

# **NORTHERN TERRITORY OF AUSTRALIA**

## **ELECTRICITY REFORM ACT**

As in force at 14 December 2005

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 14 December 2005. Any amendments that commence after that date are not included.

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## ELECTRICITY REFORM ACT

**An Act to regulate the electricity supply industry, to make provision for safety and technical standards for electrical installations and for other purposes**

### **Part 1                      Preliminary**

#### **1                      Short title**

This Act may be cited as the *Electricity Reform Act*.

#### **2                      Commencement**

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

#### **3                      Objects**

The objects of this Act are:

- (a) to promote efficiency and competition in the electricity supply industry;
- (b) to promote the safe and efficient generation, transmission, distribution and selling of electricity;
- (c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry;
- (d) to establish and enforce proper safety and technical standards for electrical installations;
- (e) to facilitate the maintenance of a financially viable electricity supply industry; and
- (f) to protect the interests of consumers of electricity.

## 4 Interpretation

- (1) In this Act, unless the contrary intention appears:

**access agreement** means a contract or agreement for the provision of network access services entered into between a network provider and a network user under the Network Access Code and includes an award made by an arbitrator for the same purpose under the Network Access Code.

**authorised officer** means a person appointed under Part 6 as an authorised officer.

**condition** includes a limitation or restriction.

**contestable customer** means a customer classified by the Regulations as a contestable customer.

**contravention** includes a failure to comply.

**customer** means a person who receives, or wants to receive, a supply of electricity for final consumption and includes:

- (a) the occupier for the time being of a place to which electricity is supplied;
- (b) where the context requires – a person seeking an electricity supply; and
- (c) a person of a class declared by the Regulations to be customers.

**disconnect**, an electricity supply, includes a procedure to interrupt or discontinue the electricity supply to a customer.

**electrical installation** means a set of wires and associated fittings, equipment and accessories installed in a place for conveying, controlling, measuring or using electricity that is, or is to be, or has been, supplied for consumption in the place, but does not include:

- (a) electricity infrastructure owned or operated by an electricity entity; or
- (b) any wires, fittings, equipment or accessories connected to and beyond an electrical outlet at which fixed wiring terminates (other than a electrical outlet used to connect sections of fixed wiring).

**electricity entity** means a person licensed under Part 3 to carry on operations in the electricity supply industry and includes (where the context requires) a person who has been licensed to carry on operations in the electricity supply industry under that Part whose licence has been suspended or cancelled or has expired.

**electricity infrastructure** means:

- (a) electricity generating plant;
- (b) powerlines;
- (c) substations for converting, transforming or controlling electricity;
- (d) equipment for metering, monitoring or controlling electricity; and
- (e) any wires, equipment or other things (including tunnels and cavities) used for, or in connection with, the generation, transmission, distribution or supply of electricity.

**electricity network** means the assets that together are operated by the network provider for the purposes of transporting electricity from generators of electricity to a transfer point with another network or to consumers of electricity.

**electricity officer** means a person appointed under Part 4 as an electricity officer.

**electricity safety regulator** means the person holding the office of electricity safety regulator under Part 2.

**electricity supply industry** means the industry involved in the generation, supply and sale of electricity or other operations of a kind prescribed by the Regulations.

**generation**, of electricity, means the operation of any kind of electricity generating plant and all incidental and related operations, but does not include anything declared by Regulations not to be generation of electricity.

**land** includes:

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

**Network Access Code** means the Network Access Code referred to in the *Electricity Networks (Third Party Access) Act*.



**network provider** means a person licensed under Part 3 to provide network services.

**network services** means the services provided to network users by a network provider.

**network user** means a person who has been granted access to the electricity network by the network provider in order to transport electrical energy to or from a particular point.

**non-contestable customer** means any customer other than a contestable customer.

**occupier**, of land or a place, means a person who has or is entitled to possession or control of the land or place.

**operations** include activities.

**Power and Water Corporation** means the Power and Water Corporation established under the *Power and Water Corporation Act*.

**powerline** means:

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

but does not include a telecommunications cable or associated equipment.

**power system** means a system for generating and supplying electricity and includes a part of the system.

**related body corporate** means:

- (a) in respect of the Power and Water Corporation – a business division that would be a subsidiary within the meaning of the Corporations Act 2001 if the Power and Water Corporation were a body corporate to which the Corporations Act 2001 applies; or
- (b) in respect of another body corporate – a body corporate that is related to the first-mentioned body by virtue of section 50 of the Corporations Act 2001.

**selling**, of electricity, means trading in electricity (including the selling of electricity to customers) but does not include an activity prescribed by the Regulations not to be selling of electricity.

**supply**, of electricity, means physically conveying electricity to a customer by transmission or distribution.

**system controller** means a person licensed under Part 3 to exercise system control over a power system.

**telecommunications** means transmitting telephonic, radio, computer, television or other signals.

**Utilities Commission** means the Utilities Commission established by the *Utilities Commission Act*.

- (2) A reference in this Act to a powerline, network, infrastructure or other property of an entity includes a reference to a powerline, network, infrastructure or other property that is not owned by the entity but is operated by the entity.

## **5 Crown to be bound**

- (1) This Act binds the Crown.
- (2) Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.
- (3) Subsection (2) does not apply to an authority of the Territory granted a licence under this Act.
- (4) For the purposes of this section, a reference to the Crown extends:
- (a) not only to the Crown in right of this Territory but also (so far as the legislative power of the Territory permits) to the Crown in any other capacity; and
  - (b) to an instrumentality of the Crown, and to an officer or employee of the Crown and any contractor or other person who carries out functions on behalf of the Crown.

## **Part 2                      Administration**

### **Division 1                Utilities Commission**

#### **6                          Functions of Utilities Commission**

The Utilities Commission has (in addition to the Utilities Commission's functions under the *Utilities Commission Act*):

- (a) the licensing, price regulation and other functions and powers conferred by this Act;
- (b) the function of providing advice to the Minister on the operation of this Act; and
- (c) any other functions and powers conferred by the Regulations.

### **Division 2                Electricity safety regulator**

#### **7                          Electricity safety regulator**

- (1) There is an electricity safety regulator.
- (2) The Minister must appoint a person to be the electricity safety regulator.
- (3) The office of electricity safety regulator may be held in conjunction with a position in the Public Service of the Northern Territory.
- (4) The Minister may appoint an employee to act as the electricity safety regulator:
  - (a) during a vacancy in the office of electricity safety regulator; or
  - (b) when the electricity safety regulator is absent from, or unable to discharge, official duties or when performing other duties.

#### **8                          Functions of electricity safety regulator**

- (1) The electricity safety regulator has the following functions:
  - (a) to monitor and regulate safety and technical standards with respect to electrical installations;
  - (b) to perform any other functions assigned to the electricity safety regulator under this Act.
- (2) The electricity safety regulator has the power to do all things that are necessary or convenient to be done for or in connection with or incidental to the performance of his or her functions.

## **9                      Delegation**

- (1) The electricity safety regulator may delegate to a person or body of persons any of his or her powers and functions under this Act other than this power of delegation.
- (2) A delegation under this section:
  - (a) is to be in writing; and
  - (b) may be to a person from time to time holding, acting in or performing the duties of an office, designation or position.
- (3) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken to have been exercised or performed by the electricity safety regulator.
- (4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the electricity safety regulator.

## **10                    Electricity safety regulator's power to require information**

- (1) The electricity safety regulator may, by written notice, require a person to give the electricity safety regulator, within a time stated in the notice (which must be reasonable), information in the person's possession that the electricity safety regulator reasonably requires for the performance of the electricity safety regulator's functions under this Act.
- (2) A person required to give information under this section must provide the information within the time stated in the notice.

Penalty:            200 penalty units.
- (3) A person cannot be compelled to give information under this section if the information might tend to incriminate the person of an offence or make the person liable to pay a penalty.
- (4) A person is not liable in any way for any loss, damage or injury suffered by another person because of his or her giving information under this section.

## **11                      Obligation to preserve confidentiality**

- (1) The electricity safety regulator must preserve the confidentiality of information gained in the course of the performance of the electricity safety regulator's functions under this Act (including information gained by an authorised officer under Part 6) that:
  - (a) could affect the competitive position of an electricity entity or other person; or
  - (b) is commercially sensitive for some other reason.
- (2) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act (including the Utilities Commission and persons assisting the Utilities Commission).
- (3) Information referred to in subsection (1) may be disclosed if:
  - (a) the disclosure is made to another person who is also performing a function under this Act;
  - (b) the disclosure is made with the consent of the person who gave the information or to whom the information relates;
  - (c) the disclosure is authorised or required under any Act or law;
  - (d) the disclosure is authorised or required by a court or tribunal constituted by law; or
  - (e) the disclosure is authorised by regulations.
- (4) If a person when giving information to the electricity safety regulator claims that the information is information referred to in subsection (1), the electricity safety regulator must, before disclosing the information, give the person written notice of the proposed disclosure and the reasons for the disclosure.

## **12                      Annual report**

- (1) The electricity safety regulator must, within 3 months after the end of each financial year, deliver to the Minister a report on the electricity safety regulator's operations under this Act during that financial year.
- (2) The Minister must cause a copy of the report to be tabled in the Legislative Assembly within 6 sitting days after receiving it.

## **Part 3            Electricity supply industry**

### **Division 1       Declaration as regulated industry**

#### **13            Declaration as regulated industry**

The electricity supply industry is declared to be a regulated industry for the purposes of the *Utilities Commission Act*.

### **Division 2       Licences in electricity supply industry**

#### **14            Requirement for licence**

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

Penalty:       2500 penalty units.

- (2) Subsection (1) does not apply to a person, or to a person carrying on an operation, exempted under section 87.
- (3) The operations in the electricity supply industry for which a licence is required are:
- (a) generation of electricity;
  - (b) owning or operating an electricity network;
  - (c) selling electricity;
  - (d) system control over a power system; or
  - (e) other operations for which a licence is required by the Regulations.

#### **15            Application for licence**

- (1) An application for a licence is to:
- (a) be made to the Utilities Commission in a form approved by the Utilities Commission; and
  - (b) contain the information specified in the form.
- (2) The applicant must pay to the Utilities Commission an application fee fixed by the Minister of an amount that the Minister considers appropriate to meet the reasonable costs of determining the application.

- (3) The Utilities Commission may, as the Utilities Commission considers appropriate, accept a single application from an applicant in respect of different operations of the applicant or operations of the applicant at different locations or may require separate applications.
- (4) An applicant must give the Utilities Commission further relevant information that is requested by the Utilities Commission.

