

**Version No. 075**  
**Electricity Safety Act 1998**

**No. 25 of 1998**

Version incorporating amendments as at  
1 April 2019

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**Version No. 075**  
**Electricity Safety Act 1998**

**No. 25 of 1998**

Version incorporating amendments as at  
1 April 2019

**The Parliament of Victoria enacts as follows:**

**Part 1—Preliminary**

S. 1 substituted by No. 55/2010 s. 12.

**1 Purpose**

The purpose of this Act is to make further provision relating to—

- (a) the safety of electricity supply and use; and
- (b) the reliability and security of electricity supply; and
- (c) the efficiency of electrical equipment.

**2 Commencement**

- (1) Part 1 comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 31 December 1999 it comes into operation on that day.

**3 Definitions**

In this Act—

S. 3 def. of *accepted bushfire mitigation plan* inserted by No. 55/2010 s. 13(3).

*accepted bushfire mitigation plan* means—

- (a) a bushfire mitigation plan accepted by Energy Safe Victoria under Subdivision 3 of Division 1A of Part 8 and includes a bushfire mitigation plan provisionally accepted by Energy Safe Victoria under that Subdivision; or
- (b) a bushfire mitigation plan accepted by Energy Safe Victoria under Division 2A of Part 10 (and taken to form part of an accepted ESMS by operation of section 113D) and includes a bushfire mitigation plan provisionally accepted by Energy Safe Victoria under that Division;

S. 3 def. of *accepted electricity safety management scheme* amended by No. 89/1998 s. 6(b), repealed by No. 61/2007 s. 4(3).

\* \* \* \* \*

S. 3 def. of *accepted electricity safety manager* inserted by No. 89/1998 s. 6(a), repealed by No. 61/2007 s. 4(3).

\* \* \* \* \*

S. 3 def. of *accepted ESMS* inserted by No. 61/2007 s. 4(1) (as amended by No. 57/2009 s. 13(1)).

***accepted ESMS*** means—

- (a) an electricity safety management scheme that has been accepted or provisionally accepted under Division 2 or 3 of Part 10; or
- (b) if a revised electricity safety management scheme has been accepted or provisionally accepted under Division 2 or 3 of Part 10, that revised electricity safety management scheme—



but does not include an electricity safety management scheme that has lapsed under Division 3 of Part 10;

S. 3 def. of *accepted ESMS operator* inserted by No. 61/2007 s. 4(1) (as amended by No. 57/2009 s. 13(1)).

*accepted ESMS operator* means—

- (a) a major electricity company whose electricity safety management scheme has been accepted or provisionally accepted by Energy Safe Victoria under Division 2 of Part 10; or
- (b) a voluntary ESMS operator;

S. 3 def. of *bushfire mitigation plan* inserted by No. 55/2010 s. 13(3).

*bushfire mitigation plan* means a plan referred to in section 83BA(1) or 113A(1);

*business day* means a day other than a Saturday or Sunday or a public holiday appointed under the **Public Holidays Act 1993**;

*cathodic protection system* means a prescribed system designed to use direct electric current to protect metallic structures from corrosion;

S. 3 def. of *certificate of compliance* inserted by No. 61/2007 s. 13(1).

*certificate of compliance* means a certificate of compliance completed under section 44 for electrical installation work carried out by a licensed electrical installation worker;

S. 3 def. of *certificate of inspection* inserted by No. 61/2007 s. 13(1).

*certificate of inspection* means a certificate of inspection of electrical installation work carried out by a licensed electrical inspector under section 45;

*Code* means the Code of Practice for Electric Line Clearance prescribed for the purpose of Part 8;

S. 3 new def. of *Committee* inserted by No. 55/2010 s. 37(1)(b), amended by No. 46/2014 s. 8.

*Committee* means—

\* \* \* \* \*

- (b) in Part 8, the Electric Line Clearance Consultative Committee;

(c) in Part 9, the Victorian Electrolysis Committee;

**company assets** means property of an electricity supplier, being the whole or part of any pole, cable, conduit, conductor, device, appliance or other thing used for or in connection with a private electric line;

S. 3 def. of *complex electrical installation* inserted by No. 57/2009 s. 4(a).

**complex electrical installation** means an electrical installation that—

- (a) has an installed generation capacity of equal to or greater than 1000 kVA; or
- (b) is an electric line that is on land that is not owned or leased by the owner or operator of the electric line;

S. 3 def. of *Committee* repealed by No. 55/2010 s. 37(1)(a).

\* \* \* \* \*

**connect**, in relation to an electrical installation or electrical equipment, includes make capable of receiving an electric current;

S. 3 def. of *Council* inserted by No. 2/2014 s. 4(a).

**Council** has the same meaning as in the **Local Government Act 1989**;

S. 3 def. of *decision* inserted by No. 24/2002 s. 3.

**decision** for the purposes of Part 6 includes prohibition, requirement or direction;

S. 3 def. of *Director* inserted by No. 39/2005 s. 44(1).

**Director** means the Director of Energy Safety appointed under the **Energy Safe Victoria Act 2005**;

S. 3 def. of *distribution area* amended by Nos 69/2000 s. 21(a), 55/2010 s. 13(1).

**distribution area** means an area in which a distribution company under a distribution licence under the **Electricity Industry Act 2000** is authorised to distribute electricity;

S. 3 def. of *distribution company* amended by No. 69/2000 s. 21(b).

***distribution company*** has the same meaning as in the  
**Electricity Industry Act 2000;**

***electric line*** means—

(a) the whole or any part of a wire, cable or other thing used or to be used for the purpose of transmitting, distributing or supplying electricity; or

(b) any thing enclosing or supporting such a wire, cable or other thing—

but does not include a wire, cable or other thing directly used in converting electrical energy into another form of energy;

***electrical connection work*** means connecting or disconnecting electrical equipment to or from a supply of electricity;

***electrical contracting*** means contracting or undertaking to carry out electrical installation work;

***electrical contractor*** means a person who carries out electrical contracting;

***electrical equipment*** means any appliance, wire, fitting, cable, conduit or apparatus that generates, uses, conveys or controls (or that is intended to generate, use, convey or control) electricity;

***electrical equipment work*** means repair, alteration or maintenance of electrical equipment;

***electrical inspection work*** means testing, inspection or certification of electrical equipment;

S. 3 def. of *electrical installation* amended by No. 57/2009 s. 4(b).

***electrical installation*** means electrical equipment that is fixed or to be fixed in, on, under or over any land but does not include a supply network that is owned or operated by a major electricity company;

***electrical installation work*** means installation, alteration, repair or maintenance of an electrical installation;

***electrical installation worker*** means a person who carries out electrical installation work;

***electrical work*** means electrical connection work, electrical equipment work, electrical inspection work or electrical installation work;

***electrical worker*** means a person who carries out electrical work;

***electricity supplier*** means a person who supplies electricity to another person;

S. 3 def. of *energy efficiency electrical equipment* inserted by No. 57/2009 s. 4(a).

***energy efficiency electrical equipment*** means electrical equipment that is prescribed as energy efficiency electrical equipment for the purposes of Part 5;

S. 3 def. of *Energy Safe Victoria* inserted by No. 39/2005 s. 44(1).

***Energy Safe Victoria*** means Energy Safe Victoria established under the **Energy Safe Victoria Act 2005**;

***enforcement officer*** means a person appointed as an enforcement officer under Part 11;

***fire control authority***, in relation to an area of land, means—

- (a) the Metropolitan Fire and Emergency Services Board, if the area is within the metropolitan fire district within the meaning of the **Metropolitan Fire Brigades Act 1958**; or
- (b) the Secretary to the Department of Natural Resources and Environment, if the area is within a fire protected area within the meaning of the **Forests Act 1958**; or
- (c) the Country Fire Authority, if the area is within the country area of Victoria within the meaning of the **Country Fire Authority Act 1958**;

S. 3 def. of *hazardous bushfire risk area* inserted by No. 55/2010 s. 13(3).

***hazardous bushfire risk area*** means an area—

- (a) to which a fire authority has assigned a fire hazard rating of "high" under section 80, whether or not the area is an urban area; or
- (b) that is not an urban area (other than an area a fire control authority has assigned a fire hazard rating of "low" under section 80);

**high voltage electric line** means an electric line other than a low voltage electric line;

**install** includes lay and place;

**low voltage electric line** means an electric line which is ordinarily operated at a voltage not exceeding the voltage prescribed for the purposes of this definition;

**maintenance**, in Part 8, in relation to an electric line or a private electric line, includes the keeping of the whole or any part of a tree clear of the line;

S. 3 def. of *major electricity company* inserted by No. 57/2009 s. 4(a).

**major electricity company** means—

- (a) a distribution company; or

- (b) a transmission company—

but does not include a distribution company or a transmission company, or a class of distribution company or transmission company, declared under section 3A not to be a major electricity company;

**member**, in Part 8, means a member of the Electric Line Clearance Consultative Committee and includes a chairperson, acting chairperson and acting member;

**mitigation system** means a prescribed system designed to reduce the effects on metallic structures of the leakage of stray electrical currents;

S. 3 def. of *network operator* amended by No. 61/2007 s. 12(1), repealed by No. 57/2009 s. 4(e).

\* \* \* \* \*

**occupier**, in Part 8 or 11, in relation to land, means a person who is in actual occupation of the land or, if no-one is in actual occupation of the land, the owner of the land;

S. 3 def. of *Officer* repealed by No. 39/2005 s. 44(2).

\* \* \* \* \*

S. 3 def. of *officer* amended by No. 44/2001 s. 3(Sch. item 36).

**officer**, in relation to a corporation, has the same meaning as in section 9 of the Corporations Act;

**person**, in Part 8, includes an unincorporated body or association and a partnership;

**point of supply**—

- (a) in relation to a low voltage electric line, means—
  - (i) in the case of an underground line (unless subparagraph (iii) applies), the point at which that line crosses the boundary of the land; and
  - (ii) in the case of an overhead line (unless subparagraph (iii) applies), the first point of connection of that line on the land, being either—
    - (A) if the line is carried onto the land by one or more poles, the first pole on the land carrying that line;
    - (B) if the line is connected directly to premises on the land, that connection to the premises; or
    - (C) if it is not possible to determine a point of supply in accordance with sub-subparagraph (A) or (B), the point at which the line crosses the boundary of the land; and
  - (iii) in the case of a line connected to company assets, the point at which the line is connected to the company assets; and

- (b) in relation to a high voltage electric line, means the point agreed between the relevant distribution company or the relevant transmission company and the customer supplied by that electric line;

S. 3 def. of *practicable* inserted by No. 33/2005 s. 3(1), amended by Nos 57/2009 s. 4(c), 55/2010 s. 13(2).

*practicable*, in section 83B or Part 10, means practicable having regard to—

- (a) the severity of the hazard or risk in question; and
- (b) the state of knowledge about the hazard or risk and any ways of removing or mitigating the hazard or risk; and
- (c) the availability and suitability of ways to remove or mitigate the hazard or risk; and
- (d) the cost of removing or mitigating the hazard or risk;

*private electric line* means any low voltage electric line used to take electricity from the point of supply, whether or not that line is vested in an electricity supplier;

S. 3 def. of *public land* amended by No. 2/2014 s. 4(b).

*public land*, in Division 4 of Part 3 and Part 8, means—

- (a) Crown land; or
- (b) land vested in a Minister of the Crown; or
- (c) land vested in a public statutory authority or Council; or
- (d) land (whether privately or publicly owned) used for public purposes;

S. 3 def. of *railway or tramway system* substituted as *railway* by No. 61/2007 s. 12(2), substituted by No. 22/2013 s. 56.

*railway* means railway within the meaning of the **Rail Safety (Local Operations) Act 2006** or the Rail Safety National Law (Victoria);

S. 3 def. of *rectification notice* inserted by No. 61/2007 s. 13(1).

*rectification notice* means a notice given under section 45AB;

S. 3 def. of *relevant function* inserted by No. 89/1998 s. 6(a), repealed by No. 61/2007 s. 4(3).

\* \* \* \* \*

S. 3 def. of *responsible person* amended by No. 2/2014 s. 4(c).

***responsible person***, in Part 8, means a person responsible under Subdivision 1 of Division 2 of Part 8 for the maintenance of a private electric line or for the keeping of the whole or any part of a tree clear of an electric line;

***rural area***, in Part 8, means an area that is not an urban area;

***serious electrical incident*** means an incident involving electricity which causes or has the potential to cause—

- (a) the death of or injury to a person; or
- (b) significant damage to property; or
- (c) a serious risk to public safety;

S. 3 def. of *specified bushfire risk period* inserted by No. 55/2010 s. 13(3).

***specified bushfire risk period*** means the period commencing 1 November and ending 31 March the following year;

S. 3 def. of *supply* substituted by No. 43/2018 s. 4.

***supply*** includes supply (including re-supply) by—

- (a) sale or an arrangement, exchange, lease, hire or hire-purchase; or
- (b) causing or permitting to be sold;

S. 3 def. of *supply network* amended by No. 57/2009 s. 4(d).

***supply network*** means a network consisting of electric lines, substations, circuits and any other thing required for the purposes of the transmission, distribution or supply of electricity;

S. 3 def. of *transmission company* inserted by No. 61/2007 s. 4(1) (as amended by No. 57/2009 s. 13(1)).

***transmission company*** has the same meaning as in the **Electricity Industry Act 2000**;



S. 3 def. of *tree*  
inserted by No. 38/2000 s. 15.

*tree* includes vegetation;

S. 3 def. of *Tribunal* inserted by No. 24/2002 s. 3.

*Tribunal* means the Victorian Civil and Administrative  
Tribunal established by the **Victorian Civil and  
Administrative Tribunal Act 1998**;

S. 3 def. of *upstream network* repealed by No. 57/2009 s. 4(f).

\* \* \* \* \*

S. 3 def. of *urban area* amended by Nos 40/2003 s. 26, 2/2014 s. 4(d).

*urban area*, in Part 8, means an area of land that is  
predominantly—

- (a) subdivided into allotments or lots each of  
which, in the case of land used or to be used  
for residential purposes, is not greater than  
0.1 hectares; and
- (b) able to be used or developed under a  
planning scheme for residential, industrial or  
commercial purposes; and
- (c) provided with constructed streets and  
services; and
- (d) provided with street lighting installed at not  
less than 3 lanterns in every 500 metres—

and includes any other area for the time being  
specified in a notice under section 79 but does not  
include an area to which a fire control authority  
has for the time being assigned a fire hazard rating  
of "high" under section 80.

S. 3 def. of *voluntary ESMS operator* inserted by No. 61/2007 s. 4(1) (as amended by No. 57/2009 s. 13(1)),  
amended by No. 55/2010 s. 37(1)(c).

*voluntary ESMS operator* means a person whose  
electricity safety management scheme has been  
accepted or provisionally accepted by Energy  
Safe Victoria under Division 3 of Part 10.

S. 3A inserted by No. 61/2007 s. 5 (as amended by No. 57/2009 s. 14).

### **3A Declaration of certain distribution companies or transmission companies not to be major electricity companies**

The Governor in Council, by Order published in the Government Gazette, may declare—

- (a) a distribution company or a class of distribution company; or
- (b) a transmission company or a class of transmission company—

not to be a major electricity company for the purposes of this Act or any part of this Act.

## **4 Exemptions**

S. 4(1) amended by No. 69/2000 s. 22(1).

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that the provisions of this Act, or such of the provisions of this Act as are specified in the Order—
  - (a) do not have effect in relation to specified electrical contractors or electrical workers, or a class of electrical contractors or electrical workers, or do not have effect to such extent as is specified; or
  - (b) do not have effect in relation to specified electrical equipment or a class of equipment or do not have effect to such extent as is specified; or
  - (c) do not have effect in relation to specified electrical work or a class of electrical work or do not have effect to such extent as is specified; or

S. 4(1)(d) amended by No. 38/2000 s. 16.

- (d) do not have effect in relation to a specified responsible person under Part 8 or a class of responsible persons under that Part or do not have effect to such extent as is specified; or

S. 4(1)(e) inserted by No. 38/2000 s. 16.

- (e) do not have effect in relation to specified electricity suppliers or a class of electricity suppliers or do not have effect to such an extent as is specified.

- (2) An Order made under subsection (1)—

- (a) may specify the period during which the Order is to remain in force; or
  - (b) may provide that its operation is subject to such terms and conditions as are specified in the Order.
- (3) A person to whom an Order under this section applies must comply with the terms and conditions (if any) to which the operation of the Order is subject.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

## **5 Act to bind the Crown**

This Act binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Pt 2 (Heading and ss 6–29) amended by Nos 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 64), substituted as Pt 2 (Heading and ss 6–8) by No. 39/2005 s. 45.

## **Part 2—Energy Safe Victoria**

S. 6 substituted by No. 39/2005 s. 45.

### **6 Objectives of Energy Safe Victoria**

The objectives of Energy Safe Victoria under this Act are—

- (a) to ensure the electrical safety of electrical generation, transmission and distribution systems, electrical installations and electrical equipment;
- (b) to control the electrical safety standards of electrical work carried out by electrical workers;
- (c) to promote awareness of energy efficiency through energy efficiency labelling of electrical equipment and energy efficiency regulation of electrical equipment;

S. 6(ca) inserted by No. 55/2010 s. 14(1).

- (ca) to promote the prevention and mitigation of bushfire danger;
- (d) to protect underground and underwater structures from corrosion caused by stray electrical currents;
- (e) to maintain public and industry awareness of electrical safety requirements.

S. 7 substituted by No. 39/2005 s. 45.

### **7 Functions of Energy Safe Victoria**

The functions of Energy Safe Victoria under this Act are—

- (a) to determine minimum safety standards for electrical equipment, electrical installations and electrical work;

- (b) to encourage and monitor the use of electricity safety management schemes;

S. 7(c) substituted by No. 43/2018 s. 5.

- (c) to inspect and test electrical equipment, in-scope electrical equipment or electrical installations and electrical work for compliance with the standards prescribed or relevant standards;
- (d) to administer the prescribed minimum standards for energy efficiency of electrical equipment;
- (e) to inspect and test electrical equipment for compliance with the specified minimum standards for energy efficiency;
- (f) to investigate events or incidents which have implications for electricity safety;

S. 7(fa) inserted by No. 55/2010 s. 14(2).

- (fa) to regulate, monitor and enforce the prevention and mitigation of bushfires that arise out of incidents involving electric lines or electrical installations;
- (g) to provide advisory and consultative services in relation to electricity safety and electrical equipment, electrical installations and electrical work;
- (h) to advise the electricity industry and the community in relation to electricity safety;
- (i) to monitor and enforce compliance with this Act and the regulations;
- (j) such other functions are as conferred on Energy Safe Victoria by or under this Act or the regulations under this Act.

S. 7A inserted by No. 55/2010 s. 15.

#### **7A Energy Safe Victoria may have regard to the reliability and security of electricity supply in certain cases**

In performing a function or exercising a power under Part 8 or 10 or regulations made for the purposes of either of those Parts, Energy Safe Victoria may have regard to the reliability and security of electricity supply.

S. 8 substituted by No. 39/2005 s. 45.

### **8 Funding**

A distribution company must pay to Energy Safe Victoria at such time or times as the Minister determines such annual amount (if any) as the Minister determines to be payable by that distribution company in respect of

the reasonable costs and expenses of Energy Safe  
Victoria.

Ss 9–29 repealed by No. 39/2005 s. 45.

\* \* \* \* \*

## **Part 3—Electrical work**

### **Division 1—Registration of electrical contractors**

S. 30 amended by No. 89/1998 s. 7.

#### **30 Contractors**

A person must not carry on or offer to carry on or hold out that the person carries on or is willing to carry on any class of electrical contracting that, under the regulations, is a prescribed class of electrical contracting for the purposes of this Division unless the person is registered under this Division as an electrical contractor in respect of electrical contracting of that class and holds the prescribed insurance (if any).

S. 30(a)(b) repealed by No. 89/1998 s. 7.

\* \* \* \* \*

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

#### **31 Registration of electrical contractors**

S. 31(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (1) Energy Safe Victoria may, in accordance with the regulations, register, or renew the registration of, a person as an electrical contractor in respect of a specified class of electrical contracting.

S. 31(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) A registration may be granted or renewed subject to any conditions that Energy Safe Victoria thinks fit.

S. 31(3) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (3) Energy Safe Victoria must assign a registered number to each registered contractor.

S. 31(4) amended by No. 25/2008 s. 3.

- (4) The registration of an electrical contractor continues, unless sooner suspended, cancelled or surrendered, for a period of up to 5 years determined by Energy Safe Victoria and specified in the register kept under section

33 commencing on the date of registration, or renewal of registration.

### **32 Registered number**

A registered electrical contractor must not publish or cause to be published any advertisement, notice or statement that the contractor carries on or is willing to carry on electrical contracting work unless the advertisement, notice or statement includes the registered number of the contractor.

In the case of a natural person, 20 penalty units;

In the case of a body corporate, 100 penalty units.

### **33 Register of electrical contractors**

S. 33(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (1) Energy Safe Victoria must cause to be kept a register of electrical contractors.
  
- (2) The register must be in the prescribed form and contain the prescribed information.

S. 33(3) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (3) Energy Safe Victoria must make the register available for inspection at all reasonable hours.

### **34 Disciplinary action**

- (1) There is proper cause for taking disciplinary action against a registered electrical contractor if the registered electrical contractor—
  - (a) has failed to comply with this Act or the regulations; or
  - (b) has obtained registration under this Division by fraud or misrepresentation or the concealment of facts; or
  - (c) has been convicted of any offence involving fraud, dishonesty, drug trafficking or violence that was punishable by imprisonment for 6 months or more; or
  - (d) has failed to hold the prescribed insurance; or
  - (e) has failed to comply with any condition of registration; or
  - (f) has been negligent or incompetent, or was a party to any negligence or incompetence, in connection



with the carrying out of electrical installation work; or

- (g) has engaged in fraudulent conduct in the carrying out of electrical installation work.

S. 34(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) If, after an inquiry into the conduct of a registered electrical contractor and giving the electrical contractor the opportunity to be heard, Energy Safe Victoria is satisfied that proper cause exists for taking disciplinary action against a registered electrical contractor, Energy Safe Victoria may do one or more of the following—

S. 34(2)(a) repealed by No. 25/2008 s. 4.

\* \* \* \* \*

- (b) impose new conditions on, or vary the conditions of the registration, including a condition requiring the person to pass a specified examination or complete a specified period of training or attend a specified course of instruction;

- (c) suspend the registration, immediately or with effect from a specified later date, for a period of up to 12 months;

- (d) cancel the registration, immediately or with effect from a specified later date.

### **35 Employees of registered electrical contractor**

- (1) A registered electrical contractor must keep a register of licensed electrical installation workers who are employed by the contractor.

10 penalty units.

S. 35(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) The register under subsection (1) must be available for inspection at all reasonable times by Energy Safe Victoria.

- (3) A registered electrical contractor must not employ a person in the carrying out of any electrical installation work unless the person is—

- (a) a licensed electrical installation worker of a particular class related to the contractor's business;  
or

- (b) an apprentice within the meaning of the **Education and Training Reform Act 2006** in a trade that involves carrying out electrical installation work of a class related to the contractor's business.

Penalty applying to this subsection—

- In the case of a natural person, 50 penalty units;
- In the case of a body corporate, 250 penalty units.

### **36 Electrical contractors not to employ certain persons**

- (1) A person (*the contractor*) must not employ a person (*the worker*) to carry out, in the course of a business carried on by the contractor, electrical installation work that, under the regulations, is a prescribed class of electrical installation work for the purposes of this Division, unless—
  - (a) the contractor is a registered electrical contractor under this Division; and
  - (b) the worker is a licensed electrical installation worker under this Part in respect of electrical installation work of that class.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

- (2) Subsection (1) does not apply to the employment, in the regular course of a business carried on by a person, of a licensed electrical installation worker to carry out electrical installation work of a class in respect of which the worker is licensed only in premises owned or occupied by the employer.

### **37 Obligations on registered contractors**

A registered electrical contractor must not permit a person to carry out on the contractor's behalf, or direct a person to carry out, any electrical installation work that does not comply with this Act or the regulations.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

## **Division 2—Licensing of electrical workers**

### **38 Electrical workers**

A person must not carry out or offer to carry out or hold out that the person carries out or is willing to carry out any class of electrical work that, under the regulations, is a prescribed class of electrical work for the purposes of this Division unless the person is—

- (a) licensed under this Division as an electrical installation worker in respect of electrical installation work of that class; or
- (b) licensed under this Division as an electrical inspector in respect of electrical inspection work of that class; or
- (c) licensed under this Division as an electrical connection worker in respect of electrical connection work of that class; or
- (d) licensed under this Division as an electrical equipment worker in respect of electrical equipment work of that class; or

S. 38(e) amended by No. 57/2009 s. 5.

- (e) authorised under an accepted ESMS in respect of electrical work of that class.

50 penalty units.

S. 39 amended by No. 24/2006 s. 6.1.2(Sch. 7 item 15).

### **39 Apprentices deemed to be licensed**

An apprentice within the meaning of the **Education and Training Reform Act 2006** in a trade that involves carrying out electrical work is, during the period of the apprenticeship, deemed to be licensed as an electrical worker to carry out electrical work under supervision as prescribed.

### **40 Licensing of electrical workers**

S. 40(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (1) Energy Safe Victoria may, in accordance with the regulations, license, or renew the licence of, a natural person as an electrical worker in respect of a specified class of electrical work.

S. 40(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) A licence may be issued or renewed subject to any conditions that Energy Safe Victoria thinks fit, including a condition that it applies to only one class of electrical work.

S. 40(3) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (3) Energy Safe Victoria may, in accordance with the regulations, vary a licence given under this section.
- (4) A licence under this section continues, unless sooner suspended, cancelled or surrendered, for a period of up to 5 years specified in the licence commencing on the date of the issue of the licence or renewal of the licence.

#### **41 Disciplinary action**

- (1) There is proper cause for taking disciplinary action against a licensed electrical worker if the licensed electrical worker—
  - (a) has failed to comply with this Act or the regulations; or
  - (b) has obtained a licence under this Division by fraud or misrepresentation or the concealment of facts; or
  - (c) has been convicted of any offence involving fraud, dishonesty, drug trafficking or violence that was punishable by imprisonment for 6 months or more; or
  - (d) has failed to comply with any condition or restriction on the licence; or
  - (e) has been negligent or incompetent, or was a party to any negligence or incompetence, in connection with the carrying out of electrical work; or
  - (f) has engaged in fraudulent conduct in the carrying out of electrical work.

