



TASMANIA

ELECTRICITY SUPPLY INDUSTRY ACT 1995

No. 58 of 1995

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**ELECTRICITY SUPPLY INDUSTRY ACT 1995**

No. 58 of 1995

AN ACT to promote efficiency and competition in the electricity supply industry, to provide for a safe and efficient system of electricity generation, transmission, distribution and supply, to provide for the safety of electrical installations, equipment and appliances, to enforce proper standards in the performance of electrical work, to protect the interests of consumers of electricity and for related purposes

[Royal Assent 4 October 1995]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART 1**PRELIMINARY****Short title**

1—This Act may be cited as the *Electricity Supply Industry Act 1995*.

Commencement

2—The provisions of this Act commence on a day or days to be proclaimed.

Interpretation

3—In this Act, unless the contrary intention appears—

“**access**” to a transmission or distribution network means a right to connect to the network and contribute electricity to, or take electricity from, the network;

“**authorised officer**” means a person appointed under section 84 as an authorised officer;

“**contestable customer**” means a customer of an electricity entity whose electricity consumption, or rate of consumption, exceeds a limit prescribed by regulation;

“**contravention**” includes a failure to comply;

“**customer**” means a person who has an electricity supply available from a transmission or distribution network and includes (where the context requires) a person whose electricity supply has been disconnected;

“**decision**” includes a direction or order;

“**disconnect**” electricity supply includes a procedure to interrupt or discontinue the electricity supply to the electrical installation of a customer;

“**distribution**” of electricity means the carrying of electricity between different points at high voltage or low voltage;

“**distribution network**” means a system of powerlines, substations and associated equipment—

(a) for the distribution of electricity at high and low voltage; and

(b) for the conversion of electricity from high to low voltage;

- “**electrical installation**” means a set of wires and associated fittings, equipment and accessories that forms part of a power system and includes a set of wires and associated fittings, equipment and accessories in premises to which a power system is connected;
- “**electrical work**” means work on the installation, repair, alteration or removal of an electrical installation or part of an electrical installation;
- “**electricity**” means electrical energy generated, transmitted or supplied in trade or commerce (including electricity generated by a person engaged in trade or commerce for the person’s own commercial use);
- “**electricity entity**” means a person licensed to carry on operations in the electricity supply industry under this Act and includes (where the context requires) a person who has been licensed to carry on operations in the electricity supply industry under this Act whose licence has been cancelled or has expired;
- “**electricity infrastructure**” means anything used for, or in connection with, the generation, transmission or distribution of electricity including—
- (a) electricity generating plant; and
 - (b) structures and equipment to hold water, or to direct, monitor or control the flow of water, for the purposes of hydro-electric generation; and
 - (c) powerlines; and
 - (d) substations for converting, transforming or controlling electricity; and
 - (e) equipment for metering, monitoring or controlling electricity;
- “**electricity officer**” means a person appointed under this Act as an electricity officer;
- “**electricity supply industry**” means the industry involved in the generation, transmission, distribution, supply and sale of electricity;
- “**examinable work**” means work on an electrical installation or proposed electrical installation classified under the regulations as examinable work;
- “**extra high voltage**” means a nominal voltage of 88 kilovolts or above;

“**generation**” of electricity means the operation of any kind of electricity generating plant including, in the case of hydro-electric power generation, the accumulation and release of water for the purpose of driving the generating plant and all incidental and related operations;

“**high voltage**” means a nominal voltage of 1 kilovolt or above but less than 88 kilovolts;

“**land**” includes—

- (a) an estate or interest in land (including an easement); or
- (b) a right or power over or in respect of land;

“**low voltage**” means a nominal voltage of less than 1 kilovolt;

“**network services**” means—

- (a) the transmission and distribution of electricity between electricity entities and from electricity entities to customers; and
- (b) controlling and regulating the quality of electricity;

“**non-contestable customer**” means any customer other than a contestable customer;

“**officer**” means—

- (a) in relation to a body corporate, an officer within the meaning of the Corporations Law;
- (b) in relation to an organisation that is not incorporated, a person with executive or administrative authority in the organisation;

“**operations**” includes activities;

“**power system**” means a system for the generation, transmission or distribution of electricity;

“**powerline**” means—

- (a) a set of cables for the transmission or distribution of electricity and their supporting or protective structures; and
- (b) associated equipment for the transmission or distribution of electricity;

“**public land**” means land—

- (a) belonging to the Crown, an Agency, within the meaning of the *Tasmanian State Service Act 1984* or an instrumentality of the Crown; or
- (b) belonging to a local authority;

“**Regulator**” means the person appointed as the Regulator under section 5;

“**retailing**” of electricity means sale of electricity otherwise than in a wholesale market;

“**reviewable decision**” means any decision under this Act except a decision declared by or under this Act not to be reviewable;

“**supply**” of electricity means the delivery of electricity to the electrical installation of a customer;

“**supply area**” means an area in which an electricity entity has, under the terms of its licence, an exclusive right to sell electricity to non-contestable customers;

“**system controller**” means a person appointed under this Act to exercise system control over a power system;

“**tariff**” has the meaning given by section 38(2);

“**transmission**” of electricity means the carrying of electricity between different points at extra high voltage;

“**transmission network**” means a system of powerlines, substations and associated equipment—

- (a) for the transmission of electricity at extra high voltage; and
- (b) for the conversion of the electricity from extra high voltage to high voltage or from high voltage to extra high voltage;

“**wholesale market**” for electricity means a market for electricity formed by—

- (a) trading in electricity between electricity entities; and
- (b) trading in electricity on the basis of wholesale trading arrangements between electricity entities, contestable customers and others who are entitled, in terms of the arrangements, to trade in electricity on the basis of the arrangements;

“wholesale trading arrangements” means arrangements for trading in electricity prescribed by regulation and classified by regulation as wholesale trading arrangements.

Crown to be bound

4—This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2

ADMINISTRATION

Division 1—The Regulator

The Regulator

5—(1) The office of the Regulator is established.

(2) Subject to and in accordance with the *Tasmanian State Service Act 1984*, a person is to be appointed to the office of the Regulator (and the office may be held in conjunction with a position or an office under that Act).

Regulator's functions

6—(1) The Regulator's functions are—

- (a) to administer the licensing system for electricity entities established by this Act; and
- (b) to monitor and regulate technical standards in the electricity supply industry; and
- (c) to monitor the wholesale market for electricity in Tasmania; and
- (d) to carry out the other functions assigned to the Regulator under this Act.

(2) In exercising powers and functions under this Act, the Regulator's objectives are—

- (a) to promote efficiency and competition in the electricity supply industry; and
- (b) to establish and maintain a safe and efficient system of electricity generation, transmission, distribution and supply; and
- (c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry; and
- (d) to protect the interests of consumers of electricity.

Regulator's official charter

7—(1) The Regulator is to have an official charter.

(2) The Regulator's official charter must deal with—

- (a) the government policies to be adhered to by the Regulator in exercising statutory powers and functions; and
- (b) the extent the Regulator is to be subject to control and direction by the Minister in the exercise of statutory powers and functions.

(3) The Minister is to determine the terms of the Regulator's official charter.

Obligation of administrative fairness

8—In exercising powers and functions under this Act, the Regulator must not unfairly discriminate between electricity entities, customers for electricity or others.

Special reports to Minister

9—The Regulator must report to the Minister on subjects on which the Minister requires a report as and when required by the Minister.

Regulator's annual report

10—(1) The Regulator must, within 5 months after the end of each financial year, report to the Minister on the administration of this Act during the financial year.

(2) The annual report must include information required under the Regulator's official charter.

(3) The Minister must, as soon as practicable after receiving the report, cause a copy of the report to be laid before each House of Parliament.

Division 2—Executive and advisory committees**Executive committees**

11—(1) An executive committee may be established by regulation to exercise specified powers and functions as a delegate of the Regulator.

(2) A regulation establishing an executive committee to exercise specified powers and functions operates as a delegation of the relevant powers and functions to the committee (which is revocable only as provided in the regulation itself or by a later regulation).

(3) The members of an executive committee are appointed and hold office on terms and conditions determined by the Minister.

