

15th August 2023

Queensland Electrical Safety Office.

Dear Sir/Madam,

CESA comments on the Queensland Government Electrical Safety Act. 2002 review: Request for feedback

Submission: Feedback on the Recommendations of the Final Report - December 2021

The Consumer Electronics Suppliers Association (CESA) welcomes the opportunity to provide feedback on the recommendations of the Final Report into the review of the Queensland Government Electrical Safety Act 2002.

CESA is the premier national, industry body in Australia representing the consumer electronics industry. CESA Members encompass the majority of global suppliers of consumer electronic products to the Australian and New Zealand markets and also include major retailers of consumer electronic products.

General Comment

CESA commends the Queensland Government for undertaking such a comprehensive review into the operation of the Electrical Safety Act. This review has included a targeted response to the new and emerging technologies entering the market and will allow appropriate regulation of hazardous electrical equipment including the hazards that exist with battery power extra low voltage equipment.

CESA members are primarily involved with the supply and distribution of all manner of household electronic equipment including household appliances and as such found many of the recommendations in the review to be out-of-scope of their direct business involvement. For this reason, the notation of 'No comment' is provided on such recommendations.

Recommendations

Technological change and ensuring the ongoing relevance of key definitions, purpose and powers under the Act (Chapter 6)

- 1 It is recommended that modernising the scope of the Act to ensure new and emerging energy generation and storage technologies are incorporated, whether or not they are connected to the grid or stand-alone in nature, by including in the definition of electrical equipment/electrical installation:
 - (a) solar PV modules, designed to be connected to other solar PV modules and when connected be of a combined voltage of greater than extra low voltage; and
 - (b) battery cells, when connected to other cells for the purpose of storing and releasing power of a combined voltage of greater than extra low voltage.

Agree.

- 2 Review the electrical safety risks presented in electric vehicles and consider their inclusion in the scope of regulation by the Act. It is further recommended that the Electrical Safety Office engage with other relevant Queensland and Australian regulators as needed to ensure appropriate scope and to avoid both regulatory gaps and duplication.

Agree

- 3 Review the electrical safety risks presented in hydrogen-based electricity generation and storage technologies, including hydrogen-powered vehicles, and consider their inclusion in the scope of the Regulation by the Act. It is further recommended that the Electrical Safety Office engage with other relevant Queensland and Australian regulators as needed to ensure appropriate scope and to avoid both regulatory gaps and duplication.

Agree

- 4 To ensure the Act keeps pace with technological change, consider creating a general category of exception to the “extra low voltage” threshold for the definition of “electrical equipment”, to reflect risk to life and property by ELV electrical equipment.

Agree

- 5 For solar PV panels falling within the definition of electrical equipment (see Recommendation 1), consider ensuring that the resultant “electrical work” definition is amended as needed to require:
 - (a) all connections and testing of PV module cabling as well as earthing and bonding work be performed by competent licensed electrical worker/s; and
 - (b) installation of cabling to be carried out by a licensed electrical worker or an unlicensed person assisting a licensed electrical worker and working under their direct supervision; and
 - (c) the mounting, fixing, and locating of solar PV modules and arrays to be carried out by competent persons under the direct supervision (Recommendation 16) of a licensed electrical worker (Act s 18(2)(f)).

Agree, if the mechanical installation varies from the manufacturers installation instructions then a mechanical engineer will be required to oversee the installation.

- 6 Consider including within the definition for Electrical Work that the electrical aspects of air conditioning / mechanical services work is electrical work and the tasks of fixing, installation of brackets/mounting of equipment and mechanical cable protection is ancillary to the complete installation.

Disagree - Mechanical work cannot be made the responsibility of the electrical installer. Manufacturers provide mechanical installation requirements, installations not in accordance with the manufacturer’s instructions should be overseen by a mechanical engineer.

- 7 Ensure the installation of mechanical protection for cables, including but not limited to conduit (both plastic and metal), cable racks and trays, skirting, troughs etc., and the installation of cabling into these protection components is the work of licensed electrical workers or to be performed under the direct supervision of a licensed electrical worker. Associated with this work is earthing and bonding work, to be defined as electrical work (recommendation 5) and must only be performed by competent licensed electrical worker/s.

Agree

- 8 For electric vehicles (or parts thereof) falling within the definition of “electrical equipment” (see Recommendations 2 and 4), consider requiring:
- (a) appropriately licensed electrical workers to carry out the electrical work on the electrical components when the vehicle is serviced and or repaired, to ensure the safety of owners/operators and community; and
 - (b) appropriately licensed electrical workers carry out the electrical work on the electrical components of the vehicle when an electric vehicle requires on-road break-down work to ensure safety of owners/operators, the community and first responders.

Disagree – Vehicle manufacturers have a responsibility to provide suitably trained service personnel to carry out repairs, electrical work is part of this training. The responsibility falls to the vehicle manufacturer to provide training and specialised service equipment to deal with all aspects of the vehicle’s maintenance and repair.

- 9 It is recommended that the electrical aspects of fire protection work are recognised as “electrical work”, notwithstanding equipment being “extra low voltage”, either via the implementation of Recommendation 3 or a specific amendment to the definition of “electrical work”.

Agree

- 10 Ensure all hardwired smoke alarms are to be labelled on the cover to identify that it is electrical equipment and should only be maintained by a licensed electrical worker, and.
- (a) it is recommended that the Electrical Safety Office undertake a community awareness campaign to make the general public aware and promote electrical safety throughout Queensland.

