appoint both men and women as members.

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- (3) Unless the gazette notice establishing the advisory committee otherwise provides, the commissioner is not precluded from appointment as an appointed member of the committee.

Division 6 Board committee membership

99 Conditions of appointment to board committee

- (1) The appointment of an appointed member of a board committee is for the term, of not longer than 3 years, decided by the Minister when the member is appointed.
- (2) An appointed member of a board committee is appointed on a part-time basis.
- (3) An appointed member of a board committee is entitled to be paid the remuneration and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.
- (4) Subsection (3) does not apply to the commissioner if the commissioner is an appointed member of an advisory committee.

100 When appointed member's office becomes vacant

- (1) The office of an appointed member of a board committee becomes vacant if—
- (a) the member resigns by signed notice of resignation given to the Minister; or
 - (b) the Minister ends the member's appointment.
- (2) The Minister may end the appointment of an appointed member of a board committee—
- (a) in either of the following events—
 - (i) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the board committee;

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- (ii) the member is found guilty of an indictable offence, whether or not dealt with summarily, or an offence against this Act; or
- (b) at any time, for any reason or without stating a reason.

101 Leave of absence

- (1) The Minister may approve a leave of absence for an appointed member of a board committee.
- (2) If a leave of absence is approved, the Minister may appoint someone else as an acting member during the member's approved leave of absence.
- (3) In appointing a person as an acting member, the Minister must have regard to requirements of this part for the composition of the board committee.

Division 7 Conduct of board committee proceedings

102 Times of board committee meetings

- (1) A board committee may hold its meetings when it decides.
- (2) However, a board committee, other than an advisory committee, must meet at least 4 times a year.
- (3) The chairperson of a board committee—
 - (a) may call a meeting of the board committee at any time; and
 - (b) must call a meeting if the meeting is asked for by at least a third of the other members.
- (4) The Minister may call a meeting of a board committee at any time.

103 Conduct of proceedings

- (1) The chairperson of a board committee presides at all board committee meetings at which the chairperson is present.
- (2) If the chairperson is absent, the member chosen by the members present is to preside.
- (3) At a meeting of a board committee—
 - (a) a quorum is at least half the members of the board committee; and
 - (b) a question is decided by a majority of the votes of the members present and voting; and
 - (c) each member present has a vote on each question to be decided and, if the votes are equal, the member presiding has an additional vote in the form of a casting vote.
- (4) A board committee may otherwise conduct its proceedings, including its meetings, as it considers appropriate.
- (5) A board committee may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.

Example of use of technology—

teleconferencing

- (6) A member who takes part in a board committee meeting under subsection (5) is taken to be present at the meeting.
- (7) A resolution is a valid resolution of a board committee, even though it is not passed at a board committee meeting, if—
 - (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the board committee.

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104 Disclosure of interests

- (1) If there is a reasonable possibility that a member's participation in a board committee's consideration of an issue will give the member, or an entity associated with the member, a professional or commercial advantage, or will otherwise be a conflict of interest, the member must disclose the possibility to the board committee.
- (2) The disclosure must be recorded in the board committee's minutes and, unless the board committee otherwise directs, the member must not—
 - (a) be present when the board committee considers the issue; or
 - (b) take part in a decision of the board committee on the issue.
- (3) If, because of subsection (2), the member is not present for the board committee's consideration of the issue, but there would be a quorum if the member were present, the remaining members present are a quorum for the board committee's consideration of the issue.
- (4) For subsection (1), an entity is associated with a member if the member is an employee or member of, or an adviser to, the entity.

105 Minutes and reports

- (1) A board committee must keep minutes of its proceedings.
- (2) A board committee must give the board a report on the performance of the board committee's functions as soon as practicable after each meeting of the board committee.

Part 9 Disciplinary action

Division 1 Grounds for disciplinary action

106 Licensed electrical worker

Each of the following is a ground for taking disciplinary action against the holder of an electrical work licence—

- (a) the holder performs or supervises electrical work, and—
 - (i) the way the electrical work is performed is not electrically safe; or
 - (ii) the person who performs the electrical work is negligent or incompetent in the performance of the work;
- (b) the holder performs or supervises electrical work, and because of the performance of the work, a person or property is not electrically safe;
- (c) the holder is, or has been, the holder of an electrical contractor licence, and has not complied with a direction of the licensing committee to rectify electrical work;
- (d) the holder obtained the electrical work licence by supplying incorrect or misleading information;
- (e) the holder no longer complies with eligibility requirements applying for the licence;
- (f) the holder commits an offence against this Act;
- (g) the holder contravenes a condition or restriction included in the licence.

107 Licensed electrical contractor

(1) Each of the following is a ground for taking disciplinary action against the holder of an electrical contractor licence—

- (a) the holder performs electrical work, and—

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- (i) the way the electrical work is performed is not electrically safe; or
- (ii) the person who actually performs the electrical work is negligent or incompetent in the performance of the work;
- (b) the holder performs electrical work, and because of the performance of the work, a person or property is not electrically safe;
- (c) the holder has not given to a person a notice the holder is required under this Act to give the person about electrical work performed by the holder;
- (d) the holder has unreasonably delayed rectifying a fault found in an inspection, under this Act, of electrical work performed by the holder;
- (e) the holder, or a worker of the holder, intentionally deceives, or tries to deceive, an electricity entity or inspector by—
 - (i) the concealment of inferior work or materials used in electrical work; or
 - (ii) a statement about electrical work that is false or misleading in a material particular;
- (f) the holder, or a worker of the holder, unlawfully tampers with, or breaks or tampers with the seal attached to, a meter, control apparatus or fuse belonging to an electricity supplier;
- (g) the holder, or a worker of the holder, connects an electrical installation, or part of an electrical installation, to a source of supply chargeable at a rate lower than the rate for which electricity supply to the electrical installation or part is chargeable, without the authority of the electricity supplier supplying the electricity;
- (h) the holder is a party to an act done by someone else that is an act of a type mentioned in paragraph (a), (b), (c), (d), (e), (f) or (g) or knows of the act and does nothing about it;

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- (i) the holder obtained the electrical contractor licence by supplying incorrect or misleading information;
 - (j) the holder no longer complies with eligibility requirements applying for the licence, including any requirements about the suitability of the holder to hold an electrical contractor licence;
 - (k) the holder commits an offence against this Act;
 - (l) the holder contravenes a condition or restriction included in the licence;
 - (m) the holder is a partnership, and advises, or causes or allows, a partner or worker of the partnership to perform electrical work, knowing the member or worker is not authorised under this Act to perform the work;
 - (n) the holder is a corporation, and advises, or causes or allows, an executive officer or worker of the corporation to perform electrical work, knowing the executive officer or worker is not authorised under this Act to perform the work.
- (2) Subsection (3) states a ground for taking disciplinary action against a person who—
- (a) was the holder of an electrical contractor licence when electrical work was performed; and
 - (b) is no longer the holder of the licence.
- (3) The ground is that the person performed the electrical work, and—
- (a) the way the electrical work was performed was not electrically safe; or
 - (b) the person who actually performed the electrical work was negligent or incompetent in the performance of the work.
- (4) In this section—
- electricity supplier* means a distribution entity or special approval holder who provides customer connection services to an electrical installation or premises.

Division 2 Types of disciplinary action

108 Purpose of div 2

This division establishes the disciplinary action that may be taken by the licensing committee.

109 Electrical licence issued by chief executive

(1) The licensing committee may take any of the following disciplinary actions against the holder of an electrical licence issued by the chief executive—

- (a) cancel or amend the licence;
- (b) suspend the licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with;

Example of condition—

a condition that the licence holder satisfactorily finish a stated training course or examination

- (ba) if the licence is an electrical work licence, disqualify the holder from being a qualified technical person for the holder of an electrical contractor licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with; or
- (bb) disqualify the holder from holding an electrical contractor licence, electrical work licence, or both—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with; or

Example of condition—

a condition that the licence holder satisfactorily finish a stated training course or examination

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- (c) reprimand or caution the holder;
 - (d) if the electrical licence is an electrical contractor licence, require the holder to correct a fault or defect in electrical work within the time and in the way stated by the committee;
 - (e) impose on the holder a penalty of not more than 40 penalty units.
- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

Example—

The licensing committee may cancel the electrical contractor licence held by a person as well as impose a penalty of 10 penalty units on the person.

- (3) If the electrical licence was issued by the chief executive and is suspended because of disciplinary action, the licence—
- (a) can not be renewed while it is still suspended; and
 - (b) if it expires while it is still suspended, can not be reinstated while it is still suspended.
- (4) If the holder is disqualified from holding an electrical licence because of disciplinary action—
- (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
 - (b) the person can not be issued another electrical licence while the disqualification applies.
- (5) In this section—
- qualified technical person*** has the meaning given by a regulation.

110 External licence

- (1) The licensing committee may take any of the following disciplinary actions against the holder of an electrical work

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licence that, under the external licence recognition provision, is an external licence—

- (a) cancel or limit the external licence recognition provision's application to the external licence;
- (b) suspend the external licence recognition provision's application to the external licence—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with;

Example of condition—

a condition that the licence holder satisfactorily finish a stated training course or examination

- (c) reprimand or caution the holder;
 - (d) impose on the holder a penalty of not more than 40 penalty units.
- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

Example—

The licensing committee may limit the external licence recognition provision's application to the external licence held by a person as well as reprimand the person.

111 Electrical contractor licence issued by chief executive but no longer in force

- (1) The licensing committee may take any of the following disciplinary actions against a person who was the holder of an electrical contractor licence when electrical work was performed, but who is no longer the holder of an electrical contractor licence—
- (a) require the person, at the person's own expense, to have the holder of an electrical contractor licence correct a fault or defect in the electrical work within the time and in the way stated by the committee;

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- (b) reprimand or caution the person;
 - (c) impose on the person a penalty of not more than 40 penalty units;
 - (d) disqualify the person from holding an electrical contractor licence, or electrical work licence, or both—
 - (i) for a period decided by the committee; or
 - (ii) until conditions decided by the committee are complied with.

Example of condition—

a condition that the person satisfactorily finish a stated training course or examination

- (2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the person.

Example—

The licensing committee may require the person to have the holder of an electrical contractor licence correct a fault or defect in the electrical work performed by the person as well as impose a penalty of 10 penalty units on the person.

- (3) If a person is disqualified from holding an electrical licence because of disciplinary action—
 - (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
 - (b) the person can not be issued another electrical licence while the disqualification applies.

112 Penalties

- (1) A penalty may be imposed as disciplinary action in addition to the taking of other disciplinary action under this part against a person.
- (2) If a penalty is imposed as disciplinary action and the person against whom it is imposed does not pay the penalty within the time allowed by the licensing committee, the committee

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may take further disciplinary action against the person for the ground for which the penalty was imposed.

- (3) Without limiting subsection (2), a penalty imposed as disciplinary action may be recovered as a debt owing to the State by the person.

Division 3 Procedures for taking disciplinary action

113 Application of div 3

This division sets out the procedures for taking disciplinary action against a person.

114 Preliminary notice

- (1) If the licensing committee considers that a ground may exist for taking disciplinary action against a person, the committee may give the person a written notice (*preliminary notice*) stating—
 - (a) that the committee is considering whether it should hold a hearing—
 - (i) to decide whether a ground exists for taking disciplinary action against the person; and
 - (ii) if the committee decides a ground exists for taking disciplinary action—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (b) the ground that the committee considers may exist for taking disciplinary action against the person; and
 - (c) an outline of the committee’s understanding of the facts and circumstances forming the basis for the committee’s view that the ground may exist; and
 - (d) an invitation to the person to give the committee information the person considers the committee should

consider before deciding whether to hold the hearing, including information the person considers would justify the committee in deciding not to act further under this part; and

- (e) that, to ensure the licensing committee is required to consider the person's information, the committee must receive the information within the fixed period after the date of the notice; and
 - (f) what the fixed period is.
- (2) The preliminary notice must be dated not earlier than the day the notice is given.
 - (3) The licensing committee must consider information provided by the person in response to the preliminary notice if the information is received by the committee within the fixed period after the date of the preliminary notice.
 - (4) The licensing committee may consider, but is not required to consider, information provided by the person in response to the preliminary notice if the information is received by the committee after the fixed period.
 - (5) A preliminary notice may deal with—
 - (a) more than 1 ground; or
 - (b) more than 1 set of facts and circumstances.
 - (6) In this section—

fixed period means 14 days, or a longer period fixed by the licensing committee for a particular preliminary notice.

115 Hearing

- (1) The licensing committee may hold a hearing (*disciplinary hearing*)—
 - (a) to decide whether the ground exists for taking disciplinary action against the person; and

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- (b) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action.
- (2) However, the committee may hold the disciplinary hearing only if—
- (a) the committee has considered—
 - (i) all information provided by the person that the committee is required to consider; and
 - (ii) all other information provided by the person that the committee decides to consider; and
 - (b) the committee still considers that the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person.

116 Disciplinary hearing notice

- (1) Before holding the disciplinary hearing, the licensing committee must give the person a written notice (*disciplinary hearing notice*) stating—
- (a) that the committee still considers that the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person; and
 - (b) that the committee has decided to hold a disciplinary hearing—
 - (i) to decide whether the ground exists; and
 - (ii) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (c) an outline of the committee’s understanding of the facts and circumstances forming the basis for the committee’s view that the ground may exist; and
 - (d) when and where the disciplinary hearing is to be held; and
 - (e) that—

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- (i) the person is required to appear at the hearing; and
 - (ii) if the person appears at the hearing, the person may give information or make submissions to the committee at the hearing; and
- (f) that, if the person does not appear at the hearing—
- (i) the person may give information or make submissions to the committee in another way; and
 - (ii) the committee may act in the person's absence, whether or not the person gives information or makes submissions.
- (2) The disciplinary hearing notice must be dated not earlier than the day the notice is given.
- (3) The date the licensing committee fixes for the disciplinary hearing must be at least 14 days after the date of the disciplinary hearing notice.
- (4) The committee must include with the disciplinary hearing notice—
- (a) a copy of the preliminary notice; and
 - (b) copies of all available written material held by the committee that the committee reasonably considers to be relevant to the proposed disciplinary hearing.