(4) A committee established under this section—

- (a) is responsible to the Regulator for the proper exercise of its powers and functions; and
- (b) is subject to control and direction by the Regulator; and
- (c) must report on the exercise of delegated powers and functions as required by the Regulator.

Advisory committees

12—(1) The Minister or the Regulator may establish an advisory committee to advise the Minister or the Regulator (or both) on specified aspects of the administration of this Act.

(2) The members of an advisory committee are appointed and hold office on terms and conditions determined by the Minister.

Division 3—Delegation

Delegation

13—The Regulator may delegate powers to a person or body of persons that is, in the Regulator's opinion, competent to exercise the relevant powers.

Division 4—Regulator's power of direction

Regulator's power of direction

14—(1) The Regulator may, for the purposes of this Act, give directions to an electricity entity.

(2) A direction under this section must be given in writing.

Division 5—Power to obtain information

Regulator's power to require information

15—(1) The Regulator may, by written notice, require a person to give the Regulator, within a time stated in the notice (which must be reasonable), information in the person's possession that the Regulator reasonably requires for the administration of this Act.

(2) A person required to give information under this section must provide the information within the time stated in the notice.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

(3) A person may not be compelled to give information under this section if the information might tend to incriminate the person of an offence.

(4) A requirement to provide information under this section is not reviewable.

Division 6—Confidential information

Obligation to preserve confidentiality

16—(1) The Regulator must preserve the confidentiality of information that—

(a) could affect the competitive position of an electricity entity or other person; or

(b) is commercially sensitive for some other reason.

(2) Information classified by the Regulator as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

(3) A classification of information by the Regulator as confidential (or not confidential) is not reviewable.

PART 3

THE ELECTRICITY SUPPLY INDUSTRY

Division 1—Licensing of electricity entities

Subdivision 1—Issue of licences

Requirement for licence

17—(1) A person must not carry on operations in the electricity supply industry for which a licence is required unless the person holds a licence under this Act authorising the relevant operations.

Penalty: For a body corporate a fine not exceeding 1 000 penalty units and for a natural person a fine not exceeding 500 penalty units.

(2) The operations in the electricity supply industry for which a licence is required are—

- (a) generation of electricity; or
- (b) transmission of electricity; or
- (c) distribution of electricity; or
- (d) retailing of electricity; or
- (e) other operations for which a licence is required by the regulations.

(3) The regulations may provide that licences are not required in such circumstances as are specified in the regulations.

Application for licence

18—(1) An application for a licence—

- (a) must be made to the Regulator in a form approved by the Regulator and contain the information specified in the form; and
- (b) must identify the applicant's officers and, if applicable, its major shareholders; and
- (c) must—
 - (i) if authority for generation of electricity is sought, contain details of the generating plant or proposed generating plant, identify the transmission or distribution network to which the generating plant is to be connected and describe how the connection is to be made; and
 - (ii) if authority to operate a transmission network is sought, contain details of the transmission network or proposed transmission network and, if the transmission network is to be connected to another transmission network, details of the proposed connection; and
 - (iii) if authority to operate a distribution network is sought, contain details of the distribution network or proposed distribution network (including details of the area to be served by the distribution network); and

- (iv) if authority for retailing electricity is sought, contain details of the business or proposed business and, in addition, if an exclusive right to sell electricity to non-contestable customers is sought, details of the supply area (or proposed supply area) in which the business is to be carried on; and
 - (v) if authority is sought to carry out other operations in the electricity supply industry for which a licence is required under the regulations, contain details of the proposed operations and the other information required under the regulations; and
- (d) must be accompanied by the application fees required under the regulations.

(2) The applicant must give the Regulator further relevant information requested by the Regulator.

Consideration of application

19—(1) The Regulator must consider an application for the issue of a licence and may issue, or refuse to issue, the licence.

- (2) The Regulator may only issue a licence if satisfied that—
- (a) the applicant is a suitable person to hold the licence; and
 - (b) the grant of the licence is consistent with the policies the Regulator is bound to apply under the Regulator's official charter; and
 - (c) in the case of a licence authorising the generation of electricity, the generating plant (or proposed generating plant) will generate electricity of the appropriate quality for the relevant transmission or distribution network; and
 - (d) in the case of a licence authorising the operation of a transmission network, the transmission network has (or the proposed transmission network will have) the necessary capacity for transmitting electricity safely; and

- (e) in the case of a licence authorising the operation of a distribution network, the distribution network has (or the proposed distribution network will have) the necessary capacity for distributing electricity safely; and
 - (f) in the case of a licence authorising retailing of electricity, the applicant has available adequate sources of electricity to enable it to meet reasonably foreseeable obligations under contracts for the sale of electricity; and
 - (g) in the case of a licence authorising other operations in the electricity supply industry for which a licence is required under the regulations, the applicant meets any special requirements imposed by the regulations for the holding of the licence; and
 - (h) in the case of a licence of any class, the grant of the licence would be consistent with criteria (if any) prescribed by regulation for a licence of the relevant class.
- (3) In deciding whether an applicant is a suitable person to hold a licence, the Regulator may consider—
- (a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and
 - (b) the financial, technical and human resources available to the applicant; and
 - (c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
 - (d) other matters prescribed by regulation.

Subdivision 2—Terms and conditions of licence

Authority conferred by licence

20—(1) A licence authorises the electricity entity that holds the licence to carry on operations in the electricity supply industry for which a licence is required in accordance with the terms and conditions of the licence.

(2) The operations authorised by a licence need not be all of the same character but may consist of a combination of different operations for which a licence is required.

Term of licence

21—(1) A licence is granted for a term (not exceeding 10 years) stated in the licence.

(2) The term of a licence is, subject to the conditions of the licence, renewable.

(3) An application for renewal of a licence must be made, in writing, to the Regulator at least 3 months, but not more than 6 months, before the end of the licence term (but the Regulator may grant an exemption from this requirement in an appropriate case).

(4) The Regulator must not unreasonably refuse an application for renewal of a licence.

Conditions of licence

22—(1) A licence is subject to—

- (a) a condition that the electricity entity must comply with standards, codes and requirements stated in the licence or prescribed by regulation; and
- (b) a condition that the electricity entity must comply with—
 - (i) directions given by the Regulator under this Act; and
 - (ii) system control directions given under this Act; and
- (c) a condition that the electricity entity must pay periodic and other fees and charges fixed by or in accordance with the licence; and
- (d) other conditions determined by the Regulator on the grant of the licence.

(2) Without limiting subsection (1) (d), the conditions of a licence may—

- (a) require an electricity entity—
 - (i) to comply with a national code regulating conduct in the electricity supply industry; and
 - (ii) to become a member of a national body administering the national code;
- (b) in the case of a licence authorising retailing of electricity, confer on an electricity entity an exclusive right to sell electricity to non-contestable customers within a specified supply area.

Matters to be included in licence

23—A licence must—

- (a) state the name of the electricity entity that holds the licence; and
- (b) state the operations in the electricity supply industry that are authorised by the licence (including, where relevant, the geographic location of the operations); and
- (c) state the term of the licence; and
- (d) contain the conditions determined by the Regulator.

Subdivision 3—Special licence obligations

Licences authorising operation of a transmission or distribution network

24—(1) If a licence authorises an electricity entity to operate a transmission or distribution network, it is a condition of the licence that the electricity entity must—

- (a) allow electricity entities, as far as technically feasible, access to the network for the transmission or distribution of electricity on fair commercial terms (to be determined in the event of a dispute by the Regulator); and

- (b) allow, as far as technically feasible, access to the network, on fair commercial terms (to be determined in the event of a dispute by the Regulator), to all electricity entities and contestable customers who want to obtain electricity from the network; and
- (c) provide network services on fair commercial terms (to be determined in the event of a dispute by the Regulator).

(2) An electricity entity that provides network services to contestable customers must inform those customers of the terms on which the services are provided (including the charges for the services) and of any changes in those terms.

Licences conferring exclusive retail franchise

25—(1) If an electricity entity has an exclusive right under its licence to sell electricity to non-contestable customers within a particular supply area, it is a condition of the licence that the electricity entity must—

- (a) on request by any person offer to supply electricity to an electrical installation in the area on reasonable terms and conditions; and
- (b) on compliance by that person with the terms and conditions offered by the electricity entity, supply electricity to the electrical installation.