S. 41(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) If, after an inquiry into the conduct of a licensed electrical worker and giving the electrical worker the opportunity to be heard, Energy Safe Victoria is satisfied that proper cause exists for taking disciplinary action against the licensed electrical worker, Energy Safe Victoria may do one or more of the following—

S. 41(2)(a) repealed by No. 25/2008 s. 4.

\* \* \* \* \*

- (b) impose new conditions or restrictions on, or vary the conditions or restrictions on the licence, including a condition requiring the person to pass a specified examination or complete a specified period of training or attend a specified course of instruction;
- (c) suspend the licence for a period of up to 12 months;
- (d) cancel the licence, immediately or with effect from a specified later date.

### **Division 3—Electrical installation work**

S. 41A inserted by No. 89/1998 s. 8.

#### **41A Responsible person**

In this Division a reference to the person who is responsible for the carrying out of electrical installation work is a reference—

- (a) to a registered electrical contractor, if the registered electrical contractor is engaged to carry out the work; or
- (b) to a person in a prescribed class of persons, if that person is engaged to carry out the work;
- (c) if paragraphs (a) and (b) do not apply and the work is carried out by a licensed electrical installation worker under the supervision of another licensed electrical installation worker, to the licensed electrical installation worker who supervised the work;
- (d) if paragraphs (a), (b) and (c) do not apply, to the licensed electrical installation worker who carried out the work.

S. 41B  
inserted by No. 38/2000 s. 17, amended by No. 69/2000 s. 23 (ILA s. 39B(1)).

#### **41B Supervisor deemed to carry out certain work**

- (1) If, under this Act or the regulations, a licensed electrical installation worker supervises the carrying out of electrical installation work by another person, then, for the purposes of this Division—
  - (a) the licensed electrical installation worker is deemed to be the person carrying out the work; and
  - (b) the other person is deemed not to have carried out the work.

S. 41B(2) inserted by No. 69/2000 s. 23.

- (2) Subsection (1) does not apply in respect of a licensed electrical installation worker supervising the carrying out of electrical installation work pursuant to the conditions of registration applying to a registered electrical contractor.

#### **42 Implied conditions relating to electrical installation work**

It is an implied condition of each contract entered into by the electrical contractor in relation wholly or partly to any electrical installation work to be carried out by the electrical contractor that the quality of the materials, fittings and apparatus to be used in connection with the electrical installation work and the methods to be followed in carrying out the electrical installation work are in accordance with the regulations.

#### **43 Safety of electrical installations**

S. 43(1) substituted by No. 35/2013 s. 12.

- (1) A person must not install any electrical equipment if the person knows or should reasonably be expected to know that—
- (a) the electrical equipment is unsafe or will be unsafe if connected to an electricity supply; or
  - (b) the installation will make any other electrical equipment unsafe if connected to an electricity supply; or
  - (c) the installation will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.

S. 43(1A) inserted by No. 35/2013 s. 12.

- (1A) A person must not carry out electrical equipment work if the person knows or should reasonably be expected to know that—
- (a) the work will make electrical equipment unsafe if connected to an electricity supply; or
  - (b) the work will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.

- (2) The occupier of any premises in which there is any unsafe electrical equipment must—
- (a) cause the electrical equipment to be removed from the premises or to be made safe; or
  - (b) in the case of electrical equipment forming part of an electrical installation, notify the owner of the premises of the unsafe electrical installation.

40 penalty units.

- (3) An owner of premises who is notified under subsection (2) must cause the electrical installation to be removed from the premises or to be made safe.

In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

- (4) A person carrying out electrical installation work must ensure that—

- (a) all electrical circuits or electrical equipment handled in the course of that work are disconnected from the electricity supply; or
- (b) adequate precautions are taken to prevent electric shock or other injury in the handling of electrical circuits or electrical equipment in the course of that work.

40 penalty units.

S. 43A inserted by No. 59/2011 s. 13.

#### **43A Safety of electrical installations—building work**

- (1) A person must not carry out building work at a premises which the person knows or should reasonably be expected to know will make—

- (a) an electrical installation at the premises unsafe; or
- (b) a building at the premises unsafe if that premises is supplied with electricity.

Penalty: In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

- (2) In this section—

***building work*** has the same meaning as in the **Building Act 1993**.

S. 44 amended by No. 89/1998 s. 9(2) (ILA s. 39B(1)).

**44 Compliance and testing of electrical installation work**

- (1) A licensed electrical installation worker must ensure that all electrical installation work carried out by that worker

—

- (a) complies with this Act and the regulations; and

S. 44(1)(b) amended by No. 89/1998 s. 9(1).

- (b) is tested in accordance with and at the intervals required by the regulations before it is connected to the electricity supply, or if the electrical circuits or electrical equipment handled in the course of that work were not disconnected from the electricity supply, before the work is first used after it is completed.

40 penalty units.

S. 44(2) inserted by No. 89/1998 s. 9(2).

- (2) A licensed electrical installation worker who carries out electrical installation work must, within 4 business days after the completion of that work—

S. 44(2)(a) amended by No. 61/2007 s. 13(2).

- (a) complete and sign a certificate of compliance in respect of that work; and

S. 44(2)(b) amended by No. 61/2007 s. 13(2).

- (b) if the worker is not the person responsible for the carrying out of the work, give to the person who is responsible for the carrying out of the work a signed certificate of compliance in respect of that work.

10 penalty units.

S. 44(3) inserted by No. 89/1998 s. 9(2), amended by No. 61/2007 s. 13(2).

- (3) A licensed electrical installation worker must not sign a certificate of compliance in relation to any electrical installation work carried out by that worker unless the certificate—

- (a) describes the work; and

- (b) states that the work complies with this Act and the regulations; and



(c) contains any other details in relation to the work required by the regulations.

10 penalty units.

S. 44(4) inserted by No. 89/1998 s. 9(2), repealed by No. 61/2007 s. 13(3).

\* \* \* \* \*

## **45 Inspection of electrical installation work**

S. 45(1) amended by No. 89/1998 s. 10(1).

- (1) A person who is responsible for the carrying out of prescribed electrical installation work must ensure that that work is inspected by a licensed electrical inspector in accordance with the regulations before the electrical installation is connected to the electricity supply, or if the electrical circuits or electrical equipment handled in the course of the work were not disconnected from the electricity supply, before the work is first used after it is completed.

In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

S. 45(2) amended by No. 89/1998 s. 10(2).

- (2) Before an electricity supplier first connects an electrical installation to an electricity supply, the electricity supplier must ensure that a certificate of inspection of the prescribed electrical installation work in relation to that installation has been issued by a licensed electrical inspector in accordance with this section.

In the case of a natural person, 40 penalty units;

In the case of a body corporate, 200 penalty units.

S. 45(3) inserted by No. 89/1998 s. 10(3).

- (3) A licensed electrical inspector who carries out an inspection of prescribed electrical installation work must within 4 business days after the completion of that inspection, give to the person who is responsible for the carrying out of the work a signed certificate of inspection in respect of that work.

10 penalty units.

S. 45(4) inserted by No. 89/1998 s. 10(3), amended by No. 25/2008 s. 5.

- (4) A licensed electrical inspector must not sign a certificate of inspection of any prescribed electrical installation work unless the certificate—
- (a) describes the work; and

S. 45(4)(b) amended by No. 38/2000 s. 24(a).

- (b) states that the inspector has inspected the work; and
- (c) states whether or not the work complies with this Act and the regulations; and
- (d) contains any other details in relation to the work required by the regulations.

50 penalty units.

S. 45(5) inserted by No. 89/1998 s. 10(3), repealed by No. 61/2007 s. 13(3).

\* \* \* \* \*

S. 45A inserted by No. 89/1998 s. 11.

#### **45A Certificates of electrical safety**

- (1) The person who is responsible for the carrying out of electrical installation work must in accordance with this section—
- (a) ensure that a certificate of electrical safety is completed in respect of that work; and
  - (b) within the required time—
    - (i) give the completed certificate of electrical safety in respect of that work to the person for whom the work was carried out; and

S. 45A(1)(b)(ii) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (ii) give a copy of that certificate to Energy Safe Victoria.

10 penalty units.

- (2) A certificate of electrical safety must contain—
- (a) a certificate of compliance completed under section 44 for the installation work by the licensed electrical installation worker who carried out the work; and

- (b) in the case of prescribed electrical installation work, a certificate of inspection of the installation work completed under section 45 by a licensed electrical inspector.
- (3) The person who is responsible for the carrying out of electrical installation work must not give a certificate of electrical safety under subsection (1) unless the certificate form used is a certificate form supplied to that person under section 45B.  
10 penalty units.

S. 45A(4) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (4) A document is not a certificate of electrical safety unless the certificate form used is a form that has been supplied by Energy Safe Victoria or a person authorised by Energy Safe Victoria.
- (5) A certificate of electrical safety may be a periodic certificate covering all electrical installation work (other than prescribed electrical installation work) for which a person is responsible that is carried out within a period of 3 months.
- (6) In this section the required time—
  - (a) in the case of prescribed electrical installation work, is 4 business days after the certificate of inspection of that work is given under section 45(3); and
  - (b) in the case of electrical installation work under a periodic certificate of electrical safety, is 4 business days after the end of the period of 3 months to which the certificate relates; and
  - (c) in the case of any other electrical installation work is one month after the certificate of compliance for that work is completed under section 44(2).

S. 45AB inserted by No. 61/2007 s. 14.

**45AB Enforcement officer may require rectification of non-compliant electrical installation work**

- (1) This section applies if an enforcement officer is of the opinion that particular electrical installation work is in breach of any provision of this Act or the regulations applying to that work.
- (2) The enforcement officer may give the person who is responsible for the carrying out of electrical installation work a written rectification notice requiring the person

to rectify the work to make it comply with the provision of this Act or the regulations that the work does not comply with within the reasonable time specified by the enforcement officer.

- (3) If a certificate of electrical safety was given in respect of electrical installation work, the person who was responsible for the carrying out of the electrical installation work, and who ensured that the certificate was completed and given under section 45A, must—
  - (a) ensure that a new certificate of electrical safety is completed and given under that section in respect of the rectified work;  
and
  - (b) give the enforcement officer a copy of that new certificate within a reasonable time specified by the enforcement officer.
- (4) A person—
  - (a) must comply with any requirement made by an enforcement officer in a rectification notice; and
  - (b) must not ask for, or receive, from the person for whom the work was originally carried out (or any agent of that person) any money in respect of any cost arising from anything the person does in complying with a rectification notice.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

- (5) The enforcement officer must make it clear in a rectification notice in what way the work that needs rectification is non-compliant.
- (6) If a person applies to the Tribunal under section 69 to have the decision to give a rectification notice reviewed, he or she need not comply with the notice until he or she abandons the application or receives written notice that the Tribunal has affirmed the rectification notice or dismissed the application.
- (7) For the purposes of subsection (6), if the time specified to comply with a rectification notice is expressed as a date, the time within which the notice must be complied with is the number of days between that date and the date the notice was given to the person.
- (8) If an enforcement officer gives a rectification notice to a person before the person ensures the completion of, and

gives, a certificate of electrical safety in accordance with section 45A in respect of electrical installation work, the person must still ensure that a certificate of electrical safety is completed and given in accordance with that section once the rectification work has been completed.

- (9) A certificate of electrical safety completed and given as required by subsection (8) must be completed in respect of both the original electrical installation work and the rectified electrical installation work.
- (10) The enforcement officer must give a copy of the rectification notice to the person on whose behalf the electrical installation work was carried out.

S. 45B inserted by No. 89/1998 s. 11.

### **45B Supply of certificate forms**

S. 45B(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (1) Energy Safe Victoria may sell certificate of electrical safety forms to registered electrical contractors and licensed electrical installation workers and prescribed persons.

S. 45B(2) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (2) Energy Safe Victoria may authorise a person to sell certificate of electrical safety forms to registered electrical contractors and licensed electrical installation workers and prescribed persons.

S. 45B(3) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (3) In authorising a person, Energy Safe Victoria may impose any conditions on its authorisation that it thinks appropriate and may change any such condition at any time.

S. 45B(4) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (4) A person authorised by Energy Safe Victoria to sell certificate of electrical safety forms—
  - (a) must not sell or give a certificate of electrical safety form to a person who is not a registered electrical contractor, a licensed electrical installation worker or prescribed person; and
  - (b) must not sell a certificate of electrical safety form to a person who is a registered electrical contractor, a licensed electrical installation worker or a prescribed person at a price greater than the authorised amount; and

S. 45B(4)(c) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (c) must comply with any condition imposed by Energy Safe Victoria in granting its authorisation.

20 penalty units.

S. 45B(5) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (5) Energy Safe Victoria must not sell a certificate of electrical safety form to a person who is a registered electrical contractor, a licensed electrical installation worker or a prescribed person at a price greater than the authorised amount.
- (6) A registered electrical contractor, a licensed electrical installation worker or a prescribed person may authorise a person in writing to buy certificate of electrical safety forms on the contractor's or worker's or prescribed person's behalf.
- (7) A registered electrical contractor, a licensed electrical installation worker or a prescribed person must ensure that only one person has such an authority at any one time.

5 penalty units.

- (8) A reference to a registered electrical contractor or licensed electrical installation worker or a prescribed person in subsection (1), (2), (4) or (5) includes a reference to any person duly authorised by the registered electrical contractor or licensed electrical installation worker or prescribed person under subsection (6).

S. 45B(9) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (9) If—

- (a) the registration of an electrical contractor is suspended or cancelled or expires without renewal under this Act; or

- (b) the licence of an electrical installation worker is suspended, cancelled or surrendered or expires without renewal under this Act—

the contractor or worker must return all unused certificate of electrical safety forms purchased under this section to Energy Safe Victoria within 14 days after that suspension, cancellation, surrender or expiry.

10 penalty units.

S. 45B(10) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (10) Energy Safe Victoria must refund to an electrical contractor or electrical installation worker the amount paid under this section by the contractor or worker for any forms returned under subsection (9).

S. 45B(11) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (11) If, on the application of a registered electrical contractor, a licensed electrical installation worker or a prescribed person, Energy Safe Victoria is satisfied that a certificate of electrical safety form supplied to the contractor, worker or person under this section is lost or damaged or destroyed, Energy Safe Victoria must provide the contractor, worker or person with a replacement form at no charge.
- (12) In this section the authorised amount is—
- (a) \$20 (or any other amount specified by the regulations) for a certificate of electrical safety form relating to prescribed electrical installation work; or
  - (b) \$500 (or any other amount specified by the regulations) for a periodic certificate of electrical safety form; or
  - (c) \$5 (or any other amount specified by the regulations) for any other certificate of electrical safety form.
- (13) In this section *prescribed person* means a person in a class of persons prescribed for the purposes of section 41A(b).

## **Division 4—Installation of electric lines on public land**

### **46 Regulation of installation**

- (1) A person must not install, or cause to be installed, an electric line on public land unless—

(a) the electric line is installed by or on behalf of—

S. 46(1)(a)(i) substituted by No. 69/2000 s. 24(1).

- (i) a person who is the holder of a licence under section 19 of the **Electricity Industry Act 2000**, for the purposes of carrying out activities authorised under the licence; or

S. 46(1)(a)(ii) amended by No. 38/2000 s. 24(b), substituted by No. 69/2000 s. 24(1).

- (ii) a person who is exempted under the **Electricity Industry Act 2000** from holding a licence under section 19 of that Act, for the purposes of carrying out

activities authorised to be carried out under the terms of the exemption; or

S. 46(1)(a)(iii) repealed by No. 30/2000 s. 34.

\* \* \* \* \*

S. 46(1)(a)(iv) substituted by No. 6/2010 s. 203(1)(Sch. 6 item 16.1(a)) (as amended by No. 45/2010 s. 22).

(iv) Victorian Rail Track, within the meaning of section 3 of the **Transport Integration Act 2010**, for the purposes of its functions or powers under that or any other Act; or

S. 46(1)(a)(iva) inserted by No. 6/2010 s. 203(1)(Sch. 6 item 16.1(b)) (as amended by No. 45/2010 s. 22).

(iva) V/Line Corporation, within the meaning of section 3 of the **Transport Integration Act 2010**, for the purposes of its functions or powers under that or any other Act; or

(v) the Roads Corporation, for the purposes of its functions or powers under any Act; or

S. 46(1)(a)(vi) amended by No. 2/2014 s. 5.

(vi) a Council for the purposes of its functions or powers under any Act; or

S. 46(1)(a)(vii) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(vii) Energy Safe Victoria, for the purposes of its functions or powers under any Act; or

(b) the electric line is installed for the purpose of conveying electricity supplied by a person referred to in paragraph (a)(i) or (ii) from a common metering point or distribution point to lots on a plan of subdivision under the **Subdivision Act 1988** or to parts of any premises which are separately occupied; or

(c) the installation of the electric line is the subject of an exemption under this Division.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

S. 46(2) repealed by No. 69/2000 s. 24(2).



S. 46(3) amended by No. 89/1998 s. 12.

- (3) The owner of an electric line installed in contravention of this section must ensure that the electric line is not at any time connected to a supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (4) A person must not knowingly use an electric line installed in contravention of this section.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

#### 47 Exemption

S. 47(1) amended by No. 69/2000 s. 22(2).

- (1) The Governor in Council may, by Order published in the Government Gazette, exempt a person from compliance with section 46 in respect of an activity specified in the Order.
- (2) An exemption may be of general or specific application.
- (3) An exemption is subject to such terms and conditions as are specified in the Order including a condition requiring—

- (a) the consent of the owner of any property that may be affected by the activities to which the exemption relates; and

S. 47(3)(b) amended by No. 69/2000 s. 25.

- (b) unless inconsistent with any obligation of the distribution company under a licence under the **Electricity Industry Act 2000**, the consent of the distribution company to whose supply network the electric line is to be connected.

- (4) A person to whom an Order under this section applies must comply with the terms and conditions to which the operation of the Order is subject.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

#### 48 Division not to affect operation of other requirements

Nothing in this Division affects the operation of any other provision of this Act or of any other Act or law applying to or in relation to the installation or use of an electric line.

#### **49 Transitional**

An Order made under the **Electric Light and Power Act 1958** or a corresponding previous enactment relating to the installation of an electric line beyond the limits of any private premises and in force immediately before the commencement of this section has effect, unless revoked under this Division, as an exemption given under this Division.

## Part 4—Electrical equipment

Pt 4 Div. 1 (Heading and new ss 50–55) inserted by No. 43/2018 s. 7.

### Division 1—Preliminary

New s. 50 inserted by No. 43/2018 s. 7.

#### 50 Definitions

In this Part—

*alternative mark* means a mark approved by Energy Safe Victoria under section 62W;

*certificate of conformity* means a certificate that has the same meaning given by section 62C and is issued by—

- (a) Energy Safe Victoria; or
- (b) a regulatory authority; or
- (c) an external certifier;

*certificate of suitability* means a certificate that has the same meaning given by section 56 and is issued by—

- (a) Energy Safe Victoria; or
- (b) a regulatory authority; or
- (c) an external certifier;

*chief executive* means the chief executive responsible for the administration of the Electrical Safety Act 2002 of Queensland;

*controlled electrical equipment* means electrical equipment declared under section 55;

*corresponding law* means a law declared under section 51;

*external certifier* means a person or body approved by a regulatory authority under a corresponding law to issue a certificate of conformity or a certificate of suitability;

*group* means items or components of in-scope electrical equipment that—

- (a) have the same basic electrical characteristics and material composition but may differ in dimension, colour or other aspects; and
- (b) in respect to the relevant standard for the type of in-scope electrical equipment, one or more related test reports apply to the items or components;

***in-scope electrical equipment*** means electrical equipment that—

- (a) operates at or within a prescribed voltage range; and
- (b) is designed or marketed as suitable for household, personal or similar use—

but does not include electrical equipment of a type that is declared under section 53 not to be in-scope electrical equipment;

***level 1 in-scope electrical equipment*** means in-scope electrical equipment that is prescribed to have a level 1 risk level (low risk);

***level 2 in-scope electrical equipment*** means in-scope electrical equipment that is prescribed to have a level 2 risk level (medium risk);

***level 3 in-scope electrical equipment*** means in-scope electrical equipment that is prescribed to have a level 3 risk level (high risk);

***NZ body corporate*** means a body corporate registered under Part 2 of the Companies Act 1993 of New Zealand;

***prohibition notice*** means a notice issued under section 63;

***recall notice*** means a notice issued under section 65;

***Register*** means the national register established under section 48D of the Electrical Safety Act 2002 of Queensland;

***registered responsible supplier*** means a responsible supplier who is registered in the Register;

***regulatory authority*** means a person or body that under a corresponding law of another jurisdiction is responsible for the monitoring or enforcement of compliance with that law within that jurisdiction;

***regulatory compliance mark*** means a mark—

- (a) that conforms with a prescribed standard;  
and
- (b) is applied in accordance with a prescribed standard;

*related body corporate* has the same meaning as in section 50 of the Corporations Act;

*relevant standard* means a standard prescribed to apply to a type of in-scope electrical equipment;

*responsible supplier* means a person who—

- (a) manufactures in-scope electrical equipment in Australia or New Zealand, that is supplied or is offered for supply in Victoria; or
- (b) imports in-scope electrical equipment into Australia or New Zealand, that is supplied or offered for supply in Victoria;

*second-hand dealer* has the meaning it has in the **Second-Hand Dealers and Pawnbrokers Act 1989**;

*second-hand equipment* means electrical equipment that has previously been supplied or sold, other than by wholesale, but does not include electrical equipment—

- (a) acquired by the person for the purpose of using the equipment for a process of production or manufacture; or
- (b) acquired by a person (other than a second-hand dealer) for the purpose of re-supply; or
- (c) returned to a supplier for refund or exchange.

New s. 51 inserted by No. 43/2018 s. 7.

## **51 Minister may declare corresponding law**

- (1) The Minister may, by notice in the Government Gazette, declare a law of another State or a Territory or of New Zealand to be a corresponding law.

- (2) The Minister may make a declaration under subsection (1) if the law—
- (a) is a law relating to the supply of electrical equipment; and
  - (b) substantially corresponds to this Part.

New s. 52 inserted by No. 43/2018 s. 7.

## **52 No double jeopardy**

A person is not liable to be punished for an act or omission that is an offence against this Part if—

- (a) the act or omission is also an offence against a corresponding law; and
- (b) the person has been punished for the offence under the corresponding law.

New s. 53 inserted by No. 43/2018 s. 7.

## **53 Declaration of electrical equipment to not be in-scope electrical equipment**

- (1) Energy Safe Victoria, by notice published in the Government Gazette, may declare an item, type or component of electrical equipment not to be in-scope electrical equipment.
- (2) A declaration under subsection (1) must be published in the Government Gazette.

New s. 54 inserted by No. 43/2018 s. 7.

## **54 Standards for electrical equipment that is not in-scope electrical equipment**

A person must not supply or offer to supply electrical equipment that is not in-scope electrical equipment unless the electrical equipment—

- (a) satisfies the standard prescribed for electrical equipment of the type of electrical equipment to which it belongs; and

- (b) is safe to be connected to an electricity supply.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.

New s. 55 inserted by No. 43/2018 s. 7.

## **55 Declaration of electrical equipment to be controlled electrical equipment**

- (1) Energy Safe Victoria may declare that an item, description, type or component of electrical equipment, that is not in-scope electrical equipment, is controlled electrical equipment.
- (2) A declaration made under subsection (1) takes effect on the date specified in the notice.
- (3) A person must not supply or offer to supply controlled electrical equipment unless the electrical equipment—
  - (a) is the subject of a certificate of conformity issued by Energy Safe Victoria that has not expired or been cancelled or suspended and is marked as prescribed; or
  - (b) is the subject of a certificate of conformity issued by a regulatory authority that has not expired or been cancelled or suspended and is marked as prescribed; or
  - (c) is the subject of a certificate of conformity issued by an external certifier that has not expired or been cancelled or suspended and is marked as prescribed.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

Pt 4 Div. 2 (Heading and ss 56–62B) inserted by No. 43/2018 s. 7.

## **Division 2—Certificate of suitability**

New s. 56 inserted by No. 43/2018 s. 7.

### **56 Meaning of certificate of suitability**

A certificate of suitability means a certificate certifying that the relevant—

- (a) level 1 in-scope electrical equipment is safe to use, safe to supply and satisfies the relevant standard;  
or
- (b) level 2 in-scope electrical equipment is safe to use, safe to supply and satisfies the relevant standard;  
or

- (c) electrical equipment, that is not controlled electrical equipment or in-scope electrical equipment, is safe to use, safe to supply and satisfies the standard prescribed for that electrical equipment.

New s. 57 inserted by No. 43/2018 s. 7.

### **57 Application for certificate of suitability of electrical equipment**

- (1) A person may apply to Energy Safe Victoria for a certificate of suitability in relation to—
  - (a) an item, group or component of level 1 in-scope electrical equipment; or
  - (b) an item, group or component of level 2 in-scope electrical equipment; or
  - (c) an item, group or component of electrical equipment, that is not controlled electrical equipment or in-scope electrical equipment.
  
- (2) An application under subsection (1) must—
  - (a) be accompanied—
    - (i) by a test report from an approved laboratory; and
    - (ii) by a sample of the electrical equipment or colour images showing the internal and external construction of the electrical equipment; and
    - (iii) by technical documentation which adequately describes the electrical equipment; and
  - (b) be accompanied by the prescribed fee (if any); and
  - (c) be accompanied by any other document or information reasonably required by Energy Safe Victoria.
  
- (3) Energy Safe Victoria may require the applicant to provide—
  - (a) a sample of the electrical equipment if colour images provided are not adequate; or



- (b) additional information about the electrical equipment.
- (4) Energy Safe Victoria may exempt the applicant from the requirement to provide any of the items referred to in subsection (2)(a) or (b) if Energy Safe Victoria is of the opinion that it is not necessary for any of those items to be provided.

New s. 58 inserted by No. 43/2018 s. 7.

### **58 Consideration of application for certificate of suitability**

- (1) After considering an application made under section 57, Energy Safe Victoria must—
  - (a) issue a certificate of suitability; or
  - (b) issue a certificate of suitability subject to the carrying out of any specified modifications; or
  - (c) refuse to issue a certificate of suitability.
- (2) If Energy Safe Victoria makes a decision under subsection (1)(b), the certificate does not apply to the electrical equipment unless those modifications are made.
- (3) If Energy Safe Victoria makes a decision under subsection (1)(c), Energy Safe Victoria must notify the applicant in writing of that decision and provide reasons for the decision.

