

# **ELECTRICAL SAFETY BILL 2002**

## **EXPLANATORY NOTES**

### **GENERAL OUTLINE**

#### **1. Purpose of the Bill**

The overall purpose of the Bill is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity. The purpose of the Bill is to establish a legislative framework for:

- preventing persons from being killed or injured by electricity; and
- preventing property from being destroyed or damaged by electricity.

The legislative framework established to achieve this purpose includes:

- imposing obligations on persons who may affect the electrical safety of others by acts or omissions;
- making regulations, ministerial notices and codes of practice about electrical safety;
- introducing safety management systems for prescribed electricity entities;
- providing for the safety of all persons through licensing and discipline of persons who perform electrical work;
- providing consumer protection for failures of persons who perform electrical work to properly perform or complete the work;
- providing for the appointment of a Commissioner of Electrical Safety to advise the Minister on electrical safety matters and to manage the activities of the Electrical Safety Board and its committees;
- establishing the Electrical Safety Board and its committees to allow industry and the community to participate in developing

strategies to improve: electrical safety, standards of electrical equipment and licensing; and to promote awareness of electrical safety.

## **2. Reasons for the Bill**

In February 2000 the then Minister for Employment, Training and Industrial Relations, the Honourable Paul Braddy MP and the then Minister for Mines and Energy, the Honourable Tony McGrady MP established a joint Ministerial Taskforce to investigate and make recommendations on the manner in which electrical incidents can be prevented, investigated and dealt with. The Taskforce reported in April 2001. It recommended stand-alone electrical safety legislation as a matter of urgency, based on the *Workplace Health and Safety Act 1995* and complementary to other safety legislation.

In addition to the Electrical Safety Taskforce review, the Queensland Ombudsman received a number of complaints about the way in which the former Department of Employment, Training and Industrial Relations (Division of Workplace Health and Safety) and the former Department of Mines and Energy (Electrical Safety Office) investigated 13 electrical fatalities throughout Queensland between 1995 and 1999.

The Ombudsman recommended a comprehensive management and strategic review of the Electrical Safety Office including penalty provisions and the role of the authorised person in the *Electricity Act 1994* and *Electricity Regulation 1994*. In response to the recommendation, Mr Ray Dempsey was appointed to conduct the review into the Electrical Safety Office.

In July 2001 the comprehensive management and strategic review identified the need for improved performance in the delivery of health and safety services to Queensland. In part, the report recommended that:

- the Government create a separate Electrical Safety Act to regulate safety matters in the electricity industry. The legislation should reflect modern enforcement methods and be consistent with the *Workplace Health and Safety Act 1995*;
- an independent electrical safety regulator be established with the status of a Statutory Officer, under the authority and control of the Minister for Industrial Relations;
- the existing advisory Electrical Health and Safety Council be replaced by an Electrical Safety Board to make recommendations

for improved safety performance to the Minister for Industrial Relations; and

- the proposed legislation apply to Queensland Rail other than to the requirements of height for the installation of overhead conductors associated with the rail traction system.

The Bill and supporting Regulation will give effect to the recommendations of the Electrical Safety Taskforce and the comprehensive management and strategic review. The Bill is consistent with the *Workplace Health and Safety Act 1995*, establishes clear lines of accountability and reduces ambiguity and overlap.

In addition, the Bill introduces a number of legislative reforms following National Competition Policy reviews of the *Electricity Act 1994*.

### **3. Application**

The Bill will apply to all places where electricity is transmitted or consumed. It will not be limited to workplaces, but extend to domestic residences and public places. It is proposed the Bill encompass:

- all electrical installations, works of an electricity entity, electrical equipment, cathodic protection systems and activities conducted near and on exposed live electrical parts; and
- all persons who may affect the electrical safety of others and whose electrical safety may be affected.

### **4. Estimated Costs of Government Implementation**

The Bill will significantly reform the way in which electrical safety is administered, enforced and promoted. Significant additional costs include:

- a new Statewide inspectorate to investigate and audit activities to ensure compliance with the safety and technical standards previously undertaken by Authorised Persons employed by electricity entities; and
- an electrical safety promotion fund to meet the cost of funding public safety strategies.

The public reviews by the Electrical Safety Taskforce and the comprehensive management review recommended the introduction of a levy on electricity distributors to resource the proposed legislative requirements.

The Bill will require that distribution entities make an electrical safety contribution based on customer numbers. The electrical safety contribution will be used to meet the additional costs associated with administering the Bill.

## **5. Consistency with Fundamental Legislative Principles**

The Bill takes into account Fundamental Legislative Principles as outlined in the *Legislative Standards Act 1992*. No known provisions are inconsistent with the Fundamental Legislative Principles.

## **6. Consultation**

Extensive consultation with industry, unions, the Electrical Workers and Contractors Board, the Electrical Health and Safety Council and other interested parties occurred throughout the deliberations of the Electrical Safety Taskforce and the review of the Electrical Safety Office. In addition, an issues paper entitled “Safer Workplaces, Safer Homes” canvassed options for addressing the recommendations and other concerns over the requirements under the *Electricity Act 1994*.

All relevant State Government departments were consulted, and Crown Law provided advice on a number of legal issues.

# **PART 1—PRELIMINARY**

## ***Division 1—Introduction***

*Clause 1* states the short title of the Act—the *Electrical Safety Act 2002*.

*Clause 2* provides for the commencement of the Bill on a date to be fixed by proclamation.

*Clause 3* provides for the Bill to bind all persons. It also provides for the Bill to bind the State and where Queensland legislative power permits, the Commonwealth and other States. The State is not liable to be prosecuted for an offence against this Act.

***Division 2—Purpose of the Bill***

*Clause 4* outlines the purpose of the Bill. The Bill is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity. It establishes a legislative framework that prevents:

- persons from being killed or injured by electricity; and
- property from being destroyed or damaged by electricity.

*Clause 5* outlines the framework for achieving the Bill's purpose. The framework involves imposing electrical safety obligations, establishing benchmarks for regulations, ministerial notices and codes of practice; providing for licensing and consumer protection; and establishing a Commissioner for Electrical Safety supported by an advisory Board and committees.

***Division 3—Application of the Bill***

*Clause 6* outlines the application of the Bill to mines or petroleum plant. The provision defines what is a mine and petroleum plant. Parts 2, 3 and 4 (to the extent it relates to contractor licences) of the Bill will not have application to a mine or petroleum plant.

A regulation will not apply if it is made for the purpose of an excluded provision under the Bill. Any other regulation will only have application to the extent the regulation provides, for example for electrical work licenses, approvals of electrical equipment and cathodic protection systems.

*Clause 7* states that provisions of the Bill (other than the electrical safety obligations) relating to the design of electrical equipment do not apply to electrical equipment forming part of an electrical installation or works of an electricity entity that:

- provides or is intended to provide, electrical traction on a railway. This would include rolling stock; or
- is used for signalling on a railway.

***Division 4—Interpretation***

*Clause 8* provides for a dictionary of particular words used in the Bill. The dictionary at schedule 2 contains definitions of these words.

*Clause 9* provides that a note in the text of the Bill is part of the Bill.

*Clause 10* defines the meaning of electrical risk, electrically safe and electrical safety.

*Clause 11* defines the meaning of a serious electrical incident.

Examples of a serious electrical incident:

- a fatality involving electricity;
- a person treated by a doctor for injuries received from contact with an overhead electric line; or
- a person who received a high voltage shock after contacting an overhead electric line even though he or she was not injured.

*Clause 12* defines the meaning of a dangerous electrical event.

Examples of a dangerous electrical event:

- a crane contacting a high voltage overhead line even though the operator did not receive an electric shock;
- an electricity pole supporting a high voltage electric line falls in a street although no persons were present;
- a fire caused by a faulty electrical appliance;
- an explosion caused by electrical equipment;
- installation of a stove by a person without an electrical work licence; or
- discovery of a toaster with no appliance approval number by an electrician.

*Clause 13* defines the meaning of an appliance. An appliance includes any device that consumes electricity at a voltage exceeding extra-low voltage such as an iron, drill or refrigerator. However, the definition excludes a bulb or tube used as a replaceable part of a light fitting until fitted to the light fitting.

*Clause 14* defines electrical equipment. The clause clarifies through examples of what is, and is not, electrical equipment. Electrical

components operating above extra-low voltage not associated with the propulsion or operation of a vehicle, such as lighting intended to be connected to an external source or a separate refrigeration unit in a caravan or boat are electrical equipment. The definition excludes electrical components associated with propelling and operating the vehicle such as spark plugs and headlights.

*Clause 15* defines an electrical installation as a group of items of electrical equipment that are permanently connected together. Example of electrical installation—each shop in a shopping centre or unit in a block of apartments would be considered an installation as would a shop or house that has facilities to connect to a standby generating set.

An example of an item of electrical equipment forming part of an installation is an electric oven connected by a flexible conduit that prevents the individual item from being readily disconnected.

An electrical installation does not include works of an electricity entity because their works have different safety and technical requirements.

The term clarifies the existing definition to address confusion that has existed in the *Electricity Act 1994* and the *Electricity Regulation 1994* by excluding portable or stationary electrical equipment connected by plug and socket. Such items are readily transported between places, for example, a portable plug-in CD player.

*Clause 16* defines an electric line. An electric line is a wire or conductor or associated equipment used to transmit, transform or supply electricity. Electrical equipment such as, appliances, switchboards and internal wiring for lights and socket outlets within a home do not constitute an electric line.

*Clause 17* defines the meaning of associated equipment, which is something ordinarily found in association with an electric line, for the purpose of protecting, insulating or supporting, or supporting the operation electric line.

*Clause 18* defines electrical work. Electrical work includes manufacturing, constructing, installing, testing, maintaining, repairing, altering, removing or replacing electrical equipment. Electrical work carried out on electrical equipment includes electrical equipment forming part of an electrical installation, or works of an electricity entity.

This clause also sets out a number of exclusions. These are:

### **Non-electrical work on electrical equipment**

Installing or removing electrical equipment by connecting it to electricity, or disconnecting it from electricity, by a plug and socket outlet. For example plugging an electric griller into a socket outlet or unplugging an electric iron from a socket outlet is not electrical work. This exclusion allows persons other than holders of an electrical work licence to install or remove electrical equipment by connecting or disconnecting it from electricity by a plug and socket outlet;

Repairing or replacing non-electrical components of electrical equipment. For example repairing the belts in a washing machine or hydraulic components attached to an electric motor is not electrical work. This exclusion allows persons other than holders of an electrical work licence to repair non-electrical components of electrical equipment;

Replacing a component forming part of electrical equipment, if the electrical equipment has been designed so that a person without electrical knowledge or skill can readily and safely replace the component. For example, replacing a light bulb, a fuse, a modem or hard drive in a computer is not electrical work. This exclusion allows persons other than holders of an electrical work licence to replace a user replaceable part where the electrical equipment is designed for such an activity;

### **Manufacturers of electrical equipment**

Assembling, manufacturing, modifying or repairing electrical equipment in a workplace registered under the *Workplace Health and Safety Act 1995* if that is the principal manufacturing process at the workplace and arrangements are detailed in writing for ensuring that:

- (a) the work is done safely and competently; and
- (b) the equipment is tested to ensure compliance with relevant standards.

