

# Electricity Supply (Safety and Network Management) Regulation 2014

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New South Wales

## Status Information

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### Provisions in force

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### Authorisation

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# Electricity Supply (Safety and Network Management) Regulation 2014



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Electricity Supply (Safety and Network Management) Regulation 2014*.

### 2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

**Note—**

This Regulation replaces the *Electricity Supply (Safety and Network Management) Regulation 2008* which is repealed on 1 September 2014 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

**the Act** means the *Electricity Supply Act 1995*.

(2) Notes in this Regulation do not form part of this Regulation.

## Part 2 Safety management systems

### Division 1 Preliminary and general

#### 4 Definitions

In this Part:

**AS 5577** means Australian Standard AS 5577—2013, *Electricity network safety management systems* (as in force from time to time).

**network**, in relation to a network operator, means:

(a) in the case of a transmission operator—its transmission system, or

(b) in the case of a distributor—its distribution system.

**primary objective** of safety management systems—see clause 6.

## **5 Network operators to ensure safety of distribution and transmission systems**

A network operator must take all reasonable steps to ensure that the design, construction, commissioning, operation and decommissioning of its network (or any part of its network) is safe.

Maximum penalty: 5,000 penalty units (in the case of a corporation) or 2,500 penalty units (in any other case).

## **6 Primary objective of safety management systems**

The primary objective of safety management systems is to assist network operators to comply with clause 5 and, in particular, to support:

- (a) the safety of members of the public, and
- (b) the safety of persons working on networks, and
- (c) the protection of property (whether or not belonging to a network operator), and
- (d) the management of safety risks arising from the protection of the environment (for example, preventing bush fires that may be ignited by network assets), and
- (e) the management of safety risks arising from loss of electricity supply.

## **7 Content of safety management system**

(1) A network operator must have a safety management system in place that:

- (a) is in accordance with AS 5577 or with any other code or standard that the Minister may, by written notice given to the network operator, nominate, and
- (b) without limiting paragraph (a), deals with the following matters:
  - (i) the safety and reliability of the network operator's network,
  - (ii) the safety of electrical installations of customers connected to the network operator's network,
  - (iii) advice to the public about the hazards associated with electricity in relation to the network operator's network,
  - (iv) management of bush fire risk relating to electricity lines and other assets of the network operator's network that are capable of initiating bush fire.

Maximum penalty: 250 penalty units (in the case of a corporation) or 100 penalty units (in any other case).

- (2) The Minister may nominate a code or standard for a network operator for the purposes of subclause (1) (a) only if the Minister is satisfied that a safety management system that is in accordance with the nominated code or standard would achieve the primary objective of safety management systems, in relation to the network operator's network, as well as or better than a safety management system that is in accordance with AS 5577.
- (3) The Minister may, by written notice given to a network operator, revoke any such nomination in force in respect of the network operator.
- (4) In determining the content of its safety management system, a network operator must take into account the primary objective of safety management systems.

## **8 Implementation of safety management system**

- (1) A network operator must implement its safety management system.
- (2) A network operator must ensure that its safety management system is brought to the attention of and made readily accessible to the persons involved in its implementation.

Maximum penalty: 10,000 penalty units (in the case of a corporation) or 5,000 penalty units (in any other case).

## **Division 2 Measurement, auditing and review of performance**

### **9 Definition of "nominated auditor"**

In this Division:

***nominated auditor***, in relation to a network operator's safety management system, means the person for the time being nominated, in accordance with clause 12, as an auditor of that system.

### **10 Network operators to measure and report on performance**

- (1) A network operator must measure its performance against its safety management system.
- (2) A network operator must:
  - (a) publish the results of its performance measurements annually, and
  - (b) ensure that copies of those results:
    - (i) are kept at its principal office, and
    - (ii) are made available for inspection on the website (if any) of the network operator, and

(iii) are made available in such a way that, as far as practicable, the results are brought to the notice of its customers and the public.