New s. 59 inserted by No. 43/2018 s. 7.

### **59 Term of certificate of suitability**

A certificate of suitability is issued for the term, not exceeding 5 years, specified in the certificate unless it is sooner suspended or cancelled.

New s. 60 inserted by No. 43/2018 s. 7.

### **60 Variation of certificate of suitability**

- (1) The holder of a certificate of suitability issued by Energy Safe Victoria may apply to Energy Safe Victoria to vary the certificate.
- (2) Energy Safe Victoria may vary a certificate of suitability it has issued—
  - (a) on the application of the holder of the certificate of suitability under subsection (1); or
  - (b) of its own motion.

New s. 61 inserted by No. 43/2018 s. 7.

### **61 Suspension of certificate of suitability**

- (1) Energy Safe Victoria may, by written notice given to the holder of a certificate of suitability it has issued, suspend the certificate for a specified period if Energy Safe Victoria is of the opinion that—
  - (a) in the case of a certificate issued in respect of level 1 in-scope electrical equipment—
    - (i) the electrical equipment no longer satisfies the relevant standard that applies to the electrical equipment; or
    - (ii) the electrical equipment is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment; or
  - (b) in the case of a certificate issued in respect of level 2 in-scope electrical equipment—
    - (i) the electrical equipment no longer satisfies the relevant standard that applies to the electrical equipment; or
    - (ii) the electrical equipment is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment; or
  - (c) in the case of a certificate issued in respect of an item, group or component of electrical equipment that is not controlled electrical equipment or in-scope electrical equipment—
    - (i) the electrical equipment no longer satisfies the standard prescribed that applies to the electrical equipment; or
    - (ii) the electrical equipment is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment.
- (2) The suspension of a certificate of suitability takes effect on the service of the notice.
- (3) Energy Safe Victoria must lift the suspension of a certificate of suitability immediately, if Energy Safe Victoria is satisfied that the grounds for the suspension no longer exist.

New s. 62 inserted by No. 43/2018 s. 7.

## **62 Cancellation of certificate of suitability**

- (1) Energy Safe Victoria may at any time cancel a certificate of suitability it has issued, by giving written

notice to the person to whom the certificate of suitability was issued.

- (2) The notice must state—
  - (a) the reasons for the cancellation of the certificate of suitability; and
  - (b) the date of the cancellation of the certificate of suitability.
- (3) A copy of a notice under subsection (1) must be published on Energy Safe Victoria's Internet site.

S. 62A inserted by No. 43/2018 s. 7.

**62A Certificate of suitability issued by regulatory authority or an external certifier taken to be issued by Energy Safe Victoria**

For the purposes of section 62B, a current certificate of suitability or a certificate that certifies similar matters issued by a regulatory authority or an external certifier is taken to be a certificate of suitability issued by Energy Safe Victoria.

S. 62B inserted by No. 43/2018 s. 7.

**62B Suspension of certificate of suitability issued by regulatory authority or external certifier by Energy Safe Victoria**

- (1) Energy Safe Victoria, by written notice given to the holder of a certificate of suitability, may suspend the certificate of suitability issued by a regulatory authority or an external certifier for a specified period if Energy Safe Victoria is of the opinion the electrical equipment in respect of which the certificate of suitability was issued—
  - (a) does not satisfy the relevant standard or the standard prescribed; or
  - (b) is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment.
- (2) A suspension under subsection (1) may be made in respect of—
  - (a) an item, group or component of level 1 in-scope electrical equipment; or
  - (b) an item, group or component of level 2 in-scope electrical equipment; or
  - (c) an item, group or component of electrical equipment, that is not controlled electrical equipment or in-scope electrical equipment.

- (3) If a certificate of suitability is suspended under subsection (1), Energy Safe Victoria must notify the regulatory authority or the external certifier that issued the certificate of suitability of that suspension.
- (4) If Energy Safe Victoria is of the opinion that the reason for the suspension of a certificate of suitability no longer exists, Energy Safe Victoria must lift the suspension immediately.

Pt 4 Div. 3 (Heading and ss 62C–62M) inserted by No. 43/2018 s. 7.

### **Division 3—Certificate of conformity**

S. 62C inserted by No. 43/2018 s. 7.

#### **62C Meaning of certificate of conformity**

A certificate of conformity means a certificate certifying that the relevant—

- (a) controlled electrical equipment is safe to use, safe to supply and satisfies the standard prescribed that applies to that electrical equipment; or
- (b) level 3 in-scope electrical equipment is safe to use, safe to supply and satisfies the relevant standard that applies to that electrical equipment.

S. 62D inserted by No. 43/2018 s. 7.

#### **62D Application for certificate of conformity**

- (1) A person may apply to Energy Safe Victoria for a certificate of conformity in relation to—
  - (a) an item, group or component of controlled electrical equipment; or
  - (b) an item, group or component of level 3 in-scope electrical equipment.
- (2) An application under subsection (1) must—
  - (a) be accompanied—
    - (i) by a test report from an approved laboratory; and
    - (ii) by a sample of the electrical equipment or colour images showing the internal and external construction of the electrical equipment; and

- (iii) by technical documentation which adequately describes the electrical equipment; and
  - (b) be accompanied by the prescribed fee (if any).
- (3) Energy Safe Victoria may require the applicant to provide—
  - (a) a sample of the electrical equipment if the colour images provided are not adequate; or
  - (b) additional information about the electrical equipment.
- (4) Energy Safe Victoria may exempt the applicant from the requirement to provide any of the items referred to in subsection (2)(a) or (b) if Energy Safe Victoria is of the opinion that it is not necessary for any of those items to be provided.

S. 62E inserted by No. 43/2018 s. 7.

#### **62E Consideration of application for a certificate of conformity**

- (1) After considering an application made under section 62D, Energy Safe Victoria must—
  - (a) issue a certificate of conformity; or
  - (b) issue a certificate of conformity subject to the carrying out of any specified modifications; or
  - (c) refuse to issue a certificate of conformity.
- (2) If Energy Safe Victoria makes a decision under subsection (1)(b), the certificate does not apply to the controlled electrical equipment or the level 3 in-scope electrical equipment unless those modifications are made.
- (3) If Energy Safe Victoria makes a decision under subsection (1)(c), Energy Safe Victoria must notify the applicant in writing of that decision and provide reasons for the decision.

S. 62F inserted by No. 43/2018 s. 7.

#### **62F Term of certificate of conformity**

A certificate of conformity is issued for the term, not exceeding 5 years, specified in the certificate unless it is sooner suspended or cancelled.

S. 62G inserted by No. 43/2018 s. 7.

#### **62G Variation of certificate of conformity**

- (1) The holder of a certificate of conformity issued by Energy Safe Victoria may apply to Energy Safe Victoria to vary the certificate.
- (2) Energy Safe Victoria may vary a certificate of conformity—
  - (a) on the application of the holder of the certificate of conformity under subsection (1); or
  - (b) of its own motion; or
  - (c) on being satisfied that the modifications required by a notice given under section 62J(1) have been made to the electrical equipment that is the subject of the certificate of conformity.

S. 62H inserted by No. 43/2018 s. 7.

### **62H Re-examination**

Energy Safe Victoria may at any time require any controlled electrical equipment or level 3 in-scope electrical equipment that is the subject of a certificate of conformity it has issued to be re-examined or tested by Energy Safe Victoria.

S. 62I inserted by No. 43/2018 s. 7.

### **62I Suspension of certificate of conformity**

- (1) Energy Safe Victoria may, by written notice given to the holder of a certificate, suspend a certificate of conformity it has issued if Energy Safe Victoria is of the opinion that—
  - (a) in the case of controlled electrical equipment—
    - (i) the electrical equipment no longer satisfies the standard prescribed that applies to the electrical equipment; or
    - (ii) the electrical equipment is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment; or
  - (b) in the case of level 3 in-scope electrical equipment—
    - (i) the electrical equipment no longer satisfies the relevant standard that applies to the electrical equipment; or
    - (ii) the electrical equipment is or is likely to become dangerous in normal use as a result

of the design or construction of the electrical equipment.

- (2) The suspension of a certificate of conformity takes effect on the service of the notice.
- (3) Energy Safe Victoria must lift the suspension of a certificate of conformity immediately, if Energy Safe Victoria is satisfied—
  - (a) that the grounds for the suspension no longer exist; and
  - (b) any modifications required by a notice given under section 62J(1) have been made.

S. 62J inserted by No. 43/2018 s. 7.

### **62J Modifications after issue of certificate of conformity**

- (1) If a certificate of conformity is suspended under section 62I, Energy Safe Victoria may, by written notice given to the holder of the certificate, require that modifications be made to the equipment that is the subject of the certificate.
- (2) A person to whom a notice is given under subsection (1) must not supply or offer to supply the electrical equipment that is the subject of the certificate of conformity unless the suspension of the certificate has been lifted in accordance with section 62I(3).

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.

S. 62K inserted by No. 43/2018 s. 7.

### **62K Cancellation of certificate of conformity**

- (1) Energy Safe Victoria may at any time cancel a certificate of conformity it has issued, by written notice given to the person to whom the certificate of conformity was issued.
- (2) The notice must state the reasons for the cancellation of the certificate of conformity.
- (3) A copy of a notice under subsection (1) must be published on Energy Safe Victoria's Internet site.

S. 62L inserted by No. 43/2018 s. 7.

### **62L Certificate of conformity issued by regulatory authority or an external certifier—taken to be issued by Energy Safe Victoria**

For the purposes of section 62M, a current certificate of conformity issued by a regulatory authority or an external certifier is taken to be a certificate of conformity issued by Energy Safe Victoria.

S. 62M inserted by No. 43/2018 s. 7.

**62M Suspension of certificate of conformity issued by regulatory authority or external certifier by Energy Safe Victoria**

- (1) Energy Safe Victoria, by written notice given to the holder of a certificate of conformity, may suspend a certificate of conformity issued by a regulatory authority or an external certifier for a specified period if Energy Safe Victoria is of the opinion that the electrical equipment in respect of which the certificate of conformity was issued—
  - (a) does not satisfy the relevant standard or the standard prescribed; or
  - (b) is or is likely to become dangerous in normal use as a result of the design or construction of the electrical equipment.
- (2) A suspension under subsection (1) may be made in respect of—
  - (a) an item, group or component of controlled electrical equipment; or
  - (b) an item, group or component of level 3 in-scope electrical equipment.
- (3) If a certificate of conformity is suspended under subsection (1), Energy Safe Victoria must notify the regulatory authority or the external certifier that issued the certificate of conformity of that suspension.
- (4) If Energy Safe Victoria is of the opinion that the reason for the suspension of a certificate of conformity no longer exists, Energy Safe Victoria must lift the suspension immediately.

Pt 4 Div. 4 (Heading and ss 62N–62V) inserted by No. 43/2018 s. 7.

**Division 4—Registration of responsible supplier**

S. 62N inserted by No. 43/2018 s. 7.

**62N Responsible supplier in Victoria registered in the Register**



- (1) A responsible supplier who is registered in the Register is taken to be a registered responsible supplier for the purposes of this Part.
- (2) Subsection (1) does not apply to a responsible supplier whose registration has been cancelled under section 62U.
- (3) If a responsible supplier has registered in the Register level 2 in-scope electrical equipment or level 3 in-scope electrical equipment, the responsible supplier is taken to have registered that electrical equipment for the purposes of this Part.

S. 62O inserted by No. 43/2018 s. 7.

### **62O Recording, amendment or removal of a matter on the Register**

Energy Safe Victoria may request that the chief executive—

- (a) amend or remove a matter that appears on the Register; or
- (b) record a matter in the Register.

S. 62P inserted by No. 43/2018 s. 7.

### **62P Application for exemption of registered responsible supplier or in-scope electrical equipment**

- (1) A person may apply to Energy Safe Victoria for an exemption under section 62Q in relation to—
  - (a) an item of in-scope electrical equipment; or
  - (b) a type of in-scope electrical equipment; or
  - (c) a component of in-scope electrical equipment; or
  - (d) a group of in-scope electrical equipment; or
  - (e) a requirement that applies to a responsible supplier under section 67B(2), 67C(2) or 67D(2).
- (2) An application under subsection (1) must—
  - (a) contain details of—
    - (i) the exemption requested; and
    - (ii) the reasons for the exemption; and
    - (iii) the applicant's name, telephone number, business and postal address; and
  - (b) be accompanied by any relevant technical information.

S. 62Q inserted by No. 43/2018 s. 7.

**62Q Exemption for registered responsible supplier or in-scope electrical equipment**

- (1) Energy Safe Victoria may, by notice published in the Government Gazette, exempt a type of in-scope electrical equipment from—
  - (a) a requirement of a relevant standard; or
  - (b) a requirement related to the regulatory compliance mark.
- (2) Energy Safe Victoria may, by notice in writing given to an applicant under section 62P, exempt in-scope electrical equipment registered to a registered responsible supplier from—
  - (a) a requirement of a relevant standard; or
  - (b) a requirement related to the regulatory compliance mark.
- (3) Energy Safe Victoria may, by notice in writing given to an applicant under section 62P, exempt a responsible supplier from a requirement to supply—
  - (a) the relevant documentary evidence referred to in section 67B(2); or
  - (b) the relevant documentary evidence or a certificate of suitability referred to in section 67C(2); or
  - (c) a certificate of conformity referred to in section 67D(2).
- (4) Energy Safe Victoria may grant an exemption—
  - (a) on the application of a person under section 62P; or
  - (b) of its own motion.
- (5) Energy Safe Victoria may impose any conditions that must be complied with to maintain an exemption granted under subsection (1), (2) or (3).
- (6) Energy Safe Victoria may, at any time, by notice published in the Government Gazette, vary or revoke an exemption.
- (7) If an exemption has been granted on application by a person under section 62P, Energy Safe Victoria must notify the applicant in writing of any variation or revocation of the exemption.
- (8) An exemption granted by a regulatory authority under a corresponding law for a matter that substantially

corresponds to a matter referred to in subsection (1), (2) or (3) is taken to be an exemption granted by ESV.

S. 62R inserted by No. 43/2018 s. 7.

**62R Grounds for cancellation of registration of responsible supplier**

- (1) This section applies to a registered responsible supplier who supplies or offers to supply or supplied in-scope electrical equipment in Victoria.
- (2) The grounds for which Energy Safe Victoria may cancel the registration of the registered responsible supplier are any of the following—
  - (a) the registered responsible supplier requests cancellation of their registration;
  - (b) the registered responsible supplier has been convicted of an offence against this Part or the regulations applying under this Part;
  - (c) the registered responsible supplier contravenes a prohibition notice or a recall notice;
  - (d) the registered responsible supplier obtained registration in the Register by fraud or misrepresentation or the concealment of facts or making a false declaration;
  - (e) the registration of level 2 in-scope electrical equipment or level 3 in-scope electrical equipment registered by the registered responsible supplier is cancelled under section 62U.

S. 62S inserted by No. 43/2018 s. 7.

**62S Grounds for cancellation of registration of level 2 in-scope electrical equipment or level 3 in-scope electrical equipment**

- (1) This section applies to level 2 in-scope electrical equipment or level 3 in-scope electrical equipment registered to a registered responsible supplier if that equipment is supplied or offered for supply or was previously supplied or previously offered for supply in Victoria by the registered responsible supplier.
- (2) Energy Safe Victoria may cancel the registration of electrical equipment to which this section applies on any of the following grounds—
  - (a) the registered responsible supplier requests cancellation of the registration of the relevant equipment;

- (b) the registered responsible supplier is convicted of an offence against this Part or the regulations applying under this Part;
- (c) the registered responsible supplier contravenes a requirement of a prohibition notice or a recall notice;
- (d) the registered responsible supplier registered the relevant equipment by fraud or misrepresentation or the concealment of facts or making a false declaration;
- (e) the electrical equipment—
  - (i) did not satisfy the relevant standard at the time that the electrical equipment was registered to the registered responsible supplier; or
  - (ii) no longer satisfies the relevant standard that applies to that kind of electrical equipment; or
  - (iii) is the subject of a certificate of suitability or a certificate of conformity that is suspended, has been cancelled or has expired; or
  - (iv) is or is likely to become dangerous in normal use.

S. 62T inserted by No. 43/2018 s. 7.

### **62T Show cause notice**

- (1) Energy Safe Victoria may, by post, serve a registered responsible supplier a written notice requiring the registered responsible supplier to show cause why the relevant registration should not be cancelled if Energy Safe Victoria believes—
  - (a) a ground under section 62R exists; or
  - (b) a ground under section 62S exists in relation to the registration of level 2 in-scope electrical equipment or level 3 in-scope electrical equipment.

#### **Note**

See section 49 of the **Interpretation of Legislation Act 1984** for service by post.

- (2) A notice served under subsection (1) must—
  - (a) state each ground in respect of which Energy Safe Victoria has formed the opinion that a ground exists under section 62R or 62S to cancel the relevant registration; and

- (b) specify the facts and circumstances that Energy Safe Victoria believes form the basis of the ground; and
- (c) state the time period within which the registered responsible supplier must respond, that time period being not less than—
  - (i) in the case of the registration of a responsible supplier—28 days from the date of service of the notice; or
  - (ii) in the case of the registration of equipment—14 days from the date of service of the notice; and
- (d) state the consequences for the registered responsible supplier of not responding to the notice.

S. 62U inserted by No. 43/2018 s. 7.

#### **62U Cancellation of registration by Energy Safe Victoria**

- (1) Energy Safe Victoria may do one of or a combination of the following—
  - (a) cancel the registration of a registered responsible supplier;
  - (b) cancel the registration of level 2 in-scope electrical equipment registered to a registered responsible supplier;
  - (c) cancel the registration of level 3 in-scope electrical equipment registered to a registered responsible supplier.
- (2) Before making a decision under subsection (1) to cancel a registration, Energy Safe Victoria must—
  - (a) serve on the registered responsible supplier a show cause notice under section 62T(1); and
  - (b) consider—
    - (i) each submission made by the registered responsible supplier in response to the show cause notice; and
    - (ii) any reasons given by the registered responsible supplier why the registration should not be cancelled.
- (3) On the cancellation of the registration—

- (a) under subsection (1)(a)—the responsible supplier ceases to be registered for the purposes of this Part; or
  - (b) under subsection (1)(b)—the level 2 in-scope electrical equipment ceases to be registered for the purposes of this Part; or
  - (c) under subsection (1)(c)—the level 3 in-scope electrical equipment ceases to be registered for the purposes of this Part.
- (4) If Energy Safe Victoria makes a decision under subsection (1), Energy Safe Victoria must notify the cancellation to—
- (a) the registered responsible supplier; and
  - (b) the chief executive.

S. 62V inserted by No. 43/2018 s. 7.

**62V Evidence of registration and registered matters**

- (1) A certificate that appears to be signed by the chief executive and states a matter that appears in the Register, is evidence of the matter.
- (2) A certificate under subsection (1) may state a matter by reference to a date or period.
- (3) A court must accept a certificate mentioned in this section as proof of the matters stated in it if there is no evidence to the contrary.

Pt 4 Div. 5 (Heading and s. 62W) inserted by No. 43/2018 s. 7.

**Division 5—Alternative mark to regulatory compliance mark**

S. 62W inserted by No. 43/2018 s. 7.

**62W Approval of alternative mark to regulatory compliance mark**

Energy Safe Victoria may approve an alternative mark for in-scope electrical equipment if Energy Safe Victoria believes the regulatory compliance mark applying to that in-scope electrical equipment is not appropriate in the circumstances.

S. 50 repealed by No. 46/2014 s. 9.

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S. 51 amended by No. 39/2005 s. 48(Sch. 1 item 2), repealed by No. 46/2014 s. 9.

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Ss 52, 53 repealed by No. 46/2014 s. 9.

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S. 54 amended by Nos 38/2000 s. 18(a), 39/2005 s. 48(Sch. 1 item 2), 59/2008 s. 41(1), repealed by No. 43/2018 s. 6.

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S. 55 amended by Nos 38/2000 s. 24(c), 39/2005 s. 48(Sch. 1 item 3), repealed by No. 43/2018 s. 6.

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S. 56 amended by No. 39/2005 s. 48(Sch. 1 items 1, 2, 4), repealed by No. 59/2008 s. 41(2).

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S. 57 amended by Nos 38/2000 s. 18(b), 39/2005 s. 48(Sch. 1 items 1, 2), repealed by No. 43/2018 s. 6.

\* \* \* \* \*

S. 58 amended by No. 39/2005 s. 48(Sch. 1 items 1, 2), repealed by No. 43/2018 s. 6.

\* \* \* \* \*

S. 59 amended by No. 39/2005 s. 48(Sch. 1 items 1, 2), repealed by No. 43/2018 s. 6.

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S. 60 amended by Nos 38/2000 s. 18(c), 39/2005 s. 48(Sch. 1 item 1), repealed by No. 43/2018 s. 6.

\* \* \* \* \*

S. 61 substituted by No. 39/2005 s. 48(Sch. 1 item 5), repealed by No. 43/2018 s. 6.

\* \* \* \* \*

S. 62 amended by No. 39/2005 s. 48(Sch. 1 item 1), repealed by No. 43/2018 s. 6.

\* \* \* \* \*

Pt 4 Div. 6 (Heading) inserted by No. 43/2018 s. 8.

## **Division 6—Prohibition of supply and recall of electrical equipment**

### **63 Prohibition of supply of electrical equipment**

S. 63(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).



- (1) Energy Safe Victoria, by notice published in the Government Gazette and in a newspaper circulating generally in the State, may prohibit the supply of specified electrical equipment or electrical equipment of a specified class from the date of publication of the notice in the Government Gazette or from such later date as is specified in that notice.

S. 63(2) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (2) Energy Safe Victoria, by notice in writing given to a person, may prohibit that person from supplying specified electrical equipment or electrical equipment of a specified class from the date of the notice or such later date as is specified in the notice.

S. 63(3) amended by No. 39/2005 s. 48(Sch. 1 items 1, 2), substituted by No. 43/2018 s. 9(a).

- (3) Energy Safe Victoria may exercise a power of prohibition under this section if Energy Safe Victoria has reasonable grounds to believe that—
  - (a) in the case of in-scope electrical equipment—the electrical equipment does not satisfy the relevant standard; or
  - (b) in the case of electrical equipment that is not in-scope electrical equipment—the electrical equipment does not satisfy the standard prescribed in respect of that electrical equipment; or
  - (c) in any case—the specified electrical equipment is likely to become unsafe to use because of its design or construction.

S. 63(4) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (4) Energy Safe Victoria may withdraw a prohibition made under subsection (1) by notice published in the Government Gazette and in a newspaper circulating generally in the State.

S. 63(5) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (5) Energy Safe Victoria may withdraw a prohibition made under subsection (2) by notice given to the person to whom the prohibition was given.

S. 63(6) amended by No. 39/2005 s. 48(Sch. 1 item 2), substituted by No. 43/2018 s. 9(b).

- (6) This section applies whether or not the electrical equipment was—
  - (a) controlled electrical equipment; or
  - (b) issued with a certificate of suitability; or
  - (c) issued with a certificate of conformity; or

- (d) issued a certificate by a regulatory authority; or
- (e) issued a certificate by an external certifier.

#### **64 Offence to disobey prohibition**

A person must not, while a prohibition under section 63 remains in force, do anything prohibited by that prohibition.

In the case of a natural person, 200 penalty units or 2 years imprisonment or both;

In the case of a body corporate,  
1000 penalty units.

#### **65 Recall of electrical equipment**

S. 65(1) amended by No. 39/2005 s. 48(Sch. 1 items 1, 2).

(1) Energy Safe Victoria may make a requirement under this section only if it appears to Energy Safe Victoria that—

- (a) particular electrical equipment, or a particular class of electrical equipment, is, or is likely to become, by reason of its design or construction, unsafe to use; or

S. 65(1)(b) substituted by No. 1/2017 s. 11(1).

(b) specific action is necessary—

- (i) to make particular electrical equipment, or a particular class of electrical equipment, safe to use; or
- (ii) to render safe the use of particular electrical equipment or a particular class of electrical equipment; or

S. 65(1)(c) inserted by No. 1/2017 s. 11(1).

- (c) particular electrical equipment, or a particular class of electrical equipment, does not comply with the minimum standards prescribed for that equipment or for equipment of that class.

S. 65(2) amended by Nos 38/2000 s. 24(d), 39/2005 s. 48(Sch. 1 item 1), substituted by No. 1/2017 s. 11(2).

(2) Energy Safe Victoria, by written notice served on a person to whom this section applies, may require the person to take, within the period specified in the notice, the action specified in the notice in relation to the particular electrical equipment or electrical equipment of a particular class specified in the notice.

S. 65(2A) inserted by No. 1/2017 s. 11(2).

(2A) This section applies to a person—

- (a) who supplies or has supplied electrical equipment in the course of the person's business; and
- (b) who has supplied—
  - (i) the particular electrical equipment specified in the notice; or
  - (ii) electrical equipment of a particular class specified in the notice.

**Example**

Company A was in the business of supplying electrical equipment. Company A then ceased supplying electrical equipment. Energy Safe Victoria may issue a notice to Company A under this section in respect of electrical equipment it supplied in the course of its business.

