

Electrical Safety and Other Legislation Amendment Regulation 2024

Explanatory note for SL 2024 No. 241

made under the

Electrical Safety Act 2002

Safety in Recreational Water Activities Act 2011

State Penalties Enforcement Act 1999

Work Health and Safety Act 2011

General Outline

Short title

Electrical Safety and Other Legislation Amendment Regulation 2024

Authorising law

Sections 14A, 193 and 210 of the *Electrical Safety Act 2002*

Section 41 and 45 of the *Safety in Recreational Water Activities Act 2011*

Section 165 of the *State Penalties Enforcement Act 1999*

Section 271A and 276 of the *Work Health and Safety Act 2011*

Policy objectives and the reasons for them

The objective of the *Electrical Safety and Other Legislation Amendment Regulation 2024* (the Amendment Regulation) is to give effect to a second tranche of legislative recommendations from the *Review of Queensland's Electrical Safety Act 2002* (the Review). Amendments to the *Electrical Safety Regulation 2013* (ES Regulation) seek to clarify existing requirements and strengthen the electrical safety framework.

Completed in December 2021, the Review made 83 major recommendations spanning the electrical safety framework. The purpose of the Review was to ensure Queensland's electrical safety framework keeps pace with new and emerging technologies and continues to provide high standards of safety for workers and the community.

In 2023, following a three-month period of public consultation on the Review's recommendations, Government released an updated Government Response which indicated in-principle support for a number of recommendations. The Amendment Regulation seeks to give effect to a number of these recommendations.

In addition, the Amendment Regulation seeks to improve the operational efficiency of the regulator, by ensuring a clear basis for information sharing between the arms of the regulator. Information obtained under the *Electrical Safety Act 2002* (ES Act), *Safety in Recreational Water Activities Act 2011* (SRWA Act) and *Work Health and Safety Act 2011* (WHS Act) is often required to be shared between the arms of the regulator for the purposes of administration or enforcement of each of the respective safety frameworks.

The Amendment Regulation also seeks to support the efficient and effective enforcement of particular offences under the ES Regulation by ensuring that existing infringement notice offences under sections 14, 82 and 84 can continue to be issued following changes to the sections during drafting.

Finally, the Amendment Regulation seeks to ensure that there is sufficient deterrence for non-compliance, through the issuing of penalty infringement notices, commonly known as PINs or on-the-spot fines, with certain requirements under the ES Regulation and *Work Health and Safety Regulation 2011* (WHS Regulation). This seeks to ensure that immediate action can be taken when the following provisions are not complied with:

- under the ES Regulation:
 - the requirement for a person conducting a business or undertaking (PCBU) to ensure, so far as reasonably practicable, that workers do not carry out work in, or otherwise enter for the purposes of undertaking work, the roof space of the domestic building unless the relevant electrical installations are de-energised or either of the prescribed circumstances apply.
- under the WHS Regulation the requirement for:
 - persons with management or control of a quad bike at a workplace to take all reasonable steps to ensure that a quad bike operator is least 16 years of age, or the minimum age recommended by the quad bike's manufacturer;
 - persons with management or control of a quad bike at a workplace to take all reasonable steps to ensure quad bikes are not used to carry passengers, unless they are designed to carry passengers; and the passenger is at least 16 years of age, or the minimum age recommended by the quad bike's manufacturer;
 - workers to wear a crash helmet while riding the quad bike or riding as a passenger on the quad bike;
 - the PCBU not to carry out, or direct or allow a worker to carry out, work that involves manufacturing, supplying, processing or installing engineered stone benchtops, panels or slabs;
 - PCBUs who carry out, or direct or allow a worker to carry out, processing of engineered stone to, before the work is carried out, give the regulator a written notice in a form approved by the regulator which includes the prescribed information requirements;
 - PCBUs to not carry out, or direct or allow a worker to carry out, processing of a crystalline silica substance (CSS) unless the processing is controlled;
 - PCBUs who carry out the processing of a CSS that is high risk to ensure the processing is carried out in accordance with a silica risk control plan prepared in relation to the

processing and is available to all workers at the workplace and provided to workers before they start the processing;

- PCBUs who carry out processing of a CSS that is high risk to ensure the processing is stopped immediately or as soon as it is safe to do so where the processing is not carried out in compliance with the prescribed requirements and only resume in accordance with the silica risk control plan prepared in relation to the processing; and
- PCBUs to keep a record of crystalline silica training undertaken by a worker in compliance with the WHS Regulation for inspection under the WHS Act.

Achievement of policy objectives

To achieve its policy objectives, the Amendment Regulation amends the ES Regulation to:

- clarify that testing is a form of energised electrical work (or ‘live work’);
- in relation to service lines, update the examples of facilities that may be provided by a person in control of the electrical installation;
- clarify triggers for ensuring safety switches are installed for general purpose socket-outlets on residential land by removing obsolete dates;
- enhance Queensland’s implementation of the Electrical Equipment Safety System (EESS), by:
 - clarifying the definition of ‘second-hand’ for the purposes of selling second-hand in-scope electrical equipment;
 - clarifying that requirements for selling second-hand in-scope electrical equipment apply to non-profit organisations;
 - introducing a definition of ‘certificates of suitability’;
 - providing a requirement for certifiers (recognised external certification schemes) to comply with the Equipment Safety Rules when issuing certificates of suitability;
 - updating the method used by the regulator to notify of intention to make a declared scheme from a newspaper notice to a website update;
- clarify circumstances in which accredited auditor inspections are not required for reconnection of a hazardous area electrical installations (‘like for like’);
- remove an incorrect reference in section 279 relating to the duty of a PCBU supervising a training person;
- prescribe GoldlinQ as a prescribed electricity entity;
- prescribe the *Labour Hire Licensing Act 2017* (LHL Act), SRWA Act and WHS Act to increase efficiency of information sharing within the Office of Industrial Relations;
- extend the scope of Part 3, Division 1 from electrical work ‘on’ energised electrical equipment to electrical work ‘on or near’ energised electrical equipment;
- reduce the timeframes for electrical contractors to notify the regulator of changes to the Qualified Business Person (QBP) or Qualified Technical Person (QTP) on their electrical contractor’s licence;
- change the unit of measurement from months to days for automatic suspensions and cancellations of electrical contractor licences where a QTP or QBP is not endorsed on the licence for the prescribed time period;
- introduce requirements to de-energise the relevant electrical installation in a domestic building prior to carrying out work in, or otherwise entering, a roof space;
- prescribe ‘water equipment’ as prescribed electrical equipment; and
- make minor and machinery changes to improve clarity of existing requirements and consistency with current drafting conventions.

In addition, the Amendment Regulation amends the *Safety in Recreational Water Activities Regulation 2024* (SRWA Regulation) and WHS Regulation to prescribe Acts to increase the efficiency of information sharing within the Office of Industrial Relations.

Finally, the Amendment Regulation amends the SPE Regulation to prescribe a number of ES Regulation and WHS Regulation offences. This achieves the policy objective of ensuring penalty infringement notices can be issued for non-compliance with these offences.

How these amendments achieve the policy objectives is detailed below.

Clarify that testing is a form of energised electrical work ('live work')

Electrical work on energised electrical equipment is prohibited except for in particular circumstances. The Review identified that the relationship between testing and live work was a source of confusion for many in the industry, recommending that it be clarified that testing is a form of energised electrical work.

The Amendment Regulation achieves this by inserting new examples in new section 14(2) of testing of energised electrical equipment that may be carried out in the interests of health and safety, on the basis that is necessary for the equipment to be energised for the work to be carried out, or where there is no reasonable alternative means of carrying out the work. Examples include *detecting a fault or defect in electrical equipment, locating a fault or defect in electrical equipment, measuring the performance of electrical equipment, or verifying compliance with the wiring rules.*

It is noted that testing for energisation is a separate category of testing which is also considered energised electrical work. This is permitted under section 14(1)(c).

Those testing energised electrical equipment, under section 14(2) are performing energised electrical work. PCBUs and workers are therefore required to comply with the requirements for electrical work on energised electrical equipment (Part 3, Division 1). This includes following preliminary steps (provided in section 19) to ensure that risks and hazards for the work are identified and minimised. These steps include:

- conducting a risk assessment;
- ensuring the area is clear of obstructions;
- identifying the point of disconnection or isolation; and
- consulting with the person with management or control of the workplace.

