NORTHERN TERRITORY OF AUSTRALIA

ELECTRICAL SAFETY ACT 2022

As in force at 13 August 2026

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 13 August 2026

ELECTRICAL SAFETY ACT 2022

An Act to provide for electrical safety and for related purposes

Part 1 Preliminary matters

Division 1 Preliminary

1 Short title

This Act may be cited as the *Electrical Safety Act 2022*.

2 Commencement

(1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.

(2) If a provision of this Act does not commence before 1 July 2024, it commences on that day.

Division 2 Interpretation

3 Definitions

In this Act:

apprentice, see section 5 of the *Training and Skills Development Act 2016*.

approved form means a form approved by the Electrical Safety Regulator.

Board means the Electrical Safety Board established under section 102.

category 1 offence, see section 43.

category 2 offence, see section 44.

category 3 offence, see section 45.

cathodic protection system means a system by which a structure in contact with ground or water is protected from electrolytic corrosion by a direct electric current flowing between the structure and an electrical conductor through the ground or water.

certificate of compliance, see section 41.

code of practice means a code of practice made or adopted under section 193.

connect, in relation to electricity, means to physically connect an electric line or electric equipment to electric infrastructure, whether or not the line or equipment is energised.

consumer means a person who receives electricity generated, transmitted or distributed by an electricity entity.

consumer electrical equipment, see section 69.

customer, see section 4(1) of the *Electricity Reform Act 2000*.

dangerous electrical event, see section 5(2).

decision notice, for a decision, means a written notice setting out the matters required for a notice of decision under section 34 of the *Northern Territory Civil and Administrative Tribunal Act 2014*.

design, in relation to electrical equipment or an electrical installation, includes:

(a) to design part of the equipment or installation; and

(b) to redesign or modify a design.

disciplinary action, see section 126(1).

distribution entity means:

(a) any person or entity licensed under section 14(3)(b) of the *Electricity Reform Act 2000*; and

(b) any person exempted from Part 3 of the *Electricity Reform Act 2000* under section 87 of that Act in relation to owning or operating an electricity network.

electrical contractor licence, see section 51.

electrical equipment, see section 6.

electrical equipment work, see section 10(4).

electrical installation, see section 7.

electrical installation work, see section 10(2).

electrical risk, see section 4(1).

electrical safety, see section 4(3).

electrical safety duty means a duty imposed under Part 2, Division 2.

Electrical Safety Regulator means the Electrical Safety Regulator appointed under section 95.

electrical work, see section 9.

electrical work licence, see section 50.

electricity includes electric current, electrical energy and similar or related physical qualities.

electricity entity, see section 4(1) of the *Electricity Reform Act 2000*.

electricity infrastructure, see section 4(1) of the *Electricity Reform Act 2000*, and includes a large scale battery energy storage system.

electricity network, see section 4(1) of the *Electricity Reform Act 2000*.

electricity officer means a person appointed under Part 4 of the *Electricity Reform Act 2000* as an electricity officer.

electric cable joining, see section 10(1).

electric line, see section 8.

electric line work, see section 10(2).

energise means energise by electricity.

exposed, in relation to electrical equipment, means:

(a) bare; or

(b) not effectively insulated; or

(c) not effectively guarded by either a fixed barrier or an earthed metal shield.

extra-low voltage means voltage of:

(a) 50 V or less AC RMS; or

(b) 120 V or less ripple-free DC.

generation entity means any person or entity licensed under section 14(3)(a) of the *Electricity Reform Act 2000*.

high voltage means voltage greater than low voltage.

hire includes:

(a) agree, attempt or offer to hire; and

(b) possess, expose or advertise for hire; and

(c) cause or allow to be hired.

improvement notice, means a notice given under section 184.

in control, in relation to electrical equipment, see section 12.

in-house, in relation to electrical work, means electrical work performed by a worker exclusively on electrical equipment or electrical installations of the business or undertaking for whom the worker works.

inspector means a person appointed under section 141.

licence means:

(a) an electrical work licence; or

(b) an electrical contractor licence.

low voltage means voltage greater than extra-low voltage, but not more than 1 000V AC RMS or 1 500V ripple-free DC.

meter means the equipment used for measuring electricity, including software and auxiliary devices that communicate, support or protect the measuring function of the equipment.

ministerial notice means a notice under section 191.

non-disturbance notice means a notice issued under section 204.

officer, see section 11.

perform, in relation to an electrical contractor licence, includes the performance of the electrical work through the work of another person.

person conducting a business or undertaking, means a person who conducts a business or undertaking under section 13.

place includes:

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) land where a building or other structure is situated.

public authority, see section 5 of the *Ombudsman Act 2009*.

reasonably practicable, see section 14.

recall order, see section 199.

retailer means any holder of a licence authorising the selling of electricity under Part 3 of the *Electricity Reform Act 2000*.

safe from electrical risk, see section 4(2).

safety management and mitigation plan, see section 77.

sell includes the following:

(a) sell by wholesale, retail or auction;

(b) supply in trade or commerce or under an arrangement;

(c) hire;

(d) agree, attempt or offer to sell;

(e) keep or expose for sale;

(f) cause or permit to be sold.

serious electrical event, see section 5(1).

supplier, in relation to electrical equipment, means a person who:

(a) sells unused electrical equipment; or

(b) manufactures electrical equipment; or

(c) imports electrical equipment from outside Australia.

trainee, see section 6 the *Training and Skills Development Act 2016*.

Utilities Commission, see section 5 of the *Utilities Commission Act 2000*.

voltage means the difference in electrical potential, measured in volts, existing:

(a) between conductors; or

(b) between conductors and earth.

volunteer means an individual who is acting on a voluntary basis, regardless of whether the individual receives out-of-pocket expenses.

worker, see section 15.

4 Meaning of *electrical risk*, *safe from electrical risk* and *electrical safety*

(1) ***Electrical risk*** means the following:

(a) in relation to an individual – the risk to the individual of death, shock or injury caused directly by electricity or originating from electricity;

(b) in relation to property – the risk to the property of:

(i) damage caused by a cathodic protection system; or

(ii) loss or damage caused directly by electricity or originating from electricity.

(2) ***Safe from electrical risk*** means the following:

(a) for an individual or property – that:

(i) electrical risk to the individual or property is eliminated, so far as is reasonably practicable; or

(ii) if it is not reasonably practicable to eliminate electrical risk to the individual or property – the risk is minimised so far as is reasonably practicable;

(b) for electrical equipment or an electrical installation – that all individuals and property are safe from electrical risk from the equipment or installation;

(c) for the manner in which electrical equipment, an electrical installation or other electricity infrastructure are operated or used – that all individuals and property are safe from electrical risk from the operation or use of the equipment, installation or infrastructure;

(d) for the manner in which electrical work is performed – that all individuals are safe from electrical risk from the performance of the work;

(e) for the manner in which a business or undertaking is conducted – that all individuals are safe from electrical risk from the conduct of the business or undertaking;

(f) for the manner in which electrical equipment or an electrical installation is installed or repaired – that all individuals are safe from electrical risk from the installing or repairing of the equipment or installation.

(3) ***Electrical safety*** means the state of being safe from electrical risk.

5 Meaning of *serious electrical event* and *dangerous electrical event*

(1) A ***serious electrical event*** means an event involving electrical equipment if, in the event:

(a) an individual is killed by electricity; or

(b) an individual receives a shock or injury from electricity, and is treated for the shock or injury by or under the supervision of a health practitioner; or

(c) an individual receives a shock or injury from electricity at high voltage, whether or not the person is treated for the shock or injury by or under the supervision of a health practitioner.

(2) A ***dangerous electrical event*** means any of the following:

(a) circumstances in which an individual is not safe from electrical risk because of electrical equipment but the individual does not receive a shock or injury;

(b) circumstances in which an individual would not have been safe from electrical risk because of electrical equipment, if the individual had been at a particular place at a particular time;

(c) an event that involves electrical equipment and in which significant property damage is caused directly by electricity or originates from electricity;

(d) the performance of electrical work by a person not authorised under an electrical work licence to perform the work;

(e) the performance of electrical work by a person if, as a result of the performance of the work, an individual or property is not safe from electrical risk;

(f) the discovery by a licensed electrical worker of electrical equipment that is not marked as required under this Act.

Examples for subsection (2)(e):

1 The connection of electrical equipment to a source of supply involving incorrect polarity or other incorrect connection.

2 The performance of electrical work as a result of which an exposed wire is left in circumstances in which it can be energised by the operation of a switch or circuit breaker or the insertion of a fuse.

6 Meaning of *electrical equipment*

(1) Subject to subsection (2), ***electrical equipment*** means any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that:

(a) is used for controlling, generating, supplying, transforming or transmitting electricity at a voltage greater than extra-low voltage; or

(b) is used or operated at extra-low voltage, but is configured in an electrical installation for controlling, generating, supplying, transforming or transmitting electricity at a voltage greater than extra-low voltage; or

(c) is operated by electricity at a voltage greater than extra-low voltage; or

(d) is part of an electrical installation located in an area in which the atmosphere presents a risk to health and safety from fire or explosion; or

(e) is, or is part of, a cathodic protection system; or

(f) is prescribed by regulation.

Note for subsection (1)

Appliances are equipment that consume electricity at a voltage greater than extra-low voltage and convert electricity into heat or motion or another form of energy or is substantially changed in its electrical character.

(2) Unless specifically included by regulation, electrical equipment does not include any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire that is part of, or powered by, a unit of a vehicle, boat or aircraft that provides propulsion.

Examples for subsection (2)

1 *The headlights and ignition spark plugs of a motor vehicle are not electrical equipment.*

2 *The interior lighting and a socket outlet in a caravan are electrical equipment if the lighting and outlet are operated by a low voltage generating set or connected to low voltage supply.*

3 *A refrigeration unit in a food delivery vehicle operating at low voltage from a source separate from the propulsion unit for the vehicle is electrical equipment.*

7 Meaning of *electrical installation*

(1) An ***electrical installation*** consists of a group of items of electrical equipment that:

(a) are permanently electrically connected together; and

(b) can be supplied with electricity from the electricity infrastructure of an electricity entity or from a generating source; and

(c) does not include items of electrical equipment of an electricity entity.

(2) An item of electrical equipment may be part of more than one electrical installation.

(3) For subsection (1)(a):

(a) an item of electrical equipment connected to electricity by a plug and socket outlet is taken not to be permanently electrically connected; and

(b) a connection achieved through using items of electrical equipment of an electricity entity is not a consideration in determining whether or not electrical equipment is electrically connected.

Examples for section 7

1 *The switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a house, a shop in a shopping centre or within a caravan.*

2 *Solar panels and storage batteries for sources of renewable electricity.*

3 The switchboard, wiring, lighting, socket outlets and other electrical equipment permanently connected for a shopping centre or residential unit complex.

4 The electrical installations for individual shops and individual residential units are generally included and the electrical installation for a shopping centre or residential unit complex respectively.

8 Meaning of *electric line*

(1) Subject to subsection (2), an ***electric line*** is:

(a) a wire or conductor used for transmitting, transforming or supplying electricity at a voltage greater than extra-low voltage; and

(b) anything ordinarily found in association with the wire or conductor; and

(c) anything used for the purpose of protecting, insulating or supporting, or supporting the operation of, the wire or conductor.

Examples for subsection (1)

1 A bracket, casing, coating, covering, duct, frame, insulator, pillar, pipe, pole, tower or tube enclosing, surrounding or supporting a wire or conductor.

2 An air break, circuit breaker, switch, transformer or other apparatus connected to a wire or conductor.

(2) An electric line does not include:

(a) a wire or conductor directly used in converting electricity into another form of energy; or

(b) a wire or conductor within the internal structure of a building.

Examples for subsection (2)

1 A cord for connecting an air conditioning unit, computer, lamp, television or toaster to a supply of electricity is not an electric line.

2 A power or lighting circuit within a building is not an electric line.

9 Meaning of *electrical work*

(1) Subject to subsection (2), ***electrical work*** means:

(a) connecting electricity supply wiring to electrical equipment or disconnecting electricity supply wiring from electrical equipment; or

(b) manufacturing, constructing, installing, removing, adding, testing, replacing, repairing, altering or maintaining electrical equipment or an electrical installation.

Examples for subsection (1)

1 Installing low voltage electrical wiring in a building.

2 Installing electrical equipment into an installation coupler or interconnector.

3 Replacing a low voltage electrical component of a washing machine.

4 Maintaining an electricity entity's overhead distribution system.

(2) Electrical work does not include the following:

(a) work that involves connecting electrical equipment to an electricity supply by means of a flexible cord plug and socket outlet;

(b) work on a non-electrical component of electrical equipment, if the person carrying out the work is not exposed to an electrical hazard;

(c) replacing electrical equipment or a component of electrical equipment if:

(i) the equipment or component was designed by its manufacturer to be replaced by a person who does not have expertise in carrying out electrical work; and

(ii) the replacement can be safely performed by a person who does not have expertise in carrying out electrical work;

(d) manufacturing or assembling electrical equipment in a workplace in accordance with the *Work Health and Safety (National Uniform Legislation) Act 2011*;

(e) building or repairing ducts, conduits, troughs or channels where electrical wiring will be or is installed if:

(i) the channels are not intended to be earthed; and

(ii) wiring installed in the channels is not energised; and

(iii) the work is done under the supervision of a person licensed to perform electrical installation work;

(f) assisting a licensed electrical worker to carry out electrical work on electrical equipment under the direct supervision of the electrical worker, if the assistance does not involve physical contact with any energised electrical equipment;

(g) building, under the supervision of an electricity entity, an overhead electric line on structures that do not already carry an energised overhead electric line;

(h) laying, cutting or sealing underground cables that are part of the electricity infrastructure of an electricity entity before the initial connection of the cables to an electricity source;

(i) recovering underground cables that are part of the electricity infrastructure of an electricity entity after disconnection from an electricity source;

(j) altering, repairing, maintaining or recovering an overhead electric line that is part of the electricity infrastructure of an electricity entity, if the work is performed under the entity's supervision and:

(i) if the line is not on supports supporting another electric line – the line is isolated from an electricity source so that the closure of a switch can not energise the section of the line where work is being done; or

(ii) if the line is on supports supporting another electric line – both lines are isolated from an electricity source so that the closure of a switch cannot energise the section of the line where the work is being done or an adjacent section of the other line;

(k) erecting structures for the support of electrical equipment;

(l) locating, mounting or fixing in place electrical equipment, other than:

(i) making or terminating electrical connections to the equipment; or

(ii) installing supply conductors that will connect the equipment to a supply of electricity;

(m) maintaining the structural parts of the electrical traction system on a railway, other than overhead electric lines, that forms part of the electricity infrastructure of an electricity entity, if the work is structural work performed under a safe system of work.

Examples for subsection (2)(b)

1 Painting electrical equipment covers.

2 Repairing hydraulic components of an electrical motor.

3 Replacing a drive belt on a washing machine.

Example for subsection (2)(c)

Replacing a fuse or a light bulb.

10 Types of electrical work

(1) ***Electric cable joining work*** means electrical work associated with installing, jointing and terminating cable, the performance of which requires specialised knowledge and skill.

(2) ***Electrical installation work*** means electrical work associated with an electrical installation, but does not include the following electrical work:

(a) testing, repairing or maintaining electrical equipment included in the electrical installation;

(b) electric line work associated with the electrical installation.

Examples for subsection (2)

Installing or altering wiring or fixed appliances in a building.

(3) ***Electric line work*** means electrical work associated with an electric line.

Examples for subsection (3)

1 Erecting an aerial conductor that is part of electricity infrastructure.

2 Installing or maintaining street lighting circuits.

3 Testing an overhead electric line to ensure it is correctly connected.

(4) ***Electrical equipment work*** means electrical work other than electrical installation work or electric line work.

Examples for subsection (4)

1 Repairing substation electrical equipment.

2 Repairing an electric range, whether or not it is part of an electrical installation.

3 Installing, jointing or terminating covered cables.

11 Meaning of *officer*

(1) Subject to subsection (2), the following individuals are ***officers***:

(a) an officer of a corporation within the meaning of section 9 of the *Corporations Act 2001* (Cth);

(b) an officer of the Crown within the meaning of section 240;

(c) an officer of a local government council constituted under the *Local Government Act 2019*;

(d) an officer of a statutory corporation;

(e) an officer of a public authority.

(2) To avoid doubt, the following individuals are not officers:

(a) an elected member of a local government council acting in that capacity;

(b) a partner in a partnership

12 Meaning of *in control*

(1) A person is ***in control*** of electrical equipment if the person is responsible for the control or management of the electrical equipment.

(2) If residential premises are occupied by a person other than the owner of the premises, the owner is the person in control of any electrical equipment at the premises that:

(a) forms part of, or is supplied for use at, the premises; and

(b) is owned by the owner of the premises.

Examples for subsection (2)

1 The owner of a residential unit, being rented to a tenant, is the person in control of the water heater in the unit.

2 The body corporate for a unit titles scheme would ordinarily be the person in control of electrical equipment located on common property for the scheme.

(3) Subject to subsection (2), a person who is the occupier of premises where electrical equipment is located is presumed to be the person in control of the electrical equipment.

Example for subsection (3)

A manufacturer that owns a factory building used for the manufacturer's business would ordinarily be the person in control of all electrical equipment at the building.

(4) If a contract or other arrangement provides that a person other than the occupier of premises where electrical equipment is located is to control the electrical equipment, the other person is the person in control of the equipment.

Examples for subsection (4)

1 If a manufacturer occupies a factory building under a lease and the lease provides that the lessor keeps responsibility for the maintenance and repair of particular electrical equipment at the building, the lessor is the person in control of the particular electrical equipment.

2 If the body corporate for a unit titles scheme enters into a contract under which an electrical contractor assumes responsibility for the repair and maintenance of electrical equipment located on common property for the scheme, the electrical contractor is the person in control of the electrical equipment.

3 If the lessee under a retail shop lease occupies retail premises in a shopping centre under a lease and the lease provides that the shopping centre management keeps responsibility for particular electrical equipment in the retail premises, the shopping centre management is the person in control of the particular electrical equipment.

(5) For subsection (1), a person does not control electrical equipment only because the electrical equipment:

(a) is the subject of electrical work performed by the person or directed or supervised by the person; or

(b) is used for the carrying out of work:

(i) performed by the person as a worker; or

(ii) directed or supervised by the person.

(6) In this section:

control, in relation to electrical equipment, includes having responsibility for the maintenance and repair of the electrical equipment.

13 Person conducting a business or undertaking

(1) For this Act, a person conducts a business or undertaking:

(a) whether the person conducts the business or undertaking alone or with others; and

(b) whether or not the business or undertaking is conducted for profit or gain.

(2) A business or undertaking conducted by a person includes a business or undertaking conducted by a partnership or an unincorporated association.

(3) If a business or undertaking is conducted by a partnership, other than an incorporated partnership, a reference in this Act to a person conducting the business or undertaking is to be read as a reference to each partner in the partnership.

(4) A person does not conduct a business or undertaking to the extent that the person is engaged solely as a worker in, or as an officer of, that business or undertaking.

(5) An elected member of a local government council does not in that capacity conduct a business or undertaking.

(6) The regulations may prescribe the circumstances in which a person is taken not to be a person who conducts a business or undertaking for the purposes of this Act or any provision of this Act.

14 Meaning of *reasonably practicable* in ensuring electrical safety

Reasonably practicable, in relation to a person's conduct, means that which is, or was at a particular time, reasonably able to be done by the person, taking into account and weighing up all relevant matters including the following:

(a) the probability of the harm to be eliminated or minimised or the offence to be prevented occurring;

(b) the seriousness of the harm or offence;

(c) the availability and suitability of ways to eliminate or minimise the harm or to prevent the offence from occurring;

(d) what the person concerned knows, or ought reasonably to know, about the matters referred to in paragraphs (a) to (c);

(e) the cost associated with the courses of conduct available to the person, including whether the cost is grossly disproportionate to the probability of the harm or offence occurring.

Examples of conduct for section 14

Eliminating electrical risk, ensuring compliance with statutory requirements, keeping vegetation clear, informing purchasers of a recall and preventing the commission of an offence.

15 Meaning of *worker*

(1) An individual is a ***worker*** if the individual carries out work in any capacity for a person conducting a business or undertaking, including work as any of the following:

(a) an employee;

(b) a contractor or subcontractor;

(c) an employee of a contractor or subcontractor;

(d) an employee of a labour hire company who is assigned to work in the person's business or undertaking;

(e) an outworker;

(f) an apprentice or trainee;

(g) a student gaining work experience;

(h) a volunteer;

(i) a person of a class prescribed by regulation.

