



# Electricity Act 1994

**Current as at 15 February 2018**

## **Reprint note**

This reprint includes retrospective amendments from 2018 Act No. 22 that were consolidated on 2 October 2018.

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Queensland

# Electricity Act 1994

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# Electricity Act 1994

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

## Chapter 1 Preliminary

### Part 1 Introductory provisions

#### 1 Short title

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

### Part 2 Objects of Act

#### 3 Objects of Act

The objects of this Act are to—

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

## Part 3 Dictionary

### 4 Definitions—the dictionary

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

## Part 4 Some basic concepts of electricity industry operations

### 5 Electricity

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

### 6 Transmission grid

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

### 7 Regional system control

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

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

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## 8 Supply network

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

## 9 Network control

For a supply network, *network control* is—

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

## 10 Network services

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

*Examples of network services—*

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

## 11 Ancillary services

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

*Examples of ancillary services—*

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

## 12 Works, substations and operating works

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

*Example of works—*

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

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



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

*Example of other property used for generating electricity—*

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

### 13 Meaning of *electrical equipment*

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

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

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

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

- interior lighting or a socket outlet in a caravan, if the lighting or outlet is operated by a low voltage generating set or connected to low voltage supply
- a refrigeration unit in a food delivery vehicle operating at low voltage from a source separate from the propulsion unit for the vehicle

## **14 Meaning of *electrical installation***

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

*Examples of an electrical installation under this section—*

- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shop in a shopping centre
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a house or residential unit
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shopping centre. The

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electrical installation for the shopping centre generally includes the electrical installations for the individual shops

- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a residential unit complex. The electrical installation for the residential unit complex generally includes the electrical installations for the individual residential units
- the switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected within a caravan

## 15 Meaning of *electric line*

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

*Examples of things that are not electric lines—*

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

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

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

*Examples of associated equipment—*

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

## 16A Meaning of *meter*

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

## 17 Voltage

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

# Part 5 Operation of Act

## 18 Application of Act to government entities

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

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## **18A Declaration for Commonwealth Act**

The following are declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth)—

- (a) a distribution authority;
- (b) a generation authority;
- (c) a special approval;
- (d) a transmission authority.

## **19 Act subject to certain laws**

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

*Note—*

The *Wet Tropics World Heritage Protection and Management Act 1993*, section 56 prohibits certain acts (for example, destruction of forest products) without an appropriate authority.

# **Part 6 Exemptions from Act**

## **Division 1 On-suppliers**

### **Subdivision 1 Preliminary**

## **20 Definitions for div 1**

In this division—

*on-supplier* means a person who—

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

*Examples of persons under paragraph (a)—*

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

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

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

## **Subdivision 2 Exemptions**

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

If an on-supplier complies with subdivisions 5 and 7, the on-supplier is exempted from section 88A.

## **Subdivision 5 Individual metering**

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

- (1) A receiver may, at any time—
  - (a) elect, by written notice given to the relevant on-supplier, to have the receiver's consumption of electricity supplied from the on-supplier measured by a meter; and
  - (b) have the meter installed, at the receiver's expense.
- (2) However, the election has effect only if the installation is done in a way—
  - (a) that complies with any reasonable written directions the on-supplier gives the receiver within 5 business days after the giving of the notice; or
  - (b) if no written directions are given within the 5 business days—that is reasonable.

- 
- (3) In deciding what is reasonable for subsection (2), regard must be had to the interests of the on-supplier and anyone who is an occupier of the on-supplier's premises.

## **20I Compensation for installation damage**

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

- (a) whether it was reasonable for the claimant to give the receiver an opportunity to fix the damage; and
  - (b) if paragraph (a) applies—whether the receiver was given a reasonable period to fix the damage.
- (6) This section does not limit a civil right or remedy that exists apart from this section, whether at common law or otherwise.

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

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

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

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

## **Division 2              Other exemptions**

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

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

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



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**20Q Exemptions for rail government entities, railway managers and their related bodies corporate**

- (1) A rail government entity is exempted from section 88A in relation to the supply of electricity to Airtrain Citylink Limited ACN 066 543 315 for electricity used—
  - (a) in connection with the building or use of electrical installations and other works by Airtrain Citylink Limited, as part of a system of electric traction or for signalling purposes, on the Brisbane Airport Rail Link; or
  - (b) for powering electric rolling stock and railway signals on the Brisbane Airport Rail Link.
- (2) The railway manager that operates the nominated network and related bodies corporate of that railway manager are exempted from section 88A in relation to the supply of electricity to a third party access holder for electricity used by the third party access holder—
  - (a) in connection with the building or use of electrical installations and other works, as part of a system of electric traction or for signalling purposes, on the nominated network or connected to the nominated network; or
  - (b) for powering electric rolling stock and railway signals on the nominated network or rail transport infrastructure owned by the third party access holder and connected to the network.
- (3) Subsection (4) applies if electricity is—
  - (a) supplied—
    - (i) by a rail government entity to a relevant railway manager; or
    - (ii) by a relevant railway manager to a rail government entity; and
  - (b) used—

- (i) in connection with the building or use of electrical installations and other works, as part of a system of electric traction or for signalling purposes, on rail transport infrastructure or connected to the rail transport infrastructure; or
  - (ii) for powering electric rolling stock and railway signals on rail transport infrastructure.
- (4) Each of the following is exempted from section 88A in relation to the supply of the electricity—
  - (a) the rail government entity mentioned in subsection (3)(a)(i);
  - (b) the relevant railway manager mentioned in subsection (3)(a)(ii).

- (5) In this section—

*Airtrain Citylink Limited* includes its successors and assigns.

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

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

*Editor's note—*

A copy of the drawing is available for inspection at the offices of the Department of Transport and Main Roads, Level 12, Capital Hill Building, 85 George Street, Brisbane.

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

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

*related body corporate* has the meaning given in the Corporations Act.

*relevant railway manager*, in relation to a rail government entity, means—

- (a) a railway manager that operates rail transport infrastructure that is directly connected to rail transport infrastructure operated by the rail government entity; or
- (b) a related body corporate of a railway manager mentioned in paragraph (a).

*Note—*

A relevant railway manager may be a rail government entity.

***third party access holder*** means a person who, under an arrangement with a railway manager or a related body corporate of the railway manager, is entitled to access and use a nominated part of its rail transport infrastructure (the ***nominated network***).

## **20QA Exemptions for light rail franchisee and light rail manager**

- (1) A light rail franchisee for a light rail franchise agreement, or a light rail manager for a light rail, is exempted from section 88A in relation to the supply of electricity used—
  - (a) in connection with the building or use of electrical installations and other works required under a light rail franchise agreement; or
  - (b) for powering rolling stock and railway signals for a light rail.
- (2) In this section—

***light rail franchisee*** means a franchisee for a light rail franchise agreement under the *Transport Infrastructure Act 1994*, schedule 6.

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

- (1) If the Governor in Council considers it necessary because of an emergency or other extraordinary circumstances, a regulation may—
  - (a) exempt a person or thing from this Act or a provision of this Act; and

- (b) impose conditions on the exemption; and
  - (c) provide that the exemption ceases or continues if a condition of the exemption is contravened.
- (2) The regulation expires 6 months after it commences, unless it is earlier repealed.
- (3) A person must not contravene a condition of an exemption applying to the person.

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

## Chapter 2      The electricity industry

### Part 1              Electricity industry and entities

#### 21      Electricity industry

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

#### 22      Electricity entities

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

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## Part 2 Customers

### 23 Customers and their types

- (1) A *customer* is a person who is a customer under the NERL (Qld), section 5(1).
- (2) However, a receiver is only a customer if the receiver's premises has an electrical installation that, to the reasonable satisfaction of the distribution entity whose distribution area includes the premises, is capable of receiving supply directly from a distribution entity's supply network.
- (3) A *large customer* is a person who is a large customer under the NERL (Qld), section 5(3).
- (4) A *small customer* is a person who is a small customer under the NERL (Qld), section 5(2).
- (5) An *excluded customer* is a small customer whose premises are connected, or to be connected, to a distribution entity's supply network that is not connected to the national grid.

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

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

## Part 3 Generation entities and their authorities

### 25 Generation entities

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

## **26 Generation authorities**

- (1) A *generation authority* authorises its holder to connect the generating plant stated in the authority to the transmission grid or supply network stated in the authority.
- (2) However, a generation authority does not relieve its holder or anyone else from complying with laws applying to the development, building, operation or maintenance of generating plant.

## **27 Conditions of generation authority**

A generation authority is subject to the following conditions—

- (a) the generation entity must provide electricity of a quality suitable for the transmission grid or supply network stated in the authority;
- (b) the generation entity must comply with—
  - (i) the technical conditions of connection to a transmission grid or supply network stated in the authority or prescribed under the regulations; and
  - (ii) if the entity is a Registered participant—the National Electricity Rules; and
  - (iii) if the entity is connected to the Queensland system—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
  - (iv) conditions imposed under the regulations; and
  - (v) the condition stated in section 28; and
  - (vi) conditions stated in the authority;
- (c) the generation entity must properly take into account the environmental effects of its activities under the authority;

- 
- (d) the generation entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions.

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

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

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

**29 Transmission entities**

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

**30 Transmission authorities**

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

**31 Conditions of transmission authority**

- (1) A transmission authority is subject to the following conditions—
- (a) the transmission entity must comply with—

- (i) the technical conditions of operating the transmission grid stated in the authority or prescribed under the regulations; and
  - (ii) if the entity is a Registered participant—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
  - (iii) the conditions stated in sections 32, 33, 34, 35 and 36; and
  - (iv) conditions imposed under the regulations; and
  - (v) conditions stated in the authority;
- (b) the transmission entity must properly take into account the environmental effects of its activities under the authority;
- (c) the transmission entity must pay the amounts required under the authority or the regulations for administering the authority and its conditions;
- (d) if the transmission entity is a regulated transmission system operator—the entity must also pay an annual fee that is a proportion of the cost of the State’s funding commitments to national energy market regulation.
- (2) The fee mentioned in subsection (1)(d) for a transmission entity is calculated based on the length of the electric lines making up the transmission grid operated by the entity.

(3) In this section—

*AEMC* has the meaning given in the National Electricity (Queensland) Law.

*national energy market regulation* means the functions and powers of the AEMC under the National Electricity (Queensland) Law, section 29.

*regulated transmission system operator* has the meaning given in the National Electricity (Queensland) Law.



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

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

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

- (1) It is also a condition of a transmission authority held by a transmission entity that operates a regulated transmission grid that the transmission entity must not buy or sell electricity directly or indirectly.
- (2) Subsection (1) does not apply to generating, buying or selling electricity—

- (a) necessary to operate the transmission entity's transmission grid or for a purpose associated with the planning, design, construction, maintenance or operation of the transmission grid; or
  - (b) for the entity's administrative purposes.
- (3) In this section—

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

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

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

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

It is also a condition of a transmission authority that the transmission entity must provide, as far as technically and economically practicable for the transmission entity, network services on fair and reasonable terms, for persons authorised

to connect supply of electricity to the transmission grid or take electricity from the grid.

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

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

**36A Responsibility for regional system control**

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

**Part 5 Distribution entities and their authorities**

**Division 1 Preliminary**

**37 Distribution entities**

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

**38 Distribution authorities**

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

### **39 Distribution area of distribution entity**

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

## **Division 4 Customers' premises outside of distribution area**

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

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

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## **Division 5**                      **Conditions of distribution authorities**

### **42**            **Conditions of distribution authority**

A distribution authority is subject to the following conditions—

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

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

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

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

#### 44 Additional condition to provide network services

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

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

(1) It is also a condition of a distribution authority that the distribution entity—

- (a) allow, as far as technically and economically practicable, a qualifying customer for premises to connect 1 qualifying generator at the premises to its supply network; and
- (b) credit against the charges payable by a qualifying customer, for customer connection services provided to the qualifying customer in a relevant supply period, the amount for each kilowatt hour prescribed under a regulation (a *prescribed credit amount*) for electricity that is, at any instant in the relevant supply period—
  - (i) being produced by the qualifying generator when connected to the distribution entity's supply network; and
  - (ii) being supplied to the network; and
  - (iii) in excess of the amount of electricity being used by the qualifying customer, not including electricity supplied through a circuit controlled by the distribution entity; and

*Example of a circuit controlled by the distribution entity—*

a remotely switched circuit used for off-peak supply of hot water

- (c) give the regulator a report, for each prescribed credit amount, within 28 days after 30 June and 31 December each year, stating the following—

- (i) the number of qualifying customers who have connected a qualifying generator to the network under paragraph (a) in the previous 6 months;
  - (ii) the number of qualifying customers who, at the end of the previous 6 months, had a qualifying generator connected to the network;
  - (iii) the number of qualifying customers who stopped being credited with a prescribed credit amount under paragraph (b) in the previous 6 months;
  - (iv) the number of qualifying customers who, at the end of the previous 6 months, had stopped being credited with a prescribed credit amount under paragraph (b);
  - (v) for each retailer—the total amount of credit given by the distribution entity to the retailer in relation to qualifying customers receiving credit under paragraph (b) in the previous 6 months;
  - (vi) the amount of electricity supplied to the network in the previous 6 months for which credit was given under paragraph (b);
  - (vii) the total generation capacity of all qualifying generators connected to the network.
- (1A) However, the condition mentioned in subsection (1)(b) stops applying in relation to a qualifying customer if—
- (a) the maximum output of the component of the customer’s qualifying generator that generates electricity exceeds, in aggregate, the approved total rated inverter capacity of the generator; or
  - (b) the customer installs an electricity storage device, as part of the electrical installation supplied by the customer’s qualifying generator, in a way that enables the device to supply electricity to—
    - (i) the electrical installation at the same time as the qualifying generator, other than during a supply interruption; or



- (ii) the distribution entity's supply network; or
  - (c) the customer installs 1 or more generators (each an ***additional generator***) as part of the electrical installation supplied by the customer's qualifying generator in a way that enables the additional generator to supply electricity to—
    - (i) the electrical installation at the same time as the qualifying generator, other than during a supply interruption; or
    - (ii) the distribution entity's supply network.
- (1B) If, because of the operation of subsection (1A), a qualifying customer stops being entitled to be credited with a prescribed credit amount under subsection (1)(b), that subsection no longer applies to the distribution entity in relation to that customer.
- (2) A regulation may prescribe—
    - (a) the circumstances in which a category of qualifying customer is entitled, or stops being entitled, to be credited with a prescribed credit amount under subsection (1)(b) for the category of qualifying customer; and
    - (b) the day, not later than 1 July 2028, at the end of which subsection (1)(b) stops applying, in any event, for a particular category of qualifying customer.
  - (3) If a category of qualifying customer becomes entitled to be credited with a prescribed credit amount under subsection (2)(a), the distribution authority is subject to the condition mentioned in subsection (1)(b).
  - (4) If a category of qualifying customer stops being entitled to be credited with a prescribed credit amount under subsection (2)(a), the condition, under subsection (1)(b), of the distribution authority about crediting a prescribed credit amount also stops to the extent the prescribed credit amount is for the category.
  - (5) This section expires on 1 July 2028.

(6) In this section—

*approved total rated inverter capacity*, of a customer's qualifying generator, means the total rated inverter capacity of the generator approved by the distribution entity for the purposes of complying with the condition mentioned in subsection (1)(b).

*electricity storage device* means a device capable of storing energy and releasing the energy as electricity.

*supply interruption* means an interruption in the supply, by a distribution entity through the entity's supply network, of electricity to a qualifying customer's electrical installation.

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

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

#### **45A Responsibility for network control**

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

## **Part 6 Retailers**

*Note—*

For matters relating to retailers, generally, see the NERL (Qld).

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### 55DA Retailer must enter into community services agreement

- (1) A retailer must not provide a customer retail service unless the retailer—
  - (a) enters into an agreement with the State to provide, for at least 5 years, the community services—
    - (i) agreed between the State and the retailer; or
    - (ii) failing agreement, as decided by the Minister; and

*Examples of community services—*

pensioner rebate and drought relief schemes for customer retail services
  - (b) complies with the agreement.
- (2) In making a decision under subsection (1)(a)(ii), the Minister must have regard to the retailer's reasonable administration costs and other risks in providing the community services.

### 55DB Electricity produced by qualifying generator

- (1) A retailer must—
  - (a) reduce the amount payable by a qualifying customer (the *amount due*), for electricity supplied to the qualifying customer in a relevant supply period, by the amount of any credit (*owed credit*) given by a distribution entity in relation to the qualifying customer for the relevant supply period under section 44A(1)(b); and
  - (b) if the owed credit is more than the amount due for the relevant supply period (the *first period*)—
    - (i) reduce the amount due for a subsequent relevant supply period by the unused amount of the owed credit; and
    - (ii) if, after the end of 12 months after the end of the first period, an amount of the owed credit has not been used under subparagraph (i)—pay the qualifying customer an amount representing the amount of owed credit that has not been used; and

- (c) give the qualifying customer the following information for each relevant supply period—
    - (i) the amount of electricity supplied by the qualifying customer to the distribution entity's network for which credit was given under section 44A(1)(b);
    - (ii) the amount to be credited to the qualifying customer under section 44A(1)(b); and
  - (d) give the regulator a report, for each prescribed credit amount, within 28 days after 30 June and 31 December each year, stating—
    - (i) the number of qualifying customers receiving credit under section 44A(1)(b) in the previous 6 month period; and
    - (ii) the amount credited to qualifying customers under section 44A(1)(b) in the previous 6 month period.
- (2) This section expires on 1 July 2028.

### **55DBA Electricity produced by small photovoltaic generator**

- (1) This section applies if—
- (a) a prescribed retailer provides customer retail services to a relevant qualifying customer's premises; and
  - (b) the relevant qualifying customer is not entitled to receive an amount for electricity mentioned in section 44A(1)(b) in relation to the premises.

*Note—*

A relevant qualifying customer may be entitled to receive an amount for electricity mentioned in section 44A(1)(b) in relation to the premises under section 44A as it continues to apply under section 328.

- (2) The prescribed retailer must—
- (a) reduce the charges payable by the customer, for electricity supplied to the customer in the relevant supply period, by the feed-in tariff amount; and

- (b) if the feed-in tariff amount is more than the charges payable for the relevant supply period (the *first period*)—
    - (i) reduce the charges payable for a subsequent relevant supply period by the unused amount of the feed-in tariff amount; and
    - (ii) if, after the end of 12 months after the end of the first period, an amount of the feed-in tariff amount has not been used under subparagraph (i)—pay the customer the unused amount of the feed-in tariff amount; and
  - (c) give the customer the following information for each relevant supply period—
    - (i) the amount of electricity supplied by the customer to the supply network;
    - (ii) the feed-in tariff amount.
- (3) In this section—
- feed-in tariff amount* means the amount worked out by multiplying the feed-in tariff decided under chapter 4, part 2A by the number of kilowatt hours of electricity that is, at any instant in the relevant supply period—
- (a) produced by 1 small photovoltaic generator connected at the relevant qualifying customer's premises to a supply network; and
  - (b) supplied to the network.

## **Part 6A                      Coordination agreements    between distribution and retail    entities**

### **55H    Negotiation of coordination agreement**

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

### **55I    Standard coordination agreement**

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

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## Part 7                      **Special approval holders and their approvals**

### **56      Purpose of special approvals**

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

### **57      Special approval holders**

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

### **58      Special approvals**

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

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

- (1) A special approval authorises its holder to do the things stated in the approval, even though the things would otherwise require the holder to be the holder of a generation, transmission or distribution authority to do the things.
- (2) Despite subsection (1), a special approval does not make the holder an electricity entity, unless a regulation provides that the holder is to be treated as an electricity entity.
- (3) However, for things authorised by the special approval, the special approval holder is taken to be a person who has the relevant authority and the special approval is taken to be the relevant authority.

*Examples—*

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

## **60 Conditions of special approval**

- (1) A special approval is subject to the following conditions—
- (a) the holder must comply with—
    - (i) if the holder is a Registered participant—the National Electricity Rules; and
    - (ii) if connected to the Queensland system or a Registered participant—the National Electricity (Queensland) Law, the National Electricity Rules and directions given to it under this Act, the National Electricity (Queensland) Law or the National Electricity Rules; and
    - (iii) the condition stated in section 61 or 61B; and
    - (iv) conditions imposed under the regulations; and
    - (v) if the approval is given by the regulator—conditions stated in the approval;
  - (b) the holder must pay amounts required under the approval or the regulations for administering the approval and its conditions;
  - (c) the holder must pay any amount that, under the *Energy and Water Ombudsman Act 2006*, the holder must pay the energy and water ombudsman.
- (2) In this section—



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

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

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

**61B Additional condition for electricity produced by photovoltaic generators**

- (1) Subsection (2) applies to a special approval holder prescribed under a regulation.
- (2) It is a condition of the special approval that the holder must comply with section 44A.

## **Part 8 Regulator**

**62 Regulator**

The chief executive of the department is the regulator.

**63 Functions**

- (1) The regulator's functions are—
  - (a) to ensure only suitable persons are electricity entities; and
  - (b) to assist in the settlement of disputes arising under chapter 4, part 6, between electricity entities and between electricity entities and public entities; and
  - (c) to monitor compliance with the conditions of approvals, authorities and licences under this Act; and
  - (d) to perform other functions given to the regulator under this Act or another Act.

