

SOUTH AUSTRALIA

ELECTRICITY ACT 1996

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **19 August 1999**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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ELECTRICITY ACT 1996

being

Electricity Act 1996 No. 96 of 1996
[Assented to 19 December 1996]¹

as amended by

Electricity (Vegetation Clearance) Amendment Act 1997 No. 62 of 1997 [Assented to 7 August 1997]²

Electricity (Miscellaneous) Amendment Act 1997 No. 71 of 1997 [Assented to 18 December 1997]³

Electricity (Miscellaneous) Amendment Act 1999 No. 60 of 1999 [Assented to 19 August 1999]⁴

¹ Came into operation 1 January 1997: *Gaz.* 19 December 1996, p. 1922.

² Came into operation 1 January 1998: *Gaz.* 27 November 1997, p. 1426.

³ Came into operation 5 March 1998: *Gaz.* 5 March 1998 p. 1062.

⁴ **Came into operation (except ss. 3, 4(a)-(d), (f)-(l), 5-14, 17-74 and Sched.) 19 August 1999: *Gaz.* 19 August 1999, p. 882.**

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

An Act to regulate the electricity supply industry; to make provision for safety and technical standards for electrical installations; to amend the Electricity Corporations Act 1994 and the Local Government Act 1934; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Electricity Act 1996*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Objects

3. The objects of this Act are—

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

Interpretation

4. In this Act, unless the contrary intention appears—

"**access**" to a transmission or distribution network means a right to connect to the network and contribute electricity to, or take electricity from, the network;

"**authorised officer**" means a person appointed under Part 7 as an authorised officer;

"**bush fire**" means a fire that originates in, or spreads through, forest, scrub, grass or other vegetation;

"**condition**" includes a limitation or restriction;

"**contestable customer**" means a customer classified by regulation as a contestable customer;

"**contravention**" includes a failure to comply;

"**council**" means a council within the meaning of the *Local Government Act 1934* and includes the Outback Areas Community Development Trust;

"**council officer**" means a person authorised by a council to exercise powers conferred on a council officer under this Act;

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"**customer**" means a person who has a supply of electricity available from a transmission or distribution network and includes—

- (a) the occupier for the time being of a place to which electricity is supplied; and
- (b) where the context requires, a person seeking an electricity supply;

"**disconnect**" 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 the conveyance, control, measurement or use of 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 any electrical outlet at which fixed wiring terminates (other than any such 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; and
- (b) powerlines; and
- (c) substations for converting, transforming or controlling electricity; and
- (d) equipment for metering, monitoring or controlling electricity; and
- (e) any wires, equipment or other thing used for, or in connection with, the generation, transmission, distribution or supply of electricity;

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

"**electricity supply industry**" means the industry involved in the generation, transmission, distribution, supply and sale of electricity;

"**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 regulation not to be generation of electricity;

"**Industry Regulator**" means the South Australian Independent Industry Regulator established under the *Independent Industry Regulator Act 1999*;

"**land**" includes—

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

"National Electricity Code" means the Code as defined in the *National Electricity Law* (see the schedule of the *National Electricity (South Australia) Act 1996*);

"naturally occurring vegetation" means vegetation that has not been planted or nurtured by any person;

"network services" means—

- (a) the transmission and distribution of electricity between electricity entities and from electricity entities to customers (including connection to a transmission or distribution network); and
- (b) controlling and regulating the quality of electricity;

"non-contestable customer" means any customer other than a contestable customer;

"nurture", in relation to vegetation, means actively assist the growth of the vegetation;

"occupier" of land or a place means a person who has or is entitled to possession or control of the land or place;

"operations" includes activities;

"powerline" means—

- (a) a set of cables for the transmission or distribution of electricity and their supporting or protective structures 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 the generation, transmission and distribution of electricity or a part of such a system;

"Pricing Regulator" means the person holding the office of Pricing Regulator under Part 2;

"principles of vegetation clearance" means the regulations dealing with the clearance of vegetation from, or the planting or nurturing of vegetation near, public and private powerlines;

"private land" means—

- (a) land alienated or contracted to be alienated from the Crown in fee simple; or
- (b) land occupied under a lease or licence from the Crown; or
- (c) land dedicated to a particular purpose and placed under the care, control and management of any person (whether or not that person is a Minister, agency or instrumentality of the Crown),

except any such land vested in, or under the care, control or management of, a council and dedicated to, or held for, a public purpose;

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"**private powerline**" means a powerline—

- (a) designed to convey electricity at a prescribed voltage or less; and
- (b) situated on, above or under private land for the purpose only of supplying electricity to some point on that land;

"**public powerline**" means any powerline except a private powerline;

"**retailing**" of electricity means the sale and supply of electricity to customers, but does not include an activity declared by regulation not to be retailing of electricity;

"**supply**" of electricity means the delivery of electricity to a customer;

"**system controller**" means a person appointed under Part 3 to exercise system control over a power system;

"**Technical Regulator**" means the person holding the office of Technical Regulator under Part 2;

"**transmission or distribution network**" means the whole or a part of a system for the transmission or distribution of electricity, but does not include anything declared by regulation not to be a transmission or distribution network or part of a transmission or distribution network;

"**vegetation clearance scheme**" means a vegetation clearance scheme agreed or determined under Part 5.

Crown bound

5. (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) For the purposes of this section, a reference to the Crown extends—

- (a) not only to the Crown in right of this State but also (so far as the legislative power of the State permits) to the Crown in any other capacity; and
- (b) to an electricity corporation (within the meaning of the *Electricity Corporations Act 1994*) and any other 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.

Environment protection and other statutory requirements not affected

6. This Act is in addition to and does not derogate from the provisions of the *Environment Protection Act 1993* or any other Act.

**PART 2
ADMINISTRATION**

DIVISION 1—TECHNICAL REGULATOR

Technical Regulator

7. (1) There is to be a *Technical Regulator*.

(2) The Technical Regulator is to be appointed by the Governor.

(3) The office of Technical Regulator may be held in conjunction with a position in the Public Service.

(4) The Minister may assign an employee in the Public Service to act as the Technical Regulator—

(a) during a vacancy in the office of Technical Regulator; or

(b) when the Technical Regulator is absent from, or unable to discharge, official duties.

Functions

8. (1) The Technical Regulator has the following functions:

(a) the administration of the licensing system for electricity entities established by this Act; and

(b) the monitoring and regulation of safety and technical standards in the electricity supply industry; and

(c) the monitoring and regulation of safety and technical standards with respect to electrical installations; and

(d) the monitoring of plans or action to increase or reduce electricity generation, transmission or distribution facilities or capacities and the likely effect on customers; and

(e) the establishment and monitoring of standards in respect of services provided by electricity entities to customers; and

(f) any other functions assigned to the Technical Regulator under this Act.

(2) The Technical Regulator must, in performing any functions of a discretionary nature, endeavour to act in a fair and even-handed manner taking proper account of the interests of participants in the electricity supply industry and the interests of consumers of electricity.

(3) Nothing in subsection (2) gives rise to, or can be taken into account in, any civil cause of action.

Delegation

9. (1) The Technical Regulator may delegate powers to a person or body of persons that is, in the Technical Regulator's opinion, competent to exercise the relevant powers.

(2) A delegation under this section—

(a) must be in writing; and

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- (b) may be conditional or unconditional; and
- (c) is revocable at will; and
- (d) does not prevent the delegator from acting in any matter.

Technical Regulator's power to require information

10. (1) The Technical Regulator may, by written notice, require a person to give the Technical Regulator, within a time stated in the notice (which must be reasonable), information in the person's possession that the Technical Regulator reasonably requires for the administration of this Act.

(2) A person required to give information under this section must provide the information within the time stated in the notice.

Maximum penalty: \$10 000.

(3) A person cannot be compelled to give information under this section if the information might tend to incriminate the person of an offence.

Obligation to preserve confidentiality

11. (1) The Technical Regulator must preserve the confidentiality of information gained in the course of administering this Act (including information gained by an authorised officer under Part 7) that—

- (a) could affect the competitive position of an electricity entity or other person; or
- (b) is commercially sensitive for some other reason.

(1a) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act (including the Pricing Regulator and persons assisting the Pricing Regulator).

(2) Information classified by the Technical Regulator as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

Executive committees

12. (1) An executive committee may be established by regulation to exercise specified powers and functions as a delegate of the Technical Regulator.

(2) A regulation establishing an executive committee to exercise specified powers and functions operates as a delegation of the relevant powers and functions to the committee (which is revocable only as provided in the regulation itself or by a later regulation).

(3) The members of an executive committee are appointed and hold office on terms and conditions determined by the Minister.