117 Disciplinary hearing a meeting of the licensing committee

The disciplinary hearing is held as, or as a part of, a meeting of the licensing committee, and the provisions of this Act providing for the holding of meetings of board committees apply to the meeting to the extent the provisions are consistent with the provisions of this division.

118 Disciplinary hearing requirements

- (1) When conducting the disciplinary hearing, the licensing committee—
- (a) must comply with natural justice; and

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- (b) must act as quickly and with as little formality and technicality as is consistent with appropriate consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and
 - (d) may inform itself of anything in the way it considers appropriate; and
 - (e) may adjourn the hearing at any time to make further enquiries or for another purpose.
- (2) Also, the licensing committee must—
- (a) at the start of the hearing, tell the person—
 - (i) the facts and circumstances forming the basis for the committee’s view that the ground mentioned in the preliminary notice and disciplinary hearing notice may exist for taking disciplinary action against the person; and
 - (ii) what possible disciplinary action the licensing committee may take against the person; and
 - (b) if asked by the person—explain to the person any aspect of the committee’s procedures or any decisions or rulings relating to the hearing; and
 - (c) ensure the person has the fullest opportunity practicable to be heard.
- (3) The disciplinary hearing is not open to the public unless the licensing committee otherwise decides.
- (4) At the disciplinary hearing, the licensing committee may act in the absence of the person if it reasonably believes that the requirements of this Act for giving the holder the disciplinary hearing notice have been followed.

119 Evidence and findings in other proceedings may be received or adopted

During the disciplinary hearing the licensing committee may—

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- (a) receive in evidence a transcript or part of a transcript of evidence taken in a proceeding before a disciplinary body or a court, tribunal or other entity constituted under the law of the State, the Commonwealth, another State or a foreign country and draw conclusions of fact from the evidence; or
 - (b) adopt as it considers appropriate decisions, findings, judgments or reasons for judgment of a disciplinary body, court, tribunal or entity that may be relevant to the disciplinary hearing.

120 Licensing committee to keep record of disciplinary hearing

- (1) The licensing committee must keep a record of evidence given to it for the disciplinary hearing.
- (2) However, the licensing committee is not required to keep a transcript of the disciplinary hearing.
- (3) In this section—
evidence, given to the licensing committee, includes information given and submissions made to the committee.

121 Decision about taking disciplinary action

- (1) As soon as practicable after completing the disciplinary hearing, the licensing committee—
 - (a) must decide whether the ground exists for taking disciplinary action against the person; and
 - (b) if the committee decides that the ground exists for taking disciplinary action against the person—must decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
 - (c) must give the person a written notice informing the person of what the committee has decided.
- (2) If the committee decides that disciplinary action is to be taken against the person, the written notice must include

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information notices for the committee's decisions under subsection (1)(a) and (b).

- (3) The disciplinary action takes effect on the day stated in the written notice for the disciplinary action to take effect.
- (4) The day stated in the written notice for the disciplinary action to take effect must be not earlier than the day the notice is given.
- (5) If the committee decides that disciplinary action is to be taken against the person, and the person is the holder of an external licence, notice of what the committee has decided, but not its reasons for decision, must also be published in the gazette.
- (6) If disciplinary action taken against the person requires the person to correct, or have corrected, a fault or defect in electrical work, the person must comply with the requirement.

Maximum penalty for subsection (6)—100 penalty units.

Part 10 Inspectors and accredited auditors

Division 1 Inspectors

122 Appointment and qualifications

- (1) The chief executive may appoint any of the following persons as an inspector—
 - (a) an officer of the department;
 - (b) a person prescribed under a regulation.
- (2) However, the chief executive may appoint a person as an inspector only if—

- (a) the chief executive 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 chief executive.

123 Appointment conditions and limit on powers

- (1) An inspector holds office on any conditions stated in—
 - (a) the inspector's instrument of appointment; or
 - (b) a signed notice given to the inspector; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers under this Act.
- (3) In this section—
signed notice means a notice signed by the chief executive.

124 Issue of identity card

- (1) The chief executive must issue an identity card to each inspector.
- (2) The identity card must—
 - (a) contain a recent photo of the inspector; and
 - (b) contain a copy of the inspector's signature; and
 - (c) identify the person as an inspector 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 inspector is also an inspection officer under the Electricity Act, the regulator under that Act, and the chief executive under this Act, could

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together issue a combined identity card covering the purposes of both Acts.

125 Production or display of identity card

- (1) In exercising a power under this Act in relation to a person, an inspector must—
 - (a) produce the inspector'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 inspector must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector, as authorised under this Act, enters—
 - (a) a public place when it is open to the public; or
 - (b) a place for the purpose of asking the occupier of the place for consent to enter.

126 When inspector ceases to hold office

- (1) An inspector 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 inspector ceases to hold office;
 - (c) the inspector's resignation takes effect.
- (2) Subsection (1) does not limit the ways an inspector may cease to hold office.
- (3) In this section—

condition of office means a condition on which the inspector holds office.

127 Resignation

- (1) An inspector may resign by signed notice given to the chief executive.
- (2) However, if holding office as an inspector is a condition of the inspector holding another office, the inspector may not resign as an inspector without resigning from the other office.

128 Return of identity card

A person who ceases to be an inspector must return the person's identity card to the chief executive within 21 days after ceasing to be an inspector unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Division 2 Accredited auditors

129 Appointment and qualifications

- (1) The chief executive may appoint a person, whether or not an officer of the department, as an accredited auditor.
- (2) However, the chief executive may appoint a person as an accredited auditor only if—
 - (a) the person makes application for appointment in the way prescribed under a regulation; and
 - (b) either—
 - (i) the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or
 - (ii) the person has satisfactorily finished training approved by the chief executive.

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130 Appointment conditions and limit on powers

- (1) An accredited auditor holds office on any conditions stated in—
 - (a) the accredited auditor's instrument of appointment; or
 - (b) a signed notice given to the accredited auditor; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the accredited auditor or a regulation may limit the accredited auditor's powers or functions under this Act.
- (3) In this section—
signed notice means a notice signed by the chief executive.

131 Issue of identity card

- (1) The chief executive must issue an identity card to each accredited auditor.
- (2) The identity card must—
 - (a) contain a recent photo of the accredited auditor; and
 - (b) contain a copy of the accredited auditor's signature; and
 - (c) identify the person as an accredited 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 other purposes.

132 Production or display of identity card

- (1) In exercising a power or performing a function under this Act in relation to a person, an accredited auditor must produce the accredited 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 accredited auditor must produce the identity card for the person's inspection at the first reasonable opportunity.

133 When accredited auditor ceases to hold office

- (1) An accredited 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 accredited auditor ceases to hold office;
 - (c) the accredited auditor's resignation takes effect.
- (2) Subsection (1) does not limit the ways an accredited auditor may cease to hold office.
- (3) In this section—

condition of office means a condition on which the accredited auditor holds office.

134 Suspension or revocation of accredited auditor's appointment

The chief executive may suspend or revoke an accredited auditor's appointment.

135 Resignation

- (1) An accredited auditor may resign by signed notice given to the chief executive.
- (2) However, if holding office as an accredited auditor is a condition of the accredited auditor holding another office, the accredited auditor may not resign as an accredited auditor without resigning from the other office.

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136 Return of identity card

A person who ceases to be an accredited auditor must return the person's identity card to the chief executive within 21 days after ceasing to be an accredited auditor unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

136A Chief executive may ask for further information or documents from accredited auditor

- (1) The chief executive may, by written notice given to a person who is an accredited auditor, require the person to give the chief executive, within a reasonable period of at least 21 days stated in the notice, information or a document the chief executive reasonably requires to satisfy the chief executive that the person—
 - (a) continues to be appropriately qualified; or
 - (b) continues to satisfy the conditions of office.

Examples of information—

- the person has undertaken training in changes to relevant legislation
 - the person has conducted audits or other testing or assessments in relation to electrical safety
 - the person continues to hold the insurance required under a condition of office applying to the person
- (2) The chief executive may, in the notice, require the person to verify the further information or document by statutory declaration.
 - (3) The person must comply with the notice, unless the person has a reasonable excuse.
 - (4) The chief executive may revoke the person's appointment as an accredited auditor if the person fails, without reasonable excuse, to comply with the notice.
 - (5) Subsection (4) does not limit the operation of section 134.
 - (6) In this section—

appropriately qualified, for a person, means qualified for appointment as an accredited auditor because the person has the necessary expertise or experience.

condition of office means a condition on which an accredited auditor holds office.

Part 11 Enforcement

Division 1 Entry of places

137 Power to enter place

- (1) An inspector 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) it is a workplace under the control of a person who has an electrical safety obligation under this Act, and is—
 - (i) open for carrying on business; or
 - (ii) otherwise open for entry; or
 - (e) the inspector reasonably suspects it is a workplace under the control of a person who has an electrical safety obligation under this Act, and it is—
 - (i) open for carrying on business; or
 - (ii) otherwise open for entry; or
 - (f) the entry is urgently required to investigate the circumstances of a serious electrical incident or dangerous electrical event.

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- (2) For the purpose of asking the occupier of a place for consent to enter, an inspector 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 inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- (3) Subsection (1)(d) or (e) does not authorise entry to a part of a workplace where a person resides.
- (4) An inspector who enters a workplace must not unnecessarily impede any business being conducted at the workplace.

Division 2 Procedure for entry

138 Entry with consent

- (1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.
- (2) Before asking for the consent, the inspector 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 inspector may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement 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 inspector 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 acknowledgement, the inspector 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 acknowledgement 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.

139 Procedure for entries in urgent circumstances

- (1) This section applies if—
- (a) an inspector is intending to enter a place on the basis that the entry is urgently required to investigate the circumstances of a serious electrical incident or dangerous electrical event; and
 - (b) the occupier of the place is present at the place.
- (2) Before entering the place, the inspector must do, or make a reasonable attempt to do, the following things—
- (a) tell the occupier the purpose of the entry;
 - (b) tell the occupier the inspector is permitted under this Act to enter the place without the occupier's consent.

140 Application for warrant

- (1) An inspector 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.

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- (3) The magistrate may refuse to consider the application until the inspector 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.

141 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 inspector may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for entry; and
 - (ii) exercise the inspector'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.

142 Special warrant

- (1) An inspector may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

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- (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the special warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
 - (3) The inspector 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 inspector if it is reasonably practicable to fax the copy.
 - (5) If it is not reasonably practicable to fax a copy to the inspector—
 - (a) the magistrate must tell the inspector—
 - (i) what the terms of the special warrant are; and
 - (ii) the date and time the special warrant is issued; and
 - (b) the inspector 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 inspector, authorises the entry and the exercise of the other powers stated in the special warrant issued.
 - (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
 - (a) the sworn application; and
 - (b) if the inspector completed a warrant form—the completed warrant form.

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- (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.

143 Warrant—procedure before entry

- (1) This section applies if an inspector 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 inspector 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 inspector's identity card or other document evidencing the inspector'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 inspector is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.
- (3) However, the inspector need not comply with subsection (2) if the inspector 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 inspectors

143A Inspectors may give advice to persons with electrical safety obligation

An inspector may give advice to a person who has an electrical safety obligation in relation to the person's compliance with this Act.

144 General powers after entering place

- (1) This section applies to an inspector who enters a place, other than an inspector who enters a place under section 137(1)(e) if the place is not a workplace under the control of a person who has an electrical safety obligation under this Act.
- (2) However, if an inspector enters a place to get the occupier's consent to enter a place, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring and enforcing compliance with this Act, the inspector may—
 - (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) make inquiries or conduct surveys and tests to assess—
 - (i) the degree of electrical risk to persons or property existing at the place; or
 - (ii) standards of electrical safety existing at the place; or
 - (f) inquire into the circumstances and probable causes of any serious electrical incident or dangerous electrical event at the place; or

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- (g) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this part; or
 - (h) require a person at the place to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or
 - (i) require a person at the place to answer questions by the inspector to help the inspector ascertain whether this Act is being or has been complied with.
- (4) When making a requirement mentioned in subsection (3)(h) or (i), the authorised 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)(h) or (i) must comply with the requirement, unless the person has a reasonable excuse.
- Maximum penalty—100 penalty units.
- (6) If the requirement is to be complied with by the person giving information, or producing a document, other than a document required to be kept by the person under this Act, it is a reasonable excuse for the person, if the person is an individual, to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

145 Power to seize evidence

- (1) An inspector who enters a place under this part, other than with a warrant, may seize a thing at the place if—
- (a) the inspector 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.

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- (2) An inspector who enters a place with a warrant may seize the evidence for which the warrant was issued.
 - (3) An inspector may also seize anything else at a place the inspector enters under this part if the inspector 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.
 - (4) Also, an inspector may seize a thing at a place the inspector enters under this part if the inspector reasonably believes it has just been used in committing an offence against this Act.

146 Inspector's power to seize unsafe electrical equipment at an entered place

- (1) This section applies if—
 - (a) an inspector enters a place under this part; and
 - (b) the inspector reasonably believes that—
 - (i) persons or property at the place are at electrical risk from electrical equipment at the place; and
 - (ii) it is urgent that the inspector take action to prevent, remove or minimise the risk.
- (2) The inspector may seize the electrical equipment.