## **16            Consideration of application**

- (1) The Utilities Commission must consider an application for a licence and may grant or refuse to grant the licence.
- (2) The Utilities Commission must have regard to the general factors specified in section 6(2) of the *Utilities Commission Act* and, subject to this section, may only issue a licence if satisfied that:
  - (a) the applicant is a suitable person to hold the licence;
  - (b) in the case of a licence authorising the generation of electricity – the generating plant (or proposed generating plant) will have the necessary characteristics to generate electricity of the appropriate quality for the relevant electricity network;
  - (c) in the case of a licence authorising the operation of an electricity network – the network has (or the proposed network will have) the necessary characteristics for transmitting or distributing electricity reliably and safely;
  - (d) in the case of a licence authorising selling of electricity – the applicant will be able to meet reasonably foreseeable obligations for the sale of electricity;
  - (e) in the case of a licence authorising system control over a power system – the applicant will be able to adequately exercise system control functions;
  - (f) in the case of a licence authorising other operations in the electricity supply industry for which a licence is required under the Regulations – the applicant meets any special requirements imposed by the Regulations for the holding of the licence; and
  - (g) in the case of a licence of any class – the grant of the licence would be consistent with criteria (if any) prescribed by the Regulations for a licence of the relevant class.

- (3) In deciding whether an applicant is a suitable person to hold a licence, the Utilities Commission may consider:
- (a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings;
  - (b) the financial, technical and human resources available to the applicant;
  - (c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
  - (d) other matters prescribed by the Regulations.
- (4) If:
- (a) a person carries on or proposes to carry on operations for which a licence is required as agent of another person;
  - (b) the agent makes application for the licence on the agent's own behalf and on behalf of the principal; and
  - (c) the Utilities Commission is satisfied that the criteria for granting the licence are met in relation to the agent,

the Utilities Commission may dispense with the requirement that it be satisfied that the criteria are met in relation to the principal and grant the licence to the agent and the principal to be held by them jointly.

## **17        Licences may be held jointly**

- (1) A licence may be held jointly by 2 or more persons.
- (2) If a licence is held jointly by 2 or more persons, those persons are jointly and severally liable to meet requirements imposed under this Act, the licence or the *Utilities Commission Act*.

## **18        Term of licence**

A licence may be granted for an indefinite period or for a term specified in the licence.



## **19            Licence fees and returns**

- (1) A person is not entitled to be granted a licence unless the person first pays to the Utilities Commission the annual licence fee, or the first instalment of the annual licence fee, as the case may require.
- (2) The holder of a licence granted for 2 years or more must:
  - (a) in each year lodge with the Utilities Commission before the date prescribed for that purpose an annual return containing the information required by the Utilities Commission by condition of the licence or by written notice; and
  - (b) in each year (other than a year in which the licence is due to expire) pay to the Utilities Commission before the date prescribed for that purpose the annual licence fee, or the first instalment of the annual licence fee, as the case may require.
- (3) The annual licence fee for a licence is the fee fixed from time to time by the Minister in respect of the licence as an amount that the Minister considers to be a reasonable contribution towards administrative costs.
- (4) An annual licence fee may, if the Utilities Commission determines, be paid in instalments at intervals fixed by the Utilities Commission.
- (5) If the holder of a licence fails to lodge the annual return or pay the annual licence fee (or an instalment of the annual licence fee) in accordance with this section, the Utilities Commission may, by written notice, require the holder to make good the default and, in addition, to pay to the Utilities Commission the amount prescribed as a penalty for default.
- (6) An annual licence fee (including any instalment of an annual licence fee or any penalty for default) payable under this section is recoverable as a debt due to the Territory.
- (7) In this section:

**administrative costs** means:

- (a) the costs of administration of this Act, the *Electricity Networks (Third Party Access) Act* or the Network Access Code; and
- (b) other costs prescribed by the Regulations.

**holder**, of a licence, includes the holder of a licence that has been suspended.

**20            Authority conferred by licence – general**

- (1) A licence authorises the electricity entity named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence.
- (2) The operations authorised by a licence need not be all of the same character or at the same location but may consist of a combination of different operations or operations at different locations.

**21            Authority conferred by licence authorising generation of electricity**

- (1) A licence authorising the generation of electricity authorises the electricity entity:
  - (a) to generate electricity for sale; and
  - (b) to sell electricity:
    - (i) if stated in the licence or otherwise authorised under this Act – to electricity entities holding licences authorising them to generate or sell electricity; or
    - (ii) as stated in the licence or otherwise authorised under this Act.
- (2) However, the licence does not relieve the electricity entity or anyone else from complying with laws applying to the developing, building, operating or maintaining of generating plant.
- (3) The licence does not authorise the electricity entity to have access to an electricity network other than in accordance with an access agreement entered into under the Network Access Code with the electricity entity licensed to operate the electricity network.

**22            Authority conferred by licence authorising operation of electricity network**

- (1) A licence authorising the operation of an electricity network authorises the electricity entity:
  - (a) to operate the electricity network in the geographical area stated in the licence; and
  - (b) if stated in the licence – to connect the electricity network to another electricity network stated in the licence.

- (2) However, the licence does not relieve the electricity entity or anyone else from complying with laws applying to developing, building, operating or maintaining an electricity network.

**23            Authority conferred by licence authorising selling of electricity**

- (1) A licence authorising the selling of electricity authorises the electricity entity:
- (a) to trade in electricity; and
  - (b) to retail electricity to customers,
- under the terms of the licence.
- (2) A licence authorising the selling of electricity may confer on the entity, if the Minister determines and despite section 8 of the *Utilities Commission Act*, an exclusive right to sell electricity to non-contestable customers within a specified geographical area or areas.
- (3) If a licence authorising the selling of electricity confers an exclusive right to sell electricity within a specified geographical area under subsection (2), the electricity entity:
- (a) has an obligation to sell electricity to non-contestable customers who own or occupy premises within the area as required under this Act; and
  - (b) may sell electricity to contestable customers who own or occupy premises anywhere in the Territory.
- (4) If a licence authorising the selling of electricity to non-contestable customers does not confer an exclusive right to sell electricity within a specified geographical area under subsection (2), the electricity entity may sell electricity to contestable customers who own or occupy premises anywhere in the Territory.
- (5) A licence authorising the selling of electricity does not authorise the electricity entity to have access to an electricity network other than in accordance with an access agreement entered into under the Network Access Code with the electricity entity licensed to operate the electricity network.

## **24                      Licence conditions – general**

- (1) The Utilities Commission must, on granting a licence, make the licence subject to conditions determined by the Utilities Commission:
  - (a) requiring compliance with applicable codes or rules (with modifications or exemptions determined by the Utilities Commission) made under the *Utilities Commission Act* as in force from time to time;
  - (b) requiring compliance with protocols, standards and codes applying to the electricity entity under the Regulations;
  - (c) relating to the electricity entity's financial or other capacity to continue operations under the licence;
  - (d) requiring the electricity entity to have all or part of the operations authorised by the licence audited and to report the results of the audit to the Utilities Commission;
  - (e) requiring the electricity entity to notify the Utilities Commission about changes to officers and, if applicable, major shareholders of the entity; and
  - (f) requiring the electricity entity to comply with the requirements of any scheme approved and funded by the Minister for the performance of community service obligations by electricity entities.
- (2) The Utilities Commission must, on granting a licence, make the licence subject to further conditions that the Utilities Commission is required by the Regulations to impose on granting the licence.
- (3) The Utilities Commission must, on granting a licence, make the licence subject to further conditions:
  - (a) if 2 or more people are granted a single licence in partnership or as an unincorporated joint venture – relating to the carrying on of those activities in that manner; and
  - (b) requiring the electricity entity to develop and comply with customer related standards and procedures.
- (4) The Utilities Commission may, on granting a licence, make the licence subject to further conditions that are considered appropriate by the Utilities Commission.

- (5) The Utilities Commission must provide to the Minister any information that the Minister requires in connection with the performance of community service obligations relating to the generation, supply or sale of electricity.

**25            Licence conditions – licence authorising generation of electricity**

- (1) The Utilities Commission may, on granting a licence authorising the generation of electricity, make the licence subject to conditions determined by the Utilities Commission:
- (a) requiring compliance with directions of the system controller;
  - (b) requiring the electricity entity to provide electricity of a quality suitable for the electricity network stated in the licence;
  - (c) requiring the electricity entity not to do anything affecting the compatibility of the entity's electricity generating plant with any electricity network so as to prejudice public safety or the security of supply; and
  - (d) requiring the electricity entity:
    - (i) to grant to each electricity entity holding a licence authorising the operation of an electricity network rights to use or have access to the electricity entity's electricity generating plant that are necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the entity's licence; and
    - (ii) in the absence of agreement as to the terms on which those rights are to be granted – to comply with any determination of the Utilities Commission as to those terms.

- (2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the generation of electricity.

**26            Licence conditions – licence authorising operation of an electricity network**

- (1) The Utilities Commission may, on granting a licence authorising the operation of an electricity network, make the licence subject to conditions determined by the Utilities Commission:
- (a) requiring compliance with directions of the system controller;

- (b) requiring the electricity entity not to do anything affecting the compatibility of the entity's electricity network with any electricity generating plant or other electricity network so as to prejudice public safety or the security of supply;
- (c) requiring the electricity entity to comply with the obligations established by the Network Access Code relating to a network provider;
- (d) requiring the electricity entity not to buy or sell electricity directly or indirectly except if it is:
  - (i) necessary to operate the entity's electricity network or for a purpose associated with planning, designing, constructing, maintaining or operating the network;
  - (ii) for the electricity entity's administrative purposes; or
  - (iii) for a purpose specified in the conditions;
- (e) requiring the electricity entity in accordance with the Network Access Code to operate, maintain (including repair and replace if necessary) and protect its electricity network;
- (f) requiring the electricity entity to operate the electricity network in coordination with other electricity networks to which it is connected directly or indirectly;
- (g) requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles;
- (h) if the electricity entity is a related body corporate in relation to an electricity entity granted a licence authorising the generation or selling of electricity – requiring the business of operating the electricity network authorised by the licence to be kept separate from any other business of the electricity entity or any other person in the manner and to the extent specified in the conditions;
- (j) requiring the electricity entity:
  - (i) in accordance with the Network Access Code – to grant to each electricity entity holding a licence authorising the generation of electricity rights to use or have physical access to the entity's electricity network that are necessary for the purpose of ensuring the proper integrated operation of the power system and the proper carrying on of the operations authorised by the entity's licence; and

- (ii) in the absence of agreement as to the terms on which those rights are to be granted – to comply with any determination of the Utilities Commission as to those terms;
  - (k) requiring a specified process to be followed to resolve disputes between the electricity entity and customers as to the transmission and distribution of electricity; and
  - (m) requiring the electricity entity to be responsible for network control of its electricity network.
- (2) A condition of an electricity entity's licence imposed under subsection (1) is not to be taken to require the granting to other electricity entities of rights to use or have access to the entity's electricity network for the support or use of electricity infrastructure of the other entities other than in accordance with an access agreement or award under the Network Access Code.
- (3) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the operation of an electricity network.