This clarity ensures that workers and PCBUs are aware of and take the appropriate steps to minimise electrical risk when performing electrical work (including testing) on energised electrical equipment.

Additionally, the Amendment Regulation omits section 18 (Electrical work on energised electrical equipment permitted in particular circumstances) and inserts the permitted circumstances into new section 14 (Electrical work on energised electrical equipment). This change is focused on streamlining the framework and does not otherwise affect the operation or intent of these sections.

In relation to service lines, update the examples of facilities that may be provided by a person in control of the electrical installation

During the Review it was raised that one of the examples provided at section 76 of the ES Regulation is outdated. As a result, the Amendment Regulation updates the example of a facility that may be provided by a person in control of the electrical installation to reflect contemporary practice. The existing reference to ‘*timber backing for the electricity entity’s J hook*’ is replaced with reference to ‘*timber backing for a closed eye bolt*’. Other minor amendments are also made to section 76 to clarify the operation of the section.

Clarify triggers for ensuring safety switches are installed for general-purpose socket outlets on residential land by removing obsolete dates

Residual current devices (otherwise known as safety switches) have been mandatory on general purpose socket-outlets in all new domestic residences since 1992, when AS3000:1991 *Electrical installations - Buildings, structures, and premises wiring rules* came into effect.

Part 6, Division 4 of the ES Regulation outlines when approved safety switches must be installed for general purpose socket-outlets in a domestic residence. This division also includes requirements for when (and what) information must be provided to the regulator or other persons regarding the installation of safety switches for general purpose socket-outlets in a domestic residence. Triggers for these requirements include where there is a sale of residential land, or a tenancy agreement is entered into. The focus of these existing requirements is on ensuring domestic properties are meeting general purpose socket-outlet safety switch requirements of AS/NZS 3000:2018 *Electrical Installations*.

The Review recommended to consider clarifying and enhancing standards that apply to electrical installations, including by considering removing the date (1 June 1992) to ensure safety switch requirements clearly apply to outlets generally.

To achieve the intent of the Review recommendation, the Amendment Regulation removes dates previously located in Division 4. These amendments clarify that all transfers of residential land or tenancy agreements involving residential land trigger the associated requirements in sections 82 to 85 of the ES Regulation. Consequential amendments are made to sections 82 to 85 to clarify and streamline the requirements.

Enhance Queensland’s implementation of the EESS

Established by an intergovernmental agreement (IGA) signed by participating jurisdictions, the EESS is a multi-jurisdictional scheme which regulates low voltage consumer electrical equipment. Participating jurisdictions are responsible for establishing legislation based on the principles contained in the IGA to give effect to the EESS. Part 2A of the ES Act and Part 7 of the ES Regulation provide for Queensland’s implementation of the EESS.

The Review identified several areas of reform for Queensland’s implementation of the EESS, primarily focused on clarifying and enhancing in-scope electrical equipment related standards and sanctions. The Amendment Regulation gives effect to several key areas of reform as outlined below, aligning legislation with other participating jurisdictions’ legislation and clarifying the operation of existing requirements.

Clarifying the definition of ‘second-hand’ for the purposes of selling second hand in-scope electrical equipment

Firstly, the Review identified that the definition of *second-hand* created an unintended regulatory gap which is requiring businesses to produce information about the electrical safety of an item despite it not having been sold to or used by a consumer. For example, where one company sells an item to another company outside of a wholesale agreement.

To give effect to this change the Amendment Regulation replaces the definition of *second-hand* with a new definition of *second-hand item*. This change clarifies that requirements associated with the selling of second-hand in-scope electrical equipment do not apply in particular circumstances. These circumstances are not considered to have affected the electrical safety of the in-scope electrical equipment and therefore are not subject to the requirements. Circumstances where requirements associated with the selling of second-hand in-scope electrical equipment do not apply, include where the products are:

- previously sold by wholesale;
- acquired by a person for the production or manufacture of another item of electrical equipment;
- acquired by a person (other than a second-hand dealer) for the purpose of re-supply; or
- returned to a supplier for refund or exchange.

Clarifying that requirements for selling second-hand in-scope electrical equipment apply to non-profit organisations

Secondly, the Review identified that there was a need to explicitly specify that requirements to provide information about the electrical safety of a product when selling second-hand items applies to non-profit organisations in the same way it applies to other sellers of second-hand items. The Amendment Regulation gives effect to this recommendation by inserting examples of sellers of second-hand items, clarifying that the requirements continue to apply to volunteer associations (being charities and other non-profit organisations), as well as individual sellers using online marketplaces.

Clarifying the definition of ‘certificate of suitability’

Thirdly, the Review acknowledged that a definition of *certificate of suitability* would assist with clarifying what a certificate of suitability is and who can issue a certificate of suitability.

The Amendment Regulation therefore inserts a new definition of *certificate of suitability*. The definition aligns with the definition provided under Victoria’s corresponding law, providing that a *certificate of suitability* is a certificate:

- stating that a type of level 1 or 2 in-scope electrical equipment complies with the relevant standard for the type of in-scope electrical equipment;
- are issued under a declared scheme (otherwise known as a recognised external certification scheme, a program established under section 187 (i.e., by the regulator), a corresponding law, or a scheme under a corresponding law that substantially corresponds to a declared scheme under section 167; and
- complying with the requirement relating to issuing a certificate under the Equipment Safety Rules. The Equipment Safety Rules outline the safety requirements for participants of the

EESS which supports consistency across jurisdictions (notably in respect to issuing certificates).

Consequential amendments are made throughout the ES Regulation to ensure that terminology referencing certificates of suitability is consistent. Additionally, the definition of *certificate of conformity* is likewise amended to require compliance with the Equipment Safety Rules. This is reflective of current legislative requirements and consistent with the new definition of *certificate of suitability*.

Providing a requirement for certifiers (recognised external certification schemes) to comply with the Equipment Safety Rules when issuing a certificate of suitability

The Review acknowledged that recognised external certification schemes (otherwise known as declared schemes) can issue a certificate of suitability in addition to a certificate of conformity. The Review identified an opportunity to clarify this further in the ES Regulation. This is in accordance with the existing intention of the ES Regulation, whereby recognised external certification schemes are responsible for issuing both certificates of conformity (for level 3 in-scope electrical equipment) and certificates of suitability (for level 1 or 2 in-scope electrical equipment).

Further, the Review acknowledged that recognised external certification schemes are appropriately qualified to certify level 1 and 2 in-scope electrical equipment in line with the Equipment Safety Rules.

To give effect to these recommendations, the Amendment Regulation makes minor amendments throughout Part 7 of the ES Regulation. This includes clarity that a recognised external certification scheme:

- may issue certificates of suitability or conformity (section 167);
- must comply with the Equipment Safety Rules when issuing a certificate of suitability or conformity (section 167); and
- has conditions imposed on their declaration which trigger requirements when they issue certificates or when certificates they have issued are modified, renewed, transferred or cancelled (section 172).

Updating the method used by the regulator to notify of intention to make a declared scheme from a newspaper notice to publication on a website

Finally, the Amendment Regulation provides that the regulator in notifying of an intention to approve a declared scheme must do so by publishing a notice on the department's website; and may also publish a notice on another website considered appropriate by the regulator. This is consistent with the Review's recommendation which recognised that, given the changing nature of access to information, online publication is an appropriate form of public notice.

Clarify circumstances in which accredited auditor inspections are not required for reconnection of hazardous area electrical installations ('like for like')

The Review recommended clarifying that the requirement for accredited auditors to conduct an inspection following electrical work on hazardous area electrical installations does not apply to 'like for like' changes of electrical equipment in an electrical installation. The Review

viewed instances of ‘like for like’ replacement of electrical equipment in an electrical installation to not be a form of work that alters the nature of the electrical installation in such a way that an inspection by an accredited auditor is warranted.

The Amendment Regulation prescribes circumstances in which an inspection by an accredited auditor is not required for the ‘like for like’ replacement of electrical equipment in hazardous area electrical installations. ‘Like for like’ refers to replacing electrical equipment with similar electrical equipment in respect to the: voltage rating, power rating, current rating, functions, electrical characteristics, and frequency range (new section 221A). Additionally, ‘like for like’ replacement does not apply to switchboards, cables or wires. Sectional definitions for *current rating*, *frequency range*, *power rating* and *voltage rating* are also inserted.