Maximum penalty: 250 penalty units (in the case of a corporation) or 100 penalty units (in any other case).

(3) A network operator must, before publishing the results of its performance measurements, give the Tribunal written notice of its intention to publish those results and of the date from which it proposes to make those performance measurements available under subclause (2) (b).

Maximum penalty: 100 penalty units (in the case of a corporation) or 25 penalty units (in any other case).

(4) The Tribunal may exempt a network operator from subclauses (2) and (3) if satisfied that compliance with the requirements of those subclauses would not be in the public interest in the circumstances of the case.

## **11 Auditing of safety management system**

(1) A network operator must ensure that:

- (a) audits of its safety management system are carried out, in accordance with this clause, by a nominated auditor for the system, and
- (b) a written report of the results of each audit, prepared by the nominated auditor in accordance with this clause, is provided to the Tribunal as soon as practicable after the audit is carried out.

Maximum penalty: 10,000 penalty units (in the case of a corporation) or 5,000 penalty units (in any other case).

(2) A network operator must ensure that:

- (a) the first audit of its safety management system is completed no later than 30 April 2015, and
- (b) the written report of the results of that audit is provided to the Tribunal by no later than 1 June 2015.

Maximum penalty: 250 penalty units (in the case of a corporation) or 100 penalty units (in any other case).

(3) Other audits under this clause must be carried out at any times that the Tribunal may, by written notice given to the network operator, direct.

(4) A written report of the results of an audit under this clause must:

- (a) contain particulars of the plans, policies, procedures and other documents that are



contained in the network operator's safety management system, and

- (b) address whether or not the safety management system achieves, in relation to the network operator's network, the primary objective of safety management systems, and
  - (c) address whether or not the safety management system is in accordance with the documents referred to in clause 7 (1) (a) and deals with the matters referred to in clause 7 (1) (b), and
  - (d) address whether or not the safety management system is appropriate, having regard to the nature, size and complexity of the network operator's network, and
  - (e) address whether or not the safety management system is being properly implemented, and
  - (f) contain particulars of any modifications to the safety management system that should be made to rectify any shortcomings of the system and any measures that should be undertaken to rectify any failure to properly implement the safety management system, and
  - (g) if the previous audit (if any) under this clause recommended any such modifications or measures—address whether or not the modifications or measures have been undertaken and are effective.
- (5) The Tribunal may, in any notice given under subclause (3), require the audit concerned to relate to specified aspects of a network operator's safety management system (rather than to the safety management system as a whole).
- (6) For that purpose, a reference in subclauses (1) and (4) (except subclause (4) (f)) to the network operator's safety management system is to be read as a reference to the specified aspects of that system.

## **12 Nomination of person as auditor**

- (1) An audit under clause 11 of a network operator's safety management system is to be carried out by a person who is nominated by the network operator by written notice given to the Tribunal in accordance with procedures (**relevant nomination procedures**) notified by the Tribunal to the network operator.
- (2) The person nominated by a network operator must be a person chosen from a panel of persons approved by the Tribunal or a person otherwise approved by the Tribunal.
- (3) If the Tribunal has not approved a panel of persons for the purposes of a nomination under this clause or the network operator does not nominate a person in accordance with relevant nomination procedures, an audit under clause 11 of the network operator's safety management system is to be carried out by a person who is

nominated by the Tribunal by written notice given to the network operator.

- (4) A person is not to be nominated or approved for nomination for the purposes of this clause unless the person is independent of the network operator concerned and competent to carry out an audit of the system in accordance with clause 11.
- (5) The approval of a panel of persons for the purposes of this clause is to be notified by the Tribunal on the website of the Tribunal.
- (6) The Tribunal may publish details of the policies and procedures of the Tribunal in connection with the exercise of its functions under this clause.