(4) A committee established under this section—

- (a) is responsible to the Technical Regulator for the proper exercise of its powers and functions; and
- (b) is subject to control and direction by the Technical Regulator; and
- (c) must report on the exercise of delegated powers and functions as required by the Technical Regulator.

Advisory committees

13. (1) The Minister or the Technical Regulator may establish an advisory committee to advise the Minister or the Technical Regulator (or both) on specified aspects of the administration of this Act.

(2) The members of an advisory committee are appointed and hold office on terms and conditions determined by the Minister.

Annual report

14. (1) The Technical Regulator must, within three months after the end of each financial year, deliver to the Minister a report on the Technical Regulator's operations and the administration of this Act during that financial year.

(2) Without limiting the effect of subsection (1), the report must include a report on work undertaken to locate powerlines underground during the period to which the report relates.

(3) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after his or her receipt of the report.

DIVISION 4—ADVISORY COMMITTEES

Consumer advisory committee

14A. The Industry Regulator must establish an advisory committee comprising representatives of consumers (the **consumer advisory committee**)—

- (a) to provide advice to the Industry Regulator in relation to the performance of the Industry Regulator's licensing functions under Part 3; and
- (b) to provide advice to the Industry Regulator, either on its own initiative or at the request of the Industry Regulator, on any other matter relating to the electricity supply industry.

Technical advisory committee

14B. The Technical Regulator must establish an advisory committee (the **technical advisory committee**) including representatives of—

- (a) electricity entities; and
- (b) contractor and employee associations involved in the electricity supply industry; and
- (c) local government,

to provide advice to the Technical Regulator, either on its own initiative or at the request of the Technical Regulator, on any matter relating to the functions of the Technical Regulator.

Other advisory committees

14C. The Minister, the Industry Regulator or the Technical Regulator may establish other advisory committees to provide advice on specified aspects of the administration of this Act.

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**PART 3
ELECTRICITY SUPPLY INDUSTRY**

DIVISION A1—DECLARATION AS REGULATED INDUSTRY

Declaration as regulated industry

14D. The electricity supply industry is declared to be a regulated industry for the purposes of the *Independent Industry Regulator Act 1999*.

DIVISION 1—LICENSING OF ELECTRICITY ENTITIES

Requirement for licence

15. (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.

Maximum penalty: \$50 000.

(2) The operations in the electricity supply industry for which a licence is required are—

- (a) generation of electricity; or
- (b) operation of a transmission or distribution network; or
- (c) retailing of electricity; or
- (d) other operations for which a licence is required by the regulations.

Application for licence

16. (1) An application for the issue or renewal of a licence must—

- (a) be made to the Technical Regulator in a form approved by the Technical Regulator; and
- (b) contain the information specified in the form.

(2) The applicant must pay to the Technical Regulator 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 Technical Regulator may, as he or she 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) The applicant must give the Technical Regulator further relevant information requested by the Technical Regulator.

Consideration of application

17. (1) The Technical Regulator must consider an application for the issue of a licence and may, subject to this Division, issue, or refuse to issue, the licence.

(2) Subject to this section, the Technical Regulator may only issue a licence if satisfied that—

- (a) the applicant is a suitable person to hold the licence; and

- (b) in the case of a licence authorising the generation of electricity—the generating plant (or proposed generating plant) will generate electricity of the appropriate quality for the relevant transmission or distribution network; and
- (c) in the case of a licence authorising the operation of a transmission or distribution network—the network has (or the proposed network will have) the necessary capacity for transmitting or distributing electricity safely; and
- (d) in the case of a licence authorising retailing of electricity—the applicant will be able to meet reasonably foreseeable obligations under contracts for the sale of electricity; and
- (e) 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
- (f) in the case of a licence of any class—the grant of the licence would be consistent with criteria (if any) prescribed by regulation for a licence of the relevant class.

(3) In deciding whether an applicant is a suitable person to hold a licence, the Technical Regulator may consider—

- (a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and
- (b) the financial, technical and human resources available to the applicant; and
- (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 regulation.

(4) If—

- (a) a person carries on or proposes to carry on operations for which a licence is required as agent of another person; and
- (b) the agent makes application for the issue of such a licence on the agent's own behalf and on behalf of the principal; and
- (c) the Technical Regulator is satisfied that the criteria for the issue of the licence are met in relation to the agent,

the Technical Regulator may, at his or her discretion, dispense with the requirement that he or she be satisfied that the criteria are met in relation to the principal and issue the licence in the name of the agent and the principal.

(5) If an applicant for the issue of a licence is registered as a Code participant in accordance with the National Electricity Code, the Technical Regulator may, in determining the application, in order to avoid duplication of, or inconsistency with, regulatory requirements under the Code, dispense with a requirement under this section that he or she be satisfied as to a particular matter.

Authority conferred by licence

18. (1) A licence authorises the person named in the licence to carry on operations in the electricity supply industry in accordance with the terms and conditions of the licence.

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(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.

Term of licence

19. (1) A licence is granted for a term (not exceeding 10 years) stated in the licence.

(2) Subject to this Division and the conditions of the licence, the Technical Regulator must, on due application, renew a licence unless satisfied that the applicant—

(a) has been guilty of a material contravention of a requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence such that the licence should not be renewed; or

(b) would no longer for any reason be entitled to the issue of such a licence.

(3) An application for renewal of a licence must be made, in writing, to the Technical Regulator at least three months, but not more than six months, before the end of the licence term (but the Technical Regulator may grant an exemption from this requirement in an appropriate case).

Licence fees and returns

20. (1) A person is not entitled to the issue or renewal of a licence unless the person first pays to the Technical Regulator the annual licence fee, or the first instalment of the annual licence fee, as the case may require.

(2) The holder of a licence issued for a term of two years or more must—

(a) in each year lodge with the Technical Regulator, before the date prescribed for that purpose, an annual return containing the information required by the Technical Regulator 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 Technical Regulator, 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 is a fee fixed by the Minister of an amount that the Minister considers appropriate as a reasonable contribution towards the costs of administration of this Act having regard to the nature and scale of the operations that are authorised by the licence.

(4) An annual licence fee may, if the Technical Regulator so determines, be paid in equal instalments at intervals fixed by the Technical Regulator.

(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 Technical Regulator may, by written notice, require the holder to make good the default and, in addition, to pay to the Technical Regulator 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 Crown.

(7) In this section—

"holder" of a licence includes the holder of a licence that has been suspended.

Licence conditions

21. (1) A licence held by an electricity entity will be subject to—

- (a) conditions determined by the Technical Regulator requiring compliance with specified standards or codes or other safety or technical requirements; and
- (b) conditions determined by the Technical Regulator requiring the entity—
 - (i) to produce to the Regulator for approval plans and procedures relating to safety and technical matters; and
 - (ii) to implement the plans and procedures and conduct compliance audits as approved by the Regulator; and
- (c) conditions determined by the Technical Regulator relating to financial or other capacity to continue operations under the licence for the term of the licence; and
- (d) any other conditions determined by Technical Regulator.

(2) Without limiting the effect of subsection (1), if a person holds a licence or licences authorising both—

- (a) the operation of a transmission or distribution network; and
- (b) the retailing of electricity,

the Technical Regulator may make the licence or licences subject to conditions requiring that the person's affairs in relation to the operation of the transmission or distribution network be kept separate from the person's affairs in relation to the retailing of electricity in the manner and to the extent specified in the conditions.

(3) The Technical Regulator must, so far as the Technical Regulator considers it practicable to do so, comply with a request of the Pricing Regulator for the imposition of a condition of a kind referred to in subsection (2).

Licences authorising operation of transmission or distribution network

22. (1) If a licence authorises an electricity entity to operate a transmission or distribution network, the Technical Regulator may make the licence subject to conditions requiring—

- (a) the electricity entity to allow other electricity entities, as far as technically feasible, access to the network, on fair commercial terms, for the transmission or distribution of electricity; and
- (b) the electricity entity to allow, as far as technically feasible, access to the network, on fair commercial terms, to all electricity entities and customers of a class specified in the condition who want to obtain electricity from the network; and
- (c) the electricity entity to provide network services on fair commercial terms; and
- (d) a specified process to be followed to resolve disputes between an electricity entity and another electricity entity or a customer as to the provision of such access or services or the terms on which such access or services should be provided; and
- (e) the electricity entity to inform persons seeking or in receipt of network services of the terms on which the services are provided (including the charges for the services) and of any changes in those terms; and

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- (f) the electricity entity to report to the Technical Regulator in respect of each financial year on work undertaken by the entity to locate powerlines underground.

(2) This section does not limit the matters that may be dealt with by terms or conditions of a licence authorising the operation of a transmission or distribution network.