## **27            Limitation on obligation to connect and distribute**

- (1) Despite anything in this Act, the *Electricity Networks (Third Party Access) Act* or the Network Access Code, an electricity entity does not have an obligation to connect or supply electricity to a customer's electrical installation or premises, and is not in breach of an access agreement to do so, if:
- (a) the connection or supply is, or needs to be, interrupted:
    - (i) in an emergency;
    - (ii) for work that needs to be performed without delay to prevent an emergency happening;
    - (iii) by circumstances beyond the network entity's control; or
    - (iv) for work – if it is reasonable to do the work when it is required to be done and reasonable notice is given to the customer and supply is restored as soon as practicable;
  - (b) the connection or distribution would breach technical or safety requirements under this Act;

- (c) the connection or distribution would unreasonably interfere with the connection or distribution of electricity by the network entity to other customers, except where the customer pays an amount to the entity for works necessary to prevent the connection or distribution from unreasonably interfering with the connection or distribution of electricity by the entity to other customers and the entity has given the customer an opportunity to pay the amount;
  - (d) a network provider is entitled, under its access agreements with network users or under the Regulations, to disconnect supply to the customer;
  - (e) after disconnecting supply to something that was unsafe – the thing is still unsafe;
  - (f) the connection or distribution is likely to cause fire or electric shock to anyone;
  - (g) this Act otherwise authorises refusal to connect or distribute (or reconnect or redistribute); or
  - (h) the Regulations provide that the obligation to connect or distribute (or reconnect or redistribute) does not apply.
- (2) An electricity entity operating an electricity network is entitled to disconnect and refuse to connect or reconnect supply of electricity to electrical installations or premises of a customer:
- (a) if the customer fails to pay an amount owing to the electricity entity retailing electricity to the customer or breaches the customer's agreement with that electricity entity and the electricity entity requests the electricity entity operating the electricity network to disconnect or refuse to connect or reconnect the customer; or
  - (b) if an electricity entity retailing electricity to the customer fails to pay an amount owing to the electricity entity operating the electricity network or breaches its access agreement with the electricity entity operating the electricity network.

## **28 Licence conditions – licence authorising selling of electricity**

- (1) The Utilities Commission may, on granting a licence authorising the selling of electricity, make the licence subject to conditions determined by the Utilities Commission:
- (a) if the licence authorises the selling of electricity to non-contestable customers and the electricity entity is a related body corporate in relation to an electricity entity



granted a licence authorising the generation of electricity or the selling of electricity to contestable customers – requiring the business of selling of electricity authorised by the licence as it relates to non-contestable customers to be kept separate from these other businesses in the manner and to the extent specified in the conditions;

- (b) requiring the electricity entity to sell electricity to non-contestable consumers who own or occupy premises within its retail area on application by non-contestable customers;
- (c) requiring the electricity entity to sell electricity to non-contestable customers on fair and reasonable terms (which terms may differ between customers or classes of customers);
- (d) if the electricity entity sells electricity to non-contestable customers – requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles;
- (e) if the electricity entity sells electricity to contestable customers – requiring the electricity entity to take reasonable steps to ensure that it has in place at all times arrangements to generate and supply electricity to these contestable customers;
- (f) if the electricity entity sells electricity to non-contestable customers – requiring the electricity entity, until a date determined by the Minister:
  - (i) to request these non-contestable customers to give written consent to the electricity entity providing their names, addresses and other contact details from time to time to the Utilities Commission and the Utilities Commission providing that information to other electricity entities holding licences authorising the selling of electricity; and
  - (ii) to provide copies of those consents and the information relating to the consenting customers to the Utilities Commission;
- (g) if the electricity entity sells electricity to non-contestable customers:
  - (i) requiring the electricity entity to take reasonable steps to identify when its non-contestable customers will or could become contestable customers and to give those

- customers at least 28 days notice of that fact and specifying the manner in which the notice is to be given; and
- (ii) requiring the electricity entity to request these non-contestable customers to give written consent to the electricity entity providing their names, addresses and other contact details from time to time to the Utilities Commission and the Utilities Commission providing that information to other electricity entities holding licences authorising the selling of electricity;
- (h) if the electricity entity sells electricity to non-contestable customers:
- (i) requiring the standard terms and conditions governing the sale of electricity by the electricity entity to offer to sell electricity to contestable customers on the same tariff schedule that applied to those customers immediately before becoming contestable customers for a period specified in the Regulations after they become contestable customers;
  - (ii) requiring the electricity entity to take reasonable steps to give the customers at least 28 days notice of the date on which the specified period will expire; and
  - (iii) specifying the manner in which the notice must be given; and
- (j) requiring the electricity entity to enter into and comply with an agreement (on terms approved from time to time by the Utilities Commission) with each electricity entity holding a licence authorising the generation of electricity and the operation of an electricity network that provides services to the customers supplied by the entity as to the co-ordination of the provision of services to those customers, including arrangements whereby any complaint that a customer has about the quality of the services being supplied is taken up by the electricity entity with those electricity entities on the customer's behalf.
- (2) For the purposes of subsection (1)(c), the Regulations may declare what is or is not fair and reasonable, including, for example, whether or not and, if so, in what circumstances requiring different advance payments or security deposits from different customers or different contract terms is fair and reasonable.

- (3) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the selling of electricity.
- (4) In subsection (1), **retail area** means a geographical area specified in the electricity entity's licence authorising the selling of electricity in which the entity has an exclusive right to sell electricity to non-contestable customers.

## **29            Limitations on obligation to sell**

An electricity entity does not have an obligation under section 23(3) to non-contestable customers and the electricity entity is not in breach of an agreement to supply electricity in relation to an electrical installation or premises of a non-contestable customer if:

- (a) another provision of this Act or the Regulations:
  - (i) states that the obligation does not apply; or
  - (ii) authorises the entity to refuse to sell electricity;
- (b) the obligation or contract can not be performed because:
  - (i) the electricity entity is not required to connect or supply electricity to the relevant electrical installation or premises; or
  - (ii) the Regulations provide that the obligation does not apply;
- (c) the obligation or contract can not be performed because of anything beyond the electricity entity's control; or
- (d) the customer:
  - (i) fails to pay an amount owing to the customer's electricity entity; or
  - (ii) breaches the customer's agreement with the customer's electricity entity.

## **30            Licence conditions – licence authorising system control**

- (1) The Utilities Commission may, on granting a licence authorising system control over a power system, make the licence subject to conditions determined by the Utilities Commission:
  - (a) if the electricity entity is a related body corporate in relation to an electricity entity granted a licence authorising the generation of electricity – requiring the business of system

control authorised by the licence to be kept separate from the business of generating electricity to the extent specified in the conditions;

- (b) requiring the electricity entity to maintain specified accounting records and to prepare accounts according to specified principles;
  - (c) requiring the functions and powers of the system controller to be exercised in the best interests of all parties operating in the power system; and
  - (d) requiring the system controller to consult with all electricity entities involved in the operation of the power system when establishing and varying the operating protocols and arrangements for dispatch and system security.
- (2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising system control over a power system.

### **31 Offence to contravene licence conditions**

- (1) An electricity entity must not contravene a condition of its licence.

Penalty: 2500 penalty units.

- (2) If an electricity entity profits from contravention of a condition of its licence, the Utilities Commission may recover an amount equal to the profit from the entity:
- (a) on application to a court on it finding the entity guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

### **32 Variation of licence**

- (1) The Utilities Commission may vary the terms or conditions of an electricity entity's licence as the Utilities Commission considers appropriate (but not so as to remove a condition that the Utilities Commission is required by this Act to impose on the licence).
- (2) A variation may only be made:
- (a) on application by the electricity entity or with the electricity entity's agreement; or

- (b) after giving the electricity entity reasonable notice of the proposed variation and allowing the entity a reasonable opportunity to make representations about the proposed variation.
- (3) A variation may only be made if the Utilities Commission considers it necessary to further the objects of this Act, the *Electricity Networks (Third Party Access) Act* or the Network Access Code.
- (4) A variation cannot override the procedure for amending a code that applies to the licence as a condition of the licence.

### **33            Transfer of licence**

- (1) A licence may only be transferred with the Utilities Commission's agreement.
- (2) The Utilities Commission may impose conditions on the transfer of a licence, or vary the terms and conditions of the licence on its transfer.
- (3) The Utilities Commission must not agree to the transfer of a licence if the transferee would not be entitled to be granted the licence.
- (4) An application for agreement to the transfer of a licence is to:
  - (a) be made by the transferor with the consent of the transferee to the Utilities Commission in a form approved by the Utilities Commission; and
  - (b) contain the information specified in the form.
- (5) The applicant must pay to the Utilities Commission an application fee fixed by the Minister of an amount that the Minister considers appropriate to meet the reasonable costs of determining the application.
- (6) The applicant must give the Utilities Commission further relevant information requested by the Utilities Commission.

### **34            Notice of licence decisions**

- (1) The Utilities Commission must give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Utilities Commission's decision on the application.
- (2) The Utilities Commission must give an electricity entity written notice of any decision by the Utilities Commission affecting the terms or conditions of its licence.

**35            Surrender of licence**

- (1) An electricity entity may surrender its licence by written notice given to the Utilities Commission.
- (2) The notice must be given to the Utilities Commission at least 6 months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.
- (3) The Utilities Commission may, by agreement with the electricity entity, shorten the required period of notice.

**36            Suspension or cancellation of licence**

- (1) The Utilities Commission may suspend or cancel a licence with effect from a specified date if satisfied that:
  - (a) the electricity entity obtained its licence improperly;
  - (b) the electricity entity has been guilty of a material contravention of a condition of its licence or any other requirement imposed by or under this Act or any other Act in connection with the operations authorised by its licence;
  - (c) the electricity entity has ceased to carry on operations authorised by its licence; or
  - (d) there has been any act or default or change of circumstances such that the electricity entity would no longer be entitled to be granted its licence.
- (2) The suspension of a licence may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Utilities Commission.
- (3) Before the Utilities Commission acts under this section, the Utilities Commission must:
  - (a) notify the electricity entity in writing of the proposed action specifying the reasons for the proposed action; and
  - (b) allow the electricity entity at least 14 days within which to make submissions to the Utilities Commission in relation to the proposed action.

**37            Register of licences**

- (1) The Utilities Commission must keep a register of the licences granted to electricity entities under this Act.

- (2) The register is to include:
  - (a) the terms and conditions of each licence; and
  - (b) other information required by the Regulations.
- (3) A person may, without paying a fee, inspect the register.