Remove an incorrect reference in section 279 relating to the duty of a PCBU supervising a training person

The Review identified that a reference in section 279 of the ES Regulation, directed readers to an incorrect reference in Schedule 9. The Amendment Regulation updates section 279, clarifying the requirement to keep a written record of an assessment for safety observers.

Prescribe GoldlinQ as a prescribed electricity entity

The Amendment Regulation names GoldlinQ as a prescribed electricity entity under Schedule 6, Part 2, Division 2 of the ES Regulation. This reflects that GoldlinQ already meets the criteria to be a prescribed electricity entity and ensures that GoldlinQ is named alongside the other prescribed electricity entities.

Consequential amendments are also made to section 233(c) of the ES Regulation to reflect that prescribed electricity entities include railway managers or light rail managers stated in new Schedule 6, Part 2, Division 2 of the ES Regulation.

Prescribed Acts for the purposes of information sharing

The Review recommended that the LHL Act be added to the list of prescribed Acts under the ES Act. This would enable the regulator under the ES Act to share information with the labour hire licensing unit for the purposes of enforcement or administration of the LHL Act.

Further to the Review’s recommendation, additional Acts were identified as requiring to be prescribed in order to ensure a clear pathway for information sharing between the various arms of the regulator. This change focuses on increasing operational efficiency for the regulator, ensuring a clear basis for sharing information with persons responsible for discharging functions under that Act.

For example, information is shared between an inspector appointed under the ES Act and an inspector appointed under the WHS Act. This may include safety matters observed by an electrical safety inspector on a work site which may be relevant for further investigation by the investigation units under the WHS Act (to the extent it pertains to work health and safety matters).

The Amendment Regulation amends:

- the ES Regulation to prescribe the LHL Act, SRWA Act and WHS Act as prescribed Acts for the purposes of section 193(3)(c)(ii) of the ES Act;
- the SRWA Regulation to prescribe the ES Act and WHS Act as prescribed Acts for the purposes of section 41(3)(c)(ii) of the SRWA Act; and
- the WHS Regulation to prescribe the ES Act and SRWA Act as prescribed Acts for the purposes of section 271A(3)(b) of the WHS Act.

Extend the scope of Part 3, Division 1 from electrical work on energised electrical equipment to electrical work on or near energised electrical equipment

Part 3, Division 1 of the ES Regulation outlines requirements for electrical work on energised electrical equipment. In particular, section 14 provides that electrical work is prohibited on energised electrical equipment, except where prescribed circumstances apply. Where a prescribed circumstance applies, electrical work on the energised electrical equipment must be carried out in accordance with the requirements of the division.

The Review identified that performing electrical work near energised electrical equipment poses risk of arc flash. To manage this risk, the Review identified a need to introduce requirements to de-energise electrical equipment prior to electrical work near electrical equipment. Further, the Review recognised that reforms introduced by Western Australia in the *Electricity (Licensing) Regulations 1991 (WA)* could inform legislation in Queensland.

To give effect to the Review recommendation, the Amendment Regulation extends the application of Part 3, Division 1 to apply to electrical work ‘near’ energised electrical equipment. *Near*, in relation to electrical equipment, is defined to mean within 3 meters of an exposed energised part of the equipment.

Arc flash incidents are avoidable but continue to occur in Queensland, resulting in significant burns and injuries for unprotected workers. These amendments recognise this electrical risk and prohibit electrical work near energised electrical equipment. Where prescribed circumstances apply, PCBUs and workers must comply with the additional safety requirements.

These amendments commence on 1 January 2025 to allow time for industry to prepare for the new requirements.

Reduce the timeframes for electrical contractors to notify the regulator of changes to the QBP or QTP on their electrical contractor’s licence

The Amendment Regulation reduces the timeframe available for the holder of an electrical contractor’s licence to notify the regulator of a change to a QBP or QTP on their licence. The Review identified that with the advancements in technology the timeframe to notify the regulator should be reduced. Modern technology allows for notification to practically occur earlier with the use of online forms and email as opposed to traditional mail.

Previously, electrical contractors had one month to notify the regulator of a QBP or QTP ceasing to work with the contractor. Amendments reduce this timeframe to ten business days. This ensures that notification can practically occur during usual business hours.

Change the unit of measurement from months to days for automatic suspensions and cancellations of electrical contractor licences where a QTP or QBP is not endorsed on the licence for the prescribed time period

The Review proposed that references to one month within sections 49 and 50 of the ES Regulation be amended to 28 days. The intent of the recommendation was to provide clarity as to the exact number of days available to meet the requirements under these sections given the various lengths of calendar months. The Amendment Regulation therefore clarifies that an electrical contractor's licence is:

- automatically suspended if for 30 days there is no QTP or QBP endorsed on the licence; and
- automatically cancelled 30 days after the suspension period if, after the first 30 day period, there is still no QTP or QBP endorsed on the licence.

Introduce requirements for carrying out work in, or otherwise entering, domestic roof spaces

In 2009 and 2010 through the Federal Home Insulation Program (HIP), four young workers lost their lives whilst installing insulation in roof spaces. In all three cases in Queensland, the electrical installation of the residential property was not de-energised prior to undertaking the work.

Since 2010, it has become common practice for tradespeople to de-energise a building's electrical installation before work occurs in the roof space of a domestic building. This is supported by industry, with peak bodies, such as Master Electricians Australia, publicly advising tradespeople to de-energise a building's electrical installation before working in a roof space. The Electrical Safety Office previously launched the 'stay safer up there, switch off down here' campaign, encouraging homeowners and workers to turn off the power before entering a roof space. The ad campaigns, brochures, stickers and website content remain available on the Electrical Safety Office website.

However, evidence demonstrates that workers are still performing work in a way which exposes them to electrical risk. There were 92 incidents recorded in Queensland of electrocution or electric shock occurring as a result of work being performed in, via or adjacent to, ceiling or roof spaces in commercial or residential buildings between 1 January 2017 and 30 June 2024.

The Review found broad support for mandating de-energisation of domestic roof spaces prior to work in a roof space. Implementation of new legislative requirements was identified by the Review as a way of effectively increasing protection for workers. As a result, the Review recommended mandating de-energisation of domestic roof spaces before working in or via the roof space.

The Amendment Regulation introduces a legislative requirement to de-energise the relevant electrical installation of the domestic building before a worker carries out work in, or otherwise enters the roof space (Part 6, new Division 7). These amendments permanently embed the practice of switching off the power before carrying out work in or entering a domestic roof space to ensure the safety of workers. This will represent a positive legacy for the young people who lost their lives and for their families and those affected by the tragedies, helping to ensure that similar incidents are prevented.

The Amendment Regulation introduces a new duty on PCBUs. New section 120C provides that a PCBU must ensure (so far as reasonably practicable) that a worker does not carry out work in the roof space of a building, or enter the roof space for the carrying out of work in another part of the building, unless:

- the relevant electrical installation for the building is de-energised; or
- either of the prescribed circumstances apply.

The prescribed circumstances include where:

- it is not reasonably practicable to carry out the work or enter the roof space while the relevant electrical installation is de-energised. This includes situations where a solar installation is mounted on the roof, causing an energised supply cable to run through the roof space forming part of the building's electrical installation; or
- it is necessary to test, service or commission an energised thing, other than electrical equipment, that is located in or accessible by the roof space. This includes situations such as testing extra low voltage data connection cables.

Prescribed circumstances are exemptions to the requirement to de-energise the relevant electrical installation of the building. However, to ensure that electrical risks to workers are reduced where either of the prescribed circumstances apply, the PCBU must comply with additional safety measures (new section 120C(3)). These requirements include conducting a risk assessment, preparing a statement of the work or entry, complying with the prepared statement, and keeping records of risk assessments and statements. Where a person fails to meet requirements under this new division, penalties apply.

New definitions for *building*, *Building Code of Australia*, *enter*, *roof space* and *relevant electrical installation* are inserted. The application of these new requirements is limited to class 1, 2 and 10a buildings as provided under the Building Code of Australia. In practice, this applies to a myriad of residential buildings, such as houses, town houses, row houses, as well as boarding houses and guest houses, some hostels, apartment buildings, and non-habitable buildings such as sheds, carports and private garages.

These amendments apply to all types of work which may require entry into a roof space, not just electrical work. Other types of non-electrical work which occurs in roof spaces includes pest control, the installation of ceiling insulation or the installation of ducted air-conditioning by air-conditioning mechanics.