Licences authorising retailing

23. (1) If a licence authorises an electricity entity to carry on retailing of electricity—

- (a) the licence must, if the Minister so determines, confer on the entity an exclusive right to sell and supply electricity to non-contestable customers within a specified area; and

- (b) the Technical Regulator may make the licence subject to conditions—

- (i) requiring or relating to standard contractual terms and conditions to apply to the sale and supply of electricity to non-contestable customers or customers of a prescribed class; and

- (ii) requiring the entity to comply with specified minimum standards of service in respect of the entity's non-contestable customers or customers of a prescribed class, and requiring monitoring and reporting of levels of compliance with those standards; and

- (iii) requiring a specified process to be followed to resolve disputes between the entity and customers as to the sale and supply of electricity.

(2) The Technical Regulator must, on the grant of a licence to which subsection (1) applies, and before determining, varying or revoking conditions under subsection (1)(b), consult with and have regard to the advice of—

- (a) the Commissioner for Consumer Affairs; and

- (b) any advisory committee established under Part 2 for that purpose.

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

Licence conditions and Code participants

24. If an electricity entity is registered in accordance with the National Electricity Code as a Code participant, the Technical Regulator must, in determining the conditions of the entity's licence, have regard to the provisions of the Code and the need to avoid duplication of, and inconsistency with, regulatory requirements under the Code.

Offence to contravene licence conditions

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

Maximum penalty: \$50 000.

(2) If an electricity entity profits from contravention of a condition of its licence, the Technical Regulator may recover an amount equal to the profit from the entity—

- (a) on application to a court convicting the entity of an offence against this section; or

- (b) by action in a court of competent jurisdiction.

Notice of licence decisions

26. (1) The Technical Regulator must give an applicant for the issue or renewal of a licence written notice of the Technical Regulator's decision on the application.

(2) The Technical Regulator must give the holder of a licence written notice of any decision by the Technical Regulator affecting the terms or conditions of the licence.

Variation of licence

27. (1) The Technical Regulator may vary the terms or conditions of an electricity entity's licence by written notice to the entity.

(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.

Transfer of licence

28. (1) A licence may be transferred with the Technical Regulator's agreement.

(2) The Technical Regulator may impose conditions on the transfer of a licence, or vary the terms and conditions of the licence on its transfer.

Surrender of licence

29. (1) An electricity entity may, by written notice given to the Technical Regulator, surrender its licence.

(2) The notice must be given to the Technical Regulator at least six 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 Technical Regulator may, by agreement with the electricity entity, shorten the required period of notice.

Register of licences

30. (1) The Technical Regulator must keep a register of the licences issued to electricity entities under this Act.

(2) The register must include—

(a) the terms and conditions of each licence; and

(b) other information required under the regulations.

(3) A person may, on payment of a fee fixed by the Technical Regulator, inspect the Register.

DIVISION 2—SYSTEM CONTROLLER

System controller

31. (1) The Governor may make regulations—

(a) appointing or providing for the appointment of a system controller to exercise system control over a specified power system;

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(b) establishing a body corporate with a view to the appointment of the body as a system controller.

(2) A system controller may be—

(a) a body corporate established by regulation for that purpose; or

(b) the occupant of a position in the Public Service; or

(c) an electricity entity.

(3) Regulations establishing a body corporate under this section may provide for the body's constitution, powers and functions, status in relation to the Crown and any other matter that is necessary or expedient for the purposes of its establishment and operation.

(4) The Governor may, by regulation, dissolve a body corporate established under this section and provide for the disposition of its assets and liabilities and any other matter that is necessary or expedient for the purposes of its dissolution.

Functions of system controller

32. A system controller for a power system must—

(a) continuously monitor the operation of the power system; and

(b) control the input of electricity and the loads placed on the system to ensure that—

(i) the integrity of the power system is maintained; and

(ii) the power system operates efficiently, reliably, and safely; and

(c) carry out the other functions assigned to the system controller by regulation.

Power of direction

33. 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 regulation.

Remuneration of system controller

34. A system controller will, in accordance with the regulations, be entitled to impose and recover charges in respect of the performance of the system controller's functions.

Obligation to preserve confidentiality

35. (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 classified by a system controller as confidential is not liable to disclosure under the *Freedom of Information Act 1991*.

DIVISION 2A—NETWORK SERVICES PRICING

Network services pricing

35A. (1) The Pricing Regulator may, from time to time, by notice in the *Gazette*, fix a maximum price, or a range of maximum prices, for network services.

(2) A notice under subsection (1)—

- (a) may be limited in application, or have varying application, according to factors specified in the notice;
- (b) has effect for a period specified in the notice;
- (c) may be varied or revoked (by subsequent notice in the *Gazette*) in circumstances, or taking into account matters, specified in the notice.

(3) The Pricing Regulator may, from time to time, publish in such manner as the Pricing Regulator thinks fit, principles and guidelines that the Pricing Regulator will observe or take into account in fixing prices.

(4) The Pricing Regulator must, in formulating principles and guidelines, and in fixing prices, have regard to—

- (a) any relevant provisions of the National Electricity Code;
- (b) any relevant pricing recommendations published under the *Government Business Enterprises (Competition) Act 1996*;
- (c) any other matter that the Pricing Regulator thinks fit.

(5) An electricity entity must not charge a price for a service that exceeds an applicable maximum price fixed by the Pricing Regulator under this section.

Maximum penalty: \$50 000.

DIVISION 3—STANDARD TERMS AND CONDITIONS FOR SUPPLY

Standard terms and conditions for supply

36. (1) An electricity entity may, from time to time, fix standard terms and conditions governing the supply of electricity by the entity to non-contestable customers or customers of a prescribed class.

(2) An electricity entity must publish in the *Gazette* and in a daily newspaper circulating in the area in which the entity is supplying electricity a notice setting out any standard terms and conditions fixed by the entity.

(3) Standard terms and conditions fixed under this section—

- (a) must comply with the conditions of the electricity entity's licence; and
- (b) come into force on the day specified by the electricity entity in the notice of the standard terms and conditions published under this section, being a day not earlier than the day on which the notice is published; and
- (c) when in force are contractually binding on the electricity entity and the class of customers to which the terms and conditions are expressed to apply.

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(4) Subject to the conditions of an electricity entity's licence, a standard term or condition fixed under this section may be modified or excluded by express agreement between the entity and a customer of the entity.

DIVISION 4—SUSPENSION OR CANCELLATION OF LICENCES

Suspension or cancellation of licences

37. (1) The Technical Regulator may, if satisfied that—

- (a) the holder of a licence obtained the licence improperly; or
- (b) the holder of a licence has been guilty of a material contravention of a requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence; or
- (c) the holder of a licence has ceased to carry on operations authorised by the licence; or
- (d) there has been any act or default such that the holder of a licence would no longer be entitled to the issue of such a licence,

suspend or cancel the licence with effect from a specified date.

(2) A suspension under this section may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Technical Regulator.

(3) Before the Technical Regulator acts under this section, the Technical Regulator must—

- (a) notify the holder of the licence in writing of the proposed action specifying the reasons for the proposed action; and
- (b) allow the holder of the licence at least 14 days within which to make submissions to the Technical Regulator in relation to the proposed action.

DIVISION 5—TECHNICAL REGULATOR'S POWERS TO TAKE OVER OPERATIONS

Power to take over operations

38. (1) If—

- (a) an electricity entity contravenes this Act, or an electricity entity's licence ceases, or is to cease, to be in force; and
- (b) it is necessary, in the Technical Regulator's opinion, to take over the entity's operations (or some of them) to ensure an adequate supply of electricity to customers,

the Governor may make a proclamation under this section.

(2) Before a proclamation is made under this section, the Technical Regulator must give the electricity entity a reasonable opportunity to make written representations giving reasons why the proclamation should not be made.

(3) A proclamation under this section—

- (a) authorises the Technical Regulator 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.

Appointment of operator

39. (1) When a proclamation is made under this Part, the Technical Regulator must appoint a suitable person (who may, but need not, be an electricity entity) to take over the relevant operations on agreed terms and conditions.

(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) 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.

Maximum penalty: \$50 000.

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

Maximum penalty: \$50 000.

DIVISION 6—DISPUTES

Disputes

40. (1) If a dispute arises as to activities of an electricity entity, a party to the dispute may ask the Technical Regulator to mediate in the dispute.

(2) The Technical Regulator has a discretion whether to mediate or to decline to mediate in a dispute and may impose conditions that must be satisfied if the mediation is to proceed.

(3) If the Technical Regulator proceeds with the mediation—

(a) the Regulator may give directions to the parties to assist in the resolution of the matters in issue; and

(b) the Regulator must make a reasonable attempt to get the parties to agree to a negotiated settlement of the dispute.

(4) If a dispute is resolved, parties and the Technical Regulator must sign an agreement setting out the terms of the settlement and the agreement is binding on the parties to the dispute.

