

# Electricity Safety Act 1945 No 13 of 1946

[1946-13]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 December 2005 to 2 February 2006 (accessed 22 November 2024 at 8:39)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Previously named**  
Electricity Act 1945  
Electricity Development Act 1945
- **Does not include amendments by**  
[Electricity Supply Act 1995 No 94](#), Sch 5.1 [5] (to the extent to which that item repeals sec 15 of the [Electricity Safety Act 1945](#)) and Sch 5.1 [16] (to the extent to which that item inserts cl 24 into Sch 11 to the [Electricity Safety Act 1945](#)) (amended by [Electricity \(Consumer Safety\) Act 2004 No 4](#)) (not commenced)  
[Coal Mine Health and Safety Act 2002 No 129](#) (not commenced)  
[Mine Health and Safety Act 2004 No 74](#) (not commenced)
- **Repeal**  
The Act was repealed by sec 57 of the [Electricity \(Consumer Safety\) Act 2004 No 4](#) with effect from 3.2.2006.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 3 February 2006

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New South Wales

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# Electricity Safety Act 1945 No 13 of 1946



New South Wales

An Act to provide for the development of electricity supply; to confer certain powers, authorities, duties and functions on the Energy Corporation of New South Wales; to provide for the regulation of the sale and hiring of electrical apparatus; to amend the [Local Government Act 1919](#) and certain other Acts in certain respects; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Electricity Safety Act 1945](#).

### 2, 3 (Repealed)

### 4 Definitions

(1) In this Act, unless the context or subject matter otherwise indicates or requires:

**Cathodic protection system** means any appliances, wires, fittings or other apparatus designed, intended or used for the protection, by means of electrical currents, of metallic structures in contact with land, including water, from external corrosion and includes drainage bonds, boosted drainage bonds and cross bonds.

**Corporation** means the Energy Corporation of New South Wales constituted under the [Energy and Utilities Administration Act 1987](#).

**Director** means the Director of the Department of Energy.

**Distribution** of electricity includes supply and reticulation of electricity.

**Distribution district** of a distribution network service provider means its distribution district determined under this Act.

**Distribution network service provider** means a distribution network service provider within the meaning of the [Electricity Supply Act 1995](#).

**Electrical article** means any wire, cable, appliance, fitting, meter, insulator, apparatus or material intended, suggested or designed for use in, or for the purposes

of, or for connection to, any electrical installation.

**Electrical installation** means any appliances, wires, fittings or other apparatus placed in, on, under or over any land or premises (including land or premises owned, occupied or leased by the Crown) and used for or for purposes incidental to the conveyance, control and use of electricity supplied or intended to be supplied by an electricity supply authority, but does not include:

- (a) any electricity supply main or service line of an electricity supply authority,
- (b) any appliances, wires, fittings or other apparatus connected to and extending or situated beyond any electrical outlet socket:
  - (i) which is installed for the purpose of connecting portable electrical appliances, fittings or other apparatus, and
  - (ii) at which fixed wiring terminates,
- (c) any appliances, wires, fittings or other apparatus which are:
  - (i) placed in, on or over any land or premises owned or occupied by an electricity supply authority, and
  - (ii) used for the generation, transmission or distribution of electricity,
- (d) any electrical installation in or about a mine within the meaning of the *Coal Mines Regulation Act 1982* or within the meaning of the *Mines Inspection Act 1901*, or
- (e) any electrical installation operating at not more than 32 volts alternating current or 115 volts direct current.

**Electrical wiring work** and **work** mean the actual physical work of installing, repairing, altering, removing or adding to an electrical installation and the supervising of that work.

**Electricity Development Fund** means the fund established under section 15.

**Electricity supply authority** means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

- (a) (Repealed)
- (a1) TransGrid (or any other energy transmission operator under the *Energy Services Corporations Act 1995*), or
- (b) a distribution network service provider, or

(c), (d) (Repealed)

(e) the Water Administration Ministerial Corporation.

**Power station** means any station for generating or which is designed or intended for generating electricity for supply directly or indirectly to the public.

**Prescribed** means prescribed by this Act or by the regulations.

**Regulations** means regulations made or deemed to be made under this Act.

**Reticulation** of electricity means the provision of all conductors and other infrastructure and metering equipment necessary to allow the delivery of electricity from the point of connection of a distribution network service provider's assets to sources of electricity supply, to the point of connection of the provider's assets to the assets of an electricity consumer or of an electricity supply authority.

**Stray current source** means any appliance, equipment, fitting or other apparatus:

- (a) that operates on direct electrical current or is designed or used to generate or transmit direct electrical current, and
- (b) that is attached, whether directly or indirectly, to a metallic structure in contact with land, including water.

**Supply** of electricity means the delivery and sale to the supplier's customers of electricity generated or purchased by the supplier.

**Transmission line** means any cable or overhead line operating at a voltage in excess of twenty-two thousand five hundred volts which connects or transmits electricity between, or is designed or intended to connect or transmit electricity at a voltage in excess of twenty-two thousand five hundred volts between, two or more power stations, or which is operated for or in connection with the supply of electricity directly or indirectly to the public at a voltage in excess of twenty-two thousand five hundred volts, and all towers, poles and equipment and all step-up and step-down transformers and switch-gear necessary to or used for the control and operation of any such cable or overhead line.

**Unincorporated Area** means the aggregate of those parts of New South Wales that are not within a local government area.

- (2) A reference (however made or expressed) in this Act to any works or property of a distribution network service provider includes a reference to any works or property of the Crown of which the service provider has the care, control or management.
- (3) (Repealed)
- (4) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

#### **4A Notes in this Act**

Notes appearing in the text of this Act are explanatory notes only and do not form part of this Act.

### **Parts 2, 2A**

#### **5-7Y (Repealed)**

### **Part 3 The Corporation**

#### **8 (Repealed)**

#### **9 Additional functions of Energy Corporation**

- (1) In addition to any function of the Corporation under the *Energy and Utilities Administration Act 1987*, the Corporation may:
  - (a) promote and regulate the adoption of standards of plant, equipment, frequency and voltage for the generation, transmission, distribution and supply of electricity,
  - (b) promote and encourage the safety of persons and property in relation to electricity, and without limiting the generality of that function, promote and encourage the safety of persons and property in relation to:
    - (i) the installation, maintenance and use of electric lines, works, electrical installations and cathodic protection systems, and
    - (ii) the sale or hire of electrical articles,
  - (c) without limiting the generality of paragraph (b), issue or publish public statements or warnings relating to:
    - (i) electrical articles, electrical installations or cathodic protection systems which, in the opinion of the Corporation are, or are potentially, unsafe, and
    - (ii) safety in relation to electricity generally,
  - (d) promote and encourage the development and use of the natural resources of the State in connection with the generation of electricity,
  - (e) promote and encourage the use of electricity, especially its use for industrial and manufacturing purposes and for the purpose of primary production,
  - (f) (Repealed)



- (g) advise any person engaged in the generation, transmission, distribution or supply of electricity on all matters of and concerning such generation, transmission, distribution and supply,
- (h) consider the advisability of amending the law relating to the generation, transmission, distribution, supply and use of electricity, and report on that to the Minister, and
- (i) do such other acts as may be necessary or expedient for those purposes.

(2) (Repealed)

#### **10 Powers of Corporation relating to the protection of life etc**

The Corporation may exercise, in its own name, any function of an electricity supply authority under this or any other Act as if it were such an authority, if the Corporation is of the opinion that it is necessary to do so in order to protect the life or health of any person.