**13 Tribunal may require safety management system to be implemented or modified following audit**

- (1) The Tribunal may, by written notice given to a network operator, direct the network operator to take any action specified in the notice (within any period of time specified in the notice) to implement its safety management system if the Tribunal considers that, based on a nominated auditor's report, the network operator is failing to properly implement its system.
- (2) The Tribunal may, by written notice given to a network operator, direct the network operator to modify the network operator's safety management system (in any manner, and within any period of time, specified in the notice) if the Tribunal considers that, based on the nominated auditor's report, it is necessary for the system to be so modified.
- (3) The Tribunal may, in any written notice given to a network operator under subclause (1) or (2), require the network operator to provide to the Tribunal the evidence specified in the notice to show that the direction has been complied with.
- (4) Without limiting subclause (3), the notice may:
  - (a) require the network operator to ensure that the Tribunal is provided with a written report that has been prepared by a nominated auditor and contains or addresses any matters that the Tribunal considers appropriate, and
  - (b) specify the manner in which, and the period within which, the evidence is to be provided.
- (5) A network operator must comply with any direction given to, or requirement imposed on, the network operator under this clause.

Maximum penalty: 10,000 penalty units (in the case of a corporation) or 5,000 penalty units (in any other case).

#### **14 Network operators to review and modify safety management system**

- (1) A network operator must review and, if necessary, modify its safety management system:
  - (a) as soon as practicable after any significant change (including any significant incremental change) occurs in relation to the design, operation or maintenance of the network operator's network, and
  - (b) in any case, at least once every 5 years (starting from the date by which the network operator is required to have a safety management system in place under clause 7).

Maximum penalty: 5,000 penalty units (in the case of a corporation) or 2,500 penalty units (in any other case).

- (2) In reviewing its safety management system, a network operator must take into account the primary objective of safety management systems.
- (3) For the purposes of this clause, a **significant change**, in relation to a network operator's network, includes:
  - (a) any upgrade or modification in the engineering design of the network, and
  - (b) any other change in the safety risks to be managed by the network operator in relation to the network or in relation to the measures to be taken to manage those risks.
- (4) Nothing in this clause prevents a network operator from modifying its safety management system at any time.

### **Part 3 Accreditation of providers of contestable services**

#### **Division 1 Preliminary**

##### **15 Definitions**

- (1) In this Part:

**accreditation** means accreditation to provide a class of contestable services.

**contestable service**—see clause 16 (a).

**Scheme Rules**—see clause 26.

- (2) A reference in this Part to a **class of contestable services** is a reference to a class of contestable services specified in the Scheme Rules.

## **16 Persons to be accredited for the provision of contestable services**

For the purposes of section 31 (2) of the Act:

- (a) all services provided for the purposes of complying with a requirement imposed under Division 4 of Part 3 of the Act (**contestable services**) are prescribed, and
- (b) a person who provides any such service must be accredited in accordance with this Part to provide the service.

## **Division 2 Accreditation procedures**

### **17 Application for accreditation or renewal**

- (1) A person may apply to the Secretary to be accredited to provide a class of contestable services or for the renewal of the person's accreditation to provide such services.
- (2) An application for an accreditation, or for the renewal of an accreditation, must:
  - (a) be made in the manner and form specified in the Scheme Rules, and
  - (b) specify the class of contestable services in respect of which the application is made, and
  - (c) be supported by any information specified in the Scheme Rules or required by the Secretary, and
  - (d) be accompanied by the fee (if any) for processing the application that is specified in the Scheme Rules.
- (3) The Secretary may require the applicant to provide any additional information that the Secretary considers necessary to enable the proper consideration of the application.