146A Inspector's power to seize other unsafe electrical equipment

- (1) This section applies if—
 - (a) an inspector enters a place under this part; and
 - (b) the inspector takes electrical equipment at the place for analysis or testing under section 144(3)(c); and

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- (c) the results of the analysis or testing show that the equipment is not electrically safe.
- (2) The inspector may seize the equipment.

147 Powers supporting seizure

- (1) Having seized a thing, whether or not electrical equipment, an inspector 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

Examples of restricting access to a thing—

- sealing a main switch and marking it to restrict its operation
 - disconnecting a faulty power circuit from supply
 - 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 inspector may direct an electricity entity to give the inspector the help the inspector 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 inspector 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 inspector's approval.

Maximum penalty—100 penalty units.

- (5) If an inspector 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 inspector's approval.

Maximum penalty—100 penalty units.

- (6) To enable a thing to be seized, an inspector may require the person in control of it—
 - (a) to take it to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (7) The requirement—
 - (a) must be made by notice in the approved form; or
 - (b) if it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (8) A further requirement may be made under this section in relation to the same thing if it is necessary and reasonable to make the further requirement.
- (9) A person of whom a requirement is made under subsection (6) or (8) must comply with the requirement unless the person has a reasonable excuse for not complying.

Maximum penalty—100 penalty units.

- (10) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (6) or (8) must be borne by the person.
- (11) For this section, a person is *in control* of a thing, other than electrical equipment, if the person has, or reasonably appears to an inspector to have, authority to exercise control over the thing.

148 Inspector may require thing's return

- (1) If an inspector has required a person to take a thing to a stated place by a stated reasonable time under this division, the inspector may require the person to return the thing to the place from which it was taken.

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- (2) A person of whom the requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (3) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (1) must be borne by the person.

149 Receipt for seized thing

- (1) As soon as practicable after an inspector seizes a thing, the inspector 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 inspector 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.

150 Forfeiture of seized thing

- (1) A seized thing is forfeited to the State if the inspector 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.

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- (1A) Without limiting subsection (1), if a seized thing is electrical equipment, the thing is forfeited to the State if—
 - (a) the inspector who seized the thing reasonably believes the thing is not electrically safe; and
 - (b) the owner of the thing does not require its return.
 - (2) Subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner, and subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
 - (3) If the inspector decides to forfeit a thing under subsection (1)(c), the inspector must tell the owner of the decision by written notice.
 - (4) Subsection (3) does not apply if—
 - (a) the inspector 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 an information notice for the decision.
 - (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.

151 Return of seized thing

- (1) If a seized thing has not been forfeited, the inspector 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.

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- (2) However, unless the thing has been forfeited, the inspector must immediately return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.
- (3) This section does not apply to a seized thing if it is impracticable or would be unreasonable to return the thing given the thing's nature, condition and value.

Example for subsection (3)—

The seized thing is electrical equipment that has been destroyed or extensively damaged during analysis or testing conducted under the Act.

151A Returning seized electrical equipment that is not electrically safe

- (1) This section applies if—
 - (a) an inspector has seized electrical equipment under this part; and
 - (b) the inspector reasonably believes the equipment is not electrically safe; and
 - (c) the equipment is not forfeited under section 150(1) or (1A).
- (2) If the inspector returns the equipment to its owner, the inspector may, by written notice, require the owner to do 1 or more of the following to make the equipment electrically safe—
 - (a) have the equipment repaired;
 - (b) have the equipment altered in a stated way;
 - (c) take other stated action in relation to the equipment that is reasonable in the circumstances, including, for example, to make it incapable of operation.

Note—

Section 55 provides for who may perform electrical work, including repair or alter electrical equipment.

- (3) The owner must comply with the requirement unless the owner has a reasonable excuse for not complying.

Maximum penalty—40 penalty units.

- (4) For subsection (3), it is a reasonable excuse for the owner not complying with the requirement that the owner destroyed the equipment instead of complying with the requirement.

152 Access to seized thing

- (1) Until a seized thing is forfeited or returned, an inspector 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.

Division 4 Improvement notices, electrical safety protection notices and unsafe equipment notices

153 Improvement notice

- (1) This section applies if an inspector reasonably believes that a person—
 - (a) is contravening a provision of this Act; or
 - (b) has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated.
- (2) The inspector may direct the person to remedy—
 - (a) the contravention or likely contravention; or
 - (b) the things or operations causing the contravention or likely contravention.
- (3) The direction under subsection (2) may be given orally, but must be confirmed by written notice (*improvement notice*) given to the person as soon as practicable.
- (4) An improvement notice must state—
 - (a) that the inspector believes the person—

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- (i) is contravening a provision of this Act; or
 - (ii) has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated; and
 - (b) the provision the inspector believes is being, or has been, contravened; and
 - (c) briefly, how the provision is being, or has been, contravened; and
 - (d) the action the person must take to remedy the contravention or likely contravention; and
 - (e) the day before which the person is required to remedy the contravention or likely contravention.
- (5) The person must comply with—
- (a) the direction under subsection (2); and
 - (b) the improvement notice.
- Maximum penalty for subsection (5)—40 penalty units.

154 Electrical safety protection notice

- (1) This section applies if an inspector reasonably believes that circumstances causing, or likely to cause, an immediate electrical risk to persons or property have arisen at a place.
- (2) The inspector may—
 - (a) direct the person in control of any activity or electrical equipment that caused, or is likely to cause, the circumstances to stop the activity, or to stop using, or allowing to be used, the electrical equipment; and

Example of direction—

A direction may be given requiring a person to stop selling, hiring, lending or otherwise disposing of particular electrical equipment.
 - (b) disconnect electrical equipment from its supply of electricity to the extent the inspector considers necessary to eliminate the electrical risk.

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- (3) An inspector may direct an electricity entity to give the inspector the help the inspector reasonably requires to disconnect electrical equipment under subsection (2)(b).
 - (4) An electricity entity must comply with a direction under subsection (3).
 - (5) The direction under subsection (2)(a) may be given orally, but must be confirmed by written notice (*electrical safety protection notice*) given to the person as soon as practicable.
 - (6) The person must comply with—
 - (a) the direction under subsection (2)(a); and
 - (b) the electrical safety protection notice.

Maximum penalty—40 penalty units or 6 months imprisonment.
 - (7) Subsection (2)(a) does not apply to an activity or use of electrical equipment necessary to rectify the circumstances.
 - (8) An electrical safety protection notice must state—
 - (a) the inspector believes that circumstances causing, or likely to cause, an immediate electrical risk to persons or property have arisen, or are likely to arise, at a place; and
 - (b) briefly, the circumstances that have caused or are likely to cause the risk; and
 - (c) if the inspector believes the circumstances involve a contravention, or likely contravention, of a provision of this Act—the provision contravened or likely to be contravened; and
 - (d) the requirements that must be complied with before any electrical equipment disconnected by the inspector from its supply of electricity may be reconnected.
 - (9) For this section, a person is *in control* of an activity if the person has, or reasonably appears to have, authority to exercise control over the activity.

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155 Unsafe equipment notice

- (1) This section applies if an inspector reasonably believes that electrical equipment is so defective or hazardous that it is likely to cause a serious electrical incident.
- (2) The inspector may, by written notice (*unsafe equipment notice*), require the owner to make the electrical equipment—
 - (a) harmless; or
 - (b) incapable of operation.
- (3) The owner must comply with the unsafe equipment notice, unless the owner has a reasonable excuse for not complying.

Maximum penalty for subsection (3)—100 penalty units.

156 Order to secure compliance with notices

- (1) This section applies if it appears to the chief executive—
 - (a) that a person to whom an inspector has issued an improvement notice, an electrical safety protection notice or an unsafe equipment notice has contravened this Act by failing to comply with the notice; and
 - (b) because of the failure, there is an imminent risk of a serious electrical incident happening.
- (2) The chief executive may apply to an industrial magistrate for an order that the person comply with the notice.
- (3) If the magistrate is satisfied that there is an imminent risk of a serious electrical incident happening because of the contravention, the magistrate may make any order the magistrate considers appropriate in the circumstances.
- (4) In addition to any other liability a person may incur for breach of the order, the person also commits an offence against this section.

Maximum penalty for subsection (4)—200 penalty units or 6 months imprisonment.

Division 5 Other investigative powers

157 Power to require name and address

- (1) This section applies if—
 - (a) an inspector finds a person committing an offence against this Act; or
 - (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector reasonably to suspect the person has just committed an offence against this Act.
- (2) The inspector may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The inspector may require the person to give the inspector evidence of the correctness of the stated name or address if the inspector reasonably suspects the stated name or address is false.
- (5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (6) The person does not commit an offence against subsection (5) if—
 - (a) the person was required to state the person's name and address by an inspector who suspected the person had committed an offence against this Act; and
 - (b) the person is not proved to have committed the offence.

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157A Power to inquire into serious electrical incident or dangerous electrical event

- (1) This section applies if an inspector becomes aware, or reasonably suspects, that a serious electrical incident or dangerous electrical event has happened at a place.
- (2) The inspector may inquire into the circumstances and probable causes of the incident or event.
- (3) The inspector may require a person who has knowledge, or whom the inspector reasonably suspects to have knowledge, of the circumstances of the incident or event to give the inspector reasonable help, as stated in the requirement, to inquire under subsection (2).
- (4) A requirement under subsection (3) may be given orally or in writing.
- (5) A person must comply with a requirement under subsection (3) unless the person has a reasonable excuse for not complying.

Maximum penalty—100 penalty units.

- (6) If the requirement is to be complied with by the person giving information, or producing a document, other than a document required to be kept by the person under this Act, it is a reasonable excuse for the person, if the person is an individual, to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

158 Power to require production of certain documents

- (1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—
 - (a) a document issued to the person under this Act or required to be kept by the person under this Act; or
 - (b) a document other than a document mentioned in paragraph (a), if—

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- (i) the person has access to the document; and
 - (ii) the document relates, or is related, to an obligation the person has under this Act.
- (2) A person given a requirement under subsection (1) must comply with the requirement unless the person has a reasonable excuse for not complying.

Maximum penalty—200 penalty units.

- (3) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (4) The inspector may keep the document to copy it.
- (5) The inspector must return the document to the person as soon as practicable after copying it.
- (6) If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (7) The person responsible for keeping the document must comply with the requirement, unless the person has a reasonable excuse for not complying.

Maximum penalty for subsection (7)—100 penalty units.

Division 6 Other enforcement matters

159 Analysis of sample

- (1) The chief executive may have a sample taken by an inspector analysed.
- (2) A person must not, with intent to adversely affect the analysis of a thing—
- (a) tamper with the thing before an inspector takes a sample of the thing for analysis; or

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- (b) tamper with a sample of a thing after it is taken by an inspector for analysis.

Maximum penalty—100 penalty units.

- (3) If a particular method of analysis has been prescribed under a regulation, the analyst must follow the method.
- (4) The chief executive must obtain from the analyst a certificate or report stating the analysis result.

160 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following provisions, including, for example, in complying with a requirement made of the person—
 - (a) divisions 1 to 3;
 - (b) division 5;
 - (c) this division;
 - (d) division 7, other than in relation to the exercise by a temporary inspector of a power under division 4.
- (2) Compensation may be claimed and ordered in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for 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.
- (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.

161 Forfeiture on conviction

- (1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of anything used to commit the offence or anything else the subject of the offence.
- (2) The court may make the order—
 - (a) whether or not the thing has been seized under this Act; and
 - (b) if the thing has been seized—whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section applies to a thing only if the court is satisfied that the thing caused or may cause a serious electrical incident.
- (5) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

162 Dealing with forfeited thing

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy it.

163 Inspector to give notice of damage

- (1) This section applies if—
 - (a) an inspector damages something when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction of an inspector damages something.

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- (2) The inspector must promptly give written notice of particulars of the damage to the person who appears to be the owner of the thing.
- (3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state it in the notice.
- (4) If it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the inspector reasonably believes is trivial.
- (6) In this section—
owner, of a thing, includes the person in possession or control of it.

164 Provision of information by retail entity

- (1) A retail entity must, in the way and at the times the chief executive reasonably requires, give the chief executive information, prescribed under a regulation, the retail entity holds about—
 - (a) premises for which, under the Electricity Act, the retail entity provides customer retail services; and
 - (b) persons who, under the Electricity Act, are customers of the retail entity, and who own or occupy premises mentioned in paragraph (a).
- (2) An official may use information given to the chief executive by a retail entity under subsection (1) only for administering and enforcing this Act.
- (3) In this section—
official means—
 - (a) the chief executive; or
 - (b) an inspector.
retail entity means a retail entity under the Electricity Act.

Division 7 Emergency appointments

165 Appointment of temporary inspector

- (1) This division applies if—
 - (a) the chief executive considers that an inspector is required urgently to enter a place and investigate the circumstances of a serious electrical incident or dangerous electrical event at the place; and
 - (b) there is no inspector available to enter the place and investigate the circumstances.
- (2) The chief executive may appoint a person as a temporary inspector to exercise the powers of an inspector for the place.
- (3) The person appointed as a temporary inspector need not be a person who could be appointed as an inspector.
- (4) However, the chief executive may appoint the person as a temporary inspector only if the chief executive is satisfied the person has the necessary expertise or experience for what the temporary inspector can reasonably be expected to have to do.
- (5) If practicable, the chief executive must give the temporary inspector a document evidencing the temporary inspector's appointment.

166 Exercise of powers by temporary inspector

- (1) The temporary inspector has all the powers in relation to the place, including any person or thing at the place, that an inspector has under this part.
- (2) However, the temporary inspector must not exercise a power unless the temporary inspector is directed by an inspector to exercise the power, whether by phone, fax or another form of communication.
- (3) In exercising a power, the temporary inspector must—
 - (a) comply with any conditions the inspector directing the exercise of power attaches to the direction; and

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- (b) to the greatest practicable extent, show each person affected by the exercise of the power the document evidencing his or her appointment.
- (4) Subject to subsections (1) to (3), the temporary inspector is taken to be an inspector under this Act.