Disagree – Battery replacement should be permitted by the occupants.

- 11 Ensure the purpose of the Act is broad enough to establish an electrical safety framework able to remain responsive to the risks of new technologies as they arise, considering the inclusion of the purposes of “community safety” and “consumer protection”.

Agree

- 12 Evaluate existing powers to make subordinate legislation and amend the Act as required to enable regulations to be made with respect to new technologies and methodologies that pose an electrical safety risk, as those technologies arise (Act s 210).

Agree

- 13 Clarify that off-grid systems are captured within the meaning “electrical equipment” and are therefore within the definitions of Serious Electrical Incident and Dangerous Electrical Event (Act, ss 11-12), giving rise to duties to notify the Regulator and otherwise respond to such incidents (Regulations, Part 14).
- (a) Consider creating an awareness campaign to ensure stakeholders understand the off-grid applicability of incident and event-related notification requirements.

Agree

- 14 Clarify the definitions of “serious electrical incident” and “dangerous electrical event” by adding examples for different levels of voltage, including ELV (considering Recommendation 4), and clarifying terminology used in those definitions such as:
- (a) considering replacing the term “doctor” with standard national law terminology –

“medical practitioner” (s 11(b)-(c))

(b) specifying what it means to be “treated” by a doctor/medical practitioner, including what is not deemed “treatment”, as well as what is meant by “supervision” (s 11(b)-(c))

(c) specifying a threshold for “significant property damage” (s 12(c)).

Agree

- 15 Provide greater clarity by stipulating that testing electrical equipment is deemed a form of live work (Regulations, Division 1) to address the lack of understanding and awareness

Agree

- 16 It is recommended that the three levels of supervision be defined in the legislation by explicitly including the three recognised levels of supervision – direct, general and broad, as follows:
 Direct means constant in person monitoring by the licensed electrical worker, who remains within sight and/or earshot of the work being carried out by a person directly assisting the licensed electrical worker in conducting electrical work.
 General means for a person directly assisting the licensed electrical worker in conducting electrical, the licensed electrical worker is available in the same work location for in person assistance or instruction as needed.
 Broad means occasional in person contact at intervals during the day determined by the licensed electrical worker, for a person assisting the licensed electrical worker.

No comment

- 17 Consider clarifying miscellaneous requirements related to supervision, by:
 (a) inserting the word “direct” before “supervision” in section 18(2)(e)(iii); and
 (b) deleting the exception to holding a current electrical license for teachers supervising the electrical work of students (s 55(3)(g)), thereby requiring teachers to hold a current electrical license; and
 (c) requiring direct supervision for a person directly assisting the licensed electrical worker in the laying, cutting or sealing underground cables that are part of the works of an electricity entity before the initial connection of the cables to an electricity source (s 18(2)(j)).

No comment

- 18 Consider implementing expanded requirements for Safety Observers to encompass situations in which:
 (a) work includes testing, as a form of live work, by amending the current exemption in the Regulations, section 22(4)(a); and/or
 (b) work is undertaken near exposed live lines, in addition to the current requirements for a risk assessment informing other control measures, required in the Regulations, s68(2).

No comment

- 19 Consider amending the definition of safety observer to require a safety observer maintains currency of competence in rescue and resuscitation and the non-accredited course – “provide support to an electrical tradesperson” (RIISAM214A) or equivalent as determined by the Regulator (Schedule 9).
 (a) that training should be undertaken prior to acting as a safety observer and refreshed every 12 months.

No comment

- 20 Consider clarifying the meaning of miscellaneous terms found in core definitions of the Act and Regulations, to ensure stakeholder understanding and appropriate scope. Specifically, within the Act, it is considered that further clarification is required in relation to:
- (a) the definition of a “prescribed entity” generally via characteristics, other than listed entities (Regulations, ss 6, 233)
 - (b) the meaning of “an area in which the atmosphere presents a risk to health and safety from fire or explosion”, to assist with straightforward application to real world situations (s 14(1)(c))
 - (c) the relationship between AS3000 and AS3008 and the definition of “electrical work” (s 18)
 - (d) the meaning of “performance of work” in contrast to “performance of electrical work” (s 56(3)(b)).

Agree

Complex relationships and the ongoing relevance of electrical safety duties (Chapter 7)

- 21 Consider implementing enhanced regulation of the supply chain for in-scope electrical equipment by adopting additional duties found in “non-conforming building products” (NCBP) legislation, administered by the Queensland Building and Construction Commission, including consideration of:
- (a) ensuring the product/equipment is safe as per the safety standard; and
 - (b) ensuring each level of the supply chain only passes on products with the required information for the product/equipment; and
 - (c) reporting requirements for licensed electrical workers when they encounter work employing non-conforming electrical products; and
 - (d) ensuring requirements to comply with recall orders extend throughout the supply chain and including in multiple jurisdictions.
- In addition, consideration of expanded duties in relation to non-conforming electrical equipment to:
- (e) empower the Regulator to require, on demand, the supplier of relevant equipment to provide that equipment for testing at no cost to the Regulator (s 184); and
 - (f) enabling the Regulator to impose a condition on a certificate of conformity (s 155(a)); and
 - (g) establishing prohibitive penalties for non-conforming electrical equipment; and
 - (h) clarifying the relationship between NCBP legislation scope and electrical safety requirements and legislation.