#### **11-14 (Repealed)**

#### **14A Application of Part**

- (1) Except as provided by subsection (2), nothing in this Part limits or otherwise affects the functions of TransGrid (or any other energy transmission operator under the [Energy Services Corporations Act 1995](#)).
- (2) The Corporation may, in relation to TransGrid (or any other energy transmission operator under the [Energy Services Corporations Act 1995](#)), exercise the functions referred to in section 9 (1) (a) (vii) and (b).

#### **Parts 3AA-3C**

#### **14AAA-14N (Repealed)**

#### **Part 4**

#### **15 Electricity Development Fund**

- (1) There shall be established in the Special Deposits Account in the Treasury an Electricity Development Fund.
- (2) There shall be paid into the Fund:
  - (a) by each distribution network service provider, Sydney Electricity and TransGrid (or any other energy transmission operator under the [Energy Services Corporations Act 1995](#))—such contributions as may be directed, from time to time, in respect of each of them by the Minister on the recommendation of the Corporation,
  - (b) any money provided by Parliament for electricity purposes (including money for

subsidies under this Act),

- (c) by the Corporation—such contributions as may be directed, from time to time, by the Minister,
- (d) any money held in the Electricity Development Account before the commencement of this Act,
- (e) income accruing to the Fund, and
- (f) contributions under subsection (2A).

(2A) A distribution network service provider or Sydney Electricity may with the approval of the Minister (and is required to, if the Minister on the recommendation of the Corporation so directs), in accordance with any conditions imposed by the Minister, contribute to the Fund by way of loan to the Corporation for the purposes of the Fund. The Corporation may apply any such contributions for those purposes in accordance with those conditions.

- (3) The Fund shall, subject to this Act, be under the direction, control and management of the Corporation.
- (4) Particulars of payments into and out of the Fund shall be set out in the annual report of the Department of Energy.
- (5) Nothing in subsection (4) affects the requirements of the *Public Finance and Audit Act 1983*, the *Annual Reports (Statutory Bodies) Act 1984* or the *Annual Reports (Departments) Act 1985*.

#### **16-19AB (Repealed)**

### **Part 4A**

#### **19A-19E (Repealed)**

### **Part 4B Electricity structures**

#### **19F Definitions**

In this Part:

**electricity structure** means any structure erected or maintained by a distribution network service provider or Sydney Electricity for the purpose of transmission or distribution of electricity or for the purpose of public lighting.

**traffic route** has the same meaning as it has in section 45E of the *Transport Administration Act 1988*.

### **19G Director may direct distribution network service provider to remove structure**

- (1) The Director may, by notice in writing served on a distribution network service provider or Sydney Electricity, direct the service provider or Sydney Electricity to remove or relocate an electricity structure specified in the notice, being an electricity structure erected within its distribution district on or adjacent to a public road within the meaning of the *Roads Act 1993* that is a traffic route or a public road which the Director has, for the purpose of traffic safety and having regard to the volume and nature of the vehicular traffic carried thereon, determined requires the removal or relocation of electricity structures erected thereon or adjacent thereto.
- (2) A distribution network service provider or Sydney Electricity shall comply with a notice served on it pursuant to subsection (1).

### **19H (Repealed)**

## **Part 4C Electrical articles**

### **20 Definitions**

- (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires:

**approved** means subject to an approval which is in force.

**class specification**, in relation to an electrical article, means:

- (a) a specification for the time being declared by an order under section 21 to be applicable to articles of the class to which it belongs, or
- (b) where any such specification is declared by the order to be modified in its application to those articles, the specification as so modified,

except so much, if any, of the specification, or of the specification as so modified, as is inconsistent with a type specification for the article.

**relevant authority**, in relation to a State, other than New South Wales, or a Territory, means the authority prescribed as the relevant authority for the other State or the Territory.

**sell** includes:

- (a) auction or exchange,
- (b) offer, agree or attempt to sell,
- (c) advertise, expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale,

- (e) hire or cause to be hired, and
- (f) display for sale or hire.

**specification** includes:

- (a) a standard code, rule, testing requirement or other specification approved, recommended, adopted or published by Standards Australia, and
- (b) a standard code, rule, testing requirement or other specification described in, or prescribed by, the regulations.

**Territory** means a Territory of the Commonwealth.

**type specification**, in relation to an electrical article, means a specification, other than a class specification, determined by the Director to be applicable, or to be applicable in a modified form, to electrical articles of the type to which the article belongs.

- (2) For the purposes of this Part:
  - (a) a reference to electrical articles of a type is a reference to each electrical article of the same design constructed to identical specifications, and
  - (b) an electrical article of a class described in an order under section 21, being an electrical article which is displayed for the purpose of advertising, or otherwise in connection with, the sale of other electrical articles of the same class, shall be treated as being displayed for sale.
- (3) Where a class specification or a type specification for an electrical article requires the article or any part thereof:
  - (a) to have been submitted to a specified test, and
  - (b) to have complied with a standard relating to the test,the article shall, for the purposes of this Part, section 21C (2) (c) excepted, be treated as complying with the requirement if the article or part, as the case may be, would comply with the standard if it were to be submitted to the test.
- (4) This Part binds the Crown.

## **21 Articles to which Part applies**

- (1) The Governor may, by order published in the Gazette, declare:
  - (a) electrical articles of a class described in the order to be, on and from a date specified in the order, electrical articles to which this Part applies, and
  - (b) the specifications which are applicable to electrical articles of that class.

- (2) An order under this section may declare a specification modified as stated in the order to be applicable to electrical articles of the class to which the order relates.

**Editorial note—**

For orders under this section see the Historical Notes at the end of this Act.

**21A Sale of certain electrical articles**

- (1) A person who sells an electrical article to which this Part applies is guilty of an offence against this Act if:
- (a) the electrical article is not:
    - (i) of a type approved by the Director, or
    - (ii) of a class, description or type approved or registered by the relevant authority for another State or a Territory, or
    - (iii) of a type certified under a certification scheme approved by the Minister for the purposes of this Part, that certification being evidenced by marking on the article,
  - (b) the electrical article is not marked in accordance with the regulations, or
  - (c) the electrical article does not comply with any one or more of:
    - (i) the class specifications,
    - (ii) the type specifications, if any, or
    - (iii) the other prescribed requirements, if any,for that electrical article.
- (2) The penalty for an offence referred to in subsection (1) is a penalty not exceeding 20 penalty units and, where the offence continues, in addition, a penalty not exceeding 2 penalty units for each day during which the offence continues.
- (3) The Director may, by order in writing and subject to such conditions, if any, as are specified in the order, exempt a person or persons of a class so specified from the operation of subsection (1).

**Editorial note—**

For orders under this section see the Historical Notes at the end of this Act.

**21B Preliminary application**

- (1) A person may, by application in the prescribed form, request the Director to notify the person of the type specifications applicable to electrical articles of the type to which

the application relates.

- (2) The Director may require a person lodging an application under subsection (1) to lodge an electrical article of the type to which the application relates with the Director for testing or inspection.
- (3) The Director shall notify a person who has made an application under subsection (1) of the type specifications, if any, applicable to electrical articles of the type to which the application relates:
  - (a) except as provided in paragraph (b), within 21 days, or
  - (b) where the applicant and the Director agree on a longer period, within the longer period,after the date on which the application was lodged with the Director.
- (4) A notification under this section is conclusive evidence of the type specifications applicable to the electrical articles of the type to which the notification relates.

