

Queensland



COMMUNITY AMBULANCE COVER ACT 2003

Act No. 34 of 2003

Queensland



**COMMUNITY AMBULANCE COVER
ACT 2003**

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Queensland



Community Ambulance Cover Act 2003

Act No. 34 of 2003

**An Act to provide for a community ambulance cover levy, and for
other purposes**

[Assented to 29 May 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Division 1—Introductory provisions

1 Short title

This Act may be cited as the *Community Ambulance Cover Act 2003*.

2 Commencement

Part 12 commences on 1 July 2003.

Division 2—Object and operation of Act

3 Objects of Act

The objects of this Act are—

- (a) to impose and collect a levy, to be known as the “**community ambulance cover levy**”, to fund ambulance services in Queensland; and
- (b) to use the system of supply and sale of electricity as the basis for the imposition and collection of the levy.

4 Operation of Act

This Act imposes the levy only for days on or after 1 July 2003.

Note—

From assent, electricity retailers may act under this Act to collect information for administering the exemption arrangements under this Act. Prohibitions on the provision of false or misleading information will apply.

5 Act binds all persons

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

(2) This Act does not impose a tax on property of any kind belonging to the Commonwealth.

(3) Subsection (2) does not limit subsection (1).

(4) In this section—

“property of any kind belonging to the Commonwealth” has the same meaning as in section 114 of the Commonwealth Constitution.

6 State not liable to be prosecuted for offence

Nothing in this Act makes the State liable to be prosecuted for an offence.

7 Extra-territorial application

This Act applies to impose the levy on electricity sale arrangements relating to electricity for consumption in Queensland—

- (a) regardless of whether an arrangement is entered into or made in or outside Queensland; and
- (b) regardless of whether any person involved in an arrangement is resident in Queensland or is otherwise connected with Queensland; and
- (c) regardless of whether the supply of electricity for the purposes of an arrangement originates in or outside Queensland.

Note—

This is because electricity sale arrangements relating to electricity for consumption in Queensland have a nexus to Queensland.

Division 3—Interpretation

8 Definitions

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

9 Notes in text

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

10 Meaning of “standard contract”

(1) A “**standard contract**” is a contract for the sale of electricity by an electricity retailer to a non-contestable customer, but only if, for the sale—

- (a) the electricity is supplied for consumption in Queensland; and
- (b) the supply of the electricity is measured by a meter.

Example—

An unwritten contract for the sale of electricity by a special approval holder to a non-contestable customer.

(2) However, a “**standard contract**” does not include a contract for the sale of electricity if the electricity is accessed through a power card arrangement.

(3) For this section—

“**contract**” includes an unwritten contract, and any of the following, whether or not in writing—

- (a) agreement;
- (b) other arrangement, whether enforceable or not, including an arrangement arising under an Act.

Note—

A standard contract under this Act will commonly, though not necessarily in all cases, be a standard customer sale contract under the Electricity Act.

11 Meaning of “power card arrangement”

(1) A “**power card arrangement**” exists for premises in Queensland (the “**power card premises**” for the arrangement) if an electricity retailer has the facility to sell electricity for consumption at the power card premises using a card operated meter installed, and available for operation, for the power card premises.

(2) For subsection (1), the following do not matter—

- (a) whether the power card premises are occupied;

- (b) whether the power card premises are connected for the supply of electricity;
- (c) whether electricity is being consumed at the power card premises;
- (d) whether the card operated meter is installed at the power card premises.

12 Meaning of “separate area”

A “**separate area**” is a building or part of a building in Queensland that is—

- (a) used, or, if not being used, available to be used, solely—
 - (i) as a single self-contained place of residence; or
 - (ii) as a single place of business; or
 - (iii) to conduct a single undertaking or enterprise or other single activity, other than a business; or
 - (iv) in a combination of subparagraphs (i), (ii) and (iii); and
- (b) wired for the supply to it of electricity.

Examples—

- 5 floors of a building that are occupied by, and operated as, a single business
- 3 units in a residential complex that have been altered so that they are a single residence
- a residential unit used both as a residence and as a place of business
- each of 2 coffee shops both of which operate under the same name but at different ends of a shopping centre
- each of 3 adjoining shops operated by the same person but operating as separate businesses of newsagent, furniture shop and delicatessen.

13 Meaning of “separate non-domestic area”

A “**separate non-domestic area**” is a building or part of a building in Queensland that is—

- (a) used, or, if not being used, available to be used, solely—
 - (i) as a single place of business; or

- (ii) to conduct a single undertaking or enterprise or other single activity, other than a business; or
 - (iii) in a combination of subparagraphs (i) and (ii); and
- (b) wired for the supply to it of electricity.

14 Meaning of “on-supply arrangement (type 1)”

(1) An “on-supply arrangement (type 1)” exists for a separate area if the following circumstances apply—

- (a) electricity is being supplied to a person (the “on-supplier” for the on-supply arrangement) for the purposes of a building that includes the separate area;
- (b) the electricity is being sold to the on-supplier by an electricity retailer;
- (c) the supply of the electricity under paragraph (a) is measured by a meter;
- (d) the on-supplier has the facility to further supply and further sell some or all of the electricity for consumption at the separate area;
- (e) if electricity is being consumed at the separate area, it is electricity that is being further sold to a person by the on-supplier for the consumption at the separate area.

Examples of on-supply arrangements—

1. Electricity sold by an electricity retailer to a shopping centre owner is further sold by the shopping centre owner for consumption at a shop in the centre.
2. Electricity sold by an electricity retailer to a body corporate for a residential building is sold by the body corporate to the building manager who further sells to an owner of a unit in the building.
3. The owner of a shopping centre has the facility to further supply and sell, to a vacant shop in the shopping centre, electricity sold to the owner by an electricity retailer.

(2) For subsection (1), the following do not matter—

- (a) whether any further supply and further sale under subsection (1)(d) is directly from the on-supplier, or is achieved under 1 or more arrangements involving entities interposed between the on-supplier and the person to whom the electricity is further supplied and further sold;
- (b) whether the separate area is occupied;

- (c) whether the separate area is connected for the further supply;
- (d) if the separate area is not occupied, whether or not there is an identifiable person to whom electricity is, or may be, further supplied and further sold;
- (e) whether electricity is being consumed at the separate area.

15 Meaning of “on-supply arrangement (type 2)”

(1) An “on-supply arrangement (type 2)” exists for a separate area if the following circumstances apply—

- (a) the separate area is included in a group of 3 or more separate areas in a building;
- (b) there is no on-supply arrangement (type 1) for any of the separate areas included in the group;
- (c) an electricity retailer sells to a person (the “on-supplier” for the on-supply arrangement) all electricity consumed at any separate area in the group;
- (d) any supply of electricity to a separate area in the group is measured by a meter;
- (e) under an arrangement between the on-supplier and the electricity retailer, electricity accounts issued to the on-supplier by the electricity retailer for the sale of the electricity mentioned in paragraph (c) show the cost of electricity supplied to each separate area.

Examples—

1. A building comprises 4 flats, 3 of which are let to tenants and 1 of which is vacant. The owner of the building receives an account from an electricity retailer which shows the cost of electricity supplied to each flat as measured by a meter. There are 4 on-supply arrangements (type 2).
2. A person owns 10 self contained apartments which are located in 1 building and which are available for holiday letting. The owner receives an account from an electricity retailer which shows the cost of electricity supplied to each apartment as measured by a meter. There are 10 on-supply arrangements (type 2).

(2) For subsection (1), the following do not matter—

- (a) whether electricity is consumed in the separate areas;
- (b) whether all separate areas in the building are included in the group.

16 Meaning of “contestable sale arrangement”

(1) A “**contestable sale arrangement**” means an arrangement for the sale of electricity by an electricity retailer to a person (the “**relevant contestable customer**” for the arrangement) for consumption at premises if—

- (a) under a regulation under the Electricity Act, the relevant contestable customer is declared to be a contestable customer for supply of electricity to the premises; and
- (b) the premises are in Queensland; and
- (c) the supply of the electricity to the premises is measured by a meter.

(2) There can be 2 or more contestable sale arrangements in place even though there is only 1 contract for the sale of the electricity by the electricity retailer to a person who is the relevant contestable customer for each of the arrangements.

17 Person may have more than 1 role

(1) A set of circumstances applying to a person can result in a person being both a non-contestable customer for a standard contract, or a contestable customer for a contestable sale arrangement, and also an on-supplier for an on-supply arrangement.

Examples—

1. A body corporate for a residential complex could be both a non-contestable customer for a standard contract for the purchase of electricity from an electricity retailer for consumption in the residential complex, and also be an on-supplier for an on-supply arrangement for the further supply and sale of some of the electricity for consumption at a residential unit in the complex.
2. A person could be both a contestable customer for a contestable sale arrangement for the supply of electricity to a shopping centre the person owns, and also be an on-supplier for an on-supply arrangement for the further supply and sale of some of the electricity for consumption at a shop in the centre.

(2) The person is subject to the requirements of this Act in relation to each electricity sale arrangement in which the person is involved, according to the capacity in which the person is involved.

Division 4—Annual levy and daily levy**18 Basis of imposition of levy**

(1) The levy imposed under this Act is established as an amount (“**annual levy**”) for each financial year.

(2) However, the levy is imposed under this Act on the basis of an amount (“**daily levy**”) for each day in a financial year.

19 Annual levy

(1) For the financial year starting on 1 July 2003, the annual levy is \$88.

(2) For a later financial year, the annual levy is the amount prescribed under a regulation.

20 Daily levy

(1) For the financial year starting on 1 July 2003, the daily levy is 24.044 cents.

(2) For a later financial year, the daily levy is the annual levy for the later financial year divided by the number of days in the later financial year.

(3) The daily levy for a later financial year must be notified in the regulation prescribing the annual levy for the later financial year.

21 Failure to prescribe annual levy and notify daily levy for later financial year

(1) This section applies if a regulation prescribing the annual levy for a later financial year, and notifying the daily levy for the later financial year, has not been notified in the gazette on or before 31 May in the preceding financial year.

(2) The annual levy for the later financial year is the same amount as the annual levy for the preceding financial year.

(3) The daily levy for the later financial year is the same amount as the daily levy for the preceding financial year.

(4) In this section—

“**preceding financial year**”, in relation to a later financial year, means the financial year immediately preceding the later financial year.

PART 2—STANDARD CONTRACTS

Division 1—Imposition of levy

22 Imposition of levy on standard contracts

(1) This part imposes the levy on standard contracts.

(2) A liability for the levy is imposed on a standard contract for each day the standard contract is in place.

Note—

Exemptions for the levy are dealt with in divisions 4 and 5.

23 Operation of standard contract

(1) For this Act, the days a standard contract is in place do not include the day the contract commences, but do include the day the contract ends.

(2) Without limiting how and when a standard contract may end, a standard contract is taken to end if the supply of electricity for sale under the contract is disconnected, other than because of a temporary disconnection or other interruption.

Division 2—Liability for levy

24 When liability for levy is imposed

(1) Liability for the levy is imposed for a day even if no electricity is sold under the contract on the day, including, for example, because premises are temporarily unoccupied or because supply of electricity to premises is temporarily disconnected or otherwise interrupted.

(2) However, if the contract is entered into in relation to premises not yet connected for the supply of electricity, liability is not imposed until the day the premises are connected.

25 Who is liable to pay levy

(1) The levy imposed on a standard contract must be paid by the non-contestable customer for the contract.

(2) If 2 or more persons are the non-contestable customer, all the persons are jointly and severally liable for payment of the levy.