Agree

- 22 Consider strengthening requirements for importers and suppliers of electrical equipment to confirm they conform with the appropriate standard or Regulations, whichever is greater, and are electrically safe prior to sale.
- (i) noting that the applicable standard or Regulations is that at the time of import or manufacture in Australia.

Agree

- 23 Consider enhancing the Regulator’s powers to cancel responsible supplier registrations; for example, where the person is ineligible, overseas or interstate (Regulations ss 139-142).

Disagree – The Standing Committee of Officials should be the appropriate authority tasked with Responsible Supplier registrations. This is a national registration database.

Interjurisdictional agreement should be sort prior to registration cancellation.

- 24 Consider including explicit duties of Qualified Technical Persons (QTP) in electrical safety legislation, as set out in current ESO guidance on the role of a QTP (as published on the WorkSafe website *The role of the qualified technical person (QTP) | WorkSafe.qld.gov.au*), requiring QTPs to:
- (a) develop and implement a safe system of work, and review and update procedures; and
 - (b) ensure currency of worker competence and that scope of work is within a worker's current license scope and competence level; and
 - € ensure appropriate levels of supervision for all workers, including apprentices and trainees (recommendation 13); and
 - (d) annually arranging training and skills programs for workers, and regularly consult with workers on training needs; and
 - € advise the PCBU and workers on compliance matters, including Australian Standards, legislation, and codes of practice.

Agree

- 25 Consider introducing a requirement that all businesses that employ (non-contract) electrical workers also must directly employ a QTP.

Agree

- 26 Consider introducing administrative means to ensure QTPs working across several organisations can fulfill the duties of the position effectively.

No comment

Ongoing challenge of alignment with work health and safety legislation (Chapter 8)

- 27 Clarify the meaning of "importer" for the purpose of ensuring the appropriate scope of duties to ensure products imported are electrically safe (s 8)

Agree

- 28 Align the status of codes of practice made under the ES Act with the status of codes of practice made under the Work Health and Safety Act 2011 (s 26A), requiring compliance with the code of practice or a standard equivalent to or higher than the standard required under the code of practice.

No comment

- 29 Consider including within the Act, provisions equivalent to Health and Safety Representatives (HSR) and Work Health and Safety Officers (WHSO) found in the *Work Health and Safety Act 2011*

No comment

- 30 Consider implementing a requirement for consultation between duty holders, analogous to requirements under the Work Health and Safety Act 2011 (s 46). That is, if more than one person has a duty in relation to the same matter under the Act, each person with the duty must, so far as is reasonably practicable, consult, cooperate and coordinate activities with all other persons who have a duty in relation to the same matter.

No comment

Enhancing Queensland's electrical safety framework (Chapter 9)

- 31 Explore assessment requirements for licences, including a requirement for satisfactory completion of one theory and two practical tests as part of an enhanced licence eligibility pathway for the electrical worker and electrical contractor licences.

No comment

- 32 Explore reforming occupational electrical licence eligibility with assessments to ensure licensees hold the technical and theoretical competency required to be eligible to apply for an electrical licence. Replicating the Victorian Electrical Licensing Assessment (ELA) approach.

- (a) it is considered this licensing assessment may be developed by the Commissioner for Electrical Safety and Electrical Licensing Committee in conjunction with the Electrical Safety Office.

No comment

- 33 Enhance the role of assessment administration by creating an assessment section within the Electrical Safety Office that oversees, administers and audits a number of Registered Training Organisations authorized to conduct assessments

No comment

- 34 Consider the introduction of CPD requirements for all licence holders, phasing in a requirement at initially low points attainment threshold (recommended at 6 hours/year equivalent or similar), to be increased over a suitable period of time until full implementation is achieved over no more than two contractor licence periods (six years).

- (a) It is considered that a full CPD program would not exceed a total of 20 hours CPD per year, or 60 hours each three-year licensing period upon full implementation. It is further recommended that for electrical contractors, professional development activities may include four areas of competence being technical, safety, business and leadership to ensure maintenance of competency across the scope of the licence; and
 (b) for licensed electrical workers who hold a supervisory or management role, a maximum of 15 hours CPD per year across technical, safety and leadership; and
 (c) and for electrical worker license holders, a maximum of 12 hours CPD per year across technical and safety in accordance with the maintenance of competency across the scope of the licence.

No comment

- 35 Consider reforming licence renewals to include testing to ensure licensee competency has been maintained through the licensed period, including by considering the following amendments:

- (a) empowering the Commissioner to conduct an initial review of licensing renewal assessments, supported by the Electrical Licensing Committee (ELC); and
 (b) informed by review outcomes, the Commissioner and ELC to develop and recommend a skilling/training program inclusive of an overview of legislative requirements, relevant changes in legislation, codes of practice and standards, requirements when working with apprentices and trainees and young people and other testing requirements as appropriate; and
 (c) empower the Electrical Safety Office to develop a licence renewal assessment informed by these outcomes.

No comment

- 36 Consider introducing licence renewal assessment every five years for electrical workers and every three years for electrical contractors.

No comment

- 37 To assist apprentices to transition to work, consider deeming an apprentice who successfully completes all apprenticeship and licence testing requirements and who lodges a licence application competent to hold an interim electrical worker licence for up to 3 months while the application is considered.

No comment

- 38 Consider providing all licensed electrical workers with an electronic copy of relevant Australian Standards as part of licencing fees (related to Recommendation 62).