(2) The terms and conditions on which an electricity entity offers to supply electricity under subsection (1)—

- (a) must allow for the sale of electricity on the basis of the relevant tariff (without however precluding the possibility of negotiated contractual arrangements that are not based on the tariff); and
- (b) may require the customer to pay, or contribute to, the costs of establishing and maintaining the necessary connection with the power system.

(3) Negotiated contractual arrangements with a contestable customer may require the customer to pay for, or contribute towards, the cost of network services.

Obligation to supply

26—(1) It is a condition of a licence that an electricity entity must ensure, as far as practicable, that its sources of electricity are adequate to meet its obligations to supply its customers.

(2) An electricity entity is not obliged (despite the obligations imposed by the conditions of its licence) to supply electricity to a customer if—

- (a) the supply would overload the power system or prejudice in some other way the supply of electricity to other customers; or
- (b) the supply would result in contravention of the conditions of the electricity entity's licence; or
- (c) the supply would result in risk of fire or some other risk to life or property; or
- (d) the supply is or needs to be interrupted—
 - (i) in an emergency; or
 - (ii) in circumstances beyond the electricity entity's control; or
 - (iii) for carrying out work on electricity infrastructure; or
 - (iv) to comply with a direction to the electricity entity under this Act; or
- (e) the electricity entity is exempted from the obligation by regulation.

Subdivision 4—Miscellaneous**Notice of licence decisions and limitations on review and appeal**

27—(1) The Regulator must give an applicant for the grant or renewal of a licence written notice of the Regulator's decision on the application.

(2) The Regulator must give the holder of a licence written notice of any decision by the Regulator affecting the terms or conditions of the licence.

(3) A decision by the Regulator on an application for the grant or renewal of a licence is reviewable under this Act on application by the applicant but is not reviewable on the application of any other person.

(4) A decision by the Regulator affecting the terms or conditions of a licence is reviewable under this Act on application by the electricity entity that holds the licence but is not reviewable on the application of any other person.

Amendment of licence

28—(1) The Regulator may amend the terms or conditions of an electricity entity's licence.

(2) An amendment may only be made—

(a) with the electricity entity's agreement; or

(b) after giving the electricity entity reasonable notice of the proposed amendment and allowing the entity a reasonable opportunity to make representations about the proposed amendment.

Transfer of licence

29—(1) A licence may be transferred with the Regulator's agreement.

(2) The Regulator may impose conditions on the transfer of a licence, or amend the terms and conditions of the licence on its transfer.

Surrender of licence

30—(1) An electricity entity may, by written notice given to the Regulator, surrender its licence.

(2) The notice must be given to the Regulator at least 6 months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.

(3) The Regulator may, by agreement with the electricity entity, shorten the required period of notice.

Register of licences

31—(1) The Regulator must keep a register of the licences issued to electricity entities under this Act.

(2) The Register must include—

- (a) the terms and conditions of each licence; and
- (b) other information required under the regulations.

(3) A person may, on payment of a fee fixed by the Regulator, inspect the Register.

Division 2—System control**Appointment of system controller**

32—A person (who may, but need not be, an electricity entity) may be appointed under the regulations to exercise system control over a power system.

Functions of system controller

33—A system controller must—

- (a) continuously monitor the operation of the power system; and
- (b) control the input of electricity and the loads placed on the system to ensure that—
 - (i) the integrity of the power system is maintained; and
 - (ii) the power system operates efficiently, reliably, and safely; and
- (c) carry out the other functions assigned to the system controller by regulation.

Power of direction

34—A system controller has, in carrying out the system controller's functions under this Act—

- (a) power to direct electricity entities that contribute electricity to, or take electricity from, the power system; and
- (b) the other powers conferred by regulation.

Remuneration of system controller

35—(1) A system controller is entitled to payment for exercising system control over a power system from—

- (a) electricity entities that contribute electricity to the power system; and
- (b) electricity entities and contestable customers that take electricity from the power system.

(2) The amount of the payment is to be determined in accordance with the regulations.

Division 3—Wholesale trading in electricity**Wholesale trading arrangements**

36—(1) Arrangements for wholesale trading in electricity may be prescribed by regulation.

(2) Wholesale trading arrangements may apply to wholesale traders generally or to a particular class of wholesale traders.

(3) Wholesale trading arrangements may—

- (a) prescribe rules under which a wholesale market in electricity is to operate; and
- (b) provide for regulatory oversight of a wholesale market in electricity; and
- (c) provide for the appointment of a manager of a wholesale market in electricity; and
- (d) deal with any other aspect of wholesale trading in electricity.

Monetary obligations under wholesale trading arrangement

37—(1) A wholesale trading arrangement may provide for a nominated person to decide payments that are to be made under the arrangement.

(2) A wholesale trading arrangement may prescribe procedures for making and auditing decisions about the payments that are due under the arrangement.

(3) A wholesale trading arrangement may provide for the disconnection of an electricity supply if payments are not made as required by or under the arrangement.

Division 4—Retailing of electricity

Subdivision 1—Electricity pricing

Electricity pricing

38—(1) An electricity entity that has an exclusive right under its licence to sell electricity to non-contestable customers within a particular supply area—

- (a) must fix a tariff for the sale of electricity to customers; and
- (b) may from time to time replace the tariff with a new tariff.

(2) A tariff is a schedule setting out prices and conditions for the sale of electricity to customers generally or the various classes of customers.

(3) The tariff price of electricity for customers of a particular class must be uniform throughout the supply area.

(4) A tariff must be consistent with any order or limitation on the price of electricity imposed under a law of the State dealing with price regulation.

Publication of tariffs

39—(1) An electricity entity must, before an electricity tariff takes effect—

- (a) have the tariff published in a newspaper circulating generally in the supply area; and
- (b) take other reasonable steps to bring changes in prices and conditions of electricity supply that are to take effect under the new tariff to the attention of customers affected by the changes.

(2) An electricity entity that has an exclusive right to sell electricity to non-contestable customers within a particular supply area must, at the request of a customer, provide the customer with a copy of the entity's current tariff fixing prices and conditions for the sale of electricity.

Contracts with individual customers

40—An electricity entity that is required to fix a tariff for the sale of electricity may negotiate terms and conditions that are not in accordance with the published tariff for the sale of electricity to a particular customer.

Limitation on charging for electricity

41—An electricity entity that is required to fix a tariff for the sale of electricity may only charge for electricity in accordance with—

- (a) the current tariff published under this Division; or
- (b) an agreement negotiated under this Division.

Subdivision 2—Disconnection for non-payment**Disconnection of supply for non-payment**

42—(1) An electricity entity that is authorised to engage in retailing may, subject to subsection (2), disconnect the electricity supply to a customer if the customer fails to pay an account for electricity supplied within a reasonable period stated in the account.

(2) An electricity entity must not disconnect an electricity supply under this section until the entity has complied with requirements imposed by regulation.

(3) The electricity entity must reconnect the electricity supply to the customer if—

- (a) the customer pays the account, interest that has accrued on the account in accordance with the conditions of sale and, if applicable, a reasonable reconnection fee; and
- (b) on the entity asking for security or further security, the customer gives the entity any reasonable security which it requests for the payment of future accounts.

Liability of occupier of premises

43—(1) If an electricity entity supplies electricity to premises, the occupier of the premises as at the time the electricity was supplied is liable to pay the entity the appropriate charges for the electricity.

(2) This section does not exclude a contractual liability for the charges.

(3) If a person pays for electricity supplied to premises on the basis of a contractual liability, but was not the occupier of the premises at the time the electricity was supplied, the occupier is liable to indemnify the person for the amount paid.

Division 5—Restrictions on re-supply

Restrictions on re-supply

44—(1) An electricity entity may enter into a contract for the supply of electricity to a customer to which this section applies—

- (a) on conditions prohibiting or restricting the re-supply of the electricity; or
- (b) on conditions providing for price discrimination according to whether the electricity is, or is not, to be re-supplied.

(2) This section applies to a customer who has contractual rights (which may be aggregate rights arising under 2 or more separate contracts) to draw electricity from a power system at a rate of 50 megawatts or above.

(3) For the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth, a contractual condition under subsection (1), and anything done to enforce compliance with the condition, are authorised by this Act.