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

## **64 Delegation**

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

## **64A Review of feed-in tariff provisions**

Within 5 years after the commencement of this section, the regulator must review the operation of section 55DBA and chapter 4, part 2A.

# **Part 9 Electricity officers**

## **64B Definition for pt 9**

In this part—

*electricity entity* includes a retailer.

## **65 Appointment**

- (1) The chief executive officer of an electricity entity may appoint a person as an electricity officer for the entity.
- (2) The chief executive officer may appoint a person as an electricity officer only if—

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

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

An electricity officer may exercise powers only—

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

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

An electricity officer's powers may be limited—

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

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

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

- (c) if the conditions of appointment provide—ceases holding office as an electricity officer on ceasing to hold another office stated in the appointment conditions.

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

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

Maximum penalty—10 penalty units.

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

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

- (1) An electricity officer may exercise a power in relation to someone else only if the electricity officer—
  - (a) first produces his or her identity card for the person's inspection; or
  - (b) has the identity card displayed so it is clearly visible to the person.

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

## **Chapter 4      Electricity industry operations**

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

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

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

Maximum penalty—5,000 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 240A, to have also committed the offence.

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

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

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

Maximum penalty—5,000 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 240A, to have also committed the offence.

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

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

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

Maximum penalty—5,000 penalty units.

*Note—*

If a corporation commits an offence against this provision, each executive officer of the corporation may be taken, under section 240A, to have also committed the offence.

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

## **Part 2 Market operation**

### **Division 1 Preliminary**

#### **89A Definitions for pt 2**

In this part—

*designated retail market area* means—

- (a) an area prescribed by regulation; or
- (b) if no area is prescribed—the distribution area described in the schedule to the distribution authority numbered D07/98.

*Editor's note—*

At the commencement of this definition, the distribution authority was held by Energex.

**price determination** see section 90(1).

**pricing entity** means—

- (a) the Minister; or
- (b) QCA, if the Minister delegates a function of the Minister under section 90(1) to QCA.

## **Division 2                      Market monitoring, reporting and review in designated retail market areas**

### **89B      Market monitoring direction and report**

- (1) The Minister may give QCA a written direction requiring QCA to monitor, and give a written report on, the operation of the retail electricity market in designated retail market areas.
- (2) The direction must state—
  - (a) the period (the **reporting period**) for which the report is to apply; and
  - (b) when the report is required to be given to the Minister; and
  - (c) that the report must be published on QCA's website and when it is required to be published.
- (3) Without limiting subsection (1), the direction may require QCA to monitor, and report on, the prices that retailers for designated retail market areas are charging for—

- (a) the sale of electricity to their customers at premises in the areas; or
  - (b) charges or fees relating to the sale of electricity mentioned in paragraph (a).
- (4) Also, without limiting subsection (1), the direction may require the report to include—
- (a) a comparison and assessment of—
    - (i) retailers' standing offer prices and market offer prices that were available to customers at premises in designated retail market areas in the reporting period; and
    - (ii) variations to retailers' standing offer prices and market offer prices that were available to customers at premises in designated retail market areas in the reporting period; and
  - (b) information about any trends in relation to variations to retailers' standing offer prices and market offer prices available to customers at premises in designated retail market areas in the reporting or another stated period; and
  - (c) other relevant information the Minister requires.
- (5) QCA must comply with the direction.
- (6) In this section—

*market offer prices* has the meaning given by the NERL (Qld), section 2.

*standing offer prices* has the meaning given by the NERL (Qld), section 2.

### **89C Obtaining information to comply with direction**

- (1) This section applies if QCA is given a direction under section 89B(1).
- (2) QCA may, by written notice given to a retailer for a designated retail market area, require the retailer to give QCA



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the relevant information QCA requires to comply with the direction.

- (3) The retailer must, within the reasonable period stated in the notice, comply with the notice unless, in the circumstances, the retailer could not reasonably have been expected to have, or to be able to obtain, the relevant information.

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

### **89D Competition review**

- (1) The Minister may give a written direction to an appropriate entity to—
- (a) conduct a review into the effectiveness of competition in a relevant market for the sale of electricity; and
  - (b) give a written advice about whether to keep, remove or reintroduce price controls on prices relating to the sale of electricity in the relevant market.
- (2) The direction must state—
- (a) the terms of reference of the review; and
  - (b) when the advice is required to be given to the Minister; and
  - (c) that the advice must be published on the appropriate entity's website or in another stated way; and
  - (d) when the advice is required to be published.
- (3) The appropriate entity must comply with the direction.
- (4) Subject to the direction, the appropriate entity may conduct the review in the way it considers appropriate.
- (5) In this section—
- appropriate entity*** means—
- (a) QCA; or
  - (b) another entity the Minister considers is an appropriate entity to conduct a review and give an advice under subsection (1).

*relevant market* means a market for the sale of electricity to all customers, or a class of customers, in a designated retail market area.

## Division 3                      Price determination

### 89E      Non-application to sales in designated retail market area

- (1) This division does not apply to deciding the prices, or the methodology for fixing the prices, that a retailer for a designated retail market area may charge for—
  - (a) the sale of electricity to its standard contract customers at premises in the area; or
  - (b) charges or fees relating to the sale of electricity mentioned in paragraph (a).
- (2) This section applies subject to section 91B.

### 90      Deciding prices for standard contract customers

- (1) The Minister must, for each tariff year, decide (a *price determination*) the prices, or the methodology for fixing the prices, that a retailer may charge its standard contract customers for all or any of the following—
  - (a) customer retail services;
  - (b) charges or fees relating to customer retail services;  
*Examples—*
    - charges or fees for late or dishonoured payments
    - credit card surcharges for payments for the services
  - (c) other goods and services prescribed under a regulation.
- (2) The price determination must be in the form of a tariff schedule.
- (3) To remove any doubt, the following is declared for a price determination—

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- (a) it may be made from time to time and not just once a year;
  - (b) a tariff from the tariff schedule for the current or previous tariff year may be added to, removed or changed;
  - (c) a tariff may be added to the tariff schedule at any time during a tariff year;
  - (d) it may include network charges;
  - (e) it can not be made for distribution non-network charges.
- (4) The prices, or prices fixed under the methodology, are, for a retailer, called the *notified prices*.
- (5) In making a price determination, the pricing entity—
- (a) must have regard to all of the following—
    - (i) the actual costs of making, producing or supplying the goods or services;
    - (ii) the effect of the price determination on competition in the Queensland retail electricity market;
    - (iii) if QCA is the pricing entity—any matter the pricing entity is required by delegation to consider; and
  - (b) may have regard to any other matter the pricing entity considers relevant.
- (6) The pricing entity may decide that the notified prices exclude one of the following—
- (a) GST;
  - (b) the amount fixed by the pricing entity, or the amount worked out in a way fixed by the pricing entity, as the net effect on prices of GST and matters related to the imposition of GST (the *net GST effect*).
- (7) In this section—

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

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

*Examples of distribution non-network charges—*

- a de-energisation or disconnection fee
- a reconnection fee
- a meter test fee

***network charges*** means charges of a distribution entity for—

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

## **90AA Delegation to QCA and terms of reference**

- (1) The Minister may delegate to QCA all or any of the Minister's functions under section 90(1).
- (2) The delegation may state the terms of reference of the price determination.
- (3) The terms of reference may specify the following—
  - (a) the period for which the price determination is to apply;
  - (b) the time frame within which QCA is to make and publish reports on the price determination;
  - (c) the particular policies or principles QCA is to consider when making the price determination;
  - (d) the matters QCA must consider when working out the notified prices and making the price determination;

*Example—*

the particular methodology to be used to determine the prices

- (e) the consultation requirements QCA must comply with before making the price determination.
- (4) The terms of reference may—
  - (a) apply generally to all tariffs or be limited in its application by reference to specified exceptions or factors; or
  - (b) apply differently according to different factors of a specified kind.

### **90AB Publication of notified prices**

- (1) This section applies if QCA is the pricing entity.
- (2) The pricing entity must, at least 1 month before the start of each tariff year—
  - (a) announce its final price determination; and
  - (b) publish the notified prices by gazette notice.
- (3) However, a failure to comply with subsection (2) does not invalidate or otherwise affect the price determination.
- (4) If the pricing entity has decided that GST or the net GST effect is excluded from the notified prices, the gazette notice must include a statement (a ***GST statement***) as follows—
  - (a) that the notified prices exclude GST or the net GST effect;
  - (b) if the decision was that the net GST effect is excluded—the fixed amount of the effect or the way for working it out under section 90(6)(b).
- (5) The notified prices and any GST statement take effect—
  - (a) on a later day stated in the notice; or
  - (b) if no day is stated in the notice—on the day the notice is gazetted.

## **90A Obtaining information for price determination**

- (1) A pricing entity may, in writing, ask a retailer for relevant information the pricing entity requires to make a price determination for the retailer.
- (2) The retailer must, within the reasonable period stated in the request, give the relevant information to the pricing entity.

Maximum penalty for subsection (2)—100 penalty units.

## **91 Retailers charging for GST**

- (1) This section applies if—
  - (a) there are notified prices for a retailer; and
  - (b) the notification for the prices includes a GST statement; and
  - (c) the retailer charges standard contract customers the notified prices for providing customer retail services.
- (2) If the GST statement provides that the notified prices exclude GST, the retailer may also charge standard contract customers an amount for GST for providing the services.
- (3) If the GST statement provides that the notified prices exclude the net GST effect, the retailer may also charge standard contract customers the net GST effect for providing the services.
- (4) The Minister may give the retailer a written direction to charge standard contract customers—
  - (a) if the GST statement provides that the notified prices exclude GST—an amount for GST for providing the services; or
  - (b) if the GST statement provides that the notified prices exclude the net GST effect—the net GST effect for providing the services.
- (5) To remove any doubt, it is declared that this section does not prevent the retailer from charging, under any of the following contracts under the NERL (Qld), an amount for GST for

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goods or for any services that are not customer retail services—

- (a) a standard retail contract;
- (b) a standard retail contract (card-operated meters);
- (c) a large customer standard retail contract.

### **91A Retailer must comply with notification or direction**

- (1) This section applies if there are notified prices for providing customer retail services.
- (2) A retailer must charge standard contract customers the notified prices for providing the services.

Maximum penalty—500 penalty units.

- (3) If a retailer has been given a direction under section 91(4)(a) to charge an amount for GST for providing the services, it must also charge that amount.

Maximum penalty—500 penalty units.

- (4) If a retailer has been given a direction under section 91(4)(b) to charge the net GST effect for providing the services, it must also charge the net GST effect.

Maximum penalty—500 penalty units.

- (5) To remove any doubt, it is declared that a retailer does not contravene subsection (2) only because the retailer reduces the charges payable by a standard contract customer by the amount the retailer pays the standard contract customer for electricity produced at the standard contract customer's premises and supplied to a supply network.
- (6) This section does not limit section 91(2) and (3).

### **91AA Provision for compliance with decisions about notified prices**

- (1) This section applies if—

- (a) the pricing entity decides or purports to decide notified prices (the *decided prices*); and
  - (b) the decided prices are, for whatever reason, quashed, set aside or declared or ordered to be of no effect in a proceeding.
- (2) Despite any matter mentioned in subsection (1)(b), for section 90A and any other provision of this Act, the decided prices—
- (a) are taken to have, since the making of the decision or purported decision, always been notified prices; and
  - (b) continue in force as if they were notified prices until the pricing entity decides new notified prices.

## **Division 4                      Reintroduction of price determination**

### **91B      Reserve power of Minister to reintroduce price determination**

- (1) This section applies if—
- (a) under section 89E, division 3 does not apply to deciding the prices, or the methodology for fixing the prices, that a retailer may charge in relation to the sale of electricity to particular customers; and
  - (b) either—
    - (i) the AEMC (the *reviewer*) conducts an MCE directed review into the effectiveness of competition in the market (the *relevant market*) to which the sale is relevant; or
    - (ii) an appropriate entity (also the *reviewer*) conducts a review under section 89D(1) into the effectiveness of competition in the relevant market; and
  - (c) as a result of the review, the reviewer—



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- (i) considers that competition in the relevant market is not effective; and
    - (ii) gives advice recommending the reintroduction of price controls on the sale of electricity in the relevant market.
  - (2) The Minister may decide to make a price determination for the prices that the retailer may charge in relation to the sale of electricity to the customers.
  - (3) If the Minister decides to make a price determination under subsection (2), division 3, other than section 89E, applies for making the price determination.
  - (4) In this section—  
*AEMC* see the NERL (Qld), section 2.  
*MCE directed review* see the NERL (Qld), section 2.

## Part 2A                      Feed-in tariff

### 92            Definitions for pt 2A

In this part—

*feed-in tariff* means the rate to be used for working out the amount that must be credited by a prescribed retailer to a relevant qualifying customer for a relevant supply period for each kilowatt hour of electricity that is, at any instant in the relevant supply period—

- (a) produced by 1 small photovoltaic generator connected at the customer's premises to a supply network; and
- (b) supplied to the network.

*local area retailer* has the meaning given by the NERL (Qld).

*prescribed retailer* means a local area retailer other than a local area retailer for a designated retail market area.

*relevant qualifying customer*, of a prescribed retailer, means a qualifying customer if—

- (a) the retailer provides customer retail services to the customer's premises; and
- (b) 1 small photovoltaic generator is connected at the customer's premises to a supply network.

### **93 Minister to direct QCA to decide feed-in tariff**

- (1) The Minister—
  - (a) must direct QCA to decide the feed-in tariff for each tariff year; and
  - (b) may, at any time, direct QCA to decide the feed-in tariff for another period.
- (2) The Minister's direction may state the following—
  - (a) the period for which the feed-in tariff is to apply;
  - (b) the time frame within which QCA is to decide the feed-in tariff;
  - (c) the matters QCA must consider when deciding the feed-in tariff;
  - (d) the consultation requirements QCA must comply with before deciding the feed-in tariff.
- (3) In deciding the feed-in tariff, QCA must consider—
  - (a) the effect of the feed-in tariff on competition in the Queensland retail electricity market; and
  - (b) any other matter stated in the Minister's direction.

### **94 QCA to publish feed-in tariff**

- (1) At least 1 month before the start of a tariff year, QCA must announce the feed-in tariff for the tariff year and publish it by gazette notice.
- (2) However, if QCA is directed under section 93(1)(b) to decide a feed-in tariff, at least 1 month before the feed-in tariff is to apply, QCA must announce the feed-in tariff and publish it by gazette notice.

- (3) A gazette notice under this section must state the period for which the feed-in tariff is to apply.
- (4) A feed-in tariff applies from the start of the tariff year to which it relates unless otherwise stated in the gazette notice.
- (5) Failure to comply with this section does not invalidate or otherwise affect the feed-in tariff.

### **95 When feed-in tariff continues to apply**

- (1) This section applies if a feed-in tariff (an *existing feed-in tariff*) would, but for subsection (2), stop applying and a new feed-in tariff does not apply.
- (2) The existing feed-in tariff continues to apply until a new feed-in tariff applies.

## **Part 3 Limitation of liability of electricity entities**

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

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

(4) In subsection (1)—

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

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

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

(2) In subsection (1)—

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

## **Part 4 Works**

### **Division 1 Works generally**

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

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

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

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

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

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

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

### **100      Application of division**

This division is subject to divisions 3 and 4.

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

- (1) An electricity entity may take the action in a publicly controlled place it considers necessary to provide or supply electricity, including, for example—
- (a) opening and breaking up the soil and pavement of the place; and
  - (b) cutting, lopping, or removing trees and other vegetation growing in or over the place; and
  - (c) opening or breaking up a sewer, drain or tunnel in or under the place; and
  - (d) temporarily stopping or diverting traffic on or from the place; and
  - (e) building drains, excavations, subways and tunnels in or under the place.

*Note—*

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

- (2) A regulation may make provision about the obligations and rights of electricity entities taking action in publicly controlled places, including, for example—
  - (a) notice to be given before taking action; and
  - (b) timing of work; and
  - (c) procedures to be followed on the breaking up of anything in, on or under the place.
- (3) This section is subject to sections 102 and 104.

## **102 Works on roads**

- (1) An electricity entity may do any of the following things on a road—
  - (a) build or remove, or alter (other than for maintenance or repair), its electric lines or other works;
  - (b) maintain, repair or alter for maintenance or repair, its electric lines or other works;
  - (c) stop obstruction or potential obstruction to, or interference or potential interference with, its electric lines or other works.
- (2) However, the electricity entity may do things mentioned in subsection (1)(a) only if it has the written agreement of the road authority.
- (2A) Subsection (2B) applies if the electricity entity proposes to do a thing mentioned in subsection (1)(a) on a road on which light rail is located.
- (2B) Before giving the written agreement mentioned in subsection (2), the road authority must consult with the light rail operator for the light rail.
- (3) The road authority or light rail operator for a light rail must not unreasonably withhold agreement.

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

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

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

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

- (1) A regulation may—
  - (a) declare a road, or part of a road, to be a restricted road; and
  - (b) for a restricted road—impose restrictions about building new works or altering or removing existing works on the road.
- (2) An electricity entity must comply with the regulation.

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

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

- (2) If the electricity entity does not comply with the notice, the regulator may arrange for the action the regulator considers necessary to remedy the contravening conduct to be carried out.
- (3) The costs reasonably incurred by the regulator in arranging for the action to be carried out are a debt payable by the electricity entity to the State.
- (4) This section does not limit the powers of a road authority under another Act.

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

- (1) A public entity may require an electricity entity to alter the position of the electricity entity's works in a publicly controlled place if the works could interfere with the exercise of the public entity's powers for the place.
- (2) The public entity is responsible only for the cost of altering the position of the works.
- (3) In this section—  
*publicly controlled place* does not include a light rail.

**Division 3 Works on railway land**

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

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



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## 108 Removal of works

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

## 109 Works impairing railway signalling or communication lines

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

***railway operator*** includes the following—

  - (a) light rail manager for a light rail;
  - (b) light rail operator for a light rail.

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

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

*railway operator* includes the following—

  - (a) light rail manager for a light rail;
  - (b) light rail operator for a light rail.

## **Division 4 Works on protected areas**

**111 Building of works on protected areas**

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

Maximum penalty—8 penalty units.
- (2) In deciding whether to agree, the Minister must take into account—
  - (a) the extent and significance of the disturbance building the works will, or is likely to, cause to the protected area; and

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- (b) the electricity entity's report on alternative routes or positions for building the works outside the protected area; and
  - (c) the extent of any disability or disadvantage in using an alternative route or position.
- (3) Agreement may be given on conditions the Minister considers necessary to minimise interference to the protected area.

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

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

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

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

- (1) This section applies despite the Planning Act.

- (2) Clearing vegetation on freehold land is accepted development for the Planning Act if the clearing—
  - (a) is for operating works for a transmission entity or distribution entity; and
  - (b) is on premises the subject of a designation under the Planning Act for a type of infrastructure that is, or includes, the operating works.
- (3) In this section—

*Planning Act* means the *Planning Act 2016*.

*vegetation* see the *Vegetation Management Act 1999*, section 8.

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

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

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

### **113A Authority to transmit over land**

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

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### **113B Authority to supply over land**

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

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

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

## **Part 5 Entry onto and acquisition of land**

### **Division 1 Entry onto land**

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

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

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

## **Division 2                      Acquisition of land**

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

- (1) The Minister may, by gazette notice, authorise an electricity entity to acquire land for works, including proposed works.
- (1A) The Minister must consider the objects of this Act when authorising an electricity entity under subsection (1).
- (2) The authority must state—
  - (a) the electricity entity to which it is given; and
  - (b) whether it applies to any land or only to particular land; and
  - (c) whether it applies to any works or only to particular works; and
  - (d) the period of the authority.
- (3) The authority may—

- (a) state the conditions or restrictions to which it is subject; and
  - (b) make provision about the effect of breaches of the conditions or restrictions or the continuation or suspension of the authority.
- (3A) On the commencement of this subsection, each of the following electricity entities is taken to be authorised, under subsection (1), to acquire any land for any works, including proposed works, for the period starting on the commencement and ending on the revocation of the authorisation under subsection (7)—
- (a) Energex Limited ACN 078 849 055;
  - (b) Ergon Energy Distribution;
  - (c) QETC.
- (4) The *Acquisition of Land Act 1967* applies to an authorised electricity entity acting under an authority given, or taken to be given, under subsection (1) as if—
- (a) it were a constructing authority; and
  - (b) land mentioned in the Act included land held from the State for a lesser interest than freehold; and
  - (c) the purposes for which land may be taken for the entity included—
    - (i) building works, including for example, relocating property for the works and lessening adverse environmental effects; and
    - (ii) any other public purpose within the meaning of the *Land Act 1994* related to works.
- (5) The *Land Act 1994*, section 218 applies to an authorised electricity entity as if it were a constructing authority.
- (6) A regulation may make provision about the acquisition of land by or for an authorised electricity entity.

- (7) To remove any doubt, it is declared that the Minister may, by gazette notice, amend or revoke an authorisation mentioned in subsection (3A).
- (8) In this section—  
*authorised electricity entity* means an entity authorised, or taken to be authorised, under subsection (1), to acquire land.