S. 65(3) amended by No. 1/2017 s. 11(3)(a).

- (3) The action specified in the notice may consist of or include any of the following actions in relation to the particular electrical equipment specified in the notice, or electrical equipment of a particular class specified in the notice—
  - (a) sending a written request to the person to whom the electrical equipment, or equipment of the same class, was supplied to return the equipment to the place at which it was supplied;

S. 65(3)(b) amended by No. 39/2005 s. 48(Sch. 1 item 6).

- (b) placing an advertisement requesting all persons to whom electrical equipment of that class was supplied to return the equipment to the place at which it was supplied;

S. 65(3)(c) amended by No. 1/2017 s. 11(3)(b).

- (c) making the equipment or equipment of that class safe to use or rendering safe the use of that equipment in the manner specified in the notice;

S. 65(3)(d) inserted by No. 1/2017 s. 11(3)(c).

- (d) carrying out inspections and tests on that electrical equipment or equipment of that class;

S. 65(3)(e) inserted by No. 1/2017 s. 11(3)(c).

- (e) rectifying that electrical equipment, or equipment of that class, so it complies with a specified standard;

S. 65(3)(f) inserted by No. 1/2017 s. 11(3)(c).

- (f) repairing or replacing that electrical equipment or equipment of that class;

S. 65(3)(g) inserted by No. 1/2017 s. 11(3)(c).

- (g) arranging for the disconnection from the supply of electricity of that electrical equipment or equipment of that class;

S. 65(3)(h) inserted by No. 1/2017 s. 11(3)(c).

- (h) modifying premises on which that electrical equipment, or equipment of that class, is used or installed so the equipment is safe to use;

S. 65(3)(i) inserted by No. 1/2017 s. 11(3)(c).

- (i) affixing warning labels to—
  - (i) that electrical equipment or equipment of that class; or
  - (ii) the premises on which that electrical equipment, or equipment of that class, is used or installed;

S. 65(3)(j) inserted by No. 1/2017 s. 11(3)(c).

- (j) giving specified information to owners of premises on which that electrical equipment, or equipment of that class, is used or installed;

S. 65(3)(k) inserted by No. 1/2017 s. 11(3)(c).

- (k) giving specified information to occupiers of premises on which that electrical equipment, or equipment of that class, is used or installed;

S. 65(3)(l) inserted by No. 1/2017 s. 11(3)(c).

- (l) placing an advertisement containing specified information in a specified publication that is not a newspaper;

S. 65(3)(m) inserted by No. 1/2017 s. 11(3)(c).

- (m) publishing specified information on the person's Internet site.

S. 65(3A) inserted by No. 39/2005 s. 48(Sch. 1 item 7).

(3A) An advertisement referred to in subsection (3)(b) must be—

- (a) in a form approved by Energy Safe Victoria; and
- (b) placed in a newspaper or newspapers—

- (i) specified by Energy Safe Victoria; and
- (ii) for a period or periods specified by Energy Safe Victoria.

S. 65(4) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (4) Energy Safe Victoria may alter or revoke a requirement under this section by notice given to the person of whom the requirement was made.

- (5) This section applies whether or not the equipment was

- 
- (a) prescribed electrical equipment; or

S. 65(5)(b) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (b) approved by Energy Safe Victoria; or

S. 65(5)(c) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (c) certified by Energy Safe Victoria; or

- (d) approved by a prescribed authority or, under the regulations, was deemed to be approved; or

- (e) was certified in accordance with a prescribed method or prescribed process.

S. 65(6) inserted by No. 1/2017 s. 11(4).

- (6) A person who is required to take action specified in a notice under this section must pay the cost of taking that action.

S. 65(7) inserted by No. 1/2017 s. 11(4).

- (7) A requirement specified in a notice served on a person under this section does not have effect to the extent that it is inconsistent with a requirement for the person to take action specified in a recall notice issued under Division 3 of Part 3-3 of the Australian Consumer Law (Victoria).

S. 66 amended by No. 1/2017 s. 12 (ILA s. 39B(1)).

## **66 Offence to fail to comply with requirement**

- (1) A person of whom a requirement is made under section 65 must comply with that requirement.

In the case of a natural person, 200 penalty units or 2 years imprisonment or both;

In the case of a body corporate,  
1000 penalty units.

S. 66(2) inserted by No. 1/2017 s. 12.

- (2) A person required to give specified information to an owner or occupier under section 65(3)(j) or (k) does not commit an offence against subsection (1) if the person —
- (a) did not know the identity or location of the owner or occupier; and
  - (b) made reasonable inquiries to identify or locate the owner or occupier for the purpose of giving the owner or occupier the specified information; and
  - (c) could not identify or locate the owner or occupier after making reasonable inquiries.

Pt 4 Div. 7 (Heading and ss 67–67K) inserted by No. 43/2018 s. 10.

## **Division 7—Offences**

New s. 67 inserted by No. 43/2018 s. 10.

### **67 Offence—supply level 2 in-scope electrical equipment or level 3 in-scope electrical equipment**

- (1) A responsible supplier must not supply or offer to supply level 2 in-scope electrical equipment or level 3 in-scope electrical equipment to a person, except in accordance with subsection (2), (3) or (4).
- Penalty: In the case of a natural person, 60 penalty units;
- In the case of a body corporate, 240 penalty units.
- (2) A responsible supplier may supply or offer to supply level 2 in-scope electrical equipment or level 3 in-scope electrical equipment if—
- (a) the responsible supplier—
    - (i) is a registered responsible supplier for the purposes of this Part; or
    - (ii) supplies or offers to supply the electrical equipment with the approval of Energy Safe Victoria; and

- (b) the level 2 in-scope electrical equipment or the level 3 in-scope electrical equipment—
    - (i) is registered in the Register as electrical equipment supplied by the registered responsible supplier; or
    - (ii) is comprised of 2 or more components or types of in-scope electrical equipment permanently attached to the electrical equipment and the electrical equipment is registered as one item; or
    - (iii) in the case of level 3 in-scope electrical equipment, the electrical equipment is an item of prescribed in-scope electrical equipment and is for use with an item of level 1 in-scope electrical equipment, level 2 in-scope electrical equipment or level 3 in-scope electrical equipment; or
    - (iv) is supplied or offered for supply, with the approval of Energy Safe Victoria; and
  - (c) the level 2 in-scope electrical equipment or the level 3 in-scope electrical equipment complies with the relevant standard that applied to the electrical equipment on its registration by the registered responsible supplier; and
  - (d) the level 2 in-scope electrical equipment or the level 3 in-scope electrical equipment is safe to be connected to an electricity supply.
- (3) A responsible supplier may supply or offer to supply level 2 in-scope electrical equipment or level 3 in-scope electrical equipment if—
- (a) the person who supplied the electrical equipment to the responsible supplier is registered under a corresponding law of New Zealand; and
  - (b) the electrical equipment at the time of its importation was registered as being supplied by the person under a corresponding law of New Zealand; and
  - (c) the electrical equipment complies with the relevant standard that applied to the electrical equipment on its registration under a corresponding law of New Zealand by the person; and
  - (d) the electrical equipment is safe to be connected to an electricity supply.

- (4) A responsible supplier may supply or offer to supply level 2 in-scope electrical equipment or level 3 in-scope electrical equipment imported by the responsible supplier from a body corporate outside of Australia if—
- (a) the responsible supplier is a related body corporate of a NZ body corporate; and
  - (b) the NZ body corporate is a registered responsible supplier; and
  - (c) the electrical equipment is registered in the Register as electrical equipment supplied by the NZ body corporate; and
  - (d) the electrical equipment complies with the relevant standard that applied to the electrical equipment on its registration under a corresponding law of New Zealand by the NZ body corporate; and
  - (e) the electrical equipment is safe to be connected to an electricity supply.

S. 67A inserted by No. 43/2018 s. 10.

#### **67A Offence—supply level 1 in-scope electrical equipment**

- (1) A responsible supplier must not supply or offer to supply level 1 in-scope electrical equipment to a person, except in accordance with subsection (2), (3) or (4).

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.

- (2) A responsible supplier may supply or offer to supply level 1 in-scope electrical equipment if—
- (a) the responsible supplier—
    - (i) is a registered responsible supplier; or
    - (ii) supplies or offers for supply the electrical equipment, with the approval of Energy Safe Victoria; and
  - (b) the responsible supplier—
    - (i) is the manufacturer of the electrical equipment and, at the time the electrical equipment was manufactured, the electrical equipment complied with the relevant standard; or
    - (ii) is the importer of the electrical equipment and, at the time the electrical equipment was



imported into a State or Territory or New Zealand, the electrical equipment complied with the relevant standard; or

(iii) supplies or offers for supply the electrical equipment, with the approval of Energy Safe Victoria; and

(c) the level 1 in-scope electrical equipment is safe to be connected to an electricity supply.

(3) A responsible supplier may supply or offer to supply level 1 in-scope electrical equipment if—

(a) the person who supplied the electrical equipment to the responsible supplier is registered under a corresponding law of New Zealand; and

(b) the electrical equipment at the time of its importation, was registered as being supplied by the person who supplied the electrical equipment to the responsible supplier under a corresponding law of New Zealand; and

(c) the electrical equipment at the time of its importation or manufacture complies with the relevant standard that applied to the electrical equipment on its registration under a corresponding law of New Zealand by the person; and

(d) the electrical equipment is safe to be connected to an electricity supply.

(4) A responsible supplier may supply or offer to supply level 1 in-scope electrical equipment imported by the responsible supplier from a body corporate outside of Australia if—

(a) the responsible supplier is a related body corporate of a NZ body corporate; and

(b) the NZ body corporate is a registered responsible supplier; and

(c) the electrical equipment is registered in the Register as electrical equipment supplied by the NZ body corporate; and

(d) the electrical equipment at the time of its importation complies with the relevant standard that applied to the electrical equipment on its

registration under a corresponding law of New Zealand by the NZ body corporate; and

- (e) the electrical equipment is safe to be connected to an electricity supply.

S. 67B inserted by No. 43/2018 s. 10.

**67B Offence—documentary evidence level 1 in-scope electrical equipment**

- (1) Energy Safe Victoria may request a responsible supplier, who at any time during the relevant period has supplied or offered to supply level 1 in-scope electrical equipment, to provide the relevant documentary evidence for the electrical equipment.
- (2) The responsible supplier must, within 10 business days after a request under subsection (1), supply that relevant documentary evidence.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (3) For the purposes of this section, the relevant documentary evidence is—
  - (a) documentary evidence, in English, that the level 1 in-scope electrical equipment satisfied the relevant standard—
    - (i) in the case of a responsible supplier who is the manufacturer of the electrical equipment—that applied to the electrical equipment on its manufacture; or
    - (ii) in the case of a responsible supplier who is the person who imported the electrical equipment—that applied on the importation of the electrical equipment; or
  - (b) a certificate of suitability in respect of the level 1 in-scope electrical equipment.
- (4) Subsection (2) does not apply if—
  - (a) the person who supplied the level 1 in-scope electrical equipment to the responsible supplier is registered under a corresponding law of New Zealand; and
  - (b) the electrical equipment at the time of its importation was registered as being supplied by the person who supplied the electrical equipment

to the responsible supplier under a corresponding law of New Zealand.

(5) Subsection (2) does not apply to a responsible supplier who supplied level 1 in-scope electrical equipment imported from a body corporate outside of Australia if

- (a) the responsible supplier is a related body corporate of a NZ body corporate; and
- (b) the NZ body corporate is a registered responsible supplier; and
- (c) the electrical equipment is registered in the Register as electrical equipment supplied by the NZ body corporate.

(6) In this section, *relevant period* in relation to level 1 in-scope electrical equipment means a period of 5 years from the date the electrical equipment is supplied by a responsible supplier.

S. 67C inserted by No. 43/2018 s. 10.

**67C Offence—documentary evidence level 2 in-scope electrical equipment**

- (1) Energy Safe Victoria may request a responsible supplier, who at any time during the relevant period has supplied or offered to supply level 2 in-scope electrical equipment registered in the Register as electrical equipment supplied by the responsible supplier, to provide the relevant documentary evidence for the electrical equipment.
- (2) The responsible supplier must within 10 business days after a request under subsection (1) supply the relevant documentary evidence.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (3) For the purposes of this section, the relevant documentary evidence is—
  - (a) a compliance folder in English, that includes test reports completed by a prescribed testing body or a prescribed person, that is evidence that the electrical equipment satisfied the relevant standard at the date of registration of the electrical equipment by the responsible supplier; or

- (b) a certificate of suitability in respect of the electrical equipment.
- (4) Subsection (2) does not apply if—
  - (a) the person who supplied the level 2 in-scope electrical equipment to the responsible supplier is registered under a corresponding law of New Zealand; and
  - (b) the electrical equipment at the time of its importation, was registered as being supplied by the person who supplied the electrical equipment to the responsible supplier under a corresponding law of New Zealand.
- (5) Subsection (2) does not apply to a responsible supplier who supplied level 2 in-scope electrical equipment imported from a body corporate outside of Australia if—
  - (a) the responsible supplier is a related body corporate of a NZ body corporate; and
  - (b) the NZ body corporate is a registered responsible supplier; and
  - (c) the electrical equipment is registered in the Register as electrical equipment supplied by the NZ body corporate.
- (6) In this section, *relevant period* means a period beginning on the date of the registration of the electrical equipment in the Register by a responsible supplier, and ending on the date that is 5 years after the day of the expiry or the cancellation of that registration.

S. 67D inserted by No. 43/2018 s. 10.

**67D Offence—documentary evidence level 3 in-scope electrical equipment**

- (1) Energy Safe Victoria may request a responsible supplier, who at any time during the relevant period has supplied or offered to supply level 3 in-scope electrical equipment or level 3 in-scope electrical equipment as a component of electrical equipment, to provide a certificate of conformity for the electrical equipment.
- (2) The responsible supplier must, within 10 business days after a request under subsection (1), supply the certificate of conformity in respect of the electrical equipment.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.

- (3) Subsection (2) does not apply if—
- (a) the person who supplied the level 3 in-scope electrical equipment to the responsible supplier is registered under a corresponding law of New Zealand; and
  - (b) the electrical equipment at the time of its importation was registered as being supplied by the person who supplied the electrical equipment to the responsible supplier under a corresponding law of New Zealand.
- (4) Subsection (2) does not apply to a responsible supplier who supplied level 3 in-scope electrical equipment or level 3 in-scope electrical equipment as a component of electrical equipment imported from a body corporate outside of Australia if—
- (a) the responsible supplier is a related body corporate of a NZ body corporate; and
  - (b) the NZ body corporate is a registered responsible supplier; and
  - (c) the electrical equipment is registered in the Register as electrical equipment supplied by the NZ body corporate.
- (5) In this section, *relevant period* means a period beginning on the date of issue of a certificate of conformity and ending on the date that is 5 years after the date of the expiry of the certificate of conformity.

S. 67E inserted by No. 43/2018 s. 10.

**67E Offence for holder of suspended certificate to supply or offer in-scope electrical equipment**

- (1) A responsible supplier must not supply or offer to supply an item of in-scope electrical equipment that is the subject of a suspended certificate of conformity or a suspended certificate of suitability.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (2) In this section—

*suspended certificate of conformity* means a certificate of conformity that is suspended under section 62I or 62M;

*suspended certificate of suitability* means a certificate of suitability that is suspended under section 61 or 62B.

S. 67F inserted by No. 43/2018 s. 10.

#### **67F Offence to sell unregistered in-scope electrical equipment**

- (1) A person must not supply or offer to supply an item of level 2 in-scope electrical equipment or level 3 in-scope electrical equipment if—
  - (a) the item of electrical equipment was purchased by the person for the purpose of supplying it or offering it for supply to another person; and
  - (b) on the date that the person purchased the item of electrical equipment, the electrical equipment was not registered in relation to a responsible supplier.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (2) Subsection (1) does not apply to a person if—
  - (a) after the date the person purchased the item of electrical equipment, the item of electrical equipment is registered in relation to a responsible supplier; or
  - (b) the person is a responsible supplier of the electrical equipment; or
  - (c) the item of electrical equipment is second-hand equipment.

S. 67G inserted by No. 43/2018 s. 10.

#### **67G Offence for person other than responsible supplier to supply or offer in-scope electrical equipment**

- (1) A person, other than a responsible supplier, must not supply or offer to supply an item of in-scope electrical equipment unless the item is marked with—
  - (a) the regulatory compliance mark; or
  - (b) an alternative mark; or

- (c) any other mark approved by a regulatory authority, as an alternative to the regulatory compliance mark.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (2) Subsection (1) does not apply to a person if the item of in-scope electrical equipment is second-hand equipment.

S. 67H inserted by No. 43/2018 s. 10.

### **67H Offence by the responsible supplier to supply or offer to supply in-scope electrical equipment that is not marked**

A responsible supplier must not supply or offer to supply an item of in-scope electrical equipment unless the item is marked with—

- (a) the regulatory compliance mark; or
- (b) an alternative mark; or
- (c) any other mark approved by a regulatory authority, as an alternative to the regulatory compliance mark.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

S. 67I inserted by No. 43/2018 s. 10.

### **67I Offence to mark in-scope electrical equipment that does not satisfy relevant standard**

- (1) A person must not mark an item of in-scope electrical equipment with the regulatory compliance mark or make a false or misleading representation that an item of in-scope electrical equipment is marked with the regulatory compliance mark, if the electrical equipment does not satisfy the relevant standard for that item.

Penalty: In the case of a natural person, 60 penalty units;  
In the case of a body corporate, 240 penalty units.

- (2) In this section, *mark* includes to mark the label or packaging of an item of in-scope electrical equipment with the regulatory compliance mark or an alternative

mark approved by Energy Safe Victoria or another regulatory authority.

S. 67J inserted by No. 43/2018 s. 10.

**67J Offence for person to offer in-scope electrical equipment for hire**

A person must not offer for hire an item of in-scope electrical equipment unless—

- (a) the item of in-scope electrical equipment is safe to be connected to an electricity supply; and
- (b) the person ensures the item of in-scope electrical equipment satisfies the prescribed requirements for the testing, labelling or tagging of the item of in-scope electrical equipment.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.

S. 67K inserted by No. 43/2018 s. 10.

**67K Offence to supply second-hand equipment that is in-scope electrical equipment to another person**

A person, other than a responsible supplier, must not supply or offer to supply second-hand equipment that is an item of in-scope electrical equipment, unless the person ensures the item of in-scope electrical equipment satisfies the prescribed requirements for the testing, labelling or tagging of the item of in-scope electrical equipment.

Penalty: In the case of a natural person, 60 penalty units;

In the case of a body corporate, 240 penalty units.



## Part 5—Energy efficiency

S. 67 repealed by No. 57/2009 s. 6.

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S. 68 amended by No. 38/2000 s. 18(d), substituted by No. 57/2009 s. 7.

### **68 Prescribed electrical equipment not to be supplied unless registered and labelled**

- (1) A person must not supply energy efficiency electrical equipment that is not registered and labelled in accordance with the regulations relating to energy efficiency unless an exemption under section 68A applies to that equipment.  
50 penalty units.
- (2) A person must not offer to supply energy efficiency electrical equipment that is not registered and labelled in accordance with the regulations relating to energy efficiency unless an exemption under section 68A applies to that equipment.  
50 penalty units.

S. 68A inserted by No. 57/2009 s. 7.

### **68A Exemptions from energy efficiency**

- (1) Energy Safe Victoria, on the application of a supplier of energy efficiency electrical equipment, or on its own initiative, may exempt that equipment for the purposes of section 68.
- (2) An exemption must be published in the Government Gazette.
- (3) An exemption may be subject to any conditions specified by Energy Safe Victoria in the exemption.
- (4) An exemption takes effect on the day specified in the exemption.
- (5) In the case of an application under subsection (1), the application must—
  - (a) be in writing; and
  - (b) contain details of—
    - (i) the applicant's name, telephone number, and business and postal address; and
    - (ii) the exemption requested; and

- (iii) the reasons for the exemption; and
  - (c) be accompanied by—
    - (i) any relevant technical information; and
    - (ii) the prescribed application fee.
- (6) Energy Safe Victoria may, at any time, by notice published in the Government Gazette, revoke an exemption.
- (7) As soon as is practicable after an exemption or revocation under this section is made, Energy Safe Victoria must notify the applicant in writing of the exemption or revocation.



## Part 6—Rights of review

S. 69 substituted by No. 24/2002 s. 4.

### 69 Applications to review

S. 69(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) A person who is aggrieved by a decision of Energy Safe Victoria set out in subsection (2) may apply to the Tribunal for review of the decision.
  
- (2) An application for review may be made to the Tribunal in relation to the following—
  - (a) a decision under Part 3—
    - (i) to refuse to register or renew the registration of an electrical contractor; or
    - (ii) to take disciplinary action in respect of a registered electrical contractor; or
    - (iii) to refuse to license or renew the licence of an electrical worker; or
    - (iv) to take disciplinary action in respect of a licensed electrical worker; or
    - (v) to refuse to supply a certificate of electrical safety form to a registered electrical contractor, a licensed electrical installation worker or a prescribed person under section 45B(1);

S. 69(2)(b) substituted by No. 43/2018 s. 11.

- (b) a decision under Part 4—
  - (i) to cancel the registration of a responsible supplier; or
  - (ii) to cancel the registration of level 2 in-scope electrical equipment registered to a responsible supplier; or

- (iii) to cancel the registration of level 3 in-scope electrical equipment registered to a responsible supplier; or
  - (iv) to refuse to issue a certificate of suitability; or
  - (v) to refuse to issue a certificate of conformity; or
  - (vi) to vary a certificate of conformity; or
  - (vii) to refuse to vary a certificate of conformity; or
  - (viii) to cancel a certificate of conformity; or
  - (ix) to vary a certificate of suitability; or
  - (x) to refuse to vary a certificate of conformity; or
  - (xi) to cancel a certificate of suitability; or
  - (xii) to suspend a certificate of conformity or a certificate of suitability;
- (c) a prohibition under section 63;
  - (d) a requirement under section 65;
  - (e) a decision under the regulations under Part 5—

S. 69(2)(e)(i) amended by No. 57/2009 s. 8(1).

- (i) to refuse to register energy efficiency electrical equipment; or

S. 69(2)(e)(ii) amended by No. 57/2009 s. 8(2).

- (ii) to cancel the registration of energy efficiency electrical equipment; or

S. 69(2)(f) inserted by No. 57/2009 s. 8(3).

- (f) a decision under section 68A—
  - (i) to exempt energy efficiency electrical equipment from the regulations; or
  - (ii) to revoke an exemption.

S. 69(2A) inserted by No. 61/2007 s. 15(1).

- (2A) A person to whom a rectification notice is given may apply to the Tribunal for review of either or both of the following—
  - (a) the decision to give the notice;
  - (b) any requirement contained in the notice.

- (3) A person to whom a direction is given under section 141 may apply to the Tribunal for review of the direction if compliance with it—
- (a) would impose a significant financial burden on the person;
  - (b) would prevent the person from complying with any obligations under a licence issued under Part 2 of the **Electricity Industry Act 2000**.
- (4) A person to whom an improvement notice is issued under Part 12 may apply to the Tribunal for review of either or both of the following—
- (a) the decision to issue the notice;
  - (b) any requirement contained in the notice.

S. 69(5) amended by No. 61/2007 s. 15(2)(a).

- (5) An application for review under subsection (2A), (3) or (4) must be made within 7 days after the later of—

S. 69(5)(a) amended by No. 61/2007 s. 15(2)(b).

- (a) the day on which the improvement notice, direction or rectification notice (as the case requires) is received by the person making the application; or
  - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (6) Any other application for review under this section must be made within 28 days after the later of—
- (a) the day on which notice of the decision is received by the person; or
  - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 69(7) repealed by No. 61/2007 s. 15(3).

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Ss 70–74 repealed by No. 24/2002 s. 4.

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## **Part 7—Underground electric lines and owners or operators of complex electrical installations**

S. 75 amended by No. 61/2007 s. 12(3), substituted by No. 57/2009 s. 10.

### **75 General duties of owners or operators of complex electrical installations and railways**

(1) An owner or operator of a complex electrical installation must take reasonable care to ensure that all parts of the complex electrical installation that it owns or operates—

(a) are designed, constructed, operated, maintained and decommissioned in accordance with the regulations; and

(b) are safe and operated safely.

1500 penalty units.

(2) An owner or operator of a railway must take reasonable care to ensure that all parts of the supply network of the railway that it owns or operates—

(a) are designed, constructed, operated, maintained and decommissioned in accordance with the regulations; and

(b) are safe and operated safely.

1500 penalty units.

### **76 Underground electric lines**

S. 76(1) amended by No. 61/2007 s. 12(3).

(1) A person who controls an underground electric line on public land (other than an electric line forming part of a railway)—

(a) must maintain a record of that underground electric line; and

(b) before the line is connected to an electricity supply or within 2 business days after relocating the line, give sufficient information to enable every cable of the line to be located and identified to—

S. 76(1)(b)(i) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(i) a person or body specified by Energy Safe Victoria as the asset recording service for the area in which the line is located; or



- (ii) if no such person or body is so specified, the distribution company for that area.

75 penalty units.

S. 76(2) amended by No. 61/2007 s. 12(3).

- (2) A person who operates a railway must keep a register containing sufficient information to enable every cable of the underground electric lines that are under the control of that person to be located and identified.

S. 76(3) amended by No. 61/2007 s. 12(3).

- (3) A person who operates a railway must ensure that the register kept under subsection (3) is available for inspection by the public during normal business hours.

### **77 Underground electric lines—obligations of distribution companies**

- (1) A distribution company must keep a register containing sufficient information to enable every cable of the underground electric lines that are under its control within its distribution area to be located and identified.

75 penalty units.

- (2) A distribution company must record in a register kept under subsection (1) any information that is given to it under section 76 within 7 days after receiving that information.

50 penalty units.

- (3) A distribution company must ensure that the register kept under this section is available for inspection by the public during normal business hours.

50 penalty units.

### **78 Protection of underground electric lines**

A person must not make any opening in the ground above an underground electric line so as to endanger the electric line unless authorised to do so by the person who controls that electric line.

In the case of a natural person, 20 penalty units;

In the case of a body corporate, 100 penalty units.

## **Part 8—Bushfire mitigation requirements for certain operators and electric line clearance**

### **Division 1—General**

#### **79 Urban area**

The Minister, by notice published in the Government Gazette, may specify an area as an urban area for the purposes of this Part, if the Minister has obtained the agreement of—

- (a) the fire control authority; and
- (b) any person responsible for the management of public land in the area.

#### **80 Fire hazard rating**

A fire control authority—

S. 80(a) substituted by No. 24/2002 s. 5.

- (a) may assign a fire hazard rating of "low" or "high" to any area of land for the purposes of this Act or the regulations; and
- (b) must give notice in writing of that rating to the Minister and every person responsible for the management of public land in any part of the area as soon as practicable after the rating is assigned.

#### **81 Declared area in urban area**

The Governor in Council, by Order published in the Government Gazette, may declare an area of land in an urban area for the purposes of this Part.

S. 81(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) An Order under subsection (1) must contain a description sufficient to identify the land concerned which may include a description by reference to a map held by Energy Safe Victoria.

S. 81(3) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (3) Energy Safe Victoria must make a copy of any map referred to in an Order under subsection (1) available at its office during business hours for any person to inspect free of charge.