(2) An individual conducting a business or undertaking is a worker if the individual carries out work in the business or undertaking.

Division 3 Purposes and application of Act

16 Purposes

(1) The purposes of this Act are:

(a) to prevent persons from being killed or injured by electricity; and

(b) to prevent property from being destroyed or damaged by electricity.

(2) The purposes of this Act are achieved as follows:

(a) by imposing duties on persons who may affect the electrical safety of other persons and property by their conduct;

(b) by establishing standards for industry and the community generally through:

(i) regulations, ministerial notices and codes of practice about achieving electrical safety; and

(ii) requiring safety management and mitigation plans for electricity entities;

(c) by providing for the safety of all persons through the licensing and discipline of persons who perform electrical work;

(d) by protecting consumers against the failure to properly perform and complete electrical work;

(e) by providing the Electrical Safety Regulator with powers in relation to electrical safety;

(f) by establishing the Electrical Safety Board to:

(i) allow industry and the community to participate in developing strategies for improving electrical safety; and

(ii) participate in developing requirements for the licensing and discipline of persons who perform electrical work; and

(iii) promote community awareness about electrical safety; and

(iv) participate in developing requirements for the electrical safety of electrical equipment.

17 Act binds Crown

(1) This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

(2) The Crown is liable for an offence against this Act.

18 Application of Criminal Code

(1) Part IIAA of the Criminal Code applies to an offence against this Act.

Note for subsection (1)

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

(2) An offence against Part 2, Division 6, is an indictable offence.

Part 2 Electrical safety duties

Division 1 Preliminary matters

19 Duties not transferable

A duty under this Act is not transferable to another person.

20 Person with multiple duties

A person may have more than one duty because of being in more than one class of duty holder.

21 Multiple persons with same duty

(1) More than one person may concurrently have the same duty.

(2) Each duty holder must comply with that duty to the standard required by this Act even if another duty holder has the same duty.

(3) If more than one person has a duty for the same matter, each person:

(a) retains responsibility for the person's duty in relation to the matter; and

(b) must discharge the person's duty to the extent to which the person has the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

22 Duty of officers

(1) If a person conducting a business or undertaking has a duty under this Act, an officer of the person must take reasonable steps and exercise due diligence to ensure that the person conducting the business or undertaking complies with that duty.

(2) An officer of a person conducting a business or undertaking may be found guilty of an offence against this Act relating to a duty whether or not the person conducting the business or undertaking is found guilty under this Act relating to the duty.

(3) An officer who takes reasonable steps to do all of the following is taken to satisfy the duty in subsection (1):

(a) acquire and keep up-to-date the officer's knowledge of electrical safety matters;

(b) gain an understanding of the nature of the operations of the business or undertaking of the person conducting the business or undertaking and generally of the hazards and risks associated with those operations;

(c) ensure that the person conducting the business or undertaking has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to electrical safety from work performed as part of the conduct of the business or undertaking;

(d) ensure that the person conducting the business or undertaking has appropriate processes for receiving and considering information regarding events, hazards and risks and responding in a timely manner to that information;

(e) ensure that the person conducting the business or undertaking has, and implements, processes for complying with any duty of the person under this Act;

(f) verify the provision and use of the resources and processes specified in paragraphs (c) to (e).

Example for subsection (3)(e)

Ensuring compliance with notices issued under this Act and ensuring that training and instruction about electrical safety are provided to workers.

Division 2 Electrical safety duties

23 Primary safety duty

(1) A person conducting a business or undertaking must ensure that the business or undertaking is safe from electrical risk.

(2) Without limiting subsection (1), the duty includes ensuring that:

(a) any electrical equipment used in the person's business or undertaking is safe from electrical risk; and

(b) any individual or property likely to be affected by any electrical work performed by the business or undertaking is safe from electrical risk; and

(c) any individual performing work in the business or undertaking involving contact with, or being near to, an exposed conductor or an exposed component of an item of electrical equipment is safe from electrical risk.

24 Safety duty of electricity entity

(1) An electricity entity must ensure that its works:

(a) are safe from electrical risk; and

(b) are operated and maintained in a manner that is safe from electrical risk.

(2) Without limiting subsection (1), the duty includes ensuring that electricity entity's works are inspected, tested and maintained.

25 Safety duty of designers

(1) Subsections (2) and (3) apply to a person who conducts a business or undertaking that designs electrical equipment or an electrical installation.

(2) The person must ensure that the electrical equipment or electrical installation is designed to be safe from electrical risk.

(3) If the person gives the design to another entity, the designer must ensure that the design is accompanied by information about the manner in which the electrical equipment or electrical installation must be used and installed to ensure the equipment or installation is safe from electrical risk.

26 Safety duty of manufacturers

(1) This section applies to a person who conducts a business or undertaking that manufactures electrical equipment.

(2) The person must ensure that:

(a) the processes used to manufacture the electrical equipment make the electrical equipment safe from electrical risk; and

(b) the electrical equipment, when made, is safe from electrical risk.

(3) Without limiting subsection (2)(b), the duty includes ensuring that the electrical equipment, when made, is tested and examined to confirm that it is safe from electrical risk.

Example for subsection (3)

This duty could apply to a manufacturer who is a supplier of consumer electrical equipment.

27 Safety duty of importers

(1) Subsections (2) and (3) apply to a person who conducts a business or undertaking that imports electrical equipment.

(2) The person must ensure that the imported electrical equipment is safe from electrical risk.

(3) Without limiting subsection (1), the duty includes ensuring that the imported electrical equipment:

(a) is designed to be safe from electrical risk; and

(b) is tested and examined to confirm that it is safe from electrical risk.

Example for section 27

This duty could apply to an importer who is a supplier and the electrical equipment is consumer electrical equipment.

28 Safety duty of suppliers

A supplier of electrical equipment must ensure that information about how to use the electrical equipment in a manner that is safe from electrical risk accompanies the electrical equipment when it leaves the supplier's business or undertaking.

29 Safety duty of installers

A person who installs electrical equipment or an electrical installation must ensure that:

(a) it is installed in a manner that is safe from electrical risk and in accordance with the regulations; and

(b) the processes followed to install it make it safe from electrical risk when installed; and

(c) it is examined and tested in accordance with the regulations to be safe from electrical risk; and

(d) the notifications required under the regulations are complied with.

30 Safety duty of repairers

A person who repairs electrical equipment or an electrical installation must ensure that:

(a) the manner in which the equipment or installation is repaired is safe from electrical risk; and

(b) the processes of repair make the equipment or installation, when repaired, safe from electrical risk; and

(c) the equipment or installation, when repaired, is safe from electrical risk; and

(d) the person tests and examines the repaired equipment or installation to ensure it is safe from electrical risk.

31 Safety duty of owner or operator of installation

A person who owns or operates an electrical installation must do all that is reasonably practicable to ensure that:

(a) the installation complies with, and is operated in accordance with, any technical and safety requirement prescribed by regulation; and

(b) the installation is safe from electrical risk and safely operated and maintained.

32 Safety duty of person in control of electrical equipment

(1) A person who is in control of electrical equipment must ensure that the electrical equipment is safe from electrical risk.

(2) Subsection (1) does not apply to electrical equipment that:

(a) is located at residential premises in which the person lives; or

(b) forms part of the electricity infrastructure of an electricity entity.

33 Safety duty of worker

(1) While at work, a worker must take:

(a) reasonable care for the worker's own electrical safety; and

(b) reasonable care that the worker's conduct does not create an electrical risk to other individuals or to property.

(2) The worker must comply, as far as reasonably practicable, with any reasonable instruction given for the purpose of compliance with this Act by:

(a) the person conducting the business or undertaking; and

(b) a person in control of electrical equipment located at the worker's workplace.

(3) The worker must cooperate with any reasonable policy or procedure, of which the worker has notice, relating to electrical safety at the workplace that is made by the person conducting the business or undertaking.

34 Duty to ensure workers are licensed

A person conducting a business or undertaking that provides electrical work requiring an electrical work licence must ensure that:

(a) the electrical work is performed by the holder of an electrical work licence that authorises the work; and

(b) any supervision of the electrical work is performed by the holder of an electrical work licence that authorises the work.

35 Safety duty of other individuals

(1) An individual at a place where electrical equipment is located must:

(a) take reasonable care for the individual's own electrical safety; and

(b) take reasonable care that the individual's conduct does not adversely affect the electrical safety of other individuals.

(2) The individual must comply, as far as reasonably practicable, with any reasonable instruction given for the purpose of compliance with this Act by the person in control of the electrical equipment.

Note for section 35

This duty is in addition to any other electrical safety duty the individual may have.

36 Safety duty of person conducting recognised external certification scheme

(1) The duty specified in subsection (2) applies to a person who conducts a business or undertaking that:

(a) conducts an external certification scheme prescribed by regulation; and

(b) certifies consumer electrical equipment under the scheme.

(2) The person must ensure that the consumer electrical equipment to which the certification relates is safe from electrical risk.

Division 3 Duties in relation to events

37 Duty to report events

(1) The following events must be reported under this section:

(a) a serious electrical event;

(b) a dangerous electrical event.

(2) The following persons must report the event:

(a) if the event occurs from the conduct of the holder of a licence – the holder of the licence;

(b) if the event occurs from the conduct of a person under the supervision of the holder of a licence – the holder of the licence;

(c) in any other case – the occupier of the premises where the event occurs.

(3) The report must be made to the to the Electrical Safety Regulator immediately after the person become aware that the event occurred.

(4) The report may be given verbally or in writing.

Example for subsection (4)

The notice can be given by telephone, email or other electronic means.

(5) In the case of a verbal report:

(a) the report must include the details of the event requested by the Electrical Safety Regulator; and

(b) a written report must also be given within 48 hours, unless not required by the Electrical Safety Regulator.

(6) A written report must be in the approved form.

(7) The Electrical Safety Regulator must acknowledge, in writing, any report received under this Division.

(8) A person conducting a business or undertaking must keep a record of any event referred to in subsection (1) that occurs in relation to the business or undertaking for a period of 5 years after the event occurs.

38 Duty to preserve site of event

(1) The site where an event referred to in section 37(1) occurs must be preserved under this section.

(2) The person with management or control of the site must do all that is reasonably practicable to protect the site until an inspector arrives at the site or any earlier time that an inspector directs.

(3) Subsection (2) does not prevent the following:

(a) action to assist an injured person;

(b) action to remove a deceased person;

(c) action essential to make the place safe or to minimise any electrical risk;

(d) a police investigation;

(e) any other action permitted by an inspector or the Electrical Safety Regulator.

(4) In this section, a reference to a site includes any substance or thing associated with the event.

Division 4 Work related to electricity network

39 Notice of proposed work related to electricity network

(1) Before conducting any of the following electrical work, the holder of a licence must give notice of and receive approval for the work to the network operator:

(a) altering an electricity network;

(b) making a connection to or disconnection from an electricity network;

(c) isolating electrical equipment from an electricity network;

(d) connecting or disconnecting a final sub-circuit from a private generating plant with a capacity exceeding 25 kW;

(e) removing a private generating plant with a capacity exceeding 25 kW;

(f) any other work prescribed by regulation.

(2) The notice must:

(a) be in a form acceptable to the network operator; and

(b) specify the nature of the work to be conducted; and

(c) specify the place where the work is to be conducted.

40 Requirements for work related to electricity network

(1) An electricity entity may make reasonable requirements for:

(a) any work specified under section 39(1); and

(b) the safety of persons carrying out work related to a connection to its electricity network.

(2) A person who proposes to make a connection to an electricity network must give the electricity entity written notice of the proposed work.

(3) The notice must be given at least 24 hours before the proposed work begins and specify:

(a) the nature of the work to be conducted; and

(b) the place where the work is to be conducted; and

(c) any other information the electricity entity requires to protect its electricity infrastructure and the safety of the persons carrying out the work.

(4) On receipt of a notice under subsection (2), the electricity entity must:

(a) inform the person of the requirements it made under subsection (1) in relation to the proposed work; and

(b) approve or not approve the proposed work.

(5) A person who receives approval from the electricity entity for the proposed work must comply with:

(a) any reasonable requirement the person was informed of by the electricity entity in relation to the proposed work;

(b) any requirement prescribed by regulation applicable to the proposed work.

Division 5 Certificate of compliance

41 Certificate of compliance

(1) Subject to subsection (3), a person who conducts electrical work must complete a ***certificate of compliance*** that certifies that:

(a) the electrical work was tested to be safe from electrical risk; and

(b) the electrical work complies with this Act and any standards prescribed or adopted by regulation.

(2) The certificate of compliance must:

(a) be in the approved form; and

(b) include the information prescribed by regulation.

(3) If the person who conducts the electrical work is employed or engaged to carry out the work by the holder of an electrical contractor licence and is not authorised to complete a certificate of

compliance, the holder of the licence must complete the certificate instead of the person who conducts the electrical work.

(4) The certificate must, within 20 business days after completing the work, be given to the following:

(a) the owner and occupier of the place where the work was performed;

(b) the person, other than the owner or occupier, for whom the work was performed;

(c) if the work is performed under Division 4 – the operator of the electricity network;

(d) if the work is in-house electrical work carried out under the authority of an in-house electrical licence – the holder of the in-house electrical licence;

(e) the Electrical Safety Regulator.

(5) The person who completes the certificate of compliance must retain the certificate for a period of at least 5 years from the date it was completed.

(6) If the work is in-house electrical work carried out under the authority of an in-house electrical licence, the holder of the in-house electrical licence must retain the certificate for the shorter of the following periods:

(a) the period of 30 years from the date it was signed;

(b) the period beginning on the day it was signed and ending on the day the place or electrical installation for which the work was performed is decommissioned;

(c) any other period specified by the Electrical Safety Regulator.

(7) The Electrical Safety Regulator must retain the certificate for 30 years.

42 Exemption from certificate of compliance requirements

(1) Despite section 41, a certificate of compliance is not required in the following circumstances:

(a) maintenance work;

(b) electrical installing work that is associated with the installation of a temporary builder's supply;

(ba) electrical work that consists of the replacement of an existing electrical fitting or appliance with a similar electrical fitting or appliance, at the same location, that does not materially differ in function to, or draw higher electrical load than, the existing electrical fitting or appliance;

(c) electrical work exempted by the Electrical Safety Regulator under subsection (2).

Example for subsection (1)(ba)

A material difference in function for an electrical fitting or appliance would include a need to install an additional conductor or circuit protector, but would not include a need to cut or strip an existing wire to connect the new fitting or appliance to the electrical installation.

(2) The Electrical Safety Regulator may, on application or on the Electrical Safety Regulator's own initiative, exempt specific electrical work or a specific place from the requirement to complete and sign a compliance certificate under section 41.

(3) An exemption may be granted if:

(a) the work or place are eligible for exemption under the regulations; or

(b) the Electrical Safety Regulator is satisfied that the exemption will not create an electrical risk.

(4) The exemption may be subject to any conditions that the Electrical Safety Regulator considers appropriate.

(5) A person conducting electrical work under an exemption must comply with any conditions of the exemption.

(6) In this section:

temporary builder's supply means a self-contained switchboard that:

(a) is mounted on a pole or stand; and

(b) is relocatable; and

(c) is connected to a single phase supply; and

(d) has no sub mains connected; and

(e) consists of a meter, a service protective device, a residual current device and socket outlets for electrical appliances used for building purposes.

Division 6 Offences and penalties

43 Reckless conduct – category 1

(1) A person commits a ***category 1 offence*** if:

(a) the person has an electrical safety duty; and

(b) the person intentionally engages in conduct; and

(c) that conduct results in a risk to an individual of death, serious injury or serious illness caused directly by electricity or originating from electricity; and

(d) the person is reckless in relation to that result.

Maximum penalty:

(a) for an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 2 000 penalty units or imprisonment for 5 years or both; or

(b) for an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 4 000 penalty units or imprisonment for 5 years or both; or

(c) for a body corporate – 20 000 penalty units.

(2) Strict liability applies to subsection (1)(a).

44 Failure to comply with electrical safety duty – category 2

(1) A person commits a ***category 2 offence*** if:

(a) the person has an electrical safety duty; and

(b) the person intentionally engages in conduct; and

(c) that conduct results in a risk to an individual of death, serious injury or serious illness caused directly by electricity or originating from electricity.

Maximum penalty:

(a) for an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 1 000 penalty units; or

(b) for an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 2 000 penalty units; or

(c) for a body corporate – 10 000 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

45 Failure to comply with electrical safety duty – category 3

(1) A person commits a ***category 3 offence*** if:

(a) the person has an electrical duty; and

(b) the person fails to comply with that duty.

Maximum penalty:

(a) for an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 320 penalty units; or

(b) for an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking – 650 penalty units; or

(c) for a body corporate – 3 200 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) The maximum penalty of 650 penalty units under subsection (1) for an officer only applies in relation to a duty imposed under sections 23 to 34.

46 Exemption for volunteer

A volunteer is exempt from an offence against this Division for failing to comply with an electrical safety duty, except a duty under section 33 or 35.

Note for section 46

The defendant has an evidential burden in relation to this exemption (see section 43BU of the Criminal Code).

47 Offences in relation to events

(1) A person commits an offence if:

(a) a serious electrical event or dangerous electrical event occurs; and

(b) the person must report the event under section 37; and

(c) the person fails to report the event immediately in accordance with section 37 after becoming aware that the event occurred.

Maximum penalty: 100 penalty units.

(2) A person commits an offence if:

(a) the person has management or control of a place; and

(b) a serious electrical event or dangerous electrical event occurs at the place; and

(c) the person fails to do all that was reasonably practicable to preserve the site of the event in accordance with section 38.

Maximum penalty: 100 penalty units.

(3) A person commits an offence if:

(a) a serious electrical event or dangerous electrical event occurs; and

(b) the person must record the event in accordance with section 37(8); and

(c) the person fails, after becoming aware of the event, to keep a record of the event for a period of 5 years after the event occurred.

Maximum penalty: 50 penalty units.

(4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

48 Offences in relation to certificates

(1) A person commits an offence if:

(a) the person:

(i) conducts electrical work; or

(ii) employs a person who conducts electrical work; and

(b) the person is required to complete, give or retain a certificate of compliance under section 41 but the person fails to do so; and

(b) the person fails to complete, sign and give a certificate of compliance in accordance with section 41; and

(c) the person has no exemption under section 42.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if:

(a) the person completes or gives a certificate of compliance under section 41; and

(b) any information in the certificate is false.

Maximum penalty: 100 penalty units.

(3) A person commits an offence if:

(a) the person completes a certificate of compliance in relation to electrical work; and

(b) the person did not conduct the electrical work or is not the holder of an electrical contractor licence who employed the person who conducted the electrical work.

Maximum penalty: 100 penalty units.

(4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

Part 3 Licences

Division 1 Requirements for licences

49 Types of licences

(1) The following types of licences are established under this Act:

(a) an electrical work licence;

(b) an electrical contractor licence;

(c) an in-house electrical licence.

(2) The regulations may prescribe different classes of licences depending on the nature of the electrical work.

(3) The holder of a licence is restricted to the nature of electrical work authorised by this Act, the regulations and the licence.

50 Electrical work licence

(1) A person must hold an ***electrical work licence*** to perform or supervise electrical work.

(2) Only an individual may hold an electrical work licence.

(3) An electrical work licence is not required for the following:

(a) to perform or supervise electrical work for the purpose of installing or repairing telecommunications cabling;

(b) to supervise electrical work while the individual is practising as an electrical engineer;

(c) to perform or supervise electrical work as part of the testing of electrical equipment that the individual is authorised to do by regulation;

(d) to perform electrical work, as an apprentice registered under section 62, in a calling that requires the apprentice to perform electrical work;

(e) to perform electrical work, as a trainee holding a trainee permit under section 63, in a calling that requires the trainee to perform electrical work of a type prescribed by regulation;

(f) to perform electrical work, as a student, as part of training under the supervision of teaching staff at:

(i) a university; or

(ii) a college, school or similar institution conducted or approved by an Agency of the Territory or a department or agency of the Commonwealth.

(4) The conditions and restrictions of electrical work licences are prescribed by regulation.

51 Electrical contractor licence

(1) A person requires an ***electrical contractor licence*** to conduct a business or undertaking that:

(a) performs electrical work; or

(b) advertises, notifies or states that the person, business or undertaking performs electrical work; or

(c) contracts for the performance of electrical work, other than under a contract of employment; or

(d) represents to the public that the person, business or undertaking is willing to perform electrical work; or

(e) employs a worker to perform electrical work for anyone other than the person.