(5) This section is not intended to provide an exclusive method of dispute resolution.

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**PART 4
ELECTRICITY ENTITIES' POWERS AND DUTIES**

DIVISION 1—ELECTRICITY OFFICERS

Appointment of electricity officers

41. (1) An electricity entity may, subject to the conditions of the entity's licence, 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.

Conditions of appointment

42. (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.

Electricity officer's identity card

43. (1) An electricity entity must give each electricity officer for the entity an identity card.

(2) The identity card must be in a form approved by the Technical Regulator and must—

- (a) contain a photograph of the electricity officer taken for the purpose; and
- (b) be signed by the electricity officer; and
- (c) identify the electricity officer as an electricity officer for the relevant electricity entity.

(3) A person must, within 21 days after ceasing to be an electricity officer, return the identity card to the electricity entity.

Maximum penalty: \$250.

Production of identity card

44. 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

Entry on land to conduct surveys, etc.

45. (1) An electricity entity may, by agreement with the occupier of land or on the Technical Regulator's authorisation, 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 Technical Regulator may authorise an electricity entity to enter and remain on land under this section on conditions the Technical Regulator considers appropriate.

(3) If an electricity entity enters land under the Technical Regulator's authorisation, the electricity entity—

- (a) must give reasonable notice of the proposed entry on land under this section to the occupier; and

- (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 Technical Regulator's authorisation.

Acquisition of land

46. (1) An electricity entity may acquire land in accordance with the *Land Acquisition Act 1969*.

(2) An electricity entity may only acquire land by compulsory process under the *Land Acquisition Act 1969* if the acquisition is authorised in writing by the Minister.

Power to carry out work on public land

47. (1) Subject to this section, an electricity entity may—

- (a) install electricity infrastructure on public land; or
- (b) operate, maintain, repair, alter, add to, remove or replace electricity infrastructure on public land; or
- (c) carry out other work on public land for the generation, transmission, distribution or supply of electricity.

(2) Without limiting subsection (1), the electricity entity may—

- (a) erect powerlines on public land;
- (b) excavate public land and install underground cables.

(3) Subject to this section, an electricity entity must—

- (a) give the authority responsible for the management of public land not less than seven 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 management of the land considers appropriate in the public interest.

(5) Prior notice and agreement are not required under subsection (3) for work of a kind prescribed by regulation for the purposes of this subsection.

(6) Agreement is not required under subsection (3) for work of a kind prescribed by regulation for the purposes of this subsection.

(7) If a dispute arises between an electricity entity and the authority responsible for managing public land about whether work should be permitted under this section on the land or about the conditions on which work should be permitted on public land, either party to the dispute may refer the dispute to the Minister.

(8) Subsection (7) does not apply to a dispute where 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.

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- (9) 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.
- (10) 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;
 - (b) if the Minister orders that the work is permitted, an order fixing the conditions on which the work is permitted,

as the Minister thinks fit.

(11) The Minister may delegate a duty or power of the Minister under subsection (9) or (10) to some other person.

(12) A delegation under this section is revocable at will and does not prevent the Minister from acting in any matter.

(13) 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.

(14) 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 State) and the holders of native title in the land.

(15) This section does not derogate from the obligation to comply with the provisions of any other Act.

(16) In this section—

"native title" and **"holder of native title"** have the same meanings as in the *Native Title (South Australia) Act 1994*;

"public land" means land owned by the Crown or an instrumentality or agent of the Crown or by a council or other local government body, including any such land that is subject to native title.

Power to enter for purposes related to infrastructure

48. (1) An electricity officer for an electricity entity may, at any reasonable time, enter and remain on land where electricity infrastructure of the entity is situated to inspect, operate, maintain, repair, alter, add to, remove or replace the infrastructure or to carry out work for the protection of the infrastructure or the protection of public safety.

(2) Subject to this section, if an electricity officer seeks to enter land under this section, 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.

(3) If the proposed entry is refused or obstructed, an electricity officer may obtain a warrant under Part 9 to enter the land.

(4) In an emergency, an electricity officer may exercise a power of entry under 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.

(5) When an electricity officer enters land 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 on the land.

(6) 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.

(7) 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.

DIVISION 3—POWERS RELATING TO INSTALLATIONS

Entry to inspect, etc., electrical installations

49. (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; or
- (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.

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Entry to read meters, etc.

50. 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, 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.

Entry to disconnect supply

51. 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.

Disconnection of supply if entry refused

52. (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 9 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 the appropriate reconnection fee; and
- (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 AND DUTIES IN EMERGENCIES

Electricity entity may cut off electricity supply to avert danger

53. (1) 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.

(2) If an electricity entity proposes to cut off a supply of electricity in order to avert danger of a bush fire, the entity should, if practicable, consult with the Country Fire Services Board, or a delegate of that Board, before doing so.

Emergency legislation not affected

54. 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 *Emergency Powers Act 1941*, *Essential Services Act 1981*, *State Disaster Act 1980* or *State Emergency Service Act 1987*.

**PART 5
CLEARANCE OF VEGETATION FROM POWERLINES**

DIVISION 1—DUTIES IN RELATION TO VEGETATION CLEARANCE

Duties in relation to vegetation clearance

55. (1) An electricity entity has a duty to take reasonable steps—

- (a) to keep vegetation of all kinds clear of public powerlines under the entity's control other than powerlines in relation to which the duty to keep vegetation clear is conferred on a council under a vegetation clearance scheme; and
- (b) to keep naturally occurring vegetation clear of private powerlines under the entity's control,

in accordance with the principles of vegetation clearance.

(1a) A vegetation clearance scheme may, in accordance with Division 2, confer on a council the duty to take reasonable steps to keep vegetation of all kinds clear of public powerlines that are—

- (a) designed to convey electricity at 11 kV or less; and
- (b) within both the council's area and an area prescribed by the regulations (a "**prescribed area**"); and
- (c) not on, above or under private land,

in accordance with the principles of vegetation clearance.

(2) The occupier of private land has (subject to the principles of vegetation clearance) a duty to take reasonable steps to keep vegetation (other than naturally occurring vegetation) clear of any private powerline on the land in accordance with the principles of vegetation clearance.

(3) If vegetation is planted or nurtured near a public powerline contrary to the principles of vegetation clearance, the entity or council that has the duty under this Part to keep vegetation clear of the powerline may remove the vegetation and recover the cost of so doing as a debt from the person by whom the vegetation was planted or nurtured.

(4) If a council or occupier should have, but has not, kept vegetation clear of a powerline under an electricity entity's control in accordance with a duty of the council or occupier under this Part, the electricity entity may carry out the necessary vegetation clearance work (but the entity incurs no liability for failure to carry out such work).

(5) Any costs incurred by an electricity entity in carrying out vegetation clearance work under subsection (4) or repairs to a powerline required as a result of failure by a council or occupier to carry out the duty of the council or occupier under this Part may be recovered as a debt from the council or occupier.

(6) This Part operates to the exclusion of common law duties, and other statutory duties, affecting the clearance of vegetation from a public powerline or a private powerline, and so operates with respect to vegetation clearance work whether the work is carried out by the person having the duty under this Part to keep vegetation clear of the powerline or in pursuance of a delegation or by a contractor or other agent.

DIVISION 2—VEGETATION CLEARANCE SCHEMES IN PRESCRIBED AREAS

SUBDIVISION 1—CONTENT AND NATURE OF SCHEMES

Vegetation clearance schemes

55A. (1) An electricity entity may agree a vegetation clearance scheme with a council governing the way in which vegetation is to be kept clear of public powerlines on land (other than private land) within both the council's area and a prescribed area.

(2) A vegetation clearance scheme may do one or more of the following:

- (a) it may require the electricity entity to inspect and clear vegetation more frequently than is required under the principles of vegetation clearance or otherwise govern the way in which the entity will carry out its duty to clear vegetation;
- (b) it may—
 - (i) contain a delegation by the electricity entity of a function or power under this Part in relation to powerlines designed to convey electricity at 11 kV or less;
 - (ii) require that the electricity entity be indemnified for any liability arising from an act or omission of the council under the delegation;
- (c) it may confer on the council the duty to keep vegetation of all kinds clear of specified public powerlines that are designed to convey electricity at 11 kV or less;
- (d) it may exempt the council from the principles of vegetation clearance relating to the planting or nurturing of vegetation near overhead public powerlines;
- (e) it may impose obligations on the electricity entity or the council with respect to clearance work or reducing the need for clearance work;

For example, a scheme may provide for—

- specified powerlines to be moved or placed underground;
- specified vegetation to be removed or restrictions on the types of vegetation that may be planted or nurtured near powerlines;
- payments by the council to the entity or by the entity to the council.