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

- (1) Despite the *Forestry Act 1959*, sections 26(1A) and 28(3) but subject to the *Land Act 1994*, section 362, the Governor in Council may, at the request of an electricity entity, authorise the creation of an easement for the entity over forest land for the entity's works, including proposed works.
- (2) Section 116(2) and (3) applies to the authority with all necessary changes.
- (3) In this section—  
*forest land* means land that is a State forest or a timber reserve within the meaning of the *Forestry Act 1959*, schedule 3.

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

- (1) Despite anything to the contrary in any Act or instrument, an easement, licence or consent to which a transmission or distribution entity is entitled may be used by the entity or another person authorised by the entity for the provision of a carriage service or content service.
- (2) This section does not authorise a transmission or distribution entity to take land under the *Acquisition of Land Act 1967* only for a carriage service or content service.
- (3) In this section—  
*carriage service* has the meaning given in the *Telecommunications Act 1997* (Cwlth).  
*content service* has the meaning given in the *Telecommunications Act 1997* (Cwlth).





[s 118A]

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- (7) The Governor in Council may decide the matter without giving the parties an opportunity to make representations to, or to be heard by, the Governor in Council.
- (8) The decision of the Governor in Council is binding on the parties.
- (9) This section does not prevent an entity from exercising another right before a court or tribunal.

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

If—

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

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

## **Chapter 5 Industry regulation**

### **Part 1 Regulator**

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

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

- (2) The information must be given within a reasonable time after the regulator asks for it.
- (3) However, this section does not require the electricity entity or retailer to give information if giving the information might tend to incriminate the entity or retailer.

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

- (1) The regulator may, by written notice given to an electricity entity, retailer or special approval holder, require the entity, retailer or holder—
  - (a) to carry out an internal audit of all or any of the following—
    - (i) the entity, retailer or holder's compliance with this Act, distribution network codes, and the authority issued or approval given to it under this Act;
    - (ii) the reliability and quality of information given by the entity, retailer or holder to the regulator under this Act; or
  - (b) to appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).
- (2) The notice may state terms of reference for carrying out the audit.
- (3) The regulator may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the entity, retailer or holder if—
  - (a) the regulator reasonably considers that the person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit; or
  - (b) the entity, retailer or holder does not comply with a notice given to it under the subsection.

- (4) A person may be appointed as an independent auditor under subsection (1)(b) or (3) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

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

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

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

- (1) An independent auditor appointed under section 120AA to carry out an audit concerning an electricity entity, retailer or special approval holder may require the entity, retailer or holder to give the auditor—
- (a) reasonable help to carry out the audit; or
- Examples—*
- access to the entity's, retailer's or holder's premises and records
  - help from the entity's, retailer's or holder's employees
- (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.
- (2) An electricity entity, retailer or special approval holder required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the entity, retailer or holder has a reasonable excuse.

Maximum penalty—1,000 penalty units.

- (3) If the entity, retailer or holder is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

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

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

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

- (1) This section applies if an electricity entity, retailer or special approval holder gives the regulator written information about the entity, retailer or holder under this Act.
- (2) The regulator must disclose the information to QCA if—
  - (a) QCA requests the disclosure for performing its functions; and
  - (b) any of the following apply—
    - (i) the entity or holder—
      - (A) consents to the disclosure; or

- (B) is required, under the entity's authority or holder's approval, to consent to the disclosure;
  - (ii) the retailer consents to the disclosure; or
  - (iii) subsection (3) applies in relation to the retailer.
- (3) This subsection applies if—
- (a) the retailer gave the information to the regulator under section 55DB(1)(d); and
  - (b) either—
    - (i) QCA must, under section 120L, conduct a review of the Act that relates to the Queensland electricity market and involves small photovoltaic generators; or
    - (ii) QCA must, under section 253AA, give the Minister information or advice that relates to the Queensland electricity market and involves small photovoltaic generators.

## **Part 1A                      Distribution network codes**

### **Division 1                      Preliminary**

#### **120A    Definition for pt 1A**

In this part—

*electricity entity* includes a special approval holder.

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## **Division 2                      Initial distribution network codes**

### **120B Making of initial distribution network codes by Minister**

- (1) The Minister may make initial distribution network codes to apply to electricity entities or retailers, or both.
- (2) A code must state the electricity entities or retailers to which it applies.
- (3) A code is not subordinate legislation.

*Note—*

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

### **120C Specific matters for which code may provide**

Without limiting section 120B, a distribution network code may provide for all or any of the following—

- (a) the service levels to be provided by electricity entities to customers;
- (b) the payment of amounts by electricity entities to affected customers for failure to provide a stated service level;
- (c) metering;
- (d) public lighting.

### **120D Gazettal and taking of effect of code**

- (1) The Minister must, as soon as practicable after making an initial distribution network code, publish a gazette notice stating the Minister has made the code and where it may be inspected.
- (2) The code takes effect on the later of the following days—
  - (a) a day of effect stated in the gazette notice;

- (b) if no day of effect is stated in the notice—the day the notice is gazetted.

### **120E Tabling of code**

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

## **Division 3 QCA distribution network codes**

### **120F QCA may make distribution network code**

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

### **120G QCA code objective**

- (1) The objective (the *QCA code objective*) of a distribution network code made by QCA is to promote efficient investment in, and efficient use of, electricity services for the long-term interests of Queensland customers about—
  - (a) price, quality, reliability and security of supply of electricity; and



- (b) the reliability, safety and security of the Queensland electricity system.
- (2) QCA may make a distribution network code only if it is satisfied the code will, or is likely to, contribute to the achievement of the QCA code objective.
- (3) In this section—  
*electricity services* means electricity services as defined under the National Electricity (Queensland) Law.

### **120H Required consultation**

- (1) This section applies if QCA proposes to make a distribution network code, unless QCA considers the code—
  - (a) is needed urgently; or
  - (b) can not be materially detrimental to anyone's interests.
- (2) Before QCA makes the distribution network code it must prepare a draft of the code and engage in the consultation prescribed under a regulation.

### **120I Ministerial approval**

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

### **120J When approved QCA distribution network code takes effect**

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

### **120K Tabling of QCA distribution network code**

- (1) If a distribution network code made by QCA takes effect, the Minister must, within 14 sitting days, table a copy of the code in the Legislative Assembly.
- (2) The copy is tabled for information only.
- (3) A failure to table the copy does not affect the code's ongoing effect.

## **Division 4 Review of distribution network codes and related matters**

### **120L Direction by Minister to review**

- (1) The Minister may, by gazette notice, give QCA a written direction to conduct a review into—
  - (a) any matter relating to the Queensland electricity market;  
or
  - (b) the operation and effectiveness of a distribution network code; or
  - (c) any matter relating to a distribution network code.

- (2) QCA must comply with the direction.
- (3) QCA must publish the direction on its website.

### **120M Terms of reference**

The direction may do all or any of the following—

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

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

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

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

### **120O Conduct of review**

- (1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the review—

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

## **Division 5                      Amending distribution network codes**

### **120P    Application of div 5**

This division applies if QCA proposes to amend a distribution network code.

### **120PA Required consultation for amendment**

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

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### **120PB Application of div 3 other than its consultation provision**

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

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

## **Division 6                    Enforcing distribution network codes**

### **Subdivision 1            Code contravention notices**

#### **120Q Application of sdiv 1**

This subdivision applies if QCA suspects—

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

#### **120R Criteria for deciding material contravention**

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

## **120S Warning notice may be given**

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

## **120T Requirements for warning notice**

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

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

*Examples of steps that may remedy a contravention—*

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

## **120U Considering submissions on warning notice**

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

## **120V Giving of code contravention notice**

- (1) QCA may give the proposed code contravention notice if—

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

*Note—*

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

## **120W Duration of code contravention notice**

The code contravention notice—

- (a) comes into effect—



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

## **Subdivision 2 Proceedings**

### **120X Proceeding for civil penalty order**

- (1) This section applies if, on the application of QCA, the Supreme Court is satisfied an electricity entity or retailer has—
  - (a) committed a material contravention of a distribution network code; or
  - (b) attempted to a commit a material contravention of a distribution network code; or
  - (c) been involved in a material contravention of a distribution network code.
- (2) The court may order the entity or retailer to pay the State as a civil penalty an amount of no more than—
  - (a) for an individual—\$100,000; or
  - (b) for a corporation—\$500,000.
- (3) In fixing the penalty, the court must consider—
  - (a) the nature and extent of—
    - (i) the contravention; and
    - (ii) loss or damage suffered because of the contravention; and
  - (b) the circumstances in which the contravention took place; and

- (c) whether the entity or retailer has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.
- (4) For subsection (1)(c), an electricity entity or retailer is involved in a contravention if the entity or retailer—
  - (a) has aided, abetted, counselled or procured the contravention; or
  - (b) has induced the contravention, whether through threats, promises or in another way; or
  - (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
  - (d) has conspired with others to effect the contravention.

*Note—*

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

## **120Y How order enforced**

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

## **120Z Injunctions**

- (1) The Supreme Court may, on the application of QCA, grant an injunction if satisfied an electricity entity or retailer has engaged or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
  - (a) a contravention of a distribution network code;
  - (b) attempting to contravene a distribution network code;
  - (c) aiding, abetting, counselling or procuring an electricity entity or retailer to contravene a distribution network code;
  - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, an electricity entity or retailer to contravene a distribution network code;

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

- (c) there is an imminent danger of substantial damage to another person if the entity or retailer does not do the act or thing.

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

- (1) This section applies to a proceeding under this subdivision.
- (2) If—
  - (a) the proceeding concerns alleged conduct engaged in by an electricity entity or retailer to which a distribution network code applies; and
  - (b) it is necessary to prove the entity's or retailer's state of mind;

it is enough to prove that a director, servant or agent (a *representative*) of the entity or retailer, acting within the scope of the representative's actual or apparent authority, had the state of mind.

- (3) Conduct engaged in for an electricity entity or retailer by the following persons is taken to have been engaged in by the entity or retailer—
  - (a) a representative of the entity or retailer, acting within the scope of the representative's actual or apparent authority;
  - (b) another person at the direction, or with the consent or agreement, of a representative of the entity or retailer, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority.
- (4) Conduct engaged in for an electricity entity or retailer by the following persons is taken to have been engaged in by the entity or retailer—
  - (a) a servant or agent of the entity or retailer, acting within the scope of the servant's or agent's actual or apparent authority;

- (b) another person at the direction or with the consent or agreement, of a servant or agent of the entity or retailer, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority.
- (5) In this section—
- consent or agreement* includes an implied consent or agreement.
- state of mind*, of a person, may include—
- (a) knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person's reasons for the person's intention, opinion, belief or purpose.

### **Subdivision 3 Referrals to regulator**

#### **120ZB When QCA must refer material contravention**

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

*Note—*

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

#### **120ZC When QCA may refer material contravention**

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

*Note—*

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

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

### **120ZD Guidelines for exercise of QCA powers for civil penalties**

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

## **Subdivision 4      Production of documents or information**

### **120ZE Notice to produce documents or information**

- (1) This section applies if QCA is conducting an investigation to find out whether an electricity entity or retailer is complying with a distribution network code.
- (2) QCA may, by written notice to the entity or retailer, require it to give QCA the following things QCA believes, on reasonable grounds, are relevant to the investigation—
  - (a) information within the entity's or retailer's knowledge or possession;

- 
- (b) documents in the entity's or retailer's custody, possession or power.
  - (3) The notice must state—
    - (a) the information or documents required; and
    - (b) a period in which the documents or information are to be given of no less than 7 days; and
    - (c) a reasonable place at which the documents or information are to be given.
  - (4) The entity or retailer must comply with the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.

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

### **120ZF Disclosure of information to regulator**

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

### **120ZG Protection of confidential information given for investigation**

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

*information* includes a document.

## **Subdivision 5 Audits**

### **120ZH QCA's powers concerning audit of compliance with distribution network code**

- (1) QCA may, by written notice to an electricity entity or retailer, require the entity or retailer to—
  - (a) carry out an internal audit of all or any of the following—
    - (i) the entity's or retailer's compliance with a distribution network code, either generally or about a stated particular matter or matters;
    - (ii) the reliability and quality of information given by the entity or retailer to QCA, under this Act; or
  - (b) appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).



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

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

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

### **120ZJ Independent auditor may require reasonable help or information**

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

*Examples—*

  - access to the entity's or retailer's premises and records
  - help from the entity's or retailer's employees

- (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.
- (2) An electricity entity or retailer required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the entity or retailer has a reasonable excuse.

Maximum penalty—1,000 penalty units.

- (3) If the entity or retailer is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

### **120ZK Audit report and submissions on report**

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

## **Division 7                      Miscellaneous provisions**

### **120ZL Relationship with Fair Trading Act 1989**

To remove any doubt, it is declared that a distribution network code does not limit or otherwise affect the operation of the

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*Fair Trading Act 1989*, including the Australian Consumer Law (Queensland) forming part of that Act.

## Part 2                      Restrictions and rationing

### Division 1                Electricity restriction regulations

#### 121    Purpose of electricity restriction regulations

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

*Example—*

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

#### 122    Electricity restriction regulations

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

through a transmission grid or supply network, including, for example, by regulating—

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

## **Division 2                      Emergency rationing orders**

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

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

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

- (1) If the Minister is satisfied that it is necessary, because of extraordinary circumstances, to make an emergency rationing order other than by gazette notice, the Minister may make the

order and immediately advertise the making of the order in the way the Minister considers most appropriate to notify persons likely to be affected by the order.

- (2) The order expires if it is not notified in the gazette within 3 days after it is made.
- (3) The order also expires if it is not tabled in the Legislative Assembly on the next sitting day after it is made.

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

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

### **127 Advertisement of order**

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

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

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

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

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

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

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

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

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



- (2) If this section applies, the Governor in Council may by gazette notice, authorise the regulator to take over the operation of the relevant operations for the time the regulator considers necessary to ensure customers receive an adequate, reliable and secure supply of electricity.
- (3) The authority may provide for any matter for which it is necessary or convenient to help the regulator take over the operation of the relevant operations.
- (4) The Governor in Council must notify the making of an authorisation under subsection (2) by gazette notice within 14 days.
- (5) Failure to notify under subsection (4) does not invalidate the authorisation.

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

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



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access to the relevant operations and other property).

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

*Examples of things that the operator may do—*

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

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

Maximum penalty—500 penalty units or 6 months imprisonment.

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

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

- (7) Subsections (5) and (6) do not apply to an act done, or omission made, during or in connection with industrial action (within the meaning of the *Industrial Relations Act 2016* or the *Fair Work Act 2009* (Cwlth)).

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

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



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### 133 Types of disciplinary action

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

*Note—*

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

- (3) If the ground for taking disciplinary action is that the electricity entity has contravened this Act, the Electrical Safety Act, the *Energy and Water Ombudsman Act 2006*, a distribution network code or a condition of its authority, the regulator may impose a civil penalty of not more than the amount of 1,333 penalty units for each contravention.

*Note—*

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

- (4) However, if the contravention is a contravention of a distribution network code, subsection (3) only applies if QCA has not applied for a civil penalty order under section 120X.
- (5) If the ground for taking disciplinary action is that the electricity entity has contravened a condition of its authority by holding a prohibited interest, in addition to the penalty under subsection (3), the regulator may decide that 1 or more of the interests that gave rise to the contravention must be disposed of.

- (6) The regulator may make a decision under subsection (5) based on the information that the regulator considers sufficient in the circumstances.
- (7) If the regulator makes a decision under subsection (5), the regulator must give written notice of the decision to—
  - (a) the electricity entity that has contravened a condition of its authority by holding a prohibited interest (the *offending electricity entity*); or
  - (b) if the offending electricity entity does not hold the prohibited interest—to the person who holds the interest the subject of the decision.
- (8) The notice must require the offending electricity entity or the other person to dispose of the interest the subject of the decision within a stated time of not less than 90 days.
- (9) For subsection (8), the interest must not be disposed of to a person, if the disposal would result in a contravention of a condition of the offending electricity entity's authority.
- (10) A decision of the regulator under subsection (5) takes effect when written notice is given to the offending electricity entity or the other person.
- (11) If the offending electricity entity or person is given a notice requiring disposal of an interest and the person or entity does not comply with the notice within the time stated in the notice, the interest the subject of the decision is forfeited to the State, free from any mortgage, charge, lien, pledge, restriction or other encumbrance.
- (12) The regulator must sell any forfeited interest under subsection (11).
- (13) An amount from the sale of a forfeited interest, after deduction of reasonable costs of forfeiture and sale, must be paid to the person from whom the interest was forfeited.
- (14) The regulator may, by written notice to the offending electricity entity or other person, amend or cancel a decision made by the regulator under subsection (5) with effect from

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the day of the decision or some other day fixed by the regulator.

- (15) The regulator may take action under this section even though the regulator issued, contrary to this Act, an authority that gave rise to the contravention of a condition of the offending electricity entity's authority by its holding a prohibited interest.
- (16) The regulator may take the action stated in subsection (17) if the regulator—
- (a) makes a decision under subsection (5) and the ground for making the decision is that a person (the *offender*) has a prohibited interest, because the person is in a position to exercise control over a person, entity or authority or thing; or
  - (b) forms the opinion that the offender has a prohibited interest of the kind contemplated by schedule 2, section 3B(b)(iii).
- (17) For subsection (16), the regulator may, by written notice served on the offender, decide that the offender must do 1 or more of the following to the extent necessary to prevent there being a prohibited interest within a stated reasonable time of less than 90 days—
- (a) stop exercising control over the person, entity or authority;
  - (b) end any relevant agreement, arrangement, understanding or undertaking;
  - (c) take, or refrain from taking, any other action stated in the notice.
- (18) Subsections (6), (10), (14) and (15) apply to a decision made by the regulator under subsection (16).
- (19) If an electricity entity fails to pay a penalty under this section within the time allowed by the regulator, the regulator may take further action for the contravention for which the penalty was imposed.

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

(21) In this section—

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

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

**interest** includes the following—

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

**sell** means—

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

## 134 Procedure for disciplinary action

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

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

### **135 Penalty recoverable as debt**

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

## **Part 5**                      **Enforcing sections 55DA(1), 55DB(1) and 55DBA(2) against retailers**

### **Division 1**                **Contravention notices**

#### **135AA Application of pt 5**

This part applies if the regulator suspects—

- (a) a retailer has contravened, or is contravening, section 55DA(1), 55DB(1) or 55DBA(2); and
- (b) the contravention is likely to be a material contravention of the section.

#### **135AB Criteria for deciding material contravention**

- (1) This section applies to the making of any decision under this division by the regulator about whether a contravention of section 55DA(1), 55DB(1) or 55DBA(2) is a material contravention of the section.
- (2) The regulator must have regard to the objects of the Act.
- (3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.

#### **135AC Warning notice may be given**

- (1) The regulator may give the retailer a notice (the *warning notice*) warning the retailer that the regulator proposes to give the retailer a further notice about the contravention (a *contravention notice*).
- (2) The regulator must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion.



- (3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent contravention notice.
- (4) Despite subsections (2) and (3), if the regulator proposes to give a warning notice for a contravention, it can only be given within 2 years after the day on which the contravention happened.

### **135AD Requirements for warning notice**

- (1) The warning notice must state each of the following—
  - (a) particulars of the contravention;
  - (b) that regulator proposes to give the retailer a contravention notice unless the retailer—
    - (i) takes steps reasonably necessary to remedy the contravention; and
    - (ii) gives the regulator a written assurance, in the terms stated in the warning notice, that the retailer will—
      - (A) avoid any similar future contravention; and
      - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
  - (c) a period (the *warning period*) after which the contravention notice may be given unless the warning notice is complied with;
  - (d) that the retailer may make, within the warning period, written submissions to show why the proposed contravention notice should not be given.
- (2) The warning period must be—
  - (a) if the warning notice is given because the regulator considers the contravention is of a type that requires urgent action—a period the regulator considers is reasonable in the circumstances; or
  - (b) otherwise—at least 20 business days.

- (3) The warning notice may also state the steps the regulator reasonably believes are necessary to remedy the contravention or avoid its future recurrence.

*Example of a step that may remedy a contravention—*

paying compensation to someone who has suffered damage, injury or loss because of the contravention

### **135AE Considering submissions on warning notice**

- (1) The regulator must consider any written submission made under section 135AD(1)(d) by the retailer within the warning period stated in the warning notice.
- (2) If the regulator at any time decides not to give the proposed contravention notice, it must, as soon as practicable, give the retailer notice of the decision.

### **135AF Giving of contravention notice**

- (1) The regulator may give the proposed contravention notice if—
  - (a) the retailer has not complied with the warning notice; and
  - (b) after complying with section 135AE, the regulator still believes the contravention notice ought to be given.
- (2) The contravention notice must state—
  - (a) the retailer has contravened, or is contravening, section 55DA(1), 55DB(1) or 55DBA(2); or
  - (b) the contravention is a material contravention of the section; and
  - (c) particulars of the contravention.