#### **21C Approval of type of electrical article**

- (1) Except as provided by subsection (2), the Director may, by order in writing, approve any type of electrical article.
- (2) The Director shall not approve a type of electrical article unless:
  - (a) an application for the approval is made in accordance with the regulations,
  - (b) a declaration of compliance with respect to the type of article for which approval is sought that is in the form approved by the Director and is, in the opinion of the Director, accurate and complete, is lodged with the application for approval,
  - (c) the Director is satisfied, where a class specification or a type specification for electrical articles of the type for which approval is sought requires the articles or any part thereof:
    - (i) to have been submitted to a specified test, and
    - (ii) to have complied with a standard relating to the test,that an article or part of an article, as the case may require, of that type has been submitted to that test and has been found to have complied with that standard, and
  - (d) each electrical article of the type is an electrical article to which this Part applies.
- (3) The Director may refuse to approve a type of electrical article unless an electrical article of the type has been lodged with the Director for testing or inspection.

- (4) Where the Director approves a type of electrical article under this section, the Director shall forthwith send the prescribed particulars to the applicant for the approval.
- (5) Where the Director is not satisfied that a type of electrical article should be approved the Director shall, by notice in writing served personally or by post on the applicant for the approval, inform the applicant that the Director has refused the application for approval and of the reason for so doing.
- (6) For the purposes of an appeal under subsection (9), an application for approval shall be deemed to have been refused if it is not determined by the Director:
  - (a) except as provided by paragraph (b), within 60 days, or
  - (b) where the applicant and the Director agree on a longer period, within the longer period,after the date on which the application was lodged with the Director.
- (7) The Director may, by order in writing, suspend (for a period not exceeding 90 days) or cancel, for any of the reasons and in the manner provided by the regulations, the approval of a type of electrical article.
- (8) Where the Director suspends or cancels an approval, the Director shall forthwith send a notice, setting out the reason for the suspension or cancellation of the approval and the other prescribed particulars, to the applicant for the approval.
- (9) A person aggrieved by a determination of the Director under this section may appeal to the Minister in the manner provided by the regulations.

**21D Guarantee to be a defence in certain circumstances**

- (1) Subject to this section, an information for an offence referred to in section 21A (1) shall be dismissed if it is proved that the defendant received a prescribed guarantee in respect of the electrical article to which the information relates from the person from whom the defendant obtained the electrical article and if it is also proved that the defendant had no reason to believe that, at the time of the alleged offence, the electrical article:
  - (a) was not of a type approved under section 21C or approved or registered by a relevant authority for another State or a Territory or certified in accordance with a certification scheme approved by the Minister for the purposes of this Part,
  - (b) was not marked as prescribed, and
  - (c) did not comply with the class specifications, the type specifications, if any, and the other prescribed requirements for the article, if any.
- (2) For the purposes of subsection (1), a guarantee is a prescribed guarantee in respect

of an electrical article only if:

(a) the guarantee is in writing,

(b) the matters guaranteed are that, when the guarantee is given:

(i) the electrical article is of a type approved under section 21C or of a class, description or type approved or registered by a relevant authority for another State or a Territory or certified in accordance with a certification scheme approved by the Minister for the purposes of this Part and complies with the class specifications, the type specifications, if any, and any other prescribed requirements for the article, and

(ii) the electrical article is marked as prescribed,

(c) the guarantor is:

(i) an individual who resides in New South Wales, or

(ii) a corporation that has a place of business within New South Wales,

(d) the guarantee specifies the name of the guarantor and:

(i) in the case of a guarantor who is an individual and who resides within the State—the address of the guarantor and of the place of business of the guarantor, or

(ii) in the case of a guarantor that is a corporation—an address of a place of business of the guarantor within New South Wales,

(e) the guarantee applies:

(i) generally to electrical articles of the type to which the prosecution relates, or

(ii) to the specific electrical article to which the prosecution relates,

and, in the latter case, refers to a sale note, bill of sale, invoice, bill of lading or other document describing the electrical article sold and the marking thereon, and

(f) the guarantee complies with any regulations applicable to it.

(3) Subsection (1) does not apply unless the defendant has, not later than 7 days after service on the defendant of the summons issued in response to the information:

(a) given notice in writing to the informant and the guarantor of intention to rely on the guarantee specifying, in the notice to the informant, the name of the guarantor, any name under which the guarantor trades and the address referred to in subsection (2) (d) in relation to the guarantor, and

(b) given the informant a copy of the guarantee.



- (4) A guarantor given notice under subsection (3) is entitled to offer evidence at the hearing of the information to which the notice relates and the court may, if it thinks fit, adjourn the hearing to enable the guarantor to do so.
- (5) Where an offence is proved under section 21A (1), but the information is dismissed under this section, the guarantor is, without prejudice to the guarantor's liability to be prosecuted under subsection (6), liable to the same penalty as could have been imposed if the offence to which the information relates had been committed by the guarantor, unless the guarantor proves that, when the guarantee was given, the guarantor had reasonable grounds for believing that the statements and descriptions contained in the guarantee were true.
- (6) A person is guilty of an offence against this Act if, in a guarantee referred to in subsection (2), the person makes or gives a false statement or description in relation to an electrical article or type of electrical article but shall not be found guilty of an offence under this subsection if the person proves that, when the person gave the guarantee, the person had reasonable grounds for believing that the statements and descriptions contained in the guarantee were true.
- (7) The penalty for an offence referred to in subsection (6) is:
  - (a) in the case of a corporation—a penalty not exceeding 50 penalty units, and
  - (b) in every other case—a penalty not exceeding 20 penalty units.
- (8) Notwithstanding anything in any other Act, proceedings for an offence under subsection (6) may be commenced at any time after the giving of the guarantee to which the proceedings relate.

**21DA Sale of electrical articles other than those to which sec 21 applies**

- (1) This section applies to electrical articles which are not, by an order which is in force under section 21, declared to be electrical articles to which this Part applies.
- (2) A person must not sell an electrical article that does not comply with:
  - (a) the type specifications, if any, or
  - (b) a specification prescribed by the regulations, or
  - (c) such other requirements as may be prescribed by the regulations,for that electrical article.

Maximum penalty: 100 penalty units.

**21E Defective electrical articles**

- (1) This section applies to and in respect of electrical articles, whether or not they are

electrical articles to which this Part applies.

(2) If the Director believes on reasonable grounds that:

- (a) any electrical article is, or is likely to become, by reason of its design or construction, unsafe to use, and
- (b) prohibition of the sale of the electrical article or of all electrical articles of the same type as that article is warranted by reason of the risk of death or injury to any person or damage to any property arising out of the use of that article or those articles,

the Director may:

- (c) by notifications published in the Gazette and in such newspapers as are prescribed, prohibit the sale of the electrical article or of any electrical article of that type from the date of publication of the notification in the Gazette or from a later date specified in that notification, or
- (d) by notice in writing served on any person, prohibit that person from selling the electrical article or any electrical article of that type from the date on which the notice is so served or from a later date specified in the notice.