This exclusion allows persons other than holders of an electrical work licence to assemble, manufacture, modify or repair electrical equipment at an industrial workplace. For example production workers manufacturing electric toasters or kettles in a factory, an electronics technician repairing a television in an electronics repair workshop or a worker repairing a washing machine in a whitegoods repair workshop will not be electrical work where there are procedures in place to ensure



the components and end product comply with recognised electrical safety standards;

### **Construction of electric line infrastructure**

Building, under the supervision of an electricity entity, an overhead electric line on structures that do not already carry an energised overhead electric line. This exclusion allows persons other than holders of an electrical work licence such as riggers constructing large metal towers for high voltage lines, to perform work where electricity is not connected or where they are not in close proximity to live electric lines;

Building or repairing ducts, conduits or troughs (“channels”) where electrical wiring will be or is installed, if:

- (i) the channels are not intended to be earthed; and
- (ii) wiring installed in the channels is not energised; and
- (iii) the work is done under the supervision of a licensed electrical installation worker.

This exclusion allows persons other than holders of an electrical work licence to perform work such as digging trenches and installing cables or carrying out preparatory construction work for the installation of cables, where electricity is not connected or where they are not in close proximity to live electric lines;

Laying, cutting or sealing underground cables that are part of the works of an electricity entity before the initial connection to an electricity source. This exclusion allows for persons other than holders of an electrical work licence to perform work where electricity is not connected. For example, the roll-out of the high voltage cable in a trench prior to connection to the electricity supply;

Recovering underground cables that are part of the works of an electricity entity after disconnection from an electricity source. This exemption enables persons other than holders of an electrical work licence to perform work e.g. excavating and recovering high voltage underground cables that are no longer connected to the electricity supply;

Altering, repairing, maintaining or recovering an overhead electric line that is part of works of an electricity entity, if the work is performed under the entity’s supervision and:

- (i) if the line is not on supports supporting another electric line and has been isolated from an electricity source so that the closure of a switch cannot energise the section where work is being done; or
- (ii) if the line is on supports supporting another electric line and both lines have been isolated from an electricity source so that the closure of a switch cannot energise the section where the work is being done or an adjacent section of another line.

This exemption enables persons other than holders of an electrical work licence to perform work under the supervision of an electricity entity where electricity is not connected or could become energised or where they are not in close proximity to live electric lines;

Work performed by a person on electrical equipment if the electrical equipment is not energised and the work is prescribed under a regulation for this clause and it is necessary for the person to perform the work to meet the eligibility requirements for an electrical work licence. Example: an assistant to an electrical joiner who is training for an electrical work licence jointing and terminating electrical cables that are not energised to meet the eligibility requirements for a jointing licence.

*Clause 19* sets out the types of electrical work for the Bill. The types of work link to the scope of work permitted in the various electrical work licence classes that will be specified in a regulation.

*Clause 20* defines two types of electrical licences:

- an electrical work licence authorises an individual to perform electrical work; and
- an electrical contractor licence authorises a person to conduct a business or undertaking including the performance of electrical work.

*Clause 21* defines an employer as a person who, in the course of the person's business or undertaking, engages someone else to do work, other than under a contract for service, for or at the direction of the person. This includes work on a voluntary basis or in the case of an apprentice or trainee engaged in work for a host employer. The definition of an "employer" is consistent with the definition of an employer in the *Workplace Health and Safety Act 1995*.

*Clause 22* defines a worker as being a person who does work, other than under a contract for service, for or at the direction of an employer. The definition of a "worker" is consistent with definition of a worker in the *Workplace Health and Safety Act 1995*.

Example of a person who works under a contract for service—a backhoe operator engaged by an electrical contractor to dig a trench for the installation of electrical cables.

*Clause 23* defines a self-employed person as a person who conducts a business or undertaking. A self-employed person is not an employer or worker. The definition of “self-employed person” is consistent with the definition of self-employed person in the *Workplace Health and Safety Act 1995*.

*Clause 24* defines a person in control of electrical equipment as the person who has control of the electrical equipment. This will normally be the person who is the owner of the electrical equipment unless there is in place a contract or other arrangement to the effect that another person assumes control of the electrical equipment. To clarify this definition, a number of examples of who is and is not a person in control, are provided in the clause.

Example of person in control—the owner of a unit block who leases furnished units. The owner of the units is the person in control of the electrical appliances, fixed wiring and light fittings in the unit. The owner is the person responsible for ensuring the electrical safety of a refrigerator they supply for use by the tenant as well as light fittings, wiring and fixed connected electrical equipment in the unit.

*Clause 25* defines works of an electricity entity as any electrical equipment and electric line associated equipment controlled or operated for the purpose of generating, transforming, transmitting or supplying electricity. This includes all electrical equipment that forms part of an electricity entity’s generation, transmission or supply system. This links to an electricity entity’s electrical safety obligation and specific requirements for works in a regulation.

## **PART 2—ELECTRICAL SAFETY OBLIGATIONS**

### *Division 1—Preliminary*

*Clause 26* identifies the persons who have an electrical safety obligation under the *Bill*. Clarification is also provided that enforcement of the electrical safety obligations is by way of criminal proceedings under the

obligation offence provision and disciplinary action. Provisions of the Bill do not create a civil cause of action. See *Clause 48*.

*Clause 27* provides that a person who has an electrical safety obligation must discharge that obligation.

The maximum penalty for an individual failing to discharge an obligation under this part is:

- 1000 penalty units or 2 years' imprisonment—if the breach causes death or grievous bodily harm;
- 750 penalty units or 1 year's imprisonment—if a breach causes bodily harm; or
- 500 penalty units or 6 months' imprisonment.

*Clause 28* provides that a person may have an electrical safety obligation in more than one capacity. The clause provides examples of situations where a person may have more than one obligation.

### ***Division 2—Electrical Safety Obligations***

*Clause 29* imposes obligations on an electricity entity to ensure its works are electrically safe and operated in a way that is electrically safe. To ensure its works are electrically safe the obligation includes a requirement to inspect, test and maintain the works.

Example—workers and members of the public are exposed to the risk of electric shock from electric lines where electricity poles fall over. A system of pole inspection, testing and maintenance will reduce the risk of falling electricity poles.

*Clause 30* imposes an obligation on an employer or self-employed person to ensure its business or undertaking is conducted in a way that is electrically safe. This includes:

- ensuring that all electrical equipment used in conducting the person's business or undertaking is electrically safe; and

Example—employers, workers and self-employed persons are at risk of electric shock from damaged electric drills, electric saws or electric leads on building sites. The employer or self-employed person can guard against the use of damaged electrical equipment through a regular inspection and maintenance program.

- for a business or undertaking involving carrying out electrical work, ensuring the electrical safety of all persons and property likely to be affected by the electrical work.

Example—an electrical contractor has an obligation to ensure the safety of all persons where electrical work is being carried out installing lighting circuits in a home. In this instance, the contractor could meet their obligation by providing a safe system of work for the electrical worker which requires that electricity is disconnected from the circuits to be worked on, the worker and other persons are therefore not exposed to electrical risk while the work is being carried out and testing procedures to ensure the work is electrically safe.

- for a business or undertaking involving the performance of work, whether or not electrical work, involving contact with or being near to exposed parts, ensuring persons performing the work are electrically safe.

*Clause 31* imposes obligations on a designer of electrical equipment or an electrical installation to ensure the equipment or installation is designed to be electrically safe. The obligation also requires that if the designer gives the design to another entity who is to give effect to the design, the design must be accompanied by information about the way the electrical equipment or installation must be used and installed to ensure the equipment or installation is electrically safe.

Example—a designer of a swimming pool lighting system for a hotel can design the system to be electrically safe by complying with the design requirements in AS 3000 (the Wiring Rules). They must supply information for installers on the safe use and installation of the system, including socket outlets in pool areas.

*Clause 32* imposes obligations on a manufacturer of electrical equipment to ensure the process followed in the manufacture of electrical equipment ensures it is electrically safe and the electrical equipment when manufactured, is electrically safe.

Example—a manufacturer introduces a quality control procedure to ensure the electrical components used in the manufacture of their product are electrically safe and will not cause shock or fire. The manufacturer also introduces a regime of inspection and testing to determine the product is electrically safe.

*Clause 33* imposes obligations on an importer of electrical equipment to ensure the equipment is electrically safe. This includes ensuring it is designed, tested and examined to ensure it is electrically safe.

Example—an importer imports an electric sewing machine. The importer obtains a compliance statement that the design of the machine meets the Australian Standard.

*Clause 34* imposes obligations on a supplier of electrical equipment to ensure that when the equipment leaves the supplier, it is accompanied by sufficient information that details its safe use.

Example—before supply to a retailer, the manufacturer includes instructions for the use of an electric wet and dry vacuum cleaner, addressing how and where the cleaner can be used in an electrically safe manner, common hazards associated with its use and maintenance.

*Clause 35* imposes an additional obligation on a designer, manufacturer, importer or supplier to comply with an electrical safety notification. This includes taking any action the chief executive reasonably requires to stop electrical equipment that is not electrically safe from being supplied to another person. The electrical safety notification is detailed in Clause 204.

Example—a manufacturer must comply with a written notice from the Chief Executive to a person supplying the equipment that the equipment is unsafe and must not be supplied until the necessary alterations have been made to make the equipment electrically safe.

*Clause 36* imposes obligations on the installer of electrical equipment or electrical installation to ensure the way in which the equipment or installation is installed, and the processes followed to install the equipment or installation, is electrically safe. Further, the installer must ensure they test and examine the equipment or installation after installation to ensure it is electrically safe.

Example—An electrical worker installing a light fitting would disconnect electricity, confirm the circuit is disconnected and can not become energised before commencing the installation. After installing the light fitting the worker tests the fitting for earthing and insulation resistance.

*Clause 37* imposes an obligation on a repairer of electrical equipment or electrical installation to ensure that the way in which the repair is undertaken, and the processes followed to repair the equipment or installation, is electrically safe. Further, the equipment when repaired must be electrically safe. These obligations include a requirement to test and examine the equipment or installation after repair to ensure it is electrically safe.

Example—repairing a control panel on an electric washing machine and then testing and examining the machine to ensure it is electrically safe for use by the owner.

*Clause 38* imposes an obligation on a person in control of electrical equipment to ensure the equipment is electrically safe. This obligation will apply to persons in control of electrical equipment in shopping centres, rental housing, boating marinas and bodies corporate in common areas. Refer to clause 24 for the definition of person in control of electrical equipment.

Example—owner of rental housing implements a process to ensure electrical equipment remains safe. This may involve installing a safety switch and implementing a regular maintenance program.

Clause 39 imposes an obligation on a worker at a place where there is electrical equipment. It provides that a worker has an obligation to comply with instructions given for electrical safety of persons and property at a place by their employer or the person in control of the place.

Example—a worker who is employed by an electrical contractor, is required to comply with electrical safety requirements of the person in control of a piece of electrical plant being repaired on site by the worker, provided the requirements are not inconsistent with their employer's instructions about electrical safety.

A worker also has an obligation to use personal protective equipment if the worker's employer or the person in control of the place provides the equipment and the worker is properly instructed in its correct use.

Example—A worker fault finding and testing as part of electrical work is exposed to the potential for electric shock. The worker's employer has provided the insulating gloves. The worker is required by their employer to wear insulating gloves when fault finding and testing.

Workers also have an obligation not to wilfully interfere with or misuse anything provided for electrical safety at the place or place any person at risk.