(2) An electrical contractor licence is not required for the following:

(a) electrical work performed by the holder of an electrical work licence if:

(i) the licence authorises electrical installation work, electric line work and electrical equipment work; and

(ii) the work is performed for the holder or an immediate relative of the holder at a place owned or occupied by the holder or an immediate relative;

(b) minor emergency repairs made by the holder of an electrical work licence referred to in paragraph (a)(i) to make electrical equipment safe from electrical risk;

(c) contracting for the performance of work that includes the performance of electrical work if the electrical work is intended to be subcontracted to the holder of an electrical contractor licence who is authorised under the licence to perform the electrical work;

(d) any work exempted by regulation.

(3) An electrical contractor licence does not authorise a person to perform electrical work without an electrical work licence.

(4) The conditions and restrictions of electrical contractor licences are prescribed by regulation.

(5) In this section:

immediate relative, in relation to a person, means a spouse, de facto spouse, parent, grandparent, child, grandchild, sibling or step-relative of the person.

52 In-house electrical licence

(1) An ***in-house electrical licence*** authorises the holder to conduct a business or undertaking that employs a worker to perform electrical work exclusively for the person.

(2) An in-house electrical licence does not authorise the holder to employ a person to perform electrical work without an electrical work licence.

(3) The conditions of in-house electrical licences are prescribed by regulation.

53 Register of engaged workers

(1) The holder of an electrical contractor licence or in-house electrical licence must keep a register of any worker engaged by the holder to perform or supervise electrical work.

(2) The register must include the prescribed information for each person engaged to perform or supervise electrical work.

(3) The prescribed information for each person must be kept until at least 5 years after the day the person ceased being engaged.

(4) The register may be kept in electronic form.

(5) The register must be available for immediate inspection by an inspector on request.

54 Information from engaged electrical worker

(1) For section 53, each worker engaged to perform or supervise electrical work by the holder of an electrical contractor's licence or in-house electrical licence must give the holder of the licence with the following information:

(a) the information regarding the worker's licence prescribed by regulation;

(b) any suspension, cancellation or surrender of the worker's licence;

(c) any expiry, without renewal, of the worker's licence;

(d) any amendment of the worker's licence that changes:

(i) the work or activities authorised to be performed under the licence; or

(ii) the conditions or restrictions imposed on the licence;

(e) any reinstatement of the worker's licence after its suspension;

(f) any other change to the worker's information in the register referred to in section 53.

(2) The worker must give the information referred to in subsection (1) by written notice as follows:

(a) in the case of the prescribed information referred to in subsection (1)(a) – on being engaged;

(b) in the case of the other information in subsection (1) – within 10 business days after the occurrence of the event.

Division 2 Application process

55 Application for licence

(1) A person may apply to the Electrical Safety Regulator for a licence.

(2) To be eligible for a licence, the person must meet the eligibility criteria prescribed by regulation for the licence.

(3) An application for a licence must:

(a) be in the approved form; and

(b) include any information and fee prescribed by regulation.

56 Application to renew licence

(1) The holder of a licence may apply to the Electrical Safety Regulator to renew the licence.

(2) A licence may be renewed within 1 year after its expiry.

Note for subsection (2)

After a year, a person must apply for a new licence instead of renewing the expired licence.

(3) An application to renew a licence must:

(a) be in the approved form; and

(b) include any information and fee prescribed by regulation.

(4) An expired licence is taken to be not in force for the period from the day it expired until the day it is renewed.

(5) A licence that is renewed after its expiry is in force from the date of its renewal.

(6) A licence cannot be renewed while:

(a) it is suspended; or

(b) the holder is disqualified from holding it.

57 Further information to support application

(1) The Electrical Safety Regulator may, by written notice, require an applicant for a licence to do any of the following:

(a) undergo an assessment of the applicant's competency to perform electrical work;

(b) give the Electrical Safety Regulator a document or further information reasonably required to decide the application.

Example of information for subsection (1)(b)

The person continues to hold public liability insurance of the required amount under a contract of insurance approved by the Electrical Safety Regulator.

(2) The Electrical Safety Regulator may, in the notice, require the applicant to verify the document or information by statutory declaration within a period of at least 15 business days as specified in the notice.

(3) The applicant must comply with the notice within the period specified in the notice.

(4) An applicant is taken to have withdrawn the application if the applicant does not comply with a requirement under subsection (1) or (2) within the period specified in the notice.

58 Issuing and renewing licences

(1) When issuing or renewing a licence, the Electrical Safety Regulator must consider any eligibility criteria required under this Act for the applicant.

(2) If the Electrical Safety Regulator proposes to refuse to issue or renew a licence, the Electrical Safety Regulator must give the applicant a written notice:

(a) advising the person of the proposed refusal; and

(b) stating the grounds for the proposed refusal; and

(c) inviting the applicant to show cause, within a specified period of at least 10 business days, why the application should not be refused.

(3) If the applicant wishes to show cause why the application should not be refused, the applicant must make written submissions to the Electrical Safety Regulator within the period specified in the notice.

(4) After considering any written submissions made by the applicant, the Electrical Safety Regulator must decide to:

(a) issue, or refuse to issue, the licence; or

(b) renew, or refuse to renew, the licence.

(5) The Electrical Safety Regulator must give the applicant a decision notice as soon as practicable after making a decision on the application.

Division 3 Other licence matters

59 Conditions and restrictions

When issuing or renewing a licence, the Electrical Safety Regulator may impose the conditions or restrictions the Electrical Safety Regulator considers necessary or desirable for the proper performance of electrical work.

Examples for section 59

1 A condition that the holder of a licence be insured.

2 A restriction that limits the electrical work that may be performed under the licence.

60 Compliance with conditions and restrictions

(1) The holder of a licence must comply with any condition or restriction imposed on the licence under this Act.

(2) A person commits an offence if the person:

(a) holds a licence; and

(b) intentionally engages in conduct; and

(c) the conduct results in contravention of a condition or restriction imposed on the licence under this Act; and

(d) the person is reckless in relation to that result.

Maximum penalty: 400 penalty units.

(3) Strict liability applies to subsection (2)(a).

61 Licence fees

The fees for applications relating to licences are prescribed by regulation.

Division 4 Apprentices, trainees and interstate licences

62 Registration of apprentices

(1) A person may apply to the Electrical Safety Regulator to be registered as an apprentice if the person:

(a) is an apprentice; and

(b) intends to perform work that requires an electrical work licence; and

(c) meets the eligibility criteria prescribed by regulation.

(2) An application for registration as an apprentice must:

(a) be in the approved form; and

(b) include any information and fee prescribed by regulation.

(3) The Electrical Safety Regulator must maintain a record of registered apprentices.

(4) A person registered as an apprentice may perform electrical work if:

(a) the person is under the direct supervision of a person who holds an electrical work licence; or

(b) the work is prescribed by regulation and the person is under the general supervision of a person who holds an electrical work licence.

63 Trainee permits

(1) A person may apply to the Electrical Safety Regulator for a trainee permit if the person:

(a) is a trainee; and

(b) intends to perform work that requires an electrical work licence; and

(c) meets the eligibility criteria prescribed by regulation.

(2) An application for a trainee permit must:

(a) be in the approved form; and

(b) include any information and fee prescribed by regulation.

(3) The Electrical Safety Regulator must maintain a record of the holders of trainee permits.

(4) A person holding a trainee permit may perform electrical work if:

(a) the person is under the direct supervision of a person who holds an electrical work licence; or

(b) the work is prescribed by regulation and the person is under the general supervision of a person who holds an electrical work licence.

64 Recognition of interstate licences

(1) A licence, permit, certificate or other authority issued under a law of a State or another Territory substantially corresponding to this Act is taken to be equivalent to an electrical work licence if:

(a) it authorises work of a type authorised by an electrical work licence; and

(b) it is recognised under the regulations as equivalent to an electrical work licence.

(2) The holder of a licence, permit, certificate or other authority taken to be equivalent under subsection (1) may be used, instead of an electrical work licence, if the holder:

(a) gives the Electrical Safety Regulator prior written notice; and

(b) resides outside the Territory; and

(c) does not remain in the Territory for more than 6 months during any 12 month period; and

(d) does not perform more than 120 days of electrical work in the Territory during any 12 month period.

(3) To avoid doubt, the provisions of this Act applicable to the holder of an electrical work licence apply in relation to the holder of a licence, permit, certificate or other authority taken to be equivalent under subsection (1).

Division 5 Offences

65 Electrical worker offences

(1) A person commits an offence if the person:

(a) intentionally performs electrical work or supervises another person performing electrical work; and

(b) the electrical work requires the person to hold an electrical work licence and the person is reckless in relation to that circumstance; and

(c) the person does not hold an electrical work licence.

Maximum penalty: 500 penalty units.

(2) Strict liability applies to subsection (1)(c).

66 Electrical contractor offences

(1) A person commits an offence if:

(a) the person intentionally conducts a business or undertaking; and

(b) the business or undertaking requires the person to hold an electrical contractor licence and the person is reckless in relation to that circumstance; and

(c) the person does not hold an electrical contractor licence.

Maximum penalty: 500 penalty units.

(2) Strict liability applies to subsection (1)(c).

(3) A person commits an offence if:

(a) the person intentionally conducts a business or undertaking; and

(b) the business or undertaking requires the person to hold an electrical contractor licence and the person is reckless in relation to that circumstance; and

(c) a worker carries out work for the business or undertaking that requires the worker to hold an electrical work licence and the person is reckless in relation to that circumstance; and

(d) the worker does not hold an electrical work licence that authorises the work.

Maximum penalty: 500 penalty units.

(4) Strict liability applies to subsection (3)(d).

67 In-house contractor offence

(1) A person commits an offence if:

(a) the person intentionally conducts a business or undertaking; and

(b) the business or undertaking requires the person to hold an in-house electrical licence and the person is reckless in relation to that circumstance; and

(c) the person does not hold an in-house electrical licence.

Maximum penalty: 500 penalty units.

(2) Strict liability applies to subsection (1)(c).

(3) A person commits an offence if:

(a) the person intentionally conducts a business or undertaking; and

(b) the business or undertaking requires the person to hold an in-house electrical licence and the person is reckless in relation to that circumstance; and

(c) a worker carries out work for the business or undertaking that requires the worker to hold an electrical work licence and the person is reckless in relation to that circumstance; and

(d) the worker does not hold an electrical work licence that authorises the work.

Maximum penalty: 500 penalty units.

(4) Strict liability applies to subsection (3)(d).

68 Offences related to register of engaged workers

(1) A person commits an offence if:

(a) the person conducts a business or undertaking that requires the person to hold an electrical contractor licence or an in-house electrical licence; and

(b) the person fails to keep, or make available for inspection, the register in accordance with this section 53.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if:

(a) the person is a worker performing or supervising electrical work for an electrical contractor; and

(b) the person fails to give the electrical contractor the information required under section 54(1)(a), (b), (c), (d) or (f) within the time required by section 54(2).

Maximum penalty: 50 penalty units.

(3) An offence against subsection (1) or (2) is an offence of strict liability.

Part 4 Safety of electrical equipment and supply

Division 1 Safety of consumer electrical equipment

69 Consumer electrical equipment

(1) The Electrical Safety Regulator may, by written declaration, specify as ***consumer electrical equipment*** any low voltage electrical equipment that is classified as level 2 equipment or level 3 equipment under the Joint Australian/New Zealand Standard *AS/NZS 4417.2 (Regulatory compliance mark for electrical and electronic equipment)*, Annex B.4, as amended from time to time.

(2) The declaration must be published on the Electrical Safety Regulator's website.

70 Approved consumer electrical equipment

(1) Consumer electrical equipment is approved for use in the Territory if it is approved, certified or registered under a law that:

(a) is enacted in a State, another Territory or New Zealand; and

(b) provides for the safety of consumer electrical equipment; and

(c) is prescribed by regulation.

Note for subsection (1)

The Territory will not be directly approving consumer electrical equipment.

(2) The approval of consumer electrical equipment is taken to be cancelled under this Act if its approval, certification or registration is cancelled or terminated by or under the law referred to in subsection (1).

71 Selling or supplying unapproved consumer electrical equipment

(1) A person must not sell or supply consumer electrical equipment unless it is approved for use in the Territory.

(2) A person commits an offence if:

(a) the person sells or supplies consumer electrical equipment; and

(b) the consumer electrical equipment is not approved for use in the Territory.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the consumer electrical equipment is used equipment and labelled in accordance with section 76.

(5) A person commits an offence if:

(a) the person intentionally sells or supplies consumer electrical equipment; and

(b) the person intentionally represents that consumer electrical equipment is approved; and

(c) the consumer electrical equipment is not approved for use in the Territory and the person has knowledge of that circumstance.

Maximum penalty: 500 penalty units.

72 Marked consumer electrical equipment

Consumer electrical equipment is taken to be marked for use in the Territory if it is marked to show the equipment complies with a standard relevant to electrical safety in accordance with a law that:

(a) is enacted in a State, another Territory or New Zealand; and

(b) provides for the safety of consumer electrical equipment; and

(c) is prescribed by regulation.

73 Selling or supplying unmarked consumer electrical equipment

(1) A supplier must not sell or supply consumer electrical equipment

unless it is marked for use in the Territory.

(2) A person commits an offence if:

(a) the person is a supplier of consumer electrical equipment; and

(b) the person sells or supplies consumer electrical equipment; and

(c) the consumer electrical equipment is not marked for use in the Territory.

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant did all that was reasonably practicable to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to the defence under subsection (4).

74 Selling falsely marked consumer electrical equipment

(1) A supplier must not sell consumer electrical equipment that is marked for use in the Territory but does not comply with the standard for which it is marked.

(2) A person commits an offence if:

(a) the person is a supplier of consumer electrical equipment; and

(b) the person sells consumer electrical equipment; and

(c) the consumer electrical equipment is marked to indicate that it complies with a standard relevant to electrical safety; and

(d) the consumer electrical equipment does not comply with that standard.

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant did all that was reasonably practicable to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to the defence under subsection (4).

75 Falsely marking consumer electrical equipment

(1) A person must not mark consumer electrical equipment to indicate that is marked for use in the Territory but does not comply with the standard for which it is marked.

(2) A person commits an offence if:

(a) the person marks consumer electrical equipment; and

(b) the mark indicates that the consumer electrical equipment complies with a standard relevant to electrical safety; and

(c) the consumer electrical equipment does not comply with that standard.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant did all that was reasonably practicable to prevent the commission of the offence.

(5) The defendant has a legal burden of proof in relation to the defence under subsection (4).

76 Used consumer electrical equipment

(1) A person must not sell used consumer electrical equipment unless a label is attached to the equipment that:

(a) if the equipment was not tested for electrical safety – warns potential buyers that the equipment was not tested for electrical safety; or

(b) if the equipment was tested by a qualified person to be safe from electrical risk – advises potential buyers that the equipment is safe from electrical risk.

Note for subsection (1)(b)

The equipment must not be sold if it was tested by a qualified person and found to be not safe from electrical risk.

(2) A person commits an offence if:

(a) the person sells consumer electrical equipment; and

(b) the consumer electrical equipment has been used before the sale; and

(c) the consumer electrical equipment is not labelled in accordance with subsection (1).

Maximum penalty: 100 penalty units.

(3) A person commits an offence if:

(a) the person sells consumer electrical equipment; and

(b) the consumer electrical equipment is used; and

(c) the consumer electrical equipment is not labelled advising potential buyers that the equipment was:

(i) not tested by a qualified person; or

(ii) tested by a qualified person and is safe from electrical risk.

Maximum penalty: 50 penalty units.

(4) An offence against subsection (2) or (3) is an offence of strict liability.

(5) In this section:

qualified person means a person who is qualified in accordance with the regulations.

Division 2 Safety management and mitigation plans

77 Requirement for safety management and mitigation plan

(1) An electricity entity must not generate electricity or operate an electricity network unless:

(a) it prepares a safety management and mitigation plan for the entity; and

(b) the plan is approved by the Electrical Safety Regulator.

(2) A ***safety management and mitigation plan*** is a written document that sets out the following:

(a) the hazards and risks associated with:

(i) the design and construction of the electricity infrastructure of the electricity entity before its operation; and

(ii) the operation and maintenance of the electricity

infrastructure;

(b) how the electricity entity will manage the hazards and risks to ensure that its electrical safety obligations are properly discharged;

(c) what the electricity entity will do to ensure that contractors performing electrical and other work for the entity comply with the requirements of the safety management and mitigation plan;

(d) any other matters prescribed by regulation.

(3) The safety management and mitigation plan must be prepared by the electricity entity in consultation with:

(a) persons who are broadly representative of industrial organisations of employees whose members are employees of the entity; and

(b) principal or primary contractors with the entity for the performance of electrical work and other work for the entity.

(4) The electricity entity must have the safety management and mitigation plan assessed on whether it meets the requirements of subsection (2).

(5) The assessment must be conducted in accordance with the regulations by a competent and independent third party who prepares a written report to the electricity entity on the assessment.

(6) In this section:

competent means having the skills, qualifications and experience to assess whether the safety management and mitigation plan meets the requirements of subsection (2).

78 Approval of safety management and mitigation plan

(1) The safety management and mitigation plan and the report prepared under section 77(5) must be submitted to the Electrical Safety Regulator as soon as practicable after the electricity entity is granted a licence by the Utilities Commission under the *Electricity Reform Act 2000*.

(2) The Electrical Safety Regulator may approve a safety management and mitigation plan submitted by an electricity entity if satisfied that:

(a) the plan was prepared in accordance with this Act; and

(b) the plan was assessed in accordance with section 77(4) and (5); and

(c) the plan meets the requirements of section 77(2).

(3) The Electrical Safety Regulator must give the electricity entity a decision notice if it approves or refuses to approve its safety management and mitigation plan.

(4) Approval under subsection (2) is valid for 3 years from the date of the decision notice.

(5) If the Electrical Safety Regulator refuses to approve a safety management and mitigation plan, the Electrical Safety Regulator may give the electricity entity guidance on submitting a plan that complies.

79 Implementation of safety management and mitigation plan

The electricity entity must implement and comply with the safety management and mitigation plan as approved by the Electrical Safety Regulator.

80 Review and assessment of safety management and mitigation plan

(1) An electricity entity with a safety management and mitigation plan approved by the Electrical Safety Regulator must, in accordance with the regulations:

(a) review the plan every year; and

(b) have the plan assessed in accordance with section 77(4) and (5) at least every 3 years.

(2) The electricity entity must make any changes or improvements to its safety management and mitigation plan that the review or assessment determines are necessary to meet the requirements of section 77(2).

81 Subsequent approval

(1) Before the end of every 3 years from the previous date of approval of its safety management and mitigation plan by the Electrical Safety Regulator, the electricity entity must resubmit its plan to the Electrical Safety Regulator for approval.

(2) The Electrical Safety Regulator may approve a safety management and mitigation plan submitted by an electricity entity if satisfied that:

(a) the plan was assessed in accordance with section 77(4) and (5); and

(b) the plan meets the requirements of section 77(2).

(3) The Electrical Safety Regulator must give the electricity entity a decision notice if it approves or refuses to approve its safety management and mitigation plan.

(4) Approval under subsection (2) is valid for 3 years.

(5) The Electrical Safety Regulator may grant the electricity entity an extension to the 3-year period required under subsection (1) if satisfied that the extension is justified.

82 Offences related to safety management and mitigation plan

(1) A person commits an offence if the person:

(a) is an electricity entity; and

(b) has no safety management and mitigation plan currently approved by the Electrical Safety Regulator; and

(c) intentionally generates electricity or operates an electricity network.

Maximum penalty for a body corporate: 2 000 penalty units.

(2) A person commits an offence if:

(a) the person is an electricity entity; and

(b) the person's safety management and mitigation plan was approved by the Electrical Safety Regulator; and

(c) the person intentionally engages in conduct; and

(d) that conduct results in failure to implement or comply with the safety management and mitigation plan; and

(e) the person is reckless in relation to that result.

Maximum penalty for a body corporate: 2 000 penalty units.

(3) A person commits an offence if:

(a) the person is an electricity entity; and

(b) the person's safety management and mitigation plan was approved by the Electrical Safety Regulator; and

(c) the person intentionally engages in conduct; and

(d) that conduct results in failure to review or have the safety management and mitigation plan assessed in accordance with section 80(1), including any extension granted under section 81(5); and

(e) the person is reckless in relation to that result.

Maximum penalty for a body corporate: 2 000 penalty units.

(4) Strict liability applies to subsections (1)(a) and (b), (2)(a) and (b) and (3)(a) and (b).