#### **82 Operation of Part**

- (1) If a provision of this Part or of a regulation made for the purposes of this Part is, with respect to a particular subject-matter, inconsistent with a provision—
  - (a) of this or any other Act or law or of a regulation, rule, by-law or Order made under this or any other Act; or
  - (b) of any agreement—the provision of this Part or of the regulation (as the case may be) prevails and that other provision is, to the extent of the inconsistency, of no force or effect.
- (2) It is declared that this Part does not impose any other duty of care upon a municipality than the duty of care which that municipality would have had at law if this Part had not been enacted.

### **83 Point of supply**

- (1) If, in relation to a private electric line, the relevant distribution company is of the opinion that the point of supply as determined in accordance with the definition in section 3 is not appropriate, the relevant distribution company must determine the point of supply.
- (2) If, in relation to a private electric line, the responsible person is of the opinion that the point of supply as determined in accordance with section 3 is not appropriate, the responsible person may ask the relevant distribution company to determine the point of supply.
- (3) The relevant distribution company must notify the responsible person of a determination made under subsection (1) or (2) within 14 days of making it.

S. 83(4) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (4) The responsible person may within 21 days of receiving a notification under subsection (3) object to the determination to Energy Safe Victoria on the grounds that the determination is not reasonable.

S. 83(5) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (5) Energy Safe Victoria must consider the objection and may vary or revoke the determination under subsection (1) or (2).

S. 83(6) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (6) If the relevant distribution company fails to make a determination under subsection (2) within 30 days after a request is made under that subsection, the responsible

person may refer the matter to Energy Safe Victoria for determination.

S. 83(7) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (7) Energy Safe Victoria must consider a matter referred under subsection (6) and must determine the point of supply.

S. 83(8) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (8) Energy Safe Victoria, at the request of the responsible person or the relevant distribution company, may vary or revoke a determination under subsection (7).
- (9) A determination made under subsection (1) or (2) may be varied or revoked by the relevant distribution company in the same manner as a determination is made and is subject to the same procedures as for a determination.

S. 83(10) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (10) A determination made under subsection (1), (2) or (7) takes effect from the date of the determination by the relevant distribution company or Energy Safe Victoria and any variation or revocation of the determination under subsection (5), (8) or (9) takes effect from the date of the variation or revocation.

Pt 8 Div. 1A (Heading and ss 83A, 83B) inserted by No. 38/2000 s. 19, amended by Nos 69/2000 s. 27, 13/2001 s. 11, 39/2005 s. 48(Sch. 1 item 2), substituted by No. 55/2010 s. 17.

## **Division 1A—Bushfire mitigation requirements for certain operators of at-risk electric lines**

### **Subdivision 1—Interpretation**

S. 83A substituted by No. 55/2010 s. 17.

#### **83A Definitions**

In this Division—

***at-risk electric line*** means an electric line (other than a private electric line) that is—

- (a) above the surface of land; and
- (b) in a hazardous bushfire risk area;

***specified operator*** means the operator of an at-risk electric line but does not include a major electricity company.

## **Subdivision 2—General duties in relation to bushfire mitigation plans**

S. 83B substituted by No. 55/2010 s. 17.

### **83B General duty of specified operators to minimise bushfire danger**

- (1) A specified operator must design, construct, operate, maintain and decommission an at-risk electric line to minimise as far as practicable the bushfire danger arising from that line.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (2) It is a defence to a prosecution of a specified operator for an offence relating to a breach of a duty or obligation set out in subsection (1) if the operator has complied with the accepted bushfire mitigation plan in relation to that duty or obligation.

S. 83BA inserted by No. 55/2010 s. 17.

### **83BA Submission of bushfire mitigation plans for acceptance**

- (1) A specified operator must, before 1 July in each year, prepare and submit to Energy Safe Victoria, for acceptance under Subdivision 3, a plan for the operator's proposals for the mitigation of bushfire in relation to the operator's at-risk electric lines.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (2) A bushfire mitigation plan under subsection (1)—

- (a) must be in or to the effect of a form approved by Energy Safe Victoria; and
  - (b) must include the prescribed particulars.
- (3) A specified operator must cause a copy of an accepted bushfire mitigation plan to be available for inspection—
  - (a) on the operator's Internet site; and
  - (b) at the operator's principal office in the State during ordinary business hours.

In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty units.

S. 83BB inserted by No. 55/2010 s. 17.

### **83BB Compliance with bushfire mitigation plan**

- (1) During the specified bushfire risk period, a specified operator must not commence to commission, or operate, an at-risk electric line unless a bushfire mitigation plan that applies to the operator's at-risk electric lines has been accepted or provisionally accepted under Subdivision 3.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (2) A specified operator must comply with an accepted bushfire mitigation plan that applies to the operator's at-risk electric lines.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (3) Subsection (1) does not apply to a specified operator who has a reasonable excuse.
- (4) For the purposes of subsection (1), it is a reasonable excuse for a specified operator not to comply with subsection (1) if—
  - (a) there is no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines; and
  - (b) the reason for there being no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines is that—
    - (i) Energy Safe Victoria failed to accept the operator's bushfire mitigation plan by 31

- October in the year it was submitted to Energy Safe Victoria; and
- (ii) that failure arose because of unreasonable delay on Energy Safe Victoria's part.
- (5) For the purposes of subsection (1), it is not a reasonable excuse for a specified operator not to comply with subsection (1) if—
- (a) there is no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines; and
- (b) the reason for there being no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines is that—
- (i) Energy Safe Victoria failed to accept the operator's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria and that failure arose because of actions or inactions of the operator that hampered the ability of Energy Safe Victoria to make a decision whether to accept that plan by 31 October; or
- (ii) Energy Safe Victoria has not accepted a plan under section 83BG.
- (6) Subsections (4) and (5) do not limit what may constitute a reasonable excuse.

### **Subdivision 3—Acceptance and validation of bushfire mitigation plans**

S. 83BC inserted by No. 55/2010 s. 17.

#### **83BC Validation of bushfire mitigation plans**

- (1) If a bushfire mitigation plan has been submitted by a specified operator under section 83BA, Energy Safe Victoria may require the operator to obtain an independent validation of that plan or any part of that plan.
- (2) The specified operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking the validation of a bushfire mitigation plan has the necessary competence and ability and access to information to arrive at an independent opinion in respect of the plan.
- (3) If Energy Safe Victoria requires a specified operator to provide an independent validation of a bushfire mitigation plan or part of a plan, the costs of that validation must be borne by the operator.

- (4) Energy Safe Victoria is not required to proceed with the consideration of a bushfire mitigation plan under this Subdivision until the independent validation is provided.

S. 83BD inserted by No. 55/2010 s. 17.

### **83BD Additional information**

- (1) Energy Safe Victoria may require a specified operator to provide any additional information that Energy Safe Victoria thinks fit in relation to a bushfire mitigation plan submitted by the operator under section 83BA.
  
- (2) Energy Safe Victoria is not required to proceed with the consideration of a bushfire mitigation plan under this Subdivision until the additional information is provided.

S. 83BE inserted by No. 55/2010 s. 17.

### **83BE Acceptance of bushfire mitigation plan**

- (1) Energy Safe Victoria must consider a bushfire mitigation plan submitted under section 83BA with as much expedition as the requirements of this Act and the regulations and the proper consideration of the plan permit.
  
- (2) Energy Safe Victoria must accept a bushfire mitigation plan submitted under section 83BA if it is satisfied that the plan is appropriate for the at-risk electric lines to which it relates.
  
- (3) Energy Safe Victoria must notify the specified operator in writing of its decision to accept a bushfire mitigation plan.

S. 83BF inserted by No. 55/2010 s. 17.

### **83BF Provisional acceptance of bushfire mitigation plan**

- (1) Energy Safe Victoria may provisionally accept a bushfire mitigation plan submitted under section 83BA if it is satisfied that the plan will minimise the bushfire danger arising from the at-risk electric lines to which the plan applies.
  
- (2) Energy Safe Victoria must notify the operator that submitted the bushfire mitigation plan, in writing, of its decision to provisionally accept the plan.
  
- (3) The notice of provisional acceptance must state—
  - (a) the period that the provisional acceptance will be in force; and
  - (b) the extent to which the bushfire mitigation plan has been accepted; and



- (c) any limitations or conditions which will apply in respect of the accepted bushfire mitigation plan or part of the plan.

S. 83BG inserted by No. 55/2010 s. 17.

### **83BG Non-acceptance of bushfire mitigation plan**

- (1) If Energy Safe Victoria does not accept or provisionally accept a bushfire mitigation plan submitted to it under section 83BA, it must—
  - (a) notify the specified operator that submitted the plan in writing of the non-acceptance; and
  - (b) give the operator an opportunity to modify and re-submit the bushfire mitigation plan.
- (2) A modified bushfire mitigation plan must be submitted to Energy Safe Victoria within 28 days after the notice is given under subsection (1).
- (3) If, after considering any modified bushfire mitigation plan submitted under this section, Energy Safe Victoria decides not to accept the plan, Energy Safe Victoria must give notice in writing of that decision to the specified operator that submitted the plan.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

S. 83BH inserted by No. 55/2010 s. 17.

### **83BH Energy Safe Victoria may determine bushfire mitigation plan**

- (1) Energy Safe Victoria may determine the bushfire mitigation plan which is to apply in relation to a specified operator's at-risk electric lines.
- (2) Energy Safe Victoria may make a determination under subsection (1) if—
  - (a) a specified operator fails to submit a bushfire mitigation plan under section 83BA that relates to the operator's at-risk electric lines; or
  - (b) Energy Safe Victoria has decided not to accept a bushfire mitigation plan submitted under section 83BA that relates to a specified operator's at-risk electric lines.
- (3) If Energy Safe Victoria determines the bushfire mitigation plan to apply to a specified operator's at-risk electric lines under this section, Energy Safe Victoria

must give notice in writing to the operator of that determination.

- (4) On notice being given to the specified operator under subsection (3), the bushfire mitigation plan determined by Energy Safe Victoria is taken for the purposes of this Act to be the accepted bushfire mitigation plan for that operator's at-risk electric lines.
- (5) Nothing in subsection (4) prevents a specified operator from submitting a bushfire mitigation plan under section 83BA in relation to the operator's at-risk electric lines for acceptance under this Subdivision.

S. 83BI inserted by No. 55/2010 s. 17.

### **83BI Duration of accepted bushfire mitigation plan**

An accepted bushfire mitigation plan ceases to have effect on 30 June in the year after it is accepted under this Subdivision.

S. 83BJ inserted by No. 55/2010 s. 17.

### **83BJ Compliance audits for accepted bushfire mitigation plans— independent audits**

- (1) Energy Safe Victoria may require a specified operator—
  - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the operator's compliance with an accepted bushfire mitigation plan; and
  - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The specified operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the operator and the accepted bushfire mitigation plan to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a specified operator to obtain an independent audit under this section, the costs of that audit must be borne by the operator.
- (4) A specified operator must comply with a requirement of

200 penalty units.

S. 83BK inserted by No. 55/2010 s. 17.

### **83BK Compliance audits—Energy Safe Victoria**

Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a specified operator is satisfactorily complying with an accepted bushfire mitigation plan.

## **Division 2—Responsibility for maintenance of lines**

Pt 8 Div. 2 Subdiv. 1 (Heading) inserted by No. 2/2014 s. 6(1).

### **Subdivision 1—Persons responsible for maintaining lines**

S. 84 amended by No. 12/2004 s. 155, substituted by No. 2/2014 s. 7.

#### **84 Requirement to keep trees clear of electric lines—distribution companies**

A distribution company is responsible for the keeping of the whole or any part of a tree clear of an electric line within its distribution area unless under this Subdivision another person is responsible for—

- (a) the maintenance of the line; or
- (b) the keeping of the whole or any part of a tree clear of the line.

##### **Note**

Section 3 defines *maintenance* in relation to an electric line or a private electric line as including the keeping of the whole or any part of a tree clear of the line.

S. 84A inserted by No. 2/2014 s. 7.

#### **84A Requirement to maintain line—occupiers of land with private or low voltage electric lines**

- (1) An occupier of land above or below the surface of which there is a private electric line is responsible for the maintenance of that line.

##### **Note**

Section 3 defines *maintenance* in relation to a private electric line as including the keeping of the whole or any part of a tree clear of the line.

- (2) An occupier of land on which there is a low voltage electric line which solely services that land is responsible for the keeping of the whole or any part of a tree situated on the land clear of that line.

S. 84B inserted by No. 2/2014 s. 7.

#### **84B Requirement to keep trees clear of private electric lines—occupiers of contiguous land**

- (1) An occupier of land that is contiguous to land on which there is a private electric line is responsible for the keeping of the whole or any part of a tree situated on the occupier's land clear of the line.
- (2) For the purposes of this section, the occupier may enter onto the land on which there is a private electric line and perform any acts necessary to keep a tree clear of the line.

S. 84C inserted by No. 2/2014 s. 7.

#### **84C Requirement to keep trees clear of electric lines— Councils**

A Council responsible for the management of public land in an area of land declared under section 81 is responsible for the keeping of the whole or any part of a tree situated on that land clear of an electric line that is not a private electric line.

S. 84D inserted by No. 2/2014 s. 7.

#### **84D Requirement to keep trees clear of electric lines—other persons**

A person (other than a distribution company) who owns or operates an electric line, or installs or uses an electric line under an Act of the Commonwealth, is responsible for the keeping of the whole or any part of a tree clear of the electric line.

Pt 8 Div. 2 Subdiv. 2 (Heading) inserted by No. 2/2014 s. 6(2).

### **Subdivision 2—Other matters**

#### **85 Exercise of powers with respect to lines**

S. 85 amended by Nos 62/2001 s. 75, 39/2005 s. 48(Sch. 1 item 1).

Energy Safe Victoria or the relevant distribution company or the relevant transmission company may, subject to any code applying in relation to the exercise of powers under this section issued by the Essential Services Commission under the **Essential Services Commission Act 2001**, exercise the following powers in relation to electric lines—

- (a) the power to enter onto land at any reasonable time for the purposes of inspecting an electric line

and to remain on the land for so long as is necessary to inspect the line; and

S. 85(b) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (b) the power, with the agreement of Energy Safe Victoria, to order that any electric line proposed to be constructed or to be substantially reconstructed be placed underground; and

S. 85(c) amended by Nos 39/2005 s. 48(Sch. 1 item 2), 2/2014 s. 8(1).

- (c) the power, upon production of a certificate in a form approved by Energy Safe Victoria and issued by the relevant distribution company or the relevant transmission company and at any reasonable time, to enter onto and remain on any land, for as long as is necessary for the carrying out of any work which is required to be carried out by Energy Safe Victoria or distribution company or transmission company to fulfil its responsibilities under section 84 or 84D.

## **86 Failure to maintain lines**

S. 86(1) amended by Nos 89/1998 s. 14(1), 39/2005 s. 48(Sch. 1 items 1, 2).

- (1) Energy Safe Victoria or, with the approval of Energy Safe Victoria, the relevant distribution company, may by notice in writing require a person to perform acts specified in the notice for the purpose of keeping the whole or any part of a tree clear of an electric line in respect of which that person is the responsible person within a time specified in the notice being, subject to subsection (4), not less than 14 days after the date of the notice.

S. 86(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) If—
  - (a) there is an electric line above or below the surface of land in respect of which there is in force a planning scheme; and
  
  
  
  
  
  
  
  
  
  
  - (b) the planning scheme requires a permit to be obtained to trim or remove trees on the land—  
  
a person required by Energy Safe Victoria or the relevant distribution company by notice in writing under subsection (1) to perform any act for the purpose

of keeping the whole or any part of a tree clear of the line must, before taking any action to comply with the notice, obtain any necessary permit pursuant to the **Planning and Environment Act 1987** in respect of the action necessary to comply with the notice unless an officer or employee of Energy Safe Victoria or the relevant distribution company considers the line to be in such a dangerous condition that urgent compliance with the notice is necessary.

S. 86(2A) inserted by No. 59/2011 s. 14(1).

(2A) Despite subsection (2), a relevant transmission company or a relevant distribution company is not required to obtain a permit pursuant to the **Planning and Environment Act 1987** in respect of any action necessary to comply with a notice in writing under subsection (1) if the action is carried out in accordance with the Code.

(3) If—

S. 86(3)(a) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(a) Energy Safe Victoria or the relevant distribution company has by notice pursuant to subsection (1) required a person to perform acts for the purpose of keeping the whole or any part of a tree clear of an electric line; and

S. 86(3)(b) amended by No. 11/2002 s. 3(Sch. 1 item 21).

(b) the time for compliance with the notice is greater than 14 days; and

(c) the person is required under subsection (2) to obtain a permit—

the person—

(d) must apply for the permit within 14 days of the receipt of the notice; and

(e) must perform all acts specified in the notice within 21 days of obtaining the permit.

S. 86(4) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(4) If Energy Safe Victoria or the relevant distribution company considers that urgent compliance with the notice under subsection (1) is necessary, the notice may require the person to comply with it within 14 days of the date of the notice.

S. 86(5) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (5) If the responsible person in relation to a private electric line or an electric line of a relevant distribution company—
- (a) is unable to comply with a notice under this section; or
  - (b) is unable to perform the duties under the Code; or
  - (c) would put personal safety at risk if the person performed the duties under the Code or under a notice under this section; or
  - (d) refuses—
    - (i) to comply with a notice under this section; or
    - (ii) to perform the duties under the Code—

the relevant distribution company may, with the agreement of Energy Safe Victoria, and must, if Energy Safe Victoria so directs, carry out the duties and perform any work necessary to ensure that the whole or any part of a tree is kept clear of the line and, if the relevant distribution company does so, the responsible person referred to in paragraph (a), (b) or (c) (as the case may be) is not guilty of an offence for failing to perform the duties under the Code.

S. 86(6) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (6) In order to carry out work under subsection (5) an officer, employee or agent of the relevant distribution company may at any reasonable time and upon production of a certificate issued by Energy Safe Victoria or the relevant distribution company enter onto and remain on any land where that work is to be carried out for as long as is necessary for the carrying out of the work.
- (7) The relevant distribution company may recover the costs of carrying out any work under subsection (5) from the responsible person.

S. 86(8) amended by No. 2/2014 s. 8(2)(a).

- (8) Despite the provisions of any other Act, if the relevant distribution company is the responsible person under section 84, the relevant distribution company is not required to obtain any permit under any other Act in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is carried out in accordance with the Code.

S. 86(8A) inserted by No. 59/2011 s. 14(2), amended by No. 2/2014 s. 8(2)(b).

- (8A) Despite the provisions of any other Act, if a transmission company is the responsible person under section 84D, the relevant transmission company is not required to obtain any permit under any other Act in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is carried out in accordance with the Code.

S. 86(9) amended by No. 2/2014 s. 8(2)(c).

- (9) Despite the provisions of—

- (a) section 77 of the **Forests Act 1958**; or

S. 86(9)(b) amended by No. 6/2010 s. 203(1)(Sch. 6 item 16.2) (as amended by No. 45/2010 s. 22).

- (b) section 56(2)(l) of the **Transport (Compliance and Miscellaneous) Act 1983**; or

- (c) regulations made under or having effect as if made under either of those sections—

it is not necessary for a responsible person under section 84, 84C or 84D to obtain the authority or permission of the Secretary to the Department of Natural Resources and Environment or the Roads Corporation in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is required under Subdivision 1 or under a notice under this section.

S. 86(9A) inserted by No. 12/2004 s. 171, amended by No. 2/2014 s. 8(2)(d).

- (9A) Despite section 63 of the **Road Management Act 2004**, it is not necessary for a responsible person under section 84, 84C or 84D to obtain the written consent of the coordinating road authority under the **Road Management Act 2004** in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is required under Subdivision 1 or under a notice under this section.

S. 86(10) amended by No. 62/2001 s. 75.

- (10) The relevant distribution company, in exercising a power under this section, must comply with any code applying in relation to the exercise of that power issued by the Essential Services Commission under the **Essential Services Commission Act 2001**.

S. 86(10A) inserted by No. 89/1998 s. 14(2), amended by No. 61/2007 s. 12(3).



(10A) Despite anything to the contrary in this section, subsection (1) does not empower the relevant distribution company to give a notice under that subsection to a transmission company or to the operator of a railway.

(11) A person must not contravene or fail to comply with this section.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 86A inserted by No. 55/2010 s. 18.

**86A Energy Safe Victoria may give directions for restriction or prevention of tree growth**

(1) If Energy Safe Victoria is satisfied that it is necessary to do so in order to prevent future unsafe electrical situations, Energy Safe Victoria may, in writing, direct a specified person—

- (a) to restrict or cease the planting of specified trees or species or classes of tree in the immediate area around an electric line; or
- (b) to clear specified trees or species or classes of tree from the immediate area around an electric line; or
- (c) to do any other thing necessary to minimise or prevent growth of specified trees or species or classes of tree in the immediate area around an electric line.

(2) A direction under subsection (1) must be reasonable.

(3) In this section, *specified person* means the owner or occupier of land in the area of an electric line or the relevant distribution company or relevant transmission company that owns or operates the electric line.

(4) A specified person must comply with a direction under subsection (1) that applies to the specified person.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

## **Division 2A—Electric lines and municipal fire prevention plans**

S. 86B inserted by No. 55/2010 s. 19, amended by No. 2/2014 s. 9.

### **86B Municipal fire prevention plans must specify procedures for the identification of trees that are hazardous to electric lines**

Without limiting section 55A of the **Country Fire Authority Act 1958**, a Council must, in a municipal fire prevention plan required to be prepared and maintained under that section, specify—

- (a) procedures and criteria for the identification of trees that are likely to fall onto, or come into contact with, an electric line (*hazard trees*); and
- (b) procedures for the notification of responsible persons of trees that are hazard trees in relation to electric lines for which they are responsible.

## **Division 3—Electric Line Clearance Consultative Committee**

### **87 Constitution of Committee**

S. 87(1) amended by No. 38/2000 s. 24(e).

- (1) There shall be an Electric Line Clearance Consultative Committee.
- (2) The Committee shall be constituted by 13 members to be appointed by the Minister.
- (3) The Minister must appoint one of the members of the Committee to be the chairperson.
- (4) A member shall be appointed for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.
- (5) The Committee is to be constituted by—

S. 87(5)(a) amended by No. 6/2010 s. 203(1)(Sch. 6 item 16.3) (as amended by No. 45/2010 s. 22).

- (a) an officer or employee of the Roads Corporation, nominated by the Minister administering the **Transport Integration Act 2010**; and
- (b) an officer or employee of the Country Fire Authority, nominated by the Minister administering the **Country Fire Authority Act 1958**; and
- (c) 3 persons selected by the Minister from nominations given to the Minister by the distribution companies; and
- (d) a person selected by the Minister from nominations given to the Minister by the transmission companies; and

S. 87(5)(e) amended by Nos 25/2004 s. 23, 70/2013 s. 4(Sch. 2 item 16).

- (e) an officer or employee in the Department of Environment and Primary Industries, nominated by the Minister administering the **Forests Act 1958**; and

S. 87(5)(f) amended by No. 55/2010 s. 21(1).

- (f) 5 other members to be appointed from interested persons after the advertisement of the positions by the Minister including—
  - (i) a member with skills in land management and nature conservation nominated by the Minister administering the **Forests Act 1958**; and
  - (ii) 2 persons each of whom is a private land owner or a person representing the interests of private land owners nominated by the Minister administering the **Dairy Industry Act 1992**; and
  - (iii) a person representing the interests of Local Government; and

S. 87(5)(f)(iv) amended by No. 55/2010 s. 21(2).

- (iv) a person with environmental or planning expertise nominated by the Minister administering the **Planning and Environment Act 1987**; and

S. 87(5)(g) inserted by No. 55/2010 s. 21(3).

- (g) an officer or employee of Energy Safe Victoria nominated by the Minister administering the **Energy Safe Victoria Act 2005**.

- (6) The Minister must determine the remuneration (if any) and the travelling and other allowances of members and any other terms and conditions of appointment of members.
- (7) If the chairperson is not present at the time fixed for the commencement of a meeting of the committee, the members present must elect one of their number as acting chairperson to preside at that meeting.

S. 87(8) amended by No. 38/2000 s. 24(f).

- (8) The Electric Line Clearance Consultative Committee is the same body as the Powerline Clearance Consultative Committee existing under the **State Electricity Commission Act 1958** immediately before the commencement of this section despite any change in its membership.

## **88 Functions of the Committee**

The Electric Line Clearance Consultative Committee must—

S. 88(a) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (a) provide advice to Energy Safe Victoria with regard to the preparation and maintenance of the Code;

S. 88(b) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (b) provide advice on any matter relating to the clearance of electric lines when requested so to do by Energy Safe Victoria or the Minister;
- (c) report before 30 September in each year to the Minister on the performance of its functions.

S. 88A inserted by No. 55/2010 s. 22.

### **88A Committee to consider reliability and security of electricity supply**

In performing its functions under section 88, the Electric Line Clearance Consultative Committee may have regard to the reliability and security of electricity supply.

## **89 Procedure for Code**

S. 89(1) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (1) Energy Safe Victoria must, before the Governor in Council makes regulations prescribing the Code of Practice or amending or varying the Code—
  - (a) refer to the Committee all matters with respect to the contents of those regulations; and

- (b) make a draft of those regulations available to the public for comment for a period of 90 days; and

S. 89(1)(c) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (c) consider any comments on the draft made to Energy Safe Victoria during that period.

- (2) There shall at all times be in force regulations prescribing the Code but no such regulations shall continue in force for more than 5 years after the date of their coming into operation.
- (3) The regulations must prescribe the provisions of the Code that are, for the purposes of section 90, penalty provisions.
- (4) A regulation shall not be invalidated or affected by reason only of a failure to comply with subsection (1) with respect to that regulation.

S. 89(5) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (5) Energy Safe Victoria must cause the Code to be published in the Government Gazette.

## **90 Offences against Code**

A person must not contravene or fail to comply with a prescribed provision of the Code.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

Pt 8 Div. 4 (Heading and ss 90A–90C) inserted by No. 55/2010 s. 20, substituted as Pt 8 Div. 4 (Heading and ss 90A, 90B) by No. 59/2011 s. 15.

## **Division 4—Compliance audits in relation to compliance with the Code**

S. 90A substituted by No. 59/2011 s. 15.

### **90A Compliance audits in relation to compliance with Code— Energy Safe Victoria**

- (1) Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a

responsible person is satisfactorily complying with the Code.