*Clause 40* imposes obligations on other persons at a place to comply with the instructions for electrical safety given by the person in control of the place. Other persons also have an obligation not to wilfully interfere with or misuse anything provided for electrical safety at the place or place any person at risk.

***Division 3—Regulations, Ministerial Notices and Codes of Practice  
Relating to Electrical Safety Obligations***

*Clause 41* explains how a person discharges his or her obligation when a regulation has been made. Where a regulation prescribes a way of discharging a person's obligation, the person discharges their obligation by complying with the regulation. Unless stated in the regulation, a regulation will not prescribe all that a person must do to discharge their electrical safety obligation.

The clause provides that where an industrial magistrate is fixing a penalty for an offence against the obligation provision the amount of the penalty in the regulation is not a relevant consideration.

*Clause 42* enables the Minister to issue a notice about how a person can discharge an electrical safety obligation for an urgent electrical risk. The ministerial notice may set out a way in which the obligation holder must discharge the obligation. The notice expires after one year, but can be extended. If the notice is inconsistent with a regulation or code of practice the notice takes precedence to the extent of the inconsistency.

*Clause 43* explains how a person discharges their electrical safety obligation if there is a ministerial notice. Where a ministerial notice identifies a prescribed way of discharging a person's obligation, the person discharges their obligation by complying with the notice. Unless stated in the ministerial notice, a notice will not prescribe all that a person must do to discharge their electrical safety obligation.

*Clause 44* enables the Minister to make a code of practice that states a way to discharge a person's electrical safety obligation. The minister must notify the making of a code of practice and the code will expire five years or less after commencement. If a code of practice is inconsistent with a regulation, the regulation prevails to the extent of the inconsistency.

*Clause 45* explains how a person discharges their obligation when a code of practice has been made. A person fails to discharge their obligation by contravening the code, acting inconsistently with the code, or by not following another way that is equally effective to, or more effective than the way set out in the code.



***Division 4—Defences***

*Clause 46* provides it is a defence in a proceeding for failing to discharge an obligation for the person to prove that the commission of the offence was due to causes over which they had no control.

The clause also provides that Sections 23 (Intention—motive) and Section 24 (Mistake of fact) of the Criminal Code are not available as a defence in a proceeding for a breach of the obligation offence provision.

*Clause 47* provides a further defence in a proceeding for failing to discharge an obligation where there is no regulation, ministerial notice or code of practice prescribing or stating a way of discharging the person's electrical safety obligation.

It is a defence for a person to prove they chose an appropriate way, and took reasonable precautions and exercised proper diligence, to discharge their electrical safety obligation.

***Division 5—Effect of Act on Civil Liability***

*Clause 48* outlines the relationship between a person's civil liability and provisions of the Bill. No provision of the Bill creates a civil cause of action based on a contravention of the provision.

**PART 3—ENFORCEABLE UNDERTAKINGS**

*Clause 49* explains the meaning of an electrical safety undertaking. An electrical safety undertaking is a written undertaking made by an identified person. It is entered into as an alternative to prosecution for a contravention of the obligation offence provision or executive officer provision. The clause sets out what is required for an electrical safety undertaking.

*Clause 50* provides the mechanism for the chief executive to accept an identified person's undertaking. It also allows the chief executive to publish the details of the undertaking. This requirement is aimed at improving compliance with the Bill.

*Clause 51* provides that the chief executive must apply to the Magistrate's Court to discontinue the proceeding for the alleged offence before the enforceable undertaking begins. Where a proceeding for the alleged contravention has not been started, a proceeding for the alleged contravention must not be started.

*Clause 52* provides the offence for contravening the electrical safety undertaking.

The maximum penalty breach of this clause is 1000 penalty units.

*Clause 53* describes the mechanism for varying or withdrawing an undertaking.

*Clause 54* provides that for the chief executive can apply to the Industrial Court for certain orders where the chief executive considers a person has contravened the undertaking.

When considering an application, the Industrial Court may make an order directing the identified person to comply or another order that it considers appropriate. A prosecution for contravening the undertaking does not prevent a court from making this order.

An order of the court under this clause does not, unless the order otherwise provides, prevent a prosecution for the contravention of the undertaking.

## **PART 4—LICENCES**

### *Division 1—Requirements for Electrical Licence*

*Clause 55* requires that a person must not perform or supervise electrical work unless he or she holds an appropriate electrical work licence. Only an individual can hold an electrical work licence.

The maximum penalty for a contravention of subclause (1) is 400 penalty units.

Certain work does not require an electrical work licence. This includes-

**Telecommunications work**

A person can perform or supervise electrical work for the purpose of installing or repairing telecommunications cabling.

Examples— a telecommunications technician who installs cable television wiring in a domestic residence or installing or repairing underground and overhead cables within a commercial building used for telecommunications.

**Electrical engineers**

A person can perform or supervise electrical work in practising the person's profession as an electrical engineer. This exclusion continues the existing exclusion.

Example—A qualified electrical engineer who supervises the commissioning of a high voltage generator.

**Remote rural locations**

This exclusion continues the existing exclusion that recognises that in remote areas of Queensland, persons can perform remote rural installation work where the holders of electrical work licences are not available.

Example—The operator of a Cape York cattle station installing light fittings in a machinery shed, where there are no licensed electrical contractors/workers working in the region.

**Testing prescribed under a regulation**

This exclusion allows for the existing provision under the *Workplace Health and Safety Act 1995*, which enables a competent person who has completed an accredited course to perform statutory functions of testing and tagging electrical equipment. The competent person's statutory functions do not extend to making repairs where faults are identified.

Example—A person who is not a licensed worker successfully completes an accredited course of training that allows them to test and tag electrical equipment.

This exclusion also allows other tests to be authorised under a regulation.

Example—a person who successfully completes an accredited training course to test electric blankets for customers of a electricity retailer.

### **Apprentices, trainees and students**

These exclusions continue the existing exclusion that recognises the need for apprentices, trainees and students under the supervision of teaching staff to perform electrical work.

Example—An apprentice electrician who rebuilds a switchboard as part of their training under the supervision of a qualified TAFE teacher.

*Clause 56* requires that a person must not conduct a business or undertaking that involves electrical work unless the person is the holder of an electrical contractor licence. This extends the previous requirements in the *Electricity Act 1994* for a business licence to carry out electrical installation work to include any electrical work carried out for the public.

As with the previous requirements in the *Electricity Act 1994*, a person will not require an electrical contractors licence where they arrange for work to be performed by a licensed electrical contractor.

Example—of a business requiring an electrical contracting licence. A business engaged under a contract for service by a retailer to repair or install domestic electric ovens.

Example—of a business not requiring an electrical contracting licence. A business that sells electrical appliances and arranges for an electrical contractor to install an air conditioner for a customer.

The maximum penalty for a contravention of subclause (1) is 400 penalty units. A person will not contravene subclause (1) if they conduct a business or undertaking as a partner in a partnership and the partnership is the holder of an electrical contractor licence.

*Clause 57* provides that the holders of electrical licences must comply with all conditions and restrictions included in the licence.

The holder of an electrical work licence who performs or supervises electrical work must comply with all conditions and restrictions included in the licence. The maximum penalty for a contravention of subclause (1) is 400 penalty units.

The holder of an electrical contractor licence who performs electrical work must comply with all conditions and restrictions included in the licence. The maximum penalty for contravention of subclause (2) is 200 penalty units.

***Division 2—Electrical licence applications***

*Clause 58* states the meaning of an electrical licence application.

*Clause 59* specifies that a person may apply to the chief executive for an electrical licence. The application must be in the approved form and comply with any requirements or prescribed regulations including any fee payment. The chief executive may issue or refuse to issue a licence by deciding whether or not the eligibility requirements for issue of a licence have been met.

*Clause 60* specifies that a person may apply to the chief executive to renew their electrical licence before the licence expires. The application must be in the approved form and any prescribed regulation including the payment of any fees. The chief executive may issue or refuse to issue a licence by deciding whether or not the eligibility requirements for renewal have been met.

*Clause 61* specifies that a person may apply to the chief executive to reinstate their electrical licence within one year of its expiry date. The application must be in the approved form and comply with any requirements prescribed regulation including the payment of any fees. The chief executive may issue or refuse to issue a licence by deciding whether or not the eligibility requirements have been met. The licence takes effect from the date of reinstatement for the period that the licence would have been valid had the licence been renewed before its expiry.

*Clause 62* allows the chief executive to require further information or documentation reasonably required to decide the application within 21 days. This requirement for additional information is by way of a written notice given to the applicant. The applicant is taken to have withdrawn their application if they do not comply within the required period.

*Clause 63* allows the chief executive to impose conditions or restrictions on an electrical licence considered necessary or desirable for the proper performance of electrical work.

*Clause 64* requires the chief executive to give reasons for the refusal to issue, renew or reinstate a licence, or impose or change licence conditions. The reasons must be in writing and given to the applicant within 30 days of application.

***Division 3 External Licences***

*Clause 65* provides that a regulation may prescribe particular external licences issued by the Commonwealth, another State or Territory or New Zealand to be equivalent to a particular electrical work licence.

**PART 5—SAFETY MANAGEMENT SYSTEMS FOR ELECTRICITY ENTITIES**

*Clause 66* defines a safety management system and the prescribed electricity entities required to introduce a safety management system under the Bill.

The Electrical Safety Taskforce recommended safety management systems for electricity network operators, as a result of identified deficiencies in their current maintenance systems. Audit reports found persistent faults in routine pole inspection and maintenance, vegetation management, staff training and protective earthing maintenance. A documented safety management system that combines planning, review and the management of organisational and consultative arrangements will work in an integrated way to improve safety performance.

*Clause 67* requires that a prescribed electricity entity develop and give effect to a safety management system for its operations and assets.

The maximum penalty for a contravention of clause is 400 penalty units.

**PART 6—COMMISSIONER FOR ELECTRICAL SAFETY**

*Clause 68* provides for the appointment of a commissioner for electrical safety by the Governor in Council. The commissioner will play a key role in managing the activities of the Electrical Safety Board and its committees and providing independent advice to the Minister on electrical safety matters.

*Clause 69* requires that for a person to be appointed as commissioner, the person must have an electrical trade or qualification and professional experience in electrical safety.

*Clause 70* outlines the employment provisions for the commissioner, which are to be approved by the Governor in Council.

*Clause 71* allows for the commissioner's appointment to be ended, either by resignation or in accordance with contract provisions.

*Clause 72* provides for the appointment of a person to act as commissioner during any vacancy or period of absence. The acting commissioner is appointed for a term and on conditions decided by the Minister.

*Clause 73* outlines the commissioner's functions. The functions include managing the activities of the electrical safety board and its committees, chairing the electrical safety board and the electrical licensing committee, and providing independent advice to the Minister on electrical safety matters.

*Clause 74* provides that the commissioner has the powers necessary to carry out his or her functions.

## **PART 7—ELECTRICAL SAFETY BOARD**

### ***Division 1—The Board and its function***

*Clause 75* establishes the electrical safety board.

*Clause 76* provides that the board's primary function is providing advice and making recommendations to the Minister about policies, strategies and legislative arrangements for electrical safety. The clause also details the ways the board may discharge its function.

The chief executive must provide administrative and other support to enable the board to perform its functions efficiently and effectively.

***Division 2—Board Membership***

*Clause 77* sets out the composition of the board. Members of the board, other than the chairperson and chief executive, are to be appointed by the Minister. The Minister must seek to appoint both men and women as members of the board.