Division 3 Electrical safety of supply

83 Retailer information

(1) A retailer must give the Electrical Safety Regulator the information prescribed by regulation that the retailer holds about:

(a) a place in the Territory to which the retailer provides customer retail services; and

(b) the persons who are customers of the retailer and who own or occupy that place.

(2) The information must be provided in the manner and at the times the Electrical Safety Regulator reasonably requires.

(3) The Electrical Safety Regulator and an inspector may only use information given under subsection (1) for administering and enforcing this Act.

84 Unauthorised connections

(1) A person must not connect an electrical installation to a distribution entity's distribution system unless:

(a) authorised to do so by the distribution entity; and

(b) a certificate of compliance is signed for the connection in accordance with Part 2, Division 5.

(2) A person commits an offence if:

(a) the person intentionally connects an electrical installation to a distribution entity's distribution system; and

(b) the person does not have authority from the distribution entity

to make the connection.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(3) A person commits an offence if:

(a) the person intentionally connects an electrical installation to a distribution entity's distribution system; and

(b) a certificate of compliance was not signed for the connection in accordance with Part 2, Division 5.

Maximum penalty: 100 penalty units.

(4) Strict liability applies to subsections (2)(b) and (3)(b).

85 Interference with electricity infrastructure

(1) A person commits an offence if:

(a) the person intentionally interferes with electricity infrastructure, including:

(i) attaching electrical equipment or another thing to an electricity network; or

(ii) disconnecting or interfering with a supply of electricity from an electricity network; and

(b) the person does not have authority from the electricity entity, the owner of the infrastructure, the distributor or the Electrical Safety Regulator to engage in that conduct and is reckless in relation to that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person intentionally engages in any of the following conduct:

(i) being in an enclosure where electricity infrastructure of an electricity entity is situated;

(ii) climbing on poles or other structures that are part of the electricity infrastructure of an electricity entity; and

(b) the person does not have authority from the electricity entity, the distributor or the Electrical Safety Regulator to engage in

that conduct and is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

(3) A person commits an offence if the person intentionally discharges, throws or projects an object towards the electricity infrastructure of an electricity entity or an electrical installation.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

86 Abstracting or diverting electricity

(1) A person commits an offence if:

(a) the person intentionally engages in any of the following conduct:

(i) abstracts or diverts electricity from an electricity network or other person;

(ii) interferes with a meter supplied by an electricity entity; and

(b) the person does not have approval of the electricity entity responsible for the electricity network or the other person to engage in that conduct.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

(3) A person commits an offence if:

(a) the person is not an electricity entity; and

(b) the person possesses an electric line that is ready and able to convey an electricity supply beyond the boundaries of property occupied by the person; and

(c) the line is not authorised by regulation; and

(d) the person does not have the approval of the electricity entity responsible for the electricity network to engage in that conduct.

Maximum penalty: 50 penalty units.

(4) A person commits an offence if:

(a) the person is not an electricity entity; and

(b) the person installs a line capable of conveying an electricity supply beyond the boundaries of property occupied by the person; and

(c) the line is not authorised by regulation; and

(d) the person does not have the approval of the electricity entity responsible for the electricity network to engage in that conduct.

Maximum penalty: 100 penalty units.

(5) An offence against subsection (3) or (4) is an offence of strict liability.

(6) An electricity entity may recover compensation for the loss or damage it suffers from a person found guilty of an offence against subsection (1) or (4).

(7) The electricity entity may recover the compensation either:

(a) on application to a Court that finds a person guilty of an offence against subsection (1) or (4); or

(b) by action in NTCAT or a Court of competent jurisdiction.

87 Unauthorised increase in capacity of connections

(1) A person must not increase the capacity of an existing connection to a distribution entity's distribution system unless authorised to do so by the distribution entity.

(2) A person commits an offence if:

(a) the person intentionally increases the capacity of a connection between an electrical installation and a distribution entity's distribution system; and

(b) the person did not have authority from the distribution entity to make the increase.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsection (2)(b).

88 Unauthorised alterations and additions to electrical installations

(1) A person must not alter or add to an electrical installation that is connected to a distribution entity's distribution system so as to cause the supply of electricity to the installation or any part of it to be incorrectly metered unless authorised to do so by the distribution entity.

(2) A person commits an offence if:

(a) the person intentionally alters or adds to an electrical installation; and

(b) the electrical installation is connected to a distribution entity's distribution system; and

(c) the alteration or addition causes the supply of electricity to the installation or any part of it to be incorrectly metered; and

(d) the person did not have authority from the distribution entity to make the alteration or addition.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsection (2)(b), (c) and (d).

Division 4 Interference with powerlines

89 Clearance of vegetation

(1) Subject to the *Electricity Reform Act 2000* and the *Planning Act 1999*, the Electrical Safety Regulator may establish guidelines on the clearance from powerlines of vegetation on land to prevent the vegetation from creating an electrical risk.

Note for subsection (1)

Permits are needed to clear native vegetation under those Acts.

(2) The guidelines must be published on the Electrical Safety Regulator's website.

(3) A distribution entity may establish requirements for the clearance of vegetation on land from its powerlines to prevent the vegetation from creating an electrical risk.

(4) A distribution entity must notify its customers of its requirements for the clearance of vegetation.

(5) The owner or occupier of land must do all that is reasonably practicable to keep vegetation on the land clear of any powerline in accordance with all of the following:

(a) any requirements prescribed by regulation;

(b) any guidelines established by the Electrical Safety Regulator;

(c) any requirements established by the distribution entity for the owner or occupier.

(6) A person commits an offence if:

(a) the person is the owner or occupier of land; and

(b) the person fails to comply with subsection (5).

Maximum penalty: 100 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

90 Remedial action to clear vegetation

(1) An electricity officer on behalf of an electricity entity may enter land to which the entity supplies electricity, without the consent of the owner or occupier, and do all that is reasonably practicable to keep vegetation on the land clear of any powerline if:

(a) the owner or occupier fails to comply with section 89(5); or

(b) the vegetation creates an electrical risk.

(2) An electricity entity may recover any costs it incurs in clearing the vegetation under subsection (1) as a debt due from the owner or occupier of the land, other than land owned or occupied by the Territory.

(3) An electricity entity is not liable for any loss or damage suffered by another person that is caused by the electricity entity not taking action under subsection (1).

91 Erecting building or structure in proximity to powerline

(1) A person must not erect a building or structure in proximity to a powerline contrary to a safety requirement prescribed by regulation.

(2) The Electrical Safety Regulator may exempt a person from a safety requirement referred to in subsection (1) if:

(a) the powerline is situated on a public road; and

(b) the powerline is constructed to operate at a voltage of not more than 66kV; and

(c) the exemption creates no electrical risk.

(3) An exemption under section (1) may:

(a) be general or specific; and

(b) be subject to conditions.

(4) A person commits an offence if:

(a) the person intentionally erects a building or structure; and

(b) the proximity of the building or structure to a powerline is within a distance prescribed by regulation; and

(c) the building or structure contravenes a safety requirement prescribed by regulation; and

(d) no exemption is given under subsection (2).

Maximum penalty: 100 penalty units.

(5) Strict liability applies to subsection (4)(b), (c) and (d).

92 Remedial order

(1) An electricity entity may seek an order from a Court under this section if a person erects a building or structure in proximity to a powerline in contravention of section 91.

(2) The order may be obtained:

(a) on application to a Court that finds the person guilty of an offence against section 91(4); or

(b) by action in a Court of competent jurisdiction.

(3) The Court may make one or more of the following orders:

(a) an order requiring the person to take specified action to remove or modify the building or structure within a specified period;

(b) an order for compensation from the person for loss or damage caused by the contravention;

(c) an order for costs reasonably incurred by the electricity entity in relocating the powerline or carrying out other work to rectify

the contravention.

93 Proposed work in proximity to electricity infrastructure

(1) An electricity entity may make reasonable requirements for:

(a) the protection of its electricity infrastructure; and

(b) the safety of persons carrying out work in proximity to its electricity infrastructure.

(2) A person who proposes to do work in proximity to the electricity infrastructure of an electricity entity must give the electricity entity written notice of the proposed work if:

(a) there is a risk of equipment or a structure coming into dangerous proximity to electrical conductors; or

(b) the work may affect the support for any part of the electricity infrastructure; or

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

(3) The notice must be given at least 24 hours before the proposed work begins and specify:

(a) the nature of the work to be conducted; and

(b) the place where the work is to be conducted; and

(c) any other information the electricity entity requires to protect its electricity infrastructure and the safety of the persons carrying out the work.

(4) On receipt of a notice under subsection (2), the electricity entity must inform the person of the requirements it made under subsection (1) in relation to the proposed work.

(5) A person who does work in proximity to electricity infrastructure of an electricity entity must comply with:

(a) any reasonable requirement the person was informed of by the electricity entity in relation to the proposed work; and

(b) any requirement prescribed by regulation applicable to the proposed work.

94 Offences related to work in proximity to electricity infrastructure

(1) A person commits an offence if the person fails to give a notice in accordance with section 93(2) and (3).

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if:

(a) an emergency exists and it is not practicable to give the notice before beginning the work; and

(b) the notice is given as soon as reasonably practicable after beginning the work.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

(4) A person commits an offence if:

(a) the person does work in proximity to electricity infrastructure of an electricity entity; and

(b) the work does not comply with:

(i) the requirements prescribed by regulation applicable to the work; or

(ii) any reasonable requirement the person was informed of in advance by the electricity entity in relation to the proposed work.

Maximum penalty: 25 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

Part 5 Administration

Division 1 Electrical Safety Regulator

95 Appointment

(1) The Minister must, in writing, appoint an Electrical Safety Regulator.

(2) The Electrical Safety Regulator holds office for a term not longer than 5 years specified in the appointment, and is eligible for reappointment.

96 Functions and powers

(1) The Electrical Safety Regulator has the following functions:

(a) to support the activities of the Board;

(b) to act as the chairperson of the Board;

(c) to advise the Minister on electrical safety matters generally;

(d) to report on the operation and effectiveness of this Act;

(e) to monitor and enforce compliance with this Act;

(f) to provide advice and information on electrical safety to the holders of licences and to the community;

(g) to administer licences;

(h) to give approvals and authorisations for the purposes of this Act;

(i) any other function conferred on the Electrical Safety Regulator under this Act or any other Act.

(2) The Electrical Safety Regulator must act independently when making a decision under this Act but is otherwise subject to direction in the person's capacity as a public sector employee.

97 Powers of Electrical Safety Regulator

(1) The Electrical Safety Regulator has the powers necessary to perform the Electrical Safety Regulator's functions.

(2) The Electrical Safety Regulator has all the powers of an inspector.

98 Delegation by Electrical Safety Regulator

The Electrical Safety Regulator may delegate any function or power of the Electrical Safety Regulator to the following:

(a) an inspector;

(b) a public sector employee;

(c) a person prescribed by regulation who has the skills, qualifications, training, experience and level of authority

appropriate to perform the function or exercise the power.

99 Power to require information

(1) The Electrical Safety Regulator may, by written notice, require a person to give the Electrical Safety Regulator a document, information or thing if the Electrical Safety Regulator believes on reasonable grounds that:

(a) the person has or is capable of giving the document, information or thing; and

(b) the document, information or thing:

(i) is relevant to a possible contravention of this Act; or

(ii) will help the Electrical safety Regulator monitor or enforce compliance with this Act.

(2) The notice may also require the person to do one or more of the following within a reasonable period specified in the notice:

(a) to verify the document, information or thing by statutory declaration;

(b) to appear before a person appointed by the Electrical Safety Regulator and answer questions about the document, information or thing.

(3) The notice must:

(a) specify the document, information or thing to be given; and

(b) specify the time, place and manner of giving the document, information or thing; and

(c) warn the person that a failure to comply with the requirement is an offence; and

(d) inform the person about the effects of sections 163 and 244; and

(e) inform the person that, if required to attend before another person to give information, the person may attend with a legal practitioner.

(4) A person to whom the notice is given must comply with the requirements of the notice.

100 Offence of failing to give information

(1) A person commits an offence if the person:

(a) is given a notice under section 99; and

(b) has or is capable of giving the document, information or thing required by the notice; and

(c) fails to comply with a requirement of the notice.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

101 Annual report

(1) The Electrical Safety Regulator must prepare and give the Minister an annual report on the Electrical Safety Regulator's operations during the financial year.

(2) The report must be given within 4 months after the end of each financial year.

(3) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after receiving it.

Division 2 Electrical Safety Board

102 Establishment

The Electrical Safety Board is established.

103 Functions of Board

The Board has the following functions:

(a) developing and maintaining a strategic plan for improving electrical safety;

(b) advising the Minister about electrical safety issues in the Territory, elsewhere in Australia and abroad;

(c) responding to issues the Minister refers to it;

(d) reviewing the efficacy of the provisions of this Act, the regulations, ministerial notices and codes of practice;

(e) promoting electrical safety in workplaces and in the community;

(f) giving advice and make recommendations to the Utilities Commission, on request, about the energy efficiency and performance of electrical equipment;

(g) taking disciplinary action under Part 6.

104 Composition of Board

(1) The Board consists of the following 8 members:

(a) the Electrical Safety Regulator, who is the chairperson of the Board;

(b) the following 7 members appointed by the Minister:

(i) a person to represent employers of electrical workers;

(ii) a person to represent electrical workers;

(iii) a person to represent the community;

(iv) a person to represent electrical entities;

(v) a person to represent the Territory;

(vi) a person to represent electrical training bodies;

(vii) a legal practitioner who has practiced for at least 3 years in the Territory.

(2) When appointing the members referred to in subsection (1)(b)(i) to (vi), the Minister must consider each person's practical experience and competence in relation to electrical safety.

105 Conditions of appointment to Board

(1) A member of the Board, other than the Electrical Safety Regulator, holds office on a part-time basis, for a term not longer than 3 years specified in the appointment, and is eligible for reappointment.

(2) A member of the Board, other than the Electrical Safety Regulator, is entitled to be paid the remuneration and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.

106 Acting members

In appointing a person as an acting member, the Minister must have regard to requirements of this Division for the composition of the Board and the person's competence and experience.

107 Times of Board meetings

(1) Subject to section 109(1)(d), meetingS of the Board are held at the call of the chairperson or the Minister.

(2) The Board must meet at least 4 times a year.

(3) The chairperson of the Board:

(a) may call a meeting of the Board at any time; and

(b) must call a meeting if requested by at least 3 other members.

(4) The Minister may call a meeting of the Board at any time.

108 Conduct of proceedings

(1) Subject to section 109(1)(a), a meeting of the Board is presided over by:

(a) the chairperson; or

(b) in the absence of the chairperson – another member elected by the members present.

(3) At a meeting of the Board:

(a) subject to section 109(1)(c), a quorum is 4 members; and

(b) a question is decided by a majority of the votes of the members present and voting; and

(c) each member present has a vote on each question to be decided and, if the votes are equal, the member presiding has an additional vote in the form of a casting vote.

(4) Subject to this Act, the Board may conduct its meetings and proceedings as it considers appropriate.

(5) Subject to section 109(2), a resolution may be made by the Board without a meeting if:

(a) at least half the members give written agreement to the resolution; and

(b) notice of the resolution is given under procedures approved by the Board.

109 Meetings and proceedings of Board relating to disciplinary action

(1) For a meeting, or part of a meeting, of the Board relating to disciplinary action the following applies:

(a) the legal member must preside;

(b) one of the following members of the Board must be present;

(i) the member appointed under section 104(1)(b)(i);

(ii) the member appointed under section 104(1)(b)(ii);

(c) a quorum is 3 members of the Board;

(d) a meeting may be held at the call of the legal member.

(2) A resolution of the Board in relation to disciplinary action may be made without a meeting if:

(a) at least 2 of the following members give written agreement to the resolution:

(i) the legal member;

(ii) the member appointed under section 104(1)(b)(i);

(iii) the member appointed under section 104(1)(b)(ii); and

(b) notice of the resolution is given under procedures approved by the Board.

(3) For any other proceeding of the Board in relation to disciplinary action, the legal member must be present.

Example for subsection (3)

A disciplinary hearing under section 134.

(4) In this section:

legal member means the member of the Board appointed under section 104(1)(b)(vii).

Division 4 General

115 Conflict of interests

(1) A member of the Board must disclose any personal interest in any matter being considered, or about to be considered, by the Board.

(2) The disclosure must:

(a) be made before the matter is considered by the Board; and

(b) explain the nature and extent of the personal interest and how it relates to the matter; and

(c) be recorded in the minutes of the Board when the disclosure is made.

(3) A member with a personal interest in a matter must not:

(a) be present when the Board considers the matter; or

(b) take part in a decision of the Board on the matter.

(4) For this section, a member has a personal interest in a matter if the member:

(a) has a direct or indirect financial interest in the matter; or

(b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter; or

(c) there is a reasonable possibility that the member's participation in the consideration of a matter will give an entity associated with the member a commercial advantage.

116 Vacancy in office

(1) The office of a member of the Board becomes vacant if:

(a) the member resigns by written notice given to the Minister; or

(b) the person is found guilty of an indictable offence, whether in the Territory or elsewhere; or

(c) the person:

(i) becomes bankrupt; or

(ii) applies to take the benefit of a law for the relief of bankrupt or insolvent debtors; or

(iii) compounds with creditors or makes an assignment of the person's remuneration for their benefit; or

(d) the Minister terminates the member's appointment.

(2) The Minister may end the appointment of a member of the Board, other than the Electrical Safety Regulator, if the member:

(a) is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the Board; or

(b) contravenes section 115; or

(c) is guilty of misbehaviour; or

(d) is physically or mentally incapable of satisfactorily performing the functions of the office.

117 Minutes

The Board must keep minutes of its proceedings.

118 Annual report

(1) The Board must prepare and give the Minister an annual report on the Board's operations during the financial year.

(2) The report must be given within 4 months after the end of each financial year.

(4) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after receiving it.

119 Approved forms

The Electrical Safety Regulator may approve forms for this Act.

120 Charges for services

(1) The Minister may, by *Gazette* notice, fix a fee for a service provided by the Electrical Safety Regulator in administering this Act and for which no fee is prescribed by regulation.

(2) The fee for the service must not be more than an amount that fairly represents the cost of providing the service.

Part 6 Disciplinary action

Division 1 Grounds for disciplinary action

121 Grounds for discipline – electrical work licence

(1) Each of the following is a ground for taking disciplinary action against the holder of an electrical work licence:

(a) the holder performs or supervises electrical work in a manner that is not safe from electrical risk;

(b) the holder performs or supervises electrical work and that work is not safe from electrical risk;

(c) the holder performs or supervises electrical work that results in an individual or property not being safe from electrical risk;

(d) the holder gives incorrect or misleading information in an application;

(e) the holder is no longer eligible, qualified or competent to hold the licence;

(f) the holder commits an offence against this Act;

(g) the holder contravenes a condition or restriction in the licence.

(2) To avoid doubt, disciplinary action may be taken under subsection (1) against the holder of a licence, permit, certificate or other authority taken to be equivalent to an electrical work licence under section 64.

122 Grounds for discipline – electrical contractor licence or in-house electrical licence

(1) Each of the following is a ground for taking disciplinary action against the holder of an electrical contractor licence or an in-house electrical licence:

(a) the holder performs or supervises electrical work in a manner that is not safe from electrical risk;

(b) the holder performs or supervises electrical work and that work is not safe from electrical risk;

(c) the holder performs or supervises electrical work that results in an individual or property not being safe from electrical risk;

(d) the holder failed to give a notice required under this Act about electrical work performed by the holder;

(e) the holder unreasonably delayed rectifying a fault in electrical work performed by the holder;

(f) the holder, or a worker of the holder, intentionally deceives, or attempts to deceive, an electricity entity or inspector by:

(i) concealing inferior work or materials used in electrical

work; or

(ii) making a statement about electrical work that is false or misleading in a material particular;

(g) the holder, or a worker of the holder, unlawfully breaks or tampers with a meter, control apparatus or fuse belonging to an electricity supplier or a seal attached to a meter or control apparatus;

(h) the holder, or a worker of the holder, connects an electrical installation, or part of an electrical installation, to a source of supply chargeable at a rate lower than the rate for which electricity supply to the electrical installation or part is chargeable, without the authority of the electricity supplier;

(i) the holder is a party to conduct, equivalent to one referred to in paragraph (a) to (h), engaged in by another person or knows of the conduct and does nothing about it;

(j) the holder gave incorrect or misleading information in an application;

(k) the holder is no longer eligible, qualified or competent to hold the licence;

(l) the holder commits an offence against this Act;

(m) the holder contravenes a condition or restriction included in the licence;

(n) the holder advises, causes or allows a person to perform electrical work, knowing the person is not authorised under this Act to perform the work.