S. 90A(2) repealed by No. 2/2014 s. 8(3).

\* \* \* \* \*

S. 90B substituted by No. 59/2011 s. 15.

**90B Compliance audits in relation to compliance with Code—  
independent audits**

- (1) Energy Safe Victoria may require a responsible person  
—
  - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the person's compliance with the Code; and
  - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The responsible person must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the responsible person to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a responsible person to obtain an independent audit under this section, the costs of that audit must be borne by the responsible person.
- (4) A responsible person must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

S. 90B(5) amended by No. 2/2014 s. 8(4).

- (5) In this section, *responsible person* means a person referred to in section 84, 84C or 84D.

Pt 8 Div. 5 (Heading and ss 90C–90E) inserted by No. 59/2011 s. 15.

**Division 5—Compliance audits in relation to compliance  
with the management plan**

S. 90C substituted by No. 59/2011 s. 15.

**90C Application**

- (1) This Division applies to a responsible person who is required by the regulations to prepare a management plan relating to compliance with the Code.

S. 90C(2) amended by No. 2/2014 s. 8(4).

- (2) In subsection (1) *responsible person* means a person referred to in section 84, 84C or 84D.

S. 90D inserted by No. 59/2011 s. 15.

#### **90D Compliance audits for management plans—Energy Safe Victoria**

Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a responsible person is satisfactorily complying with the management plan.

S. 90E inserted by No. 59/2011 s. 15.

#### **90E Compliance audits for management plans—*independent audits***

- (1) Energy Safe Victoria may require a responsible person —
  - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the person's compliance with the management plan; and
  - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The responsible person must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the responsible person and the management plan to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a responsible person to obtain an independent audit under this section, the costs of that audit must be borne by the responsible person.
- (4) A responsible person must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

## Part 9—Cathodic protection and mitigation of stray current corrosion

### 91 Victorian Electrolysis Committee

- (1) There is established a committee to be called the Victorian Electrolysis Committee.

S. 91(2) amended by No. 61/2007 s. 16(1).

- (2) The Committee shall be constituted by 8 members to be appointed by the Minister.
- (3) The Minister must appoint one of the members of the Committee to be the chairperson.
- (4) A member shall be appointed for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.
- (5) The Committee is to be constituted by—

S. 91(5)(a) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (a) a person nominated by Energy Safe Victoria;

S. 91(5)(b) substituted by No. 61/2007 s. 16(2), amended by No. 6/2010 s. 203(1)(Sch. 6 item 16.4) (as amended by No. 45/2010 s. 22).

- (b) a person representing the interests of train operators nominated by the Minister administering the **Transport (Compliance and Miscellaneous) Act 1983**;

S. 91(5)(ba) inserted by No. 61/2007 s. 16(2), amended by No. 6/2010 s. 203(1)(Sch. 6 item 16.5) (as amended by No. 45/2010 s. 22).

- (ba) a person representing the interests of tram operators nominated by the Minister administering the **Transport (Compliance and Miscellaneous) Act 1983**;
- (c) a person selected by the Minister from nominations given to the Minister by the distribution companies;



- (d) a person selected by the Minister administering the **Water Industry Act 1994** from nominations given to the Minister by the water companies within the meaning of that Act;

S. 91(5)(e) amended by No. 32/2001 s. 29.

- (e) a person nominated by the Minister administering the **Gas Safety Act 1997**;
  - (f) a person selected by the Minister from nominations given to the Minister by the carriers under the Telecommunications Act 1997 of the Commonwealth;
  - (g) a person nominated by the Australian Institute of Petroleum Ltd.
- (6) The Minister must determine the remuneration (if any) and the travelling and other allowances of members and any other terms and conditions of appointment of members.
  - (7) If the chairperson is not present at the time fixed for the commencement of a meeting of the Committee, the members present must elect one of their number as acting chairperson to preside at that meeting.
  - (8) Each member of the Committee, with the consent of the Minister, may nominate an alternate member.

- (9) An alternate member may act in place of the member for whom he or she is the alternate member if the member is unable to attend a meeting of the Committee.
- (10) An alternate member has all the functions of the member when acting in the place of that member.

## **92 Functions of the Committee**

The Victorian Electrolysis Committee must—

- (a) establish and maintain standards for systems for cathodic protection and for the mitigation of stray current corrosion; and

S. 92(b) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (b) provide advice to Energy Safe Victoria on any matter related to electrolysis and the regulations

relating to the cathodic protection and to the mitigation of stray current corrosion, when requested to do so by Energy Safe Victoria; and

- (c) encourage the development of new methods and technology to increase the efficiency of systems for the mitigation of stray current corrosion.

S. 93 amended by No. 39/2005 s. 48(Sch. 1 item 2), substituted by No. 25/2008 s. 6.

### **93 Operation of cathodic protection systems**

- (1) The owner of a cathodic protection system must not operate or allow another person to operate that system unless it is registered by Energy Safe Victoria in accordance with the regulations.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

- (2) The owner of a cathodic protection system must ensure that the system is operated in accordance with—
  - (a) this Act and the regulations; and
  - (b) any conditions to which the registration is subject.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 93A inserted by No. 25/2008 s. 6.

### **93A Evidentiary provision—operation of cathodic protection systems**

- (1) This section applies if—
  - (a) the person operating a cathodic protection system is not the owner of that system; and
  - (b) that person is operating that system under the authority or with the consent of the owner of that system.
- (2) The owner of a cathodic protection system is not guilty of an offence under section 93(2) if the owner reasonably believed that the system was operated by the person in accordance with—
  - (a) this Act and the regulations; and
  - (b) any conditions to which the registration is subject.

S. 94 (Heading) inserted by No. 61/2007 s. 12(4)(a).

S. 94 amended by No. 61/2007 s. 12(4)(b)(c).

#### **94 Railway operator—duty in relation to stray electrical current leakage**

A person who is the operator of a railway must ensure that that railway is designed, installed, operated and maintained in such a manner as to minimise the risks to safety of any person and the risks of damage to property arising from the leakage of stray electrical currents from that railway.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

#### **95 Mitigation systems**

S. 95(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) If, in the opinion of Energy Safe Victoria, a system is required to be installed to mitigate the effects of stray current corrosion, Energy Safe Victoria may, by notice in writing, direct any person whose assets are the cause of or are affected by the stray current corrosion to take action to install, operate and maintain a mitigation system in the manner specified in the direction and in accordance with the regulations.

A person to whom a notice is given under this section must comply with the directions in the notice.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 96 (Heading) inserted by No. 39/2005 s. 48(Sch. 1 item 8).

#### **96 Directions of Energy Safe Victoria**

S. 96(1) amended by No. 39/2005 s. 48(Sch. 1 items 1, 2).

- (1) Energy Safe Victoria from time to time by notice in writing may require a person who is the operator of a cathodic protection system or mitigation system to carry out such tests of the system and such modifications to or replacement of the system as Energy Safe Victoria directs.
- (2) A person to whom a notice is given under this section must comply with the directions in the notice.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

### **97 Costs in relation to mitigation systems**

S. 97(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) If a person is required under this Act or the regulations to carry out any action in relation to a mitigation system, Energy Safe Victoria may require the person to contribute to the cost of that action an amount or amounts determined by Energy Safe Victoria after consultation with the Victorian Electrolysis Committee.

S. 97(2) amended by No. 39/2005 s. 48(Sch. 1 items 1, 2).

- (2) Energy Safe Victoria may require a person or body whose assets are affected by any action carried out under this Act or the regulations in relation to a mitigation system to contribute to the cost of that action an amount or amounts determined by Energy Safe Victoria after consultation with the Victorian Electrolysis Committee.

S. 97(3) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (3) If a person is required under this Act or the regulations to carry out any action in relation to a mitigation system, Energy Safe Victoria, after consultation with the Victorian Electrolysis Committee, may carry out that action on behalf of that person.

S. 97(4) amended by No. 39/2005 s. 48(Sch. 1 item 9).

- (4) Subject to subsection (2), if Energy Safe Victoria carries out an action under subsection (3) it may recover the costs of that action from the person who is required to carry out that action.

S. 97(5) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (5) Any amount determined under subsection (1), (2) or (4) may be recovered by Energy Safe Victoria in any court

of competent jurisdiction as a debt due to Energy Safe Victoria.

- (6) In this section *action*, in relation to a mitigation system, means installation, testing, modification, maintenance or replacement.

Pt 10 (Headings and ss 98–120) amended by Nos 89/1998 ss 15–21, 38/2000 s. 20, 13/2001 s. 12, 25/2004 s. 22, 33/2005 s. 3(2), 39/2005 s. 48(Sch. 1 items 1, 2, 10–12), 29/2006 s. 3(Sch. 1 item 10), substituted as Pt 10 (Headings and ss 98–120J) by No. 61/2007 s. 7 (as amended by Nos 25/2008 s. 20, 57/2009 s. 16).

## Part 10—Electricity safety management

Pt 10 Div. 1AA (Heading and s. 98AA) inserted by No. 55/2010 s. 23, repealed by No. 59/2011 s. 3.

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### Division 1—General duty of major electricity companies

S. 98 substituted by No. 61/2007 s. 7.

#### 98 General duty of major electricity companies

A major electricity company must design, construct, operate, maintain and decommission its supply network to minimise as far as practicable—

- (a) the hazards and risks to the safety of any person arising from the supply network; and

S. 98(b) amended by No. 55/2010 s. 24(1).

- (b) the hazards and risks of damage to the property of any person arising from the supply network; and

S. 98(c) inserted by No. 55/2010 s. 24(2), substituted by No. 59/2011 s. 4.

- (c) the bushfire danger arising from the supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

## **Division 2—Mandatory electricity safety management schemes (major electricity companies)**

S. 99 substituted by No. 61/2007 s. 7.

### **99 Electricity safety management scheme**

- (1) A major electricity company must submit an electricity safety management scheme to Energy Safe Victoria for each of its supply networks in accordance with this section.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (2) An electricity safety management scheme for a supply network must—
  - (a) be in writing; and
  - (b) in accordance with the regulations, specify the safety management system being followed or to be followed by the major electricity company—
    - (i) to comply with the major electricity company's duties under Division 1; and
    - (ii) in relation to any other matters relating to the safe design, construction, operation, maintenance and decommissioning of the supply network that are prescribed.

S. 99(2A) inserted by No. 55/2010 s. 25, amended by No. 59/2011 s. 5.

- (2A) Without limiting subsection (2)(b), an electricity safety management scheme must include a plan for the mitigation of bushfire danger in relation to the major electricity company's supply network.
- (3) The electricity safety management scheme for a supply network which is in operation immediately before the commencement of this section must be submitted within 12 months after that commencement.

- (4) The electricity safety management scheme for any other supply network must be submitted to Energy Safe Victoria before the major electricity company commences to commission, or operate, that supply network.
- (5) An electricity safety management scheme may apply to more than one supply network.
- (6) An electricity safety management scheme that is submitted under this section must be accompanied by the prescribed fee.

S. 100 substituted by No. 61/2007 s. 7.

### **100 Validation of electricity safety management scheme for a supply network**

- (1) If an electricity safety management scheme has been submitted for a supply network, Energy Safe Victoria may require the major electricity company to obtain an independent validation of that electricity safety management scheme or any part of that electricity safety management scheme.
- (2) Energy Safe Victoria may require the validation to assess the design, construction, operation, maintenance and decommissioning of the supply network or any part of the supply network or all or any of those matters to determine if the supply network or part of the supply network will be fit for the purpose.
- (3) The major electricity company must establish to the satisfaction of Energy Safe Victoria that each person undertaking the validation of a matter has the necessary competence and ability and access to information on the matter to arrive at an independent opinion on the matter.
- (4) If Energy Safe Victoria requires a major electricity company to provide an independent validation of an electricity safety management scheme or part of an electricity safety management scheme, the costs of that validation must be borne by the major electricity company.
- (5) Energy Safe Victoria is not required to proceed with the consideration of an electricity safety management scheme until the independent validation is provided.

S. 101 substituted by No. 61/2007 s. 7.

### **101 Additional information**

- (1) Energy Safe Victoria may require a major electricity company to provide any additional information that Energy Safe Victoria thinks fit in relation to an



electricity safety management scheme submitted by the major electricity company under this Division.

- (2) Energy Safe Victoria is not required to proceed with the consideration of an electricity safety management scheme until the additional information is provided.

S. 102 substituted by No. 61/2007 s. 7.

### **102 Acceptance of electricity safety management scheme**

- (1) Energy Safe Victoria must consider an electricity safety management scheme submitted under this Division with as much expedition as the requirements of this Act and the regulations and the proper consideration of the electricity safety management scheme permit.
- (2) Energy Safe Victoria must accept an electricity safety management scheme submitted under this Division if it is satisfied that the electricity safety management scheme is appropriate for the supply network to which it applies and complies with this Act and the regulations relating to electricity safety management schemes.
- (3) Energy Safe Victoria must notify the major electricity company in writing of its decision to accept an electricity safety management scheme.

S. 103 substituted by No. 61/2007 s. 7.

### **103 Provisional acceptance of electricity safety management scheme**

- (1) Energy Safe Victoria may provisionally accept an electricity safety management scheme if it is satisfied that it will provide for the safe operation of the supply network.
- (2) Energy Safe Victoria must notify the major electricity company in writing of its decision to provisionally accept an electricity safety management scheme.
- (3) The notice of acceptance must state—
  - (a) the period that the provisional acceptance will be in force; and
  - (b) the extent to which the electricity safety management scheme has been accepted; and
  - (c) any limitations or conditions which will apply in respect of the design, construction, operation, maintenance or decommissioning of the supply network while the provisional acceptance is in force.

**104 Non-acceptance of electricity safety management scheme**

- (1) If Energy Safe Victoria does not accept or provisionally accept an electricity safety management scheme it must —
  - (a) notify the major electricity company in writing of the non-acceptance; and
  - (b) give the major electricity company an opportunity to modify and re-submit the electricity safety management scheme.
- (2) A modified electricity safety management scheme must be submitted to Energy Safe Victoria within 28 days after the notice is given under subsection (1).
- (3) If, after considering any modified electricity safety management scheme submitted under this section, Energy Safe Victoria decides not to accept an electricity safety management scheme, Energy Safe Victoria must give notice in writing of that decision to the major electricity company.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

**105 Energy Safe Victoria may determine electricity safety management scheme**

- (1) Energy Safe Victoria may determine the electricity safety management scheme which is to apply in respect of a supply network which is in operation at the time of the determination if—
  - (a) the major electricity company fails to submit an electricity safety management scheme for the supply network in accordance with this Division;  
or
  - (b) Energy Safe Victoria has decided not to accept an electricity safety management scheme for the supply network.
- (2) If Energy Safe Victoria determines the electricity safety management scheme to apply to a supply network under this section, Energy Safe Victoria must give notice in writing to the major electricity company of that determination.
- (3) On notice being given to the major electricity company under subsection (2), the electricity safety management

scheme determined by Energy Safe Victoria is deemed for the purposes of this Act to be the accepted ESMS for the supply network to which it applies.

- (4) Nothing in subsection (3) prevents a major electricity company from submitting an electricity safety management scheme or a revised electricity safety management scheme for a supply network to Energy Safe Victoria for acceptance under this Division.

S. 105A inserted by No. 55/2010 s. 26, amended by No. 59/2011 s. 6, repealed by No. 2/2014 s. 10.

\* \* \* \* \*

S. 106 substituted by No. 61/2007 s. 7.

## **106 Compliance with electricity safety management scheme**

- (1) A major electricity company must not commence to commission, or operate, a supply network unless an electricity safety management scheme for that supply network has been accepted or provisionally accepted under this Division.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (2) A major electricity company must comply with the accepted ESMS for a supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (3) A major electricity company must comply with the accepted ESMS for a supply network in relation to the removal, dismantling or decommissioning of the supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (4) A major electricity company must not—
- (a) undertake or permit a modification of a supply network that has the potential to significantly increase the overall levels of risk to the safety of any person or property arising from the supply network; or
  - (b) undertake or permit a modification of a supply network that has the potential to significantly influence the level of specific risk to the safety of any person or property arising from the supply network or the ranking of risk contributing factors; or
  - (c) make or permit a significant change to the safety management system in relation to the supply network—

unless Energy Safe Victoria has accepted a revision of the accepted ESMS in relation to that matter for that supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

S. 107 substituted by No. 61/2007 s. 7.

#### **107 Revision of electricity safety management scheme— change**

A major electricity company must submit a revised electricity safety management scheme to Energy Safe Victoria if—

- (a) developments in technical knowledge or the assessment of hazards relevant to the supply network make it appropriate to revise the accepted ESMS; or
- (b) a proposed modification to the supply network will result in a significant increase in the overall level of risk to the safety of any person or property arising from the supply network; or
- (c) a proposed modification to the work practices covered by the accepted ESMS will result in a significant increase in the overall levels of risk to the safety of any person or property arising from the supply network; or
- (d) the major electricity company proposes to make a significant change to the accepted ESMS.

S. 108 substituted by No. 61/2007 s. 7.

**108 Revision of electricity safety management scheme—each 5 years**

A major electricity company must submit a revised electricity safety management scheme to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

- (a) the date when the accepted ESMS is first accepted; or
- (b) the date of the most recent acceptance of a revision of the accepted ESMS submitted under this Division.

In the case of a natural person, 80 penalty units;

In the case of a body corporate, 400 penalty units.

S. 109 substituted by No. 61/2007 s. 7.

**109 Energy Safe Victoria may request submission of a revised electricity safety management scheme**

- (1) Energy Safe Victoria may at any time request a major electricity company to submit a revised electricity safety management scheme for a supply network of the major electricity company.
- (2) The request must—
  - (a) be in writing; and
  - (b) set out—
    - (i) the matters to be addressed by the required revision; and
    - (ii) the proposed date of effect of the revision; and
    - (iii) the grounds for the request.
- (3) The major electricity company to whom the request is given may make a submission to Energy Safe Victoria on all or any of the following grounds—
  - (a) that the revision should not occur;
  - (b) that the revision should be in different terms from the proposed terms;
  - (c) that the revision should take effect on a later date than the proposed date of effect.

- (4) The submission must—
- (a) be in writing; and
  - (b) state the major electricity company's reasons for the submission; and
  - (c) be made within 21 days, or such later period as Energy Safe Victoria allows, after the request is received.
- (5) If a major electricity company makes a submission under this section, Energy Safe Victoria must decide—
- (a) to accept the submission or part of the submission and vary or withdraw the request accordingly; or
  - (b) to reject the submission.
- (6) Energy Safe Victoria must give the major electricity company notice in writing of its decision on the submission and the reasons for that decision.

S. 110 substituted by No. 61/2007 s. 7.

**110 Offence to fail to submit revised electricity safety management scheme on request**

If Energy Safe Victoria requests the revision of an electricity safety management scheme in accordance with section 109, the major electricity company must submit a revised electricity safety management scheme for a supply network to Energy Safe Victoria—

- (a) if the major electricity company does not make a submission under that section, within the time (being not less than 60 days) specified by Energy Safe Victoria in the request; or
- (b) if the major electricity company has made a submission under that section and Energy Safe Victoria has not withdrawn the request, within the time (being not less than 60 days) specified by Energy Safe Victoria in the decision on the submission.

In the case of a natural person, 80 penalty units;

In the case of a body corporate, 400 penalty units.

S. 111 substituted by No. 61/2007 s. 7.

**111 Application of provisions to revised electricity safety management scheme**

Sections 100 to 105 apply to the revision of an electricity safety management scheme in the same

manner as they apply to an electricity safety management scheme.

S. 112 substituted by No. 61/2007 s. 7, repealed by No. 55/2010 s. 28, new s. 112 inserted by No. 2/2014 s. 11.

## **112 Revisions that do not relate to bushfire mitigation**

(1) This section applies if—

- (a) a major electricity company is required, or has been requested, to submit a revised electricity safety management scheme to Energy Safe Victoria under section 107 or 109; and
  
- (b) the matter giving rise to that requirement or forming the basis of the request does not relate to that part of the scheme that is an accepted bushfire mitigation plan.

### **Note**

See also section 113D(1).

(2) Despite anything to the contrary in this Division or Division 2A, the company is not required to submit to Energy Safe Victoria a revised bushfire mitigation plan as part of the revised electricity safety management scheme.

S. 113 substituted by No. 61/2007 s. 7.

## **113 Compliance with electricity safety management scheme is a defence**

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in Division 1 if the person has complied with the accepted ESMS in relation to that duty or obligation.

Pt 10 Div. 2A (Heading) amended by No. 18/2017 s. 6.

Pt 10 Div. 2A (Heading and ss 113A–113F) inserted by No. 55/2010 s. 27.

## **Division 2A—Ongoing bushfire mitigation plan requirements for major electricity companies**

S. 113A inserted by No. 55/2010 s. 27.

## **113A Submission of bushfire mitigation plans for acceptance**

S. 113A(1) amended by No. 59/2011 s. 7, substituted by No. 2/2014 s. 12(1).

(1) A major electricity company must prepare and submit to Energy Safe Victoria, for acceptance under this Division, a plan for the company's proposals for mitigation of bushfire in relation to the company's supply network at the end of each period of 5 years commencing on the later of—

- (a) the date when the accepted bushfire mitigation plan is first accepted under this Division; or
- (b) the date of the most recent acceptance of a revision of the accepted bushfire mitigation plan submitted under this Division.

Penalty: In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

(2) A bushfire mitigation plan under subsection (1)—

- (a) must be in or to the effect of a form approved by Energy Safe Victoria; and
- (b) must include the prescribed particulars.

S. 113A(3) amended by No. 2/2014 s. 12(2).

(3) A major electricity company must cause the prescribed information about its accepted bushfire mitigation plan to be made available for inspection—

- (a) on the company's Internet site; and
- (b) at the company's principal office in the State during ordinary business hours.

In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty units.

S. 113B inserted by No. 55/2010 s. 27.

## **113B Compliance with bushfire mitigation plan**

S. 113B(1) amended by No. 59/2011 s. 8(1).



- (1) During the specified bushfire risk period, a major electricity company must not commence to commission, or operate, a supply network unless a bushfire mitigation plan that applies to the company's supply network has been accepted or provisionally accepted under this Division.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

S. 113B(2) amended by No. 59/2011 s. 8(1).

- (2) A major electricity company must comply with an accepted bushfire mitigation plan that applies to the company's supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

- (3) Subsection (1) does not apply to a major electricity company that has a reasonable excuse.
- (4) For the purposes of subsection (1), it is a reasonable excuse for a major electricity company not to comply with subsection (1) if—

S. 113B(4)(a) amended by No. 59/2011 s. 8(3).

- (a) there is no accepted bushfire mitigation plan that applies to the company's supply network; and

S. 113B(4)(b) amended by No. 59/2011 s. 8(3).

- (b) the reason for there being no accepted bushfire mitigation plan that applies to the company's supply network is that—

- (i) Energy Safe Victoria failed to accept the company's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria; and
- (ii) that failure arose because of unreasonable delay on Energy Safe Victoria's part.

- (5) For the purposes of subsection (1), it is not a reasonable excuse for a major electricity company not to comply with subsection (1) if—

S. 113B(5)(a) amended by No. 59/2011 s. 8(3).

- (a) there is no accepted bushfire mitigation plan that applies to the company's supply network; and

S. 113B(5)(b) amended by No. 59/2011 s. 8(3).

- (b) the reason for there being no accepted bushfire mitigation plan that applies to the company's supply network is that—
  - (i) Energy Safe Victoria failed to accept the company's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria and that failure arose because of actions or inactions of the company that hampered the ability of Energy Safe Victoria to make a decision whether to accept that plan by 31 October; or
  - (ii) Energy Safe Victoria has not accepted a plan under section 83BG (as applied and modified by section 113C).
- (6) Subsections (4) and (5) do not limit what may constitute a reasonable excuse.

S. 113C inserted by No. 55/2010 s. 27.

### **113C Validation, acceptance, provisional acceptance and determination of bushfire mitigation plans**

Sections 83BC to 83BH apply to the validation, or acceptance, provisional acceptance or non-acceptance or determination by Energy Safe Victoria, of a bushfire mitigation plan under this Division—

- (a) as if—
  - (i) a reference to a specified operator were a reference to a major electricity company; and
  - (ii) a reference to an at-risk electric line were a reference to a supply network; and
  - (iii) a reference to a bushfire mitigation plan were a reference to a bushfire mitigation plan submitted under this Division; and
  - (iv) a reference to an accepted bushfire mitigation plan were a reference to an accepted bushfire mitigation plan accepted or provisionally accepted under this Division; and
- (b) with any other modifications that are necessary.

S. 113D inserted by No. 55/2010 s. 27.

### **113D Accepted bushfire mitigation plan forms part of accepted ESMS**

S. 113D(1) amended by No. 59/2011 s. 10.

- (1) An accepted bushfire mitigation plan applying to a major electricity company's supply network is taken to form part of the major electricity company's accepted ESMS.

S. 113D(2) amended by No. 2/2014 s. 13.

- (2) However, despite anything to the contrary in Division 2, sections 106 and 108 do not apply to that part of an accepted ESMS that is constituted by an accepted bushfire mitigation plan.
- (3) In addition, to avoid doubt, an acceptance, provisional acceptance or determination of a bushfire mitigation plan under this Division is not a revision of an accepted ESMS for the purposes of section 108.

S. 113E inserted by No. 55/2010 s. 27, substituted by No. 2/2014 s. 14.

### **113E Revisions that only relate to bushfire mitigation**

- (1) This section applies if a major electricity company is required, or has been requested, to submit a revised bushfire mitigation plan to Energy Safe Victoria under section 107 or 109.

#### **Note**

See also section 113D(1) and (2).

- (2) Despite anything to the contrary in Division 2 or this Division, the company is only required to submit that revised plan.

S. 113F inserted by No. 55/2010 s. 27.

### **113F Inspection of overhead private electric lines**

- (1) A major electricity company that has a distribution area must cause an inspection to be carried out at such times as are prescribed, and in accordance with the prescribed standards (if any), of private electric lines that are above the surface of land within its distribution area, other than any prescribed parts of those lines.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

- (2) A major electricity company must give to the occupier of land above which there is a private electric line notice in the prescribed form (if any) during the prescribed period (if any) before an inspection under subsection (1) is carried out.

- (3) A major electricity company may, for the purpose of an inspection under this section, enter onto land at any reasonable time for the purposes of inspecting a private electric line under this section and remain on the land for so long as is necessary to inspect the line.
- (4) If an inspection carried out under this section reveals that maintenance is required on a private electric line above land, the major electricity company must give the owner of the land written notice of the maintenance required.