### **135AG Duration of contravention notice**

The contravention notice—

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

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

## **Division 2                      Proceedings**

### **135AH Proceeding for civil penalty order**

- (1) This section applies if, on the application of the regulator, the Supreme Court is satisfied the retailer has—
  - (a) committed a material contravention of section 55DA(1), 55DB(1) or 55DBA(2); or
  - (b) attempted to a commit a material contravention of section 55DA(1), 55DB(1) or 55DBA(2); or
  - (c) been involved in a material contravention of section 55DA(1), 55DB(1) or 55DBA(2).
- (2) The court may order the retailer to pay the State as a civil penalty an amount of no more than—
  - (a) for an individual—\$100,000; or
  - (b) for a corporation—\$500,000.
- (3) In fixing the penalty, the court must consider—
  - (a) the nature and extent of—
    - (i) the contravention; and
    - (ii) loss or damage suffered because of the contravention; and
  - (b) the circumstances in which the contravention took place; and
  - (c) whether the retailer has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.

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

### **135AI How order enforced**

If the Supreme Court orders payment of an amount under section 135AH(2), the State may enforce the order as a judgment of the court for a debt of that amount.

### **135AJ Injunctions**

- (1) The Supreme Court may, on the application of the regulator, grant an injunction if satisfied the retailer has engaged or is proposing to engage, in conduct that constitutes, or would constitute—
- (a) a contravention of section 55DA(1), 55DB(1) or 55DBA(2); or
  - (b) attempting to contravene section 55DA(1), 55DB(1) or 55DBA(2).
- (2) An injunction may be granted on conditions.
- (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied the retailer has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
- (4) The court may grant an interim injunction pending its decision on the application.
- (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.

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

### **135AK Conduct by directors, servants or agents**

- (1) This section applies to a proceeding under this division.
- (2) If—
  - (a) the proceeding concerns alleged conduct engaged in by the retailer; and
  - (b) it is necessary to prove the retailer's state of mind;it is enough to prove that a director, servant or agent (a *representative*) of the retailer, acting within the scope of the representative's actual or apparent authority, had the state of mind.
- (3) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the retailer—

- (a) a representative of the retailer, acting within the scope of the representative's actual or apparent authority;
  - (b) another person at the direction, or with the consent or agreement, of a representative of the retailer, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority;
  - (c) a servant or agent of the retailer, acting within the scope of the servant's or agent's actual or apparent authority;
  - (d) another person at the direction, or with the consent or agreement, of a servant or agent of the retailer, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority.
- (4) In this section—
- consent or agreement* includes an implied consent or agreement.
- state of mind*, of a person, may include—
- (a) knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person's reasons for the person's intention, opinion, belief or purpose.

## **Division 3                      Production of documents or information**

### **135AL Notice to produce documents or information**

- (1) This section applies if the regulator is conducting an investigation to find out whether the retailer is complying with section 55DA(1), 55DB(1) or 55DBA(2).
- (2) The regulator may, by written notice to the retailer, require the retailer to give the regulator the following things the regulator

believes, on reasonable grounds, are relevant to the investigation—

- (a) information within the retailer's knowledge or possession;
  - (b) documents in the retailer's custody, possession or power.
- (3) The notice must state—
- (a) the information or documents required; and
  - (b) a period in which the information or documents must be given of at least 7 days; and
  - (c) a reasonable place at which the information or documents must be given.
- (4) The retailer must comply with the notice, unless it has a reasonable excuse.

Maximum penalty—500 penalty units.

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

## **Chapter 6      Electricity officers' powers**

### **Part 1              Operational powers**

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

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

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

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place where there is an electrical installation to which electricity is being, or has been, supplied or sold by the electricity entity to—
  - (a) read a meter; or
  - (b) calculate or measure electricity supplied or taken; or
  - (c) check the accuracy of metered consumption; or
  - (d) take action for deciding—
    - (i) the appropriate tariffs for the electrical installation; or
    - (ii) the electrical installation's load classification; or
  - (e) check any electrical equipment located at the electricity entity's meter, including, for example, wiring and connections to the meter; or



(f) replace meters, control apparatus and other electrical equipment of the electricity entity.

(2) In this section—

*electricity entity* includes a retailer.

### **138 Disconnection of supply if entry refused**

(1) If—

(a) an electricity officer for an electricity entity is allowed to enter a place under section 137; and

(b) the electricity officer is refused entry to the place or the electricity officer's entry to the place is obstructed;

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

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

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

(a) disconnect electricity supply to the place; and

(b) leave the electrical installation disconnected until the occupier consents to the entry and pays the disconnection and reconnection fees prescribed under the regulations.

(4) In this section—

*electricity entity* includes a retailer.

### **139 Entry to disconnect supply**

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

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

- (3) In this section—  
*electricity entity* includes a retailer.

#### **140 Entry to place to protect electricity entity's works**

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place to prevent an obstruction or potential obstruction to, or interference or potential interference with, the building, maintenance or operation of an electric line or other works of the entity.
- (1A) Without limiting subsection (1), the electricity officer may enter the place to remove vegetation that is interfering, or has the potential to interfere, with the operation of an electric line or other works of the entity.
- (2) However, the electricity officer may enter the place only if—
- (a) the occupier of the place consents to the entry; or
  - (b) the electricity officer or the electricity entity gives the occupier at least 7 days notice of the intended entry.
- (3) The notice must state a period of not more than 1 month when entry will be made.
- (4) The notice is sufficient notice for each entry made during the stated period.

#### **140A Entry to place to carry out remedial work**

- (1) Subject to subsections (2) to (4), an electricity officer for an electricity entity may enter a place to fix damage or harm to the place caused by, or in connection with, works or an electrical installation of the entity.
- (2) The entry may be made only if it is made at a reasonable time and—
- (a) any occupier of the place to be entered has consented to the entry; or

- (b) the entity has given any occupier of the place to be entered at least 7 days written notice of the proposed entry.
- (3) The notice must state—
  - (a) the time or times or period of the proposed entry; and
  - (b) the purpose of the proposed entry; and
  - (c) that the proposed entry is, at the time or times or during the period, permitted under this Act without the occupier's consent.
- (4) This section does not authorise entry to a residence.

#### **140B Entry to place to carry out urgent remedial work**

- (1) Subject to subsections (3), (4) and (6), an electricity officer for an electricity entity may enter a place to fix damage or harm to the place caused by, or in connection with, works or an electrical installation of the entity if the entity is satisfied, on reasonable grounds—
  - (a) the damage or harm is, or is likely to be, serious; and
  - (b) the need to fix the damage or harm is urgent.
- (2) The power under subsection (1) may be exercised—
  - (a) at any time; and
  - (b) without the consent of, or notice to, the occupier of the place to be entered.
- (3) However, if the occupier is present at the place, before entering the place, the officer must do, or make a reasonable attempt to do, the following things—
  - (a) identify himself or herself to the occupier, in the way stated in section 70;
  - (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier the officer is permitted under this Act to enter the place without the occupier's consent.

- (4) Also, if the occupier is not present at the place, the officer must take reasonable steps to advise the occupier of the officer's intention to enter the place.
- (5) Subsections (3) and (4) do not require the officer to take a step that the officer reasonably believes may frustrate or otherwise hinder the fixing of the damage or harm.
- (6) This section does not authorise entry to a residence.

## **Part 2**                      **Powers to prevent fire or electrical shock**

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

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter a place where the electricity entity has works or an electrical installation to make the works or installation safe.
- (2) An electricity officer may, at any reasonable time, enter a place where someone else has an electrical installation to which electricity is supplied by the electricity entity to make the installation safe.
- (2A) Without limiting subsection (1) or (2), the electricity officer may enter the place to remove vegetation that is affecting, or may affect, the safety of works or an electrical installation mentioned in the subsection.
- (3) The electricity officer may disconnect supply to a works or installation until it is made safe.
- (4) The powers conferred by this section are in addition to the powers conferred by part 1.
- (5) In this section—  
*safe*, in relation to works or an electrical installation, means that the works or electrical installation can not cause fire or electrical shock.

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## **Part 3**                      **Other provisions about exercise of electricity officer's powers**

### **141A Duty to avoid damage**

In exercising a power under this chapter, an electricity officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage, as is practicable.

*Example of a reasonable step—*

for an entry to a place, under section 140A, complying with any reasonable requirement of the owner or occupier of the place about fixing the damage or harm

### **141B Associated powers on entry**

An electricity officer may take into or onto a place any person, equipment and materials the officer reasonably requires for exercising a power under this chapter.

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

- (1) This section applies if an electricity officer damages anything when exercising or purporting to exercise a power under this chapter.
- (2) The electricity officer must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) If the electricity officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the officer's control, the officer may state this in the notice.
- (4) If, for any reason, it is not practicable to comply with subsection (2), the electricity officer must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.

- (5) This section does not apply to damage that the electricity officer believes, on reasonable grounds, is trivial.
- (6) In this section—  
*owner* of a thing includes the person in possession or control of the thing.

### **143 Compensation**

- (1) A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an electricity officer for an electricity entity may claim compensation from the entity.
- (2) Compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction; or
  - (b) an offence against this Act brought against the person claiming compensation.
- (3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) In this section—  
*electricity entity* includes a retailer.

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## Chapter 7      Enforcement of restrictions and rationing

### Part 1              Preliminary

#### 145      Definition for ch 7

In this chapter—

*authorised person* means—

- (a) an electricity officer; or
- (b) an inspection officer.

### Part 2              Inspection officers

#### 146      Appointment and qualifications

- (1) The regulator may appoint any of the following persons as an inspection officer—
  - (a) an inspector under the Electrical Safety Act;
  - (b) a public service officer;
  - (c) an employee of—
    - (i) an electricity entity; or
    - (ii) an electricity entity's subsidiary company;
  - (d) a person prescribed under a regulation.
- (2) However, the regulator may appoint a person mentioned in subsection (1)(b), (c) or (d) as an inspection officer only if—
  - (a) the regulator is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; or
  - (b) the person has satisfactorily finished training approved by the regulator.

### **147 Appointment conditions and limit on powers**

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

*signed notice* means a notice signed by the regulator.

### **148 Issue of identity card**

- (1) The regulator must issue an identity card to each inspection officer.
- (2) The identity card must—
  - (a) contain a recent photo of the inspection officer; and
  - (b) contain a copy of the inspection officer's signature; and
  - (c) identify the person as an inspection officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

*Example for subsection (3)—*

If the inspection officer is also an inspector under the Electrical Safety Act, the chief executive under that Act, and the regulator under this Act, could together issue a combined identity card covering the purposes of both Acts.



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## 149 Production or display of identity card

- (1) In exercising a power under this Act in relation to a person, an inspection officer must—
  - (a) produce the inspection officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the inspection officer must produce the identity card for the person's inspection at the first reasonable opportunity.

## 150 When inspection officer ceases to hold office

- (1) An inspection officer ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the inspection officer ceases to hold office;
  - (c) the inspection officer's resignation takes effect.
- (2) Subsection (1) does not limit the ways an inspection officer may cease to hold office.
- (3) In this section—

***condition of office*** means a condition on which the inspection officer holds office.

## 151 Resignation

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

## **152 Return of identity card**

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

Maximum penalty—40 penalty units.

# **Part 2A Powers of inspection officers**

## **Division 1 Entry of places**

### **152A Power to enter place**

- (1) An inspection officer may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant; or
  - (d) the purpose of the entry is to help an approved auditor carry out an audit commissioned under section 135IT and the occupier of the place is a person to whom the audit relates.
- (2) For the purpose of asking the occupier of a place for consent to enter, an inspection officer may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the inspection officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

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## Division 2                      Procedure for entry

### 152B Entry with consent

- (1) This section applies if an inspection officer intends to ask an occupier of a place to consent to the inspection officer or another inspection officer entering the place.
- (2) Before asking for the consent, the inspection officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspection officer may ask the occupier to sign an 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 inspection officer consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the inspection officer must immediately give a copy to the occupier.
- (6) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an 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.

### **152C Application for warrant**

- (1) An inspection officer may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspection officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

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

### **152D Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place, or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that a stated inspection officer may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the inspection officer's powers under this part; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and

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- (e) the date, within 14 days after the warrant's issue, the warrant ends.

### 152E Special warrant

- (1) An inspection officer may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspection officer considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the inspection officer's remote location.
- (2) Before applying for the special warrant, the inspection officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspection officer may apply for the special warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must immediately fax a copy (*facsimile warrant*) to the inspection officer if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the inspection officer—
  - (a) the magistrate must tell the inspection officer—
    - (i) what the terms of the special warrant are; and
    - (ii) the date and time the special warrant is issued; and
  - (b) the inspection officer must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the special warrant; and
    - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the inspection officer, authorises the entry and

the exercise of the other powers stated in the special warrant issued.

- (7) The inspection officer must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the inspection officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) If—
  - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
  - (b) the warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

### **152F Warrant—procedure before entry**

- (1) This section applies if an inspection officer named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the inspection officer must do or make a reasonable attempt to do the following things—
  - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspection officer's identity card or other document evidencing the inspection officer's appointment;
  - (b) give the person a copy of the warrant or if the entry is authorised by a facsimile warrant or warrant form, a copy of the facsimile warrant or warrant form;

- (c) tell the person the inspection officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the inspection officer immediate entry to the place without using force.
- (3) However, the inspection officer need not comply with subsection (2) if the inspection officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

## **Division 3                      General powers of inspection officers**

### **152G    General powers after entering place**

- (1) This section applies to an inspection officer who enters a place.
- (2) However, if an inspection officer enters a place to get the occupier's consent to enter a place, this section applies to the inspection officer only if the consent is given or the entry is otherwise authorised.
- (3) The inspection officer may, for a prescribed purpose—
  - (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
  - (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
  - (d) copy a document at the place; or
  - (e) take into or onto the place any persons, equipment and materials the inspection officer reasonably requires for exercising a power under this part; or
  - (f) require a person at the place to give the inspection officer reasonable help to exercise the inspection officer's powers under paragraphs (a) to (e); or

- (g) require a person at the place to answer questions by the inspection officer to help the inspection officer ascertain whether this Act is being or has been complied with.
- (4) When making a requirement mentioned in subsection (3)(f) or (g), the inspection officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) A person given a requirement under subsection (3)(f) or (g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

- (6) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.
- (7) A reasonable excuse does not include a matter of mere convenience.
- (8) In this section—

*prescribed purpose* means—

- (a) for monitoring and enforcing compliance with this Act;  
or
- (b) if the purpose of the entry was to help an approved auditor carry out an audit commissioned under section 135IT and the occupier of the place is a person to whom the audit relates—for the carrying out of the audit.

## 152H Power to seize evidence

- (1) An inspection officer who enters a place under this part, other than with a warrant, may seize a thing at the place if—
  - (a) the inspection officer reasonably believes the thing is evidence of an offence against this Act; and
  - (b) for an entry made with the occupier's consent—seizure of the thing is consistent with the purpose of entry as



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told to the occupier when asking for the occupier's consent.

- (2) An inspection officer who enters a place with a warrant may seize the evidence for which the warrant was issued.
- (3) An inspection officer may also seize anything else at a place the officer enters under this part if the officer reasonably believes—
  - (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat the offence.
- (4) Also, an inspection officer may seize a thing at a place the inspection officer enters under this part if the inspection officer reasonably believes it has just been used in committing an offence against this Act.

## 152I Powers supporting seizure

- (1) Having seized a thing, an inspection officer may—
  - (a) move the thing from the place where it was seized (the *place of seizure*); or
  - (b) leave the thing at the place of seizure but take reasonable action to restrict access to it and, if the thing is electrical equipment, to disconnect it from its supply of electricity to the extent considered appropriate; or

*Example—*

  - sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted
  - (c) if the thing is electrical equipment—dismantle it or cause it to be dismantled.
- (2) An inspection officer may direct an electricity entity to give the inspection officer the help the inspection officer reasonably requires to disconnect electrical equipment under subsection (1)(b).

- (3) An electricity entity must comply with a direction under subsection (2).
- (4) If an inspection officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing or something restricting access to the thing without an inspection officer's approval.

Maximum penalty for subsection (4)—100 penalty units.

- (5) If an inspection officer disconnects seized electrical equipment from its supply of electricity, a person must not reconnect, or attempt to reconnect, the electrical equipment to a source of supply without an inspection officer's approval.

Maximum penalty for subsection (5)—100 penalty units.

### **152J Receipt for seized thing**

- (1) As soon as practicable after an inspection officer seizes a thing, the inspection officer must give a receipt for it to the person from whom it was seized.
- (2) However, if it is not practicable to comply with subsection (1), the inspection officer must leave the receipt in a conspicuous position and in a reasonably secure way at the place of seizure.
- (3) The receipt must describe generally the thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt required by the section, given the thing's nature, condition and value.

### **152K Forfeiture of seized thing**

- (1) A seized thing is forfeited to the State if the inspection officer who seized the thing—
  - (a) can not find its owner after making reasonable inquiries;or

- (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against this Act.
- (2) Subsection (1)(a) does not require the inspection officer to make inquiries if it would be unreasonable to make inquiries to find the owner, and subsection (1)(b) does not require the inspection officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) If the inspection officer decides to forfeit a thing under subsection (1)(c), the inspection officer must tell the owner of the decision by written notice.
- (4) Subsection (3) does not apply if—
- (a) the inspection officer can not find its owner, after making reasonable inquiries; or
  - (b) it is impracticable or would be unreasonable to give the notice.
- (5) The written notice must include a notice stating the following—
- (a) the reasons for the decision;
  - (b) the rights of review under this Act;
  - (c) the period in which the review must be started;
  - (d) how the rights of review are to be exercised;
  - (e) that a stay of the decision may be applied for under this Act.
- (6) In deciding whether, and if so what, inquiries or efforts are reasonable, or whether it would be unreasonable to give notice about a thing, regard must be had to the thing's nature, condition and value.



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including, for example, to any electrical installation or premises of the person.

- (2) An electricity entity may refuse to reconnect supply to the person until—
  - (a) whichever of the following happens first—
    - (i) the person agrees not to contravene the regulation or order;
    - (ii) the regulation or order ceases to be in force; and
  - (b) the person pays any reasonable disconnection or reconnection fees required by the entity.
- (3) However, despite the person's agreement not to contravene the regulation or order, the electricity entity may refuse to reconnect supply if it is of the opinion that, because of the person's previous conduct, the person will not comply with the agreement.

## Part 4 Other matters

### 164 Notice of damage by authorised persons

- (1) This section applies if an authorised person damages anything when exercising or purporting to exercise a power under this chapter.
- (2) The authorised person must immediately give written notice of the particulars of the damage to the person who appears to be the thing's owner.
- (3) However, if for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice, in a reasonably secure way and in a conspicuous position, at the place where the damage happened.
- (4) In this section—

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

## **165 Compensation**

- (1) A person who incurs loss or expense because of the exercise or purported exercise of a power under this chapter by an authorised person may claim compensation against the State.
- (2) Compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of compensation; or
  - (b) for an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **Chapter 8 Technical issues**

### **166 Connection to transmission grid or supply network to comply with conditions for connection**

- (1) In connecting something to a transmission grid or supply network, a person must comply with the technical conditions for the connection.  
Maximum penalty—8 penalty units.
- (2) An electricity entity or special approval holder may disconnect anything that is connected to its transmission grid or supply network in contravention of the technical conditions.

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**176 Removing anything built contrary to Act**

- (1) The regulator may, by written notice to a person, require the person to remove anything built by the person in contravention of this Act.
- (2) The person must comply with the notice within the reasonable period stated in the notice, unless the person has a reasonable excuse for not complying with the notice.

Maximum penalty—8 penalty units.

## **Chapter 9 Authorities and approvals**

### **Part 1 Generation authorities**

#### **Division 1 Issue of generation authority**

**178 Issue of generation authorities**

- (1) The regulator may issue a generation authority to a person.
- (2) The authority must state—
  - (a) the generating plant that may be connected; and
  - (b) the transmission grid or supply network to which it may be connected; and
  - (c) the term of the authority.
- (3) Generating plant may be stated in the authority even though it has not been built when the authority is issued.

**179 Application for generation authority**

- (1) An application for the issue of a generation authority must—

[s 179A]

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- (a) be made to the regulator in the form approved by the regulator; and
  - (b) state—
    - (i) the generating plant proposed to be connected; and
    - (ii) the transmission grid or supply network to which it is proposed to be connected; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **179A Publication about application for generation authority**

- (1) Before issuing a generation authority the regulator must publish a notice in a Statewide newspaper—
- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

### **180 Consideration of application for generation authority**

- (1) The regulator must consider an application for the issue of a generation authority and may issue, or refuse to issue, the authority.
- (2) The regulator may issue the authority only if satisfied—
- (a) the applicant will operate the generating plant stated in the application; and



- (b) the generating plant will be able to provide electricity of a quality suitable for the transmission grid or supply network stated in the application; and
  - (c) the applicant is a suitable person to be a generation entity; and
  - (d) the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner; and
  - (e) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a generation entity, or the owner or proposed owner of the generating plant (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
  - (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be the operator; and
  - (f) additional matters prescribed under the regulations.
- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.
- (5) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and

- (b) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the generating plant; and
  - (c) additional matters prescribed under the regulations.
- (6) In deciding whether to issue the authority, the regulator may consider matters prescribed under the regulations.
- (7) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

### **181 Notice of refusal to issue generation authority**

If the regulator refuses to issue the generation authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 2 Amendment of generation authority**

### **182 Amendment of generation authorities**

The regulator may, with a generation entity's agreement and after considering the objects of this Act, amend its generation authority.