No comment

- 39 Consider introducing a requirement where a licenced electrical worker is undertaking work in Queensland with an external licence from another jurisdiction and their primary place of residence is in Queensland, that the person applies for a Queensland licence after a period of time that could be considered and informed by the Electrical Licensing Committee.

No comment

- 40 Ensure photographic electrical licences, based on the current Workplace Health and Safety Queensland licensing approach, are incorporated within the ESO's electronic licensing database, to prevent and deter fraudulent use of licences by unlicensed or suspended licence holders.

No comment

- 41 It is recommended that a fit and proper person test for Electrical Contractors inclusive of the Qualified Technical Person and Qualified Business person roles be introduced by establishing no unsuitable previous record of dishonest business activity, dangerous or serious safety breaches and criminal convictions exist. Thus, enabling a regulatory lever to prevent unethical business practices such as phoenixing, declaring bankruptcy to avoid disciplinary measures, etc.

No comment – agree in principle

- 42 Consider removing existing accredited training requirement of QBPs on an electrical contractor's licence and replace with a requirement to complete all the business components of the Cert IV in Electrotechnology – Electrical Contracting (UEE42120) or equivalent.

- (a) Consider removing provisions for QBP in the Regulations s 7(d)(iii) to accept business experience as equivalent to formal qualifications and experience as experience is not a precursor to competence.

No comment

- 43 Consider implementing a requirement for QBPs or the PCBU to accept the reasonable advice, suggestions and solutions provided by a QTP with respect to electrical safety. Further, consider implementing a penalty infringement should the QBP or PCBU fail to act on the reasonably practicable electrical safety advice provided by a QTP.

No comment

- 44 Consider clarifying reporting requirements when electrical workers or contractors encounter non-conforming products or other unsafe equipment or installations.

No comment – agree in principle

- 45 Explore the development and implementation of an electronic reporting portal to enable electrical contractors and their workers to submit reports for inspection and testing results, including evidence of tests to be administered by the Electrical Safety Office.
- (a) it is further recommended the reports should include a list of the in-scope electrical equipment/devices installed to assist the Electrical Safety Office to regulate compliance with legislation and wiring rules as well as to assist in the event of a product recall.

No comment

- 46 Consider improving rural compliance with electrical safety standards, by removing the exemption for holding an electrical work licence for “remote rural installation work” (55(3)(c)) over a suitable transitional period related to recommendation 47.

No comment – agree in principle

- 47 Consider implementing a rural electrical installation auditing program over an appropriate transitional period (related to recommendation 46) to initially audit for electrical safety to address immediate or imminent risk, and to ensure the immediate removal of the electrical risks posed by those electrical installations.
- (a) It is further considered that those electrical installations that are non-compliant should be brought up to the required standard over a suitable period of time in consultation and agreement with the Electrical Safety Office via plans submitted and approved by the Regulator.

No comment

- 48 Ensure the electrical safety of installations in recreational vehicles by requiring an electrical installation audit at point of sale and every 10 years (in line with gas tank testing), and:
- (a) consider extending this provision to domestic, commercial and recreational vessels that utilise solar panels and or generators as their primary source of electricity
- (b) ensure regulatory oversight and proactive inspections are undertaken by the Regulator.

Agree

- 49 Consider enhancing the Regulator’s powers to obtain and provide information regarding electrical safety (Act s 122C), to better fulfill the Regulator’s function to “provide advice and information on electrical safety to duty holders under this Act and to the community” (Act s 122(1)(c)).

No comment

- 50 Consider expanding the Commissioner’s responsibilities to include the development and approval, in conjunction with the Electrical Licensing Committee, of an enhanced auditing scheme, licensing assessments, licensing renewal assessments and Continuing Professional Development (Act, s 71) to be administered by the Electrical Safety Office.

No comment

- 51 Consider enhancing the powers of the Commissioner for Electrical Safety to enable requesting the production of documents or to attend an interview, by extending existing powers in relation to electrical licensing committee matters (s 72 and s 88).

Agree

- 52 Consider aligning the Commissioner for Electrical Safety's powers to those set out in the Resources Safety and Health Queensland Act 2020 (s 58 and s 59).

No comment

- 53 Consider the Commissioner's oversight and enhancing the Commissioner's ability to fulfill responsibilities of the position through membership and chairing of all electrical safety committees (s 71; Part 8, Divisions 2A and 2B).

Agree

- 54 Consider enhancing the Electrical Licensing Committee (ELC) functions to include appropriate oversight of electrical contractor licence holders inclusive of Qualified Business Persons (QBP) and Qualified Technical Persons (QTP) by:
- (a) providing the ability to have an electrical contractor licence holder referred to the ELC whenever an electrical worker employed by the electrical contractor is referred under s 106; and
 - (b) providing the ability of the ELC to have the QBP and/or QTP on an electrical contractor licence referred to the ELC where an electrical worker employed by an electrical contractor is referred under s 106; and
 - (c) providing the ability to have the QBP and/or QTP for a Person Conducting a Business or Undertaking (PCBU) to be able to be referred to the ELC where an electrical worker employed by the PCBU is referred to the ELC under a s 106.

No comment - Agree in principle

- 55 Implement the inclusion of an additional member category of "training and education representatives" for the Electrical Licensing Committee to ensure the committee has adequate capacity in undertaking its recommended expanded responsibilities, including but not limited to review and development of a revised licensing renewal assessment (see Recommendation 35).