(3) If the Director believes on reasonable grounds that:

- (a) any electrical article is, or is likely to become, by reason of its design or construction, unsafe to use, and
- (b) specific action is necessary to make the electrical article or other electrical articles of the same type safe to use or to render safe the use of that article or those articles,

the Director may, by notice in writing served on any person whose business is or includes the sale of electrical articles and who has sold the electrical article or another electrical article of the same type, require that person to take, within such time as is specified in the notice, such action as is so specified, which may consist of or include:

- (c) sending a written request to the person to whom the electrical article or any other electrical article of the same type was sold by that person to return the article to the place at which the article was sold, and
- (d) making the electrical article safe to use or rendering safe the use of that article, in the manner specified in the notice.

(4) The Director or the Minister, whether on the application of an affected person or not, may remove a prohibition effected under subsection (2) by executing an instrument in writing, notice of which shall, as soon as practicable:

- (a) in the case of a prohibition effected under subsection (2) (c)—be published in the

Gazette and in such newspapers as are prescribed, and

- (b) in the case of a prohibition effected under subsection (2) (d)—be served on the person or persons to whom the prohibition applied.
- (5) Where a requirement has been made of a person under subsection (3), the Director or the Minister, whether on the application of the person or not, may:
- (a) by notice in writing served on the person, alter the requirement, or
  - (b) by executing an instrument in writing (notice of which shall as soon as practicable be conveyed or sent by post to the person) revoke the requirement.
- (6) Any person who does anything prohibited by a notification or a notice published or served under subsection (2) while that prohibition remains in force shall be guilty of an offence against this Act.
- (7) Any person who fails to comply with any requirement made of the person by the Director under subsection (3) shall be guilty of an offence against this Act.
- (8) A person is not guilty of an offence referred to in subsection (6) or (7) if the person satisfies the court that the person had reasonable grounds for breaching or failing to comply with the prohibition or requirement to which the alleged offence relates.
- (9) A notice under subsection (2) (d), (3), (4) (b) or (5) (a) may be served on a person:
- (a) by delivering it personally to the person,
  - (b) by delivering it to the place last known to the Director as the place of abode or a place of business of the person and by leaving it there:
    - (i) in the case of delivery to a place of abode—with some person apparently over the age of 16 years, and
    - (ii) in the case of delivery to a place of business—with some person who appears to be employed at that place, or
  - (c) subject to subsection (10), by posting it in an envelope duly stamped and addressed to the person at the place last known to the Director as the place of abode or a place of business of the person.
- (10) Where a notice is served as referred to in subsection (9) (c), it shall be deemed to have been served at such time after it is posted as is prescribed or, where no such time is prescribed, at the time when it would be delivered in the ordinary course of post.
- (11) This section does not affect any provision of the *Fair Trading Act 1987*, or any regulation made under that Act, or derogate from any power vested in any person or body under that Act.

## 21F Powers of authorised persons

- (1) In this section, **authorised person** means a person authorised under subsection (2).
- (2) Any person authorised for the purpose in writing by the Director may, at any reasonable time, enter any land on which, or any premises in or on which, the authorised person suspects on reasonable grounds the manufacture or sale of electrical articles is being carried on or may be carried on and:
  - (a) inspect and test any electrical article or prototype of an electrical article,
  - (b) inspect any manufacturing assembly or testing plant or equipment used in respect of any electrical article,
  - (c) open any container or package which the authorised person has reasonable grounds to believe contains any electrical article or require the person having the custody, control or possession of the container or package to open it,
  - (d) seize, detain or remove, for the purpose of examination or testing, any electrical article or any container or package in which an electrical article is contained or has been contained, if the authorised person has reasonable cause to believe that an offence has been committed against this Act or the regulations in respect of the electrical article or that the electrical article is or is likely to become unsafe,
  - (e) require any person on any such land or in or on any such premises to produce any accounts, records, books or other documents in the possession or under the control of that person relating to the manufacture or sale of any electrical article on, in or from the land or premises,
  - (f) take copies of, or extracts or notes from, any such accounts, records, books or other documents,
  - (g) require any person on any such land or on or in any such premises to answer questions or otherwise furnish information relating to the manufacture or sale of electrical articles on, in or from the land or premises, being articles in the possession or under the control of that person, and
  - (h) require the owner or occupier of any such land or premises to provide the authorised person with such assistance and facilities as are reasonably necessary to enable the authorised person to exercise the functions of the authorised person under this section,but nothing in this subsection empowers an authorised person to enter a dwelling except under the authority of a search warrant issued under section 21I.
- (3) An authorised person may, if the authorised person believes on reasonable grounds that an electrical article or more than one electrical article of a type is, or is likely to

become, unsafe:

- (a) by notice in writing served personally or by post on the person having the custody, control or possession of the electrical article or of electrical articles of the type, prohibit the sale by that person of the electrical article or of all electrical articles of the type, and
  - (b) affix in some conspicuous position on the electrical article or each of the electrical articles, as the case may be, a label indicating that the electrical article is to be considered dangerous and must not be sold or used until specified repairs necessary to make the electrical article safe to use have been effected by the person having the custody, possession or control of the electrical article.
- (4) A notice served pursuant to subsection (3) (a) shall cease to have effect after the expiration of 2 weeks from the date on which it is issued unless within that period the Director has, pursuant to subsection (5):
- (a) confirmed or varied the terms of the notice, or
  - (b) revoked the notice.
- (5) The Director may, at any time, by a further notice in writing served personally or by post on the person on whom a notice has been served pursuant to subsection (3) (a), confirm or vary the terms of, or revoke, the last-mentioned notice.
- (6) A person shall not:
- (a) prevent an authorised person from exercising any function conferred or imposed on the authorised person by this section,
  - (b) hinder or obstruct an authorised person in the exercise of any such function,
  - (c) without reasonable excuse, refuse or fail to comply with any requirement made or to answer any question asked by an authorised person in accordance with this section, or
  - (d) furnish an authorised person with information knowing that it is false or misleading in a material particular.

Maximum penalty: 10 penalty units.

- (7) A person shall not sell an electrical article contrary to the terms for the time being in force of a notice served pursuant to subsection (3) (a).

Maximum penalty: 20 penalty units.

- (8) It is sufficient defence to a prosecution for an offence arising under subsection (6) (c) by reason of the failure of a defendant to answer a question asked by an authorised person if the defendant satisfies the court that the defendant did not know and could

not with reasonable diligence ascertain, the answer to the question.

- (9) A person is not excused from answering any question asked by an authorised person under this section on the ground that the answer might tend to incriminate the person and make the person liable to a penalty, but the information furnished by the person shall not be admissible against the person in any proceedings except proceedings for an offence under subsection (6) or (7).
- (10) Where an answer to a question asked by an authorised person under this section or any information whatever is given to an authorised person by an officer of a corporation, the answer and the information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, admissible in evidence against the corporation and, unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation, binding upon the corporation.
- (11) Where an electrical article is seized pursuant to subsection (2) (d), the Director shall, within the prescribed period:
- (a) determine whether or not, in the Director's opinion, the electrical article is safe, and
  - (b) if the electrical article is found by the Director to be safe:
    - (i) provide compensation, determined in accordance with the regulations, for the electrical article so seized, or
    - (ii) forthwith return the electrical article to the person from whom it was seized.
- (12) Any person who personates or falsely represents that the person is an authorised person shall be guilty of an offence against this Act.
- (13) Every authorised person shall be provided with a certificate of authorisation in a form approved by the Director, and on exercising in any place any function conferred on the authorised person by this section shall, if so requested by a person apparently in charge of the place, produce the certificate to that person.
- (14) An investigator appointed under section 18 of the *Fair Trading Act 1987* is taken to be a person authorised under subsection (2).