### **183 Amendment of conditions stated in generation authorities**

The regulator may, with a generation entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

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**183A Amendment of generation authorities and conditions by notice to generation entity**

- (1) The regulator may amend a generation authority or the conditions of a generation authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a generation authority or the conditions of a generation authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act; or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, or reforms concerning the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 182 and 183.

**Division 3                      Transfer of authority**

**184 Transfer of generation authorities**

The regulator may transfer a generation authority.

**184A Application for transfer**

- (1) An application for the transfer of a generation authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.

- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **184B Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the generation authority.
- (2) However, the regulator may transfer the authority only if satisfied—
  - (a) the proposed transferee will operate the generating plant to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a generation entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a generation entity, the regulator may consider the matters mentioned in section 180(3) as if the proposed transferee were applying for the issue of the authority.

### **184C Notice of refusal to transfer generation authority**

As soon as practicable after deciding to refuse to transfer the generation authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 4 Surrender of generation authority**

### **185 Surrender of generation authorities**

- (1) A generation entity may surrender its authority by giving the regulator written notice of surrender.

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- (2) The notice must be given to the regulator at least—
    - (a) 6 months before it is to take effect; or
    - (b) if the authority requires a longer period of notice—the required period of notice before it is to take effect.
  - (3) However, the regulator may agree to a shorter period of notice in a particular case.

## **Part 2                      Transmission authorities**

### **Division 1                Issue of transmission authority**

#### **186      Issue of transmission authorities**

- (1) The regulator may issue a transmission authority to a person.
- (2) The authority must state—
  - (a) the transmission grid that may be operated; and
  - (b) if it may be connected to another transmission grid—the other transmission grid to which it may be connected; and
  - (c) the term of the authority.
- (3) A transmission grid may be stated in the authority even though it has not been built when the authority is issued.
- (4) The authority may, but need not, state—
  - (a) the precise limits of the transmission grid; or
  - (b) that the transmission grid is to operate in a stated area.
- (5) The transmission grid mentioned in subsection (2)(b) may be a transmission grid outside the State.

#### **187      Transmission authorities for same area**

The regulator may issue 2 or more transmission authorities for the same area.

## **188 Application for transmission authority**

- (1) An application for the issue of a transmission authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state—
    - (i) the transmission grid proposed to be operated; and
    - (ii) if it is proposed the transmission grid be connected to another transmission grid—the transmission grid to which it is proposed to be connected; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

## **188A Publication about application for transmission authority**

- (1) Before issuing a transmission authority the regulator must publish a notice in a Statewide newspaper—
  - (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

## **189 Consideration of application for authority**

- (1) The regulator must consider an application for the issue of a transmission authority and may issue, or refuse to issue, the authority.

- (2) The regulator may issue the authority only if satisfied—
- (a) the applicant is operating, or will operate, the transmission grid stated in the application; and
  - (b) the transmission grid has, or will have, the technical capabilities to provide for transmission of electricity of a quality likely to be needed to be transmitted through the transmission grid and the proposed transmission of electricity is, or will be, adequate, safe and reliable; and
  - (c) the applicant is a suitable person to be a transmission entity; and
  - (d) the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner; and
  - (e) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a transmission entity, or the owner or proposed owner of the transmission grid (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
  - (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be the operator; and
  - (f) additional matters prescribed under the regulations.

- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be the operator.
- (5) In deciding whether to issue the authority, the regulator must consider—
  - (a) the objects of this Act; and
  - (b) relevant government policies about environmental and energy issues and the likely environmental effects of building and operating the transmission grid; and
  - (c) additional matters prescribed under the regulations.
- (6) In deciding whether to issue the authority, the regulator must not consider the matters prescribed by regulation.

## **190 Notice of refusal to issue transmission authority**

If the regulator refuses to issue the transmission authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 2                      Amendment of transmission authority**

### **191 Amendment of transmission authorities**

The regulator may, with a transmission entity's agreement and after considering the objects of this Act, amend its authority—

- (a) to change the transmission grid that may be operated under the authority; or
- (b) to authorise connection to a transmission grid; or
- (c) to change a transmission grid to which connection may be made.



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**192 Amendment of conditions stated in transmission authorities**

The regulator may, with a transmission entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

**192A Amendment of transmission authorities and conditions by notice to transmission entity**

- (1) The regulator may amend a transmission authority or the conditions of a transmission authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a transmission authority or the conditions of a transmission authority by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act;  
or
    - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms in relation to the Queensland electricity supply industry; and
  - (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 191 and 192.

**Division 3 Transfer of authority**

**193 Transfer of transmission authorities**

The regulator may transfer a transmission authority.

### **193A Application for transfer**

- (1) An application for the transfer of a transmission authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **193B Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the transmission authority.
- (2) However, the regulator may transfer the authority only if satisfied—
  - (a) the proposed transferee will operate the transmission grid to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a transmission entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a transmission entity, the regulator may consider the matters mentioned in section 189(3) as if the proposed transferee were applying for the issue of the authority.

### **193C Notice of refusal to transfer transmission authority**

As soon as practicable after deciding to refuse to transfer the transmission authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the

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reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 4                      Surrender of transmission authority**

### **194      Surrender of transmission authorities**

- (1) A transmission entity may surrender its authority by giving the regulator written notice of surrender.
- (2) The notice must be given to the regulator at least—
  - (a) 6 months before it is to take effect; or
  - (b) if the authority requires a longer period of notice—the required period of notice before it is to take effect.
- (3) However, the regulator may agree to a shorter period of notice in a particular case.

## **Part 3                              Distribution authorities**

### **Division 1                      Issue of distribution authority**

#### **195      Issue of distribution authorities**

- (1) The regulator may issue a distribution authority to a person.
- (2) The authority may state the term of the authority.

#### **195A    Distribution authorities for same distribution area**

The regulator may issue 2 or more distribution authorities for the same distribution area.

#### **196      Application for authority**

- (1) An application for the issue of a distribution authority must—

- (a) be made to the regulator in the form approved by the regulator; and
  - (b) state the proposed distribution area; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the authority should be issued.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

### **196A Publication about application for distribution authority**

- (1) Before issuing a distribution authority the regulator must publish a notice in a Statewide newspaper—
- (a) stating that an application for an authority has been made to the regulator by the person stated in the notice; and
  - (b) inviting interested persons to make submissions to the regulator about the application within the period and in the manner stated in the notice.
- (2) The regulator must consider the submissions made before issuing an authority.

### **197 Consideration of application for authority**

- (1) The regulator must consider an application for the issue of a distribution authority and may give, or refuse to give, the authority.
- (2) The regulator may issue the authority only if satisfied—
- (a) the applicant is operating, or will operate, the supply network stated in the application; and
  - (b) the applicant is a suitable person to be a distribution entity; and

- (c) the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner; and
  - (d) the applicant meets the additional criteria prescribed under the regulations.
- (3) In deciding whether the applicant is a suitable person to be a distribution entity, or the owner or proposed owner of the supply network (whether or not the applicant) is a suitable person to be the owner, the regulator may consider—
- (a) the person's previous commercial and other dealings and the standard of honesty and integrity shown in the dealings; and
  - (b) any failure by the person to perform commercial or statutory obligations and the reasons for the failure; and
  - (c) the person's criminal history; and
  - (d) if the person is a corporation—the matters mentioned in paragraphs (a) to (c) for persons who are shareholders, directors or holders of other interests in the corporation; and
  - (e) for the applicant—the applicant's competence to be a distribution entity; and
  - (f) additional matters prescribed under the regulations.
- (4) A regulation may prescribe matters the regulator must or may consider in deciding the applicant's competence to be a distribution entity.
- (5) In deciding whether to issue the authority, the regulator must consider—
- (a) the objects of this Act; and
  - (b) relevant government policies about environmental and energy issues and the likely environmental effects of the activities proposed to be done under the authority; and
  - (c) additional matters prescribed under the regulations.

- (6) In deciding whether to issue the authority, the regulator may consider additional matters prescribed under the regulations.
- (7) In deciding whether to issue the authority, the regulator must not consider matters prescribed by regulation.

## **198 Notice of refusal to issue authority**

If the regulator refuses to issue a distribution authority sought by an applicant, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 2 Amendment of distribution authority**

### **199 Amendment of distribution authorities**

The regulator may, with a distribution entity's agreement and after considering the objects of this Act, amend its distribution authority.

### **200 Amendment of conditions stated in distribution authorities**

The regulator may, with a distribution entity's agreement and after considering the objects of this Act, amend the conditions stated in its authority.

### **200A Amendment of distribution authorities and conditions by notice to distribution entity**

- (1) The regulator may amend a distribution authority or the conditions of a distribution authority by notice under subsection (2) given to the holder of the authority.
- (2) The regulator may amend a distribution authority or the conditions of a distribution authority by a notice only if—

- (a) the regulator is satisfied the amendment is—
  - (i) necessary having regard to the objects of this Act; or
  - (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; and
- (b) the regulator has given the holder of the authority an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 199 and 200.

## **Division 3                      Transfer of authority**

### **201      Transfer of distribution authorities**

The regulator may transfer a distribution authority.

#### **201A    Application for transfer**

- (1) An application for the transfer of a distribution authority must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

## **201B Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the distribution authority.
- (2) However, the regulator may transfer the authority only if satisfied—
  - (a) the proposed transferee will operate the supply network to which the authority relates; and
  - (b) the proposed transferee is a suitable person to be a distribution entity; and
  - (c) the proposed transferee meets the additional criteria prescribed under a regulation.
- (3) In deciding whether the proposed transferee is a suitable person to be a distribution entity, the regulator may consider the matters mentioned in section 197(3) as if the proposed transferee were applying for the issue of the authority.

## **201C Notice of refusal to transfer distribution authority**

As soon as practicable after deciding to refuse to transfer the distribution authority, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 4 Surrender of distribution authority**

### **202 Surrender of distribution authorities**

A distribution entity may surrender its authority only with the regulator's agreement.



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## Part 5                      Special approvals

### Division 1                  Giving of special approval

#### 208      Giving of special approvals

A special approval may be given under the regulations or by the regulator.

#### 209      Application for special approval

- (1) An application for a special approval must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) state the things proposed to be done under the approval; and
  - (c) be accompanied by the fees prescribed under the regulations, including any fee for investigating whether the approval should be given.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

#### 210      Consideration of application for special approval

- (1) The regulator must consider an application for the giving of a special approval and may give, or refuse to give, the approval.
- (2) Sections 180(2) to (7), 189(2) to (6) and 197(2) to (7), to the extent the provisions are relevant to the proposed activities, apply to the giving of the approval as if the application were for the issue of a relevant authority.
- (3) In this section—

*proposed activities* means the activities proposed to be performed under the special approval.

*relevant authority* means a generation, transmission or distribution authority the applicant would otherwise be required to hold to perform the proposed activities.

## **211 Notice of refusal to give special approval**

If the regulator refuses to give a special approval, the regulator must promptly give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 2 Amendment of special approval**

### **211A Amendment of special approval**

The regulator may, with a special approval holder's agreement and after considering the objects of this Act, amend its special approval.

### **211B Amendment of conditions stated in special approval**

The regulator may, with a special approval holder's agreement and after considering the objects of this Act, amend the conditions stated in its special approval.

### **211C Amendment of special approval and conditions by notice to holder of special approval**

- (1) The regulator may amend a special approval or the conditions of a special approval by notice under subsection (2) given to the holder of the special approval.
- (2) The regulator may amend a special approval or the conditions of a special approval by a notice only if—
  - (a) the regulator is satisfied the amendment is—
    - (i) necessary having regard to the objects of this Act;  
or

- (ii) necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry or reforms concerning the Queensland electricity supply industry; and
- (b) the regulator has given the holder of the special approval an opportunity to make representations on the matter.
- (3) This section does not affect the power to amend under sections 211A and 211B.

## **Division 3                      Transfer of special approval**

### **212      Transfer of special approval**

The regulator may transfer a special approval.

#### **212A    Application for transfer**

- (1) An application for the transfer of a special approval must—
  - (a) be made to the regulator in the form approved by the regulator; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (2) If asked in writing by the regulator, the applicant must give the further relevant information or evidence the regulator requires to decide the application.

#### **212B    Consideration of application for transfer**

- (1) The regulator must consider the application having regard to the objects of this Act and may transfer, or refuse to transfer, the special approval.
- (2) However, the regulator may transfer the special approval only if satisfied the proposed transferee is a suitable person to hold the special approval.

- (3) In deciding whether the proposed transferee is a suitable person to hold the special approval, the regulator may consider the matters the regulator considers appropriate.

### **212C Notice of refusal to transfer special approval**

As soon as practicable after deciding to refuse to transfer the special approval, the regulator must give the applicant a written notice informing the applicant of the refusal, the reasons for the refusal and the applicant's right to seek an internal review of the refusal.

## **Division 4 Surrender of special approval**

### **213 Surrender of special approvals**

- (1) The holder of a special approval may surrender the approval by giving the regulator written notice of surrender.
- (2) The notice must be given to the regulator at least—
  - (a) 6 months before it is to take effect; or
  - (b) if the approval requires a longer period of notice—the required period of notice before it is to take effect.
- (3) However, the regulator may agree to a shorter period of notice in a particular case.

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## **Chapter 10 Internal and external reviews**

### **Part 1 Internal review of decisions**

#### **214 Who may apply for internal review etc.**

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

#### **215 Applying for internal review**

- (1) An application by a person for internal review of a decision must be made within 28 days after notice of the decision is given to the person.
- (2) However, if—
  - (a) the notice did not state reasons for the decision; and
  - (b) the person asked for a statement of reasons for the decision within the period mentioned in subsection (1);the person may make the application within 28 days after the person is given the statement of reasons.
- (3) In addition, the regulator may extend the period for making an application for internal review.
- (4) An application for internal review must be written and state in detail the grounds on which the applicant seeks internal review of the decision.

## **216 Stay of operation of decision etc.**

- (1) If an application is made under this part for internal review of a decision, the applicant may immediately apply, as provided under the QCAT Act, to QCAT for a stay of the decision.
- (2) QCAT may stay the decision to secure the effectiveness of the internal review or a later application to QCAT for external review.
- (3) A stay—
  - (a) may be given on conditions QCAT considers appropriate; and
  - (b) operates for the period fixed by QCAT; and
  - (c) may be revoked or amended by QCAT.
- (4) The period of a stay under this section must not extend past the time when the regulator reviews the decision and any later period QCAT allows the applicant to enable the applicant to apply for an external review of the regulator's decision.
- (5) The making of an application under this part for internal review of a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

## **217 Review panels, arbitration and mediation**

- (1) A regulation may make provision about referring applications under this part for internal review of decisions to—
  - (a) review panels for advice; or
  - (b) mediation for resolution; or
  - (c) arbitration for decision.
- (2) Without limiting subsection (1), a regulation may make provision about—
  - (a) the type of applications that must or may be referred to review panels, mediation or arbitration; and
  - (b) establishing review panels; and
  - (c) the composition of review panels; and

- (d) the appointment of mediators and arbitrators; and
- (e) the conduct of proceedings before review panels, mediators and arbitrators; and
- (f) the making of recommendations by review panels, the resolving of applications by mediation and the making of decisions by arbitration.

## **218 Decision on reconsideration**

- (1) This section applies to an application under this part for internal review of a decision (the *disputed decision*).
- (2) If the application is not referred to a review panel, resolved by mediation or decided by arbitration, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the applicant's representations.
- (3) If the application is referred to a review panel, the regulator may confirm the disputed decision, amend the disputed decision or substitute a new decision after considering the review panel's advice.
- (4) If the application is resolved by mediation or decided by arbitration, the regulator must give effect to the resolution or decision and may, for the purpose, confirm the disputed decision, amend the disputed decision or substitute a new decision.
- (5) The regulator must immediately give the applicant written notice of the regulator's decision on the application.
- (6) If the decision is not the decision sought by the applicant, the notice must be a QCAT information notice.
- (7) If the regulator was not the decision maker and the regulator amends the decision or substitutes a new decision, the amended or substituted decision is, for this Act (other than this chapter), taken to be a decision of the decision maker.

## Part 2 External reviews

### 219 Who may apply for external review

- (1) A person whose interests are affected by a decision of the regulator under section 218 may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.
- (2) However, a regulation may provide that a person can not apply under subsection (1) for an external review of a decision giving effect to a resolution by mediation or a decision by arbitration.

### 220 Application of QCAT Act notice requirement

The regulator must give a QCAT information notice for a decision only if this Act so requires.

## Chapter 11 General

### Part 1A Provisions for civil penalty proceedings

#### 226A Relationship with criminal proceedings

- (1) This section applies if—
  - (a) action (the *civil penalty proceeding*) is taken against or in relation to a person, consisting of—
    - (i) an application under section 120X for a civil penalty order; or
    - (ii) a referral under section 120ZC to the regulator and any decision in relation to the referral that involves the imposition of a civil penalty; and



- (b) a criminal proceeding has been started, or has already been started, against the person for an offence; and
  - (c) the conduct that constitutes the offence is the same, or substantially the same, as the conduct the subject of the civil penalty proceeding.
- (2) The civil penalty proceeding must be stayed or not continued.
  - (3) However, the civil penalty proceeding may be resumed if, at the end of the criminal proceeding, there is no conviction for the offence.
  - (4) Evidence in the civil penalty proceeding of information given, or documents produced, by a person is not admissible in evidence in the criminal proceeding.
  - (5) In this section—

*conduct* includes an omission.

*conviction* includes a finding of guilt, or the acceptance of a plea of guilt, by a court whether or not a conviction is recorded.

## **226B Avoidance of multiple penalties**

If—

- (a) a civil penalty proceeding under section 226A is taken; and
- (b) conduct, or substantially the same conduct, the subject of the civil penalty proceeding constitutes a contravention of 2 or more distribution network code provisions;

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



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**231 Unlawful connection to transmission grid or supply network**

A person must not unlawfully connect anything to an electricity entity's transmission grid or supply network.

Maximum penalty—40 penalty units or 6 months imprisonment.

**232 Unlawful interference with supply of electricity to customer**

A person must not unlawfully connect or disconnect supply of electricity to a customer or interfere with supply of electricity to a customer.

Maximum penalty—40 penalty units or 6 months imprisonment.

**233 Offence to contravene emergency rationing order**

A person must not contravene an emergency rationing order, unless the person has a reasonable excuse for the contravention.

Maximum penalty—8 penalty units.

**235 Unlawful taking of electricity**

(1) A person must not unlawfully take electricity.

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

(2) If the day or days on which a person is alleged to have been committing an offence against subsection (1) can not be established, the person may—

(a) be charged with 1 offence of unlawfully taking electricity over, or at some unknown time during, a stated period; and

(b) be convicted and punished accordingly.

- (3) In a prosecution for an offence against this or another Act in which it is claimed electricity has been unlawfully taken, the electricity is taken to belong to any person through whose transmission grid, supply network or works the electricity was supplied.

### **236 Obstruction of electricity officers and inspection officers**

A person must not obstruct an electricity officer or inspection officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **237 Impersonation of electricity officers and inspection officers**

A person must not pretend to be an electricity officer or inspection officer.

Maximum penalty—80 penalty units.

### **238 False or misleading information**

- (1) A person must not—
- (a) state anything to the regulator, an electricity officer or an inspection officer the person knows is false or misleading in a material particular; or
  - (b) omit from a statement made to the regulator, an electricity officer or an inspection officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

- (2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states the statement made was false or misleading to the person's knowledge.

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## 239 False, misleading or incomplete documents

- (1) A person must not give the regulator, an electricity officer or an inspection officer a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

- (2) Subsection (1) does not apply to a person who, when giving the document—
- (a) informs the regulator, inspection officer or electricity officer, to the best of the person's ability, how it is false, misleading or incomplete; and
  - (b) gives the correct information to the regulator, inspection officer or electricity officer if the person has, or can reasonably obtain, the correct information.
- (3) A complaint against a person for an offence against subsection (1) is sufficient if it states the document was false, misleading or incomplete to the person's knowledge.

## 240 Impersonation of person named in document

- (1) A person must not pretend to be a person named in a document issued or given under this Act.

Maximum penalty—8 penalty units.

- (2) In subsection (1)—

*document* includes a certificate, identity card, notice, record book and register.

## 240A Executive officer may be taken to have committed offence

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—
- (a) the officer authorised or permitted the corporation's conduct constituting the offence; or

- (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct.
- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
- (a) the liability of the corporation for the offence against the deemed executive liability provision;
- (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.

- (4) In this section—

*deemed executive liability provision* means any of the following provisions—

- section 87(1)
- section 88(1)
- section 88A(1).

*executive officer*, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

## **241 Attempts to commit offences**

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty—one-half maximum penalty for committing the offence.

- (2) The Criminal Code, section 4 applies to subsection (1).