26 Consolidation arrangement does not affect liability for levy

(1) A person must pay the levy for each standard contract for which the person is the non-contestable customer.

(2) If a person is the non-contestable customer for 2 or more standard contracts and a single electricity account is issued for the sale of electricity under all the standard contracts, the issue of the single electricity account does not affect the person's liability to pay the levy for each standard contract.

*Division 3—Calculation of levy***27 Amount of levy**

The amount of levy imposed on a standard contract for each day the contract is in place is the daily levy for the financial year in which the day occurs.

*Division 4—Exempt standard contracts generally***28 Exemption from liability for levy**

Liability for the levy is not imposed on a standard contract for a day if, on that day or for any part of that day, the contract is an exempt standard contract.

29 Exemption on 2 or more grounds

(1) This section applies to a standard contract if—

- (a) a number of circumstances mentioned in division 5 apply to the contract; and

- (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the contract would be, on the basis of each separate consideration, an exempt standard contract.

(2) The contract is taken to be an exempt standard contract.

Example—

A standard contract would be an exempt standard contract if all electricity sold under the contract is supplied to a farming shed and to a pump used for irrigation.

Division 5—Particular exemptions

30 Exemption for later standard contracts

(1) This section applies if—

- (a) there are 2 or more standard contracts for the sale of electricity for consumption only at the one separate non-domestic area; and
- (b) under each of the contracts, electricity retail services that are provided are to be charged at a non-domestic tariff of a type prescribed under a regulation.

(2) Each of the contracts that is a later standard contract is an exempt standard contract.

(3) For subsection (2), a standard contract is a later standard contract if it is not the first of the contracts to have commenced.

Example—

The owner of a shop has 3 standard contracts with an electricity retailer for the sale of electricity for consumption at the shop. Contract A was entered into on 31 July 2002. Contract B was entered into on 31 August 2002. Contract C was entered into on 30 September 2002. Contracts B and C are exempt standard contracts. However, if contract A ends and contracts B and C continue, only contract C will be an exempt standard contract.

31 Pensioner exemption

A standard contract is an exempt standard contract if—

- (a) either of the following apply—
 - (i) only 1 person is the non-contestable customer for the contract and the person is a pensioner (the “**pensioner**”);

- (ii) 2 or more persons are the non-contestable customer for the contract and at least 1 of the persons is a pensioner (also the “**pensioner**”); and
- (b) all electricity sold under the contract is supplied to premises that are the pensioner’s principal place of residence; and
- (c) any other person sharing the premises, other than a visitor, is at least 1 of the following—
 - (i) the pensioner’s spouse;
 - (ii) a person who is wholly dependent on the pensioner;
 - (iii) another pensioner;
 - (iv) a social security beneficiary who does not pay rent for his or her occupation of the premises;
 - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the premises.

32 Farming shed exemption

A standard contract is an exempt standard contract if all electricity sold under the contract is supplied to a farming shed.

33 Pump exemption

A standard contract is an exempt standard contract if all electricity sold under the contract is supplied to a pump that is—

- (a) a water pump used for irrigation, stock or other purposes of primary production; or
- (b) a water or sewerage pump used for domestic purposes.

34 Commonwealth exemption

A standard contract is an exempt standard contract if the non-contestable customer for the contract is the Commonwealth.

35 State exemption

- (1) A standard contract is an exempt standard contract if—

- (a) the non-contestable customer for the contract is the State; and
- (b) all electricity sold under the contract is supplied to premises—
 - (i) that are used only for providing core government services; or
 - (ii) that are public infrastructure.

(2) In this section—

“**State**” includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

36 Local government exemption

A standard contract is an exempt standard contract if—

- (a) the non-contestable customer for the contract is a local government; and
- (b) all electricity sold under the contract is supplied to premises—
 - (i) that are used only for providing core local government services; or
 - (ii) that are public infrastructure.

37 Exemption for religious bodies and other institutions

(1) A standard contract is an exempt standard contract if—

- (a) the non-contestable customer for the contract is a body, or the trustees of a body, that is either a religious body or a body—
 - (i) that is controlled by, or associated with, a religious body; and
 - (ii) whose principal object and pursuit is the conduct of activities of a religious nature; and
- (b) all electricity sold under the contract is supplied to premises used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.

(2) A standard contract is an exempt standard contract if—

- (a) the non-contestable customer for the contract is an institution or the trustees of an institution; and
 - (b) the principal object or pursuit of the institution is the care of sick, aged, infirm, afflicted or incorrigible persons; and
 - (c) all electricity sold under the contract is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit; and
 - (d) the premises are not premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.
- (3)** A standard contract is an exempt standard contract if—
- (a) the non-contestable customer for the contract is an institution or the trustees of an institution; and
 - (b) the principal object or pursuit of the institution is the relief of poverty, suffering, distress or misfortune of people; and
 - (c) all electricity sold under the contract is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.
- (4)** A standard contract is an exempt standard contract if—
- (a) the non-contestable customer for the contract is an institution or the trustees of an institution; and
 - (b) the principal object or pursuit of the institution is the care of children by—
 - (i) being responsible for them on a full time basis; and
 - (ii) providing them with all the necessary food, clothing and shelter; and
 - (iii) providing for their general wellbeing and protection; and
 - (c) all electricity sold under the contract is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.
- (5)** However, a standard contract is an exempt standard contract under subsection (2), (3) or (4) only if, under the institution's constitution—
- (a) its income and property are used solely for promoting its objects; and

- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

PART 3—POWER CARD ARRANGEMENTS

Division 1—Imposition of levy

38 Imposition of levy on power card arrangements

(1) This part imposes the levy on power card arrangements.

(2) A liability for the levy is imposed on a power card arrangement for each day of the power card arrangement.

Note—

Exemptions for the levy are dealt with in divisions 4 and 5.

Division 2—Liability for levy

39 Who is liable to pay levy

(1) The levy imposed on a power card arrangement must be paid by the owner of the power card premises for the arrangement.

(2) If 2 or more persons are the owner of the power card premises, all the persons are jointly and severally liable for payment of the levy.

40 Levy on each power card arrangement

A person must pay the levy for each power card arrangement for which the person is the owner.

Division 3—Calculation of levy

41 Amount of levy

The amount of levy imposed on a power card arrangement for each day of the arrangement is the daily levy for the financial year in which the day occurs.

Division 4—Exempt power card arrangements generally

42 Exemption from liability for levy

Liability for the levy is not imposed on a power card arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt power card arrangement.

43 Exemption on 2 or more grounds

- (1) This section applies to a power card arrangement if—
- (a) a number of circumstances mentioned in division 5 apply to the arrangement; and
 - (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt power card arrangement.
- (2) The arrangement is taken to be an exempt power card arrangement.

Division 5—Particular exemptions

44 Exemption for later power card arrangements

- (1) This section applies if—
- (a) there are 2 or more power card arrangements that relate to the sale of electricity for consumption only at the one separate non-domestic area; and

- (b) any electricity retail services provided for the arrangements are chargeable at a non-domestic tariff of a type prescribed under a regulation.

(2) Each of the arrangements that is a later power card arrangement is an exempt power card arrangement.

(3) For subsection (2), a power card arrangement is a later power card arrangement if it is not the first of the arrangements to have commenced.

Example—

There are 3 power card arrangements for the sale of electricity for consumption at a shop. Power card arrangement A commenced on 31 July 2002. Power card arrangement B commenced on 31 August 2002. Power card arrangement C commenced on 30 September 2002. Power card arrangements B and C are exempt power card arrangements. However, if power card arrangement A ends and power card arrangements B and C continue, only power card arrangement C will be an exempt power card arrangement.

45 Pensioner exemption

A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are the principal place of residence of a pensioner (the “**pensioner**”); and
- (b) any other person sharing the power card premises, other than a visitor, is at least 1 of the following—
 - (i) the pensioner’s spouse;
 - (ii) a person who is wholly dependent on the pensioner;
 - (iii) another pensioner;
 - (iv) a social security beneficiary who does not pay rent for his or her occupation of the power card premises;
 - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the power card premises.

46 Farming shed exemption

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a farming shed.

47 Pump exemption

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are a pump that is—

- (a) a water pump used for irrigation, stock or other purposes of primary production; or
- (b) a water or sewerage pump used for domestic purposes.

48 Commonwealth exemption

A power card arrangement is an exempt power card arrangement if the owner for the arrangement is the Commonwealth.

49 State exemption

(1) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used by the State only—

- (a) for providing core government services; or
- (b) as public infrastructure.

(2) In this section—

“**State**” includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

50 Local government exemption

A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used by a local government only—

- (a) for providing core local government services; or
- (b) as public infrastructure.

51 Exemption for religious bodies and other institutions

(1) A power card arrangement is an exempt power card arrangement if—

- (a) the power card premises for the arrangement are used by a body that is either—

- (i) a religious body; or
 - (ii) a body that is controlled by, or associated with, a religious body, and whose principal object and pursuit is the conduct of activities of a religious nature; and
- (b) the power card premises are used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.
- (2) A power card arrangement is an exempt power card arrangement if—
- (a) the power card premises for the arrangement are used—
 - (i) by an institution the principal object or pursuit of which is the care of sick, aged, infirm, afflicted or incorrigible persons; and
 - (ii) solely or almost solely for the purposes of the institution's principal object or pursuit; and
 - (b) the power card premises are not power card premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.
- (3) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used—
- (a) by an institution the principal object or pursuit of which is the relief of poverty, suffering, distress or misfortune of people; and
 - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.
- (4) A power card arrangement is an exempt power card arrangement if the power card premises for the arrangement are used—
- (a) by an institution the principal object or pursuit of which is the care of children by—
 - (i) being responsible for them on a full time basis; and
 - (ii) providing them with all the necessary food, clothing and shelter; and
 - (iii) providing for their general wellbeing and protection; and
 - (b) solely or almost solely for the purposes of the institution's principal object or pursuit.

(5) However, a power card arrangement is an exempt power card arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—

- (a) its income and property are used solely for promoting its objects; and
- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

PART 4—ON-SUPPLY ARRANGEMENTS

Division 1—Imposition of levy

52 Imposition of levy on on-supply arrangements

(1) This part imposes the levy on on-supply arrangements.

(2) A liability for the levy is imposed on an on-supply arrangement for each day of the on-supply arrangement.

Note—

Exemptions for the levy are dealt with in divisions 4 and 5.

Division 2—Liability for levy

53 Who is liable to pay levy

(1) The levy imposed on an on-supply arrangement must be paid by the on-supplier for the arrangement.

(2) If 2 or more persons are the on-supplier, all the persons are jointly and severally liable for payment of the levy.

54 Consolidation arrangement does not affect liability for levy

(1) A person must pay the levy for each on-supply arrangement for which the person is the on-supplier.

(2) If a person is the on-supplier for 2 or more on-supply arrangements and a single billing arrangement is established for the purposes of the sale of electricity under all the on-supply arrangements, the establishment of the single billing arrangement does not affect the on-supplier's liability to pay the levy for each on-supply arrangement.

*Division 3—Calculation of levy***55 Amount of levy**

The amount of levy imposed on an on-supply arrangement for each day of the arrangement is the daily levy for the financial year in which the day occurs.

*Division 4—Exempt on-supply arrangements generally***56 Exemption from liability for levy**

Liability for the levy is not imposed on an on-supply arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt on-supply arrangement.

57 Exemption on 2 or more grounds

(1) This section applies to an on-supply arrangement if—

- (a) a number of circumstances mentioned in division 5 apply to the arrangement; and
- (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt on-supply arrangement.