No comment

- 56 Remove the energy efficiency function of the Electrical Safety Board (Act, s 76(3)) and Electrical Equipment Committee (Act, s 94(2)), which is a holdover from pre-2002 functions exercised by the Electrical Safety Office that do not concern electrical safety.

Agree – this is now managed by GEMS

- 57 In addition to recklessness, and in addition to any changes made as a result of the Government's implementation of the Boland review, consider creating a new offence of negligence to be implemented as a category 1 offence.

No comment

- 58 Consider introducing disciplinary provisions for electrical work licences no longer in force, as exists for electrical contractor licence holders (Act s 111), to ensure accountability of acts done while the licence was in force.

No comment -Agree in principle

- 59 It is recommended to implement electrical licence inspectors. The function of the electrical licence inspector is to inspect electrical licences for the function of assessing compliance with electrical licensing requirements. An electrical licence inspector may not carry out inspections of electrical installation work or issues any orders. However, if the electrical licence inspector identified a possible breach of electrical safety regulations, they must report the matter to the Electrical Safety Office. An electrical licence inspector must be an employee of the Electrical Trades Union in Queensland and hold a current electrical worker's licence.

No comment

- 60 Consider implementing similar provisions from the Queensland Coal Mining Safety and Health Act 1999 (s 109 & s 118) for industry safety and health representatives. The union after a ballot of its members may appoint up to three industry safety and health representatives for a term of up to four years. The role is conducted on a full-time basis and ensures an acceptable level of electrical safety, reviews electrical safety procedures, takes action to 'make safe' in the event of an electrically unsafe installation and assists in the onsite investigation of unsafe practices.

No comment

- 61 Consider conducting a review of the financial contributions that support electrical safety in Queensland with a view to require proportionately determined financial contributions from all relevant Government Owned Corporations and industry sectors including electrical contracting and renewable generators, in addition to existing "electrical safety contributions" for distribution entities (Act, Part 14A, Division 1). This recommendation is to ensure these financial contributions keep pace with the rapidly expanding volume of electricity market participants.

No comment

- 62 Consider undertaking a review of licensing fees to ensure that the costs of compliance are taken into account in determining licence costs, in line with the fees and charges principles in consultation with Queensland Treasury.

No comment

- 63 Consider clarifying and enhancing miscellaneous requirements and definitions related to licensing and training, including
Under the Act, consider the following recommended amendments:
(a) replacing the definition of "relative" of a person, with the following list found in Queensland's industrial relations framework:
(i) spouse; former spouse, de-facto spouse, former de-facto spouse; or
(ii) child, ex-nuptial child, step-child, adopted child, ex-foster child; or
(iii) parent, grandparent, grandchild, sister or brother of the person or spouse of the person; and
(b) requiring a person conducting a business or undertaking to keep, in its register of licensed workers, the following details for workers presenting interstate licences: (i) licence jurisdiction, ii) any conditions on the licence, and iii) the expiry date of licence. Under the Regulations, consider the following recommended amendments; and
(c) clarifying the meaning of "recognised industry practice" for CPR training required in relation to electrical work (s 28); and
(d) requiring licensed electrical contractors to inform the Electrical Safety Office of a QBP or QTP ceasing to work with the contractor:
(i) within 72 hours for the QBP or QTP on that contractor's licence, and
(ii) within 7 days for additional QTPs (ss 49-50); and
(e) reviewing and instating contemporary levels of insurance cover for electrical contractor licences (s 51); and

(f) removing the refundable component of fees for refused or withdrawn applications (ss 63, 236, 256 and Schedule 8).

Agree – except (f), fees should be refunded when applications are withdrawn.

- 64 Consider enhancing compliance with electrical safety laws by expanding the regulatory means to discover, prevent and sanction breaches, and to otherwise clarify compliance requirements, by:
- (a) making explicit that inspectors have the power to access residential premises for the purposes of examining and assess switchboards (Act, s 140); and
 - (b) introducing more effective, flexible, responsive sanctioning options, including by:
 - (i) enabling inspectors to issue on the spot fines consistent with State Penalties Enforcement legislation:
 - 1. if licence conditions are not followed (Act ss 57-57AA), such as Persons Conducting a Business or Undertaking (PCBU) using unlicensed workers; and
 - 2. for noncompliance with an unsafe equipment notice (UEN) (Act s 148), should UENs be retained in the Act (cf. Recommendation 64(b)(viii)).
 - (ii) considering introducing a sliding scale of fine amounts, to rectify the current lack of proportionality in penalty categories.
 - (3) allowing for suspensions or conditions to be placed on licences in the case of unpaid fines
 - (iv) allowing an avenue for the regulator to recover unpaid debt via Court order, including order as to costs
 - (v) clarifying that licensed electrical workers can be penalised for “knowingly” connecting defective electrical equipment (Regulations Pt 3, s 27).
 - (vi) introducing penalty provisions for the improper use of a licence card, replicating the substance of section 51 of the Queensland Building and Construction Commission Act 1991.
 - (vii) enhancing compliance and clarity with electrical safety laws through the repeal of Division 3 Unsafe equipment notices (Act, s 148 Unsafe Equipment Notice), given the greater effectiveness of issuing Electrical Safety Protection Notices (ESPNS) under section 147; and
- I clarifying and enhancing the ability of the Electrical Licensing Committee (ELC) to take disciplinary actions, including by:
- (i) clarifying that the ELC can defer licence suspensions (Act, ss 109(1)(b))
 - (ii) enabling the ELC to enter into an electrical safety undertaking that promotes electrical safety awareness and engagement, including but not limited to Safety Leadership at Work (SLAW) (Act, s 109)
 - (3) increasing penalties in disciplinary matters for licence holders (Act ss 109(1)(l))
 - (iv) enabling the ELC to require attendance of an electricity entity in disciplinary hearings concerning an employee of that electricity entity, if deemed necessary (Act, Part 9, Division 3)
 - (v) enabling the ELC to require attendance of a PCBU in disciplinary hearings concerning an employee of that PCBU, if deemed necessary (Act, Part 9, Division 3)
 - (vi) expanding the grounds for disciplining a licensed electrical worker to include failure to comply with a direction/notice (Act s 106) and a failure to rectify a defect as directed (Act s 112).
 - (vii) consider implementing a definition of a “Influential Person” being a person who has control or has the ability to substantially influence a company’s conduct. Further, consider enabling the ELC take disciplinary action against an influential person in disciplinary proceedings; and
- (d) empowering accredited auditors to require specific information from prescribed electricity entities, to fulfill duties as an accredited auditor (Act s130); and
- I removing the word ‘just’ from section 144(1)(b); and
- (f) removing section 141 and replacing it with section 171 of the Work Health and Safety Act 2011 for consistency; and
- (g) removing “regulator” in section 186B(1)(a) and replacing it with “WHS Prosecutor”, to provide consistency with section 232(1)(a) of the Work Health and Safety Act 2011; and
- and