### **18 Determination of application**

- (1) The Secretary is to determine an application for an accreditation, or for renewal of an accreditation, by:
  - (a) granting the application (unconditionally or with any conditions that the Secretary considers appropriate), or
  - (b) refusing the application.
- (2) The Secretary cannot accredit a person, or renew a person's accreditation, to provide a class of contestable services unless satisfied that the person is competent to provide contestable services of that class.
- (3) Without limiting subclause (2), the Secretary may refuse to accredit a person, or to renew a person's accreditation, to provide a class of contestable services if:

- (a) the application or the applicant fails to comply with clause 17, or
  - (b) in the opinion of the Secretary, the applicant fails to satisfy requirements specified in the Scheme Rules relating to eligibility for accreditation, or
  - (c) the Secretary is not satisfied that:
    - (i) the applicant is a fit and proper person to provide contestable services, or
    - (ii) in a case where the applicant is a natural person—each person with whom the person is in partnership in connection with a business that provides or proposes to provide contestable services is a fit and proper person to be involved in the provision of contestable services, or
    - (iii) in a case where the applicant is a body corporate—each director of, or person concerned in the management of, the body corporate is a fit and proper person to be involved in the provision of contestable services, or
  - (d) the applicant has previously failed to comply with any condition to which an accreditation of the applicant is subject, or
  - (e) the applicant holds or has held an accreditation that has been suspended or cancelled.
- (4) The Secretary must give written notice to the applicant of the determination of the application, including:
- (a) if the application is granted—notice of the period for which the accreditation is granted, or
  - (b) if the application is refused—notice of the reasons for the refusal.

#### **19 Additional provisions relating to renewal of accreditation**

- (1) An application for the renewal of an accreditation may be made to the Secretary by the accredited person no earlier than one month before the accreditation expires and no later than the day before the accreditation expires.
- (2) An accreditation that is the subject of an application for renewal remains in force until notice of the determination of the application is given to the applicant under clause 18 (4).
- (3) If the application is refused, the applicant's accreditation expires when notice of the determination is given to the applicant.

#### **20 Duration of accreditation**

A person's accreditation remains in force for the period (not exceeding 3 years) specified in the notice of determination given to the person under clause 18 (4), subject to clause

19 and any suspension or cancellation of the accreditation.

## **21 Imposition, variation or revocation of conditions of accreditation**

- (1) At any time while the person's accreditation is in force, the Secretary may, by written notice given to the person:
  - (a) impose any conditions or further conditions on the accreditation that the Secretary considers appropriate, or
  - (b) on the Secretary's initiative or on the application of the person—vary or revoke any conditions of the accreditation if the Secretary considers it appropriate to do so.
- (2) A condition imposed, or the variation or revocation of a condition, under this clause takes effect on the date on which the notice is given to the accredited person (or on a later date specified in the notice).
- (3) A person may apply to the Secretary for variation or revocation of a condition of the person's accreditation only if the condition imposes a requirement relating to the supervision, inspection or auditing of the person's work in providing contestable services.
- (4) Clause 17 (2) (a) and (c) and (3) (with any necessary modifications) extend to any such application.
- (5) The Secretary must give written notice to the person of the determination of the application, including, if the application is refused, notice of the reasons for the refusal.

## **22 Suspension or cancellation of accreditation**

- (1) The Secretary may suspend or cancel a person's accreditation if the Secretary is satisfied that:
  - (a) the person is not competent to provide the class of contestable services for which the person is accredited, or
  - (b) the person no longer satisfies requirements specified in the Scheme Rules relating to eligibility for accreditation, or
  - (c) the applicant is not a fit and proper person to provide contestable services, or
  - (d) in a case where the applicant is a natural person—a person with whom the person is in partnership in connection with a business that provides or proposes to provide contestable services is not a fit and proper person to be involved in the provision of contestable services, or
  - (e) in a case where the applicant is a body corporate—a director of, or a person

concerned in the management of, the body corporate is not a fit and proper person to be involved in the provision of contestable services, or