(2) The arrangement is taken to be an exempt on-supply arrangement.

Division 5—Particular exemptions**58 Pensioner exemption**

An on-supply arrangement is an exempt on-supply arrangement if—

- (a) the separate area for the arrangement is the principal place of residence of a pensioner (the “**pensioner**”); and
- (b) any other person sharing the separate area, other than a visitor, is at least 1 of the following—
 - (i) the pensioner’s spouse;
 - (ii) a person who is wholly dependent on the pensioner;
 - (iii) another pensioner;
 - (iv) a social security beneficiary who does not pay rent for his or her occupation of the separate area;
 - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the separate area.

59 Farming shed exemption

An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is a farming shed.

60 Commonwealth exemption

An on-supply arrangement is an exempt on-supply arrangement if the on-supplier for the arrangement is the Commonwealth.

61 State exemption

(1) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used by the State only—

- (a) for providing core government services; or
- (b) as public infrastructure.

(2) In this section—

“**State**” includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

62 Local government exemption

An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used by a local government only—

- (a) for providing core local government services; or
- (b) as public infrastructure.

63 Exemption for religious bodies and other institutions

(1) An on-supply arrangement is an exempt on-supply arrangement if—

- (a) the separate area for the arrangement is used by a body that is either—
 - (i) a religious body; or
 - (ii) a body that is controlled by, or associated with, a religious body, and whose principal object and pursuit is the conduct of activities of a religious nature; and
- (b) the separate area is used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.

(2) An on-supply arrangement is an exempt on-supply arrangement if—

- (a) the separate area for the arrangement is used—
 - (i) by an institution the principal object or pursuit of which is the care of sick, aged, infirm, afflicted or incorrigible persons; and
 - (ii) solely or almost solely for the purposes of the institution’s principal object or pursuit; and
- (b) the separate area is not a separate area that is, or that is in the nature of, a hospital, an aged care hostel or a nursing home.

(3) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used—

- (a) by an institution the principal object or pursuit of which is the relief of poverty, suffering, distress or misfortune of people; and
- (b) solely or almost solely for the purposes of the institution's principal object or pursuit.

(4) An on-supply arrangement is an exempt on-supply arrangement if the separate area for the arrangement is used—

- (a) by an institution the principal object or pursuit of which is the care of children by—
 - (i) being responsible for them on a full time basis; and
 - (ii) providing them with all the necessary food, clothing and shelter; and
 - (iii) providing for their general wellbeing and protection; and
- (b) solely or almost solely for the purposes of the institution's principal object or pursuit.

(5) However, an on-supply arrangement is an exempt on-supply arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—

- (a) its income and property are used solely for promoting its objects; and
- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

PART 5—CONTESTABLE SALE ARRANGEMENTS

Division 1—Imposition of levy

64 Imposition of levy on contestable sale arrangements

(1) This part imposes the levy on contestable sale arrangements.

(2) A liability for the levy is imposed on a contestable sale arrangement for each day the contestable sale arrangement is in place.

Note—

Exemptions for the levy are dealt with in divisions 4 and 5.

65 Operation of contestable sale arrangement

(1) For this Act, the days that a contestable sale arrangement is in place do not include the day the arrangement commences, but do include the day the arrangement ends.

(2) Without limiting how and when a contestable sale arrangement may be ended, a contestable sale arrangement is taken to end if the supply of electricity for sale under the arrangement is disconnected, other than because of a temporary disconnection or other interruption.

Division 2—Liability for levy

66 When liability for levy is imposed

(1) Liability for the levy is imposed for a day even if no electricity is sold under the arrangement on the day, including, for example, because premises are temporarily unoccupied or because supply of electricity to premises is temporarily disconnected or otherwise interrupted.

(2) However, if the arrangement is put in place in relation to premises not yet connected for the supply of electricity, liability is not imposed until the day the premises are connected.

67 Who is liable to pay levy

(1) The levy imposed on a contestable sale arrangement must be paid by the relevant contestable customer for the arrangement.

(2) If 2 or more persons are the relevant contestable customer, all the persons are jointly and severally liable for payment of the levy.

68 Consolidation arrangement does not affect liability for levy

(1) A person must pay the levy for each contestable sale arrangement for which the person is the relevant contestable customer.

(2) If a person is the relevant contestable customer for 2 or more contestable sale arrangements and a single electricity account is issued for the sale of electricity for all the arrangements, the issue of the single electricity account does not affect the person's liability to pay the levy for each contestable sale arrangement.

*Division 3—Calculation of levy***69 Amount of levy**

The amount of levy imposed on a contestable sale arrangement for each day the arrangement is in place is the daily levy for the financial year in which the day occurs.

*Division 4—Exempt contestable sale arrangements generally***70 Exemption from liability for levy**

Liability for the levy is not imposed on a contestable sale arrangement for a day if, on that day or for any part of that day, the arrangement is an exempt contestable sale arrangement.

71 Exemption on 2 or more grounds

(1) This section applies to a contestable sale arrangement if—

- (a) a number of circumstances mentioned in division 5 apply to the arrangement; and

- (b) if all the circumstances are considered separately, whether by individual circumstance or individual set of circumstances, the arrangement would be, on the basis of each separate consideration, an exempt contestable sale arrangement.

(2) The arrangement is taken to be an exempt contestable sale arrangement.

Division 5—Particular exemptions

72 Pensioner exemption

A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) either of the following apply—
 - (i) only 1 person is the contestable customer for the arrangement and the person is a pensioner (the “**pensioner**”);
 - (ii) 2 or more persons are the contestable customer for the arrangement and at least 1 of the persons is a pensioner (also the “**pensioner**”); and
- (b) all electricity sold under the arrangement is supplied to premises that are the pensioner’s principal place of residence; and
- (c) any other person sharing the premises, other than a visitor, is at least 1 of the following—
 - (i) the pensioner’s spouse;
 - (ii) a person who is wholly dependent on the pensioner;
 - (iii) another pensioner;
 - (iv) a social security beneficiary who does not pay rent for his or her occupation of the premises;
 - (v) a person who is a carer of the pensioner and who does not pay rent for his or her occupation of the premises.

73 Farming shed exemption

A contestable sale arrangement is an exempt contestable sale arrangement if all electricity sold under the arrangement is supplied to a farming shed.

74 Pump exemption

A contestable sale arrangement is an exempt contestable sale arrangement if all electricity sold under the arrangement is supplied to a pump that is—

- (a) a water pump used for irrigation, stock or other purposes of primary production; or
- (b) a water or sewerage pump used for domestic purposes.

75 Commonwealth exemption

A contestable sale arrangement is an exempt contestable sale arrangement if the relevant contestable customer for the arrangement is the Commonwealth.

76 State exemption

(1) A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the relevant contestable customer under the arrangement is the State; and
- (b) all electricity sold under the arrangement is supplied to premises—
 - (i) that are used only for providing core government services; or
 - (ii) that are public infrastructure.

(2) In this section—

“**State**” includes any State instrumentality, authority, corporation or other State entity, including any GOC, and whether or not representing the State, but does not include a local government.

77 Local government exemption

A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the relevant contestable customer for the arrangement is a local government; and
- (b) all electricity sold under the arrangement is supplied to premises—
 - (i) that are used only for providing core local government services; or
 - (ii) that are public infrastructure.

78 Exemption for religious bodies and other institutions

(1) A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the contestable customer for the arrangement is a body, or the trustees of a body, that is either a religious body or a body—
 - (i) that is controlled by, or associated with, a religious body; and
 - (ii) whose principal object and pursuit is the conduct of activities of a religious nature; and
- (b) all electricity sold under the arrangement is supplied to premises used solely or almost solely as a church or other public place of worship, or as a church or other public place of worship and an associated hall, other than a hall used or hired out for commercial purposes.

(2) A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the contestable customer for the arrangement is an institution or the trustees of an institution; and
- (b) the principal object or pursuit of the institution is the care of sick, aged, infirm, afflicted or incorrigible persons; and
- (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit; and

- (d) the premises are not premises that are, or that are in the nature of, a hospital, an aged care hostel or a nursing home.

(3) A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the contestable customer for the arrangement is an institution or the trustees of an institution; and
- (b) the principal object or pursuit of the institution is the relief of poverty, suffering, distress or misfortune of people; and
- (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.

(4) A contestable sale arrangement is an exempt contestable sale arrangement if—

- (a) the contestable customer for the arrangement is an institution or the trustees of an institution; and
- (b) the principal object or pursuit of the institution is the care of children by—
 - (i) being responsible for them on a full time basis; and
 - (ii) providing them with all the necessary food, clothing and shelter; and
 - (iii) providing for their general wellbeing and protection; and
- (c) all electricity sold under the arrangement is supplied to premises used solely or almost solely for the purposes of the institution's principal object or pursuit.

(5) However, a contestable sale arrangement is an exempt contestable sale arrangement under subsection (2), (3) or (4) only if, under the institution's constitution—

- (a) its income and property are used solely for promoting its objects; and
- (b) no part of its income or property is to be distributed, paid or transferred by way of bonus, dividend or other similar payment to its members; and
- (c) on its dissolution, the assets remaining after satisfying all debts and liabilities must be transferred to an institution whose

principal object or pursuit is that of an institution mentioned in subsection (2), (3) or (4).

PART 6—ELECTRICITY RETAILERS AS AGENTS OF COMMISSIONER

79 General nature and extent of agency of electricity retailer

(1) In general terms, an electricity retailer is the agent of the commissioner for the collection of the levy.

(2) However, an electricity retailer is the commissioner's agent only in relation to the electricity sale arrangements for which the electricity retailer is the relevant electricity retailer.

80 Role and functions of electricity retailer

(1) The role of an electricity retailer is to help the commissioner in the administration of the Act through the collection of the levy from the electricity retailer's electricity customers.

(2) An electricity retailer has the following functions—

- (a) issuing statements of levy liability to electricity customers;
- (b) receiving notifications and returns required to be given to the electricity retailer under this Act;
- (c) administering exemptions for electricity sale arrangements;
- (d) collecting the levy from electricity customers required to pay it;
- (e) pursuing collection of unpaid levy amounts;
- (f) providing refunds authorised under this Act;
- (g) paying to the commissioner levy amounts received by the electricity retailer;
- (h) giving the commissioner the information and documents this Act requires to be given;

- (i) the other functions provided for in this Act or in an administration agreement to which the commissioner and the electricity retailer are parties;
- (j) the other functions, being functions reasonably necessary for the administration of this Act, that the commissioner directs the electricity retailer to perform.

(3) An electricity retailer must perform the retailer's functions under this Act to a standard necessary for the proper administration of this Act.

81 Electricity retailer may engage contractor

(1) An electricity retailer may contract with a person (the electricity retailer's "**authorised subcontractor**") to perform some or all of the electricity retailer's functions under this Act.

(2) However, the electricity retailer—

- (a) must not contract under subsection (1) without the written approval of the commissioner; and
- (b) despite the contract, remains liable for the proper performance of the electricity retailer's functions under this Act.

(3) An obligation or requirement applying to an electricity retailer under this Act also applies to an authorised subcontractor of the electricity retailer to the extent that the obligation or requirement relates to the performance of the electricity retailer's functions that the authorised subcontractor is contracted to perform.

Example—

If information about an electricity retailer's electricity customers is held by an authorised subcontractor of the electricity retailer in performing functions contracted to the authorised subcontractor, the authorised subcontractor is required to give the commissioner the information if the commissioner requires the authorised subcontractor to give the information to the commissioner.