## **Division 3            System controller**

### **38            Functions and powers of system controller**

- (1) Subject to the Regulations, a system controller for a power system has the function of monitoring and controlling the operation of the power system with a view to ensuring that the system operates reliably, safely and securely in accordance with a technical code prepared by the system controller and approved by the Utilities Commission.
- (2) A system controller for a power system has, in carrying out the system controller's functions under this Act:
  - (a) power to issue directions to electricity entities that are engaged in the operation of the power system, or contribute electricity to, or take electricity from, the power system; and
  - (b) the other powers conferred by the Regulations.
- (3) Without limiting subsection (2)(a), the directions may include directions:
  - (a) to switch off or re-route a generator;
  - (b) to call equipment into service;
  - (c) to take equipment out of service;
  - (d) to commence operation or maintain, increase or reduce active or reactive power output;
  - (e) to shut down or vary operation; and
  - (f) to shed or restore customer loads.
- (4) If an electricity entity refuses or fails to comply with a direction of a system controller, the system controller may:
  - (a) authorise a person to take the action required by the direction or to cause the action to be taken; and

- (b) give the electricity entity any directions the system controller considers necessary to facilitate the taking of the action.
- (5) Costs and expenses incurred in taking action or causing action to be taken under subsection (4) are recoverable from the electricity entity by the system controller as a debt in a court of competent jurisdiction.

### **39            Remuneration of system controller**

- (1) A system controller is entitled to impose and recover charges relating to the operations of system control.
- (2) The schedule of charges to be applied for the purpose of subsection (1) is to be approved by the Utilities Commission.

### **40            Obligation to preserve confidentiality**

- (1) A system controller must preserve the confidentiality of information that:
  - (a) could affect the competitive position of an electricity entity or other person; or
  - (b) is commercially sensitive for some other reason.
- (2) Information referred to in subsection (1) may be disclosed if:
  - (a) the disclosure is made to another person who is also performing a function under this Act or the Network Access Code;
  - (b) the disclosure is made with the consent of the person who gave the information or to whom the information relates;
  - (c) the disclosure is authorised or required under any Act or law;
  - (d) the disclosure is authorised or required by a court or tribunal constituted by law; or
  - (e) the disclosure is authorised by regulations.
- (3) If a person when giving information to the system controller claims that the information is information referred to in subsection (1), the system controller must, before disclosing the information, give the person written notice of the proposed disclosure and the reasons for the disclosure.



## **Division 4 Utilities Commission's powers to take over operations**

### **41 Power to take over operations**

- (1) If:
- (a) an electricity entity contravenes a condition of its licence or any other requirement of this Act, or an electricity entity's licence ceases, or is to cease, to be in force; and
  - (b) it is necessary, in the Utilities Commission's opinion, to take over the entity's operations (or some of them) to ensure an adequate, reliable and secure generation, supply and sale of electricity to customers,

the Administrator may make a determination under this section.

- (2) Before making a determination, the Utilities Commission must give the electricity entity a reasonable opportunity to make written representations giving reasons why the determination should not be made.
- (3) A determination under this section:
- (a) authorises the Utilities Commission to take over the electricity entity's operations or a specified part of the electricity entity's operations; and
  - (b) may contain ancillary directions (and may, in particular, contain directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with).
- (4) A direction under subsection (3)(b) operates to the exclusion of rights that are inconsistent with it.

### **42 Appointment of operator**

- (1) When a determination is made under this Part, the Utilities Commission must appoint a suitable person (who may, but need not, be an electricity entity) to take over and carry on the relevant operations on terms and conditions agreed with the Utilities Commission.
- (2) A person appointed to take over an electricity entity's operations is referred to in this section as the operator.
- (3) The electricity entity must facilitate the take over of the relevant operations by the operator.

- (4) The operator may have access to the electricity infrastructure and other property of the electricity entity for the purposes of carrying on the relevant operations.
- (5) The operator in carrying out the relevant operations must comply with this Act and any other Act, the conditions of the licence and the Network Access Code as applying to the electricity entity as if the operator were the electricity entity.
- (6) A person must not obstruct the operator's access to property or the exercise by the operator of the operator's responsibilities under this Part.

Penalty:        2500 penalty units.

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

Penalty:        2500 penalty units.

## **Division 5            Price regulation**

### **43            Price regulation by determination of Utilities Commission**

The Utilities Commission may make a determination regulating prices and conditions relating to prices for:

- (a) subject to an electricity pricing order issued by the Minister under this Act – the sale and supply of electricity to non-contestable customers or customers of a prescribed class;
- (b) subject to the Network Access Code – network services; and
- (c) other goods and services in the electricity supply industry (other than network services provided to contestable customers or to electricity entities) specified by the Minister by notice in the *Gazette*.

### **44            Electricity pricing order by Minister**

- (1) The Minister may issue an order (an electricity pricing order) regulating prices for:
  - (a) the sale of electricity to non-contestable customers or customers of a prescribed class; and

- (b) the sale of other goods and services to non-contestable customers by an electricity entity with an effective monopoly in the sale of those goods and services.
- (2) An electricity pricing order may regulate prices in any manner the Minister considers appropriate including:
  - (a) fixing a price or the rate of increase or decrease in a price;
  - (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in a maximum price;
  - (c) fixing an average price for specified goods or services or an average rate of increase or decrease in an average price;
  - (d) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;
  - (e) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the sale of specified goods or services;
  - (f) specifying pricing policies or principles; and
  - (g) fixing a maximum revenue, or maximum rate of increase or minimum rate of decrease in maximum revenue, in relation to specified goods or services.
- (3) An electricity pricing order may provide that a calculation is to be performed, or a matter is to be determined, by the Utilities Commission in a manner specified by the order.
- (4) An electricity pricing order may also regulate the terms and conditions (including the conditions relating to performance standards) on which the relevant electricity, goods and services are to be provided.
- (5) A determination of the Utilities Commission for the purposes of an electricity pricing order will not, except as provided in the order, be taken to be a determination for the purposes of the *Utilities Commission Act*.
- (6) An electricity pricing order may require an electricity entity to provide information to the Utilities Commission, other electricity entities, customers or others, or generally publish information, relating to prices or other matters.

- (7) An electricity pricing order:
  - (a) takes effect on a date specified in the order; and
  - (b) remains in force for not longer than the prescribed period.
- (8) Notice of the making of an electricity pricing order must be published:
  - (a) in the *Gazette*; and
  - (b) in a newspaper circulating generally in the Territory.
- (9) The notice must include a brief description of the nature and effect of the electricity pricing order and state how a copy of the order may be inspected or purchased.
- (10) The Minister must:
  - (a) send a copy of an electricity pricing order to each electricity entity to which the order applies; and
  - (b) ensure that copies of the order are available for inspection and purchase by members of the public.
- (11) An electricity entity must comply with an electricity pricing order or part of an electricity pricing order that applies to the entity.
- (12) The Utilities Commission must:
  - (a) perform any functions that an electricity pricing order contemplates will be performed by the Utilities Commission for the purposes of the order; and
  - (b) enforce an electricity pricing order under section 23 of the *Utilities Commission Act* in the same way as if it were a determination of the Utilities Commission under that Act.
- (13) The Utilities Commission's powers under this Division and the *Utilities Commission Act* are restricted to the extent specified in an electricity pricing order.
- (14) In this section:
  - prescribed period*** means 5 years or, in respect of the first electricity pricing order issued, 3 years.
  - price*** includes a price range.

## **Division 6            System capacity monitoring and planning**

### **45            Utilities Commission to monitor and advise on system capacity**

- (1) The Utilities Commission must:
  - (a) develop forecasts of overall electricity load and generating capacity in consultation with participants in the electricity supply industry and report the forecasts to the Minister and electricity entities;
  - (b) review and report to the Minister on the performance of the Territory's power system;
  - (c) advise the Minister on matters relating to the future capacity and reliability of the Territory's power system relative to forecast load;
  - (d) advise the Minister, either on its own initiative or at the request of the Minister, on other electricity supply industry and market policy matters; and
  - (e) submit to the Minister, and publish, an annual review of the prospective trends in the capacity and reliability of the Territory's power system relative to projected load growth.
- (2) Electricity entities operating in the Territory's power system are to provide information and technical assistance that the Utilities Commission reasonably requires to perform its responsibilities under this section.
- (3) In addition to subsection (2), the Utilities Commission may require a network user or customer to provide information to the Utilities Commission to enable it to perform its responsibilities under this section.
- (4) A network user or customer who is required to provide information under subsection (3) must provide the information as and when required by the Utilities Commission.

Penalty:       500 penalty units.

- (5) For the purposes of this section, ***Territory's power system*** means the power systems specified by the Minister for the purposes of this section.

## **Division 7            Protection of property in infrastructure**

### **46            Electricity infrastructure does not merge with land**

- (1) An agreement between an electricity entity and the owner of land relating to the construction or installation of electricity infrastructure on the land is to be taken to include agreement that ownership of the electricity infrastructure is not affected by its affixation or annexation to the land.
- (2) Electricity infrastructure referred to in subsection (1) may be dealt with and disposed of as personal property.
- (3) Subsection (1) is subject to any agreement in writing to the contrary.

### **47            Prevention of dismantling of electricity infrastructure in execution of judgment**

- (1) Electricity infrastructure owned or operated by an electricity entity cannot be dismantled in execution of a judgment.
- (2) This section does not prevent the sale of an electricity generating plant or an electricity network as a going concern in execution of a judgment.

## **Division 8            Utilities Commission to investigate complaints**

### **48            Grounds for complaint**

- (1) A person may make a complaint under this Division to the Utilities Commission against an electricity entity on the grounds that:
  - (a) the electricity entity is engaging in conduct that is contrary to one (or more) of its licence conditions; or
  - (b) the electricity entity is engaging in conduct that is contrary to the objects of this Act or the *Utilities Commission Act*.
- (2) A complaint is to:
  - (a) be in writing;
  - (b) contain details of the grounds of the complaint; and
  - (c) include sufficient details to show:
    - (i) how the complainant is, or may be, adversely affected by the alleged conduct or noncompliance; and

- (ii) how the complainant has made a genuine, but unsuccessful, attempt to resolve the subject matter of the complaint with the electricity entity.

#### **49 Persons who may make complaint**

- (1) Subject to subsection (2), a complaint may be made to the Utilities Commission only by a person who:
  - (a) is, or may be, adversely affected by the conduct or noncompliance alleged by the person; and
  - (b) is a contestable customer or an electricity entity.
- (2) A complaint may be made by a person who is not a contestable customer if the Utilities Commission is satisfied that the person is authorised to act on behalf of a contestable customer who is, or may be, adversely affected by the alleged conduct or noncompliance of the electricity entity.

#### **50 Utilities Commission to investigate complaint**

- (1) The Utilities Commission must investigate a complaint received by it unless the Utilities Commission reasonably believes that:
  - (a) the complainant is not, or is unlikely to be, adversely affected by the conduct or noncompliance alleged in the complaint;
  - (b) the complainant has not shown he or she has made a genuine attempt to resolve the subject matter of the complaint with the electricity entity; or
  - (c) the complaint is frivolous or vexatious.
- (2) If the Utilities Commission decides not to investigate a complaint, the Utilities Commission must, within 14 days after making the decision, give to the complainant a written notice stating its decision and the reason for its decision.