*Clause 78* provides that a board member be appointed no longer than three years. A member is entitled to be paid the remuneration and allowances as fixed by the Minister.

*Clause 79* sets out the circumstances in which an office of a member becomes vacant. It also provides that the Minister may at any time end the appointment of a member for any reason or without stating a reason.

*Clause 80* allows the Minister to approve a leave of absence for a member of the board. Where a leave of absence is approved, the Minister may appoint a person as an acting member for the duration of leave. In appointing an acting member the Minister must have regard to the composition requirements of the board.

*Clause 81* provides that the board may hold meetings when it decides. However, the board must meet at least 4 times a year. The chairperson may call a meeting of the board at any time or when requested by at least a third of the other board members. This clause also allows the Minister to call a meeting of the board at any time.

*Clause 82* sets the conduct of proceedings for board meetings, the requirements for a quorum and the voting rights of members. It provides for valid resolutions to be passed outside of board meetings, subject to certain conditions.

*Clause 83* requires board members to disclose a possible professional or commercial advantage in an issue that is to be considered by the board. Disclosure is required when a member has, or should have, reason to believe that the interest could provide a possible professional or commercial advantage to the member or to an entity associated with the member. The member must not be present during board consideration or decision about the matter unless the board directs otherwise.

The disclosure of an interest by a member must be recorded in the board's minutes. For this clause, an entity is associated with a member if the member is an employee or a member of, or an adviser to, the entity.

*Clause 84* requires that the board keep minutes of its proceedings.



***Division 4—General***

*Clause 85* provides that the commissioner, as chairperson of the board, must prepare an annual report of the board's operations within four months of the end of each financial year. The report must include a summary of each committee's work and be approved by the Board. The Minister must table a copy of the report in the Legislative Assembly, within 14 sitting days.

**PART 8—BOARD COMMITTEES*****Division 1—Introduction***

*Clause 86* establishes three named committees and also provides for setting up of advisory committees to support the board in the performance of its functions. It outlines that the licensing committee has independent functions in relation to certain licensing matters.

***Division 2—Electrical Licensing Committee***

*Clause 87* establishes the electrical licensing committee.

*Clause 88* describes the functions of the licensing committee. The committee can provide advice and make recommendations to the electrical safety board about electrical licensing and training. It also allows the committee to take disciplinary action against holders of electrical licences and previous holders of electrical contractor licences. The clause details ways the licensing committee may discharge its functions.

The chief executive must provide administrative and other support to enable the committee to perform its functions efficiently and effectively.

*Clause 89* sets out the composition of the licensing committee. Apart from the commissioner who is the chairperson, members are to be appointed by the Minister. The committee will have one representative of employers, workers and community groups and a technical expert who

holds an electrical work licence or has qualifications in electrical engineering.

The Minister must seek to appoint both men and women as members of the committee.

### ***Division 3—Electrical Safety Education Committee***

*Clause 90* establishes the electrical safety education committee.

*Clause 91* describes the functions of the electrical safety education committee as providing advice and making recommendations to the electrical safety board about the promotion of electrical safety in workplaces and the broader community. The clause also provides ways the electrical safety education committee may discharge its functions.

The chief executive must provide administrative and other support to enable the committee to perform its functions efficiently and effectively.

*Clause 92* states the composition of the electrical safety education committee. The committee consists of a chairperson and at least six other members appointed by the Minister. In choosing members of the committee the Minister must consider the person's practical experience and competence in the promotion and marketing of electrical safety.

The Minister must seek to appoint both men and women as members of the committee.

### ***Division 4—Electrical Equipment Committee***

*Clause 93* establishes the electrical equipment committee.

*Clause 94* describes the primary function of the electrical equipment committee as providing advice and making recommendations to the electrical safety board about the safety of electrical equipment. Further, the committee will give advice and make recommendations to the board about energy efficiency and the performance of electrical equipment. The clause also provides ways in which the electrical equipment committee may discharge its functions.

The chief executive must provide administrative and other support to enable the committee to perform its functions efficiently and effectively.

*Clause 95* outlines the composition of the electrical equipment committee. The committee consists of a chairperson and at least six other members appointed by the Minister. In choosing committee members the Minister must consider a person's practical experience and competence in promoting and marketing electrical safety.

The Minister must seek to appoint both men and women as members of the committee.

### ***Division 5—Advisory Committees***

*Clause 96* allows the Minister to establish advisory committees by gazette notice to support the electrical safety board, as the Minister considers appropriate.

*Clause 97* describes the functions of an advisory committee. The committee's functions are to be stated in the gazette notice establishing the advisory committee.

*Clause 98* explains the composition of an advisory committee. The Minister in accordance with the gazette notice appoints members. In choosing committee members the Minister must consider a person's practical experience and competence in relation to the terms of reference.

The Minister must seek to appoint both men and women as committee members. The commissioner may be appointed to an advisory committee.

### ***Division 6—Board committee membership***

*Clause 99* provides that a member of a board committee can be appointed for a term not longer than three years and on a part-time basis. A member, other than the commissioner, is entitled to the remuneration and allowances as fixed by the Minister.

*Clause 100* sets out the circumstances in which a member's position becomes vacant. It also provides that the Minister may end a member's appointment at any time for any reason, or without stating a reason.

*Clause 101* allows the Minister to approve leave of absence for a member of a board committee. Where leave of absence is approved, the Minister may appoint an acting member for the duration of leave. In

appointing an acting member the Minister must consider the composition requirements of the board committee.

***Division 7—Conduct of board committee proceedings***

*Clause 102* provides that a board committee may hold meetings whenever it considers necessary. However, a committee, other than an advisory committee, must meet at least four times a year. The chairperson may call a meeting of a board committee at any time or when at least a third of the other members request it. This clause also allows the Minister to call a meeting at any time.

*Clause 103* explains how a board committee meeting should be conducted, the number of members required for a quorum and the voting rights of members. The clause permits the passing of valid resolutions outside of committee meetings, subject to certain conditions.

*Clause 104* requires board committee members to disclose any professional or commercial advantage they may have in an issue that the board will consider. Disclosure is required when a member has, or should have, reason to believe that the interest could provide a possible professional or commercial advantage to the member or to an entity associated with the member. The member must not be present during board committee consideration or decision about the matter unless the committee directs otherwise.

The board committee's minutes must record any disclosure of interest by a member. For this clause, an entity is associated with a member if the member is an employee or a member of, or an adviser to, the entity.

*Clause 105* requires that a board committee keep minutes of its proceedings and report to the board after each meeting.

## **PART 9—DISCIPLINARY ACTION**

### ***Division 1—Grounds for disciplinary action***

*Clause 106* outlines the grounds for disciplinary action against the holder of an electrical work licence.

*Clause 107* sets out the grounds for disciplinary action against the holder of an electrical contractor licence.

The grounds include where a person has been found by a court to have tampered with or broken a seal attached to a meter, control apparatus or fuse belonging to an electricity supplier, or the person has connected an installation to a source of supply chargeable at a lower rate of electricity without approval of an electricity supplier.

This clause also permits disciplinary action against a person who no longer holds a licence, where the person performed the work while they were licensed and the work was not electrically safe or the person who actually performed the work was negligent or incompetent in the performance of the work.

Example of where the licensing committee may take action against a former electrical contractor—a contractor undertook electrical work (when licensed) that did not comply with the requirements in the Wiring Rules in respect to the requirements to earth exposed conductive parts of an electric stove. Disciplinary action could be taken to require the person to rectify the electrical work.

### ***Division 2—Types of disciplinary action***

*Clause 108* explains that this division establishes the types of disciplinary actions the licensing committee may take.

*Clause 109* allows the licensing committee to cancel, amend or suspend a licence issued by the chief executive on disciplinary grounds, for a certain period or until specified conditions are met. The licensing committee can also reprimand, caution or impose a penalty on the holder of up to 40 penalty units. A suspended licence cannot be renewed or reinstated while suspended.

*Clause 110* allows the licensing committee to cancel, limit or suspend the recognition of an external licence holder's licence (a licence from another Australian jurisdiction or New Zealand). The licensing committee can also reprimand, caution or impose a penalty on the holder of up to 40 penalty units.

*Clause 111* provides that where a penalty has been imposed under this part against a licence holder and the penalty is not paid within the time allowed, the licensing committee may take further disciplinary action. The penalty may be recovered, as a debt the holder owes the State.

*Clause 112* allows the licensing committee to take disciplinary action against a person who held an electrical contractor licence when work was performed, but no longer holds a licence. This clause enables the licensing committee to require the person to have a licensed electrical contractor correct a fault or defect in the electrical work.

### ***Division 3—Procedures for taking disciplinary action***

*Clause 113* advises that the division sets out procedures for taking disciplinary action against a person.

*Clause 114* provides that the licensing committee may inform a person in writing (preliminary notice) that grounds may exist for possible disciplinary action against that person. The clause also sets out the matters to be addressed in the preliminary notice and requires the licensing committee to consider a response received within the period fixed by the committee.

*Clause 115* provides that the licensing committee may hold a disciplinary hearing to decide whether grounds exist for disciplinary action. The clause specifies that the committee may hold a disciplinary hearing only after considering all information provided by the person or that the committee decides to consider.

*Clause 116* requires that before holding the disciplinary hearing the licensing committee must give a person written notice (disciplinary hearing notice) stating that grounds exist for taking disciplinary action. The clause also specifies the information to be included in the disciplinary notice and the written material that must accompany the notice.

*Clause 117* specifies that provisions of the Bill relating to the holding of board committee meetings also apply to disciplinary hearings provided they are consistent with the provisions of this division.

*Clause 118* provides requirements for the conduct of a disciplinary hearing. The clause requires the licensing committee to observe natural justice, and to act quickly with as little formality and technicality as is consistent with appropriate consideration of the issues. The licensing committee is not bound by rules of evidence and may inform itself of anything in a way it considers appropriate.

*Clause 119* allows the licensing committee to receive in evidence a transcript taken before a disciplinary body or a court, tribunal or other constituted entity during a disciplinary hearing. The committee may adopt any decisions, findings, judgements or reasons for judgements.

*Clause 120* requires the licensing committee to keep a record of evidence given to a disciplinary hearing. However, the committee does not have to keep a transcript.

*Clause 121* sets out the process to be followed once the licensing committee has completed a disciplinary hearing. The committee must decide if grounds exist for taking disciplinary action and if so, whether any action is to be taken.

Where disciplinary action requires a person to correct, or have corrected, a fault or defect in electrical work, the person must comply with the requirement.

The maximum penalty for a contravention of subclause (6) is 100 penalty units.

## **PART 10—INSPECTORS AND ACCREDITED AUDITORS**

### ***Division 1—Inspectors***

*Clause 122* allows the chief executive to appoint a person as an inspector if the chief executive considers the person has the necessary expertise or experience or if the person has satisfactorily completed training approved by the chief executive.

*Clause 123* provides that an inspector holds office on any conditions stated in the inspector's instrument of appointment, a signed notice from the chief executive, or a regulation. The clause also specifies that an

inspector's powers may be limited under a regulation, a condition of appointment, or by written notice given by the chief executive to the inspector.

*Clause 124* requires the chief executive to give each inspector an identity card that identifies the person as an inspector under the Bill. The card will contain the signature and a recent photograph of the inspector. The clause allows for a single identity card to be issued for this Bill and for other purposes such as identifying an inspector under another Act.