- (f) the person has contravened a condition to which the accreditation is subject, or
  - (g) the person was accredited on the basis of false or misleading information or a failure to disclose or provide required information, or
  - (h) the person has been convicted of an offence against the Act or the *Electricity (Consumer Safety) Act 2004* or any regulations under those Acts, or
  - (i) it is necessary to do so on any other grounds relating to the safety of the work carried out or to public safety.
- (2) Before suspending or cancelling a person's accreditation, the Secretary:
- (a) must ensure that written notice of the proposed suspension or cancellation is given to the person, and
  - (b) must give the person a reasonable opportunity to make representations to the Secretary in relation to the proposed suspension or cancellation, and
  - (c) must have regard to any representations so made.
- (3) If, after having regard to any representations made by the person, the Secretary decides to proceed with the proposed suspension or cancellation, the Secretary must give to the person a written notice:
- (a) stating that the accreditation is suspended or cancelled (as the case may be), and
  - (b) giving reasons for the suspension or cancellation, and
  - (c) stating the date from which the suspension or cancellation takes effect.
- (4) The suspension or cancellation takes effect on the date specified in the notice.
- (5) A suspension continues in force until:
- (a) the person's accreditation is cancelled in accordance with this Division, or
  - (b) the suspension is lifted by the Secretary.

## **Division 3 Review of decisions regarding accreditation**

### **23 Decisions that may be subject of application for review**

- (1) A person may apply to the appropriate person for a review of any of the following decisions:
- (a) a decision to refuse an application to accredit the person to provide a class of

contestable services,

- (b) a decision to refuse an application to renew the person's accreditation,
  - (c) a decision to impose particular conditions on the person's accreditation or to vary particular conditions of the accreditation,
  - (d) a decision to refuse an application to vary or revoke any conditions of the person's accreditation,
  - (e) a decision to suspend or cancel the person's accreditation,
  - (f) a decision not to act on a suspension of the person's accreditation.
- (2) A decision not to act on a suspension of a person's accreditation is taken to have been made if the accreditation has not been cancelled, or the suspension of the accreditation has not been lifted, within 28 days after the date on which the suspension took effect.
- (3) A reference in this clause to the **appropriate person** for a review of a decision is a reference to:
- (a) if the decision has been made by the Secretary and not by a delegate of the Secretary—the Minister, or
  - (b) if the decision has been made by a delegate of the Secretary—the Secretary.

## **24 Application for review**

An application by a person for a review under this Division of a decision of the Secretary must:

- (a) be in writing, and
- (b) be served on the Secretary, in the manner and form specified in the Scheme Rules, no later than:
  - (i) in the case of a decision not to act on a suspension—56 days after the suspension takes effect, or
  - (ii) in any other case—28 days after the person receives written notice of the decision, and
- (c) state the reasons why the applicant considers that the decision should be reviewed.

## **25 Review of decision**

- (1) On receiving an application under this Division, the Secretary must review his or her decision and make a determination under this clause.



- (2) After reviewing his or her decision, the Secretary:
  - (a) may determine that the decision is to stand, or
  - (b) may determine to vary or cancel the decision.
- (3) As soon as practicable after the Secretary makes his or determination under this clause, the Secretary must ensure that written notice is given to the applicant:
  - (a) of the Secretary's determination, together with his or her reasons for the determination, and
  - (b) if the determination is to vary the decision—of the manner in which the decision is to be varied.
- (4) If the Secretary fails to give such a notice within 14 days after the application is made, the Secretary is taken to have determined that the Secretary's decision is to stand.

## **Division 4 Other**

### **26 Scheme Rules**

- (1) The Minister may, by order published in the Gazette, make Scheme Rules for the purposes of this Part.
- (2) The Scheme Rules may make provision for or with respect to any of the following matters:
  - (a) the classes of contestable services in respect of which a person may be accredited,
  - (b) the eligibility requirements for an accreditation or for renewal of an accreditation (including any qualifications, experience and training required for an accreditation),
  - (c) the means by which a person applying for an accreditation or renewal of an accreditation can give evidence of his or her eligibility for accreditation or renewal,
  - (c1) fees required for an application for, or renewal of, an accreditation,
  - (d) any other matter that this Part requires or permits to be specified in the Scheme Rules.