Part 12 Reviews and appeals

Division 1 Interpretation

167 Definitions for pt 12

In this part—

confirmation notice see section 169.

decision does not include a decision of the chief executive under part 3.

disciplinary decision means a decision of the licensing committee about—

- (a) whether to take disciplinary action against the holder of an electrical licence; or
- (b) what disciplinary action to take against the holder of an electrical licence.

original chief executive decision means a decision made by the chief executive personally, other than a decision about the issue, renewal or reinstatement of an electrical licence.

original decision means a decision of the chief executive or an inspector under this Act, other than an original chief executive decision.

review decision see section 170.

review entity means—

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- (a) for a decision of the chief executive about the issue, renewal or reinstatement of an electrical licence—the licensing committee; or
 - (b) otherwise—the chief executive.

Division 2 Review of decisions

168 Application for review

A person whose interests are affected by an original decision may apply under this division for the decision to be reviewed.

169 Procedure for review

- (1) The application must—
 - (a) be made in the approved form to the review entity; and
 - (b) be supported by enough information to enable the review entity to decide the application.
- (2) If the application is for the review of a decision to forfeit a thing, the application must be made to the review entity within—
 - (a) 28 days after the day the applicant receives notice of the original decision; or
 - (b) the longer period the review entity in special circumstances allows.
- (3) If the application is for the review of another decision, the application must be made to the review entity within—
 - (a) 14 days after the day the applicant receives notice of the original decision; or
 - (b) the longer period the review entity in special circumstances allows.
- (4) The longer period the review entity allows under subsection (2)(b) or (3)(b) must not be longer than 2 months after the day the person receives notice of the original decision.

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- (5) If the review entity is satisfied the applicant has complied with subsection (1), the review entity must immediately give the applicant written notice (*confirmation notice*) of the fact.

170 Review of decision

- (1) The review entity must review the original decision and make a decision (*review decision*)—
 - (a) to confirm the original decision; or
 - (b) to vary the original decision; or
 - (c) to set aside the original decision and make a decision in substitution for the decision set aside.
- (2) The review under subsection (1) must be made—
 - (a) if the review entity is the chief executive—within 14 days after giving the confirmation notice; or
 - (b) if the review entity is the licensing committee—as soon as practicable after giving the confirmation notice.
- (3) If the review entity is the chief executive, the application must not be dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (4) Within 14 days after making the review decision, the review entity must give written notice of the decision to the applicant.
- (5) The notice must include an information notice for the decision.
- (6) The applicant may appeal against the original decision under division 3 if the review entity—
 - (a) does not review the original decision within the time allowed under subsection (2); or
 - (b) having reviewed the decision, does not tell the applicant of the review decision within the time allowed under subsection (4).

171 Stay of operation of original decision

- (1) If a person applies for a decision to be reviewed, the person may immediately apply to the industrial court for a stay of the decision.
- (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 must not extend past when the review entity reviews the decision and any later period the court allows the person to appeal against the decision.
- (5) An application made for the review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

Division 3 Appeals

172 Appeal

- (1) A person whose interests are affected by a disciplinary decision, original chief executive decision, original decision or review decision may appeal against the decision to the industrial court.
- (2) The person has a right to receive a statement of the reasons for the decision if the person has not been given an information notice for the decision.

173 How to start appeal

- (1) An appeal is started by—

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- (a) filing written notice of appeal with the registrar of the industrial court; and
 - (b) complying with rules of court applying to the appeal.
- (2) The notice of appeal must be filed within 30 days after—
- (a) if the appeal is from a disciplinary decision—the day the applicant receives notice of the decision of the licensing committee about the taking of disciplinary action against the applicant as holder of an electrical licence; or
 - (b) if the appeal is from an original chief executive decision or an original decision—the day the appellant receives notice of the decision; or
 - (c) if the appeal is from a review decision—the day the appellant receives reasons for the review decision.
- (3) The court may at any time extend the period for filing the notice of appeal.
- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

174 Stay of operation of decisions

- (1) The industrial court may grant a stay of a decision appealed against 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 must not extend past 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.

175 Hearing procedure

- (1) The procedure for an appeal must be in accordance with the rules of court applying to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of the industrial court.
- (2) An appeal is by way of rehearing, unaffected by the decision of the entity that made the decision appealed against.

176 Assessors

- (1) If the industrial court is satisfied the appeal involves an issue of special knowledge and skill, the court may appoint 1 or more assessors to help in the appeal.
- (2) The role of an assessor is as follows—
 - (a) to advise the court about matters within the assessor's knowledge or experience that are relevant to a question;
 - (b) to help the court in the conduct of the proceeding in a way the court considers appropriate.

177 Powers of court on appeal

- (1) In deciding an appeal, the industrial court may—
 - (a) confirm the decision appealed against; or
 - (b) vary the decision appealed against; or
 - (c) set aside the decision appealed against and make a decision in substitution for the decision set aside; or
 - (d) set aside the decision appealed against and return the issue to the decision maker with directions the court considers appropriate.
- (2) If on appeal the court acts under subsection (1)(b) or (c), the decision is taken, for this Act (other than this part), to be that of the entity that made the decision appealed against.

Part 13 Proceedings and offences

Division 1 Evidence

178 Application of div 1

This division applies to a proceeding under this Act.

179 Proof of appointment and authority unnecessary

It is not necessary to prove—

- (a) the appointment of the chief executive or an inspector;
or
- (b) the authority of the chief executive or an inspector to do anything under this Act.

180 Proof of signature

A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

181 Evidentiary aids

- (1) A certificate stating any of the following matters is evidence of the matter—
 - (a) a stated document is—
 - (i) an appointment or approval or a copy of an appointment or approval; or
 - (ii) an improvement notice, electrical safety protection notice or unsafe equipment notice, or a copy of an improvement notice, electrical safety protection notice or unsafe equipment notice; or
 - (iii) a decision, or a copy of a decision, given or made under this Act; or

- (iv) a record or document, a copy of a record or document, an extract from a record or document or a copy of an extract from a record or document, kept under this Act;
 - (b) on a stated day, or for a stated period, a stated certificate, registration, approval or appointment was, or was not, in force for a stated person, place or thing;
 - (c) on a stated day, or for a stated period, a stated person was or was not the holder of an electrical licence;
 - (d) a stated electrical licence was or was not subject to conditions or restrictions stated in the certificate;
 - (e) on a stated day, or for a stated period, a standard issued or published by the Electricity Supply Association of Australia, the National Occupational Health and Safety Commission or Standards Australia, or something in the standard, was or was not in force;
 - (f) on a stated day a stated person was given a stated direction or notice under this Act;
 - (g) a stated amount is payable under this Act by a stated person and has not been paid;
 - (h) an instrument, item of equipment or installation was used in accordance with conditions prescribed under a document for its use.
- (2) A document purporting to be published by or under the authority of the Electricity Supply Association of Australia, the National Occupational Health and Safety Commission or Standards Australia is evidence of the matters appearing on and in the document.
 - (3) In a complaint starting a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.
 - (4) An instrument, item of equipment or installation used by an inspector or analyst in accordance with the conditions prescribed under a relevant document for its use is taken to be

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accurate and precise in the absence of evidence to the contrary.

(5) In this section—

certificate means a certificate purporting to be signed by the chief executive or an inspector.

182 Expert report

(1) An expert report is admissible in evidence, whether or not the person making the report (the *expert*) attends to give oral evidence.

(2) However, if the expert does not attend to give oral evidence, the report is admissible only with the court's leave.

(3) In deciding whether to grant leave, the court must have regard to the following—

- (a) the contents of the report;
- (b) why the expert does not intend to give oral evidence;
- (c) the risk that the report's admission in, or exclusion from, evidence would be unfair to a party, having regard in particular to the party's ability to controvert the contents of the report if the expert does not give oral evidence;
- (d) any other circumstance the court considers relevant.

(4) An expert report when admitted is evidence of a fact or opinion of which the expert could have given oral evidence.

(5) In this section—

expert report means a report made by a person dealing entirely or mainly with issues the person is qualified to give expert evidence about, but does not include an analyst's report.

183 Analyst's certificate or report

The production by the prosecutor or the defendant in a prosecution of a signed analyst's report stating any of the

following is evidence of them—

- (a) the analyst's qualifications;
- (b) the analyst took, or received from a stated person, the sample mentioned in the report;
- (c) the analyst analysed the sample on a stated day, or during a stated period, and at a stated place;
- (d) the results of the analysis.

184 Certificate about action on electrical licence

A certificate of the commissioner or chief executive to the effect that a particular action was taken by the licensing committee in relation to the holder of an electrical licence is evidence of the action having been taken.

185 Use of code of practice

A document purporting to be a code of practice is admissible as evidence of the code of practice if—

- (a) the proceeding relates to a failure to discharge a person's electrical safety obligation; and
- (b) the code of practice is about discharging the obligation.

Division 2 Other matters about proceedings

186 Proceeding for offence

- (1) A prosecution for an offence against this Act is by way of a summary proceeding before an industrial magistrate.
- (2) A person dissatisfied with a decision of an industrial magistrate in a proceeding brought under subsection (1) who desires to appeal must appeal to the industrial court.
- (3) The *Industrial Relations Act 1999* applies with any necessary changes to a proceeding before an industrial magistrate

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brought under subsection (1) and to a proceeding on appeal before the industrial court brought under subsection (2).

- (4) More than 1 contravention of an electrical safety obligation may be charged as a single charge if the acts or omissions giving rise to the claimed contravention happened within the same period and at the same place.
- (5) A prosecution for an offence against this Act must be commenced by complaint of an inspector or someone else authorised by the Minister or the chief executive.
- (6) In this section—
person dissatisfied, with a decision in a proceeding, means—
 - (a) a party to the proceeding; or
 - (b) a person bound by the decision; or
 - (c) if an inspector started the proceeding—any inspector.

187 Limitation on time for starting proceedings

A proceeding for an offence against this Act must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the chief executive's knowledge but within 3 years after the commission of the offence; or
- (c) if the offence involves a breach of an obligation causing death and the death is investigated by a coroner under the *Coroners Act 2003*—within 2 years after the coroner makes a finding in relation to the death.

188 Responsibility for act or omission of representative

- (1) Subsections (2) and (3) apply in a proceeding for an offence against a provision, other than the obligation offence provision, of this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

-
- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (4) In this section—
- representative* means—
- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual; or
- (c) of a public sector unit—an officer or employee of the public sector unit.
- state of mind*, of a person, includes—
- (a) the person's knowledge; and
- (b) the person's intention, opinion, belief or purpose and the reasons for the person's intention, opinion, belief or purpose.

189 Costs of investigation

- (1) On the conviction of a person for an offence against this Act, the court may order the person to pay the department's reasonable costs of investigating the offence and preparing for the prosecution of the offence.
- (2) This section does not limit the orders for costs the court may make.

[s 189A]

189A Information during sentencing of impact of offence on person

- (1) If a court convicts a person (*defendant*) of an offence against this Act, the prosecutor should, at the sentencing of the defendant, tell the sentencing court the appropriate details of the harm caused to a victim by the defendant's failure to comply with this Act.
- (2) In deciding what details are not appropriate, the prosecutor may have regard to the victim's wishes.
- (3) However—
 - (a) it is not mandatory for a victim to give the prosecutor details of the harm caused to the victim by the defendant's failure to comply with this Act; and
 - (b) the fact that details of the harm caused to a victim by the defendant's failure to comply with this Act are absent at the sentencing does not of itself give rise to an inference that the defendant's failure caused little or no harm to the victim.
- (4) A prosecutor should ensure the sentencing court has regard to the *Penalties and Sentences Act 1992*, section (9)(2)(c), if it would help the victim to have the benefit of the principle mentioned in subsection (1).
- (5) In this section—

harm means death, grievous bodily harm or bodily harm.

victim means a person who has suffered harm because—

 - (a) a defendant has committed an offence against this Act; or
 - (b) the person is a member of the immediate family of, or is a dependant of, a victim mentioned in paragraph (a).

190 Recovery of fee

- (1) A fee payable under this Act and not paid may be recovered by the chief executive—

- (a) in summary proceedings under the *Justices Act 1886*; or
 - (b) by action for a debt.
- (2) A fee may also be recovered in a proceeding for an offence against this Act.
- (3) Also, an order made under subsection (2) is enforceable under the *Justices Act 1886* as an order for payment of money made by a magistrate under that Act.
- (4) If an order is made under subsection (2)—
- (a) the order may be filed in the registry of a Magistrates Court under the *Magistrates Courts Act 1921*; and
 - (b) on being filed, is taken to be an order made by a Magistrates Court and may be enforced accordingly.

191 Charge for offence against obligation offence provision

- (1) This section applies to an offence against the obligation offence provision for a failure to discharge the electrical safety obligation imposed on an employer or self-employed person under part 2.
- (2) A complaint against a person for the offence may allege in the alternative that the person committed the offence as employer or self-employed person.
- (3) A person may be convicted on the complaint on proof that the person committed the offence either as employer or self-employed person without further proof of the capacity in which the person committed the offence.

192 Disciplinary action and offences

The taking of disciplinary action against the holder of an electrical licence does not prevent—

- (a) prosecution of the holder for an offence arising from the facts or circumstances on which the taking of disciplinary action is based; or

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- (b) a court from imposing a penalty for an offence mentioned in paragraph (a) after the court takes into account the disciplinary action taken.

Division 2A Proceedings against government bodies

192A Definitions for div 2A

In this division—

government body means the State, a local government, another State or the Commonwealth.

responsible entity see section 192C(1).

successor in law, of a public sector unit, means—

- (a) if the functions of the public sector unit (the *former unit*) are substantially performed by another public sector unit (the *current unit*)—the current unit; or
- (b) if the functions of the former unit are performed by 2 or more public sector units—the unit that has the function of the former unit most closely connected with the act or omission that is alleged to constitute the offence.