Division 6—Disputes

Disputes

45—(1) If a dispute arises between electricity entities or between an electricity entity and another person about the exercise of powers under this Act, any party to the dispute may ask the Regulator to mediate in the dispute.

(2) The Regulator has a discretion whether to mediate or to decline to mediate in a dispute and may impose conditions that must be satisfied if the mediation is to proceed.

(3) If the Regulator proceeds with the mediation—

- (a) the Regulator may give directions to the parties to assist in the resolution of the matters in issue; and
- (b) the Regulator must attempt to get the parties to agree to a negotiated settlement of the dispute.

(4) If a dispute is resolved, the parties and the Regulator must sign an agreement setting out the terms of the settlement and the agreement is binding on the parties to the dispute.

(5) This section is not intended to provide an exclusive method of dispute resolution.

Division 7—Compliance obligations

Electricity entity's compliance obligations

46—(1) An electricity entity must comply with the conditions of its licence.

Penalty: Fine not exceeding 500 penalty units and a daily fine not exceeding 10 penalty units.

(2) An electricity entity must comply with an order or direction under this Act.

Penalty: Fine not exceeding 500 penalty units and a daily fine not exceeding 10 penalty units.

Cancellation of licences

47—(1) If an electricity entity contravenes this Act, and the contravention is, in the Regulator's opinion, serious enough to justify cancellation of the electricity entity's licence, the Regulator may give the electricity entity a written notice—

- (a) stating that the Regulator is considering cancelling the electricity entity's licence; and
- (b) stating the grounds on which the Regulator considers the cancellation of the licence to be justified; and
- (c) inviting the electricity entity to make written representations showing why the licence should not be cancelled.

(2) After considering—

- (a) representations made by the electricity entity in response to the invitation; and
- (b) any action taken, or undertaking given, by the electricity entity to remedy the contravention or to prevent recurrence of the contravention; and
- (c) the effect the cancellation of the licence would have on the electricity entity's customers—

the Regulator may, by written notice given to the electricity entity, cancel the licence.

(3) The Regulator may, instead of cancelling a licence, amend the licence by adding to, or varying, the conditions of the licence.

Division 8—Regulator's powers to take control of operations

Power to take over operations

48—(1) If—

- (a) an electricity entity contravenes this Act, or an electricity entity's licence is cancelled or expires without renewal; and
- (b) it is necessary, in the Regulator's opinion, to take over the entity's operations (or some of them) to ensure that the entity's customers receive an adequate supply of electricity—

the Governor may make an order under this section.

(2) Before an order is made under this section, the Regulator must give the electricity entity a reasonable opportunity to make written representations giving reasons why the order should not be made.

(3) An order under this section—

- (a) authorises the Regulator to take over the electricity entity's operations or a specified part of the electricity entity's operations; and
- (b) may contain ancillary directions (and may, in particular, contain directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with).

(4) A direction under subsection (3) (b) operates to the exclusion of rights that are inconsistent with it.

Appointment of operator

49—(1) When an order is made under this Part, the Regulator must appoint a suitable person (who may, but need not, be an electricity entity) to take over the relevant operations on agreed terms and conditions.

(2) A person appointed to take over an electricity entity's operations is referred to in this section as the "**operator**".

(3) The electricity entity must facilitate the takeover of the relevant operations by the operator.

(4) The operator may have access to the electricity infrastructure and other property of the electricity entity for the purposes of carrying on the relevant operations.

(5) A person must not obstruct the operator's access to property or the exercise by the operator of the operator's responsibilities under this Part.

Penalty: Fine not exceeding 1 000 penalty units and a daily fine not exceeding 10 penalty units.

(6) A person must comply with reasonable directions given by the operator in the exercise of the operator's responsibilities under this Part.

Penalty: Fine not exceeding 1 000 penalty units and a daily fine not exceeding 10 penalty units.

PART 4**LAND ACQUISITION AND USE FOR ELECTRICITY
INFRASTRUCTURE***Division 1—Surveys and assessments***Entry on land to conduct surveys or assess its suitability for
electricity infrastructure**

50—(1) An electricity entity may, by agreement with the occupier of land or on the Regulator's authorisation, enter and remain on land—

- (a) to conduct surveys (including hydrometric or water power surveys); or
- (b) to assess the suitability of the land for the construction or installation of electricity infrastructure.

(2) The Regulator may authorise an electricity entity to enter and remain on land under this section on conditions the Regulator considers appropriate.

(3) If an electricity entity enters land under the Regulator's authorisation, the electricity entity—

- (a) must give reasonable notice of the proposed entry of land under this section to the occupier; and
- (b) must minimise the impact of work carried out by the electricity entity on activities of others on the land; and
- (c) must comply with the conditions of the Regulator's authorisation.

*Division 2—Land acquisition***Acquisition of land**

51—(1) An electricity entity is an acquiring authority under the *Land Acquisition Act 1993*.

(2) An electricity entity may acquire land under the *Land Acquisition Act 1993* for the purposes of the operations that the electricity entity is authorised to carry on under its licence.

(3) Without limiting subsection (2), an electricity entity—

- (a) is a public authority for the purposes of the *Conveyancing and Law of Property Act 1884*; and
- (b) may acquire an easement in gross within the meaning of section 80A of that Act; and
- (c) may enter into, or acquire the benefit of, a covenant in gross within the meaning of section 90AB of that Act.

(4) An electricity entity may only acquire land by compulsory process under the *Land Acquisition Act 1993* if the acquisition is authorised in writing by the Minister.

(5) Regulations may be made modifying the *Land Acquisition Act 1993* in its application to the acquisition of land under this section, but the regulations cannot affect the monetary entitlements of persons from whom land is acquired.

Division 3—Work on public land

Power to carry out work on public land

52—(1) An electricity entity may, by agreement with the authority responsible for the management of public land—

- (a) install electricity infrastructure on the land; or
- (b) operate, maintain, repair, modify, add to or replace electricity infrastructure on the land; or
- (c) carry out other work on the land for the generation, transmission, distribution or supply of electricity.

(2) Without limiting subsection (1), the electricity entity may—

- (a) erect powerlines; and
- (b) clear vegetation to prevent contact with powerlines; and
- (c) build conduits for underground cables.

(3) An agreement under this section may contain conditions the authority responsible for management of the land considers appropriate in the public interest.

(4) The responsible authority must not unreasonably refuse to agree to work proposed by an electricity entity under this section nor may it impose unreasonable conditions.

(5) The responsible authority's agreement to proposed work under this section is presumed if the work is of a kind classified by the regulations as being of minor environmental impact.

Disputes about work on public land

53—(1) If there is a dispute between an electricity entity and the authority responsible for managing public land about whether work should be permitted under this Division on the land or about the conditions on which work should be permitted on the land, either party to the dispute may refer the dispute to the Regulator.

- (2) If a dispute is referred to the Regulator, the Regulator—
- (a) must allow the parties to the dispute the opportunity to make representations to the Regulator on the questions at issue in the dispute; and
 - (b) must make reasonable attempts to get the parties to agree to settlement of the dispute on agreed terms.

Power to stop or divert traffic

54—An electricity entity may temporarily stop or divert traffic for the purpose of carrying out work under this Division.

Division 4—Emergency work**Emergency work**

55—(1) In an emergency, an electricity entity may, on the Minister's authority, enter land and carry out work that is necessary for the protection of electricity infrastructure or the protection of public safety.

(2) Without limiting subsection (1), the electricity entity may—

- (a) clear vegetation or flammable materials; or
- (b) control or divert water; or
- (c) erect protective structures.

(3) If it is practicable to give notice of entry to the occupier of the land, notice must be given, but otherwise notice to the occupier is not required.

(4) An electricity entity is liable to pay reasonable compensation for damage caused by the exercise of powers under this section.

*Division 5—Interaction with planning laws***Acquisition and use of land for electrical infrastructure****56—(1) Where—**

- (a) an electricity entity acquires land under this Act for the purposes of electricity infrastructure; and
- (b) the dimensions of the land are within limits fixed by the regulations; and
- (c) the proposed use of the land complies with requirements imposed by the regulations for the purposes of this section—

a subdivision of land necessary to give effect to the acquisition is not to be regarded as development for the purposes of the *Land Use Planning and Approvals Act 1993* and is not subject in any other way to that Act.