Example—inspectors may be appointed under this Bill and the *Workplace Health and Safety Act 1995*. This clause will permit these inspectors to use a single identity card.

*Clause 125* specifies that an inspector may exercise a power in relation to a person only if the inspector first produces his or her identity card or has the identity card clearly displayed. Provision is made for the inspector to produce the identity card at the first reasonable opportunity if it is not practicable to do so when exercising a power.

*Clause 126* outlines when an inspector ceases to hold office.

*Clause 127* specifies how an inspector can resign.

*Clause 128* requires that a person who ceases to be an inspector must return his or her identity card to the chief executive within twenty-one days, unless the person has a reasonable excuse for not doing so.

The maximum penalty for a contravention of this clause is 40 penalty units.

### ***Division 2—Accredited Auditors***

*Clause 129* authorises the chief executive to appoint a person as an accredited auditor, whether or not the person is an officer of the public service. The chief executive may appoint a person only if the person has the necessary expertise or experience or the person has satisfactorily completed training approved by the chief executive.

*Clause 130* provides that an accredited auditor holds office on any conditions stated in the instrument of appointment, a signed notice from the chief executive, or a regulation. The clause also specifies that the powers of an accredited auditor may be limited under a regulation, a condition of appointment, or by written notice given by the chief executive to the accredited auditor.



*Clause 131* requires the chief executive to give each accredited auditor an identity card that identifies the person as an accredited auditor under the Bill. The card must contain the signature and a recent photograph of the auditor. The clause also allows a single identity card to be issued for this Bill and other purposes.

*Clause 132* specifies that an accredited auditor in exercising his or her power under this Bill in relation to a person must produce an identity card if asked. The accredited auditor must produce the identity card at the first reasonable opportunity if it is not practicable to do so when exercising a power.

*Clause 133* specifies when an accredited auditor ceases to hold office.

*Clause 134* allows the chief executive to revoke an accredited auditor's appointment.

*Clause 135* specifies how an accredited auditor can resign.

*Clause 136* requires that a person who ceases to be an accredited auditor must return his or her identity card to the chief executive within twenty-one days, unless the person has a reasonable excuse for not doing so.

The maximum penalty for a contravention of this clause is 40 penalty units.

## **PART 11—ENFORCEMENT**

### ***Division 1—Entry to Places***

*Clause 137* allows an inspector to enter a place subject to certain conditions.

### ***Division 2—Procedure for Entry***

*Clause 138* outlines the action an inspector must take if asking for an occupier's consent to enter a place. The inspector must, inform the occupier of the entry and advise the occupier that his or her consent is not required.

The onus of proof is on the inspector to prove the occupier consented to the entry. This clause also allows an inspector to ask the occupier to sign an acknowledgement of consent. In this instance, the inspector must give a copy to the occupier.

*Clause 139* outlines the procedure an inspector must take where entry is urgently required to investigate the circumstances of a serious electrical incident or dangerous electrical event.

*Clause 140* provides that an inspector may apply to a magistrate for a warrant for a place. This clause specifies that application must be sworn and must state the grounds on which the warrant is sought. The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the Magistrate requires.

*Clause 141* provides that a magistrate may only issue a warrant if satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence against the Bill, and that the evidence is, or may be at the place within the next seven days. The clause also specifies what the warrant must state.

*Clause 142* provides that an inspector may apply for a warrant by phone, fax, radio or another form of communication (special warrant) if the inspector considers it necessary on certain grounds. The clause provides for the inspector to prepare an application stating the grounds on which the warrant is sought. However, the inspector may apply for the warrant before the application is sworn.

This clause provides that, after a warrant is issued, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so. The clause also provides for the issuing of a warrant in circumstances where it is not reasonably practicable to fax a copy to the inspector.

This clause also provides for either a facsimile warrant or a warrant form properly completed by the inspector to authorise entry and the exercising of other powers stated in the warrant.

This clause requires the inspector to send the sworn application and the completed warrant form, if one has been completed, to the magistrate at the first reasonable opportunity.

The onus of proof is on the inspector to prove a special warrant authorised the exercise of the power.

*Clause 143* outlines the things an inspector named in a warrant must do or make a reasonable attempt to do before entering a place under a warrant.

***Division 3—General powers of inspectors***

*Clause 144* applies to an inspector who enters a place with the occupier's consent or the entry is otherwise authorised. This clause allows an inspector to do certain things after entering the place to monitor or enforce the Bill's provisions. This includes searching any part of the place and inspecting, measuring, testing, photographing or filming any part of the place or anything in the place. It also allows an inspector to take a thing, or sample of a thing, for analysis.

An inspector may also conduct surveys and tests to assess the degree of electrical risk to persons or property. He or she may also inquire into circumstances and probable causes of any serious electrical incident or dangerous electrical event, and take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part.

An inspector may require the occupier of the place, or a person in or on the place, to give the inspector reasonable help in exercising his or her powers under this clause. A person must give the inspector reasonable assistance unless the person has a reasonable excuse for not doing so. It is a reasonable excuse for the person not to comply if the person is asked to give information or produce a document, other than a document required to be kept by the person under the Bill, which might incriminate the person.

The maximum penalty for a contravention of this clause is 100 penalty units.

*Clause 145* provides that an inspector who enters a place may seize a thing in the place subject to certain circumstances. If entry was by warrant, an inspector entering a place may seize the evidence for which the warrant was issued.

This clause also authorises an inspector to seize anything else at the place if the inspector reasonably believes it is evidence of an offence against this Bill, and that the thing must be seized to prevent it from being hidden, lost, destroyed or used to continue or repeat the offence. An inspector may seize a thing if the inspector reasonably believes the thing has just been used in committing an offence against this Bill.

*Clause 146* authorises an inspector who enters a place to seize unsafe electrical equipment if the inspector reasonably believes that persons or property are at electrical risk and it is urgent that the inspector act to prevent, remove or minimise the risk.

*Clause 147* describes the powers an inspector may exercise in relation to a thing the inspector has seized, including the power to move the thing from the place where it was seized or to, leave the thing at the place but take reasonable action to restrict access to it. If the thing is electrical equipment, the inspector is to disconnect it from the electricity supply.

If an inspector restricts access to a seized thing, a person may not tamper or attempt to tamper with the thing or something restricting access to the thing without the inspector's approval. Also, if the inspector disconnects seized electrical equipment from the electricity supply, a person must not reconnect the equipment to supply without an inspector's approval.

The maximum penalty for a contravention of subclauses (4), (5) and (9) is 100 penalty units.

*Clause 148* provides that an inspector, having required a person to take a thing to a stated place by a stated time, may require the person to return the thing to the place from which it was taken.

The maximum penalty for a contravention of this clause is 100 penalty units.

*Clause 149* requires an inspector who has seized a thing to give a receipt. If it is not practicable to give a receipt to the person, the inspector must leave the receipt at the place of seizure in a conspicuous position in a reasonably secure way. This clause also provides the circumstances under which an inspector does not have to give a receipt.

*Clause 150* describes the circumstances in which a seized thing is forfeited to the State, and the action an inspector must take if the inspector decides to forfeit the thing to the State.

*Clause 151* provides for the circumstances in which an inspector must return a seized thing to its owner when it has not been forfeited. The clause provides that an inspector must return a seized thing as soon as the inspector is satisfied that the thing is no longer required as evidence.

*Clause 152* requires an inspector to allow the owner of a seized thing to inspect and, if it is a document, to copy it. The clause does not apply in circumstances in which it is impractical or would be unreasonable to allow inspection or copying.

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

*Clause 153* permits an inspector to give an oral direction and issue an improvement notice requiring a person to remedy matters or operations causing a contravention of the Bill, or to remedy matters or operation causing the contravention. This clause specifies what details an inspector must state in an improvement notice.

The clause also provides that a person must comply with an improvement notice.

The maximum penalty for a contravention of subclause (5) is 40 penalty units.

*Clause 154* provides for the issue of an electrical safety protection notice. It allows an inspector to issue an electrical safety protection notice or give an oral direction to a person if the inspector reasonably believes that circumstances causing, or likely to cause an immediate risk has arisen or are likely to arise at a place. The inspector may direct the person in control of any activity or electrical equipment that caused, or is likely to cause, the circumstances to stop the activity, or stop using, or allowing to be used, the electrical equipment.

The requirements in the notice do not to apply to activities or procedures necessary to correct the circumstances causing or likely to cause an immediate risk to electrical safety.

If an inspector gives an oral direction, it must be confirmed by written notice and given to the person as soon as practicable. This clause also specifies what details an inspector must state in an electrical safety protection notice.

It is provided that a person must comply with a direction or electrical safety protection notice.

The maximum penalty for a contravention of subclause (6) is 40 penalty units or 6 months imprisonment.

*Clause 155* permits an inspector to issue an unsafe equipment notice to the owner of electrical equipment. In this instance, the inspector may require that the electrical equipment be made harmless or incapable of operation, if the inspector reasonably believes the equipment is so defective or hazardous that it is likely to cause a serious electrical incident or dangerous electrical event.

The maximum penalty for a contravention of subclause (3) is 100 penalty units

*Clause 156* allows the chief executive to apply to the Supreme Court for an order directing a person to comply with an improvement notice, electrical safety protection notice or an unsafe equipment notice issued by an inspector. The chief executive may do this if it appears that a person has failed to comply with the notice, and as a consequence there is an imminent risk of a serious electrical incident or dangerous electrical event.

The court may make any order it considers appropriate in the circumstances if it is satisfied that there is imminent risk of a serious electrical incident because of the contravention. This clause provides that a person can commit an offence against this clause in addition to any other liability a person may incur for breach of the order.

The maximum penalty for a contravention of subclause (4) is 200 penalty units or 6 months imprisonment.

### ***Division 5—Other investigative powers***

*Clause 157* outlines the circumstances in which an inspector may require a person to state the person's name and address. Unless the person has a reasonable excuse, it is an offence for a person to fail to comply with a request by an inspector.

The maximum penalty for a contravention of subclause (2) or (4) is 40 penalty units.

The clause provides that the inspector must warn the person it is an offence to fail to state his or her name and address, unless the person has a reasonable excuse for not doing so.

If the inspector reasonably suspects that a person's stated name or address is incorrect, an inspector may require the person to give evidence that the person's stated name or address is correct.

A person does not commit an offence if the inspector required the person to state his or her name and address because the inspector suspected the person of having committed an offence and the person was not proved to have done so.

*Clause 158* outlines the circumstances in which an inspector may require a person to produce documents relating to an obligation the person has under the Bill.

This clause specifies that a person must comply with the requirement unless the person has a reasonable excuse for not doing so. It is a reasonable excuse where complying may incriminate the person.

The maximum penalty for a contravention of subclause (1) is 200 penalty units.

An inspector is authorised by this clause to keep the document so as to make a copy. If the inspector makes a copy of either the document or an entry in a document, the inspector may require the person responsible for keeping the document to certify the copy as true. This person must comply with the requirement to certify the copy unless he or she has a reasonable excuse for not doing so.

The maximum penalty for a contravention of subclause (7) is 100 penalty units.

### ***Division 6—Other enforcement matters***

*Clause 159* allows the chief executive to have a sample taken by an inspector analysed. If a method of analysis has been prescribed under a regulation, the analyst must follow that method. The chief executive must obtain from the analyst a certificate or report stating the analysis result.