Additionally, the amendments apply if a person places any part of their body in a roof space (i.e., *enter* the roof space). This is intended to ensure that a person who enters the roof space only for the purposes of 'passing through' to access the roof space are complying with the legislative requirements. This is in recognition that any degree of work in a roof space can place persons at an electrical risk.

Where work in a roof space is electrical work on or near energised electrical equipment, the requirements in Part 3, Division 1 of the ES Regulation (electrical work on or near energised electrical equipment) apply instead.

These changes commence on 1 January 2024 to provide industry time to prepare for the new requirements.

Prescribe 'water equipment' as prescribed electrical equipment

The *Electrical Safety and Other Legislation Amendment Act 2024* introduced a power to prescribe extra low voltage equipment as *prescribed electrical equipment*, through section 14A of the ES Act. This power was informed by recommendations from the Review and outcomes from a 2023 Discussion Paper public consultation process. For equipment to be prescribed, it must be extra low voltage equipment that is placing, or may place, a person or property at electrical risk and is prescribed by regulation. The prescription of an item brings it within the remit of the electrical safety framework, where it would otherwise be excluded. This means that prescribed electrical equipment is subject to supply chain duties, ministerial recalls and licensing requirements under the electrical safety framework.

The Review identified that the proper regulation of water equipment (being extra low voltage equipment) can be achieved by providing a basis for it in the ES Act. To give effect to the intent of Review recommendation, the Amendment Regulation prescribes *water equipment* as the first item of *prescribed electrical equipment* in new section 285C of the ES Regulation. Prescription of water equipment recognises that extra low voltage equipment in water can cause drowning as a result of paralysis from electric shock. These amendments also ensure that electrical work on water equipment continues to only be done by licensed electrical workers (as previously required by section 72). Consequentially, section 72 (Work involving water equipment) is omitted from the ES Regulation.

As defined by the Amendment Regulation, *water equipment* means any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that:

- is used for controlling, generating, supplying, transforming or transmitting electricity at extra low voltage; or
- operates only when connected to a source of electricity at extra low voltage; and
- is designed for use in the interior of the container of a swimming pool, paddling pool, spa pool or bathtub.

Amendments commence on 1 April 2025 to allow time for industry to prepare for the new supply chain duties.

SPE Regulation

The Amendment Regulation achieves the policy objective by amending the SPE Regulation entry for the ES Regulation to:

- update sectional references in sections 14, 82 and 84; and
- insert a new infringement notice offence for new section 120C(1), for the PCBU requirements regarding workers carrying out work in, or otherwise entering, domestic roof spaces. The new infringement notice offence takes effect from 1 July 2025.

The Amendment Regulation achieves the policy objective by prescribing offences for certain persons failing to comply with the following existing WHS Regulation requirements relating to quad bikes:

- persons with management or control of a quad bike at a workplace must take all reasonable steps to ensure that a quad bike operator is least 16 years, or the minimum age recommended by the quad bike's manufacturer;
- persons with management or control of a quad bike at a workplace must take all reasonable steps to ensure quad bikes are not used to carry passengers, unless they are designed to carry passengers; and the passenger is at least 16 years, or the minimum age recommended by the quad bike's manufacturer; and
- workers must wear a crash helmet while riding the quad bike or riding as a passenger on the quad bike.

The Amendment Regulation achieves the policy objective by prescribing offences for certain persons failing to comply with the following CSS regulatory requirements:

- the prohibition that a PCBU not carry out, or direct or allow a worker to carry out, work that involves manufacturing, supplying, processing or installing engineered stone benchtops, panels or slabs;
- PCBUs carrying out, or directing or allowing a worker to carry out, processing of engineered stone must, before the work is carried out, give the regulator a written notice in a form approved by the regulator which includes the prescribed information requirements;
- PCBUs must not carry out, or direct or allow a worker to carry out, processing of a CSS unless the processing is controlled;
- a PCBU carrying out the processing of a CSS that is high risk must ensure the processing is carried out in accordance with a silica risk control plan prepared in relation to the processing and is available to all workers at the workplace and provided to workers before they start the processing;
- the PCBU carrying out processing of a CSS that is high risk must ensure the processing is stopped immediately or as soon as it is safe to do so where the processing is not carried out in compliance with the prescribed requirements and may only be resumed in accordance with the silica risk control plan prepared in relation to the processing; and
- a PCBU must keep a record of crystalline silica training undertaken by a worker in compliance with the WHS Regulation for inspection under the WHS Act.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives and purpose of the ES Act, WHS Act and SRWA Act which each aim to secure the health and safety of the community, workers and workplaces by eliminating or minimising risks. Notably, the purpose of the ES Act is directed at eliminating the cost to individuals, families and the community of death, injury and destruction that can be caused by electricity (section 4, ES Act).

Further, the Amendment Regulation is consistent with the objects of the SPE Act which includes maintaining the integrity of fines as a viable sentencing or punitive option for offenders (section 4(a), SPE Act).

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation will ensure that the ES Regulation continues to eliminate and minimise the electrical risk to persons and property. Implementation of the Amendment Regulation is not anticipated to impose a significant financial or regulatory burden on community, industry or government.

However, the Amendment Regulation contains several new or expanded requirements which may attract some financial and regulatory impact for industry. These pertain to new requirements for working in, or otherwise entering, domestic roof spaces and extended requirements for electrical work near energised electrical equipment. In the performance of either work (or entry) activity, PCBUs must ensure that workers:

- do not perform prohibited work (or entry); and
- where work is performed (or entry occurs) in accordance with relevant prescribed circumstances (exemptions) that the relevant additional safety measures are complied with.

New legislative obligations respond to the electrical risk present when performing any work activity which requires working in, or otherwise entering, domestic roof spaces. A potential cost is that the amendment may cause minor inconvenience to residents of a household where their power is turned off at the switchboard while a worker is in their roof space. However, industry should see limited practical impacts as guidance from the regulator already recommends that the power is turned off before working in a roof space to best meet existing general duties under electrical safety and work health and safety legislation. Industry will be supported by education and guidance from the regulator about how to comply with the new requirements.

The Amendment Regulation also extends legislative obligations for electrical work on energised electrical equipment to electrical work near energised electrical equipment. Requiring PCBUs to comply with additional steps and safety measures when performing electrical work near energised electrical equipment, may result in minor regulatory impact on PCBUs. However, introducing legislative requirements is considered to be the option that provides the greatest safety outcomes for workers and other persons in Queensland. The identified regulatory impact on PCBUs is considered necessary to reduce the instances of injury and death caused by arch flash when working near energised electrical equipment.

The minor regulatory impact on industry and the community incurred by complying with these new requirements is considered necessary to advance a rigorous and effective electrical safety framework in Queensland. These new requirements seek to reduce the instances of injury and death caused in the course of performing these work activities. To support industry to prepare for these new requirements, the Amendment Regulation provides a delayed commencement until 1 January 2025 for:

- working in, or otherwise entering, domestic roof spaces; and
- electrical work near energised electrical equipment.

Information will be available on the WorkSafe Queensland and Electrical Safety Office websites to assist industry and the community to comply with these new requirements.

Impact Analysis Statements for each of the amendments have been prepared in line with the *Queensland Government Better Regulation Policy*.

Consistency with fundamental legislative principles

The Amendment Regulation does not conflict with fundamental legislative principles contained in the *Legislative Standards Act 1992*.

Consultation

Development of the Amendment Regulation involved both broad and targeted consultation.

In 2023, feedback received to a public consultation process on the Review's recommendations informed changes contained in the Amendment Regulation. Consultation was encouraged for three months, resulting in 88 submissions. Responses were received from a range of industry bodies, businesses, government departments, electricity entities, registered unions, committees and individuals.

In August 2024, targeted consultation was undertaken on a draft Amendment Regulation. Generally, feedback demonstrated support for the intent of the amendments.