(h) replicating section 25 of the Work Health and Safety Act 2011, to provide consistency with the establishment of the WHS Prosecutor in the (Electrical Safety) Act; and

(i) removing section 32 of the Regulations and replacing it with previous provision as per footnote³

3 Electrical Safety Regulation 2002 (Qld) repealed. 24A Misrepresentations about lawful authority to contract for the performance of electrical work (1) A person must not, in trade or commerce, represent that someone who is not a licensed electrical contractor may lawfully contract for the performance of electrical work the person may not otherwise perform under the Act. Example of electrical work that may be performed under the Act by someone who is not a licensed electrical contractor— minor emergency repairs to make electrical equipment electrically safe performed by a licensed electrical mechanic. Maximum penalty—40 penalty units. (2) An employer must take all reasonable steps to ensure the employer’s workers do not contravene subsection (1). Maximum penalty—40 penalty units.

Agree

- 65 Consider requiring prescribed electricity entities to remove the potential for conflict of interest when engaging an accredited auditor to undertake the annual audit of their safety management system, by following measures to be set by the Regulator (s 234; Part 14A, Div 1).

No comment - Agree in principle

Specific regulatory reform proposals raised with the review (Chapter 10)

- 66 Consider phasing in a requirement for safety switches on all sub-circuits in all domestic, commercial and industrial settings, both on and off-grid. In addition, propose that Government work collaboratively to address potential cost impacts that may disproportionately affect vulnerable consumers.

Agree

- 67 Consider introducing a requirement for de-energisation prior to work near energised parts of an electrical installation, subject to necessary exemptions for energised work, such as testing for defects or faults in accordance with a risk assessment, safe work method and with appropriate Personal Protective Equipment (PPE).
 (a) further consider the introduction of requiring specific PPE when this work is undertaken including the required standard for working near exposed live parts (in accordance with Energy Safe Victoria’s Arc Flash Hazard Management fact sheet);
 and
 (b) consideration is also to be given to requiring the PPE to be maintained and calibrated and tested to ensure it has the required integrity as per Australian Standards and is fit for purpose for use; and
 (c) consider implementing in the Regulations minimum standards for specific technologies such as thermography and airborne ultrasound sensors to ensure the safety of persons conducting electrical safety inspections on electrical installations.

Agree

- 68 Consider mandating a requirement for de-energisation of domestic roof spaces prior to work in or via the roof space, and require a safe work method statement, a documented risk assessment that includes the appropriate PPE on commercial and industrial roof spaces if de-energisation is not reasonably practicable.

Agree

- 69 Consider introducing a phased-in requirement for an electrical safety certificate to be issued by a licensed electrical worker, initially at the point of sale of a property and later every 5 years, confirming the property's electrical installation is safe and compliant with electrical safety standards and legislative requirements including, for example, safety switch requirements.

Agree 'at the point of sale', however it should not be necessary for 5 yearly certification.

- 70 Consider a phased introduction of a requirement for a licensed electrical worker to perform an electrical safety inspection on all properties within five years of commencement of this requirement, and thereafter within five years of the last electrical safety inspection or receipt of an electrical safety certificate [see Recommendation 69, directly above], whichever is later.
- (a) it is further recommended for consideration that where an inspection identifies asbestos panels and boards within electrical switchboards, the homeowner must replace to meet current standards. It is suggested that homeowners have up to two years from the date of initial identification to rectify.

Disagree – asbestos is best left untouched.

- 71 Consider introducing a requirement for builders' application processes to include a certificate to be issued by the relevant electricity entities, confirming building plans will not adversely impact any adjoining electricity infrastructure prior to building work commencing. Further it is suggested consultation across agencies will be required to effectively implement this change.