Under this clause, a person must not, with the intention to adversely affect the result, tamper with a thing and cause a sample of it taken or to be taken by an inspector, in order to incorrectly represent the electrical equipment or its qualities when analysed.

The maximum penalty for a contravention of this clause is 100 penalty units.

*Clause 160* provides a person may claim compensation from the State if the person incurs a loss or expense because of the exercise, or purported exercise, by an inspector under of any power under divisions 1 to 3, division 5 this division, division 7, other than the exercise by a temporary inspector of a power under division 4.

A court may order compensation to be paid only if it is satisfied it is just to make an order in the circumstances of a particular case. It is specified that a regulation may prescribe the matters that may, or must, be taken into account by the court in this instance.

*Clause 161* allows the court to order that a thing be forfeited to the State under certain circumstances.

*Clause 162* provides that the chief executive may deal with a thing forfeited to the State as the chief executive considers appropriate, including destruction of the thing.

*Clause 163* provides for what is to happen if property is damaged by an inspector or by a person acting under an inspector's direction, when exercising or purporting to exercise a power. The clause requires the inspector to promptly give written notice of the particulars of the damage to the person who appears to be the owner of the thing. If it is impracticable to give such notice, the inspector must leave the notice, in a reasonably secure way where the damage happened.

This clause does not apply to damage the inspector reasonably believes is trivial. For this clause, an "owner" of a thing includes the person in possession or control of the thing.

*Clause 164* requires a retail entity to give the chief executive information, prescribed under a regulation, about a premises for which the retail entity provides customer retail services. The retail entity is also required to provide information about persons who are customers of the retail entity and about who owns or occupies the premises.

The information can only be used by the chief executive or an inspector for the purpose of administering and enforcing the Bill.

### ***Division 7—Emergency appointments***

*Clause 165* provides for the appointment of a temporary inspector where the chief executive considers that an inspector is required to urgently enter a place to investigate the circumstances of a serious electrical incident or dangerous electrical event and an inspector is not available.

The chief executive may only appoint a person if the chief executive is satisfied that the person has the necessary expertise or experience for what the temporary inspector can reasonably be expected to do.

*Clause 166* provides that the temporary inspector has the powers of an inspector under this part. However, the powers must not be exercised unless the temporary inspector is directed to do so by an inspector.



## **PART 12—REVIEWS AND APPEALS**

### ***Division 1—Interpretation***

*Clause 167* provides definitions of terms used in part 12.

### ***Division 2—Review of decisions***

*Clause 168* provides that a person whose interests are affected by an original decision may apply for the decision to be reviewed.

*Clause 169* sets out how a person can apply for a review.

*Clause 170* specifies the procedure and protocol for the review entity to carry out the review, make a review decision, and notify the applicant of a decision that may confirm, vary or set aside the decision appealed against.

*Clause 171* allows an applicant to apply to the industrial court for a stay of an original decision if an application has been made for a review of the original decision. It also provides for the industrial court to stay a decision on conditions the court considers appropriate. Under this provision, the period of a stay is not to extend past the time when the chief executive reviews the decision and any later period the industrial court allows for appeal. An application made for a review affects the original decision, or the carrying out of the decision, only if the decision is stayed.

### ***Division 3—Appeals***

*Clause 172* provides that a person whose interests are affected by a disciplinary decision, original chief executive decision, original decision or review decision may appeal the decision to the industrial court. This person has a right to receive a statement of reasons for the decision.

*Clause 173* describes the manner in which an appeal may be initiated and the information to be provided by the appellant about the grounds for the decision.

*Clause 174* allows the industrial court to stay a decision that is appealed against, so as to ensure an effective appeal. The stay may be given on the conditions the Industrial Court consider appropriate. The period of a stay is

not to extend past the time when the court of appeal decides the appeal. This clause also specifies that an appeal against a decision affects the decision, or carrying out the decision, only if the decision is stayed.

*Clause 175* describes the appeal hearing procedure, which must be by rules of court applying to the appeal or by directions of the industrial court where the rules make no provision for the appeal. The appeal is by way of rehearing.

*Clause 176* provides for the industrial court to appoint one or more assessors to help in the appeal to advise about matters within the assessor's knowledge or experience.

*Clause 177* describes how the industrial court may confirm, vary or set aside a decision subject to appeal.

## **PART 13—PROCEEDINGS AND OFFENCES**

### ***Division 1—Evidence***

*Clause 178* provides for this division (Evidence) applies to a proceeding under this Bill.

*Clause 179* states that it is not necessary to prove the appointment or authority of the chief executive or an inspector to do anything under the Bill.

*Clause 180* provides that a signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it claims to be.

*Clause 181* states that certain documents are to be taken as evidence of the documents they claim to be. It also specifies that, in a complaint initiating a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day, is evidence of the matter.

The clause also provides that any instrument, equipment or installation used by an inspector or analyst in keeping with the conditions, if any, prescribed under a relevant document for its use is taken to be accurate and precise in the absence of evidence to the contrary.

*Clause 182* establishes that an expert report is admissible as evidence, and when admitted, is evidence of any fact or opinion of which the expert could have given oral evidence.

The clause states that if the expert does not attend to give oral evidence, the report is admissible only with the court's leave. In granting leave, the court must consider certain matters, including the risk that either admitting or excluding the report from evidence will result in unfairness to a party. In particular, this relates to, a party's ability to challenge the report's contents if the expert does not give oral evidence.

*Clause 183* provides that a signed analyst's report is evidence of certain matters that it states, such as the analyst's qualifications and the results of his or her analysis.

*Clause 184* establishes that a certificate from the commissioner or chief executive that the licensing committee took action in relation to an electrical licence holder is evidence that the action was taken.

*Clause 185* specifies that a document purporting to be a code of practice is admissible as evidence of the code if the proceeding relates to a person having failed to meet an electrical safety obligation and the code is about discharging that obligation.

### ***Division 2—Other matters about proceedings***

*Clause 186* specifies that a prosecution for an offence against this Bill is by way of summary proceedings before an industrial magistrate. This clause provides that a prosecution for an offence against this Bill must be initiated by complaint of an inspector or someone else authorised by the Minister or chief executive.

This clause provides that more than one breach of an electrical safety obligation under Part 2 may be brought as a single charge if the acts or omissions giving rise to the claimed contravention happened within the same period and at the same place.

The clause also provides that a person aggrieved by a decision of an industrial magistrate in proceedings for an offence against this Bill, can appeal to the industrial court.

The *Industrial Relations Act 1999* applies with any necessary changes, to proceedings before an industrial magistrate or the industrial court brought under this clause.

*Clause 187* specifies that a proceeding for an offence against this Bill must start within one year of the offence being committed, or within six months of the offence coming to the chief executive's knowledge but within 3 years after the commission of the offence.

*Clause 188* provides for circumstances in a proceeding when it is relevant to prove a person's state of mind about a particular act or omission. It also gives the meaning of "representative" and "state of mind" for this clause.

*Clause 189* provides that if the court convicts a person for an offence against the Bill, the court may order the person to pay the department's reasonable costs for investigating and prosecuting the offence. This clause does not limit the orders for costs the court may make.

*Clause 190* states that the chief executive may recover an unpaid fee under this Bill by action for a debt or summary proceedings under the *Justices Act 1886*. This clause also provides for a fee to be recovered in a proceeding for an offence against this Bill. This clause mentions how an order made under subclause (2) is enforceable.

*Clause 191* specifies that in a complaint against an employer or self-employed person for failing to discharge an electrical safety obligation, the complaint may allege in the alternative that the person committed the offence as an employer or self-employed person. A person may be convicted on the complaint on proof that the person committed the offence without further proof of the capacity in which the person committed the offence.

*Clause 192* specifies that the taking of disciplinary action against the holder of an electrical work licence does not prevent prosecution for an offence in the Bill or the court imposing a penalty after they take into account the disciplinary action.

### ***Division 3—General offence provisions***

*Clause 193* gives definitions of terms used in division 3.

*Clause 194* provides that a person must not state anything to an official entity that the person knows is false or misleading in a material particular.

The maximum penalty for a contravention of subclause (1) is 100 penalty units.

The clause also provides that it is enough to state that the statement made was false or misleading without specifying which applies.

*Clause 195* states that a person must not give an official entity a document containing information the person knows is false or misleading in a material particular.

The maximum penalty for a contravention of subclause (1) is 100 penalty units.

However, the person is excused from liability if he or she informs the official entity how the document is false or misleading and gives the correct information if the person has, or can reasonably obtain, the correct information.

This clause also stipulates that a person must not knowingly make a false or misleading entry in any document required or permitted to be made, kept, exhibited, given, issued or held under this Bill.

The maximum penalty for a contravention of subclause (3) is 100 penalty units.

*Clause 196* states that a person must not obstruct an inspector in the exercise of a power unless the person has reasonable excuse.

The maximum penalty for a contravention of this clause is 100 penalty units.

*Clause 197* provides that a person must not encourage or influence another person to refuse to answer an inspector's questions.

The maximum penalty for a contravention of this clause is 100 penalty units.

*Clause 198* states that a person must not pretend to be an inspector or an accredited auditor. The maximum penalty for a contravention is 40 penalty units.

*Clause 199* provides that executive officers of a corporation must ensure the corporation complies with this Bill. If a corporation commits an offence against one of this Bill's provisions, each of the executive officers commits the offence of failing to ensure that the corporation complies. The maximum penalty for a contravention of this provision is that set for an individual.

It is specified that it is evidence that each of the executive officers failed to ensure the corporation complied with this Bill if there is evidence that the corporation has been convicted of an offence against a provision of the

Bill. The clause also provides defences for an executive officer of a corporation in relation to the offence.

## **PART 14—MISCELLANEOUS PROVISIONS**

### *Division 1—Electrical safety contributions*

*Clause 200* states this division establishes funding support for the department in ensuring compliance with the Bill and promoting electrical safety.

*Clause 201* requires each distribution entity to pay the chief executive an electrical safety contribution for each financial year.

*Clause 202* requires a distribution entity to pay the electrical safety contribution in keeping with the electrical safety contribution notice given by the chief executive. The clause also describes what an electrical safety contribution notice must state.

The clause requires the chief executive for each financial year to work out the amount payable by each distribution entity. The chief executive must take into account reasonable forward planning requirements when giving notice of the electrical safety contribution for the year. The requirement in subsection (4) does not apply for the financial year in which this clause commences.

The electrical safety contribution must not be paid before the start of the financial year, but must be paid within 14 days of the distribution entity receiving the electrical safety contribution notice.

*Clause 203* provides that a regulation may prescribe the operating arrangements for payment of the electrical safety contribution. The clause outlines certain things a regulation may do, including requirements for working out the amount payable by each distribution entity each financial year.

The clause also specifies that the size of a distribution entity's electrical safety contribution must be based on the number of the distribution entity's retail premises.

This clause does not extend or limit, the Governor in Council's power to make regulations under the Bill.

*Clause 204* requires the chief executive to consult the distribution entities in establishing and operating arrangements for payment of electrical safety contributions.

### ***Division 2—General***

*Clause 205* provides that an official does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Bill. If this clause prevents civil liability being attached to an official, civil liability is attached to the State instead.

*Clause 206* allows the chief executive to issue a notification requiring a designer, manufacturer, importer or supplier of electrical equipment to prevent the use or supply of unsafe electrical equipment that puts or will put, the user at electrical risk.