## **21G Forfeiture of certain electrical articles**

- (1) If the Director determines that an electrical article seized under section 21F (2) (d) is unsafe, the Director may apply, in the prescribed manner, to a Local Court for forfeiture of the electrical article to the Crown.
- (2) Upon the making of an order by the court for forfeiture of an electrical article, the electrical article shall be forfeited to the Crown.

- (3) Any electrical article forfeited to the Crown shall be disposed of as the Director directs.

### **21H Evidentiary provisions**

In any proceedings, a certificate purporting to be signed by a prescribed officer of the Department of Energy to the effect:

- (a) that an electrical article described in the certificate was an electrical article to which this Part applies,
- (b) that a standard code, rule, testing requirement or other specification specified or described in the certificate, whether with or without modifications so specified or described, was a class specification or a type specification for a specified type of electrical article, or
- (c) that an electrical article described in the certificate was or was not of a type approved under section 21C or of a class, description or type approved or registered by a relevant authority for another State or a Territory,

at any time, or during any period, specified in the certificate, shall be admissible in evidence and shall be prima facie evidence of the facts so certified.

### **21I Search warrant**

- (1) In this section:

**authorised officer** has the same meaning as it has in the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#).

**authorised person** means a person authorised under section 21F (2).

- (2) An authorised person may apply to an authorised officer for a search warrant if the authorised person has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any dwelling.
- (3) An authorised officer to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised person named in the warrant to enter the dwelling for the purpose of exercising the authorised person's functions under section 21F.
- (4) Division 4 of Part 5 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) applies to a search warrant issued under this section.

### **21J Protection of authorised persons etc**

Except as provided by section 21F (11), no action, claim or demand shall be made or allowed by or in favour of any person against the Director or any person authorised under section 21F (2) lawfully acting in the execution of section 21F for or in respect of any

damage, loss or injury sustained or alleged to be sustained by reason of the enactment of this Part or of its operation or of anything done or purporting to be done under section 21F or under any regulation made for the purposes of section 21F.

### **21K Disclosure of information**

- (1) Subject to subsection (3), a person shall not disclose any information relating to any manufacturing or commercial secrets or working processes and obtained by the person in connection with the administration or execution of this Part, unless the disclosure of information is:
  - (a) made in connection with the administration or execution of this Part,
  - (b) made with the prior permission of the Minister, or
  - (c) ordered by a court, or by any other body or person authorised by law to examine witnesses, in the course of, and for the purpose of, the hearing and determination by that court, body or person of any matter or thing.

Maximum penalty: 10 penalty units.

- (2) The Minister may grant the permission referred to in subsection (1) (b) only if the Minister is satisfied that to do so would be in the public interest.
- (3) An officer or employee of the Department of Energy may, with the consent of the Director, communicate any matter which comes to the knowledge of the officer or employee in the exercise of the functions of the officer or employee under this Part to an officer or body engaged in administering or executing a law of the Commonwealth or of another State or a Territory relating to electrical articles.

## **Part 5 Electrical apparatus and appliances**

### **22-24C (Repealed)**

### **25 Power of entry**

- (1) Any person authorised in writing by the Director shall have power to enter any land and any structure thereon at any reasonable time for the purpose of examining any electrical installation, cathodic protection system or stray current source in or on the land or structure.
- (2), (3) (Repealed)
- (4) Any person authorised in writing by the Director may require:
  - (a) any person who claims to be a registered electrical contractor to produce for inspection by the authorised person, within such time as the authorised person specifies, his or her certificate of registration as an electrical contractor, or



- (b) any person who appears to the authorised person to be carrying out electrical wiring work to satisfy the authorised person, within such time as the authorised person specifies, that he or she is not prohibited under this Act and the regulations from carrying out that electrical wiring work.
- (5) Subject to subsection (6), any person:
- (a) who wilfully delays or obstructs a person authorised for the purposes of subsection (1) or (4) in the exercise of his or her powers under this section,
  - (b) who fails to comply with any requirement made under this section by a person so authorised, or
  - (c) who, in purported compliance with a requirement under this section, wilfully gives any information that is false or misleading in a material particular,
- shall be guilty of an offence against this Act.
- (6) Where a person authorised for the purposes of subsection (4) makes a requirement, under subsection (4) (b), of a person who appears to him or her to be carrying out electrical wiring work, that person shall not be guilty of the offence of failing to comply with that requirement if it is proved that he or she was not actually carrying out the electrical wiring work.
- (7) Every person authorised for the purposes of subsection (1) or (4) shall be provided with a certificate of his or her appointment in a form approved by the Director, and on exercising in any place any power conferred on him or her by this section shall, if so requested by any person apparently in charge of such place or of any work carried out therein, produce the certificate to that person.
- (8) Any person who personates or falsely represents that he or she is a person authorised for the purposes of subsection (1) or (4) shall be guilty of an offence against this Act.
- (9) An investigator appointed under section 18 of the *Fair Trading Act 1987* is taken to be a person authorised under:
- (a) subsection (1), but only in relation to electrical installations, and
  - (b) subsection (4).

## 26 Safety

- (1) The Director may from time to time cause any machinery, apparatus, appliances, material or equipment of what kind soever used or intended to be used by any electricity supply authority or retail supplier (within the meaning of the *Electricity Supply Act 1995*) for or in connection with the generation, transmission or distribution of electricity, to be examined and tested for the purpose of determining whether such machinery, apparatus, appliances, material or equipment can be used without danger

to life or limb.

- (2) Any person authorised in writing by the Minister or the Director may at all reasonable times enter into and upon any place or premises whatsoever for the purpose of examining or testing any such machinery, apparatus, appliances, material or equipment.

Any person who interferes with or obstructs any person authorised as aforesaid in the execution of his or her duty under this subsection shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty not exceeding 0.5 penalty unit.

- (3) The Minister, on the recommendation of the Director and on being satisfied that any such machinery, apparatus, appliance, material or equipment cannot be used without danger to life or limb, may, by order, prohibit any such machinery, apparatus, appliance, material or equipment from being used or if it is capable of repair or alteration from being used until it is duly repaired or altered to the Minister's satisfaction. Any person who fails to comply with any such order shall be guilty of an offence against this Act and shall be liable upon conviction to a penalty not exceeding 0.5 penalty unit for every day during which such failure continues.

Any order under this subsection shall be served on the electricity supply authority or retail supplier (within the meaning of the [Electricity Supply Act 1995](#)) using or intending to use the machinery, apparatus, appliance, material or equipment referred to in such order or on any responsible servant of such electricity supply authority or retail supplier.

## Parts 5A-6A

### 26A-27C (Repealed)

## Part 6B Accident reporting and investigation

### 27D Definitions

In this Part:

**inspector** means an inspector appointed under section 27F.

**serious electrical accident** means an accident:

- (a) in which electricity is involved, and
- (b) as a consequence of which a person dies or suffers permanent disability, is hospitalised, receives treatment from a health care professional or is unable to attend work for any period of time.

### **27E Notification of serious electrical accidents**

- (1) A serious electrical accident must be notified in accordance with subsection (2) to the Corporation by:
  - (a) except as provided by paragraph (b), the occupier of the place at which the accident occurred, or
  - (b) such other person as is prescribed by the regulations.

Maximum penalty: 5 penalty units where the place at which the accident occurred is residential premises and 100 penalty units in any other case.

- (2) A notice of an accident must be given within such time and in such manner as the regulations may prescribe.