(f) it may make provision for other related matters.

(3) A vegetation clearance scheme cannot derogate from the principles of vegetation clearance except to the extent referred to in subsection (2)(d).

(4) A vegetation clearance scheme—

- (a) must be in writing and (subject to Subdivision 2) executed by the council and the electricity entity; and
- (b) may be modified by written agreement between the parties.

(5) A delegation by the electricity entity under a vegetation clearance scheme—

- (a) may be subject to conditions specified in the scheme; and
- (b) may be varied or revoked by the electricity entity in accordance with the terms of the scheme; and

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(c) does not prevent the electricity entity from acting in any matter.

(6) If the duty to keep vegetation of all kinds clear of powerlines is conferred on a council under a vegetation clearance scheme, the principles of vegetation clearance relating to the planting or nurturing of vegetation near powerlines do not apply to vegetation planted or nurtured on land (other than private land) by the council, or on the authority of the council, near overhead public powerlines in relation to which the duty is conferred.

SUBDIVISION 2—DISPUTES ABOUT SCHEMES

Vegetation clearance scheme dispute

55B. (1) A vegetation clearance scheme dispute exists if an electricity entity and a council fail to agree on—

- (a) a proposal for a vegetation clearance scheme under this Division; or
- (b) a proposal for modification of such a scheme.

(2) An electricity entity or a council may, by written notice to the Technical Regulator, ask the Technical Regulator to determine a vegetation clearance scheme dispute under this Division.

(3) The notice must contain or be accompanied by the information or documents required by the Technical Regulator.

(4) The party seeking a determination must give a copy of the notice to the other party to the dispute.

Circumstances in which Technical Regulator not obliged to determine dispute

55C. (1) The Technical Regulator will not determine a vegetation clearance scheme dispute unless—

- (a) at least six months have passed since the presentation by one of the parties to the other of a written proposal for a vegetation clearance scheme between the parties or for modification of such a scheme; or
- (b) less than six months have passed since the presentation of such a proposal but the other party has not negotiated reasonably and constructively, or at all, on the proposal.

(2) The Technical Regulator is not obliged to determine a vegetation clearance scheme dispute if the Technical Regulator is satisfied—

- (a) that the subject matter of the dispute is trivial, misconceived or lacking in substance; or
- (b) taking into account the particular circumstances of the dispute, that the party seeking determination of the dispute has not negotiated reasonably and constructively, or at all, on the proposal; or
- (c) on the application of a party to the dispute and taking into account the particular circumstances of the dispute, that there are good reasons why the dispute should not be determined.

Determinations

55D. (1) The Technical Regulator may, on application under this Subdivision, determine—

- (a) in the case of a dispute about a proposal for a vegetation clearance scheme—the terms of the scheme;

- (b) in the case of a dispute about a proposal for modification of a vegetation clearance scheme—whether or not the scheme is to be modified and, if it is to be modified, the terms of the modification.

(2) The Technical Regulator may not, in determining a scheme or modification of a scheme, confer on a council the duty to keep vegetation clear of public powerlines except—

- (a) with the council's consent; or
- (b) in a case where the Technical Regulator is satisfied that it is appropriate to do so in view of significant failure by the council or the electricity entity to carry out properly, or at all, vegetation clearance work in relation to powerlines in the area and in view of the reasons for the failure.

(3) The Technical Regulator may confer a duty on a council in accordance with subsection (2) only in respect of particular powerlines in respect of which the Technical Regulator is satisfied the conferral of the duty is appropriate.

(4) If the Technical Regulator proposes to confer on a council a duty to keep vegetation clear of public powerlines in circumstances in which there has been failure by the electricity entity to carry out properly, or at all, vegetation clearance work in relation to those powerlines, the Technical Regulator must consider whether the council should be given an indemnity for any liability arising from the entity's failure or whether the conferral of the duty should be postponed for a period designed to allow any necessary work to be carried out.

(5) The Technical Regulator may—

- (a) stipulate that a scheme or modification of a scheme is to have effect at a specified future time;
- (b) stipulate that parts of a scheme or modification of a scheme have effect at different future times.

(6) A scheme or modification of a scheme determined by the Technical Regulator under this Division has effect according to its terms and need not be executed by the parties.

Principles to be taken into account

55E. (1) In determining a vegetation clearance scheme dispute, the Technical Regulator must take into account—

- (a) the nature of the vegetation, including its expected rate of growth;
- (b) the impact that the clearance work would be likely to have on the amenity of the area;
- (c) the historical or biological significance (if any) of the vegetation;
- (d) the long term effect that the clearance work would be likely to have on the health and appearance of the vegetation;
- (e) the controls on the planting and nurturing of vegetation applicable in the area;
- (f) the need to prevent damage to the powerlines and interruption to the supply of electricity and to safeguard the public against electric shock and damage to property;
- (g) the extent and frequency of past vegetation clearance in the area;

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- (h) whether requirements with respect to vegetation clearance and the planting and nurturing of vegetation have been complied with in the area and, if not, the reasons for the non-compliance;
- (i) the existence and terms of other vegetation clearance schemes;
- (j) any proposal to alter, remove or underground powerlines in the area;
- (k) the costs of the proposals (including insurance premiums) to the council and to the electricity entity and the financial resources of the council and entity;
- (l) the limits on the financial and other resources of the electricity entity that may be devoted to the scheme and the schemes for the areas of other councils;
- (m) the desirability of preserving so far as practicable terms agreed between the parties;
- (n) any other matters prescribed by the regulations.

(2) The Technical Regulator may take into account other matters the Technical Regulator considers appropriate.

Conduct of proceedings

55F. (1) The Technical Regulator must conduct proceedings for the determination of a dispute with a view to ensuring—

- (a) a fair and reasonable exchange of the parties' views; and
- (b) the proper investigation and consideration of all matters relevant to the fair determination of the dispute; and
- (c) the speedy resolution of the dispute.

(2) The Technical Regulator—

- (a) is not bound by technicalities, legal forms or rules of evidence; and
- (b) may obtain information on matters relevant to the dispute in any way the Technical Regulator thinks fit.

(3) The Technical Regulator may require the presentation of evidence or argument in writing and may decide matters on which the Technical Regulator will hear oral evidence or argument.

(4) If the Technical Regulator decides to hear oral evidence or argument—

- (a) the proceedings must be conducted in public unless—
 - (i) both parties agree to have the proceedings (or part of the proceedings) conducted in private; or
 - (ii) the Technical Regulator orders the public to be excluded from attendance in accordance with subsection (5); and
- (b) the parties may not be represented in the proceedings by lawyers except by leave of the Technical Regulator.

(5) The Technical Regulator may order the public to be excluded from attendance at proceedings in order—

- (a) to consider in confidence information that has commercial value to a person or relates to the commercial or financial affairs of a person (the Technical Regulator being satisfied that it is reasonably foreseeable that public disclosure of the information could cause significant damage to a person or the interests of a person or confer an unfair commercial or financial advantage on a person); or
- (b) to ensure that the Technical Regulator does not—
 - (i) breach any law, order or direction of a court or tribunal constituted by law, or other legal obligation or duty; or
 - (ii) unreasonably expose himself or herself to any legal process or liability.

(6) The Technical Regulator may give directions about who may be present at proceedings during any period when the public is excluded from attendance having regard to the wishes of the parties and the need for commercial confidentiality.

(7) A person must comply with a direction under subsection (6).

Maximum penalty: \$10 000.

(8) The Technical Regulator may—

- (a) give procedural directions;
- (b) make orders requiring—
 - (i) the delivery of documents clarifying the issues between the parties;
 - (ii) the discovery and inspection of documents;
- (c) sit at any time or place;
- (d) adjourn the proceedings from time to time and from place to place;
- (e) refer a matter to an expert for report, and accept the expert's report in evidence;
- (f) appoint a mediator to facilitate resolution of the dispute by conciliation;
- (g) fix and enforce time limits for steps in the proceedings and do anything else necessary for the expeditious and fair hearing and determination of the dispute.

(9) The Technical Regulator may proceed in the absence of a party or on failure by a party to provide written evidence or argument if the party has been given notice of the proceedings or of the requirement to provide written evidence or argument.

(10) The Technical Regulator may engage or appoint a lawyer to provide advice on the conduct of the proceedings and assist the Technical Regulator in drafting the determination.

Giving of relevant documents to Technical Regulator

55G. A party to the dispute may give the Technical Regulator a copy of documents (including confidential documents) the party considers to be relevant to the dispute.

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Power to obtain information and documents

55H. (1) If the Technical Regulator has reason to believe that a person is in a position to give information, or to produce documents, that may be relevant to the dispute, the Technical Regulator may, by written notice—

- (a) require the person within a period stated in the notice—
 - (i) to give the Technical Regulator a written statement of specified information; or
 - (ii) to produce to the Technical Regulator specified documents or copies of specified documents; or
- (b) require the person to appear before the Technical Regulator at a specified time and place to give evidence.