192B Government body may be prosecuted

- (1) A government body may be prosecuted for an offence against this Act.
- (2) For a prosecution against the State for an offence against this Act, the proceeding must be taken against the responsible entity.

192C Responsible entity for a proceeding against the State

- (1) For a proceeding mentioned in section 192B(2), the *responsible entity* is—

- (a) the public sector unit whose act or omission is alleged to constitute the offence; or
 - (b) if the public sector unit has ceased to exist—the successor in law of the public sector unit; or
 - (c) if the public sector unit has ceased to exist and there is no clear successor in law—the entity declared by the court to be the responsible entity.
- (2) For a proceeding mentioned in subsection (1)—
- (a) the proceeding is to be taken against the responsible entity as if it were a separate legal entity, if it is not otherwise a separate legal entity; and
 - (b) the responsible entity is to be stated in the charge for the offence; and
 - (c) subject to any rules of court, the responsible entity has the procedural rights and obligations of the State as the defendant in the proceeding.
- (3) The prosecutor may, during the proceeding and with the court's leave, substitute for the responsible entity stated in the charge its successor in law.
- (4) The chief executive of the responsible entity, or a person authorised by the chief executive, may act on behalf of the responsible entity for the purposes of the proceeding.
- (5) A document may be served on a responsible entity for the purposes of the proceeding—
- (a) by delivering it to the chief executive of the entity or to a person authorised by the chief executive at a place of business of the responsible entity; or
 - (b) by leaving it at, or sending it by post, telex, facsimile or similar facility to, the usual business address of the responsible entity.
- (6) This section applies despite the *Crown Proceedings Act 1980*.

[s 192D]

192D Penalties in proceedings against government body

- (1) The penalty that may be imposed on a government body if it is convicted of an offence against this Act is the penalty applicable to a body corporate.
- (2) A government body may be served with an infringement notice under the *State Penalties Enforcement Act 1999* in relation to an offence against this Act.

192E Notices may be given to a government body

The following notices may be given to a government body—

- (a) an improvement notice;
- (b) an electrical safety protection notice;
- (c) an unsafe equipment notice.

Division 3 General offence provisions

193 Definition for div 3

In this division—

official entity means any of the following—

- (a) the chief executive;
- (b) an inspector;
- (c) an accredited auditor;
- (d) the board;
- (e) the licensing committee.

194 False or misleading statement

- (1) A person must not state anything to an official entity the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

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- (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’.

195 False or misleading document

- (1) A person must not give an official entity a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the official entity, to the best of the person’s ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

- (3) A person must not make an entry in a document required or permitted to be made or kept under this Act knowing the entry to be false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (4) In a proceeding for an offence against subsection (1) or (3), it is enough for a charge to state that the information or entry was, without specifying which, ‘false or misleading’.

196 Obstructing inspector

- (1) A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—
- (a) it is an offence to obstruct the inspector unless the person has a reasonable excuse; and

[s 196A]

- (b) the inspector considers the person's conduct an obstruction; and
 - (c) if the person continues to obstruct the inspector, the inspector may ask a police officer to help the inspector exercise the power.
- (3) In this section—
obstruct includes hinder and attempt to obstruct.

196A Discrimination or victimisation

- (1) An employer must not dismiss a worker, or otherwise act to the detriment of a worker in the worker's employment, for the dominant or substantial reason that the worker—
- (a) has made a complaint about an issue, or in any other way has raised an issue, about exposure to electrical risk; or
 - (b) has contacted or given help to an inspector.

Maximum penalty—40 penalty units.

Examples of acting to the detriment of a worker—

- 1 demotion of the worker
 - 2 unwarranted transfer of the worker
 - 3 reducing the worker's terms and conditions of employment
- (2) If an employer contravenes subsection (1) by dismissing a worker, the worker is taken to have been unfairly dismissed under the *Industrial Relations Act 1999*, chapter 3, part 2, and subject to that part, has the remedies under that part.

197 Person not to encourage refusal to answer question

A person must not encourage or influence, or attempt to encourage or influence, by general direction, promise of advantage, threat of dismissal or otherwise, another person to refuse to answer a question put to the other person by an inspector.

Maximum penalty—100 penalty units.

198 Impersonating inspector or accredited auditor

A person must not pretend to be an inspector or an accredited auditor.

Maximum penalty—40 penalty units.

199 Executive officer offence provision

- (1) The executive officers of a corporation must ensure that 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 that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that 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—the officer exercised reasonable diligence 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.

Part 14 **Miscellaneous provisions**

Division 1 **Electrical safety contributions**

200 **Purpose of div 1**

The purpose of this division is to establish funding support for the following activities of the department—

- (a) ensuring compliance with this Act;
- (b) promoting electrical safety in the community.

201 **Electrical safety contribution to be paid**

Each distribution entity must pay to the chief executive an electrical safety contribution for each financial year.

202 **Electrical safety contribution notice**

- (1) A distribution entity must pay its electrical safety contribution for a financial year in accordance with the requirements of a notice (*electrical safety contribution notice*) the chief executive gives to the distribution entity.
- (2) An electrical safety contribution notice must state the following—
 - (a) the financial year the notice relates to;
 - (b) the total amount of the electrical safety contribution payable by the distribution entity for the financial year;
 - (c) the calculations used to work out the electrical safety contribution payable by the distribution entity for the financial year;
 - (d) the amount of any instalment of the electrical safety contribution currently payable by the distribution entity and the date by which the instalment must be paid.
- (3) For each financial year, the chief executive must—

- (a) work out the amount of the electrical safety contribution payable by each distribution entity for the financial year; and
 - (b) give each distribution entity its first electrical safety contribution notice for the financial year.
- (4) The chief executive must act under subsection (3) at a time that is—
- (a) before the financial year starts; and
 - (b) in accordance with the reasonable forward planning requirements of the distribution entity.
- (5) The date by which an instalment, other than an overdue instalment, must be paid must not be earlier than—
- (a) the start of the part of the financial year to which the instalment relates; or
 - (b) 14 days after the distribution entity receives the electrical safety contribution notice advising that payment of the instalment is required.
- (6) Subsection (4) does not apply for the financial year in which this section commences.

203 Working out electrical safety contribution amounts

- (1) A regulation may prescribe all things necessary or convenient for establishing and operating arrangements for the payment of electrical safety contributions.
- (2) Without limiting subsection (1), a regulation may do any of the following—
 - (a) prescribe requirements for working out the amount of the electrical safety contribution payable by each distribution entity for a financial year;
 - (b) fix, or prescribe how to fix, the total amount to be collected as electrical safety contributions;

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- (c) subject to subsection (3), fix, or prescribe how to fix, the relative size, as between the distribution entities, of each distribution entity's electrical safety contribution;
 - (d) provide for the payment of electrical safety contributions by instalments;
 - (e) provide for the payment of a proportion of the amount of an electrical safety contribution in circumstances, identified in the regulation, in which it is not appropriate for a distribution entity to have to pay an amount for a full financial year;
 - (f) provide for an adjustment of the amount of an electrical safety contribution to take account of significant change in the circumstances on which the working out of electrical safety contributions was based.
- (3) The relative size of a distribution entity's electrical safety contribution must be based on the number of the distribution entity's retail premises.
- (4) Subsections (1) and (2) extend, and do not limit, the Governor in Council's power to make regulations under this Act.

204 Consultation with distribution entities

The chief executive must, to the greatest practicable extent, act in consultation with the distribution entities in establishing and operating the arrangements for the payment of electrical safety contributions, including in applying the provisions of this division and the provisions of any regulation made for establishing and operating the arrangements.

Division 2 General

205 Protecting officials from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

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- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—
- official* means—
- (a) the Minister; or
 - (b) the chief executive; or
 - (c) the commissioner; or
 - (d) an appointed member of the board or of a board committee; or
 - (e) an inspector.

205A Confidentiality

- (1) This section applies to a person—
- (a) who is, or has been, the chief executive, an inspector, an accredited auditor or another person involved in the administration of this Act; and
 - (b) who, in the course of administering this Act or because of an opportunity provided by involvement in administering this Act, has—
 - (i) acquired information about someone else; or
 - (ii) gained access to a document about someone else.
- (2) The person must not do either of the following—
- (a) disclose to anyone else—
 - (i) the information; or
 - (ii) the contents of or information contained in the document;
 - (b) give access to the document to anyone else.
- Maximum penalty—100 penalty units.
- (3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—

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- (a) with the person's written consent; or
- (b) for administering, or monitoring or enforcing compliance with, this Act; or
- (c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or
- (d) in a proceeding before a court in which the information is relevant to the issue before the court; or
- (e) as required or authorised under an Act.

205B Giving information to corresponding entity

- (1) The chief executive may, if asked by a corresponding entity under an arrangement, give the entity information held by the chief executive that the chief executive is satisfied will help the entity in the exercise of the entity's functions under a corresponding law.
- (2) A person who is, or has been, a corresponding official who, in the course of administering a corresponding law or because of an opportunity provided by involvement in administering a corresponding law, has acquired information about someone else, or gained access to a document about someone else, must not do either of the following—
 - (a) disclose to anyone else the acquired information or information from the accessed document;
 - (b) give access to the document to anyone else.Maximum penalty—100 penalty units.
- (3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—
 - (a) with the person's written consent; or
 - (b) for administering, or monitoring or enforcing compliance with, the corresponding law in relation to which the information was given under subsection (1); or

-
- (c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or
 - (d) in a proceeding before a court, or before an entity carrying out functions under the corresponding law in relation to which the information was given under subsection (1), in which the information is relevant to the issue before the court or entity; or
 - (e) as required or authorised under an Act.
- (4) Subsection (1) applies despite section 205A.
- (5) In this section—

corresponding entity means a person who, in relation to the administration of a corresponding law, has functions similar to the chief executive in relation to the administration of this Act.

corresponding law means a law of the Commonwealth or another State about electrical safety.

corresponding official means—

- (a) a corresponding entity or a delegate of a corresponding entity; or
- (b) another person involved in the administration of a corresponding law.

206 Electrical safety notification

- (1) The chief executive may issue a notification (*electrical safety notification*) that—
- (a) is directed at designers, manufacturers, importers or suppliers generally, or at stated designers, manufacturers, importers or suppliers; and
 - (b) states requirements about the use or supply of stated electrical equipment, or a stated type of electrical equipment, including, if appropriate, requirements about preventing the use or supply of the electrical equipment or type of electrical equipment.

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- (2) A designer, manufacturer, importer or supplier is taken to have enough notice of an electrical safety notification if—
 - (a) the chief executive gives the designer, manufacturer, importer or supplier a copy of the notification; or
 - (b) a copy of the notification is published in—
 - (i) the gazette; and
 - (ii) a newspaper circulating generally in the State.
- (3) The chief executive may issue an electrical safety notification only if—
 - (a) the chief executive is satisfied on reasonable grounds that—
 - (i) the supply or use of the electrical equipment, or the particular type of electrical equipment, that is the subject of the notification is putting, or will put, persons or property at electrical risk; or
 - (ii) appropriate information is not available about the electrical equipment, or the particular type of electrical equipment, that is the subject of the notification; and
 - (b) the decision to issue the notification is made by the chief executive personally; and
 - (c) the requirements included in the notification are reasonable in the circumstances.
- (4) For subsection (3)(a)(ii), information about electrical equipment, or a particular type of electrical equipment, is appropriate information if the information states—
 - (a) the use for which the electrical equipment or type of electrical equipment has been designed and tested; and
 - (b) all conditions that must be observed to ensure the electrical equipment, or electrical equipment of the type, is electrically safe.

207 Delegation by chief executive

(1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee or inspector.

(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to the exercise of the power.

Example of standing—

a person's classification level in the public service

power, of the chief executive—

- (a) includes a power delegated to the chief executive by the licensing committee; and
- (b) does not include the chief executive's power to issue an electrical safety notification.

208 Forms

The chief executive may approve forms for use under this Act.

209 Charges for services

(1) This section applies if there is no regulation under this Act that prescribes a fee for a service provided by the chief executive in the course of the chief executive's administration of this Act.

(2) The chief executive may, by gazette notice, fix a fee for the service.

Example of subsections (1) and (2)—

If there is no regulation prescribing a fee for the service of renewing an electrical licence, of registering, under a regulation, a cathodic protection system or approving, under a regulation, particular electrical equipment, the chief executive may fix a fee for the service.

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- (3) The fee the chief executive fixes for a service must not be more than an amount that fairly represents the cost of providing the service.

210 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may prescribe—
 - (a) ways of discharging a person's electrical safety obligation; and
 - (b) ways of ensuring the electrical safety of persons or property; and
 - (c) safety and technical requirements for electrical work; and
 - (d) safety and technical requirements for working in contact with, or near to, exposed parts; and
 - (e) safety and technical requirements, and approval requirements, for electrical equipment, including for the hiring, selling, testing and using of electrical equipment; and
 - (f) safety and technical requirements for electrical installations, works of electricity entities, electric lines and electricity supply; and
 - (g) amendments, cancellations, suspensions and transfers of approvals and other authorities required under the regulation; and
 - (h) requirements for the labelling, marking and testing of electrical equipment, including requirements for the provision of electrical equipment for testing, the disposal of electrical equipment after testing, and the extent of compensation, if any, payable for electrical equipment damaged or destroyed during testing; and
 - (ha) requirements for signs or other advertising material for the hiring or sale of electrical equipment; and

- (i) requirements for safety management systems; and
- (j) safety and technical requirements, and registration requirements, for cathodic protection systems; and
- (k) notification and reporting requirements for serious electrical incidents and dangerous electrical events; and
- (l) all matters about electrical licences, including the following—
 - (i) classes of electrical licences;
 - (ii) the periods for which particular electrical licences are to be in force;
 - (iii) financial and insurance requirements for electrical licence holders;
 - (iv) particular requirements applying to the making of applications for the issue, renewal or reinstatement of electrical licences;
 - (v) eligibility requirements for the issue, renewal or reinstatement of electrical licences, including requirements as to suitability, requirements for particular qualifications and requirements for the successful completion of examinations or courses stated in the regulation or chosen by the chief executive;
 - (vi) the keeping of a register for recording licence information;
 - (vii) requirements for keeping licences and registers up to date, including for the provision of information for keeping licences and registers up to date;
 - (viii) restrictions on advertising by electrical licence holders; and
- (m) discipline of electrical licence holders; and
- (n) matters of an administrative nature.