### **27F Appointment of inspectors**

- (1) The Corporation may authorise a person to carry out inspections for the purposes of this Part.
- (2) The Corporation must provide an inspector with a certificate of the inspector's authority.
- (3) An inspector, in exercising in any place any function conferred or imposed under this Part, must, if so required by a person apparently in charge of that place, produce the certificate of authority to that person.
- (4) An investigator appointed under section 18 of the *Fair Trading Act 1987* is taken to be a person authorised under subsection (1), but only to the extent to which the exercise of the person's power relates to, or arises because of, electrical articles or electrical installations.

### **27G Investigation of serious electrical accidents**

The Corporation may arrange for an inspector to investigate and report to it concerning a serious electrical accident, whether or not notice of the accident is given to the Corporation.

### **27H Powers of inspectors**

- (1) For the purposes of this Part, an inspector may, at any place where a serious electrical accident has or may reasonably be expected to have occurred do any one or more of the following:
  - (a) enter and inspect the place,
  - (b) examine and test any electrical article, electrical appliance or electrical apparatus,

- (c) take photographs,
  - (d) take for analysis a sample of any substance or thing which in the inspector's opinion may relate to the accident,
  - (e) require any person at the place to produce any record which may be of relevance to the occurrence of the accident,
  - (f) take copies of, or extracts or notes from, any such record,
  - (g) require any person at the place to answer questions or otherwise furnish information relating to the accident,
  - (h) require the owner or occupier of the place to provide the inspector with such assistance and facilities as are reasonably necessary to enable the inspector to exercise the inspector's functions under this section.
- (2) An inspector may not exercise the inspector's functions under this section in relation to a part of any premises being used for residential purposes except:
- (a) with the permission of the occupier of that part of the premises, or
  - (b) under the authority conferred by a search warrant issued under section 271.

### **271 Search warrant**

- (1) In this section:
- authorised officer** has the same meaning as it has in the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#).
- (2) An inspector may apply to an authorised officer for a search warrant in respect of any premises if the inspector has reasonable grounds for believing that a serious electrical accident has occurred in or on those premises.
- (3) An authorised officer to whom an application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:
- (a) to enter the premises, and
  - (b) to search the premises for evidence of the occurrence of a serious electrical accident.
- (4) Division 4 of Part 5 of the [Law Enforcement \(Powers and Responsibilities\) Act 2002](#) applies to a search warrant issued under this section.

### **27J Obstruction etc of inspectors**

- (1) A person must not:

- (a) prevent an inspector from exercising any function conferred on the inspector under section 27H, or
- (b) hinder or obstruct an inspector in the exercise of any such function, or
- (c) refuse or fail to comply with any requirement or answer any question of an inspector, or
- (d) furnish an inspector with information knowing that it is false or misleading in a material particular, or
- (e) impersonate an inspector.

Maximum penalty: 50 penalty units.

- (2) It is a sufficient defence to a prosecution for an offence under subsection (1) (c) because of the failure of the defendant to answer a question of an inspector under section 27H if the defendant proves that the defendant did not know, and could not with reasonable diligence ascertain, the answer to the question.
- (3) A person is not excused from answering any question of an inspector under section 27H on the ground that the answer might tend to incriminate the person or make the person liable to a penalty, but the information furnished by the person is not admissible against the person in any proceedings, civil or criminal, except for an offence under subsection (1).

### **27K Interference with site of serious electrical accident**

A person must not disturb or interfere with the site of a serious electrical accident before it has been inspected by an inspector except:

- (a) to make it safe, or
- (b) with the permission of an inspector.

Maximum penalty: 100 penalty units.

### **27L Publication of details of serious electrical accidents**

- (1) The Corporation may publish such details of serious electrical accidents as it considers necessary in the interests of public information and safety.
- (2) The Minister, the Corporation, a member of staff of the Corporation or an inspector is not liable to any claim or action arising from any matter published under this section.

## **Part 7 General**

## **28 Delegation of functions**

- (1) The Minister may delegate to an authorised person any of the functions of the Minister under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Minister if the delegate is authorised in writing to do so by the Minister.
- (3) In this section **authorised person** means:
  - (a) a public authority or local authority or an officer of a public authority or local authority, or
  - (b) a public servant, or
  - (c) a person of a class prescribed by the regulations.

## **28A (Repealed)**

## **29 Responsibilities of consumers concerning the safety of electrical installations**

- (1) For the purpose of causing an electrical installation to be free from any defect or circumstance that is likely to cause fire or otherwise make the installation unsafe, a consumer must, to the best of the consumer's ability and knowledge, ensure that the prescribed parts of the electrical installation, while the electrical installation remains connected to the source of the supply of electricity, are maintained in accordance with the regulations.
- (2) A consumer must not connect the consumer's electrical installation or any part of it, or cause the installation or any part to be connected, to the source of supply of electricity if the installation has been lawfully disconnected for reasons of safety until the installation has been made safe.

Maximum penalty: 20 penalty units.

## **30, 31 (Repealed)**

## **31A Time for instituting prosecutions**

A prosecution for an offence against this Act or the regulations committed after the date of assent to the [Electricity Development \(Amendment\) Act 1978](#) may be instituted at any time within 2 years after the commission of the offence.

## **32 Penalty**

Every person guilty of an offence against this Act shall for every such offence be liable upon conviction to the penalty expressly provided therefor and if no penalty is so provided to a penalty not exceeding 20 penalty units and to a further daily penalty not exceeding 2 penalty units.

### **33 Recovery of penalty**

- (1) Proceedings for an offence against this Act shall be dealt with summarily before a Local Court.
- (2) Where the penalty is a daily penalty, it may be recovered either under a separate information or complaint for each day or under an information or complaint for the sum of the daily penalties.

### **33A-36 (Repealed)**

### **37 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without prejudice to the generality of the power conferred by subsection one of this section regulations may be made for or with respect to:
  - (a) the keeping by electricity supply authorities of such books, accounts and records as may be prescribed, the particulars to be entered therein and the manner of keeping the same,
    - (a1), (a2) (Repealed)
    - (a3) the installation and operation of cathodic protection systems and stray current sources,
  - (b) the examination, testing, approval and stamping or labelling and the withholding and withdrawal of approval of cathodic protection systems and stray current sources,
    - (b1) (Repealed)
  - (c) prescribing standards for electrical articles and for the materials used in the manufacture of electrical articles,
    - (c1) (Repealed)
  - (d) the fees to be charged for the examination, testing, and/or approval of cathodic protection systems and stray current sources,
  - (e)-(e2) (Repealed)
  - (f) prohibiting interference by unauthorised persons with any electric wire, cable and/or meter and/or any prescribed electrical appliance, fitting, insulator and/or apparatus,