#### **51 Procedures for investigation**

- (1) The Utilities Commission must report the results of an investigation to the Minister.
- (2) The Utilities Commission must, in a report:
  - (a) state whether the complaint has been substantiated;
  - (b) state its reasons for the decision;

- (c) if the complaint has been substantiated and involves conduct contrary to the electricity entity's licence conditions – include the action it is, or proposes, to take to deal with the entity's conduct; and
- (d) if the complaint has been substantiated and involves conduct contrary to the objects of this Act or the *Utilities Commission Act* – include its recommendations on how the electricity entity's noncompliance can be overcome.

## **Part 4            Electricity entities' powers and duties**

### **Division 1        Electricity officers**

#### **52            Appointment of electricity officers**

- (1) An electricity entity may, subject to conditions determined by the Minister, appoint a person to be an electricity officer for the entity.
- (2) An electricity officer may only exercise powers under this Act subject to the conditions of appointment and any directions given to the electricity officer by the entity.

#### **53            Conditions of appointment**

- (1) An electricity officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
- (2) An electricity officer may be removed from office by the electricity entity.

#### **54            Electricity officer's identity card**

- (1) An electricity entity must give each electricity officer for the entity an identity card.
- (2) The identity card is to be in a form approved by the Minister and is to:
  - (a) contain a photograph of the electricity officer taken for the purpose;
  - (b) be signed by the electricity officer; and
  - (c) identify the electricity officer as an electricity officer for the electricity entity.



- (3) A person must, within 2 days after ceasing to be an electricity officer, return the identity card to the electricity entity.

Penalty:        10 penalty units.

**55            Production of identity card**

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

**Division 2            Powers and duties relating to infrastructure**

**56            Entry on land to conduct surveys, etc.**

- (1) An electricity entity may, by agreement with the occupier of land or on the authorisation of the Minister, enter and remain on land to conduct surveys or assess the suitability of the land for the construction or installation of electricity infrastructure.
- (2) The Minister may authorise an electricity entity to enter and remain on land under this section on conditions the Minister considers appropriate.
- (3) If an electricity entity enters land under the authorisation of the Minister, the electricity entity:
- (a) must give reasonable notice of the proposed entry on land under this section to the occupier;
  - (b) must minimise the impact of work carried out by the electricity entity on activities of others on the land; and
  - (c) must comply with the conditions of the authorisation.

**57            Power to carry out work on public land**

- (1) Subject to this section and the *Planning Act*, an electricity entity may:
- (a) install electricity infrastructure on public land;
  - (b) operate, maintain, repair, alter, add to, remove or replace electricity infrastructure on public land; or
  - (c) carry out other work on public land relating to the generation and supply of electricity.

- (2) Without limiting subsection (1), the electricity entity may:
  - (a) erect powerlines on public land; and
  - (b) excavate public land and install underground cables.
- (3) Subject to this section, an electricity entity must:
  - (a) give the authority responsible for managing public land not less than 7 days' notice of the entity's intention to carry out work on the land; and
  - (b) secure the authority's agreement to the carrying out of the work.
- (4) An agreement under this section may contain conditions the authority responsible for managing the land considers appropriate in the public interest.
- (5) If a dispute arises between an electricity entity and an authority about whether work should be permitted under this section or about the conditions on which work should be permitted, either party to the dispute may refer the dispute to the Minister.
- (6) Subsection (5) does not apply to a dispute if the authority responsible for managing the public land is a Minister or a person or body to whom directions may be given by a Minister in relation to the matter in dispute.
- (7) If a dispute is referred to the Minister under this section, the Minister must:
  - (a) allow the parties to the dispute the opportunity to make representations to the Minister on the questions at issue in the dispute; and
  - (b) make a reasonable attempt to get the parties to agree to settlement of the dispute on agreed terms.
- (8) If the Minister cannot get the parties to agree, the Minister may make:
  - (a) an order that the work is or is not permitted on the land; or
  - (b) if the Minister orders that the work is permitted – an order fixing the conditions on which the work is permitted.
- (9) An electricity entity must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.

- (10) An electricity entity may only act under this section in relation to public land in a way that interferes with the continued enjoyment or exercise of rights deriving from native title in the land by agreement with the Minister (on behalf of the Territory) and the native title holders in the land.
- (11) This section does not derogate from the obligation to comply with the provisions of any other Act.
- (12) In this section:

***native title*** and ***native title holder*** have the same meaning as in section 223 and 224 (respectively) of the *Native Title Act 1993* of the Commonwealth.

***public land*** means land owned by the Territory or an instrumentality or agent of the Territory or by a council or other local government body and includes public land that is subject to native title.

## **58                      Entry under easements for purposes related to infrastructure**

- (1) Subject to this section, if an electricity officer seeks to enter land pursuant to rights conferred on an electricity entity by a statutory or other easement relating to electricity infrastructure situated on the land, the officer must give reasonable written notice to the occupier of the land stating the reason and the date and time of the proposed entry.
- (2) If the proposed entry is refused or obstructed, an electricity officer may obtain a warrant under Part 8 to enter the land.
- (3) In an emergency, an electricity officer may exercise a power of entry referred to in this section:
  - (a) at any time and without prior notice if it is not practicable to give such notice; and
  - (b) if necessary in the circumstances, by the use of reasonable force.
- (4) An electricity officer may not enter a place under a warrant or by force in an emergency unless accompanied by a member of the Police Force.
- (5) An electricity entity must make good any damage caused by the exercise of powers under a warrant or by force in an emergency as soon as practicable or pay reasonable compensation for the damage.

**59                      Easements and access to infrastructure for data transmission and telecommunications**

- (1) If electricity infrastructure owned or operated by an electricity entity is situated on land that does not belong to the entity, any powers or rights that the entity has under this Act or pursuant to a statutory or other easement for the purposes of installing, operating and carrying out work relating to electricity infrastructure on that land will be taken also to be exercisable for the purposes of:
  - (a) installing telecommunications cables or equipment by attaching it to or incorporating it in the electricity infrastructure on the land;
  - (b) operating and carrying out work relating to telecommunications cables or equipment so installed; and
  - (c) operating the electricity infrastructure on the land for telecommunications.
- (2) Powers and rights conferred on an electricity entity under subsection (1) will also, with the consent of the electricity entity, be exercisable by another body in the same manner and subject to the same conditions as would apply if the other body were the electricity entity and persons appointed by the other body subject to conditions determined by the Minister were electricity officers.
- (3) This section has effect despite the *Law of Property Act* or any other law.

**Division 3                      Powers relating to installations**

**60                      Entry to inspect, etc., electrical installations**

- (1) An electricity officer for an electricity entity may, at any reasonable time, enter and remain in a place to which electricity is, is to be, or has been, supplied by the entity:
  - (a) to inspect electrical installations in the place to ensure that it is safe to connect or reconnect electricity supply;
  - (b) to take action to prevent or minimise an electrical hazard; or
  - (c) to investigate suspected theft of electricity.
- (2) In an emergency, an electricity officer may exercise a power of entry under this section at any time and, if necessary in the circumstances, by the use of reasonable force.

- (3) When an electricity officer enters a place under this section, the electricity officer:
  - (a) may be accompanied by such assistants as the electricity officer considers necessary or appropriate; and
  - (b) may take any vehicles or equipment the electricity officer considers necessary or appropriate for the functions the electricity officer is to carry out in the place.
- (4) An electricity officer may not enter a place by force in an emergency unless accompanied by a member of the Police Force.
- (5) If in the opinion of an electricity officer an electrical installation is unsafe, the electricity officer may disconnect the electricity supply to the place in which the installation is situated until the installation is made safe to the satisfaction of the electricity officer.

**61            Entry to read meters, etc.**

An electricity officer for an electricity entity may, at any reasonable time, enter and remain in a place to which electricity is, or is to be, sold or supplied by the entity:

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

**62            Entry to disconnect supply**

If an electricity officer has proper authority to disconnect an electricity supply to a place, the electricity officer may, at any reasonable time, enter and remain in the place to disconnect the electricity supply to the place.

**63            Disconnection of supply if entry refused**

- (1) If an electricity officer seeks to enter a place under this Division and entry is refused or obstructed, the electricity entity may, by written notice to the occupier of the place, ask for consent to entry by an electricity officer.
- (2) The notice must state the reason and the date and time of the proposed entry.

- (3) If entry is again refused or obstructed, the electricity entity may:
  - (a) if it is possible to do so – disconnect the electricity supply to the place without entering the place; or
  - (b) if not – obtain a warrant under Part 8 to enter the place for the purpose of disconnecting the electricity supply, enter the place under the warrant and disconnect the electricity supply.
- (4) An electricity officer may not enter a place under a warrant unless accompanied by a member of the Police Force.
- (5) An electricity entity must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.
- (6) The electricity entity must restore the electricity supply if:
  - (a) the occupier:
    - (i) consents to the proposed entry; and
    - (ii) pays outstanding fees and accounts;
  - (b) it is safe to restore the electricity supply; and
  - (c) there is no other lawful ground for refusing to restore the electricity supply.

## **Division 4            Powers relating to vegetation management**

### **64            Entry to place to clear vegetation**

- (1) Subject to this section, an electricity officer for an electricity entity that has a licence to operate an electricity network may, at any reasonable time, enter and remain in a place to which electricity is, is to be, or has been transmitted or distributed by the entity to clear vegetation from interfering with powerlines if, in the entity's opinion, it is necessary to do so to avert interruption to the electricity supply to the place or to another place.
- (2) If an electricity officer seeks to enter a place under this section and, after consulting the occupier of the place, entry is refused or the officer is obstructed from entering the place, the electricity entity may:
  - (a) by written notice to the occupier of the place – ask the occupier to consent to an electricity officer entering the place; or

- (b) apply under Part 8 for a warrant to enter the place.
- (3) The notice must state the reason why entry to the place is required and the date and time of the proposed entry.
- (4) The electricity entity must make good any damage caused to a place by the exercise of its powers under this section or pay reasonable compensation for the damage.
- (5) The electricity entity is liable for any costs associated with clearing vegetation under this section.
- (6) An electricity officer cannot enter a place under this section unless he or she has complied with the regulations (if any) relating to negotiating with, and obtaining the consent of, the occupier of the place.

## **Division 5 Powers and duties in emergencies**

### **65 Electricity entity may cut off electricity supply to avert danger**

An electricity entity may, without incurring any liability, cut off the supply of electricity to any region, area, land or place if it is, in the entity's opinion, necessary to do so to avert danger to person or property.

### **66 Emergency legislation not affected**

Nothing in this Act affects the exercise of any power, or the obligation of an electricity entity to comply with any direction, order or requirement, under the *Disasters Act* or the *Essential Goods and Services Act*.