Organisations and parties involved in the targeted consultation process included:

- the Commissioner for Electrical Safety, Boards and Committees established under the ES Act, the Work Health and Safety Board and Consultative Committee;
- Registered unions including the Electrical Trades Union, Plumbing and Pipe Trades Employees Union Qld, Australian Workers' Union, Australian Manufacturing Workers' Union and the Construction, Forestry, Mining and Energy Union (Qld);
- Business and peak bodies including Master Electricians Australia, National Electrical Communications Association, National Fire Industry Association, Master Builders Queensland, Local Government Association of Queensland, Master Plumbers Association (Qld), Energy Skills Queensland, Queensland Resources Council, Air Conditioning and Mechanical Contractors Association of Australia Ltd, Business Chamber Queensland, Australian Industry Group, Consumer Electronics Suppliers' Association, Swimming Pool and Spa Association of Queensland, Clean Energy Council, Housing Industry Association, Institute of Plumbing Inspectors Queensland Inc, Queensland Gas Association, AGL, and high voltage and hazardous area accredited auditors;
- Electricity entities including Energy Queensland, Powerlink, Aurizon, Essential Energy, Rio Tinto – Weipa, Queensland Rail, Stanwell, Air Train and GoldlinQ;
- Government agencies including the Department of Premier and Cabinet, Queensland Treasury, Department of Justice and Attorney-General, Office of the Work Health and Safety Prosecutor, Department of Energy and Climate, Department of Housing, Local Government, Planning and Public Works, Queensland Building and Construction Commission, Queensland Police Service, Department of Transport and Main Roads, Queensland Health, Department of Employment, Small Business and Training, the Office of Best Practice Regulation, and Resources Safety Health Queensland; and
- Representatives from other jurisdictions including members of the Standing Committee of Officials (on EESS related amendments); and Australian Competition and Consumer Commission.

Most organisations and representatives who responded to consultation on the draft Amendment Regulation either indicated support for the intent of the Amendment Regulation or had no concerns or comments.

Where feedback aligned with the policy intent of the changes, it was incorporated into the Amendment Regulation.

Feedback also indicated a strong need for supporting guidance material to assist industry and the community navigate the changes. This will be prepared by the Electrical Safety Office.

Notes on Provisions

Part 1 Preliminary

Clause 1 sets out the short title of the *Electrical Safety and Other Legislation Amendment Regulation 2024* (Amendment Regulation).

Clause 2 provides the following commencement dates:

- Part 2, Division 3 commences on 1 January 2025.
- Part 2, Division 4 commences on 1 April 2025.
- Section 49(3) commences on 1 July 2025.

The remaining provisions commence on notification.

Part 2 Amendment of Electrical Safety Regulation 2013

Division 1 – Preliminary

Clause 3 provides that Part 2 of the Amendment Regulation amends the *Electrical Safety Regulation 2013* (ES Regulation). Note that additional amendments are made to the ES Regulation in Schedule 1 of the Amendment Regulation.

Division 2 – Amendments commencing on notification

Clause 4 omits section 14 (Electrical work on energised electrical equipment is prohibited) and inserts new section 14 (Electrical work on energised electrical equipment). The amendment combines the existing requirement to de-energise electrical equipment before conducting electrical work on the equipment contained in section 14 with a list of exemptions from the requirement to de-energise previously contained in section 18 (Electrical work on energised electrical equipment permitted in particular circumstances).

Whilst the existing requirement to de-energise continues to be reflected in section 14(1), new sections 14(1)(a) to (d) reflect the circumstances where electrical work on energised electrical work is permitted as per previous section 18. This includes testing to determine whether electrical equipment is energised (as required under section 15) which continues to be permitted under new section 14(1)(c).

New section 14(2) also continues to provide that other forms of testing of energised electrical equipment is energised electrical work where it falls under sections 14(1)(a), (b) or (d). A new note inserted for new section 14(2) clarifies that testing is a form of energised electrical work by providing examples of the types of testing that may be captured include:

- detecting a fault or defect in electrical equipment;
- locating a fault or defect in electrical equipment;
- measuring the performance of electrical equipment; or
- verifying compliance with the wiring rules.

Clause 5 amends the note in section 15 (Duty to determine whether equipment is energised) consequential to amendments in section 14 (Electrical work on energised electrical equipment).

Clause 6 omits section 18 (Electrical work on energised electrical equipment permitted in particular circumstances) given these circumstances are now incorporated in new section 14 (Electrical work on energised electrical equipment).

Clause 7 amends section 76 (Service line) to clarify that the section applies to a person in control of the electrical installation. Examples of facilities in section 76(2) is also updated to remove the outdated reference to ‘timber backing for the electricity entity’s J hook’ and include the more contemporaneous example of ‘timber backing for a closed eye bolt.’

Clause 8 amends section 81 (Definitions for Div 4) by updating the examples of domestic residences for the purposes of 81(a) and (b).

Clause 9 amends section 82 (Notice to transferee about approved safety switch) by omitting section 82(2) and (3). This change removes redundant references to transfer agreements made before 1 September 2002 and clarifies that a notice must be provided by the transferor to the transferee of all residential land about whether an approved safety switch has been installed for general purpose socket-outlets in the domestic residence. Renumbered section 82(2) continues to require that a transferor must not state anything in the notice that the transferor knows is false or misleading in a material particular. A maximum penalty of 15 penalty units continues to apply.

Clause 10 amends section 83 (Notice to regulator about approved safety switch and other matters) by omitting section 83(2). This change removes redundant references to agreements made before 1 September 2002, and clarifies that notice must be provided to the regulator for all transfers of residential land. Existing sections 83(3) to 83(5) are consequentially renumbered.

Clause 11 omits section 84 (Installation of approved safety switch in particular residences) and inserts new section 84 (Installation of approved safety switch in domestic residences) to clarify that approved safety switches must be installed for all general purpose socket-outlets in a domestic residence following possession of any residential land.

New section 84(1) provides that the owner of residential land must ensure, within 90 days after the date of possession, that an approved safety switch is installed for any general purpose socket-outlet installed in the domestic residence on the residential land. The existing maximum penalty of 15 penalty units continues to apply for non-compliance. New section 84(2) provides for the definition of *owner* in the context of residential land.

The previous section 84 limited the application of the section to possession of residential land where a general purpose socket-outlet was installed before 1 June 1992. This was in recognition that safety switch requirements were introduced by the Wiring Rules in 1992 (which are mandatory in Queensland) and therefore aimed to bring older properties up to standard. The

amendment clarifies that, regardless of when a general purpose socket-outlet was installed, the owner on possession of the residential land must ensure there is an approved safety switch installed for the general purpose socket-outlet.

Clause 12 amends section 85 (Installation of approved safety switch if residential tenancy agreement entered into or to be entered into) to clarify that approved safety switches must be installed for all general purpose socket-outlets in properties used for residential tenancies. The heading of section 85 is amended to *Installation of approved safety switch if residential tenancy agreement entered into*.

Omission of sections 85(1)(a) and (1)(b) remove reference to 1 June 1992, which previously limited the application of this section.

New section 85(1)(a) and (1)(b) clarifies that the section applies if after the date of possession of residential land, a residential tenancy agreement is entered into, and the tenancy started under the residential tenancy agreement. This means where an existing residential tenancy agreement forms part of the transfer of land under section 84 (Installation of approved safety switch in domestic residence), section 85 is not triggered. However, given the requirements of section 84, owners are still required to ensure that the property they have acquired has approved safety switches installed for any general-purpose socket outlet installed in the residence within 90 days of the transfer.

Section 85(1)(c) clarifies that the requirements apply to any general purpose socket-outlet installed in the domestic residence on the residential land.

Section 85(2) is replaced with new section 85(2) which provides that the owner of the land (to which the residential tenancy applies) must ensure within 90 days after the date the residential tenancy agreement takes effect, that an approved safety switch is installed for any general purpose socket-outlet in the domestic residence on the land.

A new sectional definition of *residential tenancy agreement* is inserted in section 85(3) in line with drafting conventions.

The omission of the additional requirement to take action ‘as soon as practicable after becoming aware of the proposed residential tenancy agreement’ in sections 85(1) and (2) provide absolute clarity on when the requirement to install an approved safety switch for the general purpose socket-outlet commences.

Clause 13 amends section 122 (Definitions for part 7) to insert new definitions for the purpose of part 7, namely: *certificate of suitability*, *second-hand item* and *second-hand dealer*. The definition of *second-hand* is consequentially omitted and the definition of *certificate of conformity* is consequentially amended.

Certificate of suitability means a certificate:

- for a type of level 1 or 2 in-scope electrical equipment, that states it complies with the relevant standard for the type of equipment; and
- is issued under any of the following:
 - the ES Regulation – either as a declared scheme under section 167 or a program established under 187;
 - a corresponding law; or

- a scheme under a corresponding law that substantially corresponds to a declared scheme under section 167; and
- has complied with the requirements relating to issuing a certificate under the Equipment Safety Rules.