## **242 Proof of unlawfulness**

If a provision of this Act that creates an offence mentions a person unlawfully doing an act or making an omission, the *Justices Act 1886*, section 76 applies as if the doing of the act or the making of the omission with an authority were an exemption contained in the provision.

## **243 Offences are summary offences**

An offence against this Act is a summary offence.

## **244 Start of offence proceedings**

- (1) A proceeding for an offence against this Act must be started within—
  - (a) 1 year after the offence is committed; or
  - (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.
- (2) However, if section 235(2) (which deals with unlawful taking of electricity over or during a period) applies to the offence, a proceeding for the offence may be started within—
  - (a) 1 year after the end of the relevant period; or
  - (b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the end of the relevant period.

# **Part 2 Evidentiary provisions**

## **245 Application of part**

This part applies to a proceeding under or in relation to this Act.

## **246 Proof of appointments**

It is not necessary to prove the appointment of the following persons—

- (a) the chief executive of the department (the regulator);
- (b) electricity officers;
- (c) inspection officers.

## **247 Proof of signatures**

A signature purporting to be the signature of 1 of the following persons is evidence of the signature it purports to be—

- (a) the Minister;
- (b) the regulator;
- (c) an electricity officer;
- (d) an inspection officer.

## **248 Evidentiary certificates by regulator**

A certificate purporting to be signed by the regulator and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given by the regulator under this Act or a copy of it;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or an approval given by the regulator under this Act;
- (c) on a stated day, or during a stated period, a stated person did or did not have an obligation to supply electricity;
- (d) an authority or approval was or was not issued or granted by the regulator for a stated term, or was or was not subject to stated conditions;



- (e) on a stated day, a stated person was given a notice under this Act by the regulator;
- (f) a stated amount is payable under this Act by a stated person and has not been paid;
- (g) a stated amount is the amount of costs or expenses incurred by the regulator in taking stated action under this Act.

**249 Evidentiary certificate by electricity entity's chief executive officer etc.**

A certificate purporting to be signed by the chief executive officer of an electricity entity, or an employee of the entity authorised by its chief executive officer, and stating any of the following matters is evidence of the matter—

- (a) a stated document is a notice, order, authority or approval given under this Act by the entity or a copy of it;
- (b) on a stated day, or during a stated period, a stated person was or was not the holder of an authority or approval given by the entity under this Act;
- (c) an authority given by the entity was or was not given for a stated term, or was or was not subject to stated conditions;
- (d) on a stated day, a stated person was given a notice by or for the entity under this Act;
- (e) a stated amount is payable under this Act to the entity by a stated person and has not been paid;
- (f) a stated amount is the amount of costs or expenses incurred by the entity in taking action under this Act.

**251 Proof of taking of electricity etc.**

The existence on, or in association with, a customer's electrical installation of ways to—



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### **253AA Direction by Minister to give information or advice**

- (1) The Minister may give QCA a written direction to give the Minister information or advice on any matter related to the Queensland electricity market.
- (2) QCA must comply with the direction.
- (3) QCA must publish the direction on its website if directed in writing by the Minister to do so.

### **253 Advisory committees**

- (1) For this Act, advisory committees may be established under the regulations or by the Minister.
- (2) An advisory committee established under the regulations has the functions stated in the regulation.
- (3) An advisory committee established by the Minister has the functions stated by the Minister.
- (4) Without limiting subsection (2) or (3), an advisory committee's function may be to give information and advice on matters impacting on communities in a particular region to the following—
  - (a) the Minister;
  - (b) the department;
  - (c) distribution entities or retailers.

*Examples of matters impacting on communities in a particular region for subsection (4)—*

- 1 service levels provided by electricity entities
  - 2 reliability of electricity supply
  - 3 environmental concerns
  - 4 major electricity infrastructure projects
  - 5 proposed changes to the local electricity network
- (5) A member of an advisory committee established under subsection (1) is entitled to be paid the fees and allowances that may be approved by the Governor in Council.

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

### **253A Reporting to Minister by QCA**

- (1) QCA must, on or before each 31 December and 30 June, give the Minister a written report about the performance of—
  - (a) its functions under this Act; or
  - (b) any of the Minister's functions under this Act that have been delegated to QCA.
- (2) QCA may, from time to time, give the Minister reports about any significant events in the State's electricity market of which it considers the Minister ought to be aware, including, for example, systemic issues materially affecting consumers.
- (3) In this section a reference to the performance of a function includes the exercise of a power.

### **254 Protection from liability**

- (1) In this section—

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

*official* means—

- (a) the Minister; and
  - (b) the regulator; and
  - (c) officers of the department assisting the regulator to perform functions under section 63; and
  - (d) an operator under section 131 and employees of an operator; and
  - (e) inspection officers; and
  - (f) members of advisory committees appointed by the Minister or under a regulation; and
  - (g) members of any board established under this Act.
- (2) An official or QCA does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official or QCA, the liability attaches instead to the State.

### **254AA Protection from liability of member or employee of QCA**

- (1) A member or employee of QCA is not civilly liable for an act done, or omission made, in good faith under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to QCA.

### **254AB Meaning of particular terms for a relevant body corporate**

For a relevant body corporate, a reference in this Act—

- (a) to a customer's premises or to premises owned or occupied by a customer, is a reference to the premises for which the relevant body corporate is established; and

- (b) to a customer or person who owns or occupies premises or has the right to use premises, is a reference to the relevant body corporate established for the premises.

#### **254A Attachment—words defined in other legislation referred to in this Act**

- (1) Attached to this Act is an attachment containing relevant provisions from other legislation referred to in this Act.

*Editor's note—*

The attachment appears immediately after schedule 5 (Dictionary).

- (2) The attachment is not part of this Act.
- (3) The attachment must be revised so that it is an accurate copy of the provisions as amended from time to time.
- (4) The revision under subsection (3) must happen in the first reprint of this Act after an amendment of a provision.

#### **254B Registers QCA must keep**

QCA must keep a register of each of the following—

- (a) distribution network codes;
- (b) warning notices, including expired warning notices;
- (c) conduct assurances;
- (d) code contravention notices, including expired code contravention notices.

*Note—*

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

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## Chapter 12 State electricity entities

### Part 1 General

#### 255 State electricity entities do not represent the State

State electricity entities do not represent the State.

#### 256 Application of Judicial Review Act

(1) In this section—

*commercial activities* means activities conducted on a commercial basis.

*community service obligations* has the same meaning as in the GOC Act.

*excluded activities* means—

- (a) commercial activities; or
- (b) community service obligations prescribed under the regulations.

(2) A regulation may declare the activities of a State electricity entity that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(4) The *Judicial Review Act 1991* does not apply to a decision of a State electricity entity made in carrying out its excluded activities.

#### 257 Directions to State electricity entities and related group entities

- (1) A State electricity entity or related group entity must comply with a direction given to it by the Ministers.
- (2) A direction must be in writing and signed by the Ministers.

- (3) The Ministers may give a direction only if they are satisfied it is necessary or convenient to help or give effect to the objects of the Act, the restructuring of the Queensland electricity supply industry, reforms concerning the Queensland electricity supply industry or to ensure a financially viable Queensland electricity supply industry.
- (4) The board of a State electricity entity or related group entity must implement a direction given under subsection (1) but an act or decision of the board is not invalid merely because of a failure to comply with the direction.
- (5) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for this section—
  - (a) a GOC;
  - (b) a subsidiary of a GOC;
  - (c) a government company;as long as the business, or part of the business, of the relevant entity was, at some time carried on, in whole or in part, by a business unit, division or branch of a State electricity entity or State electricity entities.
- (6) In this section—

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

### **259A Regulation may declare a State electricity entity**

- (1) A regulation may declare the following entities that are not State electricity entities, to be a State electricity entity for section 256 or 262—
  - (a) a GOC;
  - (b) a subsidiary of a GOC;
  - (c) a government company;as long as the entity is a related group entity.



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- (2) A regulation may also declare an entity that is a GOC or a subsidiary of a GOC but is not a State electricity entity to be a State electricity entity for—
- (a) awards, or a stated award, under the *Industrial Relations Act 2016*; or
  - (b) employment conditions, or stated employment conditions, of its employees.

## Part 2 Superannuation

### 260 State electricity entities to take part in regulated superannuation scheme

Each State electricity entity must take part in a regulated superannuation scheme under the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

### 262 Membership of certain superannuation schemes continued

- (1) A person who, immediately before the commencement is—
- (a) an employee of the electricity supply industry under the repealed Act; and
  - (b) a contributor to the Brisbane City Council Superannuation Fund, GO Super (Government Officers Superannuation Scheme), State Service Superannuation Scheme, Q-Super (State Public Sector Superannuation Scheme) or Local Government Superannuation Scheme;
- continues to be a contributor while the person continues to be an employee of a State electricity entity.
- (2) The person's employer must deduct from the person's salary the contributions the person is required to make under the scheme and remit them to the relevant fund.

- (3) The person's employer is also liable to make any contributions that under the scheme an employer of the person is required to make.
- (4) This section does not prevent a person being a contributor to the Electricity Supply Industry Superannuation Fund (Qld), but a person may not be a contributor to a scheme under this section and also be a contributor to the Electricity Supply Industry Superannuation Fund (Qld).

## Chapter 13 Regulations

### 263 General regulation-making power

The Governor in Council may make regulations under this Act.

### 264 Regulation about matters in sch 2

- (1) Without limiting section 263, a regulation may make provision about the matters mentioned in schedule 2, including for example—
  - (a) regulating persons and things in relation to the matters; and
  - (b) imposing conditions in an authority or special approval prohibiting electricity entities or special approval holders from having a prohibited interest in 1 or more of the following—
    - (i) a prescribed authority;
    - (ii) a prescribed entity;
    - (iii) a prescribed person;
    - (iv) a prescribed thing; and

- (c) the functions, entitlements, obligations and powers of persons in relation to the matters.
- (2) A regulation under subsection (1)(b) may make different provision for different electricity entities or special approval holders.

## **266 Energy labelling and performance standards**

Without limiting section 263, a regulation may make provision about appliances that use electricity (*electrical appliances*), including, for example, provision about—

- (a) minimum energy performance standards for electrical appliances; and
- (b) efficiency labelling for electrical appliances; and
- (c) registering of efficiency labels for electrical appliances; and
- (d) testing and labelling electrical appliances, including, for example, payment of the cost of testing (whether or not required) and limitation of liability for damage to electrical appliances during testing; and
- (e) selling and hiring electrical appliances; and
- (f) offering, exposing or advertising electrical appliances for sale or hire.

## **Chapter 14 Transitional and validation provisions**

### **Part 1 Provisions for original Act (1994 No. 64)**

#### **269 Definition**

In this chapter—

*repealed Act* means the *Electricity Act 1976*.

#### **276 Transfer of officers to the department**

- (1) On and from the commencement, the persons appointed, in writing, by the chief executive of the department who immediately before the commencement were employees of the Queensland electricity commission become officers of the department.
- (2) A person mentioned in subsection (1) must be taken as having (for the calculation of leave entitlements as an officer of the department)—
  - (a) continuous service with the department that includes continuous service as an employee up to the commencement; and
  - (b) taken leave that the person as an employee of the Queensland electricity commission had taken or for which the person has received payment and that is attributable to that service.

#### **280 First declaration of approved superannuation scheme**

- (1) The first regulation declaring an industry superannuation scheme to be an approved industry superannuation scheme must fix a commencement day for the approval (the *approval day*).

*Notes—*

- 1 For the definition of *approved industry superannuation scheme*, see this Act as passed, section 261.
  - 2 For the approval day, see the *Electricity Regulation 1994*, section 241.
- (2) The regulation may be made only if the Minister is satisfied the scheme's conditions are acceptable to replace the conditions of the Queensland Electricity Supply Industry Employees' Superannuation Scheme, and the Queensland Electricity Supply Industry Employer-funded Accumulations Superannuation Fund, established under the *Electricity Act 1976 (QESI ESS)*.
- (3) The approved industry superannuation scheme is a continuation of QESI ESS.

## **285A Electricity Act 1976 references**

In an Act or document, a reference to the *Electricity Act 1976* may, if the context permits, be taken to be a reference to this Act.

## **286 References to electricity boards, electricity authorities and electricity supply industry**

- (1) A reference in any document, including an Act, to, or that is read as a reference to, an electricity board within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to a State authorised supplier or the State authorised supplier that is its successor, as the case requires unless the context or a regulation otherwise requires.
- (2) A reference in any document, including an Act, to, or that is read as a reference to, the Queensland electricity commission within the meaning of the *Electricity Act 1976* is taken, after the commencement, to be a reference to 1 or more of QGC, QTSC, QETC or the regulator according to the aspect, function, power, obligation or entitlement of the Queensland electricity commission in relation to which the reference is made unless the context or a regulation otherwise requires.

- (3) A reference in any document, including an Act, to the electricity supply industry is taken, after the commencement, to be a reference to the electricity industry.
- (4) A reference in any document, including an Act, to the electricity generating board or the State electricity commission is taken, after the commencement, to be a reference to the Queensland electricity commission mentioned in subsection (2).

## **287 Gladstone power station provisions**

- (1) The purpose of this section is to ensure that this Act does not adversely affect arrangements in place at the commencement of this Act under the *Gladstone Power Station Agreement Act 1993* and the State agreement under that Act.
- (2) On the commencement of this subsection, the State will negotiate with the participants under the State agreement under the *Gladstone Power Station Agreement Act 1993* to amend the State agreement, to take effect immediately after the commencement of this Act, so as to as nearly as possible maintain the rights and obligations had, immediately before the commencement of this Act, by the State, the parties to the State agreement and the parties to the transaction documents mentioned in the State agreement.
- (3) In addition to the matters mentioned in subsection (2), the State must identify to the parties to the State agreement before the commencement which 1 or more of QGC, QTSC and QETC (a *relevant entity*) are to be substituted for the Queensland electricity commission in the arrangements contemplated by the *Gladstone Power Station Agreement Act 1993* and the State agreement.
- (4) A relevant entity that is substituted for the Queensland electricity commission in the arrangements is, by this subsection, authorised to enter into the arrangements and do everything necessary or convenient to enable it to perform the commission's obligations, and exercise its entitlements, under the arrangement.

- (5) If the parties to the State agreement are unable to agree on the amendments of the State agreement required by subsection (2), the inability to agree is a dispute between the parties.
- (6) A party to a dispute may give to the other parties to the dispute a written notice (a *notice of dispute*) specifying the dispute and requiring that it be dealt with under subsection (7).
- (7) If a party gives a notice of dispute, the Minister (within the meaning of the State agreement) or the Minister's nominee and the chief executive officer or the chief executive officer's nominee of each of the other parties to the dispute must meet in Brisbane within 10 days of the giving of the notice of dispute to attempt in good faith, and using their best endeavours to resolve the dispute within a further 10 days.
- (8) To avoid doubt, a dispute under this section is not a dispute for the purposes of clause 24 of the State agreement, but this does not limit the remedies the parties might otherwise have.
- (9) The application of this Act may be changed under the regulations made under this Act or the *Gladstone Power Station Agreement Act 1993*, or by the State agreement, to give effect to subsections (1) to (4).

### **287A Gladstone power station arrangements**

- (1) A regulation may limit the power of the System Operator in Queensland to do anything, or to give a Registered participant a direction requiring it to do anything, that is inconsistent with the obligations of the System Operator in Queensland or the Registered participant under a transaction document.
- (2) The application of this Act may be changed under the State agreement or a further agreement under the *Gladstone Power Station Agreement Act 1993*.
- (3) In this section—

*State agreement* has the meaning given in *Gladstone Power Station Agreement Act 1993*.

*transaction document* has the meaning given in *Gladstone Power Station Agreement Act 1993*.

*Editor's note—*

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

**288 Supply under special agreements under s 172 of repealed Act**

- (1) An electricity entity does not discriminate merely because it acts in accordance with an agreement made under section 172 of the repealed Act.
- (2) Subsection (1) does not apply to an agreement as far as it is renewed or extended after the commencement.

**Part 2 Transitional provision for Electricity Amendment Act (No. 2) 1997**

**302C National Electricity Rules replace Queensland Grid Code**

- (1) This section applies for any reference in any Act or document to the Queensland Grid Code as applied under this Act.
- (2) If the National Electricity Rules deal with matters that the Queensland Grid Code also deals with, the National Electricity Rules replace the Queensland Grid Code to the extent that the National Electricity Rules deal with those matters.





## **Part 5**

# **Transitional provisions for Electricity And Other Legislation Amendment Act 2003**

### **305 Existing on-supply agreements**

- (1) This section applies to an on-supply agreement under the *Electricity Regulation 1994* that is in force immediately before the commencement of this section.
- (2) From the commencement, the agreement is taken to be an on-supply agreement under this Act.

### **306 Particular existing agreements about common area consumption**

Chapter 1, part 6, division 1, subdivisions 4 and 6 do not apply to an on-supply agreement made before 13 October 2000.

### **307 Existing exemptions from Act**

- (1) This section applies to an exemption from this Act given by the *Electricity Regulation 1994* and in force immediately before the commencement of this section.
- (2) From the commencement, the exemption continues in force as if it were given under the following section of this Act—
  - (a) for an exemption for connection of generating plant not supplying electricity to a transmission grid or supply network—section 20P;
  - (b) for an exemption for Brisbane Airport Rail Link—section 20Q(1);
  - (c) for an exemption for an on-supplier—section 20A.



*Examples of reasonable costs that may be incurred in meeting the liability—*

- the cost of working out the relevant liable load
- the cost of acquiring GECs to surrender to meet the liability
- any fee paid to surrender the GECs
- an appropriate proportion of the costs of giving the relevant self-assessment report
- if the liable person is an accredited generator—an appropriate proportion of the relevant annual fee
- if the liable person is not an accredited generator—an appropriate proportion of the fee to apply to become a scheme participant and the relevant annual fee

*Example of a reasonable cost that may be incurred in managing the liability—*

- the cost of setting up an internal information technology system to manage the liability

- (b) an amount equivalent to the amount of any civil penalty paid to meet the 13% liability and any reasonable costs of paying the civil penalty.
- (4) The notice must state the amount of each chargeable amount charged to the customer separately from any other amount charged for the sale of the electricity.
- (5) If the customer does not pay a chargeable amount charged to the customer within a reasonable period after receiving the notice, the liable person may recover the chargeable amount from the customer as a debt.
- (6) In deciding what is a reasonable period for subsection (5), regard must be had to the provisions of the contract.
- (7) Subsections (3) to (6)—
- (a) apply despite any other provision of this Act; but
  - (b) do not apply for a particular chargeable amount if the contract, by express words, provides for who is liable to pay that amount.
- (8) In this section—

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*review opportunity*, for a contract, means an opportunity for the liable person, acting either alone or with the agreement of 1 or more of the other parties to the contract—

- (a) to change how much the customer must pay for electricity sold under the contract; or
- (b) to carry out a general review, renegotiation or alteration of how much the customer must pay for electricity sold under the contract.

## Part 8

# Transitional provisions for Electricity and Other Legislation Amendment Act 2006

### 310 Definitions for pt 8

In this part—

*amendment Act* means the *Electricity and Other Legislation Amendment Act 2006*.

*commencement* means the date of assent of the amendment Act.

*former*, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the pre-amended Act.

*FRC day* means the day the amendment Act, section 13 commences.

*new*, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the post-amended Act, as affected by any relevant definitions under the post-amended Act.

*post-amended Act* means this Act as in force from the FRC day.

*pre-amended Act* means this Act as in force before the FRC day.

### **311 Extension of area retail obligation**

- (1) This section applies to a retail entity in relation to premises if—
  - (a) it is not the area retail entity for the premises; and
  - (b) it is the financially responsible retail entity for the premises; and
  - (c) immediately before the FRC day, the premises were owned or occupied by a customer who, under the post-amended Act, is a large non-market customer for the premises.
- (2) New section 48D applies to the retail entity as if it were an area retail entity for the premises and as if the circumstances mentioned in section 48D(2)(b) existed.

### **312 Small customer may enter into negotiated retail contract before FRC day**

- (1) This section applies if—
  - (a) under the pre-amended Act, a customer is a non-contestable customer for premises; and
  - (b) the customer would, under the post-amended Act, be a small customer for the premises.
- (2) Despite former sections 52 and 52A, the customer may enter into a negotiated retail contract under the post-amended Act with a retail entity for the provision of customer retail services to the premises even though this Act is not in force in the form of the post-amended Act.
- (3) However, until the FRC day—
  - (a) customer retail services can not be provided under the negotiated retail contract; and

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- (b) any standard customer sale contract or standard contract between the customer and the retail entity under any of the following continues to apply for the provision of the services to the premises—
- (i) former section 49 or 49A;
  - (ii) former section 310;
  - (iii) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.
- (4) Also, it is taken to be a term of the negotiated contract that the customer may, by written notice to the retail entity given within 10 business days after the FRC day, terminate the contract without penalty.
- (5) The notice need not state a ground for the termination.

### **313 Existing contestable customers who are receivers**

- (1) This section applies to a person who, immediately before the FRC day, was, under the pre-amended Act, both a contestable customer and a receiver for premises.
- (2) Despite new section 23(2), the person is, under the post-amended Act, a customer for the premises.
- (3) To remove any doubt, it is declared that subsection (2) continues to apply despite the ending of any contract entered into before the FRC day in relation to the provision of customer connection services or customer retail services to the premises.