(2) Each of the following is a ground for taking disciplinary action against a person who formerly held an electrical contractor licence:

(a) the person performed electrical work in a manner that was not safe from electrical risk;

(b) the person supervised electrical work that was performed negligently or incompetently.

123 Grounds for discipline – apprentices and trainees

Each of the following is a ground for taking disciplinary action against a person who is an apprentice or a trainee:

(a) the person gave incorrect or misleading information in an application;

(b) the person is no longer eligible, qualified or competent to be an apprentice or trainee;

(c) the person commits an offence against this Act;

(d) the person contravenes a condition or restriction on the apprenticeship or training.

124 Failure to pay penalty

To avoid doubt, failure to pay a penalty imposed as disciplinary action within the required time is a ground for disciplinary action.

125 No limitation period

Disciplinary action may be taken any time after the events that constitute the ground for taking disciplinary action.

Division 2 Nature of disciplinary action

126 Types of disciplinary action

(1) The Board may take one or more of the following ***disciplinary actions*** against the holder of a licence:

(a) cancel or amend the licence;

(b) suspend the licence;

(c) disqualify the holder from being eligible for a licence;

(d) disqualify the holder from holding a licence;

(e) reprimand or caution the holder;

(f) require the holder to correct a fault or defect in electrical work;

(g) require the holder to undergo further training;

(h) impose on the holder a penalty equivalent to not more than 100 penalty units.

(2) The Board may make disciplinary action subject to conditions.

Example for subsection (2)

Suspension continues until the person completes competency training.

(3) The Board may take the disciplinary action referred to in subsection

(1) against the holder of a licence, permit, certificate or other authority recognised under section 64.

127 Competency assessment

(1) The Board may, by written notice, require the holder of a licence to undergo an assessment of the holder's competency to perform electrical work if the Board believes on reasonable grounds the holder may not be eligible, qualified or competent to hold the licence.

(2) Before giving the notice under subsection (1), the Board must give the holder of the licence a written notice:

(a) advising the holder of the proposed assessment; and

(b) stating the grounds for the proposed assessment; and

(c) specifying the competencies that are proposed to be assessed; and

(d) inviting the holder to show cause, within a specified period of at least 10 business days, why the proposed assessment should not be required.

(3) If the holder of the licence wishes to show cause why the assessment should not be required, the holder must make written submissions to the Board within the period specified in the notice.

(4) After considering any written submissions made by the holder of the licence, the Board may give the notice or refuse to give the notice.

(5) The notice must:

(a) specify the period, of at least 20 business days, within which the holder of the licence must undergo the assessment; and

(b) specify the competencies that must be assessed; and

(c) specify the matters that must considered in the assessment; and

(d) include a decision notice for the decision.

(6) The assessment must be carried out by the Electrical Safety Regulator or a training organisation registered under the *Training and Skills Development Act 2016*.

(7) As soon as practicable after completing the assessment, the Electrical Safety Regulator or training organisation must:

(a) prepare a report about the assessment; and

(b) give a copy of the report to the Board and the holder of the licence who was assessed.

(8) A notice under this section may be included in a notice issued under Division 3.

128 Recovery of penalties

A penalty imposed as disciplinary action may be recovered as a debt due to the Territory.

Division 3 Procedure for taking disciplinary action

129 Complaints

(1) A person may make a complaint against a person who holds a licence, or is an apprentice or trainee, alleging that there are grounds for taking disciplinary action against the person.

(2) The complaint must:

(a) be made in the approved form; and

(b) state the name and contact details of the person making the complaint; and

(c) specify the ground for the complaint; and

(d) be signed by the complainant; and

(e) lodged with the Electrical Safety Regulator.

130 Investigation

(1) The Electrical Safety Regulator may investigate:

(a) a complaint lodged under section 129; or

(b) any other possible contravention that the Electrical Safety Regulator considers appropriate.

(2) The Electrical Safety Regulator may refuse to investigate a complaint if satisfied that:

(a) the complaint is trivial, frivolous or vexatious; or

(b) no grounds exist for the complaint.

(3) If the Electrical Safety Regulator investigates a complaint, the Electrical Safety Regulator must serve the person who is the subject of the complaint written notice of:

(a) the substance of the complaint; and

(b) the Electrical Safety Regulator's intention to investigate the complaint; and

(c) the person's right to respond to the complaint under subsection (4).

(4) The person may lodge a written response to the complaint with the Electrical Safety Regulator.

(5) The Electrical Safety Regulator must consider any response received from the person within 10 business days after the person was served with the notice referred to in subsection (3).

131 Action after investigation

(1) As soon as practicable after completing an investigation, the Electrical Safety Regulator must do one or more of the following:

(a) take no further action if satisfied that:

(i) there are no grounds or evidence to justify taking further action; or

(ii) the matter does not warrant taking further action;

(b) give a formal warning in relation to the complaint;

(c) mediate the complaint;

(d) issue any notice or direction available under Part 8 in relation to the complaint;

(e) enter into an enforceable undertaking in relation to the complaint;

(f) refer the matter to the Board for disciplinary action.

(2) The Electrical Safety Regulator must give a decision notice of the decision under subsection (1) to:

(a) the complainant; and

(b) the person who was the subject of the complaint.

132 Referral of disciplinary matter

(1) If the Electrical Safety Regulator refers a matter to the Board for disciplinary action, the referral must specify the following:

(a) a statement that disciplinary action is being commenced against the person;

(b) a summary of the grounds for the proposed disciplinary action;

(c) an outline of the facts and circumstances forming the basis for the proposed disciplinary action;

(d) a copy of all written material held by the Electrical Safety Regulator that is reasonably relevant to the proposed disciplinary action;

(e) a summary of the possible disciplinary action that may be taken against the person;

(f) a summary of the procedure for taking disciplinary action.

(2) The Electrical Safety Regulator must give the following to the person who is the subject of the referral:

(a) a copy of the referral;

(b) an invitation to the person to make, within a specified time, submissions to the Board in relation to the proposed disciplinary action.

Example for subsection (2)(b)

A submission that demonstrates that the person was not at fault.

(3) To avoid doubt, a referral may deal with more than one ground or set of facts and circumstances.

133 Notice of disciplinary hearing

(1) Before conducting a disciplinary hearing, the Board must give the person a written notice of the hearing.

(2) The notice of the disciplinary hearing must include the following:

(a) the time and place of the hearing;

(b) a statement whether the hearing will be on the written submissions and material or an oral hearing;

(c) a summary of the rights of the person to participate in the hearing.

(3) The time and place for the disciplinary hearing must be at least 10 business days after the day the notice is given to the person.

134 Disciplinary hearing

(1) The Board must conduct a disciplinary hearing into any matter referred to it by the Electrical Safety Regulator.

(2) Two or more related matters may be heard jointly or at the same time.

(3) The Board may hear a matter not referred to it but which arises from a matter that was referred to it.

(4) The Board may conduct a disciplinary hearing on the papers submitted, without an oral hearing if:

(a) the person against whom disciplinary action is being taken consents; or

(b) the Board is satisfied that the information and submissions provided is sufficient to make a just determination.

135 Participation at hearing

(1) The person against whom disciplinary action is being taken has a right to participate in a disciplinary hearing and to legal representation.

(2) A person who is not legally represented:

(a) is entitled to be supported by and to consult with another person during an oral hearing; and

(b) is not entitled to be represented by that other person.

(3) The person may give evidence and make submissions to the Board in relation to a disciplinary hearing.

136 Conduct of disciplinary hearing

(1) When conducting a disciplinary hearing, the Board must:

(a) comply with the rules of natural justice; and

(b) act as quickly and with as little formality and technicality as possible with appropriate consideration of the issues before it.

(2) The Board is not bound by the rules of evidence and may inform itself of anything in any manner it considers appropriate.

(3) The Board may make rules for the conduct of disciplinary hearings not inconsistent with this Act.

(4) The Board may adjourn a hearing at any time to make further enquiries or for another purpose.

(5) A disciplinary hearing is not open to the public unless the Board otherwise decides.

137 Record of disciplinary hearing

(1) The Board must keep a record of the evidence given and submissions made to it for a disciplinary hearing.

(2) The Board is not required to keep a transcript of a disciplinary hearing.

138 Board's decision

(1) On completing a disciplinary hearing, the Board must:

(a) dismiss the matter of the hearing if satisfied that there are no grounds for disciplinary action; or

(b) take disciplinary action against the person if satisfied that there are grounds to do so.

(2) The Board must give the person a decision notice that sets out the following:

(a) whether disciplinary action is imposed on the person;

(b) the disciplinary action that is imposed, if any;

(c) the reasons for the decision;

(d) a summary of the process for review of the decision.

(3) A copy of the decision notice must be given to any person who made a complaint that initiated the disciplinary action.

(4) Any disciplinary action imposed on a person takes effect on the later of the following:

(a) the day the decision notice is served on the person;

(b) the day specified in the decision notice.

(5) Notice of any disciplinary action imposed on a person must be published on the Electrical Safety Regulator's website.

Division 4 Immediate suspension of electrical work licence

139 Notice of immediate suspension

(1) The Electrical Safety Regulator may immediately suspend an electrical work licence if the Electrical Safety Regulator believes on reasonable grounds that the performance of electrical work under the licence:

(a) may have caused the death of an individual; or

(b) may have caused serious harm to an individual, based on the Criminal Code, section 1A, definition ***harm***; or

(c) may pose an imminent serious risk to the health or safety of an individual.

(2) The Electrical Safety Regulator may immediately suspend the recognition of a licence, permit, certificate or other authority recognised under section 64 for a reason referred to in subsection (1).

(3) The Electrical Safety Regulator must give written notice of the immediate suspension to:

(a) the holder of the licence; and

(b) the Board.

(4) The notice of immediate suspension must:

(a) state that the licence is suspended on the giving of the notice; and

(b) state the grounds for the immediate suspension; and

(c) summarise the possible disciplinary action that may be taken against the person; and

(d) summarise the procedure for taking disciplinary action, including that a disciplinary hearing will be conducted by the Board; and

(e) state that a copy of the notice is being given to the Board.

(5) The suspension takes effect immediately on the giving of the notice to the person.

(6) A licence may be suspended under this section regardless of whether disciplinary action is commenced against the holder of the licence.

(7) The Board may conduct a disciplinary hearing in relation to the immediate suspension in accordance with Division 3 if there are grounds to do so.

140 End of suspension

Subject to any decision of the Board after conducting a hearing, the immediate suspension of a licence under this Division ceases to have effect if no notice is given to the holder under section 133.

Part 7 Compliance measures

Division 1 Inspectors

141 Appointment of inspectors

(1) The Electrical Safety Regulator may appoint any of the following as an inspector:

(a) a public sector employee;

(b) a person who is a member of a class of persons prescribed by regulation.

(2) The Electrical Safety Regulator must not appoint a person to be an inspector unless satisfied that the person has the skills, qualifications, training and experience to properly perform the functions of an inspector.

(3) For subsection (2), the Electrical Safety Regulator may require that a person successfully complete a course of training specified by the Electrical Safety Regulator before the person may be appointed as an inspector.

142 Functions and powers of inspectors

An inspector has the following functions and powers under this Act:

(a) to provide information and advice about compliance with this Act;

(b) to promote electrical safety;

(c) to monitor and enforce compliance with this Act, including making inspections and issuing notices;

(d) to investigate contraventions of this Act and assist in the prosecution of offences;

(e) to perform any other functions assigned to an inspector under this Act or any other Act.

143 Limits on inspectors' powers

(1) An inspector's powers are subject to:

(a) any conditions specified in the inspector's appointment; and

(b) any direction given by the Electrical Safety Regulator.

(2) A direction referred to in subsection (1)(b) may be of a general nature or may relate to a specified matter or specified class of matter.

144 Identity card

(1) The Electrical Safety Regulator must give an inspector an identity card stating the person's name and that the person is an inspector.

(2) The identity card must:

(a) display a recent photograph of the inspector; and

(b) state the card's date of issue and expiry (if any); and

(c) be signed by the inspector.

(3) This section does not prevent the issue of a single identity card to a person for this and another Act.

145 Return of identity card

(1) A person who ceases to be an inspector must return the person's identity card to the Electrical Safety Regulator within 15 business days after the cessation.

(2) A person commits an offence if the person:

(a) ceases to be an inspector; and

(b) fails to return the person's identity card to the Electrical Safety Regulator within 15 business days after the cessation

Maximum penalty: 20 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

146 Producing identity card

(1) An inspector must carry the inspector's identity card when

exercising a power under this Act.

(2) Before exercising a power under this Act, an inspector must produce the inspector's identity card on the request of:

(a) a person in relation to whom the power is being exercised; or

(b) a person who is apparently in charge of a place in relation to which the power is being exercised.

(3) If it is not practicable to comply with subsection (2), the inspector must produce the identity card for the person’s inspection at the first reasonable opportunity.

147 Accountability of inspectors

(1) An inspector must give written notice to the Electrical Safety Regulator of all interests, pecuniary or otherwise, that the inspector has, or acquires, and that conflict or could conflict with the proper performance of the inspector's functions.

(2) The Electrical Safety Regulator must give a direction to an inspector not to deal, or to no longer deal, with a matter if:

(a) the Electrical Safety Regulator becomes aware that the inspector has a potential conflict of interest in relation to a matter; and

(b) the Electrical Safety Regulator considers that the inspector should not deal, or should no longer deal, with the matter.

148 Suspension and revocation of appointment of inspector

(1) The Electrical Safety Regulator may suspend the appointment of an inspector.

(2) A person's appointment as an inspector is revoked automatically if the person ceases to be eligible for appointment as an inspector.

Division 2 Powers relating to entry

Subdivision 1 Power to enter places

149 Exercise of powers

(1) An inspector has the powers necessary to perform the inspector's functions under this Act.

(2) An inspector may use reasonable force and assistance in exercising a power or performing a function under this Act.

150 Power to enter place

(1) Subject to section 151, an inspector may enter any place that is, or that the inspector reasonably suspects is:

(a) a place with electrical equipment; or

(b) a place under the control of a person with an electrical safety duty; or

(c) a place where electrical work is being or was conducted; or

(d) a place where a serious electricial event or a dangerous electrical event occurred.

(2) An entry may be made under subsection (1) with, or without, the consent of the owner or occupier of the place.

(3) An inspector may enter any place if the entry is authorised by a search warrant.

151 Residential premises

(1) Despite anything to the contrary in this Part, an inspector must not enter or exercise search powers in relation to any part of premises that are used for residential purposes except in the following circumstances:

(a) the occupier consents to the entry or search;

(b) the entry is for the purpose of inspecting electrical equipment at the premises and the occupier is present at the premises;

(c) the entry is for the purpose of inspecting electrical work being conducted at the premises;

(d) the entry is for the purpose of investigating a serious electrical event or a dangerous electrical event that occurred at the premises;

(e) the premises appears to have no current occupant;

(f) the entry is authorised by a warrant;

(g) the entry is necessary in an emergency;

(h) the entry is made solely to enter and inspect another place under subsection (2).

(2) An inspector may enter premises used for residential purposes if:

(a) entry is solely for the purpose of gaining access to another place; and

(b) the other place is not used for residential purposes; and

(c) the other place is to be inspected under this Part; and

(d) the inspector believes on reasonable grounds there is no other reasonable alternative means of entering the other place; and

(e) the time of entry is reasonable in the circumstances.

Example for subsection (2)

An inspector may enter a home during business hours to gain access to a home office used by an electrical contractor.

152 Consent to entry

(1) An inspector seeking an occupier's consent to enter a place must:

(a) show the inspector's identity card to the occupier; and

(b) give the occupier the reasons why the entry is sought; and

(c) inform the occupier that the occupier may refuse to give consent.

(2) An inspector is not entitled to remain in the place if the inspector does not show the identity card to an occupier of the place.

(3) Having entered a place, an inspector may remain at the place for as long as is reasonably necessary to enable the inspector to perform the inspector's functions.

(4) To avoid doubt, this section does not affect any powers a police officer may exercise under another law.

153 Entry on Aboriginal land

The power of an inspector to enter a place may be exercised under this Act, despite:

(a) the place being Aboriginal land as defined in section 3 of the *Aboriginal Land Act 1978*; and

(b) the inspector not holding a permit under that Act to enter or remain on Aboriginal land.

154 Notice of entry

(1) An inspector must, as soon as practicable after entering a place, take reasonable steps to notify the following persons of the entry and the purpose of the entry:

(a) the owner or occupier of the place or the person with management or control of the place;

(b) any person conducting a business or undertaking at the place;

(c) any health and safety representative for workers at the place.

(2) An inspector is not required to notify any person if doing so would defeat the purpose for the entry or cause unreasonable delay.

155 Person assisting inspectors

(1) An inspector may be assisted by another person during an inspection.

(2) A person assisting the inspector may do anything required by the inspector that is within the scope of the inspector's powers.

(3) Anything done lawfully by a person assisting the inspector is taken for all purposes to be done by the inspector.

Subdivision 2 Search warrants

156 Search warrants

(1) An inspector may apply to a Local Court Judge for a search warrant for a place.

(2) The application must be made on oath and state the grounds on which the warrant is sought.

(3) The Judge may refuse to consider the application until the inspector gives the Judge all the information the Judge requires about the application in the form the Judge requires.

Example for subsection (3)

The Judge may require additional information supporting the application to be given by statutory declaration.

(4) The Judge may issue a search warrant for a place only if the Judge is satisfied there are reasonable grounds for suspecting that, within the next 72 hours, there will be evidence of an offence against this Act at the place.

(5) The search warrant must state:

(a) that an inspector named in the warrant may, with necessary and reasonable assistance and force, enter the place and exercise the inspector's compliance powers; and

(b) the offence for which the search warrant is sought; and

(c) the evidence that may be seized under the search warrant; and

(d) the hours of the day or night when the place may be entered; and

(e) that the warrant remains in force for 5 business days after the date of its issue.

157 Announcement before entry with warrant

(1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must:

(a) announce that entry to the place is authorised by the warrant; and

(b) give any person at the place an opportunity to allow that entry.

(2) The announcement is not required if the inspector or person assisting the inspector believes on reasonable grounds that immediate entry to the place is needed to:

(a) ensure the safety of any person; or

(b) avoid frustration of the warrant.

158 Copy of warrant to be given

If asked by a person who appears to have management or control of a place where a search warrant is being executed, the inspector must:

(a) produce the inspector's identity card for inspection by the person; and

(b) give the person a copy of the warrant.

Subdivision 3 Powers of inspection

159 General powers

(1) An inspector may inspect a place entered under this Act to the extent reasonably required for the administration, operation or enforcement of this Act.

(2) Without limiting subsection (1), an inspector may do any of the following at the place:

(a) inspect, examine and make inquiries at the place;

(b) inspect and examine any electrical equipment at the place and anything else at the place related to electrical safety;

(c) take copies of, or extracts from, documents at the place;

(d) take photographs or make films or video recordings of the place or things at the place;

(e) bring to the place and use any equipment or other thing that is reasonably necessary to enable the inspector to exercise the inspector's powers under this Act;

(f) seize electrical equipment or things that the inspector believes on reasonable grounds are connected with an offence;

(g) take and remove for analysis a sample of any substance or thing.

160 Powers to copy and retain documents

(1) An inspector may:

(a) make copies of, or take extracts from, a document obtained during an inspection or search or otherwise provided under this Act; and

(b) keep that document for the period the inspector considers necessary.

(2) While an inspector retains custody of a document, the inspector must permit the following persons to inspect or make copies of the document at all reasonable times:

(a) the person who produced the document;

(b) the owner of the document;

(c) a person authorised by a person referred to in paragraph (a)

or (b).

161 Power to require answers and assistance

(1) At a place being inspected under this Act, an inspector may:

(a) require a person at the place to answer reasonable questions related to the inspection; and

(b) require a person at the place who has custody of, or access to, a thing to produce the thing; and

(c) require a person at the place to give the inspector any other reasonable assistance the inspector requires.

(2) A requirement under subsection (1)(b) must be made by written notice that specifies the person, place and period for production, unless the circumstances require the inspector to have immediate access to the document.

(3) An inspector must ask questions under this section in private if, before or during the questioning:

(a) the inspector considers it appropriate; or

(b) the person being questioned so requests.

(4) Subsection (3) does not prevent a representative of the person being interviewed from being present during the questioning.

(5) A person referred to in subsection (1) must comply with the inspector's requirements.

(6) A person commits an offence if the person fails to comply with an inspector's requirements under subsection (1).