### **27 Availability of lists of accredited persons**

- (1) The Secretary must make available to the public a list of all persons who are accredited to provide any class of contestable services.
- (2) The list must contain the names and contact details of each of the persons.

- (3) The list must be kept up-to-date.

## Part 4 Protection of underground power lines

### 28 Definitions

- (1) In this Part:

**notifiable excavation work** means excavation work to which section 63Z of the Act applies (as set out in clause 29).

**planning approval** means:

- (a) a development consent within the meaning of Part 4 of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under Part 3A or Part 5.1 of that Act.

**power lines information** means information provided by the designated information provider or a network operator in response to a request by a person under section 63Z (1) of the Act.

**utility service** means a water, gas, electricity, sewerage, drainage or telecommunications service.

- (2) Words and expressions used in this Part have the same meaning as in Part 5E of the Act.

### 29 Excavation work requiring contact with designated information provider

- (1) The following kind of work that is carried out within the distribution district of a distributor is excavation work to which section 63Z of the Act applies:

- (a) excavation for which a planning approval is required or that is carried out under a planning approval,
- (b) excavation that is, or is carried out in connection with, an activity within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*,
- (c) excavation of any land conducted by or on behalf of a public authority,
- (d) excavation of any land on which an underground utility service is located, or proposed to be located, by or on behalf of the owner or proposed owner of the service,
- (e) excavation of any land on which an underground utility service is located for the purpose of the repair or maintenance of works connected with the utility service.

- (2) Despite subclause (1), the following kind of work is not excavation work to which section 63Z of the Act applies:

- (a) excavation conducted with the use of machinery or powered tools to a depth of less than 150 millimetres,
- (b) excavation for the purposes of ploughing, to a depth of less than 250 millimetres, on land within a rural zone or a rural-residential zone under an environmental planning instrument,
- (c) excavation conducted without the use of machinery or powered tools to a depth of less than 300 millimetres,
- (d) excavation conducted under a lease, licence or mineral claim under the [Mining Act 1992](#),
- (e) excavation conducted in an emergency, including work to prevent or mitigate injury or death or to prevent or mitigate serious damage to property or the environment,
- (f) excavation conducted without the use of machinery or powered tools by, or on behalf of, the owner of a utility service for the purpose of ascertaining the location of the service or testing the integrity of the service,
- (g) excavation conducted by, or on behalf of, the owner of a utility service to stop loss of water if urgently required in response to water main leaks and breaks.

### **30 Requirements for carrying out excavation work**

- (1) If power lines information provided to a person requires notice of proposed notifiable excavation work to be given to the network operator that owns underground electricity power lines in the vicinity of the proposed work before the work is commenced:
  - (a) a person must not commence to carry out, or authorise the commencement of, the work unless the person has first given notice of the work to the network operator, and
  - (b) the person must provide to the network operator any information about the proposed work that is requested by the network operator.
- (2) A person who carries out notifiable excavation work must have made a request for information under section 63Z of the Act not earlier than 30 days before the work is commenced, unless a request has been made by another person in relation to that work within that period.
- (3) A person who carries out notifiable excavation work must, in carrying out that work, have regard to the following information if provided to the person by the designated information provider or a network operator:
  - (a) any information about the location and type of any underground electricity power

line in the vicinity of the work,

(b) any other information in respect of underground electricity power lines.

### **31 Provision of information by network operator**

- (1) A network operator that is notified of proposed notifiable excavation work in the vicinity of underground electricity power lines owned by the network operator must ensure that the person who notifies the work, or the person proposing to carry out the work, is informed of the existence of the *Work Near Underground Assets Guideline* published in 2007 by the WorkCover Authority.
- (2) The network operator must provide a copy of that Guideline if requested to do so by the person who notifies the work or who is proposing to carry out the work.