(2) If the use of the land complies with requirements imposed by the regulations, the use is not affected by the *Land Use Planning and Approvals Act 1993*.

Work on electricity infrastructure**57—Where—**

- (a) an electricity entity proposes to carry out work on the construction, installation, modification, maintenance, demolition or replacement of electricity infrastructure; and
- (b) the work is of a kind classified by the regulations as work of minor environmental impact—

the work is not to be regarded as development for the purposes of the *Land Use and Planning Approvals Act 1993* and is not subject in any other way to that Act.

PART 5**ELECTRICITY OFFICERS*****Division 1—Appointment of electricity officers*****Appointment of electricity officers**

58—(1) An electricity entity may appoint an eligible person to be an electricity officer for the entity.

(2) A person is eligible for appointment as an electricity officer if the person—

- (a) has the qualifications and experience required by the Regulator for the appointment; or
- (b) has successfully completed a course of training approved by the Regulator.

(3) An electricity officer may exercise powers only—

- (a) in relation to the electricity entity's infrastructure and the supply of electricity by the electricity entity; and
- (b) subject to the conditions of appointment and any directions given to the electricity officer by or on behalf of the electricity entity.

Conditions of appointment

59—(1) An electricity officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.

(2) An electricity officer holds office on the conditions stated in the instrument of appointment.

(3) An electricity officer may resign by written notice given to the electricity entity.

(4) An electricity officer may be removed from office by the electricity entity.

Electricity officer's identity card

60—(1) An electricity entity must give each electricity officer for the entity an identity card.

(2) The identity card must be in a form approved by the Regulator and—

- (a) must contain a recent photograph of the electricity officer; and
- (b) must be signed by the electricity officer; and
- (c) must identify the electricity officer as an electricity officer for the relevant electricity entity.

(3) A person must, within 21 days after ceasing to be an electricity officer, return the identity card to the electricity entity.

Penalty: Fine not exceeding 10 penalty units.

Production of identity card

61—An electricity officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

Division 2—General powers of electricity officers

Entry to inspect, operate or repair electrical infrastructure

62—(1) An electricity officer for an electricity entity may, at any reasonable time, enter a place where the entity's electricity infrastructure is situated to inspect, operate, maintain, repair, make alterations to or replace the infrastructure.

(2) An electricity officer for an electricity entity may, at any reasonable time, enter a place to which electricity is, or is to be, supplied by the entity—

- (a) to inspect electrical installations in the place to ensure that it is safe to connect or reconnect electricity supply; or
- (b) to take action to prevent or minimise an electrical hazard; or
- (c) to protect property of the electricity entity in the place; or
- (d) to investigate suspected theft, loss, interference with or damage to the electricity entity's property or suspected theft of electricity.

(3) A power of entry under this section may be exercised, in an emergency, at any time.

(4) When an electricity officer enters a place under this section, the electricity officer—

- (a) may be accompanied by such assistants as the electricity officer considers necessary or appropriate; and
- (b) may take any vehicles or equipment the electricity officer considers necessary or appropriate for the functions the electricity officer is to carry out in the place.

(5) If in the opinion of an electricity officer an electrical installation is unsafe, the electricity officer may disconnect electricity supply to the place in which the installation is situated until the installation is made safe to the satisfaction of the electricity officer.

Entry to read meters, &c.

63—An electricity officer for an electricity entity may, at any reasonable time, enter a place to which electricity is, or is to be, supplied by the entity to—

- (a) read, or check the accuracy of, a meter for recording consumption of electricity; or
- (b) examine the electrical installations in the place to determine load classification and the appropriate tariff for the sale of electricity; or
- (c) install, repair or replace meters, control apparatus and other electrical installations in the place.

Entry to disconnect supply

64—If the disconnection of electricity supply is authorised under this Act, an electricity officer may, at any reasonable time, enter a place to disconnect an electricity supply to the place.

Disconnection of supply if entry refused

65—(1) If an electricity officer seeks to enter a place under this Division and entry is refused or obstructed, the electricity entity may, by written notice to the occupier of the place, ask for consent to entry.

(2) The notice must state the reason and the date and time of the proposed entry.

(3) If entry is again refused or obstructed, the electricity entity may—

(a) if it is possible to do so, disconnect the electricity supply to the place without entering the place; or

(b) if not, obtain a warrant to enter the place for the purpose of disconnecting the electricity supply, enter the place under the warrant and disconnect the electricity supply.

(4) The electricity entity must restore the electricity supply if—

(a) the occupier—

(i) consents to the proposed entry; and

(ii) pays the appropriate reconnection fee; and

(b) it is safe to restore the electricity supply.

Forcible entry

66—(1) An electricity officer may use force to enter a place under this Division if—

(a) the entry is authorised under a warrant; or

(b) the entry is necessary in an emergency.

(2) When entering a place by force under the authorisation of a warrant, an electricity officer must be accompanied by a member of the police force.

PART 6**EMERGENCY RESTRICTION OF ELECTRICITY USE****Emergency restriction orders**

67—(1) The Minister may make an emergency restriction order restricting the use of electricity.

(2) An emergency restriction order may only be made if the Minister is satisfied that—

(a) an electricity entity—

(i) is presently unable to meet the demands for electricity from its customers because of failure of, or damage to, its electricity infrastructure or for any other reason; or

(ii) may not be able to sustain hydro-electric electricity generation at the level of current demand because of depletion of water supplies; and

(b) the electricity may not reasonably be obtained from an alternative source; and

(c) the order is necessary to restrict electricity use to the level of available or sustainable supply.

(3) Before making an emergency restriction order because of the depletion of water supplies available for hydro-electric electricity generation, the Minister must consider the advice of an advisory committee established to monitor and advise the Minister on the adequacy of the available water supplies.

(4) An emergency restriction order—

(a) must be made in writing; and

(b) must state the grounds on which the order is made; and

(c) must state the restrictions on the use of electricity imposed by the order; and

(d) must be published in a way that ensures, in the Minister's opinion, that the order will come to the attention of the persons affected by it.

- (5) Without limiting subsection (4) (c), the order may—
- (a) restrict the classes of customers to whom electricity may be supplied; or
 - (b) prescribe the maximum demand that may be placed on a power system by an electrical installation; or
 - (c) restrict the purposes for which electricity may be used; or
 - (d) restrict the nature of electrical equipment that may be used by customers; or
 - (e) authorise an authorised officer to disconnect the electricity supply to installations of a specified class or to take other specified action to enforce a restriction imposed by the order.

(6) If an emergency restriction order is made because of the depletion of water supplies available for hydro-electric electricity generation the order must be laid before both Houses of Parliament and is subject to disallowance in the same way as a regulation.

Order to prevail over inconsistent contractual obligations

68—An emergency restriction order prevails over contractual obligations that are inconsistent with the order.

Term and expiry of order

69—(1) If, in the Minister's opinion, the need for an emergency restriction order no longer exists, the Minister must make an order revoking the emergency restriction order.

(2) An order revoking an emergency restriction order must be published in a way that ensures, in the Minister's opinion, that the order will come to the attention of the persons affected by it.

(3) If an emergency restriction order is not revoked within the prescribed period after the order is made, the order expires.

(4) In subsection (3), “**prescribed period**” means—

- (a) if the order is made because of depletion of water supplies available for hydro-electric electricity generation, 6 months; or
- (b) in any other case, one month.

(5) The expiry of an emergency restriction order does not prevent the Minister from making a further emergency restriction order to the same or similar effect.

Exclusion of compensation

70—No right to compensation from the Crown or an electricity entity arises because of a restriction imposed by an emergency restriction order.

Obligation to comply

71—A person must not—

- (a) contravene an emergency restriction order; or
- (b) obstruct an authorised officer acting under the authority of an emergency restriction order.

Penalty: For a body corporate a fine not exceeding 1000 penalty units and for a natural person a fine not exceeding 500 penalty units.

PART 7

SAFETY AND TECHNICAL ISSUES

Division 1—Requirements for electrical installations

Electrical installations to comply with technical requirements

72—(1) A person who proposes to connect an electrical installation to a transmission or distribution network must ensure that the installation, and the connection, comply with technical and safety requirements imposed by the regulations.

Penalty: Fine not exceeding 20 penalty units.