No comment

- 72 Consider the introduction of record keeping by the wholesaler or retailer at the point of sale of prescribed electrical equipment, being equipment that must be installed by a licensed electrical worker. Prescribed electrical equipment would include specified fixed wired electrical accessories, components and electrical appliances. The purchaser's name and address or other contact information and the specific equipment purchased must be recorded. It is recommended these records should be made available to the Electrical Safety Office on request for the purposes of regulatory activities such as assisting with recalls and identifying unlicensed electrical work in the interest of electrical safety.

Disagree - This is a major impost on wholesalers/retailers to include electrical accessories and components in this requirement.

If the intension is to prevent none authorised installation of electrical accessories and components by the general public, the supply of such equipment should be restricted to trade outlets.

- 73 Consider clarifying electric lines regulations (Regulations, Part 5) to limit the occurrence of contact with electric lines and the integrity of electricity infrastructure, by considering:
- (a) clarifying what is within the scope of a "service line" (s 76), noting the definition of overhead electric line (s 79(2))
- (b) clarifying requirements for demolition companies registering with electricity retailers to request line/meter removal
- (c) requiring PCBUs to keep structures outside clearance requirements (Schedule 4, s 69), including for PCBUs to ensure any builder or contractor it engages to construct a structure, to not do so within clearance requirements
- (d) requiring duty holders to carry out location activities for underground electric lines including by manual activities, sourcing services (where required) and "dial before you dig" prior to excavation work (i.e. underground work that is not of a superficial nature, e.g. gardening on private property), to prevent incidents of contact with underground

electric lines (s 68).

(i) It is further recommended to remove the reference to underground electric lines in the Regulation at s 68(1) and creating a third sub-section to mirror requirements in the Work Health and Safety Regulation 2011 s 304.

(e) requiring persons planning fires near and adjacent to electricity infrastructure within a specified distance of lines, to consult and cooperate with the relevant electricity entity for those lines

(f) creating an offence to cause damage to electrical infrastructure/an entity's assets to cause, or risk, unsafe condition/network, including in relation to overhead or underground electric lines (Pt 5) and climbing poles (Pt 15, s 278)

(g) reviewing the wording of the example of harvesters in the definition of "operating plant" (Regulations, Sch 9), to ensure the example is adapted to the functioning of modern grain harvesters, particularly those with attachments that do not move vertically or are retracted and therefore pose a lower risk to electric lines.

No comment

74 Consider clarifying and enhancing standards that apply to electrical installations (Regulations, Part 6), including by considering:

(a) removing the date (1 June 1992) to ensure safety switch requirements apply to outlets generally (ss 84-5)

(b) requiring licensed electrical workers to comply with applicable standards in addition to the Wiring Rules (s 70)

(c) ensuring there is a legislative basis in the Act for regulations concerning work involving water equipment (s 72), and, if it is to be maintained, work involving electric motors (s 73)

(d) updating the examples of facilities that may be provided by a person in control (s 76)

(e) requiring a licensed electrical worker or a licensed electrical contractor, prior to undertaking electrical installation work in a domestic premise, to confirm the existence of or install an independent earth electrode (s 86)

(f) strengthening requirements on persons in control to fix defect through the inclusion of "agents of an entity"

Agree

75 Consider clarifying and enhancing in-scope electrical equipment-related standards and sanctions (Act, Part 2A; Regulations Part 7).

Agree

76 Consider enhancing the regulation of unsafe electrical equipment, including by requiring removal from sale, appropriate notifications are made, and relevant documentation kept (Regulations Parts 8), particularly consideration to be given to Requiring responsible suppliers to:

(a) keep documents required by equipment safety rules (Regulations s 147-8); and

(b) advise clients not to sell items found to be unsafe, subject to a penalty.

In respect of officers, the intent of this recommendation could be achieved by:

(c) requiring officers to ensure a recall is conducted on items found to be unsafe, including in the context of liquidation, consistent with corporations' law. (Act, Part 2, Div 2B).

In respect of retailers, the intent of this recommendation could be achieved by:

(d) requiring retailers to cease selling unsafe items, subject to a penalty for continuing to knowingly sell unsafe items

(e) empowering the regulator to direct that unsafe electrical equipment be removed from display and sale (Act, s 146ff.)

(f) require warning signs both near and on products, and, through the development of communication material, assist retailers to display general DIY warning signs in relevant areas of stores or online environments, to help to ensure purchasers are competent to install the equipment.

Agree

(g) ensure the jurisdiction of the Act extends to electrical equipment sold on online platforms in Queensland (Act, Part 2)

(h) reviewing the use of the term “competent person” for consistency in Part 8 (Regulations ss 186, 194).

Further, to assist in regulating safe electrical equipment, consideration should be given to:

(i) clarifying that the regulator is not obliged to issue certificates on equipment, allowing flexibility to engage private certifiers with regulator monitoring and oversight (ss 122, 154-9)

(j) a requirement for test and tag contactors and competent persons to be required to include contact information such as name and phone number on test and tags attached to electrical equipment enabling the Electrical Safety Office to identify contractors/businesses and carry out regulatory actions as needed

(k) implement a requirement for test and tag contractors and competent persons to remove from service any equipment that has been deemed to be unsafe through the test and tag process. Further, where the individual holds an appropriate electrical licence, repair like for like such as cords and plug tops.

Agree

- 77 Consider amending the regulation of works of an electricity entity (Regulation, Part 9) to ensure the integrity of works considering contemporary development of practices and technology, including by considering:

(a) expanding the meaning of trafficable area to include areas with agriculture (sections 207(1)(a) and 208(1)(a); Schedule 4).