82 Administration agreement

(1) The commissioner may enter an agreement (an "**administration agreement**") with an electricity retailer about the performance of the electricity retailer's functions under this Act.

(2) An administration agreement may include, as a party to the agreement, an authorised subcontractor of the electricity retailer.

(3) If an authorised subcontractor of the electricity retailer is included as a party, the electricity retailer and the authorised subcontractor are jointly and severally liable for the proper performance of the authorised subcontractor's obligations under the agreement.

(4) An administration agreement is of no effect to the extent it is inconsistent with a requirement of this Act.

83 Administration fee

(1) The commissioner may pay an electricity retailer a fee (an "**administration fee**") for performing the electricity retailer's functions under this Act.

(2) The amount of the administration fee, when it is to be paid, and other matters about the payment of the administration fee, may be included in an administration agreement.

(3) However, the commissioner must not pay an administration fee unless the amount of the fee, or the way it is to be worked out, has been approved by the Treasurer.

(4) An administration fee may, in particular circumstances, be a nil amount.

(5) The Treasurer's decision to refuse to approve the amount of the fee, or the way it is to be worked out, is a non-reviewable decision.

84 Giving information to the commissioner

(1) The commissioner may require an electricity retailer to give the commissioner information and documents, or access to information or documents, held by the electricity retailer about its electricity sale arrangements to the extent the commissioner considers necessary for the proper administration and enforcement of this Act.

(2) Without limiting subsection (1), the commissioner may require an electricity retailer to give the commissioner information in returns in the approved form at the times the commissioner requires.

(3) Information required, or to which access is required, under subsections (1) and (2) may include personal information about the electricity retailer or its electricity customers.

(4) The commissioner may advise an electricity retailer of the commissioner's requirements under subsections (1) and (2) in any reasonable way, and is not required to follow any particular formality.

(5) An electricity retailer must not charge any fee for giving information or documents, or access to information or documents, under subsections (1) and (2) that is additional to the administration fee payable to the electricity retailer.

(6) Despite any other Act or law about the disclosure of information, an electricity retailer, and an authorised subcontractor of the electricity retailer, is authorised—

- (a) to use personal information about the electricity retailer or the electricity retailer's customers to the extent reasonably necessary for the performance of the electricity retailer's functions under this Act; and
- (b) to disclose personal information about the electricity retailer or the electricity retailer's customers to the commissioner for the purposes of this Act.

(7) In this section—

“personal information”, about a person, means information that—

- (a) identifies, or is likely to identify, the person; or
- (b) discloses matters about the person's affairs.

85 Commissioner may perform electricity retailer's obligations

(1) This section applies if an electricity retailer does not does not comply with—

- (a) an obligation the electricity retailer has under this Act, including an obligation to perform a function the electricity retailer has under this Act; or
- (b) an obligation the electricity retailer has under an administration agreement; or
- (c) a direction given by the commissioner under this Act.

(2) The commissioner may act in the place of the electricity retailer to the extent necessary to ensure the obligation or direction is fulfilled.

(3) Further, the commissioner may issue a person with a statement of levy liability even though the statement is not included in an electricity account.

(4) Subsection (3) does not limit subsection (2).

(5) A person issued with a statement of levy liability under subsection (3) must pay the levy amount mentioned in the statement directly to the commissioner on or before the due date for payment of the levy amount.

(6) The due date for payment of the levy amount must not be less than 30 days after the issue of the statement of levy liability.

86 Commissioner may give directions

(1) The commissioner may give a written direction to an electricity retailer or authorised subcontractor requiring the electricity retailer or authorised subcontractor to do anything reasonably necessary for the administration or enforcement of this Act.

Example—

The commissioner could give an electricity retailer a direction about the procedures to be followed for dealing with claims for exemptions.

(2) An electricity retailer or authorised subcontractor given a written direction under subsection (1) must comply with the direction.

PART 7—PAYMENT, RECOVERY AND REFUNDS OF LEVY

Division 1—Statement of levy liability

87 Statement of levy liability

(1) An electricity retailer must include in each electricity account given to an electricity customer of the electricity retailer a statement of levy liability for each electricity sale arrangement the account relates to.

Examples—

1. An electricity account given to a non-contestable customer for a standard contract must include a statement of levy liability that includes the levy amount payable under part 2.
2. An electricity account given to a person who is the on-supplier for 3 on-supply arrangements for 3 separate areas must include a statement of levy liability that includes the levy amount payable under part 4 for each of the on-supply arrangements, as well as a statement of levy liability that includes the levy amount payable under part 2 or 4 for the standard contract or contestable sale arrangement under which electricity is sold to the person for consumption at the building that includes the separate areas.

(2) The period covered by the statement of levy liability must, other than for previously unpaid levy amounts, be the same as the period covered by the electricity account.

(3) The statement must be included even if the levy amount for which the customer is liable is a nil amount.

(4) Despite subsections (1) and (2), an electricity retailer may, with the commissioner's written approval, issue a statement of levy liability to an electricity customer of the electricity retailer separately from an electricity account.

(5) When an electricity sale arrangement ends, the relevant electricity retailer for the arrangement must give the electricity retailer's electricity customer an electricity account that, whether or not any amount is shown as payable for electricity retail services, includes a statement of levy liability for the period to the end of the electricity sale arrangement.

(6) The levy amount stated in a statement of levy liability must be worked out having regard to—

- (a) any information notified to the electricity retailer under this part about exemptions applying under part 2, 4 or 5; and
- (b) information included in returns and notices given to the electricity retailer under this part.

(7) A statement of levy liability must include advice to the effect that the electricity customer has a right of objection under this Act if the customer claims that the levy amount for which the customer is stated to be liable is an incorrect amount.

(8) This section does not apply for power card arrangements.

88 Statement of levy liability for power card arrangement

(1) This section applies for power card arrangements.

(2) The relevant electricity retailer for a power card arrangement must issue a statement of levy liability to the electricity customer who is the owner for the power card arrangement at least once every 3 months, and as soon as practicable after the power card arrangement ends.

(3) The statement need not be issued if the total levy amount for which the customer is liable is a nil amount.

(4) The levy amount stated in a statement of levy liability must be worked out having regard to—

- (a) any information notified to the electricity retailer under this part about exemptions applying under part 3; and
- (b) information included in returns given to the electricity retailer under this part.

(5) A statement of levy liability must include advice to the effect that the electricity customer has a right of objection under this Act if the customer claims that the levy amount for which the customer is stated to be liable is an incorrect amount.

89 Replacement statement of levy liability

An electricity retailer must give an electricity customer of the electricity retailer a statement of levy liability to replace a statement of levy liability previously given to the customer—

- (a) if the outcome of a review or appeal requires it; or
- (b) to correct mistakes of fact or arithmetic error in the calculation of a levy amount.

Division 2—Notification requirements for standard contracts**90 Notification requirement for exemption for standard contract**

(1) This section applies to a non-contestable customer for a standard contract with an electricity retailer if the customer claims that the standard contract is, or has been for a particular period, an exempt standard contract.

(2) The non-contestable customer may notify the electricity retailer in the approved form of the circumstances supporting the claim.

91 Notification requirement for loss of exemption for standard contract

(1) This section applies if—

- (a) an exempt standard contract is being dealt with by an electricity retailer, for the purposes of electricity accounts, as an exempt standard contract; and
- (b) the standard contract stops being an exempt standard contract.

(2) The non-contestable customer for the contract must, within 28 days after the contract stops being an exempt standard contract, notify the electricity retailer in the approved form—

- (a) that the contract has stopped being an exempt standard contract; and
- (b) when the contract stopped being an exempt standard contract.

Division 3—Notification requirements for power card arrangements

92 Notification requirement for exemption for power card arrangement

(1) This section applies to a power card arrangement that is, or that has been for a particular period, an exempt power card arrangement.

(2) If a person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement is the owner for the arrangement, the person may notify the relevant electricity retailer for the arrangement in the approved form of the circumstances supporting the claim.

(3) If a person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement is not the owner for the arrangement, the person may notify the owner for the arrangement in the approved form of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement.

(4) If the owner for the arrangement receives an approved form under subsection (3) that is properly completed, the owner must claim the exemption by giving notice in the approved form to the relevant electricity retailer for the power card arrangement not later than 28 days after receipt of the person's notification.

93 Notification requirement for loss of exemption for power card arrangement

(1) This section applies if—

- (a) an exempt power card arrangement is being dealt with by an electricity retailer as an exempt power card arrangement; and
- (b) the power card arrangement stops being an exempt power card arrangement.

(2) If the relevant person is not the owner for the arrangement, the relevant person must, within 28 days after the arrangement stops being an exempt power card arrangement, notify the owner for the arrangement in the approved form—

- (a) that the arrangement has stopped being an exempt power card arrangement; and
- (b) when the arrangement stopped being an exempt power card arrangement.

Maximum penalty—100 penalty units.

(3) Within 28 days after receiving advice from the relevant person under subsection (2), the owner must notify the electricity retailer in the approved form of the notification received from the relevant person.

(4) If the relevant person is the owner for the arrangement, the relevant person must, within 28 days after the arrangement stops being an exempt power card arrangement, notify the relevant electricity retailer for the arrangement in the approved form—

- (a) that the arrangement has stopped being an exempt power card arrangement; and
- (b) when the arrangement stopped being an exempt power card arrangement.

(5) In this section—

“relevant person” means the person who had direct knowledge of the circumstances causing the power card arrangement to be an exempt power card arrangement and who either—

- (a) notified the owner for the arrangement of the circumstances; or
- (b) as owner for the arrangement, notified the electricity retailer of the circumstances to make the claim for exemption on his or her own behalf.

Division 4—Notification requirements for on-supply arrangements

94 Notification requirement for exemption for on-supply arrangement

(1) This section applies to an on-supply arrangement that is, or that has been for a particular period, an exempt on-supply arrangement.

(2) A person who has direct knowledge of the circumstances causing the on-supply arrangement to be, or to have been, an exempt on-supply arrangement may notify the on-supplier for the arrangement in the approved form of the circumstances causing the on-supply arrangement to be, or to have been, an exempt on-supply arrangement.

(3) If the on-supplier for the arrangement receives an approved form under subsection (2) that is properly completed, the on-supplier must claim the exemption by giving notice in the approved form to the relevant electricity retailer for the on-supply arrangement not later than 28 days after receipt of the person’s notification.

(4) If the on-supply arrangement is an on-supply arrangement (type 1), and the person who notifies the on-supplier under subsection (2) is the occupier of the separate area the subject of the on-supply arrangement but is not also the receiver for the arrangement, the occupier must advise the receiver of the notification in any reasonable way as soon as practicable after the notification is made.

95 Notification requirement for loss of exemption for on-supply arrangement

(1) This section applies if—

- (a) an exempt on-supply arrangement is being dealt with by an electricity retailer, for the purposes of electricity accounts, as an exempt on-supply arrangement; and
- (b) the on-supply arrangement stops being an exempt on-supply arrangement.

(2) The relevant person must, within 28 days after the arrangement stops being an exempt on-supply arrangement, notify the on-supplier for the arrangement in the approved form—

- (a) that the arrangement has stopped being an exempt on-supply arrangement; and
- (b) when the arrangement stopped being an exempt on-supply arrangement.

Maximum penalty—100 penalty units.

(3) Within 28 days after receiving advice from the relevant person under subsection (2), the on-supplier must notify the electricity retailer in the approved form of the notification received from the relevant person.