### **314 Existing standard customer connection contracts**

- (1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under former section 40 or 40AA, taken to have been in force between a customer and a distribution entity for the provision of customer connection services to premises.
- (2) The existing contract ends.

- (3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- (4) The customer and the entity are, under new section 40DB, taken to have entered into a standard connection contract for the provision of the services to the premises.
- (5) New section 40DB(3) to (6) apply as if the standard connection contract as if were a contract taken to have been entered into under that section.
- (6) This section is subject to the retailer of last resort scheme.

### **315 Existing standard customer sale contracts**

- (1) This section applies on the FRC day if immediately before that day a contract (the *existing contract*) was, under any of the following provisions, taken to have been in force between a customer and a retail entity for the provision of customer retail services to premises—
  - (a) former section 49 or 49A;
  - (b) former section 310;
  - (c) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 41.
- (2) However, subsections (3) to (6) do not apply if the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 applies to the existing contract.
- (3) The existing contract ends.
- (4) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- (5) The customer and the financially responsible retail entity for the premises are, under new section 51, taken to have entered into a retail contract of the following type for the provision of the services to the premises—
  - (a) if the customer is a small customer for the premises—a standard retail contract;



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- (b) if the customer is a large customer for the premises—a standard large customer retail contract.
  - (6) New section 52(3) and (4) applies to the retail contract as if it were a contract taken to have been entered into under that section.
  - (7) The FRC entity is taken to be the financially responsible retail entity for the premises under the post-amended Act.
  - (8) To remove any doubt, it is declared that subsection (7) applies even though the FRC entity would not, other than for subsection (7), be the financially responsible retail entity for the premises.
  - (9) Subsection (7) ceases to apply if, under the post-amended Act—
    - (a) another retail entity becomes the financially responsible retail entity for the premises because of a completed transfer under the National Electricity Rules taking effect after the FRC day; or
    - (b) the FRC entity becomes the financially responsible retail entity.
  - (10) In this section—

***FRC entity*** means—

    - (a) Ergon Energy; or
    - (b) an acquiring entity or a sale entity under the *Energy Assets (Restructuring and Disposal) Act 2006*.

### **316 References to other particular contracts under pre-amended Act**

- (1) In an Act or document, a reference to a contract of a following type (the ***old type***) under the pre-amended Act is taken to be a reference to a type of contract under the post-amended Act stated opposite the old type—
  - (a) a customer connection contract—a connection contract;

[s 317]

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- (b) a negotiated customer connection contract—a negotiated connection contract;
  - (c) a customer sale contract—a retail contract;
  - (d) a negotiated customer sale contract—a negotiated retail contract.
- (2) Subsection (1) applies subject to new sections 312 to 315.

### **317 Exclusion of new s 40DB for existing negotiated sale and connection contracts**

- (1) This section applies if, immediately before the FRC day, a negotiated sale and connection contract under the pre-amended Act was in force for a customer's premises connected to a distribution entity's supply network.
- (2) While the contract continues in force new section 40DB does not apply to the customer and the entity in relation to the premises.

### **318 Particular unmetered street lighting**

- (1) This section applies to a customer for street lighting that—
- (a) has an unmetered connection point or supply point for the delivery of electricity; and
  - (b) is in a public place.
- (2) From the FRC day to relevant day the post-amended Act applies to the customer in relation to the street lighting as if the customer were an excluded customer for the street lighting.
- (3) In this section—

*relevant day* means—

- (a) if, before 1 July 2008, a day after 1 July 2008 is prescribed under a regulation—the prescribed day; or
- (b) otherwise—1 July 2008.

*street lighting* includes a system of street lighting.

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### **319 Other unmetered connection points**

- (1) This section applies to a customer for premises, other than street lighting mentioned in new section 318, to the extent that the premises has an unmetered connection point or supply point for the delivery of electricity.

*Example—*

a telephone booth

- (2) From the FRC day to the day prescribed under a regulation the post-amended Act applies to the customer in relation to the premises as if the customer were an excluded customer for the premises.

### **319A Particular watchman lights**

- (1) This section applies to NMI premises that, when the FRC day starts, consist only of a watchman light.
- (2) However, this section applies only if the financially responsible retail entity for the premises is not an area retail entity.
- (3) From the FRC day to the day prescribed under a regulation the post-amended Act applies to a customer in relation to the premises as if the customer were an excluded customer for the premises.
- (4) Despite new sections 48A and 48B, the financially responsible retail entity for the premises may provide customer retail services to the customer for the premises.

### **320 Obligation to decide notified prices for 2007–2008 financial year on basis of post-amended Act**

- (1) The pricing entity must, as soon as practicable after the commencement, decide notified prices for customer retail services.
- (2) New section 90, new chapter 4, part 2, division 3 and any other relevant provisions of the post-amended Act apply for

the deciding of the notified prices, instead of former section 90.

### **321 Making of transitional conduct rules about marketing conduct**

- (1) The Minister may, at any time after the commencement, make conduct rules about marketing conduct by distribution entities or retail entities.
- (2) Former section 120C and 120GB apply for the making of the rules as if a reference in the sections to QCA were a reference to the Minister.
- (3) Former sections 120D to 120GA do not apply for the making of the rules.
- (4) The Minister must publish a gazette notice stating that the Minister has made the rules.
- (5) The rules take effect when the notice is published, or on a later day of effect stated in the notice.
- (6) The rules are taken to be conduct rules under the pre-amended Act.

### **322 Existing mediated agreements**

Former chapter 5, part 1B continues to apply for a mediated agreement under the pre-amended Act as if the part were still in force.

### **323 Existing orders on arbitrated disputes**

Former chapter 5, part 1C continues to apply for an order made under former section 120ZY, as if the part were still in force.

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### 324 Preservation of appeal rights about former contribution and user-pays fees

If, before the commencement, a member entity under the pre-amended Act had been given an information notice under former section 64E for a contribution fee or user-pays fee under the pre-amended Act, former section 64E and former schedule 1 continue to apply for the fee.

### 325 Transitional provision for non-liaible loads

- (1) This section applies if—
  - (a) immediately before the FRC day, a customer was, under former section 49A, taken to have entered into a contract (the *old contract*) for the provision of customer retail services for premises; and
  - (b) under either of the following, the old contract is taken to have ended and the customer is taken to have entered into a standard large customer retail contract (the *new contract*) for the provision of the services to the premises on the FRC day—
    - (i) the *Energy Assets (Restructuring and Disposal) Act 2006*, section 44 (the *EARD section*);
    - (ii) new section 315.
- (2) An electricity load sold under the new contract is taken to be a non-liaible load for—
  - (a) if the new contract is with the same retail entity under the old contract—3 months from the day the old contract was, under former section 49A, taken to have been entered into; or
  - (b) if the new contract is with a different retail entity to the retail entity under the old contract—3 months from the FRC day.

## **Part 9**

# **Transitional provision for Mines and Energy Legislation Amendment Act 2009**

### **326 Existing distribution service pricing for Mount Isa–Cloncurry supply network**

- (1) This section applies if, immediately before 1 July 2010—
  - (a) the owner of the Mount Isa–Cloncurry supply network provides customer connection services relating to the supply network; and
  - (b) the pricing regulation made by QCA, under the direction made by the Minister under section 89B(2) to regulate the pricing for the services, is still in force; and
  - (c) the Australian Energy Regulator has not made a distribution determination, within the meaning of the National Electricity Rules, for the supply network for the relevant regulatory control period.

*Note—*

See the *Electricity—National Scheme (Queensland) Act 1997*, section 10 (Economic regulation of Mount Isa–Cloncurry supply network from 1 July 2010).

- (2) The pricing regulation is taken to be a jurisdictional pricing determination under the National Electricity Rules, clause 11.14.2 for the services.
- (3) For applying the National Electricity Rules—
  - (a) the services are taken to be distribution services for the National Electricity Rules; and
  - (b) the Mount Isa–Cloncurry supply network is taken to be a distribution system.
- (4) The National Electricity Rules apply with any necessary changes to give effect to this section.
- (5) In this section—

*amending Act* means the *Mines and Energy Legislation Amendment Act 2009*.

*Mount Isa–Cloncurry supply network*—

- (a) means the supply network, other than the 220kV supply network—
  - (i) located in the Mount Isa–Cloncurry region; and
  - (ii) owned by Ergon Energy immediately before the date of assent for the amending Act; and
  - (iii) not connected to the national grid; and
- (b) includes any increase in the supply network after the date of assent for the amending Act.

*relevant regulatory control period* means the regulatory control period, within the meaning of the National Electricity Rules, starting on 1 July 2010.

## Part 10A                      **Transitional provisions for Electricity Price Reform Amendment Act 2011**

### **328      Qualifying generators connected, or about to be connected, to supply network**

- (1) This section applies if—
  - (a) before 8 June 2011, a small customer’s qualifying generator was connected to a distribution entity’s supply network; or
  - (b) a small customer had applied to a distribution entity before 8 June 2011 to have the customer’s qualifying generator connected to the distribution entity’s supply network, but the generator was connected to the network after 8 June 2011.
- (2) Section 44A and schedule 5, definition *small photovoltaic generator*, as in force immediately before the commencement,

continue to apply to the qualifying generator after 8 June 2011.

- (3) To remove any doubt, it is declared that subsection (2) applies for any small customer from time to time for the premises at which the qualifying generator is installed.
- (4) This section is subject to section 335.

### **329 Investigation and report by QCA in relation to price determination for relevant tariff year**

- (1) This section applies if, before the commencement of this section, QCA has been directed under the QCA Act, section 10(e) to investigate and report on a possible alternative retail pricing methodology and schedule of retail tariffs for the relevant tariff year.
- (2) Any investigation or report submitted by QCA under the QCA Act, section 10(e) is taken to be a valid part of the price determination process under chapter 4, part 2 for the relevant tariff year.
- (3) In this section—

*relevant tariff year* means the period 1 July 2012 to 30 June 2013.

## **Part 11 Transitional provision for repeal of Community Ambulance Cover Act 2003**

### **331 Continuation of relevant former provisions for retail authority and special approval**

- (1) Subject to subsection (2)—
  - (a) section 55DA(3) and (4), as it was in force immediately before 1 July 2011 (the *relevant former provision*), continues to apply; and



- (b) section 55F, as it was in force immediately before 1 July 2011 (also the *relevant former provision*), continues to apply to a retail authority; and
  - (c) section 61A, as it was in force immediately before 1 July 2011 (also the *relevant former provision*), continues to apply to a special approval.
- (2) A reference in the relevant former provision to the Ambulance Cover Act is taken to be a reference to the repealed *Community Ambulance Cover Act 2003* as continued under the *Community Ambulance Cover Levy Repeal Act 2011*, part 2.

## **Part 12**                      **Transitional provision for Treasury (Cost of Living) and Other Legislation Amendment Act 2012**

### **333**      **Inclusion of carbon and renewable energy target cost estimates in particular accounts**

Section 55GA applies only to an account issued by a retail entity on or after 1 July 2012.

## **Part 13**                      **Transitional provision for Electricity (Early Termination) Amendment Act 2012**

### **334**      **Early termination of particular negotiated retail contracts**

- (1) This section applies in relation to a negotiated retail contract between a relevant customer and a retail entity, entered into before or during the relevant period, if—
  - (a) during the relevant period, the retail entity notified the customer that the entity's charges for the provision of

customer retail services to the customer under the contract were to increase; and

- (b) the increased charges under the contract will be more than the notified prices.
- (2) The customer may, within 20 business days after the end of the relevant period, terminate the contract by giving the retail entity written notice of the termination.
- (3) Subsection (2) does not limit any other rights of the customer to terminate the contract.
- (4) The termination takes effect 10 business days after the written notice is given to the retail entity.
- (5) If the customer terminates the contract under subsection (2), the retail entity must not directly or indirectly charge the customer a fee for the early termination of the contract.

Maximum penalty—500 penalty units.

- (6) This section applies despite anything to the contrary in the contract.
- (7) In this section—

***relevant customer*** means—

- (a) a residential customer; or
- (b) a small customer who is not a residential customer.

***relevant period*** means the period starting on 1 June 2012 and ending on the commencement of this section.

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## Part 14                      **Transitional provision for Water Legislation (Dam Safety and Water Supply Enhancement) and Other Legislation Amendment Act 2012**

### **335      When s 328 stops applying or does not apply to qualifying generators as previously defined**

- (1) Section 328 stops applying to a small customer's qualifying generator mentioned in section 328(1)(a) or (b) that is connected at the small customer's premises to a distribution entity's supply network if the name on an electricity account for the premises is changed to another person.

*Example of when the name on an electricity account may be changed—*

The premises are sold or rented out.

- (2) Subsection (1) does not apply if the name on the electricity account is changed to a person whose spouse was a small customer for the premises immediately before the person became a small customer for the premises.
- (3) Section 328 does not apply to a small customer's qualifying generator mentioned in section 328(1)(b) that is connected at the small customer's premises to a distribution entity's supply network if—
- (a) the qualifying generator has not been connected at the premises to the network by the end of 30 June 2013; or
  - (b) the qualifying generator has not been ready to be connected at the premises to the supply network by the end of 30 June 2013.
- (4) Subsection (5) applies if, under this section, section 328 stops applying, or does not apply, to a small customer's qualifying generator that is a small photovoltaic generator.
- (5) It is a condition of the distribution entity's distribution authority that, until a day (not later than 1 July 2028) prescribed under a regulation, the distribution entity credit

against the charges payable by a small customer for the premises, for customer connection services provided to the small customer in a relevant supply period, the prescribed credit amount for electricity mentioned in section 44A(1)(b).

*Note—*

The condition stated in subsection (5) no longer applies. The *Electricity Regulation 2006*, section 30AA, as it was in force immediately before 1 July 2014, prescribed 30 June 2014 as the day until which a distribution entity was required to comply with subsection (5).

(6) In this section—

*qualifying generator* has the same meaning as that term has under section 328(2).

## **Part 15**                      **Transitional provisions for Energy and Water Legislation Amendment Act 2013**

### **Division 1**                      **Repeal of Clean Energy Act 2008**

#### **336**      **Repeal**

The Clean Energy Act 2008, No. 33 is repealed.

### **Division 2**                      **Transitional provisions for repeal of Clean Energy Act 2008**

#### **337**      **Definitions for div 2**

In this division—

*commencement* means the commencement of this section.

*repealed Act* means the repealed *Clean Energy Act 2008*, as in force immediately before its repeal.

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**338 Existing applications**

- (1) This section applies if—
  - (a) an application was made before the commencement under a provision of the repealed Act; and
  - (b) the application has not, at the commencement, been finally dealt with.
- (2) The application is of no effect and is taken never to have been made.

**339 Offence proceedings**

- (1) This section applies to a proceeding for an offence against the repealed Act that was started before the commencement but has not been finally decided at the commencement.
- (2) The proceeding ends and no further step may be taken in relation to it.

**340 No offence proceeding to be started after commencement**

A proceeding for an offence against the repealed Act can not be started from the commencement.

**341 Existing entitlement to apply for internal review**

- (1) This section applies if, immediately before the commencement, a person—
  - (a) was entitled to apply under section 28 of the repealed Act for an internal review of a decision (the *decision*) of the regulator; and
  - (b) has not applied.
- (2) The person can not apply for an internal review of the regulator's decision.

### **342 Existing proceedings for external review**

- (1) This section applies if—
  - (a) before the commencement, a proceeding was started in QCAT for review of a review decision; and
  - (b) at the commencement, QCAT has not finally decided the proceeding.
- (2) The proceeding ends and no further step may be taken in relation to it.
- (3) However, QCAT may make an order under the QCAT Act about the costs incurred for the proceeding before the commencement.

### **343 Existing entitlement to apply for external review**

- (1) This section applies if, immediately before the commencement, a person—
  - (a) was entitled under section 31 of the repealed Act to apply to QCAT for a review of a review decision; and
  - (b) has not applied.
- (2) The person can not apply to QCAT for a review of the review decision.

## **Division 3 Transitional provisions for expiry of chapter 5A**

### **344 Definitions for div 3**

In this division—

*expiry* means the expiry of chapter 5A under former section 135JW.

*former*, in relation to a provision of this Act, means the provision as in force immediately before the expiry.

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*pre-expiry matter* means any of the following matters occurring or arising under former chapter 5A before the expiry—

- (a) the giving of, or the obligation to give, an annual fee or an annual return to the regulator;
- (b) the assessment or meeting of a liable person's annual GEC liability for a liable year;
- (c) the giving of, or the obligation to give, a self-assessment report to the regulator;
- (d) the identification of the liable person for a liable load;
- (e) an application for a liable load exemption;
- (f) an application to amend a liable load exemption;
- (g) the payment of fees for, or costs arising from, an application made under former chapter 5A;
- (h) anything done or not done under former chapter 5A relating to a matter mentioned in paragraphs (a) to (g).

### **345 Words have meaning given by former chapter 5A**

Words defined in former chapter 5A and used in this division have the same meanings as they had under the former chapter.

### **346 No compensation etc.**

No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the enactment, amendment, operation, expiry or repeal of former chapter 5A.

### **347 Saving provision for pre-expiry matters**

- (1) A former provision mentioned in subsection (2) continues to apply as if the provision had not expired for rights, privileges, liabilities and obligations that would have been acquired,

accrued, imposed or incurred on or after the expiry relating to a pre-expiry matter.

- (2) For subsection (1), the former provisions are as follows—
  - (a) former chapter 5A, other than former section 135FO;
  - (b) former schedule 1, part 2;
  - (c) former chapter 6 of the *Electricity Regulation 2006*;
  - (d) former schedule 7, part 2 of the *Electricity Regulation 2006*.
- (3) Subsection (1) is subject to sections 348 and 349.
- (4) Without limiting subsection (1), a provision of former chapter 5A providing for an offence continues to apply for anything done or not done on or after the expiry relating to a pre-expiry matter.

### **348 GECs have no value after expiry**

To remove any doubt, it is declared that—

- (a) a GEC in force immediately before the expiry—
  - (i) expires on the expiry; and
  - (ii) has no value and is of no effect; and
- (b) a GEC created but not registered immediately before the expiry—
  - (i) can not be registered; and
  - (ii) has no value and is of no effect; and
- (c) a transfer of a GEC that has been started but has not, immediately before the commencement, taken effect, can not be completed.

### **349 Liability of particular persons for civil penalty**

- (1) This section applies if—



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- (a) before the expiry, a person (the *applicant*) made an application (the *review application*) under chapter 10 for—
- (i) an internal review of a relevant decision of the regulator; or
  - (ii) an external review by QCAT of a decision made under section 218 relating to a relevant decision of the regulator; and
- (b) at the expiry, the review application has not been finally dealt with.
- (2) The review application must be decided or otherwise dealt with under chapter 10.
- (3) For the purposes of subsection (2)—
- (a) this Act as in force immediately before the expiry continues to apply; and
  - (b) if the applicant is unsuccessful in the review application, the applicant is liable for the civil penalty under former section 135EY.
- (4) However, the regulator may, if the regulator considers it reasonable to do so, impose a civil penalty of an amount less than the amount of the civil penalty calculated under former section 135F.
- (5) In this section—
- relevant decision*, of the regulator, means a decision of the regulator mentioned in former schedule 1, part 2, division 2.

### 350 Monitoring

For monitoring whether an auditable person complied, before the expiry, with a matter relevant to former chapter 5A—

- (a) a person may apply under former section 135IH to the regulator for appointment as an approved auditor; and
- (b) the regulator may, under former section 135IF, appoint a person as an approved auditor; and

- (c) an appointment of a person as an approved auditor under former section 135IF in force immediately before the expiry continues in force until it is ended under former chapter 5A; and
- (d) the regulator may, under former section 135IP, require an auditable person to commission an approved auditor to carry out an audit; and
- (e) the regulator may, under former section 135IT, commission an approved auditor to carry out an audit; and
- (f) former section 135BC, former chapter 5A, part 7 and part 8, divisions 4 and 5, and former chapter 6, part 2 of the *Electricity Regulation 2006*, continue to apply in relation to—
  - (i) approved auditors; and
  - (ii) auditable persons; and
  - (iii) the regulator.

## **Part 16**                      **Transitional provision for Electricity and Other Legislation Amendment Act 2014**

### **351**      **First feed-in tariff decision**

Despite section 94, the first feed-in tariff must be announced and published under that section at least 2 weeks before it is to apply.

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## Part 17

# Transitional provisions for Electricity Competition and Protection Legislation Amendment Act 2014

### 352 Generation authorities

- (1) This section applies if, immediately before the commencement, a generation authority authorised the sale of electricity.
- (2) The generation authority is taken to have been amended to remove the authorisation for the sale of electricity.

### 353 Customer connection services

- (1) This section applies if—
  - (a) before the commencement, a customer and a distribution entity—
    - (i) are taken to have entered into a standard connection contract under section 40DB as in force immediately before the commencement; or
    - (ii) have entered into a negotiated connection contract under section 40DC as in force immediately before the commencement; and
  - (b) at the commencement, the customer's premises are not physically connected to the distribution entity's supply network.
- (2) Sections 40E, 40H and 41 and the *Electricity Regulation 2006*, section 34, as in force immediately before the commencement, to the extent they apply to the construction of a new connection, continue to apply to the construction of the connection.
- (3) However, chapter 5A of the National Electricity Rules does not apply to the construction of the connection.