- (f1), (g) (Repealed)
- (h) inspection by electricity supply authorities of electrical wires, cables, appliances, meters, fittings, insulators and apparatus installed in, on, over or under any place or premises whatsoever,
- (i) prescribing standards for the voltages to be maintained at the terminals of consumers of electricity,
- (j) prescribing standards and rules for the installation of electric wires, cables, appliances, meters, fittings, insulators, or apparatus in, on, over or under any place or premises whatsoever and the alteration, repair or renewal thereof,
- (k) the training and qualifications of persons who perform work concerning high voltage electrical equipment,
- (k1) (Repealed)
- (l) the safety of persons employed by electricity supply authorities in connection with the generation, transmission, distribution or supply of electricity or of persons engaged in the installation of electric wires, cables, appliances, meters, fittings, insulators or apparatus in, on, under or over any place or premises whatsoever,
- (m) prescribing the furnishing of reports, information, particulars, returns and statistics by electricity supply authorities or retail suppliers (within the meaning of the *Electricity Supply Act 1995*) and the time and mode of furnishing and the manner of verification of the same,
- (n) the fees to be charged by an electricity supply authority for inspection and testing of an electrical installation (whether or not it is a consumer's installation),
- (o) the constitution, functions and procedures of a committee to advise the Director in relation to the form of declarations of compliance, within the meaning of Part 4C, and any other matters relating to the regulation of the approval or sale of electrical articles that may be referred to it by the Director,
- (p) the making of applications for the purposes of Part 4C,
- (q) qualified persons, within the meaning of Part 4C,
- (r) the form and content of declarations of compliance, within the meaning of Part 4C, and requiring any such declaration to be in the form of a statutory declaration,
- (s) the testing and inspection of electrical articles,
- (t) the approval, and the withholding and withdrawal of approval, of electrical articles or types of electrical articles and the renewal and duration of any such approval,



- (u) the fees to be charged for the testing, inspection or approval of electrical articles or of types of electrical articles or for the renewal of any such approval,
- (v) the marking or labelling of electrical articles,
- (w) prohibiting the fraudulent or improper use of marks similar to those required by this Act or of marks so nearly resembling those required by this Act as to be likely to deceive,
- (x) the approval of places, whether within or outside New South Wales, for the testing of electrical articles,
- (y) the specifications, within the meaning of Part 4C, and other requirements for electrical articles,
- (z) the fees to be charged for applications under Part 4C,
- (aa) prohibiting the making of any statement in any application, declaration or other document made or given for the purposes of this Act, being a statement which is false or misleading in a material respect,
- (bb) guarantees to be given with respect to electrical articles,
- (cc) prohibiting or regulating the disposal, whether by way of sale or not, of electrical articles and the display of electrical articles in connection therewith,
- (dd) prescribing standards for electrical installations and other equipment used for or in connection with the generation or supply of electricity and for materials used in the manufacture of such equipment, and the adoption of engineering standards for such installations, equipment and materials,
- (ee)-(gg) (Repealed)
- (hh) the connection and disconnection of an electrical installation to a supply of electricity,
- (ii)-(nn) (Repealed)
- (oo) requiring the carrying out of work to remove a danger or to remedy a defect relating to the distribution, transmission or use of electricity within a distribution district,
- (pp) the opening of the surface of roads,
- (qq) restricting or regulating the removal or trimming of trees by a distribution network service provider, and
- (rr) (Repealed)

- (2A) A regulation may apply, adopt or incorporate, with or without modification, the provisions, as in force for the time being, of any Act or statutory rule or of any other publication, whether of the same or of a different kind.
- (2B) A provision of a regulation may:
- (aa) (Repealed)
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.
- (3) A regulation may create an offence punishable by a penalty not exceeding:
- (a) 200 penalty units in the case of a body corporate, or
  - (b) 100 penalty units in any other case.
- (4) A regulation made under the authority of this section shall bind the Crown if expressed so to do.
- (5) A regulation under this Act prevails over a regulation made under the *Local Government Act 1993*, to the extent of any inconsistency.
- (6)–(7) (Repealed)

### **38 Rescission etc of proclamations, notifications and notices**

- (1) Any proclamation, notification or notice made, published or given under this Act and any proclamation deemed to have been made or published under this Act, may be rescinded, revoked, amended, varied or cancelled in the like manner as the proclamation, notification or notice being rescinded, revoked, amended, varied or cancelled, was made, published or given.
- (2) The provisions of subsection (1) shall not apply to proclamations, notifications or notices made, published or given pursuant to section 1, 11, 12 or 15A.
- (3) (Repealed)

### **39 Savings, transitional and other provisions**

Schedule 11 has effect.

### **Schedules 1-10 (Repealed)**

## Schedule 11 Savings, transitional and other provisions

(Section 39)

### Part 1 General

#### 1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

*Electricity (Amendment) Act 1993*

*Electricity (Broken Hill) Amendment Act 1994*

*Energy Legislation (Miscellaneous Amendments) Act 1994*

*Electricity Legislation Amendment Act 1995*

*Electricity Supply Act 1995*

*Energy Services Corporations Act 1995*

- (2) In particular, the regulations may, in the case of the enactment of the *Electricity (Amendment) Act 1993* or the *Electricity (Broken Hill) Amendment Act 1994*, provide for the resolution of disputes, or to avoid doubt, may be made with respect to whether any person employed or thing done or used by a former electricity council was employed or done or used in connection with its electricity functions.
- (3) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later day.
- (4) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

### Part 2 Provisions consequent on the enactment of the **Electricity**

## (Amendment) Act 1993

### 2 Definitions

(1) In this Schedule:

**corresponding electricity distributor**, in relation to a former electricity council, means the electricity distributor specified by the proclamation that dissolves the council or declares that the council has no authority to exercise electricity functions.

**defunct county council** means a county council dissolved by proclamation under this Act.

**electricity function** means the generation, distribution, transmission, reticulation or supply of electricity.

**former electricity council** means a local government council or a county council that, immediately before the appointed day, was authorised under an Act to supply electricity to the public.

(2) In any provision of this Schedule, **appointed day**, in relation to a defunct county council or a former electricity council, means the day on which the council is dissolved or ceases to have authority to exercise electricity functions.

### 3 Transfer of assets, rights and liabilities

(1) On the appointed day, the following provisions have effect:

- (a) any assets of a former electricity council that were used for or in connection with its electricity functions vest in the corresponding electricity distributor without the need of any conveyance, transfer, assignment or assurance,
- (b) the rights and liabilities of each former electricity council in connection with its electricity functions become by virtue of this clause the rights and liabilities of the corresponding electricity distributor,
- (c) all proceedings commenced before the appointed day by or against a former electricity council in connection with its electricity functions and pending immediately before the appointed day are taken to be proceedings pending by or against the corresponding electricity distributor,
- (d) any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former electricity council in connection with its electricity functions is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the corresponding electricity distributor.

(2) The operation of this clause is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
  - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) The operation of this clause is not to be regarded as an event of default under any contract or other instrument.
- (4) No attornment to an electricity distributor by a lessee from a former electricity council is required.

#### **4 Existing councillors of defunct county councils**

- (1) A person who, immediately before the appointed day, held office as Chairman or a member of a defunct county council:
- (a) ceases to hold that office, and
  - (b) holds office, subject to this Act, as Chairperson or a director, respectively, of the corresponding electricity distributor.
- (2) A person who so ceases to hold office as a member of a defunct county council is not entitled to any remuneration or compensation because of the loss of that office.

#### **5 Existing general manager of defunct county council**

- (1) A person who, immediately before the appointed day, held office as general manager of a defunct county council:
- (a) ceases to hold that office, and
  - (b) except as provided by this clause, is not entitled to any remuneration or compensation because of the loss of that office.
- (2) The general manager of a defunct county council is taken to have been appointed under this Act as the general manager of the corresponding electricity distributor under the terms and for the remaining duration of the general manager's existing employment contract with the defunct county council.

#### **6 Continuity of staff of former electricity council**

- (1) The persons who were, immediately before the appointed day, members of staff of a former electricity council employed in connection with its electricity functions are taken to be members of staff of the corresponding electricity distributor employed under this Act.