## **Part 5 Safety and technical issues**

### **67 Electrical installations to comply with technical requirements**

- (1) A person who connects an electrical installation to an electricity network must ensure that the installation, and the connection, comply with technical and safety requirements imposed under the Regulations.

Penalty: 500 penalty units.

- (2) An electricity officer for an electricity entity may disconnect the electricity supply to an electrical installation that:
  - (a) is connected to the entity's electricity network in contravention of this section; or

(b) otherwise does not comply with this Act.

- (3) For the purpose of ensuring under this section that an electrical installation complies with the technical and safety requirements, a person may, subject to the Regulations, rely on a certificate of compliance issued under this Part in relation to the installation.

## **68 Responsibility of owner or operator of installation**

- (1) A person who owns or operates an electrical installation must take reasonable steps to ensure that:
- (a) the installation complies with, and is operated in accordance with, technical and safety requirements imposed under the Regulations; and
  - (b) the installation is safe and safely operated.

Penalty: 2500 penalty units.

- (2) For the purpose of ensuring under this section that an electrical installation complies with the technical and safety requirements and is safe, a person may, subject to the Regulations, rely on a certificate of compliance issued under this Part in relation to the installation.

## **69 Electrical installation work**

A person who carries out work on an electrical installation or proposed electrical installation must ensure that:

- (a) the work is carried out as required under the Regulations;
- (b) examinations and tests are carried out as required under the Regulations; and
- (c) the requirements of the Regulations as to notification are complied with.

Penalty: 50 penalty units.

## **70 Power to require rectification, etc., in relation to installations**

- (1) If an electrical installation is unsafe, or does not comply with this Act, the electricity safety regulator may give a direction requiring:
- (a) rectification of the installation to the electricity safety regulator's satisfaction;
  - (b) if appropriate, the temporary disconnection of the electricity supply while the rectification work is carried out;



- (c) the disconnection and removal of the installation.
- (2) Subject to this section, a direction under this section must be given to the person in charge of the installation or the occupier of the place in which the installation is situated.
- (3) A direction may be given by written notice or, if the electricity safety regulator is of the opinion that immediate action is required, orally (but if the direction is given orally it must be confirmed in writing).
- (4) A person to whom a direction is given under this section must comply with the direction.

Penalty: 500 penalty units.

- (5) If a person does not comply with a direction, the electricity safety regulator may take the action that is reasonable and necessary to have the direction carried out.
- (6) A person, authorised in writing by the electricity safety regulator, may do what is reasonable and necessary to carry out the direction.
- (7) The costs incurred in carrying out the direction are recoverable as a debt due to the Territory.

## **71 Reporting of accidents**

- (1) If an accident happens that involves electric shock caused by the operation or condition of an electrical installation:
  - (a) the accident must be reported to the electricity safety regulator:
    - (i) if the accident happens while an electrical worker is working on an electrical installation and the electrical worker is able to make the report – by the electrical worker; or
    - (ii) in any other case – by the occupier of the place in which the accident happens; and
  - (b) the installation must not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident.

Penalty: 100 penalty units.

## **Part 6                      Enforcement**

### **Division 1                Appointment of authorised officers**

#### **72                      Appointment of authorised officers**

- (1) The Minister may appoint suitable persons as authorised officers.
- (2) An authorised officer may (but need not be) an employee within the meaning of the *Public Sector Employment and Management Act*.
- (3) An authorised officer may be assigned by the Minister to assist the Utilities Commission, the electricity safety regulator or both, as the Minister considers appropriate.
- (4) An authorised officer will:
  - (a) in the exercise of powers for the enforcement of Part 3 – be subject to control and direction by the Utilities Commission;
  - (b) in the exercise of powers for the enforcement of Part 5 – be subject to control and direction by the electricity safety regulator.

#### **73                      Conditions of appointment**

- (1) An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
- (2) An authorised officer holds office on the conditions stated in the instrument of appointment.
- (3) An authorised officer may resign by written notice given to the Minister.
- (4) An authorised officer may be removed from office by the Minister.

#### **74                      Authorised officer's identity card**

- (1) The Minister must give each authorised officer an identity card.
- (2) The identity card must:
  - (a) contain a photograph of the authorised officer taken for the purpose; and
  - (b) be signed by the authorised officer.

- (3) A person must, within 2 days after ceasing to be an authorised officer, return the identity card to the Minister.

Penalty:            10 penalty units.

## **75            Production of identity card**

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

## **Division 2            Authorised officers' powers**

### **76            Power of entry**

- (1) An authorised officer may, as reasonably required for the purposes of the enforcement of this Act, enter and remain in any place.
- (2) When an authorised officer enters a place under this section, the authorised officer:
- (a) may be accompanied by such assistants as the authorised officer considers necessary or appropriate; and
  - (b) may take any vehicles or equipment the authorised officer considers necessary or appropriate for the functions the authorised officer is to carry out in the place.
- (3) An authorised officer may use reasonable force to enter a place under this Part if:
- (a) the entry is authorised under a warrant under Part 8; or
  - (b) the entry is necessary in an emergency.
- (4) When entering a place under a warrant or by force in an emergency, an authorised officer may be accompanied by a member of the Police Force.

### **77            General investigative powers of authorised officers**

- (1) An authorised officer who enters a place under this Part may exercise any one or more of the following powers:
- (a) investigate whether the provisions of this Act are being or have been complied with;
  - (b) examine and test electrical installations in the place to find out whether the installations are safe and comply with the requirements of this Act;

- (c) investigate a suspected electrical accident;
  - (d) investigate a suspected interference with electrical infrastructure or an electrical installation;
  - (e) investigate a suspected theft or diversion of electricity;
  - (f) search for, examine and copy or take an extract from a document or record of any kind as reasonably required for the purposes of the enforcement of this Act;
  - (g) take photographs or make films or other records of activities in the place and electrical infrastructure, installations or equipment in the place;
  - (h) take possession of any object that may be evidence of an offence against this Act.
- (2) If an authorised officer takes possession of an object that may be evidence of an offence:
- (a) the authorised officer must give the occupier of the place a receipt for the object; and
  - (b) the object must be returned to its owner:
    - (i) if proceedings for an offence are not commenced within 6 months after the authorised officer takes possession of the object – at the end of that period; or
    - (ii) if proceedings are commenced within that period – on completion of the proceedings, unless the court, on application by the Utilities Commission or electricity safety regulator (as the case may be), orders confiscation of the object.
- (3) A court may order the confiscation of an object of which an authorised officer has taken possession under subsection (1) if of the opinion that the object has been used for the purpose of committing an offence or there is some other proper reason for ordering its confiscation.
- (4) If the court orders the confiscation of an object, the Utilities Commission or the electricity safety regulator on whose application the order was made may dispose of the object.

**78                      Disconnection of electricity supply**

- (1) If an authorised officer finds that electricity is being supplied or consumed contrary to this Act, the authorised officer may disconnect the electricity supply.
- (2) If an authorised officer disconnects an electricity supply under this section, the officer must give written notice to the occupier of the relevant place:
  - (a) informing the occupier that the electricity supply has been disconnected under this section; and
  - (b) directing that the electricity supply must not be reconnected until arrangements have been made to the satisfaction of an authorised officer to ensure against future contravention of this Act.
- (3) If an electricity supply has been disconnected under this section, a person must not reconnect the electricity supply, or have it reconnected, without the approval of an authorised officer.

Penalty:            500 penalty units.

**79                      Power to require disconnection of cathodic protection system**

- (1) If an authorised officer finds that a cathodic protection system does not comply with, or is being operated contrary to, the Regulations, the authorised officer may take reasonable action, or give a direction to the person in charge of the system or the occupier of the place in which the system is situated to take reasonable action, to disconnect the system so as to make it inoperable.
- (2) A direction under this section must be given by written notice.
- (3) A person to whom a direction is given under this section must comply with the direction.

Penalty:            500 penalty units.

**80                      Power to make installation safe**

- (1) If an authorised officer finds that an electrical installation is unsafe, the officer may:
  - (a) disconnect the electricity supply or give a direction requiring the disconnection of the electricity supply; and

- (b) give a direction requiring the carrying out of the work necessary to make the installation safe before the electricity supply is reconnected.
- (2) Subject to this section, a direction under this section must be given to the person in charge of the installation or the occupier of the place in which the installation is situated.
- (3) A direction under this section may be given by written notice or, if the authorised officer is of the opinion that immediate action is required, orally (but if the direction is given orally it must be confirmed in writing).
- (4) A person to whom a direction is given under this section:
  - (a) must comply with the direction; and
  - (b) must not reconnect or permit the reconnection of the electricity supply unless the work required by the direction under this section has been carried out, or an authorised officer approves the reconnection of the electricity supply.

Penalty:        500 penalty units.

## **81            Power to require information**

- (1) An authorised officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.
- (2) An authorised officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the authorised officer.
- (3) A person must not, without reasonable excuse, fail to comply with a requirement under this section.

Penalty:        200 penalty units.

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

## **Part 7                      Reviews and appeals**

### **82                      Interpretation**

In this Part, **relevant regulator** means:

- (a) in relation to a decision under Part 3 – the Utilities Commission; and
- (b) in relation to a decision under Part 5 – the electricity safety regulator.

### **83                      Review of decisions by relevant regulator**

- (1) An application may be made to the relevant regulator:
  - (a) by an applicant for the grant or variation of the conditions of a licence under Part 3, or for agreement to the transfer of such a licence, for review of the decision of the Utilities Commission to refuse the application;
  - (b) by an electricity entity for review of a decision of the Utilities Commission under Part 3 to suspend or cancel the entity's licence or to vary the conditions of the entity's licence;
  - (c) by a person to whom a direction has been given under this Act by the electricity safety regulator or an authorised officer (other than a direction given by the electricity safety regulator under Part 5) for review of the decision to give the direction; or
  - (d) by a person affected by the decision for review of the decision of an authorised officer or an electricity officer to disconnect an electricity supply or to disconnect a cathodic protection system.
- (2) An application for review is to:
  - (a) be in writing;
  - (b) set out the decision to which the application relates;
  - (c) set out in detail the grounds on which the applicant seeks review and the decision sought on the review;
  - (d) be accompanied by any information that the applicant considers should be taken into account by the relevant regulator on the review; and

- (e) be lodged with the relevant regulator:
  - (i) in the case of a decision relating to a licence or application for a licence – within 14 days after written notice of the decision is given to the electricity entity or applicant;
  - (ii) in the case of a decision to cancel or suspend a licence or to vary the conditions of a licence – within 14 days after the decision is given;
  - (iii) in the case of a decision to give a direction – within 14 days after the direction is given;
  - (iv) in the case of a decision to disconnect an electricity supply or cathodic protection system – within 14 days after notice of the disconnection is given or, if notice is not given, within 14 days after the supply or system is disconnected.
- (3) The relevant regulator may stay the operation of the decision to which the application relates.
- (4) A review must be decided within 4 weeks of the application being lodged with the relevant regulator.
- (5) If a review is not decided within that period, the relevant regulator is to be taken to have confirmed the decision.
- (6) After considering the application, the relevant regulator may confirm, amend or substitute the decision.
- (7) The relevant regulator must give the applicant written notice of the relevant regulator's decision, and the reasons for the decision, on the review.