(2) An electricity officer may disconnect an electrical installation that is connected to its transmission or distribution network in contravention of this section.

Responsibility of owner or operator of electrical installation

73—A person who owns or operates an electrical installation must take reasonable steps to ensure that—

- (a) the installation complies with, and is operated in accordance with, technical and safety standards and requirements imposed under the regulations; and
- (b) the installation is safe and safely operated.

Penalty: Fine not exceeding 50 penalty units.

Examination and testing of electrical installation work

74—A person who carries out examinable work on an electrical installation or proposed electrical installation must—

- (a) give notice of the work as required under the regulations; and
- (b) ensure that the work is examined and tested as required under the regulations.

Penalty: Fine not exceeding 20 penalty units.

Division 2—Power to require rectification of deficiencies

Power to require rectification, &c. of deficient installations

75—(1) If an electrical installation is unsafe or does not comply with this Act, the Regulator may make an order against the person in charge of the installation or the occupier of the place in which the installation is situated requiring—

- (a) rectification of the electrical installation to the Regulator's satisfaction and (if appropriate) the temporary disconnection of the installation while the rectification work is carried out; or
- (b) the disconnection and removal of the electrical installation.

(2) The Regulator may also, in an appropriate case, order the electricity entity that supplies electricity to the installation to disconnect the electricity supply.

(3) An order may be given under this section by written notice or, if the installation is so unsafe that immediate action is required, orally but, if the order is given orally, it must be confirmed in writing.

(4) A person to whom an order is given under this section must comply with the order.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

Division 3—Reporting of accidents

Reporting of accidents

76—(1) If an accident involving electric shock or personal injury caused by electricity happens, the responsible person—

- (a) must immediately report the accident as required under the regulations; and
- (b) must not unnecessarily interfere with, or permit unnecessary interference with, the electrical installation that might prevent proper investigation of the accident.

Penalty: Fine not exceeding 20 penalty units.

(2) The responsible person is—

- (a) if the accident involves part of an electricity entity's infrastructure, the electricity entity; or
- (b) if the accident happens while an electrical worker is working on an electrical installation and the electrical worker is able to make the report, the electrical worker; or
- (c) in any other case, the occupier of the place in which the accident happens.

(3) On receiving a report of an accident, the Regulator must have the accident investigated, and a report prepared on the accident, as soon as practicable.

Division 4—Electrical workers**Classification for electrical work**

77—A person must not undertake to carry out electrical work classified by regulation as work for which a permit of a particular class is required unless the person holds an electrical worker's permit of the relevant class.

Penalty: Fine not exceeding 20 penalty units.

Application for electrical worker's permit

78—An application for an electrical worker's permit—

- (a) must be made to the Regulator in a form approved by the Regulator; and
- (b) must state the class of permit sought by the applicant; and
- (c) must state the applicant's qualifications and experience in carrying out electrical work; and
- (d) must be accompanied by the fee required under the regulations.

Issue of permit

79—The Regulator may, if satisfied that an applicant for an electrical worker's permit of a particular class—

- (a) is of good character; and
- (b) has the necessary qualifications and experience to carry out electrical work of the relevant class—

issue a permit of the relevant class to the applicant.

Conditions of permit

80—(1) The Regulator may grant an electrical worker's permit on conditions the Regulator considers appropriate.

(2) The holder of an electrical worker's permit must comply with the conditions of the permit.

Penalty: Fine not exceeding 20 penalty units.

Periodic fees

81—(1) The holder of an electrical worker's permit must pay periodic fees to the Regulator in accordance with the regulations.

(2) A periodic fee is payable annually or at less frequent intervals prescribed by the regulations.

(3) If the holder of an electrical worker's permit fails to pay a periodic fee by a date fixed for payment, in accordance with the regulations, in an account for the fee given to the holder of the permit, the Regulator may suspend the permit until the fee is paid.

(4) If a permit has remained in suspension under subsection (3) for 3 months or more, the Regulator may cancel the permit.

Obligation to comply with relevant codes of conduct

82—The holder of an electrical worker's permit must comply with any relevant code of conduct prescribed by the regulations.

Penalty: Fine not exceeding 20 penalty units.

Inquiries into improper or incompetent conduct

83—(1) If there is reason to suspect that an electrical worker who holds a permit under this Part may have been incompetent in carrying out electrical work, or may have acted improperly in carrying on business as an electrical worker, the Regulator may refer the matter to an appropriate committee for inquiry.

(2) If the committee of inquiry finds that the electrical worker was incompetent in carrying out electrical work, or acted improperly in carrying on business as an electrical worker, the Regulator may exercise any one or more of the following powers:—

- (a) reprimand the electrical worker;
- (b) order the electrical worker to pay a specified amount of compensation for the rectification of defective electrical work;
- (c) suspend the electrical worker's permit for a specified period or until the fulfilment of a specified condition;

- (d) cancel the permit;
- (e) if the committee of inquiry finds that the electrical worker has contravened a code of conduct laid down by the regulations, have a complaint for the offence laid before a court of summary jurisdiction.

(3) While an electrical worker's permit is under suspension, the electrical worker is not to be regarded as the holder of a permit.

(4) If a court of summary jurisdiction finds an electrical worker guilty of contravening a code of conduct laid down by the regulations, the court may (in addition to imposing a penalty for the offence) order the electrical worker to pay compensation of an amount fixed by the court to any person who has suffered loss as a result of the contravention.

PART 8

ENFORCEMENT

Division 1—Authorised officers

Appointment of authorised officers

84—(1) The Regulator may appoint suitable persons as authorised officers.

(2) An authorised officer may, but need not, be an employee within the meaning of the *Tasmanian State Service Act 1984*.

(3) In the exercise of his or her powers, the authorised officer is subject to control and direction by the Regulator.

Conditions of appointment

85—(1) An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.

(2) An authorised officer holds office on the conditions stated in the instrument of appointment.

(3) An authorised officer may resign by written notice given to the Regulator.

(4) An authorised officer may be removed from office by the Regulator.

Authorised officer's identity card

86—(1) The Regulator must give each authorised officer an identity card.

(2) The identity card—

(a) must contain a recent photograph of the authorised officer; and

(b) must be signed by the authorised officer.

(3) A person must, within 21 days after ceasing to be an authorised officer, return the identity card to the Regulator.

Penalty: Fine not exceeding 10 penalty units.

Production of identity card

87—An authorised officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

Division 2—Power of entry

Power of entry

88—(1) An authorised officer may, for the purpose of carrying out functions assigned to the authorised officer under this Act, enter any place.

(2) When an authorised officer enters a place under this section, the authorised officer—

- (a) may be accompanied by such assistants as the authorised officer considers necessary or appropriate; and
- (b) may take any vehicles or equipment the authorised officer considers necessary or appropriate for the functions the authorised officer is to carry out in the place.

(3) An authorised officer may use force to enter a place under this Division if—

- (a) the entry is authorised under a warrant; or
- (b) the entry is necessary in an emergency.

(4) When entering a place by force, an authorised officer may be accompanied by a member of the police force.

Division 3—General investigative powers

General investigative powers of authorised officers

89—(1) An authorised officer who enters a place under this Part may exercise any one or more of the following powers:—

- (a) examine and test any electrical installation or equipment in the place to find out whether the installation or equipment is safe and complies with the requirements of this Act;
- (b) investigate a suspected electrical accident;
- (c) investigate a suspected interference with electrical infrastructure or an electrical installation;
- (d) investigate a suspected theft or diversion of electricity;
- (e) inspect electrical equipment or appliances that are apparently available for sale to find out whether they are safe and comply with the requirements of this Act;
- (f) investigate whether work being carried out in the place is electrical work for which a specific permit or authority is required under this Act;

- (g) take photographs or make films or other records of activities in the place and electrical installations in the place;
- (h) take possession of any object that may be evidence of an offence against this Act.

(2) If an authorised officer takes possession of an object that may be evidence of an offence under subsection (1) (d)—

- (a) the authorised officer must give the occupier of the place a receipt for the object; and
- (b) the object must be returned to its owner—
 - (i) if proceedings for an offence are not commenced within 6 months after the authorised officer takes possession of the object, at the end of that period; or
 - (ii) if any such proceedings are commenced within that period, on completion of the proceedings, unless the court, on application by the Regulator, orders confiscation of the object.