(4) In this section—

“relevant person” means the person who notified the on-supplier for the arrangement that the on-supply arrangement was an exempt on-supply arrangement.

96 Returns and notices

(1) If a person is an on-supplier for 1 or more on-supply arrangements, the person must, within 90 days after the commencement of this section, give to the relevant electricity retailer for each arrangement a return complying with subsection (3), and in the approved form, about all the arrangements.

(2) If a person becomes an on-supplier after the commencement of this section, the person must, within 90 days after becoming an on-supplier, give to the relevant electricity retailer for each on-supply arrangement for which the person is the on-supplier, a return complying with subsection (3), and in the approved form, about all the arrangements.

(3) The return must include the following information—

- (a) the number of on-supply arrangements;

- (b) the number of on-supply arrangements that are exempt on-supply arrangements.

(4) An electricity retailer may, by written notice given to a person, require the person to give the electricity retailer a return in the approved form about on-supply arrangements for which the person is the on-supplier and the electricity retailer is the relevant electricity retailer.

(5) A person given a notice under subsection (4) must comply with the requirement.

(6) A person must, within 28 days after there is a change in the number of on-supply arrangements for which the person is the on-supplier and for which an electricity retailer is the relevant electricity retailer, give the electricity retailer a notice in the approved form of—

- (a) the change; and
- (b) when the change happened.

Division 5—Notification requirements for contestable sale arrangements

97 Notification requirement for exemption for contestable sale arrangement

(1) This section applies to the relevant contestable customer for a contestable sale arrangement if the customer claims that the contestable sale arrangement is, or has been for a particular period, an exempt contestable sale arrangement.

(2) The relevant contestable customer may notify the relevant electricity retailer for the arrangement in the approved form of the circumstances supporting the claim to exemption.

98 Notification requirement for loss of exemption for contestable sale arrangement

(1) This section applies if—

- (a) an exempt contestable sale arrangement is being dealt with by an electricity retailer, for the purposes of electricity accounts, as an exempt contestable sale arrangement; and
- (b) the contestable sale arrangement stops being an exempt contestable sale arrangement.

(2) The contestable customer for the arrangement must, within 28 days after the arrangement stops being an exempt contestable sale arrangement, notify the electricity retailer in the approved form—

- (a) that the arrangement has stopped being an exempt contestable sale arrangement; and
- (b) when the arrangement stopped being an exempt contestable sale arrangement.

Division 6—Special notification provisions

99 Particular exemptions taken to be notified under divs 2–5

(1) For an exemption for an electricity sale arrangement on the basis of the pensioner exemption, an electricity retailer is taken to be notified, for division 2, 3, 4 or 5, of the circumstances causing the electricity sale arrangement to be or to have been an exempt arrangement by the making of a claim with the electricity retailer, whether before or after the commencement of this section, for an electricity rebate.

(2) For an exemption for an electricity sale arrangement on the basis of the pump exemption, an electricity retailer is taken to be notified, for division 2, 3 or 5, of the circumstances causing the electricity sale arrangement to be or to have been an exempt arrangement if any electricity retail services provided for the arrangement are charged or chargeable at a tariff of a type prescribed under a regulation.

100 Notification for government exemptions

Information that may be, or that is required to be, notified under division 2, 3, 4 or 5 because of a government exemption may be given in a way approved by the commissioner rather than as required under the division.

Division 7—Payment of levy

101 Payment of levy amount shown in statement of levy liability

(1) The electricity customer of an electricity retailer must pay the electricity retailer the total levy amount shown in a statement of levy liability given to the electricity customer by the electricity retailer.

(2) If the statement of levy liability is included in an electricity account, the total levy amount must be paid on or before the day stated in the electricity account as the day for payment of the electricity account.

(3) If the statement of levy liability is not included in the electricity account, the total levy amount must be paid within the period stated in the statement for payment of the levy amount.

(4) The period stated in the statement of levy liability under subsection (3) must be the period, of not less than 30 days, approved by the commissioner.

(5) The electricity customer must pay the total levy amount shown in the statement of levy liability even if the electricity customer claims for any reason that the customer is not liable to pay all or part of the levy amount shown.

102 Priority of application of payment

Any payment received by an electricity retailer for an electricity account must be applied first in payment of any levy amount or other amount payable under this Act for any electricity sale arrangement to which the account relates, before it is applied in payment of any other amount payable under the account.

103 Payment to commissioner of received levy amounts

(1) An electricity retailer must pay to the commissioner a levy amount collected—

- (a) within 1 day after the electricity retailer receives the amount; or
- (b) within a later time approved by the commissioner.

(2) The electricity retailer must pay the amount to the commissioner without any deduction or set-off of any type, including, in particular, without any deduction or set-off for any administration fee payable to the

electricity retailer by the commissioner for the collection of the levy amount.

(3) Despite subsections (1) and (2), if the electricity retailer is authorised to pay a refund under division 8, the electricity retailer may pay the refund out of levy amounts collected.

(4) When an electricity retailer pays to the commissioner a levy amount collected from an electricity customer, the electricity retailer must give the commissioner a return in the approved form for the payment.

(5) The return must include information about any amount that has not been included in the payment because it has been used to pay a refund.

(6) The refusal of the commissioner to approve a later time under subsection (1)(b) is a non-reviewable decision.

104 Voluntary contributions

(1) This section applies if—

- (a) an electricity sale arrangement is a standard contract or a contestable sale arrangement; and
- (b) the electricity sale arrangement is an exempt arrangement because of a pensioner exemption; and
- (c) the electricity sale arrangement is being dealt with by the relevant electricity retailer for the arrangement as an exempt arrangement; and
- (d) the electricity customer for the electricity sale arrangement voluntarily pays to the electricity retailer an amount (“**voluntary contribution**”) that is additional to any amount that is payable by the customer for the electricity account relating to the electricity sale arrangement.

(2) To the extent the voluntary contribution is not more than the relevant amount in a financial year, the voluntary contribution is taken, for all purposes of this Act, to be a levy amount received by an electricity retailer and payable to the commissioner.

(3) In this section—

“**relevant amount**” means the amount prescribed under a regulation.

105 Requirement to pay shortfall amount

(1) If an electricity retailer becomes aware of a shortfall amount payable by a person, the electricity retailer must give written notice to the person of the shortfall amount.

(2) The commissioner may give written notice to a person of a shortfall amount payable by a person.

(3) A written notice given under subsection (1) may be included in an electricity account.

(4) A person given a notice under subsection (1) or (2) must pay the shortfall amount to the person who gave the notice within 14 days after the person receives the notice.

(5) A notice must not be given under subsection (1) or (2) more than 5 years after the shortfall amount should have been paid.

(6) The limitation in subsection (5) does not apply if, in failing to pay the shortfall amount, the person—

- (a) acted fraudulently; or
- (b) knowingly misled the commissioner or an electricity retailer; or
- (c) otherwise acted deliberately to evade payment of the amount.

(7) A notice given under subsection (1) or (2) must include advice to the effect that the person has a right of objection under this Act if the person claims that the shortfall amount is an incorrect amount or that no shortfall amount is payable.

Division 8—Refund of overpaid levy**106 Refund made only under this division**

A person is not entitled to a refund by an electricity retailer of any levy amount paid, or purportedly paid, under this Act other than under this division.

107 Refund of overpaid levy for electricity sale arrangement

(1) This section applies if—

- (a) as required by a statement of levy liability, an electricity customer pays an electricity retailer a levy amount (the “**paid amount**”) for an electricity sale arrangement; and
- (b) some or all of the paid amount (the “**refund amount**”) relates to a period of 1 or more days when the electricity sale arrangement was an exempt arrangement.

(2) The electricity customer may claim the refund amount by giving the electricity retailer a claim in the approved form or by complying with the notification requirements under this part.

(3) If the electricity retailer is satisfied the electricity customer is entitled to the refund amount, the electricity retailer must—

- (a) pay the refund amount to the electricity customer; or
- (b) provide the electricity customer with a credit for the refund amount in the next statement of levy liability issued to the customer.

(4) However, the electricity retailer must apply all or part of the refund amount as payment for any levy amount the electricity customer is liable to pay for the electricity sale arrangement but has not been paid.

(5) A person is not entitled to a refund under this section if—

- (a) more than 1 year has elapsed since the paid amount was paid; and
- (b) in the year, the person has not claimed the refund in the way provided for in this section.

108 Refund on issue of replacement statement of levy liability

(1) An electricity customer is entitled to a refund of a levy amount paid for an electricity sale arrangement if the customer’s levy liability is decreased by the issue of a replacement statement of levy liability.

(2) The electricity retailer must refund the overpaid amount to the electricity customer by—

- (a) paying the overpaid amount to the customer; or
- (b) providing the customer with a credit for the overpaid amount in the next statement of levy liability issued to the customer.

(3) However, the electricity retailer must apply all or part of the overpaid amount as payment for any levy amount the electricity customer is liable to pay for the electricity sale arrangement but has not been paid.

109 No interest on refund

A person is not entitled to interest on any levy amount required to be refunded to the person under this Act.

Division 9—Waiving payment and writing-off liability

110 Waiver of levy liability

(1) The commissioner may waive payment of an electricity customer's levy liability up to the amount prescribed under a regulation.

(2) If the commissioner waives payment, the liability to pay the amount waived is extinguished.

(3) A decision to refuse to waive payment is a non-reviewable decision.

111 Effect of writing-off levy liability

If all or part of an electricity customer's levy liability is written-off under the *Financial Administration and Audit Act 1977*, section 106,¹ the writing-off does not extinguish the electricity customer's liability or prevent a later proceeding against the customer to recover the amount of the liability.

Division 10—Action for non-payment

112 Recovery of unpaid levy amount

(1) If a person does not pay a levy amount to an electricity retailer within the time the person is required under this Act to pay the amount, the electricity retailer must carry out procedures for recovery of the unpaid levy amount as the commissioner directs.

¹ *Financial Administration and Audit Act 1977*, section 106 (Losses and special payments)

(2) The terms of an administration agreement between the commissioner and the electricity retailer do not limit the directions the commissioner may give under subsection (1).

113 Disconnection of electricity supply

(1) The disconnection provisions apply if a person fails to pay an electricity retailer a levy amount under this Act as if the failure to pay the levy amount were a failure to pay the electricity retailer an amount the person owes the electricity retailer for the provision of electricity retail services.

(2) An electricity retailer must take action under the disconnection provisions, including action to cause the supply of electricity to an electricity customer of the electricity retailer to be disconnected, if—

- (a) the electricity customer owes the electricity retailer—
 - (i) a levy amount; and
 - (ii) an amount payable by the customer for the provision of electricity retail services; and
- (b) the electricity retailer would, under its established business procedures, take action under the disconnection provisions in relation to the electricity customer if the total owed amount consisted only of an amount payable by the electricity customer for the provision of electricity retail services.

(3) Subsection (2) does not limit subsection (1).

(4) This section does not apply for power card arrangements.

(5) In this section—

“total owed amount” means the total of the following—

- (a) the amount mentioned in subsection (2)(a)(i);
- (b) the amount mentioned in subsection (2)(a)(ii).

114 Unpaid levy amount is a debt to the State

(1) If a levy amount is not paid by a person to an electricity retailer as required under this Act, the commissioner may recover the unpaid levy amount, as a debt payable to the State, in a court of competent jurisdiction.

(2) Subsection (1) does not stop the electricity retailer, while the levy amount remains unpaid, from, as provided for in this part—

- (a) carrying out procedures for recovery of the unpaid levy amount; or
- (b) taking action under the disconnection provisions to cause the supply of electricity to the person to be disconnected.