## **84 Appeal**

- (1) An applicant for review who is dissatisfied with a decision of the relevant regulator on the review under this Part may appeal against the decision to the Supreme Court.
- (2) An appeal may only be made on the grounds that:
  - (a) there has been bias; or
  - (b) the facts on which the decision is based have been misinterpreted in a material respect.



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- (3) An appeal must be made within 14 days after receipt of the written notice of the decision appealed against or, if the relevant regulator failed to make a decision on the review within the allowed period, within 14 days after the end of that period.
  - (4) The relevant regulator or the Supreme Court may stay the operation of:
    - (a) the relevant regulator's decision that is the subject of the appeal; or
    - (b) the original decision that was the subject of the review, as the case may require.
  - (5) On an appeal, the Supreme Court may:
    - (a) confirm the decision under appeal; or
    - (b) return the matter to the original decision maker with directions the Court considers appropriate.

#### **85 Minister's power to intervene**

The Minister may intervene, personally or by counsel or other representative, in a review or appeal under this Part for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

## **Part 8 Miscellaneous**

#### **86 Reticulation of electricity to electricity supply distribution extension area**

- (1) The Minister may, by notice in the *Gazette*, declare an area to be an electricity supply distribution extension area.
- (2) If the Minister declares an area to be an electricity supply distribution extension area, the owner of each parcel of land within the area is liable to pay to the electricity entity licensed to sell electricity to non-contestable customers in the area a financial contribution towards the cost of extension of electricity supply in the area.
- (3) The liability under subsection (2) exists despite that an owner does not elect to have electricity supplied by the electricity entity for consumption on the land.

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- (4) An owner and electricity entity referred to in subsection (2) may enter into an agreement relating to the conditions on or subject to which electricity will be supplied by the electricity entity for consumption on the land.
  - (5) The balance from time to time outstanding of an amount referred to in subsection (2) is an overriding statutory charge, within the meaning of the *Land Title Act*, on the parcel of land.
  - (6) The owner of a parcel of land who is liable as referred to in subsection (2) must not transfer the land to another person unless he or she has first paid to the electricity entity the amount of the liability outstanding at the date of the transfer and, for the purposes of calculating the liability, any amount payable in accordance with subsection (2) becomes due and payable in full immediately before the proposed transfer despite that, but for this subsection, it would not become due and payable until a later date.
  - (7) The financial contribution referred to in subsection (2) is the amount approved by the Utilities Commission as the owner's reasonable share of the capital contribution required of the electricity entity by the electricity entity licensed to operate the electricity network in the area.
  - (8) The capital contribution referred to in subsection (7) is to be determined in accordance with the capital contribution principles in Part 3 of the Network Access Code.
  - (9) In this section, ***parcel of land*** means the whole of the land the subject of a separate certificate as to title registered under the *Land Title Act*.

## **87 Power of exemption**

- (1) The Utilities Commission may, with the approval of the Minister, grant an exemption from Part 3, or specified provisions of Part 3, on terms and conditions the Utilities Commission considers appropriate.
- (2) If the Utilities Commission exempts a person from the requirement to hold a licence under Part 3, the Utilities Commission may (without limiting subsection (1)) by conditions of the exemption require that the person is to be treated as an electricity entity for the purposes of specified provisions of this Act.
- (3) Except as otherwise provided in the exemption, an exemption under subsection (1) may be varied or revoked by the Utilities Commission by notice in writing.

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- (4) The electricity safety regulator may grant an exemption from Part 5, or specified provisions of that Part, on terms and conditions the electricity safety regulator considers appropriate.
  - (5) Except as otherwise provided in the exemption, an exemption under subsection (4) may be varied or revoked by the electricity safety regulator by notice in writing.

## **88 Register of exemptions**

- (1) The Utilities Commission must keep a register of exemptions granted by it under this Act.
- (2) The electricity safety regulator must keep a register of exemptions granted by him or her under this Act.
- (3) A register kept under this section must include the terms and conditions of each exemption recorded in it.
- (4) A person may, without paying a fee, inspect a register kept under this section.

## **89 Obligation to comply with conditions of exemption**

- (1) A person in whose favour an exemption is given must comply with the conditions of the exemption.

Penalty: 2 500 penalty units.

- (2) If a person in whose favour an exemption is given profits from contravention of a condition of the exemption, the Utilities Commission may recover an amount equal to the profit from the person:
  - (a) on application to a court on it finding the person guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

## **90 Persons other than electricity entities who must comply with system controller**

- (1) A person who is not an electricity entity and who enters into an access agreement with a network provider must comply with the directions of the system controller.

Penalty: 100 penalty units.

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- (2) If a person referred to in subsection (1) profits from contravention of a direction given under that subsection, the Utilities Commission may recover an amount equal to the profit from the person:
- (a) on application to a court on it finding the person guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

**91      Fixing standard terms and conditions for non-contestable customers**

- (1) If an electricity entity sells electricity to non-contestable customers or customers of a prescribed class under a licence authorising the selling of electricity, the electricity entity must from time to time fix standard terms and conditions governing the sale of electricity (including the service of making connections to the electricity network) by the entity to non-contestable customers or customers of a prescribed class.
- (2) The standard terms and conditions fixed under subsection (1):
- (a) are to be published in the *Gazette*;
  - (b) come into force on the day specified by the electricity entity in the notice (being a day not earlier than the day on which the notice is published in the *Gazette*); and
  - (c) are contractually binding on the electricity entity and each customer in the class of customers to whom the terms and conditions are expressed to apply (except as modified or excluded by express agreement between the entity and a customer).
- (3) The electricity entity must prepare a summary of the standard terms and conditions in a form approved by the Utilities Commission.
- (4) The electricity entity must distribute a copy of the summary to each of its customers.

**92      Minimum standards of service for non-contestable customers**

- (1) The Utilities Commission must from time to time make provisions imposing minimum standards of service and safety for non-contestable customers.

- (2) The minimum standards are:
  - (a) to be at least equivalent to the actual levels of service and safety for those customers prevailing during the year before the commencement of this section; and
  - (b) to take into account relevant national benchmarks developed from time to time.
- (3) If a electricity entity's licence authorises the selling of electricity to non-contestable customers, it is a condition of the licence that the electricity entity monitor and report on the levels of compliance with the minimum standards.

### **93 Delegation by Minister**

- (1) The Minister may delegate to a person or body of persons any of his or her powers and functions under this Act (other than this power of delegation).
- (2) A delegation under this section:
  - (a) is to be in writing; and
  - (b) may to a person from time to time holding, acting in or performing the duties of an office, designation or position.
- (3) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken to have been exercised or performed by the Minister.
- (4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

### **94 Application and issue of warrant**

- (1) An authorised officer or electricity officer may apply to a magistrate for a warrant to enter a place specified in the application.
- (2) A magistrate may issue a warrant if satisfied that there are reasonable grounds for issuing the warrant.
- (3) A warrant authorises the authorised officer or electricity officer with any assistance and by any force reasonably necessary:
  - (a) to enter the place specified in the warrant; and
  - (b) to do anything authorised by this Act,at any time, or within any period, specified in the warrant.

- (4) An electricity officer must be accompanied by a member of the Police Force when entering a place under a warrant.
- (5) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

## **95 Urgent situations**

- (1) An authorised officer or electricity officer may apply to a magistrate for a warrant by telephone, facsimile or other prescribed means if the officer considers the urgency of the situation requires it.
- (2) The magistrate may complete and sign the warrant in the same terms as for a warrant applied for in person if satisfied that there are reasonable grounds for issuing the warrant urgently.
- (3) The magistrate must:
  - (a) tell the officer:
    - (i) the terms of the warrant;
    - (ii) the date on which and the time at which, the warrant was signed; and
    - (iii) the date on which, and the time at which, the warrant ceases to have effect; and
  - (b) record on the warrant the reasons for granting the warrant.
- (4) The officer must:
  - (a) complete a form of warrant in the same terms as the warrant signed by the magistrate;
  - (b) write on the form:
    - (i) the name of the magistrate; and
    - (ii) the date on which, and the time at which, the warrant was signed; and
  - (c) send the magistrate the completed form of warrant not later than the day after the warrant is executed or ceases to have effect.
- (5) On receiving the form of warrant, the magistrate must attach it to the warrant the magistrate signed.

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

**96      Unlawful interference with electricity infrastructure or electrical installation**

- (1) A person must not, without proper authority:
- (a) attach an electrical installation or other thing, or make any connection, to an electricity network;
  - (b) disconnect or interfere with a supply of electricity from an electricity network; or
  - (c) damage or interfere with electrical infrastructure or an electrical installation in any other way.

Penalty:      200 penalty units or imprisonment for 2 years.

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

Penalty:      100 penalty units or imprisonment for 6 months.

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

Penalty:      100 penalty units or imprisonment for 6 months.

**97      Unlawful abstraction or diversion of electricity**

- (1) A person must not, without proper authority:
- (a) abstract or divert electricity from a power system; or
  - (b) interfere with a meter or other device for measuring the consumption of electricity supplied by an electricity entity.

Penalty:      200 penalty units or imprisonment for 2 years.

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- (2) A person must not install or maintain a line capable of conveying an electricity supply beyond the boundaries of property occupied by the person unless:
- (a) the person is an electricity entity; or
  - (b) the person does so with the approval of an electricity entity responsible for electricity supply to the property; or
  - (c) the line is authorised under the Regulations.

Penalty: 100 penalty units.

- (3) If, in proceedings for an offence against subsection (1), it is proved that a device has been installed or any other act done, without proper authority, the apparent purpose of which is to abstract or divert electricity to any particular land or place or to affect the proper measurement of electricity supplied to any particular land or place, it will be presumed, in the absence of proof to the contrary, that the occupier of the land or place installed the device or did the other act with that purpose.
- (4) If an electricity entity suffers loss or damage as a result of a contravention of section 96 or this section, the entity may recover compensation for the loss or damage from a person guilty of the contravention:
- (a) on application to a court on it finding the person guilty of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

## **98 Erection of buildings in proximity to powerline**

- (1) A person must not, except as approved by the electricity safety regulator, erect a building or structure in proximity to a powerline contrary to the Regulations.

Penalty: 100 penalty units.