Maximum penalty: 100 penalty units.

(7) An offence against subsection (6) is an offence of strict liability.

Note for section 161

See section 163 in relation to self-incrimination and section 244 in relation to client legal privilege.

162 Warning to be given

(1) Before requiring a person to answer a question or provide information or a document under this Part, an inspector must:

(a) produce the inspector's identity card; and

(b) warn the person that failure to comply with the requirement, without reasonable excuse, would constitute an offence; and

(c) inform the person about the effect of section 163; and

(d) inform the person about the effect of section 244.

(2) It is not an offence for an individual to refuse to answer a question put by an inspector or provide information or a document to an inspector under this Part on the ground that the question, information or document might tend to incriminate the person, unless first given the warning in subsection (1)(b).

(3) Nothing in this section prevents an inspector from obtaining and using evidence given to the inspector voluntarily by any person.

163 Self-incrimination

(1) A person required to answer a question, give information or produce a document under this Act is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.

(2) Despite subsection (1), any answer, information or document given is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant

164 Power to disconnect unsafe electrical equipment

An inspector may take reasonable action to disconnect electrical equipment to make it inoperable if the inspector believes on reasonable grounds that:

(a) the electrical equipment poses an electrical risk; and

(b) disconnecting the electrical equipment is urgently required to minimise that electrical risk.

165 Power to seize evidence

(1) At a place being inspected or searched under this Act, an inspector may seize any thing at the place if the inspector believes on reasonable grounds:

(a) the thing is evidence of an offence against this Act; and

(b) its seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat an offence against

this Act.

(2) To avoid doubt, an inspector who enters a place with a search warrant may seize anything authorised by the warrant.

166 Seizing unsafe electrical equipment

An inspector may seize electrical equipment at any place if the inspector believes on reasonable grounds that:

(a) the electrical equipment poses an electrical risk; and

(b) seizing the electrical equipment is urgently required to minimise that electrical risk.

167 Receipt for seized things

(1) Subject to this section, as soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

(2) If it is not reasonably practicable to comply with subsection (1), the inspector must leave the receipt in a conspicuous and reasonably secure position at the place of seizure.

(3) The receipt must describe generally each thing seized and its condition.

(4) No receipt is required to be given if it is impracticable or would be unreasonable to give the receipt because of the thing's nature, condition or value.

168 Powers related to seizures

(1) An inspector may do any of the following:

(a) move a seized thing from the place of seizure;

(b) take reasonable steps to restrict access to a seized thing at the place of seizure;

(c) dismantle, or cause to be dismantled, any seized electrical equipment;

(d) require the person in control of a seized thing:

(i) to take it to a reasonable place by a reasonable time; and

(ii) to remain in control of it at the place for a reasonable time.

Examples for subsection (1)(b)

1 Sealing a thing and marking it to show access to it is restricted.

2 Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.

(2) A requirement imposed on a person under this section must be:

(a) made by written notice; or

(b) if it is not practicable to give it in writing – made orally and confirmed by written notice as soon as practicable.

(3) A person who is required to do something by an inspector under this section must comply with the inspector's requirements.

(4) A person commits an offence if the person:

(a) is in control of a seized thing; and

(b) is required by an inspector to do something under subsection (1)(d); and

(c) fails to comply with the inspector's requirements.

Maximum penalty: 100 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) If an inspector restricts access to a seized thing, a person must not tamper or interfere with it or something restricting access to it without an inspector's approval.

(7) A person commits an offence if:

(a) an inspector restricts access to a seized thing; and

(b) the person intentionally tampers or interferes with:

(i) the thing; or

(ii) something restricting access to the thing; and

(c) the person does not have an inspector's approval to engage in that conduct.

Maximum penalty: 100 penalty units.

(8) Strict liability applies to subsection (7)(a) and (c).

169 Analysis

(1) The Electrical Safety Regulator may arrange for the analysis of a substance, thing or sample taken by an inspector under this Part.

(2) The analysis must be conducted in accordance with any method of analysis prescribed by regulation.

(3) The Electrical Safety Regulator must obtain a certificate or report stating the result of the analysis.

(4) A person must not tamper or interfere with a substance or thing to obstruct its analysis under this Part.

(5) A person commits an offence if:

(a) the person intentionally tampers or interferes with a substance or thing; and

(b) that conduct obstructs an analysis of the substance or thing under this Part.

Maximum penalty: 100 penalty units.

(6) Strict liability applies to subsection (5)(b).

170 Return of seized things

(1) The Electrical Safety Regulator must, on request, return a seized thing to the owner or person entitled to possess it unless:

(a) the Electrical Safety Regulator has reasonable grounds to retain the thing; or

(b) the thing is required as evidence; or

(c) the thing is forfeited to the Territory.

(2) If a seized thing is not returned on request, the Electrical Safety Regulator must give a decision notice to the owner or person entitled to possess the seized thing.

171 Return of unsafe things

(1) The Electrical Safety Regulator may impose any conditions on the return of a seized thing that the Electrical Safety Regulator considers appropriate to eliminate or minimise any electrical risk.

(2) The conditions may require one or more of the following actions to make the thing safe from electrical risk:

(a) repairing it;

(b) altering it in a specific manner;

(c) disabling it;

(d) taking other specific action that is reasonable in the circumstances.

Note for subsection (2)

Part 3, Division 1, provides for who may perform electrical work, including repairing or altering electrical equipment.

(3) A person to whom a seized thing is returned under this section must comply with the conditions of its return.

(4) A person commits an offence if:

(a) a seized thing is returned to a person with a condition; and

(b) the person fails to comply with the condition.

Maximum penalty: 50 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

172 Forfeiture of seized things

(1) A seized thing is forfeited to the Territory if the Electrical Safety Regulator:

(a) cannot find the owner or person entitled to possess it, after making reasonable inquiries; or

(b) cannot return it to the owner or person entitled to possess it, after making reasonable efforts; or

(c) believes on reasonable grounds that forfeiture is necessary to prevent the thing from being used to commit an offence against this Act.

(2) The Electrical Safety Regulator must give a decision notice of any forfeiture under subsection (1)(c) to the owner or person entitled to possess the thing, unless:

(a) the Electrical Safety Regulator cannot find the person, after making reasonable inquiries; or

(b) it is impracticable or would be unreasonable to give the notice.

(3) The decision notice must include a summary of the person's rights of review and applying for a stay of the decision.

(4) In deciding what is reasonable under this section, regard must be had to a thing's nature, condition and value.

(5) Any costs reasonably incurred by the Territory in storing or disposing of a thing forfeited under subsection (1)(c) may be recovered in a Court of competent jurisdiction as a debt due to the Territory from the owner of the thing.

173 Access to seized things

(1) Until a seized thing is forfeited or returned, the Electrical Safety Regulator must permit the following persons to inspect it and, in the case of a document, to make copies of it at all reasonable times:

(a) the person from whom the thing was seized;

(b) the owner of the thing;

(c) a person entitled to possess the thing;

(d) a person authorised by a person referred to in paragraphs (a) to (c).

(2) The Electrical Safety Regulator is not required to permit inspection or copying under subsection (1) if it is impracticable or unreasonable.

Division 3 Damage and compensation

174 Damage to be minimised

In the exercise or purported exercise of a power under this Act, an inspector must do all that is reasonably practicable to ensure that the inspector, and any person assisting the inspector under section 155, minimise any inconvenience, detriment and damage.

175 Inspector to give notice of damage

(1) Notice must be given under this section if an inspector or a person assisting the inspector under section 155 damages a thing when exercising or purporting to exercise a power under this Part.

(2) The inspector must, as soon as practicable, give written notice of the damage to the person who the inspector believes on reasonable grounds, is the person in control of the thing.

(3) The inspector may state in the notice if the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the control of the inspector or the person assisting the inspector.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous and reasonably secure position where the damage occurred.

(5) No notice is required for damage the inspector believes on reasonable grounds is trivial.

176 Compensation

(1) A person may claim compensation from the Territory for loss or expense incurred by the person if:

(a) the loss or expense was caused by the exercise or purported exercise of a power under this Part; and

(b) the power was exercised, or purported to be exercised, in bad faith.

(2) The compensation may be claimed by the person in:

(a) a proceeding commenced in a Court of competent jurisdiction; or

(b) a proceeding for an offence against this Act brought against the person.

(3) Compensation may be ordered only if the Court is satisfied it is just in the circumstances.

(4) The regulations may prescribe matters that may, or must, be taken into account by a Court and NTCAT when considering whether to order compensation.

(5) The right to claim compensation under this section is in addition to any other right available under a law of the Territory.

Division 4 Other inspector powers

177 Power to require name and address

(1) An inspector may require a person to state the person's name and address if the inspector believes on reasonable grounds that the person committed, is committing or is about to commit an offence against this Act.

(2) A person commits an offence if the person contravenes a requirement given under subsection (1).

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if:

(a) the inspector did not produce the inspector's identity card for inspection by the person if asked; or

(b) the inspector did not, before giving the requirement, warn the person that failure to comply with the requirement is an offence.

Note for subsection (4)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

178 Inspector may witness affidavits

An inspector is authorised to witness an affidavit for any purpose relating or incidental to the exercise of the inspector's powers.

179 Attendance of inspector at coronial inquests

If permitted under section 40(3) of the *Coroners Act 1993*, an inspector may attend and examine witnesses at any inquest into the cause of death of a worker while carrying out electrical work.

Division 5 Other offences

180 Intimidation or obstruction of inspector

(1) A person commits an offence if:

(a) the person intentionally intimidates or obstructs another person; and

(b) the other person is an inspector; and

(c) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Strict liability applies to subsection (1)(b).

(3) In this section:

acting in an official capacity, in relation to an inspector, means the inspector is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

obstruct includes hinder and resist.

181 Falsely representing to be an inspector

A person commits an offence if:

(a) the person intentionally represents, by words or conduct, that the person or another person is an inspector; and

(b) the representation is false and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

182 Misleading information

(1) A person commits an offence if:

(a) the person intentionally gives information to another person; and

(b) the other person is an inspector; and

(c) the information is misleading and the person has knowledge of that circumstance; and

(d) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) A person commits an offence if:

(a) the person intentionally gives a document to another person; and

(b) the other person is an inspector; and

(c) the document contains misleading information and the person has knowledge of that circumstance; and

(d) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:

(a) draws the misleading aspect of the information or document to the inspector's attention; and

(b) to the extent to which the person can reasonably do so – gives the inspector the information necessary to remedy the misleading aspect of the information or document.

Note for subsection (4)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

183 Offence to disclose certain information

(1) A person commits an offence if:

(a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and

(b) the information is confidential and the person is reckless in relation to that circumstance; and

(c) the person intentionally engages in conduct; and

(d) the conduct results in the disclosure of the information and the disclosure is not:

(i) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or

(ii) to a person who is otherwise entitled to the information; and

(e) the person is reckless in relation to the result and circumstance referred to in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(a).

(3) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person consented to the disclosure of the information.

Note for subsection (3)

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

Part 8 Enforcement measures

Division 1 Improvement notices

184 Giving improvement notice

(1) An inspector may give a person an improvement notice if the inspector believes on reasonable grounds that a person:

(a) is contravening a provision of this Act or the regulations; or

(b) contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated.

(2) The improvement notice may require the person to:

(a) remedy the contravention; or

(b) prevent a likely contravention from occurring; or

(c) remedy the things, circumstances or conduct causing the contravention or likely contravention.

185 Contents of improvement notices

(1) An improvement notice must include the following:

(a) the grounds on which the notice is being issued;

(b) the provision of this Act or the regulations that the inspector believes is being, or was, contravened;

(c) a summary of the facts of the alleged contravention;

(d) the specific period within which the remedy or preventive action is required to be completed.

(2) An improvement notice may include the measures to be taken to remedy the contravention or prevent the likely contravention.

(3) The measures required to be taken and the period within which they are to be completed must be reasonable in the circumstances.

186 Extension of time for compliance with improvement notices

(1) An inspector may, by written notice, extend the time to comply with an improvement notice.

(2) The time may be extended more than once.

(3) No extension may be given after the time to comply has expired.

187 Compliance with improvement notice

(1) A person to whom an improvement notice is given must comply with the notice within the period specified in the notice.

(2) A person commits an offence if the person:

(a) is given an improvement notice; and

(b) does not comply with the notice within the period specified in the notice or any extension of time made under section 186.

Maximum penalty: 500 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant did all that was reasonably practicable to comply, including engaging a contractor to perform the work.

(5) The defendant has a legal burden of proof in relation to the defence under subsection (4).

Division 2 Direction to rectify defective electrical work

188 Power to make direction

The Electrical Safety Regulator may give a person a direction to rectify electrical work if the Electrical Safety Regulator believes on reasonable grounds that:

(a) the manner in which the electrical work was performed was not safe from electrical risk; or

(b) the person who actually performed the electrical work was negligent or incompetent in performing the work; or

(c) the work was performed in a manner that causes an individual or property to not be safe from electrical risk.

189 Notice of proposed direction

(1) Before giving a person a direction to rectify electrical work, the Electrical Safety Regulator must give the person a written notice:

(a) stating that the Electrical Safety Regulator proposes to direct the person to rectify the electrical work within the period specified in the direction; and

(b) stating the grounds for the proposed direction; and

(c) outlining the facts and circumstances forming the basis for those grounds; and

(d) inviting the person to show cause, within a specified period of at least 10 business days, why the proposed direction should not be made.

(2) After considering any representations made by the person within the period specified in the notice, the Electrical Safety Regulator must decide whether to make the direction.

(3) The Electrical Safety Regulator must give the person a decision notice of the decision.

(4) If the direction is given to a person who does not hold a licence to carry out the required work, the person must have the work performed by a person who is licensed to perform the work.

190 Compliance with rectification direction

(1) A person who is given a direction under section 188 must comply with the requirements of the direction.

(2) A person commits an offence if the person:

(a) is given a direction under section 188; and

(b) fails to comply with the requirements of the direction or to have the holder of a licence carry out the work in accordance with the direction.

Maximum penalty: 100 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against subsection (2) if the defendant did all that was reasonably practicable to comply, including engaging a contractor to perform the work.

(5) The defendant has a legal burden of proof in relation to the defence under subsection (4).

Division 3 Ministerial notices and codes of practice

191 Ministerial notice about electrical safety duty

(1) The Minister may issue a notice under this section if:

(a) the Minister identifies circumstances of electrical risk for individuals or property; and

(b) considers that urgent action should be taken to deal with the electrical risk.

(2) The notice may prescribe a way of discharging a person's electrical safety duty in relation to the electrical risk.

(3) The notice expires on the earlier of:

(a) 1 year after the day it is issued; or

(b) a day specified in the notice.

(4) The Minister may, by amendment, extend the operation of a notice for one further period of not more than 1 year.

192 Effect of ministerial notice

(1) Unless it provides otherwise, a ministerial notice under section 191 is taken to not be comprehensive in specifying everything that a person must do, or not do, to discharge the person's electrical safety duty in relation to the electrical risk specified in the notice.

(2) For the purpose of an offence against this Act, a person is taken to fail to discharge the electrical safety duty in relation to an electrical risk specified in a Minister's notice if the person fails to comply with the notice.

193 Code of practice

(1) The Minister may, by written notice, make or adopt a code of practice regarding ways to discharge a person's electrical safety duty.

(2) A code of practice expires 10 years after its commencement, unless earlier revoked.

(3) A code of practice must be published on the Electrical Safety Regulator's website.

(4) If a code of practice is inconsistent with the regulations or a notice under section 191, the regulation or notice prevails to the extent of the inconsistency.

194 Use of code of practice in proceedings

(1) A code of practice is admissible in proceedings for a contravention of this Act as evidence in relation to a duty under this Act.

(2) A Court may:

(a) have regard to a code of practice as evidence of what is known about a hazard, electrical risk, risk assessment or risk control to which the code relates; and

(b) rely on the code of practice in deciding what is reasonably practicable in the circumstances to comply with the code.

Note for subsection (2)(b)

*See section 14 for the meaning of **reasonably practicable** in ensuring electrical safety.*

(3) A person may introduce evidence of what constitutes compliance with this Act in a manner that is different from a code of practice only if it provides a standard of electrical safety that is equivalent to or higher than the standard required by the code.

Division 4 Prohibitions

195 Prohibiting sale of consumer electrical equipment

(1) Subject to section 196, the Electrical Safety Regulator may give a written notice prohibiting the supply or sale of consumer electrical equipment if satisfied that the consumer electrical equipment:

(a) is not safe from electrical risk; or

(b) does not comply with the requirements of this Act or the regulations.

(2) The notice must include the following:

(a) a means of identifying the consumer electrical equipment;

(b) the grounds on which the notice is being made;

(c) a summary of the facts and circumstances forming the basis for the grounds;

(d) the requirement of this Act or the regulations with which the consumer electrical equipment is alleged to not comply;

(e) any terms or conditions of the prohibition.

(3) The notice may include specific measures that must be taken by the public or by specific persons to prohibit the sale of the consumer electrical equipment.

(4) The prohibition remains in force for the period specified in the notice or, if no period is specified, for an indefinite period.

(5) The notice must be published on the Electrical Safety Regulator's website.

(6) The Electrical Safety Regulator must give a copy of the notice to any person who is specifically required to take measures under the notice.

196 Informing public of proposed prohibition

(1) Before giving a notice under section 195, the Electrical Safety Regulator must do all that is reasonably practicable to inform the public and any person specified in the notice of the proposed prohibition, unless:

(a) the Minister advises the Electrical Safety Regulator that the prohibition is urgently required to minimise electrical risk; or

(b) the sale of the consumer electrical equipment was prohibited under the law of a State or another Territory.

(2) The information to be given under subsection (1) must include the following:

(a) a statement that the Electrical Safety Regulator proposes to prohibit the supply or sale of consumer electrical equipment;

(b) a description of the consumer electrical equipment;

(c) the grounds for the proposed direction;

(d) the facts and circumstances forming the basis for those grounds;

(e) an invitation to the public and any person specified in the notice to show cause, within a specified period of at least 10 business days, why the proposed direction should not be made.

(3) The Electrical Safety Regulator must consider any representations made within the period specified in the notice, before giving the notice.

197 Prohibited supply and sale

(1) A person must not supply or sell consumer electrical equipment if the supply or sale is prohibited:

(a) by a notice under section 195(1); or

(b) under the law of a State, another Territory or the Commonwealth.

(2) A person commits an offence if:

(a) the person intentionally supplies or sells consumer electrical equipment; and

(b) the supply or sale of the consumer electrical equipment is prohibited:

(i) by a notice under section 195(1); or

(ii) under the law of a State, another Territory or the Commonwealth; and

(c) the person is reckless in relation to the circumstance in paragraph (b).

Maximum penalty: 500 penalty units.

Division 5 Electrical safety direction

198 Giving electrical safety direction

(1) An inspector may give a direction under this section if an inspector believes on reasonable grounds that an immediate electrical risk exists at a place.

(2) The direction may direct a person to do any of the following:

(a) to stop any activity that is causing the electrical risk;

(b) to stop using, or allowing to be used, unsafe electrical equipment;

(c) to disconnect electrical equipment from its supply of electricity to the extent the inspector considers necessary to eliminate the electrical risk;

(d) to take any other action reasonably required to prevent, mitigate or remedy the electrical risk.

Example for subsection (2)

An inspector may direct an electricity entity to give the inspector the help the inspector reasonably requires to disconnect electrical equipment under subsection (2)(c).

(3) The direction may be given orally, but must be confirmed by written notice as soon as practicable.

(4) The direction must include the following:

(a) the grounds on which the direction is being made;

(b) the facts and circumstances forming the basis for the grounds;

(c) whether the inspector believes a provision of the Act was contravened;

(d) the measures to be taken to remedy the electrical risk;

(e) any other requirements that must be complied with before reconnecting the supply of electricity;

(f) the specific time when the measures are required to be taken.

(5) A person given a direction under this section must comply with it.

(6) A person commits an offence if:

(a) the person is given a direction under this section; and

(b) the person intentionally engages in conduct; and

(c) the conduct contravenes the requirements of the direction and the person is reckless in relation to that result.

Maximum penalty: 1 000 penalty units.

(7) Strict liability applies to subsection (6)(a).

Division 6 Recall order

199 Making recall order

(1) The Minister may make a recall order to recall electrical equipment if the Electrical Safety Regulator recommends to the Minister that the electrical equipment is placing, or will place, an individual or property at electrical risk.

(2) A recall order requires the designer, manufacturer, importer or supplier specified in the recall order to recall the electrical equipment specified in the order from use.