This change reflects terminology used in the Equipment Safety Rules and Victorian legislation (which is a corresponding law).

Second-hand item means an item of level 1, 2 or 3 in-scope electrical equipment that has previously been sold but does not include the following electrical equipment:

- previously sold by wholesale;
- acquired by a person for the production or manufacture of another item of electrical equipment. For example, this ensures that a manufacturer can purchase a plug and then permanently connect it to a washing machine, before selling the washing machine as a completed item. In this circumstance the manufacturer is not required to provide information under section 122 for the plug that has been permanently connected to the washing machine;
- acquired by a person other than a second-hand dealer, for the purpose of resupply of the equipment. Resupply, of a second-hand item, means by sale or an arrangement, exchange, lease, hire or hire-purchase. This exemption captures sale for the purposes of resupply otherwise not captured under a wholesale arrangement; and
- electrical equipment returned to a supplier for a refund or exchange.

These circumstances, where items have essentially not been sold or used by a consumer, are not subject to the requirement for the sale of second-hand items provided at section 186 (Limitation on offering to sell second-hand items).

Consequential to the definition of *second-hand item*, a new definition for *second-hand dealer* is inserted. The definition for *second-hand dealer* can be found in Schedule 3 of the *Second-hand Dealers and Pawnbrokers Act 2003*.

Consequential to the new definition of *certificate of suitability*, the definition of *certificate of conformity* is amended to insert new subsection (c) reflecting the existing requirement that a certificate must be issued in accordance with the Equipment Safety Rules

Clause 14 amends section 167 (Application for regulator's declaration of scheme) to clarify that the requirements also apply to declared schemes certifying level 1 and 2 in-scope electrical equipment (being certificates of suitability). Amendments to section 167(2)(b)(ii) clarify that 'types' refers to level 1, 2 and 3 in-scope electrical equipment. Consequential amendments to section 167(2)(b)(iii) clarify that an applicant for a declared scheme must agree to certify types of level 1, 2 or 3 in-scope electrical equipment under the Equipment Safety Rules and issue certificates of conformity or suitability where the equipment meets the relevant standards.

Clause 15 amends section 168 (Intention to make declaration must be advertised) to update the method that the regulator must use to notify of an intention to approve a declared scheme in line with contemporary notification methods. The heading is updated to *Notice of proposed declaration*. The Amendment Regulation omits sections 168(2) and 168(4) and inserts a new section 168(2) requiring the regulator to publish on a website the regulator's intention to approve a declared scheme.

New section 168(2)(a) provides that before deciding the application, the regulator must publish a notice of the declaration on the department's website. New section 168(2)(b) provides that the regulator may also publish a notice in another way where the regulator considers it is likely to come to the attention of a person who may be interested in making a submission about a proposed declaration. The Electrical Equipment Safety Scheme (EESS) is a multijurisdictional scheme where declared schemes are recognised under corresponding laws. This means certificates of suitability and conformity are issued for the sale of in-scope electrical equipment in the various participating jurisdictions. Publishing a notice online allows for persons across Australia to stay informed of proposed declared schemes. The EESS has its own website which contains all relevant information about the EESS.

New section 168(2A) clarifies that the notice must state the regulator's intention to declare the scheme to be a recognised external certification scheme ('declared scheme').

Additionally, minor amendments are made to increase the readability of the section. Sections 168(3) and (5) are amended to remove reference to 'submission period'. Section 168(6) continues to require the regulator to consider all written submissions received in relation to a published notice. Sections 168(2A) and (3) are consequentially renumbered to (3) and (4).

Clause 16 amends section 172 (Condition imposed by regulation) to clarify existing conditions imposed by regulation on certificates of conformity also apply to certificates of suitability.

Clause 17 amends section 180 (Declaration holder must comply with equipment safety rules) to require a recognised external certification scheme certifying level 1 and level 2 in-scope electrical equipment (being a certificate of suitability), to comply with the Equipment Safety Rules when certifying the equipment. The requirement to certify level 3 in-scope electrical equipment in line with the Equipment Safety Rules continues to apply.

Clause 18 amends Part 7, Division 11 (Second-hand in-scope electrical equipment) to update the heading to reference *second-hand items* in line with the new definition of *second-hand items* in section 122.

Clause 19 omits section 186 (Limitation on offering second-hand in-scope electrical equipment for sale) and inserts a new section 186 (Limitation on offering to sell second-hand items) to clarify requirements for persons who offer to sell *second-hand items*. Offers for sale under this section refer to sales regardless of whether the offer to sell is for profit or not.

New section 186(1) continues to require a seller who offers a second-hand item for sale to give information to the effect the item has not been tested for electrical safety to the other person (being the person who is offering to purchase the item). A maximum penalty of 40 penalty units continues to apply. Two exceptions to this requirement continue to be provided in:

- new section 186(1)(a) which provides where the item has been tested and found to be electrically safe by a qualified person and the seller gives the other person information about the test; or
- new section 186(1)(b) which provides where the other person (being the person who is offered to purchase the item) conducts a business or undertaking that includes dealing in, repairing or reconditioning second hand-items.

New section 186(2) provides sectional definitions of *qualified person* and *seller*. A new note clarifies that the requirements in section 186 apply to all sellers of second-hand items, including individuals who offer to sell a second-hand item online (e.g., via Facebook marketplace) or a volunteer as part of a volunteer association (e.g., a charity) who offers to sell a second-hand item as part of the work of the association (e.g. running an Op Shop).

Clause 20 amends Part 7, Division 12 (Program for certification of level 1 or 2 in-scope electrical equipment) to consequentially update the heading to *Program for issuing certificates of suitability*. This is a consequence of the new definition of *certificate of suitability* in section 122 (Definitions for Part 7).

Clause 21 amends section 187 (Regulator may establish program for certification) to replace references to *certificates relating to the suitability of* with *certificates of suitability*. Amendments include a new sectional heading *Regulator may establish program for issuing certificates of suitability*. This is a consequence of the new definition of *certificate of suitability* in section 122 (Definitions for Part 7).

Clause 22 amends section 194 (Hiring electrical equipment) to update the examples of domestic situations in section 194(3) with modernised terminology.

Clause 23 amends section 221 (High voltage or hazardous area electrical installation not to be connected to electricity source without inspection) to clarify requirements for connecting or reconnecting a high voltage or hazardous area electrical installation. Amendments to section 221(1) clarify that there are two circumstances in which an electrical installation under this section can be connected or reconnected to a source of electricity following electrical installation work or electrical line work (electrical work). The Amendment Regulation omits sections 221(1)(a) and (b) and inserts new sections 221(1)(a) and (b).

New section 221(1)(a) provides that an electrical installation under this section cannot be re-connected to an electricity source unless the electrical work has been inspected by an accredited auditor and the accredited auditor has confirmed that the electrical installation has been tested and complies with the wiring rules and any other standard applying under the ES Regulation. This reflects the previous requirement in former sections 221(1)(a) and (b).

New section 221(1)(b) provides that inspection by an accredited auditor is not required prior to connection or reconnection of a hazardous area electrical installation where the electrical work consists of replacing ‘like for like’ electrical equipment in the installation in circumstances provided for in new section 221A and the electrical equipment being replaced is not a switchboard, cable or a wire. This exemption only applies to hazardous area electrical installations. High voltage electrical installations must always be inspected by an accredited auditor under section 221(1)(a).

This provision recognises that ‘like for like’ replacement of electrical equipment in an electrical installation is electrical work that does not alter the nature of the electrical installation in such a way that inspection by an accredited auditor is warranted where particular circumstances are met. These circumstances are provided for in new section 221A (Circumstances for replacing electrical equipment with similar electrical equipment).

Clause 24 inserts new section 221A (Circumstances for replacing electrical equipment with similar electrical equipment) to provide circumstances where an inspection by an accredited

auditor is not prior to reconnection or connection of an electrical installation in a hazardous area. These circumstances apply if the electrical equipment being replaced consumes or controls electricity.