*Clause 207* permits the chief executive to delegate his or her powers under this Bill to an appropriately qualified public service employee or inspector. The chief executive can delegate a delegated power from the licensing committee, but cannot delegate his power to issue an electrical safety notification.

*Clause 208* provides for the chief executive to approve forms under this Bill.

*Clause 209* enables the chief executive to set administrative fees by gazette notice for departmental services, where there is no regulation under the Bill that prescribes a fee for a service provided by the chief executive in the course of administering this Bill. The fee must not be more than the amount that fairly represents the cost of providing the service.

Example of an administrative fee—the fee charged for the issue of an electrical work licence.

*Clause 210* provides for the Governor in Council to make regulations under this Bill. This clause also gives examples of matters about which a regulation may be made.

A regulation may fix a penalty of not more than 40 penalty units for a breach. Also, a regulation may prescribe fees payable under the Bill and provide for a refund or fee remission.

## **PART 15—TRANSITIONAL PROVISIONS**

### ***Division 1—Interpretation***

*Clause 211* provides definitions of terms used in Part 15.

### ***Division 2—Transitional references***

*Clause 212* provides that a reference to the Electricity Act in an Act or document may be taken to be a reference to this Bill, to the extent the reference relates to a provision of the Electricity Act repealed by the Bill and the context permits.

The clause also provides that a reference to the Electricity regulation in an Act or document may be taken to be a reference to this Bill, and not to a Regulation under this Bill to the extent the reference relates to an Act related provision of the Electricity Regulation and the context permits. Subject to this requirement, a reference to the Electricity Regulation may, if the context permits be taken to be a reference to a regulation under this Act.

*Clause 213* provides that a reference in an Act or document to the Electrical Workers and Contractors Board may be taken as a reference to the licensing committee, if the context permits.

### ***Division 3—Councils, EWC Board and licence matters***

*Clause 214* abolishes the Electricity Health and Safety Council and the Queensland Electrical Education Council. The functions of these Councils will form part of the function of the Electrical Safety Board and its supporting committees.

The Council's members go out of office. Council members are appointed by the Regulator for no fixed term and are remunerated on a per meeting basis. This provision does not restrict any claims a member may have for compensation under contractual arrangements.

*Clause 215* abolishes the Electricity Approval and Energy Labelling Advisory Committee established under the Articles Regulation. The



functions of this Committee will form part of the functions of the electrical equipment committee.

The Committee's members go out of office. Committee members are appointed by the Regulator for no fixed term and are remunerated on a per meeting basis. This provision does not restrict any claims a member may have for compensation under contractual arrangements.

*Clause 216* abolishes the Electrical Workers and Contractors Board. The functions of this Board will form part of the functions of the electrical safety board and the electrical licensing committee.

The Board's members go out of office. Board members were appointed by the Governor in Council for 3 years on 1 November 2001 and have been made aware of the change in consultative arrangements. They are remunerated on a per meeting basis as per the "Remuneration of part-time Chairs and Members of Government Boards, Committees and Statutory Authorities" guide. This provision does not restrict any claims a member may have for compensation under contractual arrangements.

*Clause 217* provides that the assets and liabilities of the Electrical Workers and Contractors Board vest in the State. If the Board holds property on trust immediately before the commencement, the State holds the property on the terms of the trust.

This clause also abolishes the general fund established under the Electricity Regulation and the amount standing to credit of the fund immediately before commencement vests in the State.

*Clause 218* states that a proceeding by or against the Electrical Workers and Contractors Board that has not ended before the commencement of the Bill, may be continued and finished by or against the State. Also, a proceeding that could have been taken by or against the Electrical Workers and Contractors Board if the Board had continued to exist, may be taken by or against the State.

This clause specifies that a reference in this section to a proceeding by the Electrical Workers and Contractors Board includes a proceeding against a person for an offence.

*Clause 219* provides that the State is taken to be a party, instead of the Electrical Workers and Contractors Board, for contracts in force immediately before commencement.

*Clause 220* provides that if the Electrical Workers and Contractors Board could have started a procedure for disciplinary action immediately before commencement, the action may be started and finished under the

Electricity Regulation. The action would be taken, as if the provisions of that regulation relating to disciplinary action were still in force and the licensing committee were the Electrical Workers and Contractors Board.

*Clause 221* provides that if the Electrical Workers and Contractors Board had before commencement started but not finished a procedure for disciplinary action under the Electricity Regulation, the action may be finished under the Electricity Regulation as if the provisions of the Regulation relating to disciplinary action were still in force, and the licensing committee were the Electrical Workers and Contractors Board.

This clause also requires that procedures be started again where they were started but not finished before commencement. This ensures that the licensing committee considers all matters relating to a disciplinary action.

*Clause 222* provides that any disciplinary action taken by the Electrical Workers and Contractors Board before the commencement continues in force and may be enforced as if the action had been taken by the licensing committee.

*Clause 223* provides that the chief executive may give directions to a person by written notice, to correct a fault or defect within the way stated in the notice where before commencement of this section, the person performed electrical installation work.

The maximum penalty for a contravention of this clause is 40 penalty units.

This clause also applies to situations where the person does not have a current electrical contractor licence.

*Clause 224* requires the Electrical Safety Board to include in its first annual report a report of the Electrical Workers and Contractors Board's operation, for the period the former board did not make an annual report before it was abolished.

*Clause 225* provides that a person, who held a previous licence before the commencement, is taken to be the holder of licence equivalent to the previous licence. However, the equivalent licence is subject to any restriction or conditions the previous licence was subject to and expires when the previous licence would have expired.

*Clause 226* provides that if an application for a licence had not been decided before the commencement, the chief executive must decide the application as if the application were an application for a licence equivalent to the previous licence.

*Clause 227* provides that if an application for renewal of a previous licence had not been decided before the commencement, the chief executive must decide the application for renewal was not an application for renewal but was an application for the licence equivalent to the previous licence.

*Clause 228* provides that until the end of 31 January 2003, a person may conduct a business or undertaking that includes the performance of electrical work, where the work is not electrical installation work, even though the person is not the holder of an electrical contractor licence.

#### ***Division 4—Other transition from Electricity Act***

*Clause 229* states that a section of the Electricity Act 1994 as in force immediately before commencement has continuing application to the circumstances as if the section had not been repealed. This clause does not stop an action being taken under this Bill in relation to the circumstances.

*Clause 230* states that Chapter 10 of the Electricity Act continues to apply to a repealed entry decision.

*Clause 231* provides that an inspector has all the functions and powers of an authorised person under the Electricity Act in relation to certain offences, either committed or alleged to have been committed. This does not limit the powers an inspector has under this Bill for an investigation.

*Clause 232* provides that if immediately before the commencement, Section 156 of the Electricity Act applies to the circumstances of the disconnection (Section 156(3)) and a written notice requiring disconnection (Section 156(4)), the section continues to apply as if the section had not been repealed.

*Clause 233* provides that if immediately before the commencement, Section 160 of the Electricity Act applies to the circumstances of making the cathodic protection system inoperable (Section 160(5)) and a written notice requiring the person to make the system inoperable (Section 160(6)) was given, the section continues to apply as if the section had not been repealed. However, for applying 160(9), the reference to the Electricity Act is taken to be a reference to this Act.

*Clause 234* provides that if immediately before the commencement, Section 161(1) of the Electricity Act applied to the circumstances where a written notice was given to a person not to sell or hire an electrical article

or type of electrical article, the section continues to apply as if the section had not been repealed.

*Clause 235* provides that if immediately before the commencement, Section 163(1) of the Electricity Act required a person to produce to an authorised person for inspection a document required to be kept under the Electricity Act, the section continues to apply as if the section had not been repealed.

*Clause 236* provides that if immediately before the commencement, Section 167 of the Electricity Act applied because of particular circumstances, section 167 continues to apply as if the section had not been repealed whether or not, the occupier had been given notice under 167(2) at the commencement.

*Clause 237* provides that if immediately before the commencement, Section 168 of the Electricity Act applied because of particular circumstances, section 168 continues to apply as if the section had not been repealed whether or not, at the commencement, the occupier had been given notice under 168(2).

*Clause 238* provides that if immediately before the commencement, Section 170 of the Electricity Act required the electricity entity to advise the regulator of an accident, Section 170 continues to apply as if the section had not been repealed regardless of whether, at the commencement, the electricity entity had advised the regulator of the accident under section 170(1).

*Clause 239* provides that if immediately before the commencement, under Section 171 of the Electricity Act, an electricity entity had received a report of an accident. The electricity entity must advise the chief executive of the report and of the extent to which action has been taken under section 171. This clause also allows the chief executive to investigate the accident under this Bill, as if the accident had happened after commencement.

*Clause 240* provides that if immediately before commencement, the regulator made a requirement under section 177(2) of the Electricity Act, section 177 continues to apply to the circumstances of the requirement as if the section had not been repealed.

*Clause 241* provides that if a certificate existed immediately before the commencement, under section 250 of the Electricity Act it continues to have effect as evidence of the matter as provided for in that section.

## **PART 16—AMENDMENTS OF OTHER ACTS**

*Clause 242* amends the Acts mentioned in Schedule 1.

### **SCHEDULE 1**

#### **AMENDMENTS**

##### **DOMESTIC BUILDING CONTRACTS ACT 2000**

*Clause 1* omits the reference to *Electricity Act 1994* from Section 52 (1) (b) and inserts *Electrical Safety Act 2002*.

##### **ELECTRICITY ACT 1994**

The primary purpose of the consequential amendments to the *Electricity Act 1994*, arising from the introduction of the Bill, is to facilitate the implementation of the recommendations contained in the *Joint Ministerial Electrical Safety Taskforce Report* (February 2001) and the *Review into the Electrical Safety Office* (June 2001).

The objects of the consequential amendments are:

- to support the introduction of the Bill;
- to remove from the *Electricity Act 1994* all electrical safety matters, which will be encompassed by the Bill;
- to rectify any deficiencies in the *Electricity Act 1994* resulting from the removal of electrical safety matters;
- to ensure consistency between the *Electricity Act 1994* and the new stand-alone electrical safety legislation ; and
- to update the objects of the *Electricity Act 1994*.

*Clause 1* omits Section 3(c) and (d) from the objects of the *Electricity Act 1994* and inserts:

- (c) establish a competitive electricity market in line with the national electricity industry reform process; and
- (d) ensure that the interests of customers are protected; and
- (e) take into account national competition policy requirements.

*Clause 2* omits from an example provided in section 12(1) dealing with the definition of “works”, the words “electric lines and apparatus, electrical articles”, and inserts in their place the words “electric lines and associated equipment, apparatus, electrical equipment”.

*Clause 3* omits sections 13 to 16, which set out the meaning of “electrical installations”, “electrical article, electric line and meter”, “cathodic protection system” and “electrical work and electrical installation work” respectively, and inserts in their place, so as to ensure consistency with definitions in the Bill, the following new sections:

- a new section 13 defining “electrical equipment” and providing examples of what constitutes “electrical equipment”;
- a new section 14 defining “electrical installation” and providing examples of what constitutes an “electrical installation”;
- a new section 15 defining “electric line” and providing examples of what constitutes an “electric line”;
- a new section 16 defining “associated equipment” and providing examples of what constitutes “associated equipment”
- a new section 16A defining “meter”.

*Clause 4* omits from section 18(2), paragraph (c) which relates to electrical safety matters now included in the Bill.

*Clause 5* omits from section 18, subsection (3) which exempts the building or use of electrical installations and other works used by Queensland Rail from the application of the *Electricity Act 1994*. This exemption has been included in the Bill.