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- (3) A regulation may prescribe offences for breaches of the regulation, and may fix a penalty of not more than 40 penalty units for a breach.
- (4) A regulation may prescribe fees payable under this Act, and may also provide for the refund or remission of fees.
- (5) A regulation may provide for a distribution entity to impose charges for the carrying out of activities of the distribution entity authorised under a regulation.

Part 15 Transitional provisions for Act No. 42 of 2002

Division 1 Interpretation

211 Definitions for pt 15

In this part—

Articles regulation means the *Electricity (Electrical Articles) Regulation 1994*, as in force immediately before the commencement.

commencement means the commencement of section 211.

Electricity Regulation means the *Electricity Regulation 1994*.

equivalent licence, to a previous licence, means an electrical licence that is prescribed under a regulation as being the equivalent of the previous licence, and that is identified in the regulation according to—

- (a) whether it is an electrical work licence or an electrical contractor licence; and
- (b) its class.

EWC Board means the Electrical Workers and Contractors Board under the Electricity Regulation as in force immediately before the commencement.

previous licence means a licence under the Electricity Regulation, as that regulation was in force immediately before the commencement.

regulator means the regulator under the Electricity Act.

Division 2 Transitional references

212 References to Electricity Act and Electricity Regulation

- (1) In an Act or document, a reference to the Electricity Act may be taken to be a reference to this Act—
 - (a) to the extent the reference relates to a provision of the Electricity Act that is repealed by this Act; and
 - (b) if the context permits.
- (2) In an Act or document, a reference to the Electricity Regulation may be taken to be a reference to this Act, and not to a regulation under this Act—
 - (a) to the extent the reference relates to an Act related provision of the Electricity Regulation; and
 - (b) if the context permits.
- (3) Subject to subsection (2), in an Act or document, a reference to the Electricity Regulation may, if the context permits, be taken to be a reference to a regulation under this Act.
- (4) In this section—

Act related provision, of the Electricity Regulation, means a provision of that regulation, as in force immediately before the commencement, the substance of which is, after the commencement, the subject of a provision of this Act rather than a regulation under this Act.

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213 References to EWC Board

A reference in an Act or document to the EWC Board may, if the context permits, be taken to be a reference to the licensing committee.

Division 3 Councils, EWC Board and licence matters

214 Electricity Health and Safety Council and Queensland Electrical Education Council

On the commencement, the following entities under the Electricity Regulation are abolished and their members go out of office—

- Electricity Health and Safety Council
- Queensland Electrical Education Council.

215 Electrical Approval and Energy Labelling Advisory Committee

On the commencement, the Electrical Approval and Energy Labelling Advisory Committee under the Articles regulation is abolished and its members go out of office.

216 Abolition of EWC Board

- (1) The EWC Board is abolished.
- (2) The members of the EWC Board go out of office.

217 Assets and liabilities of EWC Board

- (1) The assets and liabilities of the EWC Board vest in the State.
- (2) If the EWC Board held property on trust immediately before the commencement, the State holds the property on the terms of the trust.

- (3) The general fund established under the Electricity Regulation is abolished and the amount standing to the credit of the fund immediately before the commencement vests in the State.

218 Proceedings

- (1) A proceeding by or against the EWC Board that has not ended before the commencement may be continued and finished by or against the State.
- (2) A proceeding that could have been taken by or against the EWC Board if the EWC Board had continued to exist may be taken by or against the State.
- (3) A reference in this section to a proceeding by the EWC Board includes a proceeding by the EWC Board against a person for an offence.

219 Existing contracts

If the EWC Board was a party to a contract in force immediately before the commencement, the contract continues in force according to its terms and the State is taken to be a party instead of the EWC Board.

220 Disciplinary action not started

- (1) This section applies if, immediately before the commencement, the EWC Board could have started, but had not started, a procedure for disciplinary action under the Electricity Regulation.
- (2) The procedure may be started and finished under the Electricity Regulation as if the provisions of that regulation relating to disciplinary action were still in force and the licensing committee were the EWC Board.

221 Disciplinary action started but not finished

- (1) This section applies if, immediately before the commencement, the EWC Board had started, but had not

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finished, a procedure for disciplinary action under the Electricity Regulation.

- (2) The procedure may be finished under the Electricity Regulation as if the provisions of that regulation relating to disciplinary action were still in force and the licensing committee were the EWC Board.
- (3) However, if before the commencement the EWC Board had started, but had not finished, its consideration of representations, or a hearing, for the purposes of the procedure, the licensing committee must start the consideration or hearing again under the provisions of the Electricity Regulation relating to disciplinary action as if the provisions were still in force and the licensing committee were the EWC Board.

222 Disciplinary action taken before commencement

Disciplinary action taken by the EWC Board before the commencement continues in effect after the commencement and may be enforced as if the action had been taken by the licensing committee.

223 Licensing committee may require person to correct defective work

- (1) This section applies if—
 - (a) before the commencement of this section, a person performed electrical installation work under the Electricity Act as a licensed electrical contractor under that Act; and
 - (b) the licensing committee considers, on reasonable grounds, that there is a fault or defect in the work.
- (2) The chief executive may give a written notice to the person giving directions that are reasonable in the circumstances for the correction of the fault or defect within the time and in the way stated in the written notice.

- (3) Without limiting subsection (2), the written notice may allow the person to correct the fault or defect even though the person does not have a current electrical contractor licence.
- (4) The person must not contravene the written notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

224 Annual report

In its first annual report, the Electrical Safety Board must include a report of the EWC Board's operations for any period for which the EWC Board did not make an annual report before its abolition.

225 Existing licences

- (1) This section applies to a person who, immediately before the commencement, held a previous licence issued by the EWC Board.
- (2) The person, on the commencement, is taken to be the holder of the equivalent licence to the previous licence.
- (3) The equivalent licence—
 - (a) is taken to be subject to conditions and restrictions in the same terms, as far as practicable, as the conditions and restrictions to which the previous licence was subject; and
 - (b) expires when the previous licence would have expired; and
 - (c) must not be the subject of renewal or reinstatement under this Act.

226 Existing application for previous licence

If, immediately before the commencement, an application made under the Electricity Regulation for the issue of a previous licence had not been decided, the application must be

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decided by the chief executive as if the application were an application for the equivalent licence to the previous licence.

227 Existing application for renewal of previous licence

If, immediately before the commencement, an application made under the Electricity Regulation for a renewal of a previous licence had not been decided, the application must be decided by the chief executive as if the application for renewal was not an application for renewal but was an application for an equivalent licence to the previous licence.

228 Partial postponement of requirement for electrical contractor licence

Despite section 56, until the end of 31 January 2003, a person may conduct a business or undertaking that includes the performance of electrical work even though the person is not the holder of an electrical contractor licence that is in force, but only to the extent the electrical work performed is not electrical installation work.

Division 4 Other transition from Electricity Act

229 Action under this Act not prevented

If a provision of this division (the *transitional provision*) provides that a section of the Electricity Act, as in force immediately before the commencement, has continuing application to circumstances as if the section had not been repealed, the transitional provision does not stop action being taken under this Act in relation to the circumstances.

230 Review and appeal of decision made before commencement

- (1) Chapter 10 of the Electricity Act continues to apply to a repealed entry decision.

(2) In this section—

repealed entry decision means a decision made under the Electricity Act before the commencement if—

- (a) when the decision was made, it was a decision the subject of an entry in schedule 1 of the Electricity Act; and
- (b) the entry is repealed by this Act.

231 Inspector has powers of authorised person for Electricity Act provisions of continuing application

(1) An inspector has all the functions and powers an authorised person had under the Electricity Act as in force immediately before the commencement—

- (a) in relation to an offence under the Electricity Act committed or alleged to have been committed before the commencement; and
- (b) in relation to an offence under the Electricity Act committed or alleged to have been committed after the commencement under a repealed offence provision that has continuing application under this part; and
- (c) under another provision of the Electricity Act that has continuing application under this part.

(2) If a repealed provision has continuing application under this part and an authorised person under the Electricity Act took action under the provision before the commencement, any inspector may be taken to be the authorised person who took the action.

(3) Subsection (1) does not limit the powers an inspector has under this Act for an investigation.

(4) In this section—

repealed offence provision means a repealed provision that provided for an offence.

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repealed provision means a provision of the Electricity Act, as in force immediately before the commencement, that is repealed under this Act.

232 Action before commencement to disconnect electrical installation or works

- (1) This section applies if, before the commencement—
 - (a) under section 156(3) of the Electricity Act as in force immediately before the commencement, an authorised person disconnected an installation or works, or the defective part of an installation or works; or
 - (b) under section 156(4) of the Electricity Act as in force immediately before the commencement, an authorised person gave a person a written notice requiring the person to disconnect immediately an installation or works, or the defective part of an installation or works.
- (2) Section 156 has continuing application to the circumstances of the disconnection or written notice as if the section had not been repealed.

233 Action before commencement to make cathodic protection system inoperable

- (1) This section applies if, before the commencement—
 - (a) under section 160(5) of the Electricity Act as in force immediately before the commencement, an authorised person took action to make a cathodic protection system inoperable; or
 - (b) under section 160(6) of the Electricity Act as in force immediately before the commencement, an authorised person gave a person a written notice requiring the person to make a cathodic protection system inoperable.
- (2) Section 160 has continuing application in relation to the circumstances of making the system inoperable or of the written notice as if the section had not been repealed.

- (3) However, for applying section 160(9), the reference to the Electricity Act is taken to be a reference to this Act.

234 Direction before commencement not to sell or hire unsafe electrical articles

- (1) This section applies if, before the commencement, under section 161(1) of the Electricity Act as in force immediately before the commencement, an authorised person gave a written notice to a person directing the person not to sell or hire an electrical article or type of electrical article.
- (2) Section 161 has continuing application in relation to the circumstances of the written notice as if the section had not been repealed.

235 Requirement before commencement to produce document

- (1) This section applies if, immediately before the commencement, there has been a requirement made under section 163(1) of the Electricity Act as in force immediately before the commencement for a person to produce to an authorised person for inspection a document required to be kept by the person under the Electricity Act.
- (2) Section 163 has continuing application in relation to the circumstances of the requirement as if the section had not been repealed.

236 Notice by occupier of electrical incident happening before commencement

- (1) This section applies if, immediately before the commencement, section 167 of the Electricity Act, as in force immediately before the commencement, applied because of particular circumstances.
- (2) Section 167 has continuing application in relation to the circumstances as if the section had not been repealed, whether

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or not, at the commencement, the occupier had given notice under section 167(2).

237 Notice by licensed electrical contractor of electrical accident happening before commencement

- (1) This section applies if, immediately before the commencement, section 168 of the Electricity Act, as in force immediately before the commencement, applied because of particular circumstances.
- (2) Section 168 has continuing application in relation to the circumstances as if the section had not been repealed, whether or not, at the commencement, the licensed electrical contractor had given notice under section 168(2).

238 Notice by electricity entity of accident

- (1) This section applies if, immediately before the commencement, circumstances applied under section 170 of the Electricity Act, as in force immediately before the commencement, requiring the electricity entity to advise the regulator of an accident.
- (2) Section 170 has continuing application in relation to the circumstances as if the section had not been repealed, whether or not, at the commencement, the electricity entity had advised the regulator of the accident under section 170(1).

239 Accident reported to electricity entity before commencement

- (1) This section applies if, immediately before the commencement—
 - (a) under section 171 of the Electricity Act as in force immediately before the commencement, an electricity entity had received a report of an accident; and
 - (b) all action required under section 171 had not been completed.

- (2) The electricity entity must advise the chief executive of the report, and of the extent to which action has been taken under section 171.
- (3) To the extent the chief executive considers appropriate, the accident may be investigated under this Act as if it had happened after the commencement.

240 Making unsafe things safe

- (1) This section applies if, before the commencement, the regulator made a requirement under section 177(2) of the Electricity Act as in force immediately before the commencement.
- (2) Section 177 has continuing application in relation to the circumstances of the requirement as if the section had not been repealed.

241 Evidentiary certificate of member or officer of EWC Board

A certificate in existence immediately before the commencement under section 250 of the Electricity Act, as in force immediately before the commencement, continues to have effect as evidence of a matter as provided for in that section.

Part 16 Transitional provision for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004

242 Existing codes of practice

- (1) The codes of practice mentioned in the *Electrical Safety (Codes of Practice) Notice 2002*, and as in force immediately

before the commencement of this section, expire 10 years after their commencement.

- (2) To remove any doubt, it is declared that subsection (1) does not prevent a code of practice mentioned in the subsection from being amended or repealed before its expiry under this Act.

Part 17 **Transitional provision for Workplace Health and Safety and Other Legislation Amendment Act 2008**

243 Applications to Supreme Court

Section 156, as in force immediately before the commencement of this section, continues to apply after the commencement to an application to the Supreme Court made before the commencement as if the *Workplace Health and Safety and Other Legislation Amendment Act 2008*, section 32 had not been enacted.