(2) A written statement must, if the Technical Regulator so requires, be verified by statutory declaration of the person providing the information or, if the person is a body corporate, an appropriate officer of the body corporate.

(3) If documents (whether originals or copies) are produced to the Technical Regulator, the Technical Regulator may—

- (a) take possession of, make copies of, and take extracts from, the documents; and
 - (b) keep the documents for as long as is reasonably necessary for the purposes of the determination.
- (4) A person must—
- (a) comply with a requirement of the Technical Regulator under subsection (1) or (2); and
 - (b) if the person is required to appear as a witness before the Technical Regulator—comply with further requirements to make an oath or affirmation, or to answer questions.

Maximum penalty: \$10 000.

- (5) However, a person need not give information or produce a document if—
- (a) the information or the contents of the document is the subject of legal professional privilege, or would tend to incriminate the person of an offence; and
 - (b) the person objects to giving the information or producing the document by giving written notice of the ground of the objection to the Technical Regulator or, if the person is appearing as a witness before the Technical Regulator, by an oral statement of the ground of objection.

Confidentiality of information

55I. (1) A person who gives the Technical Regulator information, or produces documents, may ask the Technical Regulator to keep the information or the contents of the documents confidential.

(2) The Technical Regulator may, after considering representations from the parties (or the other party), impose conditions limiting access to, or disclosure of, the information or documentary material in order—

- (a) to consider in confidence information that has commercial value to a person or relates to the commercial or financial affairs of a person (the Technical Regulator being satisfied that it is reasonably foreseeable that public disclosure of the information could cause significant damage to a person or the interests of a person or confer an unfair commercial or financial advantage on a person); or
- (b) to ensure that the Technical Regulator does not—
 - (i) breach any law, order or direction of a court or tribunal constituted by law, or other legal obligation or duty; or
 - (ii) unreasonably expose himself or herself to any legal process or liability.

(3) A person must not contravene a condition imposed under subsection (2).

Maximum penalty: \$10 000.

Termination of proceedings for determination

55J. The Technical Regulator may terminate proceedings for a determination if—

- (a) the parties request or consent to the termination; or
- (b) the Technical Regulator forms the opinion that—
 - (i) the subject matter of the dispute is trivial, misconceived or lacking in substance; or
 - (ii) the party seeking determination of the dispute has refused or failed to negotiate reasonably and constructively with the other party.

Procedure for giving determination

55K. (1) Before the Technical Regulator makes a determination, the Technical Regulator must give each party to the dispute a copy of the draft determination and may take into account representations that either of them may make on the proposed determination.

(2) A determination must be in writing.

(3) If the Technical Regulator does not give reasons in writing for a determination under this Division when the determination is made, the Regulator must do so on request made by a party affected by the determination within one month of the making of the determination.

(4) The Technical Regulator must, within seven days after a determination is made give a copy of the determination to the parties to the dispute.

Costs

55L. (1) The Technical Regulator's costs in determining a vegetation clearance scheme dispute are to be borne by the parties to the dispute in proportions decided by the Technical Regulator and, in the absence of a decision by the Technical Regulator, in equal proportions.

(2) The costs will include the costs of any mediation or expert's report.

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- (3) The amount of the costs will be as determined by the Technical Regulator.
- (4) The Technical Regulator may, but is not required to, hear submissions from the parties as to apportionment of the costs.
- (5) The Technical Regulator may recover the costs as a debt.
- (6) In any proceedings—
 - (a) a document signed by the Technical Regulator certifying as to the amount of the costs of a determination payable by a specified electricity entity or council constitutes proof of the matters so certified; and
 - (b) an apparently genuine document purporting to be such a certificate of the Technical Regulator is to be presumed to be such a certificate in the absence of proof to the contrary.

SUBDIVISION 3—ENFORCEMENT OF SCHEMES

Enforcement as contract

55M. A vegetation clearance scheme agreed or determined under this Division has effect, and may be enforced, as a contract between the electricity entity and the council concerned.

SUBDIVISION 4—RESOLUTION OF DISPUTES UNDER SCHEMES

Resolution of dispute by intervention of Technical Regulator

55N. (1) A party to a vegetation clearance scheme agreed or determined under this Division may ask the Technical Regulator to assist in the resolution of a dispute that has arisen under the scheme.

(2) The Technical Regulator has a discretion whether to assist in, or to continue to assist in, the resolution of the dispute and may impose conditions that must be satisfied if assistance is to be given or continued.

(3) If the Technical Regulator proceeds under this section, the Regulator may do one or more of the following to resolve the dispute:

- (a) appoint a mediator to facilitate resolution of the dispute by conciliation;
- (b) give directions to either or both parties;
- (c) determine that the vegetation clearance scheme is to be modified in a specified way.

(4) The provisions of Subdivision 2 apply (with necessary or prescribed modifications) to proceedings under this section in the same way as to proceedings for determination of a vegetation clearance scheme dispute.

DIVISION 3—MISCELLANEOUS

Role of councils in relation to vegetation clearance not within prescribed areas

56. (1) An electricity entity may make an arrangement with a council conferring on the council a specified role in relation to vegetation clearance around public powerlines that are not within a prescribed area.

- (2) The arrangement—
 - (a) must be in writing and executed by the electricity entity and the council; and
 - (b) may contain a delegation by the electricity entity of a function or power under this Part; and
 - (c) may require that the electricity entity be indemnified for any liability arising from an act or omission of the council under a delegation; and
 - (d) may provide for the termination of the arrangement by the electricity entity or the council; and
 - (e) may provide for the variation of the arrangement by the electricity entity and the council.
- (3) A delegation by the electricity entity for the purposes of the arrangement—
 - (a) may be subject to conditions specified in the arrangement; and
 - (b) may be varied or revoked by the electricity entity in accordance with the terms of the arrangement; and
 - (c) does not prevent the electricity entity from acting in any matter.

Power to enter for vegetation clearance purposes

57. (1) An electricity officer for an electricity entity or council officer may, at any reasonable time, enter and remain on land to carry out vegetation clearance work that the entity or council is required or authorised to carry out under this Part.

(2) Subject to this section, if an electricity officer or council officer seeks to enter land under this section, the officer must give not less than 60 days written notice to the occupier of the land—

- (a) stating the reason and the date and time of the proposed entry; and
- (b) stating the nature of the clearance work to be carried out; and
- (c) otherwise complying with the requirements of the regulations.

(2a) Subsection (2) does not apply if the clearance work to be carried out is subject to a vegetation clearance scheme.

(3) If the proposed entry is refused or obstructed, an electricity officer or council officer may obtain a warrant under Part 9 to enter the land.

(4) In an emergency, an electricity officer or council officer may exercise a power of entry under 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.

(5) When an electricity officer or council officer enters land under this section, the officer—

- (a) may be accompanied by such assistants as the officer considers necessary or appropriate; and

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(b) may take any vehicles or equipment the officer considers necessary or appropriate for the functions the officer is to carry out on the land.

(6) 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.

(7) When entering a place under a warrant or by force in an emergency, a council officer may be accompanied by a member of the police force.

Regulations in respect of vegetation near powerlines

58. (1) The Governor may, with the concurrence of the Minister for the Environment and Natural Resources, make regulations dealing with the clearance of vegetation from, or the planting or nurturing of vegetation near, public or private powerlines.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) authorise the making of agreements between electricity entities and occupiers of land with respect to vegetation clearance work around powerlines on, above or under the land; and

(b) provide to owners or occupiers of land a right to object to a Minister or other specified person or body against proposed vegetation clearance work by electricity entities or councils around powerlines on, above or under the land, and provide for the consideration and determination of such objections; and

(c) provide for a process under which vegetation clearance schemes with respect to public powerlines within council areas but not within the prescribed areas are negotiated, from time to time, between electricity entities and councils; and

(d) provide for the granting of exemptions from the principles of vegetation clearance; and

(e) make provisions of a savings or transitional nature.

PART 6
SAFETY AND TECHNICAL ISSUES

Electrical installations to comply with technical requirements

59. (1) A person who connects an electrical installation to a transmission or distribution network must ensure that the installation, and the connection, comply with technical and safety requirements imposed under the regulations.

Maximum penalty: \$10 000.

(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 transmission or distribution 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.

Responsibility of owner or operator of infrastructure or installation

60. (1) A person who owns or operates electricity infrastructure or an electrical installation must take reasonable steps to ensure that—

- (a) the infrastructure or installation complies with, and is operated in accordance with, technical and safety requirements imposed under the regulations; and
- (b) the infrastructure or installation is safe and safely operated.