### **32 Notification of damage to underground electricity power lines**

A person who is required to notify a network operator under section 63ZA (1) of the Act of damage to an underground electricity power line must notify the network operator:

- (a) by telephoning the contact telephone number provided to the person by the designated information provider for that purpose, or
- (b) if no such contact telephone number is provided—by telephoning the emergency contact telephone number for the network operator that is listed in a telephone or internet directory.

### **33 Maximum amount of civil monetary liability**

The maximum amount of civil monetary liability of the designated information provider, any officer or employee of the designated information provider or any person acting on behalf of the designated information provider for an act or omission of a kind referred to in section 63ZC (2) of the Act done or made through negligence is \$10 million.

## **Part 5 Tree preservation**

### **34 Object and application of this Part**

- (1) The object of this Part is to regulate the removal and trimming of trees by distributors so as to minimise damage to or destruction of trees growing under or near power lines.
- (2) This Part applies only to the extent to which a distributor may lawfully remove or trim trees apart from this Part (which it may do, for example, on behalf of a council) and does not itself authorise the removal or trimming of trees.

### **35 Definitions**

In this Part:

**power lines** includes structures and equipment used for or in connection with the supply of electricity by a distributor.

**tree** means a tree taller than 3 metres, or having a canopy more than 3 metres in maximum diameter or having a trunk with a circumference at a height of 1 metre from the ground of more than 0.3 metres.

**tree management plan** means a tree management plan established under this Part.

### **36 Preservation of trees**

- (1) A distributor must not remove any tree, or trim any tree in a way that substantially damages the tree, unless:
  - (a) the distributor is of the opinion that it is necessary to do so to protect its power lines or the safety of persons or property under or near its power lines, and
  - (b) the distributor has considered alternative methods and is of the opinion that none of those methods are feasible (including economically feasible) in the circumstances, and
  - (c) the distributor is acting in accordance with a tree management plan.
- (2) Alternative methods include the use of aerial bundled cables, the controlled trimming of trees and the appropriate location or relocation of power lines (including placing them underground).

### **37 Tree management plans**

- (1) A distributor may establish a tree management plan for the trimming, or for the staged removal and replacement, of those species of trees that have a propensity to interfere with power lines.
- (2) A tree management plan may contain (but its contents need not be limited to) the following matters:
  - (a) lists of suitable species of trees for planting under or near power lines in different localities or situations,
  - (b) plans for trimming or removing and replacing existing trees and for controlling future planting of suitable species of trees,
  - (c) trimming or removing trees in an emergency,
  - (d) methods for trimming trees,
  - (e) the use of accredited contractors for trimming trees,
  - (f) the intended allocation of costs between the distributor and the relevant council or

councils for the distribution district in which the plan is to operate,

(g) the environmental factors to be considered in trimming trees,

(h) the development of public education and publicity programs that encourage the selection of appropriate species of trees for planting under or near power lines.

(3) A tree management plan may make different provision with respect to public land, private land, urban land and rural land.

(4) A tree management plan may be amended by a subsequent tree management plan.

### **38 Consultation with councils and the public**

A tree management plan is to be prepared in a way that gives an opportunity to comment on the proposed plan to the relevant council or councils for the distribution district in which it is to operate, to the residents of that district and to local community groups.

## **Part 6 Disconnection from distribution system**

### **39 Refusal to connect and disconnection of unsafe electrical installations**

(1) A distributor may disconnect premises from (or refuse to connect premises to) its distribution system if the distributor reasonably considers that the electrical installation on the premises is (or is likely to become) unsafe if the premises continue to be (or are) connected to the distribution system.

(2) A distributor that refuses to connect premises to the distribution system under subclause (1) must, if reasonable to do so, notify the person seeking to have the premises connected of the steps that need to be taken to enable that connection to occur.