- (2) Subject to this Schedule, any such members of staff are (until other provision is duly made) to be employed in accordance with the employment contracts, awards, industrial agreements and determinations, and at the rates of pay, applying to them immediately before the appointed day as members of staff of the former electricity council.
- (3) Members of staff to whom this clause applies are entitled to any accrued sick, recreational or extended leave (or any other leave or entitlement prescribed by the regulations) not taken before the appointed day.

## **7 (Repealed)**

## **8 Cessation of application of the [Local Government Act 1919](#)**

- (1) Subject to the regulations, the provisions of the [Local Government Act 1993](#) and the regulations made under that Act relating to defunct county councils do not apply to or in respect of any electricity distributor.
- (2) The provisions of the [Local Government Act 1993](#) and the regulations made under that Act relating to the employment of persons by a former electricity council in connection with its electricity functions do not apply to a person employed under this Act, except as provided by this clause.
- (3) Section 99 of the [Local Government Act 1919](#) continues to apply to a person who, immediately before the appointed day, was an employee of a former electricity council in connection with its electricity functions and who was the subject of an inquiry, or suspended, under that section.

## **9 Superseded references**

On and from the appointed day, a reference (other than a reference prescribed by the regulations) in any other Act, in any instrument made under any Act or in any document of any kind:

- (a) to a former electricity council in connection with its electricity functions is taken to be a reference to the corresponding electricity distributor, or
- (b) the chairman of a defunct county council is taken to be a reference to the Chairperson of the corresponding electricity distributor, or
- (c) to a delegate to a defunct county council is taken to be a reference to a director of the corresponding electricity distributor, or
- (d) to the general manager of a defunct county council is taken to be a reference to the general manager of the corresponding electricity distributor.

## **10 Existing resumptions and appropriations**

An acquisition of land by compulsory process, and the assessment and payment of compensation relating to the acquisition that was commenced before the appointed day by or on behalf of a former electricity council in connection with its electricity functions is to be completed or otherwise dealt with by or on behalf of the corresponding electricity distributor in accordance with the provisions of clause 3.

## **11 Saving of operation of [County Districts Reconstitution Act 1979](#), sec 8**

Section 8 of the [County Districts Reconstitution Act 1979](#) continues to apply for the good of any person to whom it applied immediately before its repeal by this Act.

## **Part 3 Provisions consequent on the enactment of the [Electricity \(Broken Hill\) Amendment Act 1994](#)**

### **12 Application of Part 2**

Part 2 applies to and in respect of Broken Hill Electricity as if:

- (a) Broken Hill City Council were a former electricity council under this Schedule, and
- (b) Broken Hill Electricity were the corresponding electricity distributor in relation to Broken Hill City Council (as a former electricity council), and
- (c) the appointed day in relation to Broken Hill City Council (as a former electricity council) were the date of commencement of this clause.

### **13 First directors of Broken Hill Electricity**

- (1) The first board of directors of Broken Hill Electricity is to consist of the 7 persons (5 councillors and 2 other persons) who, immediately before the commencement of this clause, were members of the committee of the Broken Hill City Council known as the Electricity Committee.
- (2) Those persons are taken to have been elected to the board of Broken Hill Electricity pursuant to section 6N, and Schedule 8 applies to them as elected directors.
- (3) Section 6N (1)-(3A) does not apply to the first board of directors of Broken Hill Electricity.

### **14 General manager**

The person who, immediately before the commencement of this clause, held office as General Manager (Electricity) of Broken Hill City Council:

- (a) ceases to hold that office and is not entitled to any remuneration or compensation because of the loss of that office, and

- (b) is taken to have been appointed under this Act as the general manager of Broken Hill Electricity under the terms and for the remaining duration of the general manager's existing employment contract with Broken Hill City Council.

#### **15 Disputes as to transfer of assets, rights and liabilities**

- (1) If any dispute arises as to the operation of clause 3 of this Schedule in respect of Broken Hill Electricity and the dispute is not resolved within 3 months after the commencement of this clause, the Minister may refer the dispute to arbitration under the *Commercial Arbitration Act 1984* and may appoint an arbitrator for that purpose.
- (2) The Minister is not to refer a dispute to arbitration without first consulting on the dispute with the Broken Hill City Council.
- (3) For the purposes of any such arbitration, the parties to the arbitration are Broken Hill City Council and Broken Hill Electricity.
- (4) The parties are to pay the costs of the arbitration (including the fees and expenses of the arbitrator) in equal shares.
- (5) The award made by the arbitrator is final and binding on the parties.

### **Part 4 Provisions consequent on the enactment of the *Energy Legislation (Miscellaneous Amendments) Act 1994***

#### **16 Definition**

In this Part, **the amending Act** means the *Energy Legislation (Miscellaneous Amendments) Act 1994*.

#### **17 Constitution of the Electricity Council**

The members of the Electricity Council, as constituted under section 5 immediately before the commencement of this clause, cease to hold office on that commencement.

#### **18 Certification of electrical articles**

An article that was duly certified as referred to in section 21A (1) (a) (iii) immediately before the commencement of the amendment to that subparagraph effected by the amending Act is taken to have been duly certified as referred to in that subparagraph as so amended.

### **Part 5 Provisions consequent on enactment of *Electricity Legislation Amendment Act 1995***

#### **19 Definition**

In this Part:



**amending Act** means the *Electricity Legislation Amendment Act 1995*.

## **20 Abolition of boards for electricity distributors**

- (1) The boards of directors for each electricity distributor are abolished.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each director of a board that is abolished by this clause as if the director had been removed from office by the Governor under section 90 of that Act.

## **21 Appointment of interim reform facilitators**

- (1) Pending the appointment of the relevant board or boards of directors, the Minister may appoint a reform facilitator for one or more electricity distributors.
- (2) The Minister may, at any time, remove a person from office as reform facilitator.
- (3) A reform facilitator is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.
- (4) A reform facilitator for an electricity distributor has all of the functions of the board of directors for the electricity distributor.
- (5) Matters concerning a group of electricity distributors for which there is a common reform facilitator may be dealt with by the reform facilitator as if the group were a single electricity distributor.
- (6) Section 7R applies to a reform facilitator in the same way as it applies to a director of an electricity distributor.
- (7) Sydney Electricity is taken to be an electricity distributor for the purposes of this clause.

## **22 Transfers under section 7X**

Any transfer of staff, assets, rights or liabilities that was effected under section 7X before the commencement of this clause is taken to have been effected under Schedule 3, and Schedule 3 has effect accordingly.

## **Part 6 Provisions consequent on the enactment of *Electricity Supply Act 1995***

### **23 Abolition of the Electricity Council**

- (1) The Electricity Council is abolished.
- (2) Part 8 of the *Public Sector Management Act 1988* applies to each member of the Electricity Council as if the member had been removed from office by the Governor under section 90 of that Act.

**25 Continuation of Part 3AA of the former Act**

Part 3AA continues to apply to and in respect of an electricity supply authority within the meaning of that Part in relation to any insurance policy or self-insurance scheme referred to in section 14AAA that was in force immediately before the repeal of that Part.

**26 Continuation of Part 3A of the former Act**

Part 3A continues to apply to and in respect of any account rendered by an electricity supply authority in relation to an accounting period that commenced before the repeal of that Part.

**27 References in other legislation**

A reference in any other Act or instrument to the *Electricity Act 1945* is to be read as a reference to the *Electricity Safety Act 1945*.