Maximum penalty: \$50 000.

(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.

Certain electrical installation work

61. (1) 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; and
- (b) examinations and tests are carried out as required under the regulations; and
- (c) the requirements of the regulations as to notification and certificates of compliance are complied with.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(2) If a person has a licensed electrical contractor carry out the work, this section does not apply to the person but applies to the contractor.

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(3) If a person (other than a licensed electrical contractor) has a registered electrical worker carry out the work, this section does not apply to the person but applies to the worker.

Power to require rectification, etc., in relation to infrastructure or installations

62. (1) If electricity infrastructure or an electrical installation is unsafe, or does not comply with this Act, the Technical Regulator may give a direction requiring—

- (a) rectification of the infrastructure or installation to the Technical 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 infrastructure or installation.

(2) Subject to this section, a direction under this section must be given—

- (a) in relation to infrastructure—to the electrical entity in charge of the infrastructure;
- (b) in relation to an installation—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 Technical 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.

Maximum penalty: \$10 000.

(5) If a person does not comply with a direction, the Technical Regulator may take the action that is reasonable and necessary to have the direction carried out.

(6) A person, authorised in writing by the Technical 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 Crown.

Reporting of accidents

63. (1) If an accident happens that involves electric shock caused by the operation or condition of electricity infrastructure or an electrical installation—

- (a) the accident must be reported as required under the regulations—
 - (i) if the accident involves part of an electricity entity's infrastructure—by the electricity entity; or
 - (ii) 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
 - (iii) in any other case—by the occupier of the place in which the accident happens; and

- (b) the infrastructure or installation must not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the accident.

Maximum penalty: \$2 500.

Expiation fee: \$210.

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**PART 7
ENFORCEMENT**

DIVISION 1—APPOINTMENT OF AUTHORISED OFFICERS

Appointment of authorised officers

64. (1) The Technical Regulator may appoint suitable persons as authorised officers.

(2) An authorised officer may (but need not be) a Public Service employee.

(3) In the exercise of the authorised officer's powers, the authorised officer is subject to control and direction by the Technical Regulator.

Conditions of appointment

65. (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 Technical Regulator.

(4) An authorised officer may be removed from office by the Technical Regulator.

Authorised officer's identity card

66. (1) The Technical Regulator 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 21 days after ceasing to be an authorised officer, return the identity card to the Technical Regulator.

Maximum penalty: \$250.

Production of identity card

67. 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

Power of entry

68. (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 9; 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.

General investigative powers of authorised officers

69. (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 infrastructure, electrical installations or equipment in the place to find out whether the infrastructure, installations or equipment 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 six months after the authorised officer takes possession of the object—at the end of that period; or
 - (ii) if such proceedings are commenced within that period—on completion of the proceedings, unless the court, on application by the Technical Regulator, 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 Technical Regulator may dispose of the object.

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Disconnection of electricity supply

70. (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.

Maximum penalty: \$10 000.

Power to require disconnection of cathodic protection system

71. (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.

Maximum penalty: \$10 000.

Power to make infrastructure or installation safe

72. (1) If an authorised officer finds that electricity infrastructure or an electrical installation is unsafe, the officer may—

- (a) disconnect the electricity supply or give a direction requiring the disconnection of the electricity supply;
- (b) give a direction requiring the carrying out of the work necessary to make the infrastructure or installation safe before the electricity supply is reconnected.

(2) Subject to this section, a direction under this section must be given—

- (a) in relation to infrastructure—to the electrical entity in charge of the infrastructure;
- (b) in relation to an installation—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.

Maximum penalty: \$10 000.

Power to require information

73. (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.

Maximum penalty: \$10 000.

(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 8
REVIEW OF DECISIONS AND APPEALS

Review of decisions by Technical Regulator

74. (1) An application may be made to the Technical Regulator—

- (a) by an applicant for the issue, renewal or variation of a licence for review of a decision of the Technical Regulator to refuse to issue, renew or vary the licence; or
- (b) by an electricity entity for review of a decision of the Technical Regulator to suspend or cancel the entity's licence or to vary the terms or conditions of the entity's licence; or
- (c) by a person to whom a direction has been given under this Act by the Technical Regulator or an authorised officer (other than a direction given by the Technical 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 a decision of an authorised officer or an electricity officer to disconnect an electricity supply or to disconnect a cathodic protection system.

(2) If the Technical Regulator, authorised officer or electricity officer does not give reasons in writing for a decision referred to in subsection (1) when the decision is made, the Regulator or officer must do so on request made by the person affected by the decision within one month of the making of the decision.

(3) An application for review of a decision must be made—

- (a) within one month of the making of the decision; or
- (b) if a request for reasons in writing for the decision has been made under subsection (2)—within one month of the receipt of the reasons in writing.

(4) The Technical Regulator may, if satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an application be made within the period fixed by this section.

(5) An application for review must be in writing and must set out in detail the grounds on which the applicant seeks review of the decision.

Stay of operation

75. (1) The Technical Regulator may stay the operation of a decision that is subject to review or appeal under this Part.

(2) A stay cannot be granted if its effect would be to create a danger to person or property or to allow a danger to person or property to continue.

Powers of Technical Regulator on review

76. (1) After considering an application for review of a decision, and taking advice the Technical Regulator considers appropriate, the Technical Regulator may—

- (a) confirm the disputed decision; or
- (b) amend the disputed decision; or
- (c) substitute another decision for the disputed decision.

(2) The Technical Regulator must give the applicant written notice of the Technical Regulator's decision and the reasons for the Technical Regulator's decision on the review.

Appeal

77. (1) A person who is dissatisfied with a decision of the Technical Regulator on a review under this Part may appeal against the decision to the Administrative and Disciplinary Division of the District Court (the "**Court**").

(2) The Court may, in exercising its jurisdiction under this Part, be constituted of a Magistrate.

(3) An appeal must be made within one month of the making of the decision appealed against.

(4) The Court may, if satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an application be made within the period fixed by this section.

(5) Except as determined by the Court, an appeal is to be conducted by way of a fresh hearing and for that purpose the Court may receive evidence given orally or, if the Court so determines, by affidavit.

Stay of operation

78. (1) The Court may stay the operation of a decision that is subject to appeal under this Part.

(2) A stay cannot be granted if its effect would be to create a danger to person or property or to allow a danger to person or property to continue.

Powers of Court on appeal

79. (1) On an appeal, the Court may—

(a) confirm the decision under appeal; or

(b) amend the decision; or

(c) set aside the decision and substitute another decision; or

(d) set aside the decision and return the issue to the primary decision maker with directions the Court considers appropriate.

(2) The Court may make ancillary directions to deal with incidental matters.

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**PART 9
MISCELLANEOUS**

Power of exemption

80. The Technical Regulator may grant an exemption from this Act, or specified provisions of this Act, on terms and conditions the Technical Regulator considers appropriate.

Obligation to comply with conditions of exemption

81. A person in whose favour an exemption is given must comply with the conditions of the exemption.

Maximum penalty: \$10 000.

Application and issue of warrant

82. (1) An authorised officer, electricity officer or council 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, electricity officer or council 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.

Urgent situations

83. (1) An authorised officer, electricity officer or council 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; and

(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; and
 - (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 receipt of the form of warrant, the magistrate must attach it to the warrant the magistrate signed.

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

Unlawful interference with electricity infrastructure or electrical installation

84. (1) A person must not, without proper authority—

- (a) attach an electrical installation or other thing, or make any connection, to a transmission or distribution network; or
- (b) disconnect or interfere with a supply of electricity from a transmission or distribution network; or
- (c) damage or interfere with electrical infrastructure or an electrical installation in any other way.

Maximum penalty: \$10 000 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

(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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Unlawful abstraction or diversion of electricity

85. (1) A person must not, without proper authority—

- (a) abstract or divert electricity from a power system; or

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- (b) interfere with a meter or other device for measuring the consumption of electricity supplied by an electricity entity.

Maximum penalty: \$10 000 or imprisonment for 2 years.

(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.

Maximum penalty: \$10 000.

(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 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 convicting the person of an offence against this section; or
- (b) by action in a court of competent jurisdiction.

Erection of buildings in proximity to powerline

86. (1) A person must not, except as approved by the Technical Regulator, erect a building or structure in proximity to a powerline contrary to the regulations.

Maximum penalty: \$10 000.

(2) Subject to the regulations, the Technical Regulator may give an approval for the purposes of this section.

(3) An approval under this section—

- (a) may be general or specific; and
- (b) will, insofar as the approval operates for the benefit of a particular person, be subject to such conditions as the Technical 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 convicting the person 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.