(3) A court may order the confiscation of an object of which an authorised officer has taken possession under subsection (1) (d) if it is of the opinion that the object has been used for the purpose of committing an offence or there is some other proper reason for ordering its confiscation.

(4) If the court orders the confiscation of an object under subsection (3), the Regulator may dispose of the object.

Division 4—Power to disconnect electricity supply

Disconnection of electricity supply

90—(1) If an authorised officer finds that electricity is being supplied or consumed contrary to this Act or an order under this Act, the authorised officer may disconnect the electricity supply.

(2) If an authorised officer disconnects an electricity supply under this section, the officer must give written notice to the occupier of the relevant place informing the occupier—

- (a) that the electricity supply has been disconnected under this section; and
- (b) that it is unlawful to reconnect the electricity supply until arrangements have been made to the satisfaction of the authorised officer to ensure against future contravention of this Act or the order.

(3) If an electricity supply has been disconnected under this section, a person must not reconnect the electricity supply, or have it reconnected, without the authorised officer's approval.

Penalty: Fine not exceeding 20 penalty units.

Division 5—Cathodic protection systems

Power to require disconnection of cathodic protection system

91—(1) If an authorised officer finds that a cathodic protection system is being operated contrary to the requirements of this Act, the authorised officer may take reasonable action, or require the person in charge of the system to take reasonable action, to make the system inoperable.

(2) A requirement is imposed under subsection (1) by notice in writing given to the person in charge of the cathodic protection system.

(3) A person in charge of a cathodic protection system must comply with a notice under this section.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

*Division 6—Power to make electrical installation safe***Power to make electrical installation safe**

92—(1) If an authorised officer suspects that an electrical installation is unsafe, the authorised officer may—

- (a) disconnect the installation, or require the person in charge of the installation to disconnect it, from the power system; and
- (b) require the person in charge of the installation to carry out the necessary work to make it safe before it is reconnected to the power system.

(2) A requirement is to be imposed under subsection (1) by written notice given to the person in charge of the electrical installation.

(3) A person in charge of an electrical installation—

- (a) must comply with a requirement under this section; and
- (b) must not reconnect or permit the reconnection of the installation to the power system unless the work required by a notice under this section has been carried out or an authorised officer approves the reconnection of the installation.

Penalty: Fine not exceeding 50 penalty units.

*Division 7—Power to prohibit the sale of equipment, &c.***Direction not to sell or hire unsafe electrical equipment**

93—(1) If an authorised officer finds that electrical articles offered for sale or hire are unsafe, or do not comply with the requirements of this Act, the authorised officer may, by written notice to the person who has the articles for sale or hire, prohibit the sale or hire of the articles.

(2) A person must not contravene a prohibition under this section.

Penalty: For a body corporate a fine not exceeding 50 penalty units and for a natural person a fine not exceeding 20 penalty units.

(3) If a person contravenes a prohibition under this section, an authorised officer may seize and confiscate electrical articles subject to the prohibition in the possession of the person who contravened the prohibition.

(4) Electrical articles seized and confiscated under this section become the property of the Crown and may be disposed of as directed by the Regulator.

Division 8—Power to require information

Power to require information

94—(1) An authorised officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.

(2) An authorised officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the authorised officer.

(3) A person must not, without reasonable excuse, fail to comply with a requirement under this section.

Penalty: For a body corporate a fine not exceeding 20 penalty units and for a natural person a fine not exceeding 10 penalty units.

(4) A person is not required to give information or produce a document under this section if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

PART 9**ADMINISTRATIVE REVIEW AND APPEAL*****Division 1—Administrative review*****Statement of reasons for decision**

95—(1) A person whose interests are affected by a reviewable decision of the Regulator or an authorised officer may apply, in writing, to the Regulator or authorised officer for a statement of the reasons for the decision.

(2) An application under this section must be made within 28 days after the date on which the applicant received notice of the decision.

(3) The Regulator or authorised officer must comply with a request under this section as soon as practicable and, in any case, no later than 60 days after receiving the application.

Application for administrative review

96—(1) A person whose interests are affected by a reviewable decision of the Regulator or an authorised officer may, subject to this Act, apply to the Regulator for an administrative review of the decision.

(2) An application for an administrative review must be in writing and must set out in detail the grounds on which the applicant seeks review of the decision.

(3) An application for an administrative review of a decision must be made within 28 days after the date when notice of the decision was given to the applicant, or if reasons for the decision were not then given to the applicant and the applicant sought reasons for the decision under this Part, within 28 days after reasons for the decision were given to the applicant.

(4) The Regulator may extend the period for making an application for an administrative review.

Stay of operation

97—(1) The Regulator may stay the operation of a decision that is subject to review or appeal under this Part.

(2) A stay may not be granted if, in the Regulator's opinion, its effect would be to create a risk to public safety or to allow a risk to public safety to continue.

Reference of application for mediation

98—(1) The Regulator may refer an application for administrative review to a mediator.

(2) If a mediator achieves an agreed settlement of the matter to which the application relates, the Regulator must decide the application in accordance with the agreed settlement.

Powers of Regulator on review

99—(1) After considering an application for administrative review, and taking advice the Regulator considers appropriate, the Regulator may—

- (a) confirm the disputed decision; or
- (b) amend the disputed decision; or
- (c) substitute another decision for the disputed decision.

(2) The Regulator must give the applicant written notice of the Regulator's decision and the reasons for the Regulator's decision on the review.

Reference of application for review for mediation or advice

100—The Regulator may delegate the Regulator's power to review decisions, or decisions of a particular class, to—

- (a) a review panel appointed under the regulations; or
- (b) an arbitrator.

Division 2—Appeals

Appeal

101—(1) A person who is dissatisfied with a decision on administrative review may, subject to this Act, appeal against the decision to the appropriate appellate authority.

- (2) The appropriate appellate authority is—
- (a) if a regulation is in force assigning appeals of the relevant class to a specified authority, the authority specified in the regulations; or
 - (b) if there is no such regulation, the Minister.

Procedure on appeal

102—An appeal is to be commenced, heard and determined in accordance with the regulations.

Stay of operation

103—(1) An appellate authority to which an appeal is made or is intended may stay the operation of a decision that is subject to appeal under this Part.

(2) A stay may not be granted if, in the Regulator's opinion, its effect would be to create a risk to public safety or to allow a risk to public safety to continue.

Powers of appellate authority on appeal

104—(1) On an appeal, the appropriate appellate authority may—

- (a) confirm the decision under appeal; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the primary decision maker with directions the appellate authority considers appropriate.

(2) The appellate authority may make ancillary directions to deal with incidental matters.

(3) No appeal lies from the decision of the appropriate appellate authority on an appeal.

PART 10**MISCELLANEOUS*****Division 1—Exempting power*****Power of exemption**

105—(1) The Regulator may grant exemptions from this Act, or specified provisions of this Act, as authorised by the regulations.

(2) An exemption under this section may be given on terms and conditions the Regulator considers appropriate.

Obligation to comply with conditions of exemption

106—A person in whose favour an exemption is given must comply with the conditions of the exemption.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

Division 2—Warrants**Application and issue of warrant**

107—(1) An authorised officer or an electricity officer may apply to a justice for a warrant to enter a place specified in the application.

(2) A justice may issue a warrant if satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant is to authorise the authorised officer or electricity officer, with any assistance and by any force reasonably necessary—

(a) to enter the place specified in the warrant; and

(b) to do anything authorised by this Act—

at any time, or within any period, specified in the warrant.

(4) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

Urgent situations

108—(1) An authorised officer or an electricity officer may apply to a justice for a warrant by telephone, facsimile or other prescribed means if the officer considers the urgency of the situation requires it.

(2) The justice may complete and sign a warrant in the terms referred to in section 107 (3) if satisfied that there are reasonable grounds for issuing the warrant urgently.

(3) The justice is to—

(a) tell the officer—

- (i) the terms of the warrant; and
- (ii) the date on which, and the time at which, the warrant was signed; and
- (iii) the date on which, and the time at which, the warrant ceases to have effect; and

(b) record on the warrant the reasons for granting the warrant.