### **Division 3—Voluntary electricity safety management schemes**

S. 114 substituted by No. 61/2007 s. 7.

#### **114 Electricity safety management scheme for employers of electrical workers**

- (1) Energy Safe Victoria may permit a person who is an employer of electrical workers to submit an electricity safety management scheme in respect of electrical work carried out by those workers for that person.
- (2) An electricity safety management scheme submitted under this section must—
  - (a) be in writing; and
  - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safety of electrical work to which the electricity safety management scheme applies; and
  - (c) be accompanied by the relevant prescribed application fee.
- (3) Sections 100 to 104 apply to an electricity safety management scheme under this section—
  - (a) as if—
    - (i) a reference to a supply network were a reference to electrical work carried out by electrical workers; and
    - (ii) a reference to a major electricity company were a reference to the employer of the electrical workers carrying out electrical work; and
    - (iii) a reference to the design, construction, operation, maintenance and

decommissioning of the supply network were a reference to the carrying out of electrical work by electrical workers; and

(iv) a reference to the safe operation of the supply network were a reference to the safe carrying out of electrical work by electrical workers; and

(b) with any other alterations or modifications that are necessary.

S. 115 substituted by No. 61/2007 s. 7.

### **115 Electricity safety management scheme for specified premises**

- (1) Energy Safe Victoria may permit a person who is the occupier of specified premises to submit an electricity safety management scheme in respect of electrical work carried out at those premises by electrical workers employed or engaged by that person.
- (2) An electricity safety management scheme submitted under this section must—
  - (a) be in writing; and
  - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the electrical work to which the electricity safety management scheme applies; and
  - (c) be accompanied by the relevant prescribed application fee.
- (3) Sections 100 to 104 apply to an electricity safety management scheme under this section—
  - (a) as if—
    - (i) a reference to a supply network were a reference to electrical work carried out at specified premises; and
    - (ii) a reference to a major electricity company were a reference to the occupier of the specified premises at which electrical work is carried out; and
    - (iii) a reference to the design, construction, operation, maintenance and decommissioning of the supply network were a reference to the carrying out of electrical work at the specified premises; and

(iv) a reference to the safe operation of the supply network were a reference to the safe carrying out of electrical work at the specified premises; and

(b) with any other alterations or modifications that are necessary.

S. 116 substituted by No. 61/2007 s. 7 (as amended by No. 57/2009 ss 16(1)–(3)).

## **116 Electricity safety management scheme for owner of complex electrical installation**

(1) Energy Safe Victoria may permit an owner of a complex electrical installation to submit an electricity safety management scheme in respect of the design, construction, operation, maintenance and decommissioning of the owner's complex electrical installation.

(2) An electricity safety management scheme submitted under this section must—

(a) be in writing; and

S. 116(2)(b) amended by No. 46/2014 s. 10(1).

(b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the complex electrical installation to which the electricity safety management scheme applies; and

(c) be accompanied by the relevant prescribed application fee.

S. 116(3) substituted by No. 46/2014 s. 10(2).

(3) Sections 100 to 104 apply to an electricity safety management scheme under this section—

(a) as if—

(i) any reference to a major electricity company were a reference to the owner of a complex electrical installation; and

(ii) any reference to a supply network were a reference to a complex electrical installation; and

(b) with any other alterations or modifications that are necessary.

S. 117 substituted by No. 61/2007 s. 7 (as amended by No. 25/2008 s. 20(a)).

## **117 Exemption from certain provisions of Act or regulations**

- (1) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 114, Energy Safe Victoria may exempt any person authorised under the accepted ESMS to carry out a class or type of electrical work from compliance with any of the regulations relating to the carrying out of that class or type of electrical work or from compliance with section 44(2), 45(1), (2) or (3) or 45A.
- (2) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 115, Energy Safe Victoria may exempt a person carrying out a specified class or type of electrical work on the specified premises to which the accepted ESMS applies from compliance with any of the regulations relating to the carrying out of that class or type of work or from compliance with section 44(2), 45(1), (2) or (3) or 45A.

S. 117(2A) inserted by No. 59/2011 s. 16.

- (2A) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 116, Energy Safe Victoria may exempt an owner of a complex electrical installation to which the accepted ESMS applies from compliance with any of the regulations relating to the operation, maintenance and decommissioning of the complex electrical installation or from compliance with section 44(2), 45(1), (2) or (3) or 45A.
- (3) If Energy Safe Victoria accepts an electricity safety management scheme submitted under this Division, Energy Safe Victoria may exempt the person from compliance with any of the regulations relating to the installation and operation of electrical installations or supply networks.

S. 118 substituted by No. 61/2007 s. 7 (as amended by No. 57/2009 s. 16(4)).

## **118 Compliance with electricity safety management scheme**

- (1) An employer of electrical workers must comply with an accepted ESMS that applies in respect of electrical work carried out by those workers for that person.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

- (2) A person who is an occupier of specified premises must comply with an accepted ESMS that applies in respect of electrical work carried out at the specified premises

occupied by that person by electrical workers employed or engaged by that person.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

- (3) An owner of a complex electrical installation must comply with an accepted ESMS that applies in respect of that owner's complex electrical installation.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 119 substituted by No. 61/2007 s. 7.

### **119 Revision of voluntary electricity safety management scheme—each 5 years**

A voluntary ESMS operator must submit a revised electricity safety management scheme to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

- (a) the date when the relevant electricity safety management scheme is first accepted; or
- (b) the date of the most recent acceptance of a revision of the electricity safety management scheme submitted under this section.

In the case of a natural person, 50 penalty units;

In the case of a body corporate, 250 penalty units.

S. 120 substituted by No. 61/2007 s. 7.

### **120 Revision of voluntary electricity safety management scheme—change**

A voluntary ESMS operator must submit a revised electricity safety management scheme to Energy Safe Victoria if—

- (a) developments in technical knowledge or the assessment of hazards make it appropriate to revise the electricity safety management scheme; or
- (b) a proposed modification to, as the case requires, the supply network or electrical installation will result in a significant increase in the overall levels of risk to the safety of any person or property arising from the supply network or electrical installation; or



- (c) a proposed change to the electrical work to which the electricity safety management scheme applies will result in a significant increase in the overall levels of risk to the safety of any person or property arising from electricity; or
- (d) the voluntary ESMS operator proposes to make a significant change to the accepted ESMS.

S. 120A inserted by No. 61/2007 s. 7 (as amended by No. 57/2009 s. 16(5)).

### **120A Energy Safe Victoria may request submission of revised electricity safety management scheme**

- (1) Energy Safe Victoria may at any time request a voluntary ESMS operator to submit a revised electricity safety management scheme for—
  - (a) in the case of an employer of electrical workers—electrical work carried out by those workers for that person; or
  - (b) in the case of an occupier of specified premises—electrical work carried out at the specified premises occupied by that person by electrical workers employed or engaged by that person; or
  - (c) in the case of an owner of a complex electrical installation—a complex electrical installation.
- (2) The request must—
  - (a) be in writing; and
  - (b) set out—
    - (i) the matters to be addressed by the required revision; and
    - (ii) the proposed date of effect of the revision; and
    - (iii) the grounds for the request.

S. 120B inserted by No. 61/2007 s. 7.

### **120B Compliance with request**

A voluntary ESMS operator must comply with a request under section 120A within the time (being not less than 60 days) specified by Energy Safe Victoria in the request.

In the case of a natural person, 80 penalty units;

In the case of a body corporate, 400 penalty units.

S. 120C inserted by No. 61/2007 s. 7 (as amended by No. 57/2009 ss 16(6)(7)).

## **120C Lapsing of electricity safety management scheme**

- (1) If a voluntary ESMS operator fails to comply with section 119, 120, 120A or 120H, Energy Safe Victoria, by notice in writing to the operator, may determine that the relevant accepted ESMS applying to, as the case requires—
  - (a) electrical work carried out by electrical workers employed or engaged by that operator; or

S. 120C(1)(b) amended by Nos 55/2010 s. 37(2), 43/2012 s. 3 (Sch. item 14).

- (b) a complex electrical installation—

has lapsed.

- (2) A voluntary ESMS operator may, by notice in writing to Energy Safe Victoria, withdraw an accepted ESMS applying to, as the case requires—
  - (a) the electrical work carried out by electrical workers employed or engaged by that operator; or
  - (b) the owner's complex electrical installation.
- (3) If an accepted ESMS has lapsed or been withdrawn, any exemption granted under section 117 in respect of that electricity safety management scheme lapses.

S. 120D inserted by No. 61/2007 s. 7.

## **120D Duty of employer of electrical workers**

An employer of electrical workers who carry out electrical work to which an accepted ESMS applies must manage the carrying out of that electrical work to minimise as far as practicable—

- (a) the hazards and risks to safety of any person arising from electricity; and
- (b) the hazards and risks to property arising from electricity.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 120E inserted by No. 61/2007 s. 7.

## **120E Duty of occupier of specified premises**

The occupier of specified premises at which electrical work is carried out, and to which an accepted ESMS applies, must manage the carrying out of that electrical

work at the specified premises to minimise as far as practicable—

- (a) the hazards and risks to safety of any person arising from electricity; and
- (b) the hazards and risks to property arising from electricity.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 120F inserted by No. 61/2007 s. 7 (as amended by No. 57/2009 ss 16(8)–(11)).

### **120F Duty of owner of complex electrical installation**

An owner of a complex electrical installation must, in respect of the complex electrical installation to which an accepted ESMS applies, manage that complex electrical installation to minimise as far as practicable—

- (a) hazards and risks to the safety of any person arising from the complex electrical installation; and
- (b) the hazards and risks of damage to property of any person arising from the complex electrical installation.

In the case of a natural person, 200 penalty units;

In the case of a body corporate,  
1000 penalty units.

S. 120G inserted by No. 61/2007 s. 7.

### **120G Compliance with electricity safety management scheme is a defence**

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in section 75 or this Division if the person has complied with the accepted ESMS in relation to that duty or obligation.

## **Division 4—Other matters**

S. 120H inserted by No. 61/2007 s. 7 (as amended by Nos 25/2008 s. 20(b), 57/2009 s. 16(12)).

### **120H Compliance audits—independent audits**

- (1) Energy Safe Victoria may require an accepted ESMS operator—

(a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the operator's compliance with the accepted ESMS that applies to, as the case requires—

(i) the electrical work carried out by electrical workers employed or engaged by that operator; or

S. 120H(1) (a)(ii) substituted by No. 55/2010 s. 29, amended by No. 59/2011 s. 11.

(ii) the operator's supply network or complex electrical installation; and

(b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.

(2) The accepted ESMS operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the accepted ESMS operator and the accepted ESMS to enable an independent audit to be carried out.

(3) If Energy Safe Victoria requires an accepted ESMS operator to obtain an independent audit under this section, the costs of that audit must be borne by the accepted ESMS operator.

(4) An accepted ESMS operator must comply with a requirement of Energy Safe Victoria under this section.

200 penalty units.

S. 120I inserted by No. 61/2007 s. 7 (as amended by No. 57/2009 s. 16(13)).

### **120I Compliance audits—Energy Safe Victoria**

Energy Safe Victoria may conduct, or cause to be conducted, an audit, to determine whether or not an accepted ESMS operator is satisfactorily complying with the accepted ESMS that applies to, as the case requires—

(a) the electrical work carried out by electrical workers employed or engaged by that operator; or

S. 120I(b) substituted by No. 55/2010 s. 30, amended by No. 59/2011 s. 12.

(b) the operator's supply network or complex electrical installation.

S. 120J inserted by No. 61/2007 s. 7.

### **120J Annual fees**

An accepted ESMS operator must pay the relevant prescribed annual administration fee in accordance with the regulations.

## **Part 10A—Additional bushfire mitigation requirements for major electricity companies**

### **Division 1—Preliminary**

S. 120K inserted by No. 18/2017 s. 4.

#### **120K Definitions**

In this Part—

*allocated substation points* means points that are prescribed in respect of a zone substation;

*Automatic Circuit Recloser* means a device in relation to a SWER line that—

- (a) may be remotely controlled; and
- (b) is able to automatically interrupt and reclose an electric circuit by means of a programmed sequence that involves one or more of the following—
  - (i) opening and reclosing the electric circuit;
  - (ii) resetting the electric circuit;
  - (iii) holding the electric circuit closed;
  - (iv) permanently interrupting the electric circuit;

*civil penalty provision* means section 120M, 120N, 120O, 120P or 120Q;

*complying substation* has the meaning given by section 120L;

*electric line construction area* means land delineated and shown on a prescribed plan;

*pecuniary penalty* means—

- (a) for a contravention of section 120M(1)—see section 120M(3)(a), (b) or (c);

- (b) for a contravention of section 120N(1) or (2)—see section 120N(3)(a) or (b);
- (c) for a contravention of section 120O(1)—see section 120O(2)(a) or (b);
- (d) for a contravention of section 120P(1)—see section 120P(3)(a) or (b);
- (e) for a contravention of section 120Q(1)—see section 120Q(4)(a) or (b);

***polyphase electric line*** means an electric line comprising more than one phase of electricity with a nominal voltage that is not less than 1 kV or greater than 22 kV;

***required capacity*** means the prescribed capacity in relation to a polyphase electric line in the event of a phase to ground fault;

***SWER line*** means a single wire earth return electric line;

***zone substation*** means a prescribed substation.

S. 120L inserted by No. 18/2017 s. 4.

#### **120L Meaning of *complying substation***

A zone substation is a ***complying substation*** if every polyphase electric line that originates from the substation has the required capacity.

### **Division 2—Additional bushfire mitigation duties**

S. 120M inserted by No. 18/2017 s. 4.

#### **120M Polyphase electric lines with required capacity**

- (1) A major electricity company must ensure that—
  - (a) for the initial period, a sufficient number of zone substations in its supply network are complying substations so that the total number of allocated substation points prescribed in respect of all of the complying substations is not less than 30 (the ***period 1 minimum points***); and
  - (b) for the intermediate period, a sufficient number of zone substations in its supply network are complying substations so that the total number of allocated substation points prescribed in respect of

all of the complying substations is not less than 55 (the *period 2 minimum points*); and

- (c) on and after 1 May 2023, or if Energy Safe Victoria specifies a later date under section 120X, that date, all zone substations in its supply network are complying substations.
- (2) Subsection (1)(a) or (b) does not apply to a major electricity company if the allocated substation points prescribed in respect of all of the zone substations in the company's supply network cannot meet the period 1 minimum points or the period 2 minimum points.
- (3) A major electricity company is liable to pay—
  - (a) if subsection (1)(a) or (b) is contravened, a pecuniary penalty not exceeding \$2 000 000 for every point forming the difference between the total number of allocated substation points prescribed in respect of all of the complying substations and, as the case requires—
    - (i) the period 1 minimum points; or
    - (ii) the period 2 minimum points; and
  - (b) if subsection (1)(c) is contravened, a pecuniary penalty not exceeding \$2 000 000 for every allocated substation point prescribed in respect of each zone substation that is not a complying substation; and
  - (c) if there is a continuing contravention of subsection (1)(a), (b) or (c), a pecuniary penalty that is a daily amount not exceeding \$5500 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (4) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.
- (5) In this section—

*initial period* means—

- (a) the period beginning 1 May 2019 and ending 30 April 2021; or
- (b) if Energy Safe Victoria specifies a later period under section 120X, that period;

*intermediate period* means—



- (a) the period beginning 1 May 2021 and ending 30 April 2023; or
- (b) if Energy Safe Victoria specifies a later period under section 120X, that period.

S. 120N inserted by No. 18/2017 s. 4.

### **120N Covering or placing underground electric lines**

- (1) A major electricity company must cover or place underground each new electric line that meets the prescribed specification that it constructs within an electric line construction area.
- (2) A major electricity company must cover or place underground each electric line that—
  - (a) meets the prescribed specification; and
  - (b) it reconstructs or substantially reconstructs within an electric line construction area; and
  - (c) is of at least 4 consecutive spans or has conductors on at least 4 consecutive spans.
- (3) A major electricity company that contravenes subsection (1) or (2) is liable to pay a pecuniary penalty—
  - (a) not exceeding \$350 000 for each kilometre or a part of a kilometre of an electric line that is not covered or placed underground in accordance with that subsection; and
  - (b) in the case of a continuing contravention of subsection (1) or (2), a daily amount not exceeding \$1000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (4) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.
- (5) In this section—

*cover*, in relation to an electric line, means install a system of insulation on a bare open wire in accordance with the relevant major electricity company's accepted bushfire mitigation plan.

S. 120O inserted by No. 18/2017 s. 4.

## **120O Installation of Automatic Circuit Recloser for SWER lines**

- (1) A major electricity company must install an Automatic Circuit Recloser for each SWER line in its supply network before 1 January 2021 or if Energy Safe Victoria specifies a later date under section 120X, that date.
- (2) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
  - (a) not exceeding \$50 000 in respect of each contravention of that subsection; and
  - (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$150 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (3) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.

S. 120P inserted by No. 18/2017 s. 4.

## **120P Annual compliance reports**

- (1) A major electricity company must give a written report to Energy Safe Victoria before 1 August each year that—
  - (a) includes the following information for the reporting period—
    - (i) details of work carried out during the reporting period (including the date of the work) to modify zone substations in its supply network so that the polyphase electric lines originating from the zone substations have the required capacity;
    - (ii) details of work carried out during the reporting period (including the date of the work) to cover or place underground each electric line in its supply network that meets the prescribed specification within an electric line construction area;
    - (iii) details of work carried out during the reporting period (including the date of the work) to install an Automatic Circuit Recloser for each SWER line in its supply network; and

- (b) includes details of the location of each zone substation, electric line and Automatic Circuit Recloser referred to in paragraph (a) and in the case of an electric line referred to in that paragraph, the length of the electric line (in kilometres); and
  - (c) includes the following plans of work to be carried out during the next reporting period—
    - (i) a plan to modify polyphase electric lines originating from zone substations to have the required capacity, which includes the date on which the work is to be completed and the location of the polyphase electric lines;
    - (ii) a plan to cover or place underground electric lines that meet the prescribed specification in an electric line construction area, which includes the date on which the work is to be completed and the locations where the electric lines will be covered or placed underground and the length (in kilometres) of the electric lines;
    - (iii) a plan to install Automatic Circuit Reclosers for SWER lines in its supply network, which includes the date on which the work is to be completed and the location of installation of the Automatic Circuit Reclosers; and
  - (d) is in the form, and includes the information, specified by Energy Safe Victoria; and
  - (e) has been approved by the board of the major electricity company.
- (2) Energy Safe Victoria must publish a copy of a report on its Internet site.
- (3) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
- (a) not exceeding \$10 000 in respect of each contravention of that subsection; and
  - (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$1000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.

(4) In this section—

*reporting period* means the year beginning 1 May and ending the following 30 April.

S. 120Q inserted by No. 18/2017 s. 4.

### **120Q Independent audits**

- (1) A major electricity company must obtain, on the request of Energy Safe Victoria and at the intervals determined by Energy Safe Victoria, an independent audit of the major electricity company's compliance with section 120M, 120N, 120O or 120P.
- (2) The major electricity company must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence, ability and access to information on the operations of the major electricity company to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a major electricity company to obtain an independent audit under this section, the costs of that audit must be borne by the major electricity company.
- (4) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
  - (a) not exceeding \$50 000 in respect of each contravention of that subsection; and
  - (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$5000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.

### **Division 3—Enforcement of additional bushfire mitigation duties**

S. 120R inserted by No. 18/2017 s. 4.

#### **120R Proceedings**

- (1) A person may not commence a civil proceeding in respect of a matter arising under Division 2 except in accordance with this Division.
- (2) The Minister or Energy Safe Victoria may commence a civil proceeding in respect of a civil penalty provision in accordance with this Division.
- (3) The Minister or Energy Safe Victoria must not commence a civil proceeding under this Division for an

alleged contravention of a civil penalty provision if a civil proceeding is on foot under this Division in respect of the same conduct.

- (4) Nothing in this section affects the right of a person to commence a civil proceeding in respect of any matter or thing, or seek any relief or remedy, if the cause of action arises, or the relief or remedy is sought, on grounds that do not rely on this Part.

S. 120S inserted by No. 18/2017 s. 4.

### **120S Criminal proceedings do not lie**

Criminal proceedings do not lie against a person by reason only that the person—

- (a) has contravened a civil penalty provision; or
- (b) has attempted to contravene a civil penalty provision; or
- (c) has aided, abetted, counselled or procured a person to contravene a civil penalty provision; or
- (d) has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene a civil penalty provision; or
- (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of a civil penalty provision; or
- (f) has conspired with others to contravene a civil penalty provision.

S. 120T inserted by No. 18/2017 s. 4.

### **120T Proceedings for contravention of civil penalty provisions**

- (1) The Minister or Energy Safe Victoria may apply to the Supreme Court for an order under this Division in respect of the doing by a major electricity company of a thing specified in subsection (3).
- (2) If the Supreme Court is satisfied that a thing specified in subsection (3) has been done, the Court may make an order that the major electricity company pay a pecuniary penalty to the Minister in respect of each act or omission by the major electricity company as the Court determines.
- (3) For the purposes of subsections (1) and (2), a specified thing is—
  - (a) that a major electricity company has contravened a civil penalty provision; or

- (b) that a major electricity company has attempted to contravene a civil penalty provision; or
  - (c) that a major electricity company has aided, abetted, counselled or procured a person to contravene a civil penalty provision; or
  - (d) that a major electricity company has induced, or attempted to induce, a person whether by threats or promises or otherwise, to contravene a civil penalty provision; or
  - (e) that a major electricity company has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a major electricity company of a civil penalty provision; or
  - (f) that a major electricity company has conspired with others to contravene a civil penalty provision.
- (4) In determining the amount of the pecuniary penalty to be paid by the major electricity company, the Supreme Court may have regard to all relevant matters including —
- (a) the nature and extent of the act or omission and of any loss or damage suffered as a result of the act or omission; and
  - (b) the circumstances in which the act or omission took place; and
  - (c) whether the major electricity company has previously been found by the Court in a proceeding under this Division to have contravened a civil penalty provision.

S. 120U inserted by No. 18/2017 s. 4.

### **120U Pecuniary penalties to be paid into the Consolidated Fund**

Every pecuniary penalty received by the Minister must be paid into the Consolidated Fund.

S. 120V inserted by No. 18/2017 s. 4.

### **120V Declaratory relief**

- (1) The Supreme Court, on an application by the Minister or Energy Safe Victoria, by order, may declare whether or not the major electricity company to which the application relates has contravened a civil penalty provision.
- (2) If the order declares the major electricity company to have contravened a civil penalty provision, the order may include either or both of the following—

- (a) a requirement that the major electricity company cease, within a specified period, the act, activity or practice constituting the contravention;
- (b) a requirement that the major electricity company take a specified action or adopt a specified practice, as the Court requires, for remedying the contravention or preventing a recurrence of the contravention.

## **Division 4—Miscellaneous**

S. 120W inserted by No. 18/2017 s. 4.

### **120W Exemptions**

- (1) The Governor in Council, on the recommendation of the Minister, by Order published in the Government Gazette, may exempt a major electricity company from complying with section 120M, 120N or 120O.
- (2) An Order must specify the relevant section that a major electricity company is exempt from complying with.
- (3) An exemption may be of general or specific application.
- (4) An exemption is subject to such terms and conditions as are specified in the Order.

S. 120X inserted by No. 18/2017 s. 4.

### **120X Specification of later dates and periods for compliance with civil penalty provisions**

- (1) A major electricity company to which section 120M or 120O applies may request Energy Safe Victoria to—
  - (a) in the case of section 120M(1)(a) or (b), specify a period as the period within which the company must comply with section 120M(1)(a) or (b); or
  - (b) in the case of section 120M(1)(c) or 120O(1), specify a date as the date by which the company must comply with section 120M(1)(c) or 120O(1).
- (2) A request under subsection (1) must set out the reasons for the request.
- (3) On receiving a request under subsection (1), Energy Safe Victoria may—
  - (a) in the case of a request under subsection (1)(a), specify a period as the period within which the

company must comply with section 120M(1)(a) or (b), as the case requires; or

(b) in the case of a request under subsection (1)(b), specify a date as the date by which the company must comply with section 120M(1)(c) or 120O(1), as the case requires.

(4) Energy Safe Victoria must consult with the Minister before specifying a period or date under subsection (3).

S. 120Y inserted by No. 18/2017 s. 4.

### **120Y Information notices**

(1) Energy Safe Victoria, by written notice, may require a major electricity company to give Energy Safe Victoria information in the major electricity company's possession or control for the purpose of verifying the information provided in—

- (a) a report under section 120P; or
- (b) an independent audit under section 120Q.

(2) A notice under subsection (1) must—

- (a) specify or describe the information that is required by Energy Safe Victoria; and
- (b) specify the format in which that information is to be given to Energy Safe Victoria; and
- (c) specify the date by which the information must be given to Energy Safe Victoria.

(3) A major electricity company that is given a notice under subsection (1) must comply with the notice unless the major electricity company has a lawful excuse.

Penalty: 200 penalty units.

(4) This section does not require a major electricity company to give information that is the subject of legal professional privilege or client legal privilege.

(5) It is not a lawful excuse for a major electricity company to fail to comply with a notice under subsection (1) on the ground of any duty of confidence.

S. 120Z inserted by No. 18/2017 s. 4.

### **120Z Audit by Energy Safe Victoria**

Energy Safe Victoria may conduct, or cause to be conducted, an audit of a major electricity



company's compliance with one or more of the civil penalty provisions.

## Part 11—Enforcement officers and powers

### Division 1—Appointment of enforcement officers

#### 121 Enforcement officers

S. 121(1) amended by Nos 36/1999 s. 20(1)(3), 69/2000 s. 28(1), 39/2005 s. 48(Sch. 1 items 1, 2, 13).

- (1) Energy Safe Victoria may appoint the Director or an employee of Energy Safe Victoria or an agent or contractor of Energy Safe Victoria to be an enforcement officer for the purpose of this Act and the **Electricity Industry Act 2000**.

S. 121(2) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (2) Energy Safe Victoria must give an identity card to each person who is appointed an enforcement officer.

- (3) The identity card—

S. 121(3)(a) amended by No. 39/2005 s. 48(Sch. 1 item 13).

- (a) must be signed by the Director; and

- (b) bear a photograph and the signature of the enforcement officer.