If the electrical equipment being replaced consumes electricity (new section 221A(1)(a)) – the replacement equipment:

- has the same voltage rating as the equipment being replaced;
- has a current rating that is not greater than the current rating of the equipment being replaced;
- has a power rating that is not greater than the power rating of the equipment being replaced;
- performs its function in the same way as the equipment being replaced;
- has electrical characteristics that are the same as or better than the electrical characteristics of the equipment being replaced including when the equipment is operating in circumstances other than normal circumstances. Examples of electrical characteristics are ingress protection rating, insulation, earthing, operating temperature; and
- is designed to operate at the same frequency range as the equipment being replaced.

If the electrical equipment being replaced controls electricity (new section 221A(1)(b)) – the replacement equipment:

- has the same voltage rating as the equipment being replaced;
- has the same current rating as the equipment being replaced;
- performs its function in the same way as the equipment being replaced;
- has electrical characteristics that are the same as or better than the electrical characteristics of the equipment being replaced including when the equipment is operating in circumstances other than normal circumstances. Examples of electrical characteristics are ingress protection rating, insulation, earthing, operating temperature, breaking current rating; and
- is designed to operate at the same frequency range as the equipment being replaced.

New section 221A(2) provides sectional definitions for *current rating*, *frequency range*, *power rating* and *voltage rating*. The definitions make reference to ‘in normal circumstances.’ This reflects that the normal circumstances are dependent on the equipment and the purpose of the function. For example, a normal circumstance for a protective device is the current rating that the equipment will control when operating to protect the electrical installation.

Clause 25 amends section 233 (Prescribed electricity entities) to omit section 233(c) and insert new section 233(c). This change clarifies that railway managers or light rail managers are prescribed electricity entities where new section 233(c) applies. New section 233(c) requires an electricity entity that meets the Acts definition of electricity entity paragraph (c) (being a reference to a railway manager or light rail manager) is stated in new Schedule 6, Part 2, Division 2, and three months have elapsed since the entity first became an electricity entity. Consequentially, section 233(b) is also amended to clarify that prescribed electricity entities under section 233(b) are prescribed in Schedule 6, Part 2, Division 1.

Clause 26 amends section 279 (Duties of person conducting a business or undertaking about supervising training person) to correct a reference to records of assessment which must be kept for safety observers as provided for in the definition of *safety observer* in Schedule 9. This change does not affect the existing duty, merely clarifies the paragraph that is relevant.

Clause 27 inserts new Part 16, Division 4 (Transitional Provisions for Electrical Safety and Other Legislation Amendment Regulation 2024) to provide transitional provisions for the Amendment Regulation.

New section 304 (Existing applications for regulator's declaration of scheme) provides that where the regulator is considering approving a declared scheme under section 168 and a decision has not been made before commencement of the Amendment Regulation, the former sections 167 and 168 apply. This means that the regulator will publish the relevant notice in a newspaper.

Clause 28 amends Schedule 6 (Prescribed electricity entities) to omit Part 2 and insert new Part 2, Division 1 and Division 2. New Part 2, Division 1 continues to provide that there are no prescribed electricity entities for the purposes for section 233(b). New Part 2, Division 2 states GoldlinQ Pty Ltd as a prescribed electricity entity for the purposes of new section 233(c).

Clause 29 amends Schedule 8A (Prescribed Acts – Act, section 193) to prescribe the *Labour Hire Licensing Act 2017*, *Safety in Recreational Water Activities Act 2011* and *Work Health and Safety Act 2011* for the purposes of information sharing under section 193(3)(c)(ii) of the *Electrical Safety Act 2002* (ES Act).

Clause 30 amends Schedule 9 (Dictionary) to omit the definition for *second-hand* and insert new definitions of *certificate of suitability*, *second-hand dealer* and *second-hand item* as a consequence of new definitions in section 122 (Definitions for Part 7).

Division 3 - Amendments commencing on 1 January 2025

Clause 31 amends the heading of Part 3, Division 1 (Electrical work on energised electrical equipment) to *Electrical work on or near energised electrical equipment* as a consequence of expanding the division to apply to electrical work on or near energised electrical equipment.

Clause 32 amends section 12 (Definitions for division) to insert a new definition of *near* as a consequence of the expanded division. *Near*, in relation to electrical equipment, means *within 3 meters of an exposed energised part of the equipment*.

Clause 33 amends section 14 (Electrical work on energised electrical equipment) to ensure that the section also applies to electrical work carried out *near* energised electrical equipment. The amended heading of section 14 reflects this change. Section 14(1) prohibits electrical work on or near energised electrical equipment except in particular circumstances prescribed in sections 14(1)(a) to (d) and 14(2).

Clause 34 amends section 15 (Duty to determine whether equipment is energised) to require that before electrical work is carried out on *or near* electrical equipment, the equipment is tested by a competent person to decide whether or not it is energised.

Clause 35 amends section 16 (De-energised equipment must not be inadvertently re-energised) to ensure that all electrical equipment *near* (i.e., within the 3-meter vicinity that is an exposed part) electrical work, is de-energised and cannot be inadvertently re-energised.

Clause 36 amends section 19 (Preliminary steps) to require PCBUs to ensure that electrical work on *or near* energised electrical equipment is carried out in a particular manner. Section

19 outlines steps that must be taken before electrical work on or near energised electrical equipment occurs.

Clause 37 amends section 20 (Unauthorised access to equipment being worked on) to provide that PCBUs must ensure that only authorised persons can enter the immediate area where work is occurring on *or near* energised electrical equipment. The heading is consequentially amended to *Unauthorised access to electrical equipment while work carried out*.

Clause 38 amends section 21 (Contact with equipment being worked on) to provide that PCBUs must ensure that while electrical work is being carried out on *or near* energised electrical equipment, all persons are prevented from creating an electrical risk by inadvertently making contact with an exposed energised part of the equipment. The section is consequentially renamed to *Contact with electrical equipment while work carried out*.

Clause 39 amends section 22 (How work is to be carried out) to ensure that requirements apply to work carried out on *or near* energised electrical equipment. This includes requirements for PCBUs to ensure the work is carried out by a competent person, in accordance with a safe work method statement prepared for the work, and, if required, with a safety observer.

Clause 40 amends section 49 (Removal of endorsement from electrical contractor licence) to reduce the timeframe for notifying the regulator of a change to a qualified business person (QBP) or qualified technical person (QTP) endorsed on the electrical contractor's licence. Amended section 49(1)(a) and (2)(a) require the holder of an electrical contractor licence to notify the regulator within 10 business days (amended from one month) where a QTP or QBP endorsed on the electrical contractor's license is no longer performing their role.

Clause 41 amends section 50 (Automatic suspension and cancellation of electrical contractor licence) to clarify when an automatic suspension or cancellation of an electrical contractor's licence is triggered. An electrical contractor's licence is automatically suspended (section 50(1)) or cancelled (section 50(2)) after 30 days, which provides greater clarity than 'one month,' where the holder of the licence fails to meet the relevant requirements (i.e., have a QTP and QBP endorsed on their licence). Section 50(1)(a) is also amended to clarify that the requirement applies to a licensed electrical contractor.

Clause 42 inserts new Part 6, Division 7 (Roof space work) to introduce requirements for carrying out work in, or otherwise entering, the roof space of a domestic building. These requirements are constrained to a domestic building in line with the definition of *building* provided for in new section 120A (Definitions for division).

New section 120A (Definitions for division) inserts definitions for new Part 6, Division 7 for *building*, *Building Code of Australia*, *enter*, *relevant electrical installation* and *roofspace*.

Building means a building classified under the *Building Code of Australia* as a class 1, 2 or 10a building. The scope of the requirements in new Division 7 is limited to domestic buildings such as houses, town houses, row houses, as well as boarding houses and guest houses, some hostels, apartment buildings, and non-habitable buildings such as sheds, carports and private garages where they fall within these building classes.

Building Code of Australia has the meaning given by the *Building Act 1975*, section 12.

Enter, in relation to a roof space, includes placing any part of a person's body in the roof space.

Relevant electrical installation means an electrical installation for a building that includes a switchboard for energising or de-energising the electrical installation or part of the electrical installation for the building, or, if there is more than 1 electrical installation for the building, all of the electrical installations in the building. This definition recognises that a building may have more than one electrical installation.

Roof space means the space in the building that is immediately under the roof, or, if there is a ceiling under any part of the roof, between the space immediately under the roof and the ceiling, including the ceiling structure. The roof space does not include habitable areas of the roof space. Habitable areas of the roof spaces include those which are serving as a loft or bedroom.