(3) The designer, manufacturer, importer or supplier specified in the recall order must offer the owners or users of the recalled electrical equipment one of the following options:

(a) to have the recalled equipment repaired to be safe from electrical risk and then returned to the owner or user;

(b) to have the recalled equipment replaced with equivalent or better electrical equipment that is safe from electrical risk;

(c) to be given compensation for the recalled equipment in accordance with guidance from the Electrical Safety Regulator.

(4) The Minister may make a recall order for electrical equipment whether or not the electrical equipment:

(a) was previously recalled by the designer, manufacturer or importer; or

(b) is installed at a place.

(5) A recall order must be in writing and include the following:

(a) the reasons to recall the electrical equipment from use;

(b) the specific actions that must be taken to recall the electrical equipment;

(c) the specific options to be offered to the owners or users of the electrical equipment.

Examples subsection (5)(b)

1 How the public or customers must be informed about the electrical risk.

2 How the public or customers must mitigate or eliminate the electrical risk, by repair or replacement.

3 The information that must be given to the Electrical Safety Regulator about the progress of the recall.

(6) The recall order and a public warning about the electrical risk identified in the recall order must be published on the Electrical Safety Regulator's website.

(7) A recall order remains in force for 2 years after the day the order is made unless sooner revoked by the Minister.

(8) More than one recall order may be made for the same electrical equipment.

200 Notice before recommending recall order

(1) Before recommending a recall order, the Electrical Safety Regulator must give the person to whom it is directed a written notice that:

(a) advises the person of the proposed recommendation; and

(b) states the reasons for making the recommendation; and

(c) invites the person to show cause, within a specified period of at least 10 business days, why the proposed recommendation should not be made.

(2) If the person wishes to show cause why the recommendation should not be made, the person must make written submissions to the Electrical Safety Regulator within the period specified in the notice.

(3) The Electrical Safety Regulator must consider any written submissions made by the person before recommending the recall order.

201 Compliance with recall order

(1) A person subject to a recall order must comply with the order and is liable for any cost incurred to comply with the order, including costs incurred by a supplier giving reasonable assistance under section 203.

(2) A person commits an offence if:

(a) the person is subject to a recall order; and

(b) the person intentionally engages in conduct; and

(c) the conduct results in a failure to comply with the recall order; and

(d) the person is reckless in relation to that result.

Maximum penalty: 500 penalty units.

(3) Strict liability applies to subsection (2)(a) and (c).

202 Interstate recall order

(1) If electrical equipment is subject to recall in a State or another Territory, every supplier of the equipment must:

(a) cease selling that equipment; and

(b) do all that is reasonably practicable to inform purchasers and users of the equipment that the equipment is being recalled; and

(b) do all that is reasonably practicable to arrange for the recall of the equipment.

(2) A person commits an offence if the person:

(a) is a supplier of electrical equipment subject to recall in a State or another Territory; and

(b) fails do all that is reasonably practicable to inform persons who purchased the equipment and users of the equipment that the equipment is being recalled; and

(c) fails to arrange for the recall of the equipment.

Maximum penalty: 500 penalty units.

(3) An offence against subsection (2) is an offence of strict liability.

203 Supplier must assist responsible person

(1) A person given a recall order may request the supplier of electrical equipment for assistance in relation to the recall order.

(2) After receiving a request and a copy of the recall order, the supplier must give the person reasonable assistance in relation to the recall order.

Examples of reasonable assistance

1 Ceasing the supply of the recalled electrical equipment.

2 Putting up a sign about the recall at the supplier's place of business.

3 Providing a collection point for recalled electrical equipment.

4 Identifying or contacting customers.

5 Giving information about inventory, sales and returns of the recalled electrical equipment.

(3) A person commits an offence if the person:

(a) is a supplier of recalled electrical equipment; and

(b) receives a copy of the recall order and a request for help from another person under subsection (1); and

(c) fails to give the other person reasonable help in relation to the recall order.

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

Division 7 Non-disturbance notices

204 Issuing non-disturbance notice

(1) An inspector may issue a non-disturbance notice to a person with management or control of a place if the inspector believes on reasonable grounds that it is necessary to:

(a) preserve the site of a serious electrical event or a dangerous electrical event; or

(b) prevent disturbance of the place, or a thing at the place, being inspected or investigated; or

(c) facilitate the exercise of the inspector's powers under Part 7.

(2) A non-disturbance notice must be in writing and include the following:

(a) the grounds on which the notice is being issued;

(b) the specific obligations of the person to whom the notice is issued;

(c) the measures to be taken to preserve a site, prevent disturbance or otherwise facilitate the inspector's compliance powers;

(d) the period during which the notice applies;

(e) the maximum penalty for contravening the notice.

(3) The effect of a notice is limited to a maximum of 7 days.

(4) A notice may be renewed or reissued more than once for periods not exceeding the maximum of 7 days each time.

205 Compliance with non-disturbance notice

(1) A person must comply with a non-disturbance notice issued to the person.

(2) A non-disturbance notice does not prevent the following conduct or action:

(a) assisting an injured person;

(b) removing a deceased person;

(c) action that is essential to make the site safe or to prevent a further serious electrical event or dangerous electrical event;

(d) a police investigation;

(e) action permitted by an inspector.

(3) A person commits an offence if the person:

(a) is issued a non-disturbance notice; and

(b) fails to comply with the requirements of the non-disturbance notice; and

(c) the conduct is not exempt under subsection (2).

Maximum penalty: 500 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) It is a defence to a prosecution for an offence against subsection (3) if the defendant did all that was reasonably practicable to prevent the commission of the offence.

(6) The defendant has a legal burden of proof in relation to the defence under subsection (5).

Division 8 General requirements

206 Other content of direction, notice or order

(1) A direction, notice or order under this Part may:

(a) refer to a code of practice or a technical standard; and

(b) offer the person to whom it is issued a choice of ways in which to comply with direction, notice or order; and

(c) include recommendations for action.

(2) It is not an offence to fail to comply with recommendations in a direction, notice or order.

207 Minor changes

Despite section 43 of the *Interpretation Act 1978*, an inspector who issued an improvement notice or made a direction to rectify electrical work may make only minor changes to it for the following purposes:

(a) for clarification;

(b) to correct errors or references;

(c) to reflect changes of address or other circumstances.

Note for section 207

Any other changes or revocation must be made by the Electrical Safety Regulator under section 208.

208 Electrical Safety Regulator power to vary or revoke

The Electrical Safety Regulator may vary or revoke a direction or notice given by an inspector under this Part.

209 Formal irregularities or defects

A direction, notice or order under this Part is not invalid only because of:

(a) a formal defect or irregularity in it, unless the defect or irregularity causes or is likely to cause substantial injustice; or

(b) a failure to use the correct name of the person to whom it is issued if the notice sufficiently identifies the person and is served on the person in accordance with section 210.

210 Methods of service

(1) A direction, notice or order under this Part must be served on a person:

(a) by delivering it personally to the person; or

(b) by sending it by post or fax or electronic transmission to the person's usual or last known place of residence or business; or

(c) by leaving it for the person at the person's usual or last known place of residence or business with a person who appears to be over 16 years and who appears to reside or work there; or

(d) by leaving it for the person at the place to which the notice relates with a person who is or appears to be the person with management or control of the place; or

(e) serving it in a manner prescribed by regulation.

(2) The regulations may prescribe the steps a person to whom a notice is issued must take to bring the notice to the attention of other persons.

211 Display of direction, notice or order

(1) A person to whom a direction, notice or order is issued under this Part must, as soon as possible, display a copy of it in a prominent place at or near the place at which any work affected by the notice is being performed.

(2) A person must not remove, destroy, damage or deface a direction, notice or order displayed under subsection (1) while it is in force.

(3) A person commits an offence if the person:

(a) is given a direction, notice or order under this Part; and

(b) fails to display a copy of it in accordance with subsection (1).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is an offence of strict liability.

(5) A person commits an offence if:

(a) a notice is displayed under subsection (1) while it is in force; and

(b) the person intentionally removes, destroys, damages or defaces the notice.

Maximum penalty: 100 penalty units.

(6) Strict liability applies to subsection (5)(a).

Division 9 Remedial action

212 Electrical Safety Regulator power to take action

(1) The Electrical Safety Regulator may take action under this section if:

(a) a person who is subject to an electrical safety direction under section 198 fails to do all that is reasonably practicable to comply with the notice; or

(b) the Electrical Safety Regulator believes on reasonable grounds that:

(i) the grounds for issuing an electrical safety direction under section 198 for a place exist; and

(ii) the direction cannot be issued because the person with management or control of the place could not be found, despite reasonable effort to do so.

(2) The Electrical Safety Regulator may take any action the Electrical Safety Regulator believes is reasonable to make the place or situation safe from electrical risk.

(3) Before taking remedial action under subsection (1)(a), the Electrical Safety Regulator must give written notice to the person subject to the electrical safety direction of:

(a) the Electrical Safety Regulator's intention to take the action; and

(b) the owner's or person's liability for the costs of that action under section 213.

213 Costs of remedial or other action

(1) The Electrical Safety Regulator may recover the reasonable costs of any remedial action taken under section 212 from:

(a) the person to whom the electrical safety direction under section 198 is issued; or

(b) any person to whom the electrical safety direction under section 198 could have been issued.

(2) The reasonable costs may be recovered as a debt due to the Electrical Safety Regulator.

214 Injunctions for non-compliance

(1) The Electrical Safety Regulator may apply to the Work Health Court for an injunction:

(a) compelling a person to comply with a direction, notice or order under this Part; or

(b) restraining a person from contravening a direction, notice or order under this Part.

(2) An application for the injunction may be made whether or not:

(a) any proceedings are commenced for an offence relating to the direction, notice or order; and

(b) any period for compliance with the notice has expired.

Division 10 Enforceable undertakings

215 Enforceable undertaking

(1) An undertaking under this Division is an enforceable promise given by a person who is alleged to have contravened this Act, in exchange for the stay of any proceedings in respect of the contravention, to do one or more of the following:

(a) to undertake one or more specified projects for the general improvement of electrical work or work health and safety, within the period specified in the undertaking;

(b) to notify a person or a class of persons or the general public, as specified in the undertaking, the contravention and its consequences;

(c) to not commit, during the period specified in the undertaking, any offence against this Act or the *Work Health and Safety (National Uniform Legislation) Act 2011*;

(d) to do or refrain from doing any action related to electrical safety specified in the undertaking;

(e) to pay the reasonable costs of the Electrical Safety Regulator related to the alleged contravention, the undertaking and ensuring future compliance by the person;

(f) any related matters.

(2) An undertaking may contain any terms and conditions that the Electrical Safety Regulator considers necessary to promote the purposes of this Act or to ensure compliance with this Act.

(3) An undertaking must include time limits for the performance of any obligations and a method to monitor compliance with the undertaking.

(4) The process of negotiating an undertaking is without prejudice to any party's position.

216 Acceptance of undertaking

(1) The Electrical Safety Regulator may accept an undertaking for an alleged contravention after a prosecution for the alleged contravention has commenced.

(2) The Electrical Safety Regulator must consider the following before accepting an undertaking:

(a) the nature and gravity of the conduct;

(b) the maximum penalty provided for the alleged contravention;

(c) the benefits of the proposed undertaking and the public interest;

(d) the interests of justice;

(e) any other factor that the Electrical Safety Regulator considers relevant.

Note for subsection (2)

Section 223 allows the Electrical Safety Regulator to make guidelines about accepting undertakings.

(3) An undertaking must not be accepted unless it provides safety benefits for the workplace, the electricity industry and the community.

(4) An undertaking must not be accepted for a contravention or an alleged contravention that is:

(a) a category 1 offence; or

(b) industrial manslaughter under section 34B of the *Work Health and Safety (National Uniform Legislation) Act 2011*.

(5) The Electrical Safety Regulator must give written notice to the person whether or not the person's undertaking is accepted.

(5) A decision by the Electrical Safety Regulator to not accept an undertaking is not subject to review under Part 10, Division 1.

217 Effect on proceedings

(1) Subject to this section, no proceedings for an alleged contravention of this Act may be commenced or continued against a person if an undertaking in relation to the contravention:

(a) is in effect; or

(b) is completely discharged.

(2) The giving of an undertaking does not constitute an admission of guilt by the person giving it in relation to the alleged contravention or offence.

(3) After accepting an undertaking from a person, the Electrical Safety Regulator must take reasonable steps to have the prosecution and any disciplinary proceedings against the person discontinued as soon as possible.

(4) Proceedings may be instituted or resumed against a person who gave an undertaking in respect of the alleged contravention or offence if the undertaking is not complied with.

(5) The Electrical Safety Regulator must send a written notice to the following advising them whether an undertaking was or was not complied with:

(a) the person who gave the undertaking;

(b) the Board.

218 Undertaking is enforceable

An undertaking takes effect and becomes enforceable on the later of the following:

(a) when the person giving the undertaking is notified of its acceptance by the Electrical Safety Regulator;

(b) any later day specified in the undertaking.

219 Variation or withdrawal of undertaking

(1) A person who gave an undertaking may at any time, with the written consent of the Electrical Safety Regulator, vary or withdraw the undertaking.

(2) The provisions of an undertaking relating to an alleged contravention must not be varied to provide for a different contravention.

220 Order regarding contravention of undertaking

(1) The Electrical Safety Regulator may apply to the Local Court for an order under this section if a person contravenes an undertaking.

(2) If satisfied that a person contravened an undertaking, the Local Court may make one or more of the following orders:

(a) an order directing the person to comply with the undertaking;

(b) an order discharging the undertaking;

(c) an order directing the person to pay the Territory the costs of the proceedings;

(d) an order directing the person to pay the Territory the reasonable costs of the Electrical Safety Regulator monitoring compliance with the electrical safety undertaking in the future;

(e) any other order the Court considers appropriate in the circumstances.

(3) Nothing in this section prevents the prosecution of the alleged contravention or offence that was the subject of the undertaking.

221 Publication of undertaking

The Electrical Safety Regulator must publish, on the Electrical Safety Regulator's website, the pertinent details of and the reasons for the following:

(a) any undertaking accepted by the Electrical Safety Regulator;

(b) any variation or withdrawal of an undertaking;

(c) any compliance or lack of compliance with an undertaking.

Part 9 Enforcement proceedings

Division 1 Prosecutions and related matters

222 Bringing prosecutions

Proceedings for an offence against this Act may be brought only by:

(a) the Electrical Safety Regulator; or

(b) an inspector authorised by the Electrical Safety Regulator; or

(c) the Director of Public Prosecutions.

223 Request for prosecution

(1) Subject to this section, a person may request the Electrical Safety Regulator to bring a prosecution if:

(a) the person believes on reasonable grounds that the occurrence of an act, matter or thing constitutes a category 1 offence, category 2 offence or category 3 offence; and

(b) no prosecution for the offence is brought within 6 months of the occurrence.

(2) No request may be made more than 12 months after the occurrence of the act, matter or thing.

(3) The request must be in writing and specify:

(a) the particulars of the occurrence of the act, matter or thing; and

(b) the grounds for the belief that the offence occurred.

(4) The request may include the prosecution of more than one offence if the offences all relate to the same occurrence of the act, matter or thing.

(5) Within 3 months after receiving the request, the Electrical Safety Regulator must give written notice of the request to the following:

(a) the person who made the request;

(b) any person alleged to be responsible for the occurrence of the act, matter or thing.

(6) The notice must include the following particulars:

(a) the status of any investigation into the occurrence of the act, matter or thing;

(b) the status of any prosecution in relation to the occurrence;

(c) if no investigation is being conducted or if no prosecution is being brought – the reasons why not.

(7) The Electrical Safety Regulator may publish the information referred to in subsection (6) on the Electrical Safety Regulator's website.

(8) The Electrical Safety Regulator need not give the notice under subsection (5) if the request relates to an occurrence about which information is published on the Electrical Safety Regulator's website.

(9) The Electrical Safety Regulator must not state, to any person referred to in subsection (5), a view that is contrary to the views of the Director of Public Prosecutions on the merits of a prosecution in relation to the occurrence.

(10) In this section, a reference to the occurrence of an act, matter or thing includes a reference to a failure in relation to an act, matter or thing.

224 Guidelines

(1) The Electrical Safety Regulator must make general guidelines in relation to:

(a) the prosecution of offences under this Act; and

(b) the acceptance of undertakings under this Act.

(2) The guidelines must be published on the Electrical Safety Regulator's website.

(3) Nothing in this section affects the ability of the Director of Public Prosecutions to bring proceedings for an offence against this Act.

225 Referral to Director of Public Prosecutions

(1) The Electrical Safety Regulator must seek the views of the Director of Public Prosecutions on the merits of a prosecution if:

(a) the Electrical Safety Regulator is considering bringing proceedings in respect of a death for a category 1 offence, category 2 offence or category 3 offence; or

(b) the Electrical Safety Regulator receives a request under section 223 for the prosecution of an offence in respect of a death.

(2) In seeking the views of the Director of Public Prosecutions, the Electrical Safety Regulator must give the Director of Public Prosecutions a copy of any relevant information and evidence the Electrical Safety Regulator may have, including a copy of any request.

(3) The Director of Public Prosecutions must give the Electrical Safety Regulator the Director's views on the following:

(a) the merits of a prosecution for the offence referred or for any other offence in respect of the death;

(b) whether the Director consents to a prosecution under section 226.

(4) The views referred to in subsection (3) must be given within 45 business days after receiving the relevant information and evidence under subsection (2).

(5) Despite subsection (1), the Electrical Safety Regulator need not seek the views of the Director of Public Prosecutions on the merits of a prosecution in respect of a death that was previously referred under this section, unless there is new information or evidence to justify the referral.

226 Consent to prosecution

The Electrical Safety Regulator requires the consent of the Director of Public Prosecutions to bring proceedings for a category 1 offence, category 2 offence or category 3 offence in respect of a death.

227 Limitation period for prosecutions

(1) Proceedings for an offence against this Act may not be brought after the latest of the following:

(a) for an offence against Part 2 – the day 2 years after the day the Electrical Safety Regulator becomes aware of the offence;

(b) for an offence for which a coronial inquiry is held – the day 1 year after the coronial report is made or a coronial inquiry ends;

(c) for any other offence – 5 years after the day the offence was committed.

(2) A proceeding for a category 1 offence may be brought after the end of the applicable limitation period in subsection (1) if:

(a) fresh evidence relevant to the offence is discovered; and

(b) the Court is satisfied that the evidence could not reasonably have been discovered within the relevant limitation period.

(3) For subsection (1), if an offence is committed on more than 1 day, the period of time is to be counted from the last day.

228 Multiple contraventions of electrical safety duty

Two or more contraventions of Part 2 by a person that arise out of the same factual circumstances may be charged as a single offence or as separate offences.

Division 2 Evidence

229 Statements of fact in complaint

(1) In a proceeding for an offence against this Act, a statement of fact may be made in a complaint or information as evidence in respect of the following physical elements of the offence:

(a) that a specified person was or was not, at a specified time, the holder of a licence;

(b) that a licence was or was not, at a specified time, subject to a condition or restriction and the nature of the condition or restriction;

(c) that a specified document was or was not given, issued or made under this Act;

(d) that a person was or was not authorised to exercise a power or perform a function under this Act;

(e) that specified electrical equipment was or was not, at a specified time, in a specified place;

(f) that a code of practice or a technical standard was or was not in force at a specified time;

(g) that a specified person was given a direction or notice under this Act at a specified time;

(h) that a specified amount is payable under this Act by a specified person;

(i) that a specified instrument, item of equipment or installation was or was not used in accordance with conditions for its use.

Examples for subsection (1)(c)

Documents include an inspector's ID card, an improvement notice or a decision notice.

(2) A document purporting to be published by or under the authority of the following is evidence of the matters appearing on and in the document:

(a) the Energy Supply Association of Australia;

(b) the National Occupational Health and Safety Commission;

(c) Standards Australia.

230 Certificate evidence

(1) A certificate purporting to be signed by the Electrical Safety Regulator specifying a matter referred to in section 229 is evidence of the matter specified in the certificate.

(2) In any proceeding in a Court in respect of an offence against this Act, a certificate that purports to be signed by an analyst and states the result of an analysis of substance received from an inspector is evidence of the matters specified in the certificate.

231 Expert report

(1) An expert report is not admissible in evidence in a proceeding under this Act, without leave of the Court, if the expert does not attend to give oral evidence.

(2) An expert report when admitted is evidence of a fact or opinion of which the expert could have given oral evidence.

(3) This section does not apply to the certificate of an analyst under section 230(2).