- (2) Subject to the Regulations, the electricity safety regulator may give an approval for the purposes of this section.
- (3) An approval under this section:
- (a) may be general or specific; and



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- (b) will, insofar as the approval operates for the benefit of a particular person, be subject to such conditions as the electricity safety regulator may fix from time to time by notice in writing served personally or by post on that person.
- (4) If a building or structure is erected by a person in proximity to a powerline of an electricity entity in contravention of this section, the entity may:
- (a) on application to a court on it finding the person guilty of an offence against subsection (1); or
  - (b) by action in a court of competent jurisdiction,
- obtain one or more of the following orders:
- (c) an order of the court requiring the person to take specified action to remove or modify the building or structure within a specified period;
  - (d) an order for compensation from the person for loss or damage suffered in consequence of the contravention;
  - (e) an order for costs reasonably incurred by the entity in relocating the powerline or carrying out other work to rectify the situation.

## **99 Notice of work that may affect electricity infrastructure**

- (1) A person who proposes to do work near electricity infrastructure must give the appropriate electricity entity at least 7 days notice of the proposed work if:
- (a) there is a risk of equipment or a structure coming into dangerous proximity to electrical conductors;
  - (b) the work may affect the support for any part of electricity infrastructure; or
  - (c) the work may interfere with the electricity infrastructure in some other way.

Penalty: 25 penalty units.

- (2) It is a defence to a charge of an offence against subsection (1) if, in the circumstances of an emergency, it is not practicable to give the notice required by subsection (1) and the notice is given as soon as practicable.

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

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

Penalty: 25 penalty units.

**100 Impersonation of officials, etc.**

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

Penalty: 100 penalty units or imprisonment for 6 months.

**101 Obstruction**

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

Penalty: 100 penalty units or imprisonment for 6 months.

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

Penalty: 50 penalty units.

**102 False or misleading information**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished under this Act.

Penalty: If the person made the statement knowing that it was false or misleading – 200 penalty units or imprisonment for 2 years.

In any other case – 50 penalty units.

**103 Statutory declarations**

If a person is required by or under this Act to furnish information to the Utilities Commission or electricity safety regulator, the Utilities Commission or electricity safety regulator may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have furnished the information as required unless it has been verified in accordance with the requirements of the Utilities Commission or electricity safety regulator.

**104 General defence**

- (1) It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (2) It is a defence to a charge of an offence against this Act if the defendant proves that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to person or property.

**105 Offences by bodies corporate**

If a body corporate is guilty of an offence against this Act, each director of the body corporate is, subject to the general defences under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

**106 Continuing offence**

- (1) A person found guilty of an offence against a provision of this Act in respect of a continuing act or omission:
  - (a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than one-fifth of the penalty prescribed for that offence; and
  - (b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-fifth of the penalty prescribed for the offence.

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- (2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

#### **107 Electricity entities not liable in certain circumstances**

- (1) An electricity entity, or an officer or employee of the electricity entity, is not liable for damages or any penalty arising out of a partial or total failure to supply electricity to a customer unless the failure is due to an act or omission done or made by the electricity entity or the officer or employee in bad faith or through negligence.
- (2) An electricity entity, or an officer or employee of the electricity entity, is not liable for damages or any penalty for supplying to a customer electricity by an irregular or fluctuating voltage or because of a frequency deviation unless the irregular or fluctuating voltage or the frequency deviation is due to an act or omission done or made by the electricity entity or the officer or employee in bad faith or through negligence.
- (3) An electricity entity may enter into an agreement with a person varying or excluding the operation of this section and this section, to the extent of the agreement, does not apply.

#### **108 Immunity from liability**

- (1) No liability attaches to any person engaged in the administration or enforcement of this Act for an act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act unless the act or omission is done or made in bad faith.
- (1A) Subsection (1) does not affect any liability that the Territory, the Utilities Commission or an employer of a person referred to in subsection (1) would, but for that subsection, have for an act or omission.
- (2) For the purposes of this section, a person engaged in the administration or enforcement of this Act includes a system controller and a person referred to in section 38(4) when exercising a power or performing a function under section 38.

#### **109 Evidence**

- (1) If, in any legal proceedings, a person is alleged to have held a specified appointment under this Act at a specified time, the allegation is taken to have been proved in the absence of proof to the contrary.

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- (2) In any legal proceedings, an apparently genuine document purporting to be a certificate of the Utilities Commission certifying:
- (a) that a person was or was not the holder of a licence at a specified date or as to the particulars or conditions of a licence; or
  - (b) as to the giving and contents of an order, direction, delegation, exemption, approval or authorisation by the Utilities Commission,

constitutes proof of the matters so certified in the absence of proof to the contrary.

- (3) An apparently genuine document purporting to be a certificate of the Utilities Commission certifying as to a person's status as a contestable customer or non-contestable customer in relation to a specified time and place constitutes proof of the matters so certified in the absence of proof to the contrary.
- (4) In any legal proceedings, an apparently genuine document purporting to be a certificate of the electricity safety regulator certifying as to the giving and contents of a direction, delegation, exemption, approval or authorisation by the electricity safety regulator under this Act constitutes proof of the matters so certified in the absence of proof to the contrary.
- (5) In any legal proceedings, an apparently genuine document purporting to be a certificate of an authorised officer certifying as to the giving and contents of a direction by the officer under this Act, constitutes proof of the matters so certified in the absence of proof to the contrary.
- (6) If, in any legal proceedings, a person is alleged to have acted without proper authority or a specified approval required under this Act, the absence of such authority or approval will be presumed in the absence of proof that such authority or approval in fact existed or had been given.

## **110 Service**

- (1) A notice or other document required or authorised to be given to or served on a person under this Act may be given or served:
- (a) by delivering it personally to the person or an agent of the person; or
  - (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or

- (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business.
- (2) Without limiting the effect of subsection (1), a notice or other document required or authorised to be given to or served on a person may, if the person is a body corporate, be given to or served on the person in accordance with section 109X of the Corporations Act 2001.
- (3) If a notice or other document is required or authorised to be given to or served on the holder of a licence under this Act and the licence is held by 2 or more persons, it is sufficient for the purposes of this Act if the notice or other document is given to or served on any one of those persons.

## **111 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Regulations may deal with the following matters:
  - (a) the generation, transmission, distribution, sale and supply of electricity;
  - (b) the construction, installation and positioning of electricity infrastructure and electrical installations;
  - (c) technical, operational and safety requirements and standards and monitoring and enforcing compliance with the prescribed requirements and standards;
  - (e) the exemption (conditionally or unconditionally) of persons or operations from the application of this Act or specified provisions of this Act;
  - (f) fees to be paid in respect of any matter under this Act and the recovery, refund, waiver or reduction of those fees;

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- (g) provide for the payment of a prescribed amount instead of a penalty that may otherwise be imposed for an offence against this Act or regulations made under this Act and for the service of a notice relating to payment of the amount on a person alleged to have committed the offence and the particulars to be included in that notice; and
    - (h) penalties not exceeding 100 penalty units for offences against the Regulations.
  - (3) If the Regulations grant an exemption from the requirement to hold a licence under Part 3, the Regulations may require a person exempted from the requirement to be treated as an electricity entity for the purposes of specified provisions of this Act.
  - (4) The Regulations may provide that any act or thing, or kind of act or thing, of or relating to an electricity entity or a related body corporate of an electricity entity is authorised for a particular period for the purposes of Part IV of the *Trade Practices Act 1974* of the Commonwealth.
  - (5) The Regulations may make transitional provisions in relation to successive classes of customers prescribed as contestable customers under this Act, including provisions prescribing procedures to be followed by electricity entities with such customers and creating or dealing with, or terminating, contractual relations between electricity entities and such customers.
  - (6) The Regulations may:
    - (a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply;
    - (b) provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister, the Utilities Commission or the electricity safety regulator; and
    - (c) refer to or incorporate, wholly or partially and with or without modification, any standard or other document prepared or published by a body referred to in the Regulations, as is in force from time to time or as in force at a particular time.

## 112 Repeal

The Acts listed in the Schedule are repealed.

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**113 Transitional**

- (1) In this section, ***repealed Act*** means the Acts repealed by section 112.
- (2) If immediately before the commencement of this section a person held a licence granted under the repealed Act, the Utilities Commission must on that commencement grant the person a licence under Part 3 to carry on operations in the electricity supply industry that the person was permitted to carry on under the licence granted under the repealed Act.
- (3) A licence granted in accordance with subsection (2):
  - (a) is subject to the same terms and conditions that applied to the licence granted under the repealed Act; and
  - (b) remains in force for the remainder of the period for which it was granted under the repealed Act.
- (4) Despite the repeal of the repealed Act, the *Electricity By-laws* continue in force as if section 112 had not commenced.
- (5) In this Act, a reference to the Regulations includes the *Electricity By-laws* referred to in subsection (4).
- (6) Subsection (4) ceases to apply 6 months after the commencement of this section.



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**Schedule Acts repealed**

section 112

<i>Electricity Commission Ordinance 1978</i>	No. 27, 1978
<i>Electricity Commission Act 1979</i>	No. 79, 1979
<i>Electricity Commission Act (No. 2) 1979</i>	No. 101, 1979
<i>Electricity Commission Act (No. 3) 1979</i>	No. 120, 1979
<i>Electricity Commission Amendment Act 1980</i>	No. 13, 1981
<i>Electricity Commission Amendment Act 1981</i>	No. 77, 1981
<i>Electricity Commission Amendment Act 1982</i>	No. 6, 1982
<i>Electricity Commission Amendment Act 1985</i>	No. 17, 1985
<i>Electricity Commission Amendment Act (No. 2) 1985</i>	No. 42, 1985
<i>Electricity Commission Amendment Act 1986</i>	No. 30, 1986
<i>Electricity Commission Amendment Act (No. 2) 1986</i>	No. 73, 1986
<i>Electricity Commission Amendment Act 1987</i>	No. 21, 1987
<i>Electricity Amendment Act 1988</i>	No. 37, 1988
<i>Electricity Amendment Act 1993</i>	No. 33, 1993
<i>Electricity Amendment Act 1999</i>	No. 41, 1999

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Electricity Reform Act 2000 (Act No. 10, 2000)***

Assent date	21 March 2000
Commenced	1 April 2000 ( <i>Gaz</i> S14, 31 March 2000)

***Land Title (Consequential Amendments) Act 2000 (Act No. 45, 2000)***

Assent date	12 September 2000
Commenced	1 December 2000 (s 2, s 2 <i>Land Title Act 2000</i> (Act No. 2, 2000) and <i>Gaz</i> G38, 27 September 2000, p 2)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and <i>Cth Gaz</i> S285, 13 July 2001)

***Electricity Reform Amendment Act 2001 (Act No. 34, 2001)***

Assent date	19 July 2001
Commenced	19 July 2001

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date	14 December 2005
Commenced	14 December 2005

### 3 LIST OF AMENDMENTS

s 4	amd No. 17, 2001, s 21; No. 44, 2005, s 35
s 19	amd No. 34, 2001, s 2
s 59	amd No. 45, 2000, s 11
s 86	amd No. 45, 2000, s 11
s 108	amd No. 34, 2001, s 3
s 110	amd No. 17, 2001, s 21