*Clause 6* omits from section 40E(1)(b), which deals with limitations on the obligation of a distribution entity to connect or supply electricity to a customer’s premises, the words “or safety requirements under this Act”, and inserts the words “requirements under this or another Act”, so that the section now focuses more broadly on situations where the connection or

supply breaches technical requirements under the *Electricity Act 1994* or any other Act.

*Clause 7* omits from section 40E(1)(f), which deals with limitations on the obligation of a distribution entity to connect or supply electricity to a customer's premises, the broad reference to disconnecting supply to something that is unsafe, and inserts in its place a more specific reference to the disconnection of supply by an electricity officer, acting under section 141 of the *Electricity Act 1994*, to something that is unsafe.

*Clause 8* amends the numbering of sections referred to in section 53(a).

*Clause 9* omits from section 63(1), which sets out the regulator's functions, the function to ensure that safety requirements under the *Electricity Act 1994* are complied with as this is no longer a matter for the regulator or this Act.

*Clause 10* amends the numbering of section 63(1).

*Clause 11* omits from section 64(1), which deals with delegation of the regulator's powers, reference to delegating to "an officer of the department" and "an authorised person", and inserts in their place delegation to "a public service employee". The purpose of this amendment is to allow for a broader delegation power.

*Clause 12* amends the numbering of sections referred to in section 64A(1).

*Clause 13* omits:

- Part 10 of Chapter 2 regarding the appointment of "authorised persons". This is in keeping with the appointment and functions of "authorised persons" which has been transferred to the Bill (where these functions are performed by "inspectors"); and
- Part 12 of Chapter 2 regarding the Electrical Workers and Contractors Board, which has been included in the Bill.

*Clause 14* omits from section 122(2)(d) the words "electrical articles", and inserts in their place the words "electrical equipment", consistent with the new definitions inserted in the *Electricity Act 1994* by Clause 3 referred to above.

*Clause 15* adds to section 132(1), which sets out the grounds for taking disciplinary action against electricity entities, the additional ground that an entity has contravened the Electrical Safety Act.

*Clause 16* inserts in section 133(4), which deals with the imposition of a penalty by the regulator if grounds exist to take disciplinary action against an electricity entity, reference to contravening the Electrical Safety Act.

*Clause 17* omits from section 137(e) the words “electrical articles”, and inserts in their place the words “electrical equipment”, consistent with the new definitions inserted by Clause 3.

*Clause 18* omits from the heading of section 140 reference to electrical hazards, as this matter has been incorporated in the Bill.

*Clause 19* omits from section 140(1) reference to an electricity officer entering a place to prevent a situation becoming an electrical hazard, as this matter has been dealt with in the Bill. Electricity officers retain the power to enter a place to prevent obstruction or interference with the building, maintenance or operation of an electric line or other works of an entity.

*Clause 20* amends the title of Part 2 of Chapter 6 of the *Electricity Act 1994* by omitting reference to “safety powers”. The new title for Chapter 6 becomes the more specific “Powers to Prevent Fire or Electric Shock”, consistent with broader safety matters being dealt with in the Bill.

*Clause 21* inserts in section 141, which deals with entry to make works or electrical installations safe, a new definition for the term “safe”. “Safe” in relation to an electricity officer’s powers under this Act is limited to meaning that the works or electrical installation can not cause fire or electric shock, while broader safety powers are dealt with in the Bill.

*Clause 22* omits from Chapter 7, all of the powers of “authorised persons” in relation to electrical safety matters, as these matters are now dealt with in the Bill. In sections 153 and 154, which remain, “authorised persons” still retain the power to enter places to investigate compliance with emergency rationing orders and disconnect supply for contravention of an electricity restriction regulation or an emergency rationing order. Additionally, sections 164 and 165, which deal with notice of damage caused by “authorised persons” and compensation payable by the State where a person incurs loss or expense as a consequence of the actions of an “authorised person”, have also been retained in Part 7.

*Clause 23* amends the title of Chapter 7 of the *Electricity Act 1994* to read “Chapter 7—Enforcement of Restrictions and Rationing” to reflect the now narrower focus of this Chapter. Additionally, the following new parts have been added to Chapter 7:

- new Part 1 is entitled “Preliminary”, and contains, for the purposes of Chapter 7, a definition of an “authorised person”,



which means an “electricity officer” or an “inspection officer” (new section 145);

- new Part 2 is entitled “Inspection Officers”, and deals with the appointment of inspection officers, issue of identity cards, termination of appointment and resignation (new sections 146 to 152); and
- existing sections 153 and 154, relating to electricity restriction regulations and emergency rationing orders, have been incorporated into a new Part 3 entitled “Restriction Regulations and Rationing Orders”.

*Clause 24* before section 164 inserts a new heading entitled “Part 4—Other Matters”.

*Clause 25* amends the title of Chapter 8 of the *Electricity Act 1994* by omitting reference to safety issues, so that Chapter 8 is now entitled “Technical Issues”.

*Clause 26* omits the following sections from Chapter 8 (Technical Issues) of the *Electricity Act 1994*, as these matters have been dealt with in the Bill:

- sections 167, 168 and 169, which deal with the obligations on the occupier of a place, a licensed electrical contractor and a special approval holder to give notice of an electrical accident;
- section 170, which requires an electricity entity to advise the regulator immediately of an electrical accident;
- section 171, which requires an electricity entity to ensure that an electrical accident is investigated and reported to the regulator;
- section 172, which deals with misrepresentations about electrical articles or work;
- section 173, which places an obligation on a person who owns or operates works or an electrical installation to take all reasonable steps to ensure they are not unsafe;
- section 174, which deals with the examination, inspection and testing of certain electrical work; and
- section 175, which deals with safety standards for works and electrical installations.

*Clause 27* omits section 177, which deals with making unsafe things safe, as this matter has been dealt with in the Bill.

*Clause 28* amends section 229, which deals with causing damage to electric lines, by inserting the words “or associated equipment” (so that a person must not damage an electric line or associated equipment).

*Clause 29* omits section 234, which prohibits the climbing of poles that are a part of an electricity entity’s works, as this matter has been included in the Bill.

*Clauses 30 and 31* omit from section 236 the references to “authorised persons” and “authorised person”, and insert in their place “inspection officers” and “inspection officer”.

*Clauses 32 and 33* omit from section 237 the reference to “authorised persons” and “authorised person”, and insert in their place “inspection officers” and “inspection officer”.

*Clause 34* omits from section 238 the reference to “authorised person”, and inserts in its place “inspection officer”.

*Clauses 35 and 36* omit from section 239(1) and (2) the references to “authorised person”, and insert in their place “inspection officer”.

*Clause 37* omits “authorised persons” from section 246(c) and inserts in its place “inspection officers”.

*Clause 38* omits “an authorised person” from section 247(d) and inserts in its place “an inspection officer”.

*Clause 39* omits “or an authorised person” from section 248(e).

*Clause 40* omits section 250, which deals with evidentiary certificates signed by a member or officer of the Electrical Workers and Contractors Board, as this matter has been included in the Bill.

*Clause 41* amends the numbering of sections referred to in section 254(1)(c).

*Clause 42* omits “authorised persons” from section 254(1)(e) and inserts in its place “inspection officers”.

*Clause 43* omits section 265, which deals with the making of regulations about cathodic protection, as this matter has been included in the Bill.

*Clause 44* omits sections 267 and 268, which deal with the making of regulations about the safety of electrical articles and about electrical workers and contractors, as these matters have been included in the Bill.

*Clause 45* omits, in schedule 1 of the *Electricity Act 1994* (appeals against administrative decisions), reference to the following administrative decisions which have been dealt with in the Bill:

- disconnection of unsafe electrical installation or works (section 156(3) of the *Electricity Act 1994*);
- requirement to disconnect unsafe electrical installation or works (section 156(4) of the *Electricity Act 1994*);
- making cathodic protection system inoperable (section 160(5) of the *Electricity Act 1994*);
- requirement to make cathodic system inoperable (section 160(6) of the *Electricity Act 1994*);
- direction not to sell or hire unsafe electrical articles (section 161(1) of the *Electricity Act 1994*);
- seizure of electrical articles (section 161(3) or (4) of the *Electricity Act 1994*);
- action required to make electrical articles safe (section 161(5) of the *Electricity Act 1994*); and
- requirement about unsafe things (section 177(2) of the *Electricity Act 1994*).

*Clause 46* omits, in section 2 of schedule 2 of the *Electricity Act 1994* (Subject Matter for Regulations), reference to “safety requirements and standards”, as these matters have been dealt with in the Bill.

*Clause 47* omits, in section 2 of schedule 2 of the *Electricity Act 1994* (Subject Matter for Regulations), the following paragraphs which have been dealt with in the Bill:

- (d) clearances from electric lines or structures;
- (e) safety in relation to electricity and its use, including safety of private plant;
- (f) safety of electrical articles and installations, including the safety of private plant;
- (g) promotion, training and education;
- (h) work practices and procedures;
- (i) equipment and apparatus, including testing apparatus and safety equipment;
- (j) rescue, resuscitation and first aid procedures;
- (k) accident investigation procedures and reports;
- (l) cathodic protection systems; and

- (m) licensing, qualifications and approvals to perform electrical work.

*Clause 48* amends the numbering of the remaining paragraphs in section 2 of schedule 2 of the *Electricity Act 1994*.

*Clause 49* inserts, in section 2(i) (as renumbered) of schedule 2 of the *Electricity Act 1994* (Subject Matter for Regulations), the words “including meter testing apparatus” for completeness, following the removal of the paragraphs dealing principally with electrical safety matters.

*Clause 50* omits from section 4 of schedule 2 of the *Electricity Act 1994* (Subject Matter for Regulations), paragraph (e) relating to the qualifications and functions of authorised persons, as this matter has been dealt with in the Bill.

*Clause 51* omits from schedule 5 of the *Electricity Act 1994* (Dictionary), the following terms which have been either made redundant by, or need to be replaced to be consistent with, the Bill:

- “authorised person”;
- “cathodic protection system”;
- “channels”;
- “electrical article”;
- “electrical contracting”;
- “electrical installation”;
- “electrical installation work”;
- “electrical work”;
- “electric line”;
- “hire”;
- “licensed electrical contractor”;
- “licensed electrical worker”;
- “meter”;
- “occupier”; and
- “trade or commerce”.

*Clause 52* adds to Schedule 5 of the *Electricity Act 1994* (Dictionary) the following terms, so as to ensure consistency with the Bill:

- “associated equipment”;
- “authorised person”;
- “electrical equipment”;
- “electrical installation”;
- “Electrical Safety Act”;
- “electric line”;
- “inspection officer” and
- “meter”.

## **WATER ACT 2000**

*Clause 1* inserts ‘*Electrical Safety Act 2002* or the’ in Section 814(2)(b)(ii) after ‘under the’.

## **WORKPLACE HEALTH AND SAFETY ACT 1995**

*Clause 1* sets out the relationship of the *Workplace Health and Safety Act 1995* and the Bill. This clause provides that the *Workplace Health and Safety Act 1995* does not have application in the circumstances to the extent that this Bill has application.

This clause avoids overlap and duplication between the *Workplace Health and Safety Act 1995* and the Bill.

## **SCHEDULE 2**

Schedule 2 contains a dictionary that provides definitions of words and terms used in this Bill.