Division 3 Court orders

232 Undertaking to Court

(1) In a proceeding for an offence against this Act, the Court may, with or without recording a conviction:

(a) adjourn the proceeding for a period of up to 2 years; and

(b) make an order for the release of the person on the person giving an undertaking to the Court.

(2) The undertaking must include the following:

(a) the conditions imposed by the Court that the person must obey;

(b) a condition that the person must not commit any offence against this Act during the period of the adjournment;

(c) a warning that the person may be ordered to appear before the Court during the period of the adjournment and at the time to which the hearing is adjourned.

(3) A person who gives an undertaking to the Court must appear before the Court if ordered by the Court.

(4) An order to appear before the Court referred to in subsection (3) must be served on the person at least 4 business days before the day required for the appearance.

(5) The Court may discharge a person without any further hearing or any finding of guilt if the Court is satisfied that the person observed the conditions of the undertaking.

(6) If the Court is not satisfied that the person observed the conditions of the undertaking, the Court may:

(a) resume the proceeding for the offence; and

(b) make any other orders or findings as may be appropriate.

233 Orders on conviction or finding of guilt

(1) A Court may make one or more of the following orders if the Court finds a person guilty of an offence against this Act:

(a) a publicity order under section 234;

(b) a remediation order under section 235;

(c) an electrical safety project order under section 236;

(d) a training order under section 237.

(2) The orders may be made in addition to any penalty that may be imposed or any other action that may be taken in relation to the offence.

234 Publicity orders

(1) The Court may make a publicity order requiring the person to do any of the following:

(a) to publicise, in the manner specified in the order, the offence, its consequences, the penalty imposed and any other related matter;

(b) to notify a specified person or class of persons, in the manner specified in the order, of the offence, its consequences, the penalty imposed and any other related matter.

(2) A person subject to an adverse publicity order must give the Electrical Safety Regulator evidence of compliance with the order within 5 business days after the expiry of the period specified in subsection (1)(a) or (b).

(3) The Court may make an adverse publicity order on its own initiative or on the application of the person prosecuting the offence.

(4) If the Electrical Safety Regulator is not satisfied that the person complied with the order, the Electrical Safety Regulator may apply to the Court for an order authorising the Electrical Safety Regulator, or a person authorised in writing by the Electrical Safety Regulator, to take action.

(5) The Electrical Safety Regulator is entitled to recover from the person subject to an order, by action in a Court of competent jurisdiction, the reasonable expenses of taking action under subsection (4).

235 Remediation order

(1) The Court may order the person to take specified steps, within a specified period, to remedy any matter caused by the commission of the offence that appears to the Court to be within the person's power to remedy.

(2) The period in which an order under this section must be complied with may be extended one or more times by order of the Court if the application for the extension is made before the period expires.

236 Electrical safety project order

(1) The Court may order the person to undertake a specified project for the general improvement of electrical safety within a specified period.

(2) The order may specify conditions that must be complied with in undertaking the specified project.

237 Training order

The Court may order the person to undertake, or to arrange for one or more employees of the person to undertake, a specified course of training.

238 Offence to fail to comply with order

(1) A person commits an offence if:

(a) the person is subject to an order under this Division; and

(b) the person contravenes the order.

Maximum penalty: 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection(1) if the defendant did all that was reasonably practicable to prevent the commission of the offence.

(4) The defendant has a legal burden of proof in relation to the defence under subsection (3).

Division 4 The Crown

239 Offences and the Crown

(1) If the Crown is guilty of an offence against this Act, the penalty to be imposed on the Crown is the penalty applicable to a body corporate.

(2) For this Act, any conduct engaged in on behalf of the Crown by an employee, agent or officer of the Crown acting within the actual or apparent scope of that person's employment, or within that person's actual or apparent authority, is conduct also engaged in by the Crown.

(3) If an offence against this Act requires proof of knowledge, intention or recklessness, it is sufficient in a proceeding against the Crown for that offence to prove that the person referred to in subsection (2) had the relevant knowledge, intention or recklessness.

(4) If for an offence against this Act mistake of fact is relevant to determining responsibility, it is sufficient in a proceeding against the Crown for that offence if the person referred to in subsection (2) made that mistake of fact.

240 Officers of the Crown

(1) A person who makes, or participates in making, decisions that affect the whole, or a substantial part, of a business or undertaking of the Crown is taken to be an officer of the Crown for this Act.

(2) A Minister of a State or the Commonwealth is not in that capacity an officer for the purposes of this Act.

241 Responsible agency or instrumentality of Crown

(1) The following is the responsible agency or instrumentality of the Crown when serving a document on, or giving a document to, the Crown under this Act:

(a) in the case of an improvement notice or infringement notice – the agency or instrumentality of the Crown whose acts or omissions are alleged to contravene this Act;

(b) in the case of any other document – the agency or instrumentality of the Crown with control over the business, undertaking, work, activity, thing or place specified in the notice or request.

(2) The responsible agency or instrumentality may be specified in any infringement notice issued to the Crown.

(3) The responsible agency or instrumentality in relation to an offence or contravention against this Act is the agency or instrumentality of the Crown whose acts or omissions are alleged to constitute the offence or contravention.

(4) If an agency or instrumentality no longer exists, the successor of that agency or instrumentality is taken to be the responsible agency or instrumentality and, if there is no clear successor, the Court may declare an agency or instrumentality to be the responsible agency or instrumentality.

(5) The responsible agency or instrumentality in relation to an offence or contravention against this Act may be specified in any document initiating, or relating to, the proceedings.

(6) The responsible agency or instrumentality in relation to an offence or a contravention is entitled to act in proceedings against the Crown for the offence or relating to the contravention and, subject to any relevant rules of Court, the procedural rights and obligations of the Crown as the accused or defendant in the proceedings are conferred or imposed on the responsible agency or instrumentality.

(7) The person bringing the proceedings may change the responsible agency or instrumentality during the proceedings with the Court's leave.

Division 5 General provisions

242 Effect on civil liability

Unless otherwise provided in this Act, nothing in this Act is to be construed as:

(a) conferring a right of action in civil proceedings in relation to a contravention of a provision of this Act; or

(b) conferring a defence to an action in civil proceedings or otherwise affecting a right of action in civil proceedings; or

(c) affecting the extent to which a right of action arises, or civil proceedings may be brought, in relation to breaches of duties or obligations imposed by regulation.

243 Disciplinary action and offences

The taking of disciplinary action against the holder of a licence does not prevent:

(a) prosecuting the holder of the licence for an offence arising from the facts or circumstances on which the disciplinary action is based; or

(b) a Court imposing a penalty for an offence referred to in paragraph (a) after taking the disciplinary action into account.

244 Client legal privilege

Nothing in this Act requires a person to produce a document that would disclose information, or otherwise provide information, that is the subject of client legal privilege.

245 Protection from civil liability

(1) The following persons are not civilly liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act:

(a) the Electrical Safety Regulator;

(b) a member of the Electrical Safety Board;

(c) an inspector.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

246 No contracting out

A term of any agreement or contract that purports to exclude, limit or modify the operation of this Act or any duty owed under this Act or to transfer to another person any duty owed under this Act is void.

Part 10 Other matters

Division 1 Review of decisions

247 Meaning of *decision*

For this Division, a reference to a ***decision*** includes the following:

(a) issuing, making, suspending, revoking or refusing to issue, make, suspend or revoke an order, determination or decision;

(b) issuing, giving, suspending, revoking or refusing to issue, give, suspend or revoke a direction, authorisation, approval, consent or permission;

(c) imposing a condition;

(d) making a declaration, demand or requirement;

(f) retaining, or refusing to deliver up, a thing;

(g) doing or refusing to do any other act or thing.

248 Application for review of inspector's decision

(1) A person affected by a decision of an inspector may apply to the Electrical Safety Regulator for review of the decision.

(2) The application for review must be lodged with the Electrical Safety Regulator:

(a) within 20 business days after the decision notice (or other written notice of the decision) is given to the person; or

(b) any later date allowed by the Electrical Safety Regulator.

(3) The application must:

(a) be in the approved form; and

(b) state the grounds for the review and the facts relied on to establish the grounds.

(4) Subject to section 249(2), an application for review does not stay the operation of the inspector's decision.

249 Review powers

(1) The Electrical Safety Regulator may reject an application for review if satisfied:

(a) the application is frivolous or vexatious; or

(b) no grounds exist for the application.

(2) The Electrical Safety Regulator may stay the operation of the decision pending completion of the review.

(3) The Electrical Safety Regulator may, by written notice, require further information from the applicant for the purposes of the review.

(4) The time to provide the information must be at least 5 business days as specified in the notice.

(5) If the applicant does not provide the further information within the specified time, the Electrical Safety Regulator may reject the application.

(6) The Electrical Safety Regulator may delegate to another person or body the power to review decisions under section 250.

(7) The inspector who made the decision cannot be a delegate to review that decision.

250 Reviewing inspector's decision

(1) Unless the application is rejected under section 249(5), the Electrical Safety Regulator must review the inspector's decision within 10 business days after the later of the following:

(a) the day on which the application is lodged;

(b) the day for the provision of further information, if any, specified in accordance with section 249(3).

(2) In reviewing the inspector's decision, the Electrical Safety Regulator must:

(a) take into account any matter that was required when the inspector made the decision; and

(b) comply with the rules of natural justice.

(3) After reviewing the inspector's decision, the Electrical Safety Regulator must:

(a) affirm the decision; or

(b) vary the decision; or

(c) set aside the decision and substitute a new decision.

(4) The Electrical Safety Regulator must, as soon as practicable, give a decision notice to the following persons:

(a) the applicant;

(b) the inspector who made the decision;

(c) any person who also had a right under section 248(1) to apply for a review of the decision.

251 Review by NTCAT

(1) The following decisions are reviewable by NTCAT:

(a) any decision of the Electrical Safety Regulator or delegate of the Electrical Safety Regulator for which a decision notice is required under this Act;

(b) a decision of the Electrical Safety Regulator under section 195 to prohibit the supply or sale of consumer electrical equipment, other than on the grounds referred to in section 196(1)(a) or (b);

(c) any decision of the Board for which a decision notice is required under this Act.

(2) The following persons may apply to NTCAT for a review of the decision:

(a) for all decisions – the Electrical Safety Regulator;

(b) for a decision regarding an application – the applicant;

(c) for a decision regarding a licence – the person holding the licence;

(d) for a decision regarding disciplinary action – the person who is the subject of the action;

(e) for a decision that was the result of a submission, complaint or objection – the person who made the submission, complaint or objection;

(f) for a decision relating to a notice or direction under Part 8 – the person who is the subject of the notice or direction;

(g) for a decision relating to the seizure of a thing – the owner or the person entitled to possess the thing.

252 Effect of application on decision

Unless NTCAT orders otherwise, an application for review by NTCAT does not affect the operation or implementation of the decision under review.

Division 2 Regulation making power

253 Regulations

(1) The Administrator may make regulations under this Act.

(2) A regulation may provide for the following:

(a) ways of discharging a person's electrical safety duty;

(b) ways of ensuring the electrical safety of individuals and property;

(c) safety and technical requirements for electrical work;

(d) safety and technical requirements for working in contact with, or near to, an exposed conductor or an exposed component of an item of electrical equipment;

(e) safety, technical and certification requirements for electrical equipment, including for the sale, testing and use of electrical equipment;

(f) safety and technical requirements for the electricity infrastructure and for electricity supply;

(g) amendments, cancellations, suspensions and transfers of certificates and other authorities required under the regulation;

(h) requirements for the labelling, marking, testing and disposal of electrical equipment;

(i) requirements for signs or other advertising material for the sale of electrical equipment;

(j) requirements for safety management and mitigation plans;

(k) safety, technical and registration requirements for cathodic protection systems;

(l) notification and reporting requirements for serious electrical events and dangerous electrical events;

(m) matters about licences, including the following:

(i) classes of licences;

(ii) the periods for which particular licences are to be in force;

(iii) financial and insurance requirements for the holders of licences;

(iv) particular requirements applying to the making of applications for the issue or renewal of licences;

(v) eligibility requirements for the issue or renewal of licences, including suitability for particular qualifications and successful completion of examinations or courses

(vi) the keeping of a register for recording licence information;

(vii) requirements for keeping licences and registers up to date, including for the provision of information for keeping licences and registers up to date;

(viii) restrictions on advertising by the holders of licences;

(n) matters relating to the registration of suppliers and consumer electrical equipment in the national register, including the renewal and cancellation of the registration;

(o) matters relating to the classification, approval and sale of consumer electrical equipment, the keeping of evidence and certificates regarding standards;

(p) matters relating to the declaration of a scheme as an external certification scheme under section 36 including the imposition of conditions on, and the cancellation of, the declaration;

(q) discipline of the holders of licences;

(r) reviews and appeals of matters under this Act;

(s) fees payable under this Act and the recovery of costs incurred by the Electrical Safety Regulator or the Board under this Act;

(t) the imposition of charges for the carrying out of activities of a distribution entity authorised under the Act;

(u) matters of an administrative nature.

(3) The regulations may:

(a) provide that an offence against the regulations is an offence of strict or absolute liability; and

(b) prescribe a fine not exceeding 200 penalty units for an offence against the regulations, other than an offence of strict liability or absolute liability; and

(c) prescribe a fine not exceeding 100 penalty units for an offence against the regulations that is an offence of strict liability or absolute liability.

(4) The regulations may apply, adopt or incorporate (with or without changes) the whole or part of an Australian Standard or Australian/New Zealand Standard, as in force or existing at a particular time or from time to time.

Part 11 Repeal and transitional provisions

Division 1 Repeal of Electrical Workers and Contractors Act 1978

254 Act repealed

The *Electrical Workers and Contractors Act 1978* (Act No. 28, 1978) is repealed.

Division 2 Repeal of Electricity Reform (Safety and Technical) Regulations 2000

255 Regulations repealed

The *Electricity Reform (Safety and Technical) Regulations 2000* (SL No. 47, 2000) are repealed.

Division 3 Transitional matters

256 Definitions

In this Part:

commencement means the commencement of section 254.

former Act means the *Electrical Workers and Contractors Act 1978*.

257 Licences under former Act

A licence issued under the former Act that is valid immediately before the commencement continues in effect after the commencement as a licence under this Act in accordance with its terms and conditions.

258 Applications under former Act

An application for a licence that was made but not determined under the former Act before the commencement is to be determined by the Electrical Safety Regulator in accordance with the former Act as if it were not repealed.

259 Electrical Safety Regulator

(1) The person holding office as the electricity safety regulator under the *Electricity Reform Act 2000* immediately before the commencement is taken to be the Electrical Safety Regulator appointed under this Act.

(2) Any acts done and matters under consideration by the Executive Officer that were not determined under the former Act before the commencement are to be determined by the Electrical Safety Regulator in accordance with the former Act as if it were not repealed.

260 Electrical Workers and Contractors Board

(1) The Electrical Workers and Contractors Board under the former Act is abolished on the commencement.

(2) A member of the Electrical Workers and Contractors Board goes out of office on the commencement.

(3) The Electrical Safety Board is the successor of the Electrical Workers and Contractors Board and the assets and liabilities of the Electrical Workers and Contractors Board immediately before the commencement are vested in the Electrical Safety Board.

(4) Any acts done and matters under consideration by the Electrical Workers and Contractors Board that were not determined under the former Act before the commencement are to be determined by the Electrical Safety Board in accordance with the former Act as if it were not repealed.

261 Authorised officers

(1) A person holding office as an authorised officer assigned by the Minister to assist the electrical safety regulator under the *Electricity Reform Act 2000*, immediately before the commencement, is taken to be an inspector appointed under this Act in accordance with the terms and conditions of their appointment.

(2) An identity card issued to an inspector under the *Electricity Reform Act 2000* and in force immediately before the commencement is taken to be an identity card issued under this Act.

262 Appeals

(1) An appeal of a decision of the Electrical Workers and Contractors Board that was commenced but was not determined by the Local Court under the former Act before the commencement is to continue and be determined in accordance with the former Act as if it were not repealed.

(2) If a person had a right under the former Act, immediately before the commencement, to appeal a decision of the Electrical Workers and Contractors Board, the person's right to appeal is taken to be a right to apply under this Act for review by NTCAT.

263 Safety management and mitigation plan

(1) A safety management and mitigation plan that is a condition of a licence of an electricity entity under the *Electricity Reform Act 2000* immediately before the commencement is taken to be a safety management and mitigation plan approved by the Electrical Safety Regulator under section 77 of this Act.

(2) The dates for assessment and expiry of approval for a safety management and mitigation plan referred to in subsection (1) after the commencement are to be calculated from the days the plan was last assessed and approved respectively.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Electrical Safety Act 2022* (Act No. 3, 2022)**
Assent date 14 April 2022
Commenced 1 July 2024 (s 2(2))

***Electricity Legislation Amendment Act 2023* (Act No. 26, 2023)**
Assent date 1 November 2023
Commenced pts 2 and 4: 1 July 2024 (s 2(2) and *Gaz* S54, 26 June 2024); rem: 2 November 2023 (s 2(1))

Amending Legislation

***Justice and Other Legislation Amendment Act 2024* (Act No. 4, 2024)**
Assent date 14 March 2024
Commenced pt 5, div 1: 30 October 2023 (s 2(2)); pt 3, div 2: 25 March 2024 (s 2(3), s 2 *Sentencing and Other Legislation Amendment Act 2022* (Act No. 28, 2022) and *Gaz* S19, 22 March 2024); pt 4: 25 March 2024 (s 2(4), s 2 *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023* (Act No. 20, 2023) and *Gaz* S20, 22 March 2024); rem: 15 March 2024 (s 2(1))

***Justice and Other Legislation Amendment Act 2024* (Act No. 4, 2024)**
Assent date 14 March 2024
Commenced pt 5, div 1: 30 October 2023 (s 2(2)); pt 3, div 2: 25 March 2024 (s 2(3), s 2 *Sentencing and Other Legislation Amendment Act 2022* (Act No. 28, 2022) and *Gaz* S19, 22 March 2024); pt 4: 25 March 2024 (s 2(4), s 2 *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023* (Act No. 20, 2023) and *Gaz* S20, 22 March 2024); rem: 15 March 2024 (s 2(1))

Electrical Safety Amendment Act 2026 **(Act No. 9, 2026)**

Assent date	14 April 2026
Commenced	15 April 2026 (s 2)

Attorney-General Legislation Amendment (Boards, Committees and Statutory Offices) Act 2026 **(Act No. 21, 2026)**

Assent date	12 August 2026
Commenced	13 August 2026 (s 2)

3 LIST OF AMENDMENTS

s 2	amd No. 26, 2023, s 17
s 3	amd No. 21, 2026, s 12
s 16	amd No. 21, 2026, s 12
s 41	amd No. 26, 2023, s 18
s 42	amd No. 9, 2026, s 4
s 48	amd No. 26, 2023, s 19
s 55	amd No. 4, 2024, s 90
s 64	amd No. 4, 2024, s 91
s 67	amd No. 4, 2024, s 92
s 96	amd No. 21, 2026, s 12
s 103	amd No. 21, 2026, s 12
s 104	amd No. 21, 2026, s 8
s 107	amd No. 21, 2026, s 9
s 108	amd No. 21, 2026, s 10
pt 5	
div 3 hdg	rep No. 21, 2026, s 11
s 109	sub No. 21, 2026, s 11
ss 110 – 114	rep No. 21, 2026, s 11
s 115	amd No. 21, 2026, s 12
ss 117 – 118	amd No. 21, 2026, s 12
s 126	amd No. 21, 2026, s 12
ss 131 – 140	amd No. 21, 2026, s 12
s 217	amd No. 21, 2026, s 12
s 251	amd No. 21, 2026, s 12
s 253	amd No. 26, 2023, s 20
s 261	amd No. 4, 2024, s 93
s 264	rep No. 3, 2022, s 264(5)
pt 12 hdg	rep No. 3, 2022, s 302
pt 12	
div 1 hdg	rep No. 3, 2022, s 302
ss 265 – 266	rep No. 3, 2022, s 302
pt 12	
div 2 hdg	rep No. 3, 2022, s 302
ss 267 – 293	rep No. 3, 2022, s 302
pt 12	
div 3 hdg	rep No. 3, 2022, s 302
ss 294 – 295	rep No. 3, 2022, s 302
pt 12	
div 4 hdg	rep No. 3, 2022, s 302
ss 296 – 297	rep No. 3, 2022, s 302
pt 12	
div 5 hdg	rep No. 3, 2022, s 302
ss 298 – 301	rep No. 3, 2022, s 302
pt 12	
div 6 hdg	rep No. 3, 2022, s 302
s 302	rep No. 3, 2022, s 302