Division 11—Miscellaneous provisions for power card arrangements

115 Ability of owner to recover levy amount

(1) This section applies if a power card premises for a power card arrangement are the subject of a lease, tenancy or other right of occupation from the owner for the arrangement.

(2) The owner may recover from the occupier of the power card premises a levy amount for the power card arrangement that the owner has paid, or that is payable by the owner, for the power card arrangement, but only to the extent the levy amount relates to the period of the lease, tenancy or occupation.

116 Recovery of levy by owner

An owner for a power card arrangement must not recover, or try to recover, from a person a levy amount for the arrangement, or an amount purportedly payable as a levy amount for the arrangement, unless the owner has received a statement of levy liability for the amount.

Maximum penalty—100 penalty units.

117 Failure to notify electricity retailer of exemption information

(1) This section applies if—

- (a) an owner for a power card arrangement is notified, in the way this part provides, of the circumstances causing the arrangement to be, or to have been, an exempt power card arrangement; and
- (b) the owner does not, in the way this part provides, claim the exemption from the relevant electricity retailer for the arrangement; and

- (c) because of the owner's failure, the owner is required to pay a levy amount for the arrangement.

(2) The owner must not recover, or take action to try to recover, from any person the levy amount paid.

(3) Subsection (2) does not stop the owner from seeking a refund from the electricity retailer of the levy amount.

118 Payment of refund to entitled person

(1) This section applies if the owner for a power card arrangement receives a refund, for any reason, of a levy amount that was overpaid for the arrangement (the **"refund amount"**).

(2) The owner must, within 90 days after receiving the refund amount (the **"relevant period"**), pay the required amount to the entitled person.

(3) If the owner does not pay the entitled person the required amount within the relevant period, the owner must, within 7 days after the relevant period—

- (a) give the commissioner written notice that the entitled person was not paid the required amount; and
- (b) pay the commissioner the required amount plus interest at the prescribed rate calculated, on the balance payable from time to time, from the date the owner received the refund amount to the date the required amount is paid to the commissioner.

Maximum penalty—100 penalty units.

(4) In this section—

"entitled person" means the person from whom the owner recovered, or otherwise collected, the required amount.

"required amount" means the refund amount to the extent it represents an amount that the owner has already recovered or otherwise collected from a person as authorised under this Act.

119 No recovery from Commonwealth

This division does not authorise the owner for a power card arrangement to recover a levy amount from the Commonwealth.

Division 12—Miscellaneous provisions for on-supply arrangements**120 Ability of on-supplier to recover levy amount**

(1) The on-supplier for an on-supply arrangement may recover a levy amount for the arrangement that the on-supplier has paid, or that is payable by the on-supplier, for the on-supply arrangement from any of the following—

- (a) if there is a receiver for the arrangement—the receiver;
- (b) if the on-supplier is not the owner of the separate area for the arrangement—the owner;
- (c) if the separate area for the arrangement is the subject of a lease, tenancy or other right of occupation—the occupier, but only to the extent the levy amount relates to the period of the lease, tenancy or occupation.

(2) If the on-supplier for an on-supply arrangement recovers a levy amount from the receiver for the arrangement the receiver may recover the amount from, if the receiver is not the owner of the separate area—

- (a) the owner of the separate area; or
- (b) a person who is the occupier of the separate area, but only to the extent the levy amount relates to the period of the person's lease, tenancy or occupation.

(3) If the on-supplier or the receiver for an on-supply arrangement recovers a levy amount from the owner of the separate area for the arrangement, the owner may recover the amount from a person who is the occupier of the separate area, but only to the extent the levy amount relates to the period of the person's lease, tenancy or occupation.

121 Recovery of levy by on-supplier

An on-supplier must not recover, or try to recover, from a person a levy amount for an on-supply arrangement, or an amount purportedly payable as a levy amount for an on-supply arrangement, unless the on-supplier has received a statement of levy liability for the amount.

Maximum penalty—100 penalty units.

122 Failure to notify electricity retailer of exemption information

(1) This section applies if—

- (a) an on-supplier is notified, in the way this part provides, of the circumstances causing an on-supply arrangement to be, or to have been, an exempt on-supply arrangement; and
- (b) the on-supplier does not, in the way this part provides, claim the exemption from the relevant electricity retailer for the arrangement; and
- (c) because of the on-supplier's failure, the on-supplier is required to pay a levy amount for the on-supply arrangement.

(2) The on-supplier must not recover, or take action to try to recover, from any person the levy amount paid.

(3) Subsection (2) does not stop the on-supplier from seeking a refund from the electricity retailer of the levy amount.

123 Payment of refund to entitled person

(1) This section applies if the on-supplier for an on-supply arrangement receives a refund, for any reason, of a levy amount that was overpaid for the arrangement (the “**refund amount**”).

(2) The on-supplier must, within 90 days after receiving the refund amount (the “**relevant period**”), pay the required amount to the entitled person.

(3) If the on-supplier does not pay the entitled person the required amount within the relevant period, the on-supplier must, within 7 days after the relevant period—

- (a) give the commissioner written notice that the entitled person was not paid the required amount; and
- (b) pay the commissioner the required amount plus interest at the prescribed rate calculated, on the balance payable from time to time, from the date the on-supplier received the refund amount to the date the required amount is paid to the commissioner.

Maximum penalty—100 penalty units.

(4) If the entitled person who receives the required amount is the owner of the separate area for the on-supply arrangement, the owner must pay the required amount to the occupier of the separate area, to the extent the

required amount represents an amount the owner has already recovered from the occupier under this division.

(5) In this section—

“entitled person” means the person from whom the on-supplier recovered, or otherwise collected, the required amount.

“required amount” means the refund amount to the extent it represents an amount that the on-supplier has already recovered or otherwise collected from a person as authorised under this Act.

124 No recovery from Commonwealth

This division does not authorise the on-supplier for an on-supply arrangement, or the owner of the separate area the subject of an on-supply arrangement, to recover a levy amount from the Commonwealth.

PART 8—LATE PAYMENTS

125 Unpaid levy interest

(1) An electricity retailer must pay interest (**“unpaid levy interest”**) on all levy amounts received by the electricity retailer and payable to the commissioner and unpaid from time to time.

(2) Unpaid levy interest accrues daily at the prescribed rate on an unpaid levy amount for the period starting on the day immediately after the day the unpaid levy amount became payable to the commissioner and ending on the day the unpaid levy amount is paid in full, both days inclusive.

126 Commissioner may remit unpaid levy interest

(1) The commissioner may remit the whole or part of any unpaid levy interest an electricity retailer owes.

(2) The remission must be made by written notice given to the electricity retailer.

PART 9—REVIEW OF DECISIONS

Division 1—Objections

127 Who may lodge objection

(1) An electricity customer of an electricity retailer who is dissatisfied with any of the following may lodge a written objection with the commissioner—

- (a) the levy amount stated in a statement of levy liability issued to the customer by the retailer;
- (b) a written notice given to the customer of a shortfall amount payable by the customer;
- (c) a decision of the commissioner or the electricity retailer affecting the customer's liability to pay the levy;
- (d) a decision of the electricity retailer about a claim by the customer for a refund of a levy amount paid.

(2) Also, a person mentioned in subsection (3) who is dissatisfied with a decision of the commissioner or an electricity retailer about the status of an on-supply arrangement or a power card arrangement as an exempt arrangement may lodge a written objection with the commissioner.

(3) For subsection (2), the persons are—

- (a) a person who notifies the on-supplier for an on-supply arrangement that the arrangement is an exempt on-supply arrangement; and
- (b) a person who notifies the owner for a power card arrangement that the arrangement is an exempt power card arrangement.

(4) However, an objection may not be made under subsection (1)(a) on the grounds of the status of an electricity sale arrangement as an exempt arrangement unless the customer complies, on or before lodging the objection, with the notification provisions under part 7.

(5) This section does stop an electricity customer from asking an electricity retailer to act under section 89 to give the electricity customer a replacement statement of levy liability.

128 Requirements for lodging objection

(1) The grounds of objection must be stated fully and in detail in the written objection lodged with the commissioner.

(2) The written objection must, if the objection relates to the status of an electricity sale arrangement as an exempt arrangement, be accompanied by a copy of the notice supporting the claim to exemption given to the electricity retailer by the electricity customer.

(3) The objection must be lodged within 60 days after the objector receives the statement of levy liability, written notice of a shortfall amount or notice of the decision.

(4) If the commissioner is satisfied an objector has a reasonable excuse for failing to lodge an objection within the 60 day period, the commissioner may extend the time for lodging the objection.

(5) The commissioner's decision to refuse to extend the time for lodging an objection is a non-reviewable decision.

129 Onus of proof of objection

An objector has the onus of proving the objector's case.

130 Deciding objection

(1) After considering the objection, the commissioner may—

- (a) allow all or part of the objection; or
- (b) disallow the objection.

(2) If the decision was made by a delegate of the commissioner, the delegate must not decide the objection.

131 Notice of decision

(1) The commissioner must give written notice of the commissioner's decision on the objection to—

- (a) the objector; and
- (b) the relevant electricity retailer for the electricity sale arrangement the objection relates to.

(2) The notice must state the following—

- (a) the reasons for the decision;
- (b) the objector may, within 60 days after receiving the notice, appeal against the decision;
- (c) how to appeal.

Division 2—Appeals

132 Right of appeal

An objector who is dissatisfied with the commissioner's decision on an objection, may appeal against the decision.

133 How to start appeal

(1) The appeal is started by—

- (a) filing notice of appeal with the clerk of the court of the Magistrates Court nearest the place where the objection was lodged; and
- (b) giving a copy of the notice of appeal to the commissioner.

(2) The notice of appeal must be filed within 60 days after the appellant receives notice of the commissioner's decision on the objection.

(3) The court may at any time extend the time for filing the notice of appeal.

(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

(5) The grounds of the appeal are limited to the grounds of objection unless the court otherwise orders.

134 Onus on appeal

On the appeal, the appellant has the onus of proving the appellant's case.

135 Procedures for hearing appeal

(1) In deciding the appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and

- (b) must comply with natural justice; and
 - (c) may hear the appeal in court or chambers.
- (2) An appeal is by way of rehearing.

136 Deciding appeal

- (1) On the appeal, the Magistrates Court may—
- (a) confirm the decision; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the commissioner with the directions the court considers appropriate.
- (2) If the court substitutes another decision, the substituted decision is taken for this Act, other than this part, to be the commissioner’s decision.

137 Appeals to District Court

An appeal lies to the District Court from a decision of the Magistrates Court, but only on a question of law.

Division 3—Decisions not subject to objection, appeal or review

138 What is a “non-reviewable decision”

(1) A “**non-reviewable decision**” is a decision that, under this Act, is declared to be a non-reviewable decision.

(2) In this section—

“**decision**” includes a decision or conduct leading up to or forming part of the process of making a decision.

139 Effect of a non-reviewable decision

A non-reviewable decision—

- (a) is final and conclusive; and
- (b) is not subject to objection or appeal under this part; and

- (c) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
- (d) is not subject to a writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

140 Application of Judicial Review Act 1991

The *Judicial Review Act 1991*, parts 3 and 5,² do not apply to—

- (a) a decision of the commissioner or an electricity retailer on a person's levy liability; or
- (b) a decision or conduct leading up to or forming part of the process of making a decision mentioned in paragraph (a); or
- (c) a decision disallowing all or part of an objection against a decision.