(3) Before a distributor disconnects premises from the distribution system under subclause (1), it must, if reasonable to do so, notify each customer in respect of the premises of the proposed disconnection and the steps (if any) that can be taken to avoid the premises being disconnected.

### **40 Disconnection where immediate danger**

Despite clause 39 (3), a distributor may immediately disconnect premises from its distribution system if the distributor reasonably considers that there is an immediate danger to life or property or an immediate risk of starting a fire if the premises continue to be connected to the distribution system.

### **41 Persons using medical devices**

Before a distributor takes action under this Part to disconnect premises from the distribution system, it must ensure that provision is made for the safety of any person on

those premises whose life may be endangered if electricity is no longer available for the operation of a medical device used by the person.

## **Part 7 Miscellaneous**

### **42 Reports on injuries, incidents and other matters to be submitted to Tribunal**

- (1) The Tribunal may, by written notice given to a network operator, require the network operator to lodge with the Tribunal, within the time and in the manner specified in the notice, a report relating to any injury, incident, system failure or other matter relating to the network operator's transmission or distribution system.
- (2) A network operator must comply with a requirement imposed by the Tribunal under this clause.

Maximum penalty: 8,000 penalty units (in the case of a corporation) or 4,000 penalty units (in any other case).

### **42A Directions for bush fire risk mitigation work on private land**

For the purposes of section 53E (3) of the Act, a direction must include:

- (a) the contact details for the network operator giving the notice, and
- (b) either:
  - (i) an estimate of the potential costs should the network operator be required to undertake the bush fire risk mitigation work required by the direction (because of a failure by the owner to comply with the direction), or
  - (ii) the internet address of a website maintained by the network operator that sets out an indicative range of costs for various types of vegetation management or defect rectification work, and an explanation that those costs will apply should the network operator be required to undertake the bush fire risk mitigation work required by the direction (because of a failure by the owner to comply with the direction).

### **42B Regulatory functions of Tribunal**

For the purposes of section 77 (1) (d) of the Act, the functions of the Tribunal under this Regulation are specified as regulatory functions of the Tribunal.

### **43 Delegation of Tribunal's functions**

The Tribunal may delegate any function conferred or imposed on the Tribunal by or under this Regulation (other than this power of delegation) to:

- (a) any member or officer of the Tribunal, or
- (b) any committee of the Tribunal or any member of such a committee.

#### 44 Savings

- (1) Any act, matter or thing that, immediately before the repeal of the *Electricity Supply (Safety and Network Management) Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.
- (2) Any act, matter or thing that, immediately before the repeal of the *Electricity Supply (General) Regulation 2001*, had effect under Part 9, 10 or 11 of that Regulation continues to have effect under this Regulation (subject to subclauses (3) and (4)).
- (3) The documents approved by the Minister as the Accredited Service Provider scheme rules for accreditation of Level 1, Level 2 and Level 3 service providers (as published in the Gazette on 14 February 2014) have effect as Scheme Rules for the purposes of Part 3 to the extent that they deal with matters for which Scheme Rules for the purposes of that Part may make provision.
- (4) A reference in those documents to the contestable services that may be carried out by a Level 1 accredited service provider, a Level 2 accredited service provider or Level 3 accredited service provider is taken to be a reference to a class of contestable services specified in the Scheme Rules for the purposes of Part 3.
- (5) Any act, matter or thing done or omitted to be done by the Secretary relating to a transferred function that had effect immediately before the commencement of the provision of the *Electricity Network Assets (Authorised Transactions) Act 2015* that transferred the function continues to have effect as if it had been done or omitted to be done by the Tribunal or the Minister, as the case may be.
- (6) In this clause:

**transferred function** means a function of the Secretary under this Act that, as a result of amendments made by the *Electricity Network Assets (Authorised Transactions) Act 2015*, is conferred on the Tribunal or the Minister.