Notice of work that may affect electricity infrastructure

87. (1) A person who proposes to do work near electricity infrastructure must give the appropriate electricity entity at least seven days' notice of the proposed work if—

- (a) there is a risk of equipment or a structure coming into dangerous proximity to electrical conductors; or
- (b) the work may affect the support for any part of electricity infrastructure; or
- (c) the work may interfere with the electricity infrastructure in some other way.

Maximum penalty: \$2 500.

Expiation fee: \$210.

(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 regulation 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Impersonation of officials, etc.

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

Maximum penalty: \$5 000.

Obstruction

89. (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.

Maximum penalty: \$5 000.

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(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.

Maximum penalty: \$5 000.

False or misleading information

90. 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.

Maximum penalty: If the person made the statement knowing that it was false or misleading—\$10 000.
In any other case—\$5 000.

Statutory declarations

91. If a person is required by or under this Act to furnish information to the Technical Regulator or Pricing Regulator, the Technical Regulator or Pricing 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 Technical Regulator or Pricing Regulator.

General defence

92. (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.

Offences by bodies corporate

93. 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.

Continuing offence

94. (1) A person convicted 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-tenth of the maximum 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-tenth of the maximum penalty prescribed for the offence.

(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.

Immunity from personal liability for Technical Regulator, authorised officer, etc.

95. (1) No personal liability attaches to the Technical Regulator, a delegate of the Technical Regulator, an authorised officer or any officer or employee of the Crown engaged in the administration or enforcement of this Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act.

(2) A liability that would, but for subsection (1), lie against a person, lies instead against the Crown.

Evidence

96. (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.

(2) In any legal proceedings, an apparently genuine document purporting to be a certificate of the Technical Regulator 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
- (ab) as to the existence and contents of a vegetation clearance scheme; or
- (b) as to the giving and contents of a direction, delegation, exemption, approval or authorisation under this Act,

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 Technical Regulator 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 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.

(5) 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.

Service

97. (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 220 of the *Corporations Law*.

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(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 two 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.

Regulations

98. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting subsection (1), the regulations may deal with the following matters:

- (a) the generation, transmission, distribution and supply of electricity; and
- (b) the construction, installation and positioning of electricity infrastructure and electrical installations; and
- (c) technical, operational and safety requirements and standards and monitoring and enforcing compliance with the prescribed requirements and standards; and
- (d) a process for the resolution of disputes relating to access to transmission or distribution networks (including the appointment of persons to mediate or arbitrate such disputes, the powers and duties of such persons, the procedures to be followed, the enforcement of decisions and any other matter relating to such disputes and their resolution); and
- (e) the exemption (conditionally or unconditionally) of classes of persons or operations from the application of this Act or specified provisions of this Act; and
- (f) fees to be paid in respect of any matter under this Act and the recovery, refund, waiver or reduction of such fees; and
- (g) penalties not exceeding \$5 000 for contravention of a regulation.

(3) The regulations may—

- (a) be of general application or limited in application according to the persons, areas, times or circumstances to which it is 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 or the Technical Regulator;
- (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 regulation, as is in force from time to time or as in force at a particular time.

SCHEDULE 1

Consequential Amendments

Amendment of Electricity Corporations Act 1994

1. The *Electricity Corporations Act 1994* is amended by striking out clauses 1 to 10 (inclusive) and 12 of Schedule 4.

Amendment of Local Government Act 1934

2. The *Local Government Act 1934* is amended—

(a) by striking out paragraph (a) of section 338(4) and substituting the following paragraph:

(a) an electricity entity in pursuance of powers conferred by the *Electricity Act 1996*;

(b) by striking out paragraph (a) of section 339(5) and substituting the following paragraph:

(a) an electricity entity in pursuance of powers conferred by the *Electricity Act 1996*;

(c) by striking out from section 363A(1) "The Electricity Trust of South Australia" and substituting "an electricity entity under the *Electricity Act 1996*";

(d) by striking out from section 363A(1) "the Trust" wherever occurring and substituting, in each case, "the electricity entity";

(e) by striking out from section 363A(2) "the Trust" (twice occurring) and substituting, respectively, "an electricity entity" and "the electricity entity";

(f) by striking out from section 366AA "The Electricity Trust of South Australia or any other supplier of electricity by or under" and substituting "ETSA Corporation or any other electricity entity under the *Electricity Act 1996*";

(g) by striking out from section 475(1) "The Electricity Trust of South Australia" and substituting "ETSA Corporation";

(h) by striking out sections 489 to 520 (inclusive) and substituting the following section:

Power to carry on operations for supply of electricity or gas

489. (1) Subject to the provisions of the *Electricity Act 1996* or any other Act, the council may carry on operations for the generation, transmission, distribution, sale or supply of electricity within its area.

(2) Subject to the provisions of the *Gas Act 1988* or any other Act, the council may carry on operations for the production, distribution, sale or supply of gas within its area;

(i) by striking out from section 871G(3) "The Electricity Trust of South Australia" and substituting "an electricity entity under the *Electricity Act 1996*".

Electricity Act 1996

SCHEDULE 2

Transitional Provisions

Continuation of certain arrangements

1. (1) An arrangement between an electricity corporation and a council in force under clause 8 of the repealed provisions immediately before the commencement of this Schedule continues in force as such an arrangement for the purposes of Part 5 of this Act.

(2) In this clause—

"**the repealed provisions**" means those clauses of Schedule 4 of the *Electricity Corporations Act 1994* repealed by this Act.

Temporary immunity provision for electricity corporations

2. (1) An electricity corporation (within the meaning of the *Electricity Corporations Act 1994*) is not liable in damages to any person for—

(a) the cutting off of the supply of electricity to any region, area or premises in pursuance of this Act;
or

(b) any partial or total failure to supply electricity or any variation in electricity supply unless the failure or variation is due to anything done or omitted to be done by the corporation in bad faith or to the negligence of the corporation.

(2) The Governor may, by proclamation, declare that this clause will expire on a day specified in the proclamation.

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Section 4:	definition of "contestable customer" substituted by 71, 1997, s. 3(a) definition of "council officer" inserted by 62, 1997, s. 3(a) definition of "electrical installation" amended by 71, 1997, s. 3(b) definition of "Industry Regulator" inserted by 60, 1999, s. 4(e) definition of "powerline" substituted by 62, 1997, s. 3(b) definition of "Pricing Regulator" inserted by 71, 1997, s. 3(c) definition of "transmission or distribution system" amended by 71, 1997, s. 3(d) definition of "vegetation clearance scheme" inserted by 62, 1997, s. 3(c)
Part 2 Division 1 heading: Section 11(1a):	inserted by 71, 1997, s. 4 inserted by 71, 1997, s. 5
	Division 2 of Part 2 comprising ss. 14A - 14D and heading inserted by 71, 1997, s. 6; repealed by 60, 1999, s. 15
	Division 4 of Part 2 comprising ss. 14A - 14C and heading inserted by 60, 1999, s. 15
	Division A1 of Part 3 comprising s. 14D and heading inserted by 60, 1999, s. 16
Section 21(1): Section 21(3):	amended by 71, 1997, s. 7(a) inserted by 71, 1997, s. 7(b)
	Division 2A of Part 3 comprising s. 35A and heading inserted by 71, 1997, s. 8
Part 5 Division 1 heading: Section 55(1): Section 55(1a): Section 55(3): Section 55(4) - (6):	inserted by 62, 1997, s. 4 amended by 62, 1997, s. 5(a) inserted by 62, 1997, s. 5(b) amended by 62, 1997, s. 5(c) substituted by 62, 1997, s. 5(d)
	Division 2 of Part 5 comprising ss. 55A - 55N and headings inserted by 62, 1997, s. 6
Part 5 Division 3 heading: Section 56(1): Section 57(1): Section 57(2): Section 57(2a): Section 57(3): Section 57(4): Section 57(5): Section 57(7): Section 58(2): Section 74(1): Section 82(1): Section 82(3): Section 83(1):	inserted by 62, 1997, s. 7 amended by 62, 1997, s. 8 amended by 62, 1997, s. 9(a), (b) amended by 62, 1997, s. 9(c) inserted by 62, 1997, s. 9(d) amended by 62, 1997, s. 9(e) amended by 62, 1997, s. 9(f) amended by 62, 1997, s. 9(g) inserted by 62, 1997, s. 9(h) amended by 62, 1997, s. 10 amended by 62, 1997, s. 11 amended by 62, 1997, s. 12(a) amended by 62, 1997, s. 12(b) amended by 62, 1997, s. 13(a)

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Section 83(6):	amended by 62, 1997, s. 13(b)
Section 91:	amended by 71, 1997, s. 9
Section 96(2):	amended by 62, 1997, s. 14
Schedule 2	
Clause 2(1):	substituted by 71, 1997, s. 10