PART 10—APPLICATION OF TAXATION ADMINISTRATION ACT 2001

Division 1—Preliminary

141 This Act as a revenue law for Administration Act

The Administration Act, parts 3 to 6, do not apply to this Act as a revenue law under the Administration Act.³

2 *Judicial Review Act 1991*, parts 3 (Statutory orders of review) and 5 (Prerogative orders and injunctions)

3 The *Taxation Administration Act 2001*, section 6 (Revenue laws) declares this Act to be a revenue law.

Division 2—Confidentiality

142 Application of Administration Act, s 111

(1) For the Administration Act, section 111,⁴ the following persons are taken to be officials—

- (a) a person who is, or has been, an electricity retailer or an authorised subcontractor of the electricity retailer;
- (b) a person who is, or has been, an employee, agent or contractor of an electricity retailer or an authorised subcontractor of the electricity retailer.

(2) Section 111(1) of the Administration Act does not stop an electricity retailer or its authorised subcontractor disclosing confidential information to the commissioner.

143 Use of information obtained under taxation law

(1) The commissioner may use information obtained in the administration or enforcement of a taxation law for the administration or enforcement of this Act.

(2) In this section—

“**taxation law**” means—

- (a) a law of the Commonwealth or a State about the assessment or imposition of a tax, fee, duty or other impost; or
- (b) the *Fuel Subsidy Act 1997*; or
- (c) the *First Home Owner Grant Act 2000*.

⁴ *Taxation Administration Act 2001*, section 111 (Disclosure of confidential information)

Division 3—Record keeping**144 Requirement to keep records for levy**

(1) The Administration Act, section 114⁵ does not apply to a person's levy liability.

(2) An electricity retailer must keep the records necessary to enable the levy liability of the electricity retailer's electricity customers to be ascertained.

Maximum penalty—100 penalty units.

(3) A following person must keep the records necessary to enable the person's levy liability to be ascertained—

- (a) an on-supplier;
- (b) an electricity customer under an electricity sale arrangement that is dealt with as an exempt arrangement.

Maximum penalty—100 penalty units.

(4) A person who notifies the on-supplier for an on-supply arrangement that the arrangement is an exempt on-supply arrangement must keep the records necessary to enable the status of the on-supply arrangement as an exempt on-supply arrangement to be ascertained.

Maximum penalty—100 penalty units.

(5) A person who notifies the owner for a power card arrangement that the arrangement is an exempt power card arrangement must keep the records necessary to enable the status of the power card arrangement as an exempt power card arrangement to be ascertained.

Maximum penalty—100 penalty units.

(6) For subsections (2) to (5), the commissioner may, by written notice given to a person, require the person to keep a particular record stated in the notice for this Act.

(7) The person must, unless the person has a reasonable excuse, comply with the notice.

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

⁵ *Taxation Administration Act 2001*, section 114 (Requirement to keep proper records)

Division 4—Enforcement and legal proceedings**145 Failure to give notice**

If, under this Act, a person is required to give to an electricity retailer a notice about a matter, the person must not fail, without reasonable excuse, to comply with the requirement.

Maximum penalty—100 penalty units.

146 Prohibition on giving false or misleading documents to electricity retailer, on-supplier or owner

(1) A person must not give an electricity retailer, an on-supplier or the owner for a power card arrangement a document containing information the person knows, or should reasonably know, is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document—

- (a) tells the electricity retailer, on-supplier or owner of the extent to which the document is false or misleading; and
- (b) to the extent the person has, or can reasonably get, the correct information—gives the correct information to the electricity retailer, on-supplier or owner.

(3) It is enough for a complaint against a person for an offence against subsection (1) to state the document was ‘false or misleading’, without specifying which.

(4) This section applies in addition to the Administration Act, section 122.⁶

⁶ Taxation Administration Act 2001, section 122 (False or misleading documents)

147 Prohibition on giving false or misleading information to electricity retailer, on-supplier or owner

(1) A person must not state anything to an electricity retailer, an on-supplier or the owner for a power card arrangement that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

(2) It is enough for a complaint for an offence against subsection (1), to state the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

(3) This section applies in addition to the Administration Act, section 123.⁷

148 Evidentiary provision for statements of levy liability

(1) Production of a document signed by the commissioner purporting to be a copy of a statement of levy liability or a notice of a shortfall amount—

- (a) is conclusive evidence of the proper making of the statement or notice; and
- (b) for—
 - (i) a proceeding on an appeal against a decision on an objection—is evidence that the amount and all particulars of the liability are correct; or
 - (ii) another proceeding—is conclusive evidence that the amount and all particulars of the liability are correct.

(2) The validity of a statement of levy liability or notice or a shortfall amount is not affected merely because this Act has not been complied with.

Division 5—Giving and lodging documents**149 Additional ways of giving documents to commissioner**

(1) For this Act, a document, other than a document for a proceeding, may be given to the commissioner by—

⁷ Taxation Administration Act 2001, section 123 (False or misleading information)

- (a) leaving it at any office of an electricity retailer or an authorised subcontractor of an electricity retailer; or
- (b) sending it by post or facsimile to an electricity retailer or an authorised subcontractor of an electricity retailer.

(2) A document given to the commissioner under subsection (1) is taken to be given to the commissioner—

- (a) if it is given to the commissioner in the way mentioned in subsection (1)(a)—when it is actually received by the electricity retailer or authorised subcontractor with whom it is left; or
- (b) if it is sent by facsimile—the date the facsimile is sent.⁸

(3) Subsection (1) applies in addition to the Administration Act, section 143.⁹

150 Requirement if electricity retailer or authorised subcontractor given document for commissioner

An electricity retailer, or an authorised subcontractor of an electricity retailer, to whom a document is given under section 149 must, as soon as practicable after receiving the document, give the document to the commissioner in a way mentioned in the Administration Act, section 143.

151 Giving document if more than 1 electricity customer liable to pay levy for electricity sale arrangement

A document is taken to be given to all persons who are liable to pay the levy for an electricity sale arrangement if it is given to 1 of the persons who is liable to pay the levy for the arrangement.

8 For time of giving document by post, see *Acts Interpretation Act 1954*, section 39A(1)(b).

9 *Taxation Administration Act 2001*, section 143 (Ways of giving document to commissioner)

*Division 6—Miscellaneous***152 Lodgment requirement**

For the application of the Administration Act to this Act as a revenue law—

“**lodge**” includes lodge with an electricity retailer.

“**lodgment requirement**” includes a requirement under this Act to give a document to an electricity retailer.

PART 11—MISCELLANEOUS**153 Approved forms**

(1) The commissioner may approve forms for use under this Act.

(2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

154 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may prescribe particular services or infrastructure that are, or are not, core government or local government services or public infrastructure under this Act.

(3) A regulation may provide for a maximum penalty of not more than 20 penalty units for a contravention of a regulation.

155 Regulation-making power for introduction of levy

(1) A regulation (an “**interim regulation**”) may make provision about a matter for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the introduction of the system of collection of the levy by electricity retailers; and
- (b) this Act does not make provision or sufficient provision.

(2) An interim regulation may have retrospective operation to a day not earlier than the day this section commences.

(3) An interim regulation must declare it is an interim regulation.

(4) This section and any interim regulation expire 1 year after the commencement of this section.

PART 12—AMENDMENT OF AMBULANCE SERVICE ACT 1991

156 Act amended in pt 12

This part amends the *Ambulance Service Act 1991*.

157 Amendment of s 19 (Fund)

Section 19(5)(a), ‘, or as subscriptions paid to the service’—
omit.

158 Amendment of s 29 (Members of committees)

(1) Section 29(1)—

omit, insert—

‘(1) Adults who permanently reside or work in the area served, or to be served, by a committee may, at a general meeting called for the purpose, elect the committee’s members.’.

(2) Section 29(2)(b) and (c)—

omit, insert—

‘(b) is not an adult; or’.

(3) Section 29(2)(d) to (f)—

renumber as section 29(2)(c) to (e).

159 Amendment of s 29A (Dealing with vacancy in office of a member)

(1) Section 29A(2), ‘a subscriber’—

omit, insert—

‘a person who is eligible to be a member of a committee’.

(2) Section 29A(4)—

omit.

160 Omission of s 44 (Unauthorised teaching of first aid)

Section 44—

omit.

161 Omission of s 45 (Unauthorised collections)

Section 45—

omit.

162 Amendment of s 48 (Restricted use of words ‘Ambulance Service’)

Section 48(1), ‘commissioner’—

omit, insert—

‘Minister’.

163 Insertion of new ss 53B–53D

After section 53A—

insert—

‘53B Exemption from payment for ambulance service

‘(1) Subject to subsection (3), the following persons are not liable to pay a charge under this Act for the use of an ambulance service—

- (a) an individual whose principal place of residence is in Queensland;
- (b) another individual who is—

- (i) a dependant of a person mentioned in paragraph (a); or
- (ii) under 25 and a full-time student at an educational institution in the State; or
- (iii) under 25 and a full-time student at an educational institution in another State or a Territory if the student is a child of a person mentioned in paragraph (a).

‘(2) In deciding whether an individual’s principal place of residence is in Queensland, all of the person’s circumstances may be taken into account, including, for example, any of the following circumstances—

- (a) the individual’s address as shown on the individual’s driver’s licence or an electoral roll for an electoral district under the *Electoral Act 1992*;
- (b) whether the individual is living outside of the State.

‘(3) If an ambulance service is provided to a person, a fee prescribed under a regulation is payable by the person if the person is entitled to recover the amount of the fee under any of the following—

- (a) the *WorkCover Queensland Act 1996*;
- (b) the *Veterans’ Entitlements Act 1986* (Cwlth);
- (c) another law of a State, a Territory or the Commonwealth.

‘53C Agreement about payment for ambulance service

‘The chief executive may enter into an agreement with any of the following entities about the payment of an amount for ambulance services provided to a person under this Act—

- (a) WorkCover Queensland established under the *WorkCover Queensland Act 1996*;
- (b) the Repatriation Commission continued in existence under the *Veterans’ Entitlements Act 1986* (Cwlth), section 179;
- (c) the chief executive of the department in which the *Health Act 1937* is administered;
- (d) another entity the chief executive considers appropriate.

‘53D Recovery of fees and charges

‘A fee or charge payable under this Act and not paid is a debt due to the State and may be recovered by the chief executive in a court having jurisdiction for the recovery of the amount claimed.’

164 Amendment of s 54 (Regulations)

(1) Section 54, heading—

omit, insert—

‘54 Regulation-making power’.

(2) Section 54(2)(b)—

omit.

(3) Section 54(2)(c), ‘subscribers to’—

omit, insert—

‘persons who use’.

(4) Section 54(2)(e)—

omit.

(5) Section 54(2)(c) and (d)—

renumber as section 54(2)(b) and (c).

(6) Section 54(3)—

omit.

165 Insertion of new pt 8, div 5

After section 91—

insert—

‘Division 5—Provisions for Community Ambulance Cover Act 2003

‘92 Definitions for div 5

‘In this division—

“commencement” means the commencement of this section.

“former subscriber” means a person who, immediately before the commencement, is a subscriber under the pre-amended Act.

“pre-amended Act” means this Act as in force before the commencement.

‘93 Former subscriber’s entitlement ends

‘On the commencement, a former subscriber’s entitlement to ambulance services under the pre-amended Act ends.

‘94 Charge not payable for particular ambulance service

‘(1) This section applies to an ambulance service provided to a person mentioned in section 53B(1) if the provision of the service began before the commencement and ended after the commencement.