Part 18 **Transitional provisions for Electrical Safety and Other Legislation Amendment Act 2009**

244 Definition for pt 18

In this part—

amending Act means the *Electrical Safety and Other Legislation Amendment Act 2009*.

245 Notices published in industrial gazette

- (1) This section applies if, before the commencement, a notice was published in the industrial gazette as required by section 121(5) as in force before the commencement.
- (2) The notice continues to have been published for section 121 after the commencement despite the amendment of that section by the amending Act.
- (3) In this section—

commencement means the commencement of this section.

industrial gazette means the Queensland Government Industrial Gazette.

246 Effect of regulation amendment

The amendment of the *Electrical Safety Regulation 2002* by the amending Act does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Schedule 2 Dictionary

section 8

advisory committee means an advisory committee established under part 8, division 5.

alleged contravention, for an electrical safety undertaking, see section 49.

appliance see section 13.

appointed member, of the board or of a board committee, means a member of the board or committee who is appointed by the Minister.

apprentice means an apprentice under the Training and Employment Act.

approved form means a form approved by the chief executive under section 208.

Articles regulation, for part 15, see section 211.

associated equipment, for an electric line, see section 17.

board means the Electrical Safety Board.

board committee means the licensing committee, the safety education committee, the equipment committee or an advisory committee.

bodily harm means any bodily injury which interferes with health or comfort.

calling includes a craft, manufacture, occupation, trade, undertaking or vocation.

cathodic protection system means a system by which a structure in contact with ground or water is protected from electrolytic corrosion by a direct electric current flowing between the structure and an electrical conductor through the ground or water.

commencement, for part 15, see section 211.

confirmation notice, for part 12, see section 167.

consumer means a person who receives electricity generated, transmitted or distributed by an electricity entity.

convicted means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

dangerous electrical event see section 12.

decision, for part 12, see section 167.

de facto spouse means either 1 of 2 people, whether of the same or opposite sex, who are living together as a couple on a genuine domestic basis in a relationship based on intimacy, trust and personal commitment to each other.

disciplinary decision, for part 12, see section 167.

disciplinary hearing see section 115.

disciplinary hearing notice see section 116.

distribution entity means a distribution entity under the Electricity Act.

electrical contractor licence see section 20(2).

electrical engineer means—

- (a) a person who is a registered professional engineer under the *Professional Engineers Act 2002* and who is registered in the area or preserved area of electrical engineering under that Act; or
- (b) a person who held a degree in electrical engineering granted by—
 - (i) an approved school of engineering under the repealed *Professional Engineers Act 1988*; or
 - (ii) an approved faculty of engineering under the repealed *Professional Engineers Act 1988*;
before the repeal of that Act and who continues to hold the degree; or
- (c) a person who held, immediately before the commencement of the *Professional Engineers and Other Legislation Amendment Act 2008*, and continues

to hold, a qualification in electrical engineering granted by a tertiary education institution that entitled the person to be admitted to the Institution of Engineers Australia, as a graduate member.

electrical equipment see section 14.

electrical equipment work see section 19(3).

electrical installation see section 15.

electrical installation work see section 19(1).

electrical licence means an electrical work licence or an electrical contractor licence.

electrical licence application, for part 4, division 2, see section 58.

electrically safe see section 10(2).

electrical risk see section 10(1).

electrical safety see section 10(3).

electrical safety contribution notice see section 202.

electrical safety notification see section 206.

electrical safety obligation means an obligation under part 2, division 2.

electrical safety protection notice see section 154.

electrical safety undertaking see section 49.

electrical work see section 18.

electrical work licence see section 20(1).

electricity includes electric current, electrical energy and similar or related physical qualities.

Electricity Act means the *Electricity Act 1994*.

electricity entity means—

- (a) a generation entity, transmission entity or distribution entity; or
- (b) a special approval holder that is authorised under the Electricity Act to do something that a generation entity,

transmission entity or distribution entity may do under that Act; or

- (c) a railway manager, or light rail manager for a light rail, that is exempted by the Electricity Act, section 20Q or 20QA, from the requirements of section 88A of that Act; or
- (d) Airtrain Citylink Limited ACN 066 543 315.

Electricity Regulation, for part 15, see section 211.

electric line see section 16.

electric line work see section 19(2).

employer see section 21.

energise means energise by electricity.

equipment committee means the Electrical Equipment Committee.

equivalent licence, for part 15, see section 211.

EWC Board, for part 15, see section 211.

executive officer, of a corporation, means a person who—

- (a) is a member of the governing body of the corporation; or
- (b) is concerned with, or takes part in, the corporation's management, whatever the person's position is called and whether or not the person is a director of the corporation.

executive officer offence provision means section 199.

exposed means—

- (a) bare; or
- (b) not effectively insulated; or
- (c) not effectively guarded by either a fixed barrier or an earthed metal shield.

exposed part means an exposed conductor or an exposed component of an item of electrical equipment.

external licence means a current licence, permit certificate or other authority—

- (a) issued under a law of the Commonwealth, another State or New Zealand; and
- (b) authorising the holder to perform work of a type the holder of an electrical work licence is authorised to perform.

external licence recognition provision means section 65.

extra low voltage means voltage of 50V or less AC RMS, or 120V or less ripple-free DC.

facsimile warrant see section 142(4).

fee includes charge.

generation entity means a generation entity under the Electricity Act.

grievous bodily harm means any of the following injuries, regardless of the availability of treatment for the injury—

- (a) the loss of a distinct part or an organ of the body;
- (b) serious disfigurement;
- (c) bodily injury the nature of which is, if left untreated, that it would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health.

high voltage means voltage greater than low voltage.

hire includes—

- (a) agree, attempt or offer to hire; and
- (b) possess, expose or advertise for hire; and
- (c) cause or allow to be hired.

identified person, for an electrical safety undertaking, see section 49.

improvement notice see section 153.

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

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

inspector means a person appointed under this Act as an inspector.

licence includes permit.

licensed electrical contractor means the holder of an electrical contractor licence.

licensed electrical mechanic means a licensed electrical worker whose electrical work licence includes authority to perform electrical installation work, electric line work and electrical equipment work.

licensed electrical worker means the holder of an electrical work licence.

licensing committee means the Electrical Licensing Committee.

light rail see the *Transport Infrastructure Act 1994*, schedule 6.

light rail manager, for a light rail, see the *Transport Infrastructure Act 1994*, schedule 6.

low voltage means voltage greater than extra low voltage, but not more than 1000V AC RMS or 1500V ripple-free DC.

meter means a device, including any associated equipment, used for measuring electricity.

ministerial notice means a notice under section 42.

obligation offence provision means section 27.

official entity, for part 13, division 3, see section 193.

original chief executive decision, for part 12, see section 167.

original decision, for part 12, see section 167.

perform, in the context of the performance of electrical work as a licensed electrical contractor, includes the performance of the electrical work through the work of another person.

person in control, of electrical equipment, see section 24.

preliminary notice see section 114.

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.

prescribed details, for the holder of an electrical work licence engaged to perform or supervise electrical work, means the details about the person, or the person's electrical work licence, that are prescribed under a regulation for this definition.

prescribed electricity entity, for part 5, see section 66.

previous licence, for part 15, see section 211.

railway manager see the *Transport Infrastructure Act 1994*, schedule 6.

reasonable excuse does not include a matter of mere convenience.

recall order see section 40A(2).

regulator, for part 15, see section 211.

relative, of a person, means—

- (a) the person's spouse; or
- (b) a child, grandchild, parent, brother, sister, grandparent, aunt, uncle, nephew or niece (whether of whole or half-blood) of the person.

remote rural installation work means work on an electrical installation if all the following circumstances apply—

-
- (a) the only source of electricity supply to the installation is a privately owned generating set used by—
 - (i) a farmer on and solely for a farm; or
 - (ii) a grazier on and solely for a grazing property;
 - (b) the generating set is not directly or indirectly connected to the works of an electricity entity;
 - (c) the capacity of the generating set is not more than 75kW;
 - (d) a person holding an appropriate electrical work licence is not available to perform the work because of the remote location of the farm or grazing property.

responsible person, in relation to a recall order, see section 40A(2)(a).

retail premises, of a distribution entity, means premises that are, under the Electricity Act, the subject of both of the following—

- (a) the provision of customer connection services by the distribution entity;
- (b) the provision of customer retail services by a retail entity.

review decision, for part 12, see section 167.

review entity, for part 12, see section 167.

safety education committee means the Electrical Safety Education Committee.

safety management system, for part 5, see section 66.

self-employed person see section 23.

serious electrical incident see section 11.

special approval holder means a special approval holder under the Electricity Act.

spouse includes a de facto spouse and a civil partner.

supervise, electrical work, means supervise the way the electrical work is performed.

temporary inspector means a person appointed under this Act as a temporary inspector.

trainee means a trainee under the Training and Employment Act.

Training and Employment Act means the *Vocational Education, Training and Employment Act 2000*.

transmission entity means a transmission entity under the Electricity Act.

unsafe equipment notice see section 155.

vehicle means any means of transport by land, air or water.

voltage means the difference in electrical potential, measured in volts, existing—

- (a) between conductors; or
- (b) between conductors and earth.

warrant form see section 142(5).

wilfully means—

- (a) intentionally; or
- (b) recklessly; or
- (c) with gross negligence.

worker see section 22.

workplace means a workplace under the *Workplace Health and Safety Act 1995*, section 9.

works, of an electricity entity, see section 25.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 February 2012. Future amendments of the Electrical Safety Act 2002 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 included	Effective	Notes
1	none	1 October 2002	
1A	2003 Act No. 18	1 June 2003	
1B	2003 Act No. 63	1 January 2004	
1C	2004 Act No. 45	18 November 2004	
1D	2004 Act No. 25	31 December 2004	
1E	2004 Act No. 45	1 January 2005	
1F	2004 Act No. 45	1 February 2005	R1F withdrawn, see R2
2	—	1 February 2005	
2A	2007 Act No. 36	29 August 2007	
2B	2007 Act No. 52	1 January 2008	
2C	2007 Act No. 52	1 March 2008	
2D	2008 Act No. 14	23 April 2008	R2D withdrawn, see R3
3	—	23 April 2008	
3A	2008 Act No. 67	1 December 2008	

Reprint No.	Amendments included	Effective	Notes
3B	2008 Act No. 61	1 January 2009	
3C	2009 Act No. 3	23 February 2009	
3D	2009 Act No. 38	22 September 2009	
3E	2009 Act No. 25	2 November 2009	R3E withdrawn, see R4
4	—	2 November 2009	
4A	2010 Act No. 19	23 May 2010	
4B	2010 Act No. 23	1 July 2010	
4C	2011 Act No. 12	14 April 2011	
4D	2011 Act No. 18	1 January 2012	
4E	2011 Act No. 46	23 February 2012	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	4

6 List of legislation

Electrical Safety Act 2002 No. 42

date of assent 12 September 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 259)

amending legislation—

Workplace Health and Safety and Other Acts Amendment Act 2003 No. 18 ss 1, 2(2), 37 sch

date of assent 9 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 2003 (2003 SL No. 101)

Training Reform Act 2003 No. 63 ss 1, 2(2), 60 sch

date of assent 13 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2004 (2003 SL No. 293)

Petroleum and Gas (Production and Safety) Act 2004 No. 25 ss 1, 2(2), ch 16 pt 6

date of assent 12 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 31 December 2004 (2004 SL No. 308)

Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2004 No. 45 ss 1–2(1)–(2), pt 4, s 116 sch

date of assent 18 November 2004

Endnotes

ss 1–2 commenced on date of assent
s 118(1) commenced 1 February 2005 (see s 2(2))
s 120 commenced 1 January 2005 (see s 2(1))
remaining provisions commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 2007 No. 36

date of assent 29 August 2007
commenced on date of assent

**Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007
No. 52 ss 1–2(1)–(2), pt 3**

date of assent 9 November 2007
ss 1–2 commenced on date of assent
ss 34, 47 commenced 1 March 2008 (see s 2(1)–(2))
remaining provisions commenced 1 January 2008 (see s 2(1))

Professional Engineers and Other Legislation Amendment Act 2008 No. 14 s 1, pt 4

date of assent 23 April 2008
commenced on date of assent

**Workplace Health and Safety and Other Legislation Amendment Act 2008 No. 61 ss
1, 2(3), pt 3**

date of assent 25 November 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2009 (see s 2(3))

Transport and Other Legislation Amendment Act 2008 No. 67 s 1, pt 3 div 4

date of assent 1 December 2008
commenced on date of assent

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 5

date of assent 23 February 2009
commenced on date of assent

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and
Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Electrical Safety and Other Legislation Amendment Act 2009 No. 38 ss 1, 2(2), pt 2

date of assent 22 September 2009
commenced on date of assent

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 5

date of assent 23 May 2010
commenced on date of assent

City of Brisbane Act 2010 No. 23 ss 1–2(1), ch 9 pt 1

date of assent 17 June 2010
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2010 (see s 2(1))

Electrical Safety and Other Legislation Amendment Act 2011 No. 4 ss 1, 2(1)(a), (c), pt 2, s 69 sch pt 2 (this Act is amended, see amending legislation below)

date of assent 4 April 2011

ss 1–2, 69 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2(1)(a), (c))

amending legislation—

Work Health and Safety Act 2011 No. 18 ss 1–2, pt 18 div 3 ss 391–398 (amends 2011 No. 4 above)

date of assent 6 June 2011

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

Note (1) If the Electrical Safety and Other Legislation Amendment Act 2011 No. 4 ss 4–8, 10, 13 commence before the Work Health and Safety Act 2011 No. 18 ss 391–398 commence then—

- ss 392–394, 397(1) of 2011 No. 18 do not take effect (see 2011 No. 18 s 401(1)–(3))
- ss 396, 396, 392(2), 398 directly amend the Electrical Safety Act 2002 (see 2011 No. 18 s 401(3)).