(b) requiring an electricity entity to periodically inspect and maintain assets/network infrastructure (s 215).

No comment

- 78 Consider enhancing and clarifying the regulation of electricity supply, including inspection and record keeping requirements, as well as the scope of private generating plant (Regulations, Part 10) to ensure it remains contemporary, including by considering:

(a) implementing a requirement, for high voltage or hazardous area electrical installations, accredited auditor inspection and testing to be evidenced by providing a certificate of inspection and confirmation (with prescribed content stipulated in the Regulations) to the Regulator via electronic portal (Recommendation 45) (s 221(1)(b))

(b) clarifying that the requirement for accredited auditors to conduct an inspection following electrical installation work does not apply to ‘like for like’ changes of electrical equipment in the electrical installation

(c) ensuring renewables and off-grid storage are within the meaning of private generating plant, thereby requiring compliance with the Wiring Rules (s 224) and requirements for safe and stable parallel operation with the works of the electricity entity (s 225).

(d) ensuring the effectiveness of duties to keep records of test results and the working behind them in the context of licensed contractors testing electrical work for safety (ss 226-230). Test results to be submitted to the Regulator through the reporting portal (Recommendation 45).

(e) Consider adding disconnection requirements for disconnection of electrical installation to electricity source (s220)

Agree in principle

- 79 Consider clarifying and enhancing the requirements for safety management systems (SMS) (Regulations, Part 11), including by considering:
- (a) clarifying the requirements regarding both the contents of and need to supply the

Regulator with annual audit plans, audit reports, corrective action plans, and risk management plans (s 234); and
 (b) requiring prescribed electricity entities to provide risk management plans to the Regulator, in addition to maintaining a SMS (s 234(3c), (4a)).

No comment

- 80 Consider clarifying one matter related to accredited auditors (Regulations, Part 12) by allowing for the appointment of temporary accredited auditors, for the duration of a specified period to audit accredited auditors (ss 235, 237; Act s 136A).

No comment

- 81 Consider amending the Serious Electrical Incident and Dangerous Electrical Event notification and reporting requirements to ensure they remain contemporary and to clarify miscellaneous requirements (Regulations, Part 14), including by considering:
 (a) requiring distribution entities to notify the Regulator of Serious Electrical Incidents and Dangerous Electrical Events even if they are not the distribution entity whose works are the subject of the incident, or that supplies electricity to the electrical equipment that is the subject of the incident (Regulations ss 264, 266(1)(b)); and
 (b) clarifying that off-grid contexts are within the reporting required by distribution entities for electric shock (Regulations s 267); and
 (c) requiring prescribed electricity entities to publish reports of incidents occurring in each calendar year, within three months of the end of the relevant year (Part 14, Schedule 6).

Agree

- 82 Consider amending miscellaneous provisions in the Regulations to ensure safety is maintained in various contexts (Regulations, Part 15), including:
 (a) clarifying that the Act applies to greenfield petroleum plant sites not operating as petroleum plants (Regulations s 276; Act, s 6)
 (b) expanding the ability of transmission entities to act in make safe circumstances, similar to the abilities of distribution entities (s 280 and ss 269, 271)
 (c) requiring principal contractors to engage an electrical contractor to investigate and, where appropriate, issue and upload to the Electrical Safety Office portal electrical isolation certificates (Recommendation 45) for demolition and dismantling work providing sufficient information to identify:
 (i) the precise area isolated; and
 (ii) the method of isolation, including use of lockout and tag-out means and testing to prove de-energisation, and
 (iii) any cabling or fittings removed and remaining.
 (d) requiring further electrical isolation certificates where there is an extension of the scope of demolition and dismantling work including uploading to the Electrical Safety Office portal (Recommendation 45).
 (e) Consider expanding electricity entity authorisation requirements for climbing poles, standard or other structure that is part of the works of an electrical entity to include working on poles, standard or other structures that are part of the works of an electricity entity (s 278).

No comment

- 83 Consider correcting administrative matters in the Act and Regulation that have been identified in the course of the review, including:
 In the Act:
 (a) removing the incorrect reference in Act s 32(3) to sub-section (1)(b) and replacing it with a reference to sub-section (2)(b)
 (b) removing outdated reference to the department's website as "www.justice.qld.gov.au" at s 48K (7)
 (c) including the Labour Hire Licensing Act 2017 to list of Acts enabling the Electrical

Safety Office to share information with the Labour Hire Licensing Compliance Unit
(d) removing transitional provisions no longer considered necessary or effective,
based on consultation with the Office of the Queensland Parliamentary Counsel (Parts
15-22).

In the Regulations:

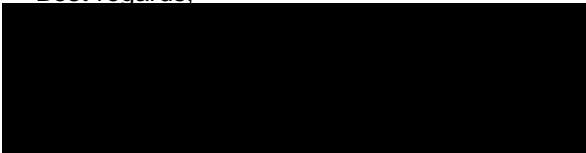
(e) changing reference from "one month" to a specific number of days, namely "28
day" in ss 49-50

(f) removing incorrect reference to Schedule 9, paragraph (c) in at s 279

(g) removing transitional provisions no longer considered necessary or effective,
based on consultation with the Office of the Queensland Parliamentary Counsel (Part
16).

No comment

Best regards,



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