‘(2) The person is not liable to pay a charge under this Act for the use of the ambulance service.

‘95 Continuation of written authority

‘(1) This section applies to a written authority of the commissioner mentioned in section 48(1)(a), (c) or (e) of the pre-amended Act if the authority is in force immediately before the commencement.

‘(2) After the commencement, the written authority is taken to be a written authority of the Minister under section 48(1)(a), (c) or (e).’.

166 Amendment of schedule (Dictionary)

Schedule, definition “subscriber”—

omit.

PART 13—AMENDMENT OF ELECTRICITY ACT 1994

167 Act amended in pt 13

This part amends the *Electricity Act 1994*.

168 Insertion of new s 55F

Chapter 2, part 6—

insert—

‘55F Additional condition to comply with Ambulance Cover Act

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

169 Insertion of new s 61A

Chapter 2, part 7, after section 61—

insert—

‘61A Additional condition to comply with Ambulance Cover Act

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

170 Insertion of new s 119A

After section 119—

insert—

‘119A Exclusion of disputes relating to community ambulance cover levy

‘(1) Section 119 does not apply to a dispute between an electricity entity and a customer about—

- (a) the performance of a function or exercise of a power under the Ambulance Cover Act; or
- (b) the performance of a function or exercise of a power under this Act, to the extent that the performance of the function or exercise of the power is required, permitted or otherwise provided for under the Ambulance Cover Act.

‘(2) A person must not refer a dispute to the regulator under section 119(3) if the dispute is, or is in the nature of, a dispute to which, because of subsection (1), section 119 does not apply.

‘(3) A person must not refer to the regulator under 119(3) a dispute about—

- (a) the levy; or
- (b) the levy amount paid or payable by a person; or
- (c) the collection of a levy amount; or
- (d) the collection of an amount for electricity, if the dispute arises, in substance, out of the collection of a levy amount.

‘(4) Subsection (3) does not limit subsection (2).

‘(5) The regulator must not refer a dispute to an energy mediator under section 119(5), or to an energy arbitrator under section 119(6), if the regulator is satisfied on reasonable grounds, having regard to subsections (1) to (3)—

- (a) that section 119 does not apply to the dispute; or
- (b) that the dispute is not a dispute that may be referred to the regulator under section 119.

‘(6) Before the regulator refers a dispute under section 119(5) or (6), the regulator may require the person who referred the dispute under section 119(3) to satisfy the regulator, by a written or oral declaration, or in another way, that the dispute is not a dispute that, under this section, must not be referred to the regulator.

‘(7) This section does not limit section 119.

‘(8) In this section—

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

“levy amount” means a levy amount under the Ambulance Cover Act.’.

171 Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

‘ “Ambulance Cover Act” means the *Community Ambulance Cover Act 2003*.’.

**PART 14—AMENDMENT OF TAXATION
ADMINISTRATION ACT 2001**

172 Act amended in pt 14

This part amends the *Taxation Administration Act 2001*.

173 Amendment of s 6 (Revenue laws)

Section 6—

insert—

‘(2) The *Community Ambulance Cover Act 2003* is a revenue law.

‘(3) Subsection (2) is subject to the *Community Ambulance Cover Act 2003*, part 10.¹⁰’.

¹⁰ The *Community Ambulance Cover Act 2003*, part 10 modifies the operation of this Act.

SCHEDULE

DICTIONARY

section 8

“Administration Act” means the *Taxation Administration Act 2001*.

“administration agreement” see section 82.

“administration fee” see section 83.

“annual levy” see section 18(1).

“authorised subcontractor” see section 81.

“card operated meter” means a meter that allows electricity to be consumed at premises for which the meter is installed to the value of the amount credited to a card that operates the meter.

“commissioner” means the Commissioner of State Revenue under the Administration Act.

“Commonwealth” means the Commonwealth within the meaning of section 114 of the Commonwealth Constitution.

“community ambulance cover levy” see section 3.

“contestable customer” see the Electricity Act.

“contestable sale arrangement” see section 16.

“daily levy” see section 18(2).

“disconnection provisions” means a regulation made under the Electricity Act, section 40G or 55.¹¹

“electricity account” means a statement or invoice issued by an electricity retailer for an electricity customer of the retailer that shows the amount payable by the customer for electricity retail services provided to the customer for the purposes of an electricity sale arrangement.

“Electricity Act” means the *Electricity Act 1994*.

¹¹ Electricity Act, section 40G (Disconnection for failure to pay debts) or 55 (Disconnection for failure to pay debts)

SCHEDULE (continued)

“electricity customer”, of an electricity retailer, means—

- (a) the non-contestable customer for a standard contract to which the electricity retailer is a party; or
- (b) the owner of the power card premises for a power card arrangement, if the electricity retailer is the electricity retailer that has the facility to sell the electricity for consumption at the power card premises; or
- (c) the on-supplier for an on-supply arrangement, if the electricity retailer is the electricity retailer that sells the on-supplier the electricity for further supply and further sale; or
- (d) the relevant contestable customer for a contestable sale arrangement, if the electricity retailer is the electricity retailer that sells electricity to the relevant contestable customer.

“electricity rebate” means a Queensland Government Electricity Rebate under the Tariff Schedule—

- (a) the subject of a gazette notification of 14 June 2002; or
- (b) the subject of any subsequent gazette notification that replaces the notification mentioned in paragraph (a).

“electricity retailer” means—

- (a) a retail entity; or
- (b) a special approval holder whose special approval authorises the holder to provide electricity retail services.

“electricity retail services” means services that include the sale, or sale and supply, of electricity.

“electricity sale arrangement” means—

- (a) a standard contract; or
- (b) a power card arrangement; or
- (c) an on-supply arrangement; or
- (d) a contestable sale arrangement.

“exempt arrangement” means—

- (a) an exempt standard contract; or

SCHEDULE (continued)

- (b) an exempt power card arrangement; or
- (c) an exempt on-supply arrangement; or
- (d) an exempt contestable sale arrangement.

“exempt contestable sale arrangement” means a contestable sale arrangement that is an exempt contestable sale arrangement under part 5, division 5.

“exempt on-supply arrangement” means an on-supply arrangement that is an exempt on-supply arrangement under part 4, division 5.

“exempt power card arrangement” means a power card arrangement that is an exempt power card arrangement under part 3, division 5.

“exempt standard contract” means a standard contract that is an exempt standard contract under part 2, division 5.

“farming shed”—

1. A “farming shed” means a building or silo that is located on land used primarily for primary production and is itself used only for primary production.
2. A “farming shed” does not include a building used indirectly for primary production, for example, for residential or accommodation purposes connected with primary production, whether the use is permanent, temporary or occasional.

Example—

A building is not a farming shed if it is occasionally used for shearers accommodation, even if, most of the time, it is not being used for shearers accommodation and is being used only to store agricultural equipment.

“government exemption” means the exemption applying to an electricity sale arrangement because of the operation of section 34, 35, 36, 48, 49, 50, 60, 61, 62, 75, 76 or 77.

“later financial year” means a financial year after the financial year starting on 1 July 2003.

“levy” means the community ambulance cover levy.

“levy amount” means an amount of the levy, and includes a shortfall amount.

“levy liability” means a liability under this Act for a levy amount.

SCHEDULE (continued)

“meter” see the Electricity Act.

“non-contestable customer” see the Electricity Act.

“non-reviewable decision” see section 138.

“occupier”, of an area or premises means the lessee, tenant or occupier under a lease, tenancy or other right of occupation of the area or premises.

“on-supplier”—

- (a) for an on-supply arrangement (type 1)—see section 14; or
- (b) for an on-supply arrangement (type 2)—see section 15.

“on-supply arrangement” means an on-supply arrangement (type 1) or an on-supply arrangement (type 2).

“on-supply arrangement (type 1)” see section 14.

“on-supply arrangement (type 2)” see section 15.

“owner”—

1. An “owner” of power card premises means the person who is—
 - (a) if the power card premises are the subject of a lease from the State—the lessee under the lease; or
 - (b) otherwise—the owner of the power card premises.
2. An “owner” for a power card arrangement means the person who is the owner of the power card premises for the arrangement.

“pensioner” means a person who is the holder of a current card of 1 of the following types—

- (a) a pensioner concession card issued by the department of the Commonwealth responsible for administering either of the following—
 - (i) the *Social Security Act 1991* (Cwlth);
 - (ii) the *Veterans Entitlement Act 1986* (Cwlth);
- (b) a repatriation health card for all conditions (Gold Card) issued by the Commonwealth responsible for administering the *Veterans Entitlement Act 1986* (Cwlth);
- (c) a Queensland Government seniors card.

SCHEDULE (continued)

“pensioner exemption” means the exemption applying to an electricity sale arrangement because of the operation of section 31, 45, 58 or 72.

“power card arrangement” see section 11.

“power card premises” see section 11.

“premises” includes the following—

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

“prescribed rate”, for interest, means the rate prescribed under a regulation.

“primary production” means—

- (a) agriculture; or
- (b) dairy farming; or
- (c) pasturing of animals; or
- (d) maintaining animals for the purposes of selling them or their bodily produce, including natural increase, for human consumption; or
- (e) apiculture; or
- (f) aquaculture; or
- (g) commercial fishing; or
- (h) horticulture, other than amenity horticulture.

“pump exemption” means the exemption applying to an electricity sale arrangement because of the operation of section 33, 47 or 74.

“receiver”, for an on-supply arrangement, means—

- (a) if the on-supply arrangement is an on-supply arrangement (type 1)—any person to whom electricity is further supplied and further sold; and
- (b) if the on-supply arrangement is an on-supply arrangement (type 2)—the occupier of the separate area for the arrangement.

SCHEDULE (continued)

“relevant contestable customer”, for a contestable sale arrangement, see section 16.

“relevant electricity retailer”, for an electricity sale arrangement, means—

- (a) for a standard contract—the electricity retailer who is a party to the contract; or
- (b) for a power card arrangement—the electricity retailer that has the facility to sell the electricity for consumption at the power card premises; or
- (c) for an on-supply arrangement—the electricity retailer who sells, to the on-supplier for the arrangement, electricity for further supply and further sale; or
- (d) for a contestable sale arrangement—the electricity retailer who sells electricity to the relevant contestable customer for the arrangement.

“replacement statement of levy liability” means a replacement statement of levy liability issued under section 89.

“retail entity” see the Electricity Act.

“separate area” see section 12.

“separate non-domestic area” see section 13.

“shortfall amount” means an amount of the levy payable for a period but which was not included in a statement of levy liability for the period.

Examples—

- an amount that was not included in a statement of levy liability because an exemption for an electricity sale arrangement was incorrectly claimed
- an amount that was not included in a statement of levy liability because an on-supplier submitted an incorrect return to an electricity retailer
- an amount that was not included in a statement of levy liability because a notification given to an electricity retailer by an electricity customer that an electricity sale arrangement stopped being an exempt arrangement is received after a statement of levy liability is sent to the electricity customer.

“social security beneficiary” means a person who receives income support payments from the Commonwealth under either of the following—

SCHEDULE (continued)

- (a) the *Social Security Act 1991* (Cwlth);
- (b) the *Veterans Entitlement Act 1986* (Cwlth);

“special approval holder” see the Electricity Act.

“standard contract” see section 10.

“statement of levy liability” means a statement showing—

- (a) the levy amount for which an electricity customer is liable, under parts 2 to 5, for the period the subject of the statement; and
- (b) any unpaid levy amount for any previous period.

“unpaid levy interest” see section 125.