(2) Note 1 does not apply if the Work Health and Safety Act 2011 No. 18 ss 391–398 commence before the Electrical Safety and Other Legislation Amendment Act 2011 No. 4 ss 4–8, 10, 13 commence (2011 No. 18 s 401(5)).

Transport and Other Legislation Amendment Act 2011 No. 12 s 1, pt 5

date of assent 14 April 2011

commenced on date of assent

Work Health and Safety Act 2011 No. 18 ss 1–2, pt 18 div 2, s 404 sch 4 pt 1

date of assent 6 June 2011

ss 1–2 commenced on date of assent

pt 18 div 2, s 404 sch 4 pt 1 s 1 not yet proclaimed into force (see s 2)

remaining provisions commenced 1 January 2012 (2011 SL No. 238)

Civil Partnerships Act 2011 No. 46 ss 1–2, pt 6 div 8

date of assent 6 December 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 23 February 2012 (2012 SL No. 15)

7 List of annotations

Act binds all persons

s 3 amd 2008 No. 61 s 30

Application of Act to mines, petroleum plant and GHG storage plant

prov hdg amd 2009 No. 3 s 447(1)

s 6 amd 2004 No. 25 s 895; 2009 No. 3 s 447(2)–(4)

Application of Act to railways and light rail

prov hdg amd 2011 No. 12 s 12(1)

s 7 amd 2011 No. 12 s 12(2)

Notes in text

s 9 om 2011 No. 18 s 404 sch 4 pt 1 s 2

Meaning of “dangerous electrical event”

s 12 amd 2007 No. 52 s 31

Meaning of “electrical equipment”

s 14 amd 2004 No. 45 s 117

Meaning of “electrical work”

s 18 amd 2004 No. 45 s 118

Types of electrical work for this Act

s 19 amd 2007 No. 36 s 2 sch

Meaning of “employer”

s 21 amd 2003 No. 18 s 37 sch

Meaning of “worker”

s 22 amd 2003 No. 18 s 37 sch

Meaning of “person in control” of electrical equipment

s 24 amd 2003 No. 18 s 37 sch; 2007 No. 36 s 2 sch

Obligation offence provision

s 27 amd 2003 No. 18 s 37 sch

Obligation of employer or self-employed person

s 30 amd 2004 No. 45 s 116 sch

Additional obligations of designer, manufacturer, importer or supplier of electrical equipment

prov hdg amd 2009 No. 38 s 4(1)

s 35 amd 2009 No. 38 s 4(2)

Obligations of other person

s 40 amd 2007 No. 36 s 2 sch

Division 2A—Ministerial recall orders

div 2A (ss 40A–40E) ins 2009 No. 38 s 5

Code of practice about discharging electrical safety obligation

s 44 amd 2004 No. 45 s 119; 2007 No. 52 s 32

Meaning of “electrical safety undertaking”

s 49 amd 2008 No. 61 s 31

Giving electrical safety undertaking

s 49A ins 2004 No. 45 s 120

Contravention of electrical safety undertaking

s 54 amd 2004 No. 45 s 121

Requirement for electrical contractor licence

s 56 amd 2007 No. 36 s 2 sch; 2007 No. 52 s 33

Employer or self-employed person must ensure workers are appropriately licensed

s 57AA ins 2007 No. 52 s 34

Employers and self-employed persons must keep register of licensed workers

s 57AB ins 2007 No. 52 s 34

Licence holder engaged by employer or self-employed person must notify particular changes

s 57AC ins 2007 No. 52 s 34

Division 1A—Rectification of defective electrical work

div 1A (ss 57A–57B) ins 2004 No. 45 s 122

Division 2A—Miscellaneous requirements

div hdg ins 2004 No. 45 s 123

Chief executive may ask for further information or documents from licence holder

s 64A ins 2004 No. 45 s 123

 amd 2007 No. 52 s 35

Appointment of commissioner

s 68 amd 2009 No. 25 s 83 sch

Employment provisions

s 70 amd 2009 No. 25 s 83 sch

Functions of licensing committee

s 88 amd 2004 No. 45 s 124

Electrical licence issued by chief executive

s 109 amd 2007 No. 52 s 36

External licence

s 110 amd 2007 No. 52 s 37

Electrical contractor licence issued by chief executive but no longer in force

s 111 sub 2007 No. 52 s 38

Penalties

s 112 sub 2007 No. 52 s 38

Disciplinary hearing notice

s 116 amd 2007 No. 52 s 39

Licensing committee to keep record of disciplinary hearing

s 120 amd 2007 No. 52 s 40

Decision about taking disciplinary action

s 121 amd 2007 No. 36 s 2 sch; 2009 No. 38 s 6

Suspension or revocation of accredited auditor's appointment

s 134 sub 2004 No. 45 s 125

Chief executive may ask for further information or documents from accredited auditor

s 136A ins 2007 No. 52 s 41

Power to enter place

s 137 amd 2003 No. 18 s 37 sch

Inspectors may give advice to persons with electrical safety obligation

s 143A ins 2004 No. 45 s 126

General powers after entering place

s 144 amd 2003 No. 18 s 37 sch; 2004 No. 45 s 127

Inspector's power to seize unsafe electrical equipment at an entered place

s 146 prov hdg amd 2007 No. 52 s 42

Inspector's power to seize other unsafe electrical equipment

s 146A ins 2007 No. 52 s 43

Forfeiture of seized thing

s 150 amd 2007 No. 52 s 44

Return of seized thing

s 151 amd 2007 No. 52 s 45

Returning seized electrical equipment that is not electrically safe

s 151A ins 2007 No. 52 s 46

Improvement notice

s 153 amd 2004 No. 45 s 128

Electrical safety protection notice

s 154 amd 2004 No. 45 s 129

Order to secure compliance with notices

s 156 amd 2008 No. 61 s 32

Power to inquire into serious electrical incident or dangerous electrical event

s 157A ins 2003 No. 18 s 37 sch
amd 2004 No. 45 s 130

Power to require production of certain documents

s 158 amd 2004 No. 45 s 131

PART 13—PROCEEDINGS AND OFFENCES

Limitation on time for starting proceedings

s 187 amd 2008 No. 61 s 33

Responsibility for act or omission of representative

s 188 amd 2008 No. 61 s 34

Information during sentencing of impact of offence on person

s 189A ins 2008 No. 61 s 35

Division 2A—Proceedings against government bodies

div hdg ins 2008 No. 61 s 36

Definitions for div 2A

s 192A ins 2008 No. 61 s 36
def “**government body**” amd 2010 No. 23 s 266

Government body may be prosecuted

s 192B ins 2008 No. 61 s 36

Responsible entity for a proceeding against the State

s 192C ins 2008 No. 61 s 36

Penalties in proceedings against government body

s 192D ins 2008 No. 61 s 36

Notices may be given to a government body

s 192E ins 2008 No. 61 s 36

Discrimination or victimisation

s 196A ins 2003 No. 18 s 37 sch

Confidentiality

s 205A ins 2007 No. 52 s 47

Giving information to corresponding entity

s 205B ins 2007 No. 52 s 47

Regulation-making power

s 210 amd 2003 No. 18 s 37 sch; 2007 No. 52 s 48

PART 15—TRANSITIONAL PROVISIONS FOR ACT No. 42 OF 2002

pt hdg sub 2004 No. 45 s 116 sch

PART 16—TRANSITIONAL PROVISION FOR WORKERS’ COMPENSATION AND REHABILITATION AND OTHER ACTS AMENDMENT ACT 2004

pt hdg prev pt 16 hdg om R1 (see RA s 7(1)(k))
pres pt 16 hdg ins 2004 No. 45 s 132

Existing codes of practice

s 242 prev s 242 om R1 (see RA s 40)
pres s 242 ins 2004 No. 45 s 132

PART 17—TRANSITIONAL PROVISION FOR WORKPLACE HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT ACT 2008

pt 17 (s 243) ins 2008 No. 61 s 37

PART 18—TRANSITIONAL PROVISIONS FOR ELECTRICAL SAFETY AND OTHER LEGISLATION AMENDMENT ACT 2009

pt 18 (ss 244–246) ins 2009 No. 38 s 7

SCHEDULE 1—AMENDMENTS

om R1 (see RA s 40)

SCHEDULE 2—DICTIONARY

def “**Articles regulation**” ins 2003 No. 18 s 37 sch
def “**commencement**” amd 2003 No. 18 s 37 sch
def “**electrical engineer**” sub 2008 No. 14 s 65

- def **“electricity entity”** amd 2008 No. 67 s 115; 2009 No. 38 s 8(2); 2010 No. 19 s 26(2); 2011 No. 12 s 13(2)
- def **“Electricity Regulation”** amd 2003 No. 18 s 37 sch
- def **“Engineers Act”** om 2008 No. 14 s 65(1)
- def **“equivalent licence”** ins 2003 No. 18 s 37 sch
- def **“EWC Board”** amd 2003 No. 18 s 37 sch
- def **“light rail”** ins 2011 No. 12 s 13(1)
- def **“light rail manager”** ins 2011 No. 12 s 13(1)
- def **“prescribed details”** ins 2007 No. 52 s 49
- def **“previous licence”** ins 2003 No. 18 s 37 sch
- def **“railway manager”** ins 2010 No. 19 s 26(1)
- def **“recall order”** ins 2009 No. 38 s 8(1)
- def **“regulator”** ins 2003 No. 18 s 37 sch
- def **“responsible person”** ins 2009 No. 38 s 8(1)
- def **“spouse”** amd 2011 No. 46 s 54
- def **“Training and Employment Act”** amd 2003 No. 63 s 60 sch

8 List of forms notified or published in the 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 1 Version 2—Electricity Entity Incident Form (pubd gaz 31 March 2006 p 1278)

Form 2 Version 6.01.11—Electrical Safety Protection Notice (pubd gaz 21 January 2011 p 119)

Form 3 Version 1 September 2002—Incident/Accident Report Form (pubd gaz 27 September 2002 p 329)

Form 4 Version 2—30 May 2003—Electrical Safety Contribution Notice (pubd gaz 30 May 2003 p 363)

Form 5 Version 6.01.11—Unsafe Equipment Notice (pubd gaz 21 January 2011 p 119)

Form 5A - 01 Version 1.4—Power Station Accreditation Application Form (pubd gaz 26 March 2010 p 721)

Form 6 Version 10.08-2011—Application for approval of electrical equipment (pubd gaz 23 September 2011 p 190)

Form 7 Version 10.08-2011—Application for approval of modification/s to approved electrical equipment (pubd gaz 23 September 2011 p 190)

Form 7A Version 5.8-2011—Supplementary form to modification application (pubd gaz 23 September 2011 p 190)

- Form 8 Version 8.08-2011—Application for transfer of registration of electrical equipment (pubd gaz 23 September 2011 p 190)
- Form 9 Version 9.08-2011—Application to register a registrable cathodic protection system (pubd gaz 23 September 2011 p 190)
- Form 10 Version 11.08-2011—Application for an electrical work licence (apprentice) (pubd gaz 23 September 2011 p 190)
- Form 11 Version 11.08-2011—Application for electrical work licence (other than apprentice) (pubd gaz 23 September 2011 p 190)
- Form 12 Version 11.08-2011—Application for renewal, reinstatement or recognition of an expired Queensland electrical work licence (pubd gaz 23 September 2011 p 190)
- Form 13 Version 5—Improvement Notice (pubd gaz 10 December 2004 p 1190)
- Form 14 Version 09.08-2011—Application and guidelines for appointment as an accredited auditor - hazardous area installations, high voltage installations (pubd gaz 23 September 2011 p 190)
- Form 15 Version 1 September 2002—Receipt of Seizure (pubd gaz 27 September 2002 p 329)
- Form 16 Version 1 September 2002—Notice of Requirement (pubd gaz 27 September 2002 p 329)
- Form 17 Version 2.07-2005—Application for review of decision (pubd gaz 21 October 2005 p 677)
- Form 18 Version 13.08-2011—Queensland electrical contractor licence (pubd gaz 23 September 2011 p 190)
- Form 19 Version 10.08-2011—Application for renewal or reinstatement of an electrical contractor licence (pubd gaz 23 September 2011 p 190)
- Form 20 Version 12.08-2011—Application for additional/change of qualified person on a contractor licence (pubd gaz 23 September 2011 p 190)
- Form 21 Version 9.08-2011—Restricted work licence/permit (other than apprentice) (pubd gaz 23 September 2011 p 190)
- Form 22 Version 8.08-2011—Change of details/replacement licence/additional card form (pubd gaz 23 September 2011 p 190)
- Form 24 Version 4—Property Information (Transfer) (pubd gaz 23 March 2007 p 1250)
- Form 24A Version 1—Property Information (Transmission Application) (pubd gaz 23 March 2007 p 1249)
- Form 28 Version 2.01.11— Safety Management System Certificate (pubd gaz 21 January 2011 p 119)
- Form 29 Version 5.08-2011—Application for review of a licensing decision (pubd gaz 23 September 2011 p 190)

Endnotes

- Form 31 Version 9.08-2011—Application for electrical work licence (permit holder) (pubd gaz 23 September 2011 p 190)
- Form 33 Version 8.08-2011—Application for renewal of certificate for electrical equipment (pubd gaz 23 September 2011 p 190)
- Form 33A Version 6.08-2011—Supplementary form to renewal application (pubd gaz 23 September 2011 p 190)
- Form 35 Version 7 08-2011—Application for extension of approval of electrical equipment (pubd gaz 23 September 2011 p 190)
- Form 37 Version 7.8-2011—Application for renewal of appointment as an accredited auditor (pubd gaz 23 September 2011 p 190)
- Form 38 Version 6.08-2011—Application for an additional Queensland electrical work permit (pubd gaz 23 September 2011 p 190)

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