New section 120B (Application of division) provides for the application of new Part 6, Division 7. New Division 7 applies to any work carried out in relation to a building other than electrical work on or near energised electrical equipment to which Part 3 Division 1 applies. This clarifies that where both the roof space requirements or the electrical work on or near energised electrical equipment requirements could apply, the requirements of Part 3, Division 1 (Electrical work on or near energised electrical equipment) should be adhered to.

Requirements in new Division 7 clarify regardless of whether a person fully enters the roof space to perform carry out work, enters the roof space to access the exterior roof or puts their hand in the roof to pull a cable, the requirements of the Division apply, provided the work is not electrical work on or near energised electrical equipment to which Part 3 Division 1 applies.

Requirements in new Division 7 apply to all types of work, for example, gas fitting, plumbing, electrical work (including air-conditioning installation), insulation activities, pest control, telecommunications and data cabling, and roof and ceiling repair.

New section 120C (Requirements for person conducting a business or undertaking) introduces a duty on the PCBU in relation to allowing workers to work or enter roof spaces. New section 120C(1) provides that a PCBU must ensure, so far as is reasonably practicable, that a worker does not carry out work in the roof space of a building, or enter the roof space for the carrying out of work in another part of the building, unless the relevant electrical installation for the building is de-energised or either of the prescribed circumstances in new section 120C(2) apply. A maximum of 60 penalty units applies to new section 120C(1). The provision recognises that the most effective way of minimising electrical risk to workers is by ensuring the relevant electrical installation for the building is de-energised. The term 'so far as is reasonably practicable' means the knowledge reasonably available to the PCBU to comply with the requirements.

New section 120C(2) provides two circumstances that are exempt from the requirement to de-energise as required by new section 120C(1).

The first circumstance (new section 120C(2)(a)) is where it is not reasonably practicable to carry out the work or entry while the relevant electrical installation is de-energised. Situations which may be captured include where a part of the relevant electrical installation remains

energised, even where the main switch for the building's electrical installation is turned off, such as where the supply cable connected to a solar panel remains energised.

The second circumstance (new section 120C(2)(b)) is where it is necessary to test, service or commission a thing, other than electrical equipment, that is energised and located in, or accessible by, the roof space. Situations which may be captured include where a worker needs to service an extra low voltage data cable.

New section 120C(3) requires that a PCBU must ensure where work or entry occurs under a circumstance as provided in new section 120C(2), additional safety requirements are complied with. These requirements are:

- a risk assessment is conducted for the work or entry;
- the PCBU is satisfied that the risks identified by the risk assessment are (or can be reduced to) as low as reasonably practicable and the work can be carried out, or the entry can be made, safely;
- a statement for the work or entry is prepared that must identify the work, specify the hazards associated with the work and the risks associated with those hazards, describe the measures to be implemented to control the risks and describe how the measures are to be implemented, monitored and reviewed; and
- the work must be carried out or the entry is made in accordance with the statement prepared.

A maximum penalty of 60 penalty units applies for failing to comply with new section 120C(3).

New section 120D (Requirements for worker) replicates new section 120C(1) but applies it to workers to ensure that workers are taking appropriate precautions when working in, or otherwise entering, roof spaces. Workers must ensure, so far as is reasonably practicable, that the worker does not carry out work out in the roof space of a building, or enter the roof space for the carrying out of work in another part of the building, unless the relevant electrical installation for the building is de-energised or either of the circumstances mentioned in new section 120C(2) apply. A maximum penalty of 10 penalty units applies. The term 'so far as is reasonably practicable' means the knowledge reasonably available to the worker to comply with the requirements.

New section 120E (Application of ss 120C and 120D for isolated roof spaces) clarifies how requirements of new Division 7 apply to an *isolated roof space*. This section recognises that there may be situations where a roof space is isolated from other parts of the roof space, such as in terrace housing. New section 120E(1) therefore provides a list of requirements, where if met, the roof space is considered an *isolated roof space*. New section 120E(2) provides that the requirement for PCBUs (in new section 120C) and workers (in new section 120D) apply only to the isolated roof space and the isolated electrical installation.

New section 120F (Record keeping) outlines record keeping requirements for PCBUs in relation to risk assessments and statements for the work or entry as required by section 120C(3). New section 120F(2) requires that a copy of the risk assessment and statement must kept for the following periods:

- a risk assessment – until at least 28 days after the work or entry to which it relates is completed or made; and
- a statement – until the work or entry it relates to is completed or made.

Additionally, new section 120F(3) requires that, if a serious electrical incident or dangerous electrical event occurs, both the risk assessment and statement must be kept for at least 2 years after the incident occurs.

A maximum of 60 penalty units applies to new sections 120F(2) and (3).

Clause 43 amends Schedule 9 (Dictionary) to consequentially insert new definitions of *building*, *Building Code of Australia*, *enter*, *near*, *relevant electrical installation* and *roof space*.

Division 4 – Amendments commencing on 1 April 2025

Clause 44 omits section 72 (Work involving water equipment) as a consequence of including *water equipment* at new section 285C (Prescribed electrical equipment – Act, s 14A).

Clause 45 inserts new section 285C (Prescribed electrical equipment – Act, s 14A) to prescribe *water equipment* as prescribed electrical equipment for the purposes of section 14A of the ES Act. The effect of new section 285C(1) is that water equipment is prescribed electrical equipment; ensuring a legislative basis which requires that work on water equipment is only done by a licensed electrical worker.

New section 285C(2) defines *water equipment*, for this section, to mean any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that:

- is operated or used for controlling, generating, supplying, transforming or transmitting electricity at extra low voltage; and
- can only be operated or used when connected to an external source of electricity; and
- is designed for use in the interior of the container of a swimming pool, paddling pool, spa pool or bathtub.

Part 3 Amendment of Safety in Recreational Water Activities Regulation 2024

Clause 46 provides that Part 3 of the Amendment Regulation amends the *Safety in Recreational Water Activities Regulation 2024*.

Clause 47 amends section 27 (Prescribed Acts – Act, s 41) to prescribe the *Electrical Safety Act 2002* and *Work Health and Safety Act 2011* as prescribed Acts for the purposes of information sharing under section 41(3)(c)(ii) of the *Safety in Recreational Water Activities Act 2011*. Consequential amendments re-number sections 27(aa) to (e) as 27(b) to (f).

Part 4 Amendment of State Penalties Enforcement Regulation 2014

Clause 48 provides that Part 4 amends the *State Penalties Enforcement Regulation 2014*.

Clause 49(1) amends Schedule 1 (entry for the *Electrical Safety Regulation 2013*) to omit infringement notice offences for section 14, 82(3) and 84(2) of the *Electrical Safety Regulation 2013*.

Clause 49(2) amends Schedule 1 (entry for the *Electrical Safety Regulation 2013*) to insert new infringement notice offences for sections 14(1), 82(2) and 84(1) of the *Electrical Safety Regulation 2013*. This change ensures that existing infringement notice offences under sections 14, 82 and 84 are maintained despite section restructuring.

Clause 49(3) amends Schedule 1 (entry for the *Electrical Safety Regulation 2013*) to insert a new infringement notice offence for section 120C(1) of the *Electrical Safety Regulation 2013*. As provided by Clause 2, the infringement notice offence commences on 1 July 2025.

Clause 49(4) amends Schedule 1 (entry for *Work Health and Safety Regulation 2011*) to insert new infringement notice offences for sections 226A(2), 226A(3), 226B(2), 529C, 529CC(1), 529CC(2), 529CD(3), 529D and 529G(2) of the *Work Health and Safety Regulation 2011*.

Part 5 Amendment of Work Health and Safety Regulation 2011

Clause 50 provides that Part 5 of the Amendment Regulation amends the *Work Health and Safety Regulation 2011*.

Clause 51 amends Schedule 18A (Prescribed Acts – Act, section 271A) to prescribe the *Electrical Safety Act 2002* and *Safety in Recreational Water Activities Act 2011* as prescribed Acts for the purposes of information sharing under section 271A(3)(b) of the *Work Health and Safety Act 2011*.

Part 6 Other amendments

Clause 52 provides that Schedule 1 makes amendments to the *Electrical Safety Regulation 2013*.

Schedule 1 Other amendments

Schedule 1 amends the titles of headings and divisions of the *Electrical Safety Regulation 2013* in line with current drafting conventions.