(4) The officer is to—

(a) complete a form of warrant in the same terms as the warrant signed by the justice; and

(b) write on the form—

- (i) the name of the justice; and
- (ii) the date on which, and the time at which, the warrant was signed; and

(c) send the justice the completed form of warrant not later than the day after the warrant is executed or ceases to have effect.

(5) On receipt of the form of warrant, the justice is to attach it to the warrant the justice signed.

(6) A form of warrant completed by an authorised officer or an electricity officer under subsection (4) has the same force as a warrant signed by the justice under subsection (2).

*Division 3—Offences***Unlawful interference with electricity infrastructure or electrical installation**

- 109—(1)** A person must not, without proper authority—
- (a) attach an electrical installation or other thing to a transmission or distribution network; or
 - (b) connect, disconnect or interfere with a supply of electricity from a transmission or distribution network; or
 - (c) interfere with electrical infrastructure or an electrical installation in any other way.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

- (2) A person must not, without proper authority—
- (a) be in an enclosure where electrical infrastructure is situated; or
 - (b) climb on poles and other structures that are part of electrical infrastructure.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must not discharge a firearm or throw or project an object towards electrical infrastructure or an electrical installation if there is significant risk of damage to the infrastructure or installation or interruption of electricity supply.

Penalty: Fine not exceeding 50 penalty units.

Notice of work that may affect electrical infrastructure

- 110—(1)** A person who proposes to do work near electrical infrastructure must give the appropriate electricity entity at least 7 days' notice of the proposed work if—

- (a) there is a risk of equipment or a structure coming into dangerous proximity to electrical conductors; or
- (b) the work may affect the support for any part of electricity infrastructure; or

- (c) the work may interfere with electricity infrastructure in some other way.

Penalty: Fine not exceeding 50 penalty units.

(2) If the work is required to deal with an emergency, and it is not practicable to give the notice required by subsection (1), the notice must be given as soon as practicable.

(3) A person who does work near electricity infrastructure must comply with—

- (a) requirements prescribed by regulation that are applicable to the work; and
- (b) reasonable requirements made by the electricity entity for the protection of the infrastructure or the safety of the persons carrying out the work.

Penalty: Fine not exceeding 50 penalty units.

Unlawful diversion of electricity

111—(1) A person must not, without proper authority, take or divert electricity.

Penalty: For a body corporate a fine not exceeding 1 000 penalty units and for a natural person a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 1 year, or both.

- (2) In proceedings for an offence against subsection (1)—
- (a) evidence of the finding of a device that would have enabled the unlawful taking or diversion of electricity by the defendant; or
- (b) evidence of tampering by the defendant or someone acting with the defendant's authority with a meter for recording consumption of electricity supplied to the defendant's premises—

establishes, in the absence of proof to the contrary, the unlawful taking or diversion of electricity by the defendant.

(3) A person must not run a line capable of carrying an electricity supply beyond the boundaries of property occupied by the person unless—

- (a) the person is an electricity entity; or
- (b) the electricity supply line is authorised under the regulations.

Penalty: For a body corporate a fine not exceeding 100 penalty units and for a natural person a fine not exceeding 50 penalty units.

False or misleading information

112—(1) A person must not knowingly give false or misleading information to the Regulator or anyone else involved in the administration of this Act.

Penalty: For a body corporate a fine not exceeding 500 penalty units and for a natural person a fine not exceeding 50 penalty units.

(2) A person must not knowingly give documents containing false or misleading information to the Regulator or anyone else involved in the administration of this Act unless the person points out in what respects the documents are false or misleading.

Penalty: For a body corporate a fine not exceeding 500 penalty units and for a natural person a fine not exceeding 50 penalty units.

Impersonation of officials, &c.

113—A person must not impersonate an authorised officer, an electricity officer or anyone else with powers under this Act.

Penalty: Fine not exceeding 50 penalty units.

Obstruction

114—(1) A person must not, without reasonable excuse, obstruct an authorised officer, an electricity officer or anyone else engaged in the administration of this Act or the exercise of powers under this Act.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not use abusive or intimidatory language to, or engage in offensive or intimidatory behaviour towards, an authorised officer, an electricity officer or anyone else engaged in the administration of this Act or the exercise of powers under this Act.

Penalty: Fine not exceeding 20 penalty units.

Division 4—Evidentiary provisions

Evidence of appointments

115—(1) If a person is alleged in a complaint for an offence or in civil pleadings to have held a specified appointment under this Act at a specified time, the allegation is taken to have been proved in the absence of proof to the contrary.

(2) A document that appears to have been signed by the Minister, the Regulator, an authorised officer or an electricity officer is taken to have been duly executed by that person in the absence of proof to the contrary.

Certificates by Regulator

116—(1) A certificate given by the Regulator to the effect that a specified person held or did not hold a specified licence, authority, permit or certificate under this Act on a specified date or over a specified period is evidence of the matter certified.

(2) A certificate given by the Regulator to the effect that a specified notice, order or direction was given to a specified person on a specified day is evidence of the matter certified.

(3) A certificate given by the Regulator to the effect that the costs of specified action taken under this Act is a specified amount is evidence of the matter certified.

***Division 5—Damage caused by officers in exercising
statutory powers***

Damage to be notified

117—(1) An electricity officer or authorised officer who damages property in a place entered in pursuance of powers under this Act must (unless the damage appears to be trivial) give notice containing particulars of the damage to the occupier of the place.

Penalty: Fine not exceeding 10 penalty units.

(2) If it is not practicable to give the notice to the occupier personally, the notice may be left in a conspicuous position near where the damage happened.

Liability for compensation

118—(1) If the damage is caused by an electricity officer, the electricity entity for which the officer is acting is liable to pay reasonable compensation for the damage and, if the damage is caused by an authorised officer, the Regulator is liable to pay reasonable compensation for the damage.

(2) A claim for compensation under this section may be made in a court with jurisdiction to decide a claim in tort for the relevant amount.

Division 6—Immunity from liability

Regulator's immunity from liability

119—The Regulator or another person acting, or purporting to act, in good faith in the administration of this Act incurs no civil liability except—

(a) a liability for negligence; or

(b) a liability for which express provision is made by or under this Act.

System controller's immunity from liability

120—A system controller incurs no liability for an act or omission done or made in good faith in the exercise, or purported exercise, of the system controller's functions under this Act.

Electricity entity's immunity from liability

121—An electricity entity, or an agent or employee of an electricity entity, incurs no civil liability for an act or omission done or made in good faith in the performance or exercise or purported performance or exercise of a function or power conferred on the electricity entity by or under this Act except—

- (a) a liability for negligence; or
- (b) a liability for nuisance which the electricity entity has failed to take all due and reasonable precautions to prevent; or
- (c) another liability for which express provision is made by or under this Act.

Division 7—Regulations**Regulations**

122—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting subsection (1), regulations may be made in respect of—

- (a) the generation, transmission, distribution and supply of electricity; and
- (b) the construction, installation and positioning of electricity infrastructure; and
- (c) technical, operational and safety requirements and standards and monitoring and enforcing compliance with the prescribed requirements and standards; and
- (d) the appointment, powers and functions of system controllers; and
- (e) conditions of electricity sale or supply; and
- (f) wholesale trading arrangements; and

- (g) the installation and operation of cathodic protection systems; and
- (h) energy labelling and performance standards for electrical appliances; and
- (i) requirements and standards for the safe use of electrical equipment and articles; and
- (j) the classification of electrical work for the purposes of issuing electrical workers' permits, the issue and renewal of such permits, codes of conduct to be observed by electrical workers and other matters relating to the regulation and discipline of electrical workers; and
- (k) procedures for reviews and appeals; and
- (l) fees and charges; and
- (m) other subjects on which regulations are contemplated by this Act.

(3) A regulation may have a differential application that varies according to factors stated in the regulation.

(4) The regulations may provide that contravention of a regulation is an offence and provide for the imposition of a fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

(5) The regulations may authorise regulation of a matter by the Minister or the Regulator.

(6) The regulations may incorporate by reference, or operate by reference to, specified codes, standards and protocols.

Administration of Act

123—Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990*—

- (a) the administration of this Act is assigned to the Minister for Energy; and
- (b) the department responsible to the Minister for Energy in relation to the administration of this Act is the Office of Energy Planning and Conservation.

[*Second reading presentation speech made in:—*
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