### **354 Undecided retail authority applications**

- (1) This section applies if, before the commencement, a person applied to the regulator for a retail authority but the application had not yet been decided.
- (2) The application lapses.

*Note—*

The person may be able to apply for a retailer authorisation under the NERL (Qld).

### **355 Existing retail authorities**

- (1) This section applies if, immediately before the commencement, a person was the holder of a retail authority.
- (2) The retail authority ceases to have effect.

*Note—*

The retail sale of electricity is regulated under the NERL (Qld).

### **356 Special approvals**

- (1) Subsection (2) applies if, immediately before the commencement, a special approval authorised only either of the following—
  - (a) the sale of electricity;
  - (b) the provision of customer retail services.
- (2) The special approval ceases to have effect.
- (3) Subsection (4) applies if, immediately before the commencement, a special approval authorised—
  - (a) either—
    - (i) the sale of electricity; or
    - (ii) the provision of customer retail services; and
  - (b) the performance of other activities under the approval.

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- (4) The special approval is taken to have been amended to remove the authorisation for the sale of electricity or the provision of customer retail services.

### **357 QCA industry codes**

- (1) This section applies if, before the commencement, the QCA made an industry code, or made an amendment to an industry code, but had not given the Minister a copy of the code or the amendment.
- (2) Chapter 5, part 1A, divisions 3 and 5, as in force immediately before the commencement, continue to apply to the making of the industry code, or the making of an amendment to the industry code.

### **358 Continuation of actions by QCA**

- (1) This section applies if, before the commencement—
- (a) QCA has given a warning notice under section 120S as in force immediately before the commencement to an electricity entity; or
  - (b) QCA has given a code contravention notice under section 120V as in force immediately before the commencement to an electricity entity; or
  - (c) QCA has, under section 120X as in force immediately before the commencement, applied to the Supreme Court for a civil penalty order in relation to an electricity entity; or
  - (d) QCA has, under chapter 5, part 1A, division 6, subdivision 3 as in force immediately before the commencement, referred a matter to the regulator; or
  - (e) QCA has given an electricity entity a notice, under section 120ZE as in force immediately before the commencement, to produce documents or information; or

- (f) QCA has, under section 120ZH(1) as in force immediately before the commencement, required an electricity entity to carry out an internal audit or to appoint an independent auditor.
- (2) QCA may continue to take action under chapter 5, part 1A as in force immediately before the commencement.

**359 Limited continuation of disciplinary action by regulator**

- (1) This section applies if the regulator has, under chapter 5, part 4, started to take disciplinary action against an electricity entity.
- (2) The Act, as in force immediately before the commencement, continues to apply to the matter unless the matter relates to the cancellation, suspension or amendment of a retail authority.

**Part 18**

**Transitional provision for  
Electricity and Other  
Legislation (Batteries and  
Premium Feed-in Tariff)  
Amendment Act 2018**

**360 Application of s 44A**

- (1) Despite section 328, section 44A(1A), (1B) and (6) applies in relation to a qualifying customer who is a small customer mentioned in section 328.
- (2) Section 44A(1A)(a) does not apply in relation to a qualifying customer for an oversizing modification of a qualifying generator made before the commencement.
- (3) Section 44A(1A)(b) does not apply in relation to a qualifying customer if the customer—
  - (a) installed the electricity storage device before the commencement; or

- (b) entered into a contract for the installation of the electricity storage device before the commencement, and the device is installed after the commencement.
- (4) Section 44A(1A)(c) does not apply in relation to a qualifying customer if the customer—
- (a) installed the additional generator before the commencement; or
  - (b) entered into a contract for the installation of the additional generator before the commencement, and the generator is installed after the commencement.
- (5) In this section—
- oversizing modification***, of a qualifying generator, means a modification of the generator so it becomes, or continues to be, a generator described in section 44A(1A)(a).

## **Schedule 1      Review of administrative decisions**

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

### **Part 1                      Decisions about authorities and special approvals**

<b>Section</b>	<b>Description of decision</b>
180(1)	refusal to issue generation authority
27(b)(vi)	stating conditions in generation authority
184B(1)	refusal to transfer a generation authority
189(1)	refusal to issue transmission authority
31(a)(v)	stating conditions in transmission authority
193B(1)	refusal to transfer a transmission authority
197(1)	refusal to issue distribution authority
201B(1)	refusal to transfer a distribution authority
202	refusal to agree to surrender of distribution authority
42(a)(iv)	stating conditions in distribution authority
210(1)	refusal to give special approval
60(1)(a)(v)	stating conditions in special approval
212B(1)	refusal to transfer a special approval



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## Part 2                      Other decisions

<b>Section</b>	<b>Description of decision</b>
130(2)	authorisation to take over operation of electricity entity's operating works
133(5)	decision that an electricity entity has a prohibited interest that must be disposed of
134	disciplinary action taken against electricity entity
138(3)	disconnection of supply if entry refused
141	disconnection of supply to works or installation on safety grounds
152K(1)(c)	forfeiture of something
154(1)	disconnection of supply for contravening electricity restriction regulation or emergency rationing order
154(2) or (3)	refusal to reconnect supply
176(1)	requirement to remove works built in contravention of Act

## **Schedule 2      Subject matter for regulations**

section 264

### **1      Conditions of supply and sale**

Conditions of supply, including, for example, the following matters—

- (a) amounts payable or chargeable for electricity and services (including interest);
- (b) fees, including, for example, fees for or in relation to connection, disconnection and reconnection;
- (c) temporary supply;
- (d) meter reading.

### **2      Requirements and standards**

Technical and operational requirements and standards about the following matters and their monitoring (by inspection, testing or otherwise)—

- (a) network services;
- (b) electricity qualities, including, for example, frequency, voltage and power factor;
- (c) design, building, operation or maintenance of works;
- (d) works and installations;
- (e) substations and customers' premises;
- (f) stand-by supply;
- (g) conditions for connection to a transmission grid or supply network;
- (h) conditions for supply of electricity to customers;
- (i) meters and control apparatus, including meter testing apparatus;
- (j) connection, disconnection and reconnection of supply.

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### 3 Generation, transmission and supply

Generation, transmission or supply of electricity, including, for example, the following matters—

- (a) interference with electricity supply;
- (b) rights of way for electric lines or cables;
- (c) obligations of electricity entities and landowners about electric lines, works or structures;
- (d) obligations and rights of electricity entities and other persons about electric lines, works or structures in, on, over, under, through or across roads, railways, tramways and waterways;
- (e) lopping and clearing of trees and vegetation.

### 3A Conditions of authorities and approvals

Imposing conditions in an authority or a special approval prohibiting the holder of the authority or special approval from having a prohibited interest in 1 or more of the following—

- (a) a prescribed authority;
- (b) a prescribed entity;
- (c) a prescribed person;
- (d) a prescribed thing.

### 3B Prescribed things and prohibited interests

Making provision about any of the following matters—

- (a) the specifying of—
  - (i) a prescribed authority; or
  - (ii) a prescribed entity; or
  - (iii) a prescribed person;
- (b) the specifying of a *prohibited interest* by reference to 1 or more of the following—

- (i) the holding of an authority;
  - (ii) the holding of an interest, either directly or indirectly, in an authority;
  - (iii) the exercise of control, either directly or indirectly, over an authority, entity or person;
  - (iv) the entitlement to a stated number or percentage of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
  - (v) the entitlement to a stated value or percentage of value of shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
  - (vi) the entitlement to a stated amount or percentage of generation capacity;
  - (vii) another thing prescribed by regulation;
- (c) what constitutes an entitlement to shares, stock, votes or other interests, either directly or indirectly, in an entity or person;
  - (d) what constitutes an entitlement to generation capacity;
  - (e) that certain shares, stock, votes or interests, or particular classes of shares, votes or other interests are, or in some circumstances are, to be disregarded for the prescribed purposes;
  - (f) that particular generation capacity or particular amounts, percentages or types of generation capacity are, or in some circumstances are, to be disregarded for prescribed purposes;
  - (g) that certain transactions, agreements, arrangements, understandings, undertakings or practices or particular types of them are, or in some circumstances are, to be disregarded for the prescribed purposes;
  - (h) when a person is, or is taken to be, in a position to exercise control in relation to—
    - (i) a person; or
    - (ii) an entity; or

- (iii) an authority; or
- (iv) a thing;
- (i) when a person is not, or is taken not to be, in a position to exercise control in relation to—
  - (i) a person; or
  - (ii) an entity; or
  - (iii) an authority; or
  - (iv) a thing;
- (j) the method of calculating the number, percentage or value of shares, stock, votes or other interests, directly and indirectly, in an entity or person;
- (k) the method of calculating the amount or percentage of generation capacity;
- (l) the tracing of interests through a series of entities or persons;
- (m) the extraterritorial application of a regulation and the application of a regulation to partnerships, unincorporated joint ventures, companies limited by guarantee, trusts, superannuation funds and other vehicles;
- (n) anything necessary or convenient to help or give effect to a regulation.

#### **4 General**

The following matters—

- (a) establishment, functions and powers of entities to achieve objects of this Act;
- (b) obligations of entities;
- (c) inspection and testing;
- (d) reporting and remedying of defects;
- (f) penalties (of not more than 20 penalty units) for contraventions of a regulation;

- (g) applications, including, for example, applications by electricity entities for authorities to enter and remain on land;
- (h) registers to be kept under this Act;
- (i) liability for and recovery of costs and compensation for actions taken under this Act;
- (j) lighting on roads and other places whether for private or public purposes;
- (k) entitlements and conditions of employment of employees of electricity industry participants;
- (l) superannuation for persons within the electricity industry;
- (m) obligations of industry participants to employees;
- (n) transfer of funds between industry participants on transfer of employees;
- (o) assisting proof for matters under the regulations.

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## Schedule 5      Dictionary

### section 4

*AEMO* has the meaning given in the National Electricity (Queensland) Law.

*ancillary services* see section 11.

*approval day* see section 280(1).

*associated equipment*, for an electric line, see section 16.

*Australian Energy Regulator* or *AER* has the meaning given in the National Electricity (Queensland) Law.

*authorised person*, for chapter 7, see section 145.

*build* includes erect, lay down and place.

*code contravention notice* see section 120S(1).

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

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

*contravention notice* see section 135AC(1).

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

*customer* see section 23(1).

*customer connection service* has the meaning given by the NERL (Qld).

*customer retail services* has the meaning given by the NERL (Qld) to *customer retail service* so far as it relates to electricity.

*damage or harm* includes likely damage or harm.

*defaulting entity* see section 130(1)(a).

*designated retail market area* see section 89A.

***distribution area*** see section 39.

***distribution authority*** see section 38.

***distribution entity*** see section 37.

***distribution network code*** means—

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

***electrical equipment*** see section 13.

***electrical installation*** see section 14.

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

***electricity*** see section 5.

***electricity entity***—

- (a) in general—see section 22(1); or
- (b) for chapter 2, part 9—see also section 64B; or
- (c) for chapter 5, part 1A—see also section 120A.

***electricity industry*** see section 21.

***electricity officer*** means a person who is appointed under this Act as an electricity officer.

***electricity restriction regulation*** see section 122(1).

***electric line*** see section 15.

***emergency rationing order*** see section 124(1).

***energy*** means electricity or gas or both.

***energy and water ombudsman*** means the energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*.

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

***Ergon Energy Retail*** means Ergon Energy Queensland Pty Ltd ACN 121 177 802.



***excluded customer*** see section 23(5).

***external review***, for a decision, means a review of the decision by QCAT under the QCAT Act.

***feed-in tariff*** see section 92.

***fix***, damage or harm, includes—

- (a) minimising the damage or harm; and
- (b) if the damage or harm has not yet happened—preventing it from being caused.

***generation authority*** see section 26.

***generation entity*** see section 25.

***GOC Act*** means the *Government Owned Corporations Act 1993*.

***government company*** has the meaning given to it in the *Government Owned Corporations Act 1993*.

***government entity*** see section 18.

***GST statement*** see section 90AB(3).

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

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

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

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

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

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

***large customer*** see section 23(3).

***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.

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

***local area retailer***, for chapter 4, part 2A, see section 92.

***meter*** see section 16A.

***National Electricity (Queensland) Law*** has the meaning given in the *Electricity—National Scheme (Queensland) Act 1997*.

***National Electricity Rules*** or ***Rules*** has the meaning given in the National Electricity (Queensland) Law.

***National Energy Retail Rules*** has the meaning given by the NERL (Qld).

***national grid*** has the meaning given in the National Electricity Rules.

***national metering identifier*** means a NMI under the National Electricity Rules.

***NERL (Qld)*** see the *National Energy Retail Law (Queensland) Act 2014*, section 3.

***net GST effect***, for providing a customer retail service, see section 90(6)(b).

**network control** see section 9.

**network services** see section 10.

**NMI premises**—

- 1 A premises, part of a premises or a group of premises is an **NMI premises** if—
  - (a) it is, or is proposed to be, connected to a distribution entity's supply network that is part of the national grid and the premises has, or is proposed to have, a connection point; or
  - (b) it is, or is proposed to be, connected to a distribution entity's supply network that is not part of the national grid and the premises has, or is proposed to have, a supply point for the delivery of electricity.
- 2 However, the term does not include premises of an excluded customer.

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

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

**on-supplier** see section 20.

**on-supplier's premises** see section 20.

**operating works** see section 12(3).

**place** includes premises and a place on or in waters or on land, but does not include a boat or other vehicle.

**premises**—

- 1 **premises** includes—
  - (a) a building or other structure; and
  - (b) a part of a building or other structure; and
  - (c) land where a building or other structure is situated.
- 2 **premises**, of a customer, means premises owned or occupied by the customer.

**prescribed credit amount** see section 44A(1)(b).

***prescribed retailer*** see section 92.

***price determination*** see section 89A.

***pricing entity***, for chapter 4, part 2, see section 89A.

***prohibited interest*** means—

- (a) a prescribed interest that an electricity entity must not hold in a prescribed authority, a prescribed entity, a prescribed person or a prescribed thing under section 264; or
- (b) a prohibited interest under schedule 2, section 3B.

***protected area*** means a protected area under the *Nature Conservation Act 1992*, and includes an area that is, or includes, a critical habitat identified in a conservation plan under the Act.

***public entity*** means—

- (a) a government entity within the meaning of the *Government Owned Corporations Act 1993*; or
- (b) a local government.

***publicly controlled place*** means any place under the control of a public entity that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money, but does not include an area declared under the regulations not to be a publicly controlled place.

*Example—*

a road or reserve under the control of a public entity

***public place*** means any place that the public is entitled to use, is open to the public, or used by the public, whether or not on payment of money.

***QCA*** means the Queensland Competition Authority established under the QCA Act.

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

***QCA code objective*** see section 120G(1).

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***QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

***QESI*** see section 280(2).

***QETC*** means Queensland Electricity Transmission Corporation Limited ACN 078 849 233.

***QGC*** means Queensland Generation Corporation.

***QTSC*** means Queensland Transmission and Supply Corporation.

***qualifying customer*** means a customer whose annual consumption at a premises is, or is estimated by the relevant distributor to be, less than 100MWh.

***qualifying generator*** means a small photovoltaic generator that—

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

***Queensland grid code*** means the Code of Conduct for the Interconnected Queensland Network first published by the department on 28 November 1994.

***Queensland system*** means the interconnected power system that is connected to and includes the 275kV transmission grid in Queensland.

***railway land*** means land in which a railway operator has an interest.

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

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***receiver***, see section 20.

***regional system control*** see section 7.

**Registered participant** has the meaning given in the National Electricity (Queensland) Law.

**regulator** see section 62.

**related group entity** means an entity that is—

- (a) a related body corporate, of a State electricity entity, within the meaning of the Corporations Act, section 50; or
- (b) a subsidiary of a GOC that is a related body corporate mentioned in paragraph (a).

**relevant body corporate** means—

- (a) a body corporate established under a following Act for premises—
  - *Body Corporate and Community Management Act 1997*
  - *Integrated Resort Development Act 1987*
  - *Mixed Use Development Act 1993*
  - *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*
  - *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*
  - *Sanctuary Cove Resort Act 1985*; or
- (b) a body corporate for a leasehold building units plan established under the *South Bank Corporation Act 1989* for the premises the subject of the plan.

**relevant qualifying customer** see section 92.

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

**repealed Act**, for chapter 14, see section 269.

**residence** means a structure or a part of a structure where a person resides.

**residential customer** means a customer who purchases electricity principally for personal, household or domestic use at premises.

**retailer** means a retailer under the NERL (Qld), that sells electricity to a customer in Queensland.

**road authority** means—

- (a) for a State-controlled road under the *Transport Infrastructure Act 1994*—the chief executive under the Act; or
- (b) for another road—the local government or other person having control or management of the road.

**sell** includes—

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

**small customer** see section 23(4).

**small photovoltaic generator** means a photovoltaic system with a total rated inverter capacity up to—

- (a) the amount prescribed under a regulation; or
- (b) if no amount is prescribed—5 kilowatts.

**special approval** see section 58.

**special approval holder** see section 57.

**standard contract customer** means a customer who—

- (a) receives a customer retail service under—
  - (i) a standard retail contract under the NERL (Qld); or
  - (ii) a standard retail contract (card-operated meters) under the NERL (Qld); or
  - (iii) a large customer standard retail contract under the NERL (Qld); or

- (b) is subject to—
- (i) a deemed customer retail arrangement under the NERL (Qld); or
  - (ii) a deemed large customer retail arrangement under the NERL (Qld).

*state* includes describe.

*State electricity entity* means—

- (a) an electricity entity that is a GOC, a GOC subsidiary or a government company; or
- (b) Ergon Energy Retail.

*Statewide newspaper* means a newspaper circulating generally throughout the State.

*subsidiary* of a GOC has the same meaning as in the GOC Act.

*substation* see section 12(2).

*supply network* see section 8.

*System Operator* has the meaning given in the National Electricity Rules.

*take* electricity includes waste, divert and use.

*tariff* includes fee or charge.

*tariff year* means—

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

*trading arrangements* means arrangements about trading in electricity under this Act or the National Electricity Rules by electricity entities, customers, electricity brokers and other persons.

*transmission authority* see section 30.

*transmission entity* see section 29.

*transmission grid* see section 6.



***unlawfully*** means without authority under this Act or other legal authority, justification or excuse.

*Example of legal authority—*

a person does something in relation to property with the owner's consent

***used for*** includes used in, intended for use for or in, or capable of being used for or in.

***voltage*** see section 17.

***warning notice—***

- (a) for chapter 5, part 1A, division 6—see section 120S(1);  
or
- (b) for chapter 5, part 5, division 1—see section 135AC(1).

***warning period*** see section 135AD(1)(c).

***weapon*** has the same meaning as in the *Weapons Act 1990*.

***wilfully*** means—

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

***works*** see section 12(1).

## **Attachment      Extracts from other legislation referred to in the Act**

### **Gladstone Power Station Agreement Act 1993**

#### **2      Definitions**

In this Act—

*State agreement* means the agreement made under section 3, and the agreement as amended by a further agreement under section 5 or 6.

*transaction document* has the meaning given in the State agreement.

*Editor's note—*

These definitions are referred to in section 287A of this Act.

## **Schedule 1      State agreement**

#### **1      Definitions**

In this Agreement, unless the context otherwise requires or indicates—

*Transaction Document* means each of—

- (a) any Capacity Purchase Agreement; and
- (b) the Interconnection and Power Pooling Agreement; and
- (c) the Power Station Sale Agreement; and
- (d) the Ash Management Agreement; and
- (e) the Rail Haulage Agreement; and
- (f) the Curragh On-Sale Contract; and
- (g) the Seawater Usage Agreement; and

- (h) the Refurbishment and Testing Deed; and
- (i) the Inter Creditor Deed; and
- (j) the Participants Charge; and
- (k) the Callide Assignment Deed or the Callide On-Sale Contract, whichever is entered into; and
- (l) any permitted variations of any of the documents mentioned in paragraphs (a) to (k).

## **Telecommunications Act 1997 (Cwlth)**

### **7 Definitions**

In this Act, unless the contrary intention appears:

***carriage service*** means a service for carrying communications by means of guided and/or unguided electromagnetic energy.

***content service*** has the meaning given by section 15.

*Editor's note—*

These definitions are referred to in section 116B of this Act.

### **15 Content service**

- (1) For the purposes of this Act, a ***content service*** is:
  - (a) a broadcasting service; or
  - (b) an on-line information service (for example, a dial-up information service); or
  - (c) an on-line entertainment service (for example, a video-on-demand service or an interactive computer game service); or
  - (d) any other on-line service (for example, an education service provided by a State or Territory government); or
  - (e) a service of a kind specified in a determination made by the Minister for the purposes of this paragraph.

- (2) The Minister may make a written determination for the purposes of paragraph (1)(e).
- (3) A determination made for the purposes of paragraph (1)(e) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.