S. 121(4) amended by Nos 36/1999 s. 20(2), 69/2000 s. 28(1).

- (4) An enforcement officer must, in the course of performing his or her functions under this Act or the **Electricity Industry Act 2000**, produce his or her identity card to any person who requests its production.

S. 121(5) substituted by No. 36/1999 s. 20(4), amended by No. 39/2005 s. 48(Sch. 1 items 1, 2).

- (5) Energy Safe Victoria must not appoint an agent or contractor of Energy Safe Victoria to be an enforcement officer unless satisfied that the agent or contractor—

- (a) is competent to exercise the functions of an enforcement officer; and

- (b) is of good repute, having regard to character, honesty and integrity; and

S. 121(5)(c) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (c) agrees in writing to carry out the functions of an enforcement officer in accordance with such criteria as are established from time to time by Energy Safe Victoria.

## **Division 2—Powers of entry—general**

### **122 Powers of entry—compliance**

(1) An enforcement officer may exercise powers under this section only to the extent that is reasonably necessary to do so for the purpose of—

(a) investigating a serious electrical incident; or

S. 122(1)(b) amended by No. 69/2000 s. 31.

(b) determining compliance with an electricity safety management scheme; or

(c) determining compliance with this Act or the regulations.

S. 122(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(2) An enforcement officer must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for the purpose of determining compliance with this Act or the regulations.

(3) An enforcement officer may enter any residence or the land on which a residence is situated if—

(a) the enforcement officer gives the occupier not less than 24 hours notice, or such other notice as may be agreed with the occupier, before the enforcement officer enters the land or residence; and

(b) the occupier consents in writing to that entry; and

(c) the entry occurs only between 8 a.m. and 6 p.m, unless the occupier consents in writing to entry outside those hours.

(4) An enforcement officer may enter any other land or premises during normal business hours.

(5) In carrying out an inspection under this section, an enforcement officer must—

(a) cause as little harm and inconvenience or damage as possible; and

(b) not remain on the land or premises any longer than is reasonably necessary; and

(c) leave the land or premises as nearly as possible in the same condition as it was found prior to the inspection being carried out.

(6) An enforcement officer may not exercise any powers under this section if the enforcement officer fails to

produce, on request, his or her identity card for inspection by the occupier of the land or premises.

- (7) If an enforcement officer exercises a power of entry under this section, without the owner or occupier being present, the enforcement officer must—
- (a) on leaving the land or premises, leave a notice setting out—
    - (i) the time of entry; and
    - (ii) the purpose of entry; and
    - (iii) a description of all things done while on the land or premises; and
    - (iv) the time of departure; and

S. 122(7)(a)(v) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (v) the procedure for contacting Energy Safe Victoria for further details of the entry; and

- (b) post a copy of that notice—
  - (i) to the owner of the land or premises, if the identity and address of that owner are known to the enforcement officer; and
  - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the enforcement officer.

### **123 Occupier to be given copy of consent**

- (1) An occupier who consents in writing to entry of his or her residence or the land on which the residence is situated under section 122 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry under section 122.

### **124 Emergency access**

- (1) An enforcement officer may enter any land or premises at any time in an emergency if there is a threat to the safety of persons or property arising from a situation relating to electricity.
- (2) If an enforcement officer exercises a power of entry under this section, without the owner or occupier being present, the enforcement officer must—

- (a) on leaving the land or premises, leave a notice setting out—
  - (i) the time of entry; and
  - (ii) the purpose of entry; and
  - (iii) a description of all things done while on the land or premises; and
  - (iv) the time of departure; and

S. 124(2)(a)(v) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (v) the procedure for contacting Energy Safe Victoria for further details of the entry; and
- (b) post a copy of that notice—
  - (i) to the owner of the land or premises, if the identity and address of that owner are known to the enforcement officer; and
  - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the enforcement officer.

## **125 Powers on entry**

- (1) On exercising a power of entry under this Division, an enforcement officer may—
  - (a) search the land or premises and anything found at the land or premises;
  - (b) inspect and take photographs (including video recordings), or make sketches, of the land or premises or anything on the land or premises;
  - (c) inspect, and make copies of, or take extracts from, any document kept on the land or premises;
  - (d) seize anything on the land or premises the enforcement officer believes on reasonable grounds that it is necessary to seize in order to prevent its concealment, loss or destruction;
  - (e) examine, test and, if necessary, disconnect, seize and remove or otherwise make safe any electrical equipment, electrical installation or electrical installation work that the enforcement officer considers unsafe or does not comply with this Act or the regulations or was involved in a serious electrical incident.

- (2) If an enforcement officer is unable to ascertain the identity of the owner or custodian of anything seized, the enforcement officer must—
  - (a) leave a receipt with, or post it to, the owner or occupier of the land or premises from which the thing was seized; and
  - (b) if a document is seized, leave a copy of the document, if practicable, with, or post it to, the owner or occupier of the land or premises from which the document was seized.

#### **126 Return of things seized**

- (1) If an enforcement officer seizes a thing under section 125, the enforcement officer must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned within 14 days after it is seized, the enforcement officer must take reasonable steps to return it unless—
  - (a) proceedings have commenced and those proceedings (including any appeal) have not been completed; or
  - (b) a court makes an order under section 127 extending the period of 14 days.

#### **127 Magistrates' Court may extend period**

- (1) An enforcement officer may apply to the Magistrates' Court before the expiration of the period referred to in section 126 or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
  - (a) for the purposes of an investigation into whether an offence has been committed; or
  - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The enforcement officer must give notice of the application to the person from whom the thing was seized unless the Court otherwise directs.

S. 128 (Heading) substituted by No. 39/2005 s. 48(Sch. 1 item 14).

S. 128 substituted by No. 24/2002 s. 6.

#### **128 Entry to be reported to Energy Safe Victoria**

S. 128(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) If an enforcement officer exercises a power of entry under this Division, the enforcement officer must report the exercise of the power to Energy Safe Victoria within 3 business days after the entry.
- (2) The report must be in writing and include all relevant details of the entry including the following—
  - (a) the full name of the enforcement officer; and
  - (b) the time of the entry; and
  - (c) the address of the land or premises entered; and
  - (d) the purpose of the entry; and
  - (e) a description of all things done while on the land or premises, including photographs or video recordings taken, and details of items inspected, examined or tested, and details of items seized or removed, copies made and extracts taken; and
  - (f) the time of departure from the land or premises.

S. 128(3) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (3) Energy Safe Victoria must keep a register containing the particulars of all matters reported to it under this section.

S. 128(4) amended by No. 39/2005 s. 48(Sch. 1 item 1).

- (4) Energy Safe Victoria must keep, as part of that register, the register sent to it under clause 6(1)(a) of Schedule 1.

### **Division 3—Powers of entry—enforcement**

#### **129 Powers of entry—enforcement**

- (1) If an enforcement officer has reasonable grounds for suspecting that there is on any land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations, the enforcement officer may—
  - (a) enter the land or premises; and

S. 129(1)(b) amended by No. 59/2011 s. 17(1).

- (b) search for and seize the thing.

S. 129(2) amended by No. 59/2011 s. 17(2).

- (2) An enforcement officer must not enter and search land or premises or seize any thing under this Division except—
  - (a) with the written consent of the occupier of the land or premises; or
  - (b) under the authority of a search warrant.

S. 129(3) inserted by No. 59/2011 s. 17(3).

- (3) Before the occupier consents to entry and search of his or her residence under this section, the enforcement officer must inform the occupier—
  - (a) of the purpose of the search; and
  - (b) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
  - (c) that anything seized during the search with the consent of the occupier may be used in evidence in proceedings.

S. 129(4) inserted by No. 59/2011 s. 17(3).

- (4) If the occupier consents to entry and search, the enforcement officer must ask the occupier to sign an acknowledgement stating—
  - (a) that the occupier has been informed of the purpose of the search and that anything seized in the search with the consent of the occupier may be used in evidence in proceedings; and
  - (b) that the occupier has been informed that he or she may refuse to give consent to the entry and search or to the seizure of anything; and
  - (c) that the occupier has consented to such an entry and search.

S. 129(5) inserted by No. 59/2011 s. 17(3).

- (5) If the occupier consents to the seizure of any thing during a search under this section, the enforcement officer must before seizing the thing ask the occupier to sign an acknowledgment stating that the occupier has consented to the seizure of the thing.

S. 130 substituted by No. 59/2011 s. 18.

### **130 Occupier to be given copy of acknowledgement**

- (1) An occupier who signs an acknowledgement under section 129 must be given a copy of the signed acknowledgement immediately.



- (2) If, in any proceeding, an acknowledgement is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search or to the seizure of the thing.

### **131 Search warrant**

- (1) An enforcement officer may apply to a magistrate for the issue of a search warrant in relation to particular land or premises if the enforcement officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.

S. 131(2) amended by No. 6/2018 s. 68(Sch. 2 item 47.1).

- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath or by affirmation, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within 72 hours, on land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (3) The search warrant may authorise an enforcement officer named in the warrant and any assistants the enforcement officer considers necessary—
  - (a) to enter the land or premises, or part of the land or premises, named or described in the warrant; and

S. 131(3)(b) amended by No. 59/2011 s. 19.

- (b) to search for and seize the thing named or described in the warrant.
- (4) In addition to any other requirement, a search warrant issued under this section must state—
  - (a) the offence suspected; and
  - (b) the land or premises to be searched; and
  - (c) a description of the thing for which the search is to be made; and
  - (d) any conditions to which the warrant is subject; and
  - (e) whether entry is authorised to be made at any time or during stated hours; and
  - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

### **132 Announcement before entry**

- (1) Before executing a search warrant, the enforcement officer named in the warrant or a person assisting the enforcement officer named in the warrant must—
  - (a) announce that he or she is authorised by the warrant to enter the land or premises; and
  - (b) give any person at the land or premises an opportunity to allow entry to the land or premises.
- (2) The enforcement officer or a person assisting the enforcement officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the land or premises is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the warrant is not frustrated.

### **133 Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at the land or premises when a search warrant is being executed, the enforcement officer must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

## **Division 4—General**

### **134 Power of enforcement officer to require information or documents**

- (1) An enforcement officer may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of—
  - (a) investigating a serious electrical incident; or

- (b) investigating an emergency where there is a threat to the safety of persons or property arising from a situation relating to electricity; or

S. 134(1)(c) amended by No. 69/2000 s. 31.

- (c) determining compliance with an electricity safety management scheme; or

- (d) determining compliance with this Act or the regulations.

S. 134(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) An enforcement officer must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for the purpose of determining compliance with this Act or the regulations.
- (3) An enforcement officer may require a person to give information to the enforcement officer, to produce documents to the enforcement officer and to give reasonable assistance to the enforcement officer.
- (4) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (3).

200 penalty units.

### **135 Offence to give false information to enforcement officer**

A person must not—

- (a) give information to an enforcement officer under this Part that the person knows to be false or misleading in a material particular; or
- (b) produce a document to an enforcement officer under this Part that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

200 penalty units.

### **136 Copying of documents**

If a person produces a document to an enforcement officer in accordance with a requirement under section 134, the enforcement officer may make copies of, or take extracts from, the document.

### **137 Protection against self-incrimination**

A natural person may refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Part if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.

S. 138 amended by Nos 36/1999 s. 20(5), 69/2000 s. 28(2).

### **138 Offence to obstruct enforcement officer**

A person must not without reasonable excuse obstruct or hinder an enforcement officer exercising functions under this Act or the **Electricity Industry Act 2000**.

300 penalty units.

S. 139 amended by Nos 36/1999 s. 20(6), 69/2000 s. 28(2), 37/2014 s. 10(Sch. items 51) (ILA s. 39B(1)).

### **139 Police to assist enforcement officers**

- (1) An enforcement officer may request the assistance of a police officer and a police officer may assist an enforcement officer to take any action authorised by this Part or the **Electricity Industry Act 2000**.

S. 139(2) inserted by No. 37/2014 s. 10(Sch. item 51.2).

- (2) In this section—

*police officer* has the same meaning as in the **Victoria Police Act 2013**.

### **140 Impersonation of enforcement officer**

A person must not impersonate an enforcement officer.

100 penalty units.



## Part 11A—Infringement notices

S. 140A inserted by No. 89/1998 s. 22, amended by No. 40/2003 s. 27.

### 140A Definition

In this Part—

S. 140A def. of *prescribed offence* substituted by No. 25/2008 ss 7, 8, amended by Nos 55/2010 s. 31, 43/2018 s. 12.

*prescribed offence* means—

- (a) an offence against section 30, 32, 35(1), 35(3), 36(1), 37, 38, 43(2)(a), 43(2)(b), 43(4), 44(2), 44(3), 45(1), 45(2), 45(3), 45(4), 45A(1), 45A(3), 45B(4), 45B(9)(a), 45B(9)(b), 54, 55(3), 62J(2), 67(1), 67A(1), 67B(2), 67C(2), 67D(2), 67E(1), 67F(1), 67G(1), 67H, 67I(1), 67J, 67K, 68, 76(1), 77(1), 77(2), 77(3), 78, 83BA(3), 108, 110, 113A(3), 113F(1), 119, 120B, 120H(4) or 142(2); or
- (b) an offence against a provision of the regulations that is prescribed.

S. 140B inserted by No. 89/1998 s. 22.

### 140B Power to serve a notice

- (1) An enforcement officer may serve an infringement notice on any person that he or she has reason to believe has committed a prescribed offence.

S. 140B(2) substituted by No. 32/2006 s. 94(Sch. item 14(1)).

- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 140C inserted by No. 89/1998 s. 22, repealed by No. 32/2006 s. 94(Sch. item 14(2)).

\* \* \* \* \*

S. 140D inserted by No. 89/1998 s. 22, amended by No. 43/2018 s. 13.

### **140D Infringement penalties**

The infringement penalty for an offence against a provision of this Act or the regulations is one-tenth of the maximum monetary penalty fixed by that provision unless a penalty is otherwise prescribed.

Ss 140E–140J inserted by No. 89/1998 s. 22, repealed by No. 32/2006 s. 94(Sch. item 14(2)).

\* \* \* \* \*

## **Part 12—General**

### **Division 1—Directions**

S. 141 (Heading) inserted by No. 39/2005 s. 48(Sch. 1 item 15).

#### **141 Director may give directions**

S. 141(1) amended by No. 39/2005 s. 48(Sch. 1 item 16).

(1) If the Director considers that it is necessary to do so for safety reasons, the Director may, in writing, direct a relevant person—

(a) to disconnect the supply of electricity to an electrical installation, or part of an electrical installation; and

S. 141(1)(b) amended by No. 39/2005 s. 48(Sch. 1 item 16).

(b) to keep that supply disconnected until the Director considers that it is safe to reconnect the supply.

S. 141(2) amended by No. 39/2005 s. 48(Sch. 1 item 16).

(2) If the Director is satisfied that it is necessary to do so for safety reasons, the Director may, in writing, direct a person—

S. 141(2)(a) amended by No. 39/2005 s. 48(Sch. 1 item 16).

(a) to cease to use particular electrical equipment or a class of electrical equipment until the Director considers that it is safe to use; or

S. 141(2)(b) amended by Nos 36/1999 s. 21, 39/2005 s. 48(Sch. 1 item 16).

(b) to cease a particular electrical work practice or class of electrical work practice until the Director considers that it is safe; or

S. 141(2)(c) inserted by No. 36/1999 s. 21.

(c) to make safe an electrical installation or particular electrical equipment; or

S. 141(2)(d) inserted by No. 36/1999 s. 21, amended by No. 55/2010 s. 32(1).



(d) to do any other thing necessary to make an unsafe electrical situation safe; or

S. 141(2)(e) inserted by No. 55/2010 s. 32(2), amended by No. 1/2017 s. 13(1)(a).

(e) to do any other thing necessary to prevent an unsafe electrical situation from arising; or

S. 141(2)(f) inserted by No. 1/2017 s. 13(1)(b).

(f) to do any other thing necessary for the prevention and mitigation of bushfires that may arise out of incidents involving electric lines or electrical installations.

S. 141(3) amended by No. 69/2000 s. 29, substituted by No. 1/2017 s. 13(2).

(3) In this section—

*relevant person* means—

- (a) an electricity supplier; or
- (b) the holder of a licence under the **Electricity Industry Act 2000** to supply or sell electricity; or
- (c) any other person supplying electricity;

*safety reasons* includes the prevention and mitigation of bushfires that may arise out of incidents involving electric lines or electrical installations.

(4) A person must comply with a direction under this section that applies to the person.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

S. 141A inserted by No. 36/1999 s. 22.

### **141A Additional powers in emergencies**

S. 141A(1) amended by No. 39/2005 s. 48(Sch. 1 item 16).

(1) In addition to the powers under section 141, the Director may do anything or give any direction that the Director considers necessary to make an electricity emergency situation safe.

- (2) A person must comply with a direction under this section that applies to the person.

In the case of a natural person, 500 penalty units or 5 years imprisonment or both;

In the case of a body corporate, 10 000 penalty units.

- (3) An offence under subsection (2) is an indictable offence.

S. 141A(4) amended by No. 39/2005 s. 48(Sch. 1 items 1, 16).

- (4) Energy Safe Victoria must include in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, a statement setting out details of each direction given by the Director under this section during that financial year.

S. 141AB inserted by No. 55/2010 s. 33.

### **141AB Information notices**

S. 141AB(1) amended by No. 18/2017 s. 5.

- (1) Energy Safe Victoria, by written notice, may require a person to give Energy Safe Victoria information in the person's possession or control that Energy Safe Victoria reasonably requires for the purpose of verifying the performance of distribution companies in complying with Divisions 1A, 2 and 4 of Part 8, and Part 10.
- (2) A notice under subsection (1) must—
- (a) specify or describe the information that is required by Energy Safe Victoria; and
  - (b) specify the format in which that information is to be given to Energy Safe Victoria; and
  - (c) specify the date by which the information must be given to Energy Safe Victoria.
- (3) A person who is given a notice under subsection (1) must comply with the notice unless the person has a lawful excuse.
- In the case of a natural person, 50 penalty units;
- In the case of a body corporate, 200 penalty units.
- (4) A natural person cannot be compelled, by the giving of a notice under subsection (1), to give information if the

information might tend to incriminate the person of an offence.

- (5) This section does not require a person to give information that is the subject of legal professional privilege or client legal privilege.
- (6) It is not a lawful excuse for a person to fail to comply with a notice under subsection (1) on the ground of any duty of confidence.

S. 141AC inserted by No. 59/2011 s. 20.

#### **141AC Director may give directions to preserve, retain or store**

- (1) This section applies if the Director believes on reasonable grounds that—
  - (a) an electrical incident or an electricity emergency situation has occurred; or
  - (b) an unsafe electrical situation has occurred or may occur.
- (2) The Director may, in writing, direct a relevant person to preserve, retain or store any of the following that the Director considers may be relevant to the electrical incident, electricity emergency situation or unsafe electrical situation—
  - (a) electrical equipment;
  - (b) electrical installations or parts of electrical installations;
  - (c) supply networks or parts of supply networks.
- (3) In this section, *relevant person* means an owner of electrical equipment or an owner or operator of a supply network or an electrical installation.
- (4) A person must comply with a direction under this section that applies to the person.

Penalty: In the case of a natural person, 50 penalty units;

In the case of a body corporate, 200 penalty units.

S. 141B inserted by No. 36/1999 s. 22, substituted by No. 39/2005 s. 46.

#### **141B Delegation by Director**

The Director may, with the consent of the Minister, by instrument, delegate any function or power of the

Director under section 141 or 141A to an employee of Energy Safe Victoria.

## **Division 2—Reporting of serious electrical incidents**

### **142 Notification of serious electrical incidents**

S. 142(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) An electricity supplier must report to Energy Safe Victoria in accordance with the regulations any serious electrical incident which occurs in relation to its supply network.

In the case of a natural person, 300 penalty units;

In the case of a body corporate,  
1500 penalty units.

S. 142(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (2) An electricity supplier must report to Energy Safe Victoria in accordance with the regulations any serious electrical incident of which it is aware and which occurs in relation to an electrical installation to which it supplies electricity.

In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty  
units.

S. 142(3) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (3) A fire control authority must report to Energy Safe Victoria in accordance with the regulations—
  - (a) any serious electrical incident which it attends;  
and
  - (b) the results of any investigation it conducts into a fire of an electrical nature.

## **Division 3—Improvement notices**

### **143 Enforcement officer may issue improvement notice**

- (1) An enforcement officer may issue an improvement notice to a person if the officer is of the opinion that the person—

S. 143(1)(a) amended by No. 61/2007 s. 8.

- (a) is contravening any provision of Division 2 or 3 of Part 10; or
  - (b) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated.
- (2) The improvement notice may require the person to whom it is issued to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.
- (3) An improvement notice must—
- (a) state that the enforcement officer is of the opinion that the person—

S. 143(3)(a)(i) amended by No. 61/2007 s. 8.

- (i) is contravening a provision of Division 2 or 3 of Part 10; or
  - (ii) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated; and
- (b) state the reasons for that opinion; and
- (c) specify the provision of the electricity safety management scheme in respect of which that opinion is held; and
- (d) specify the day (being a day more than 7 days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

#### **144 Offence not to comply with improvement notice**

- (1) A person to whom an improvement notice is issued must comply with the improvement notice.

in the case of a natural person, 80 penalty units;

in the case of a body corporate, 400 penalty units.

S. 144(2) amended by No. 24/2002 s. 7.

- (2) Subsection (1) does not apply during any period that the operation of the improvement notice is stayed by the Tribunal.

#### **145 Notices may include directions**

- (1) An enforcement officer may include in an improvement notice directions as to the measures to be taken to remedy any contravention or likely contravention, to which the notice relates.
- (2) A direction under subsection (1) may offer the person to whom it is issued a choice of ways in which to remedy the contravention or likely contravention.

### **Division 4—Other matters**

S. 145A inserted by No. 89/1998 s. 23, amended by No. 39/2005 s. 48(Sch. 1 item 2).

#### **145A Offences under Part 8**

Proceedings for an offence against Part 8 may be brought only by Energy Safe Victoria.

#### **146 Offences by bodies corporate**

- (1) If a body corporate commits an offence against this Act or the regulations, any officer of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act or the regulations.
- (4) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.
- (5) In subsection (1), *officer*, in relation to a body corporate, means—
  - (a) a director, secretary or executive officer of the body corporate; or

- (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
- (c) a person concerned in the management of the body corporate.

#### **147 Offences by partnerships or unincorporated associations**

If this Act or a regulation made under this Act provides that a person is guilty of an offence, that reference to a person must—

- (a) in the case of a partnership, be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated body or association, be read as a reference to each member of the committee of management of the body or association.

#### **148 False or misleading information**

S. 148(1) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (1) A person must not give information that is false or misleading in a material particular to Energy Safe Victoria or to an employee of Energy Safe Victoria in connection with an application, notice or submission under this Act or the regulations.

100 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is a defence for the accused to prove that the accused believed on reasonable grounds—
  - (a) in the case of false information, that the information was true; and
  - (b) in the case of misleading information, that the information was not misleading.

S. 148A inserted by No. 59/2011 s. 21.

#### **148A Period within which proceedings for offences may be brought**

Despite anything to the contrary in any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**), proceedings for an offence against this Act or the regulations may be commenced within the period of 3 years after the commission of the alleged offence.

## **Part 13—Regulations**

### **149 Supply safety**

The Governor in Council may make regulations for or with respect to the safe generation, transmission, distribution and supply of electricity, including—

- (a) the protection of persons from risk and property from damage associated with the generation, transmission, distribution and supply of electricity;
- (b) the protection and maintenance of and the prevention of interference with operations, electric lines, works and structures associated with the generation, transmission, distribution and supply of electricity.

S. 149A inserted by No. 89/1998 s. 24, amended by Nos 38/2000 s. 21(a), 39/2005 s. 48(Sch. 1 item 2), repealed by No. 61/2007 s. 9, new s. 149A inserted by No. 55/2010 s. 34.

### **149A Reliability and security of electricity supply**

The Governor in Council may make regulations for or with respect to the reliability and security of the supply of electricity.

### **150 Safety management schemes**

The Governor in Council may make regulations for or with respect to electricity safety management schemes including regulations—

- (a) specifying the requirements and standards with which an electricity safety management scheme must comply;
- (b) specifying the procedures for the acceptance and revision of an electricity safety management scheme;
- (c) requiring an electricity safety management scheme to nominate the persons who are to carry out electrical work under the scheme;

S. 150(b) substituted by Nos 89/1998 s. 25(a), 61/2007 s. 10.

S. 150(d) substituted by Nos 89/1998 s. 25(b), 57/2009 s. 11.



(d) providing for a compliance audit of an accepted ESMS;

(e) providing for the keeping of records in relation to electricity safety management schemes;

S. 150(f) amended by No. 39/2005 s. 48(Sch. 1 item 2).

(f) providing for the payment of bonds to Energy Safe Victoria in respect of electricity safety management schemes;

(g) regulating and requiring the keeping of accounts by the manager of an electricity safety management scheme;

S. 150(h) amended by Nos 38/2000 s. 21(b), 39/2005 s. 48(Sch. 1 item 2).

(h) empowering Energy Safe Victoria to exempt an electricity safety management scheme from all or any of the requirements of the regulations made in relation to electricity safety management schemes subject to conditions (if any) specified by Energy Safe Victoria.

## **151 Electric line clearance**

The Governor in Council may make regulations for or with respect to—

(a) standards of design, construction and maintenance of private electric lines;

(b) the manner in which a distribution company or transmission company may exercise its powers under section 85(b) and (c);

(c) the Code of Practice for Electric Line Clearance setting out—

(i) the duties of responsible persons;

(ii) the standards and practices to be adopted and observed in tree pruning or clearing in the vicinity of electric lines;

(iii) management procedures to minimise danger of electric lines causing fire or electrocution;

(iv) any other matters for or with respect to the maintenance of electric lines;

S. 151(d) inserted by No. 89/1998 s. 26, amended by Nos 39/2005 s. 48(Sch. 1 item 2), 55/2010 s. 35(1).

(d) requiring responsible persons to prepare and submit to Energy Safe Victoria for approval

management plans relating to compliance with the Code and requiring compliance with an approved management plan;

S. 151(e) inserted by No. 55/2010 s. 35(2).

- (e) the standards and practices to be adopted and observed in relation to—
  - (i) tree planting, pruning or clearing in the immediate area around electric lines;
  - (ii) species of tree or classes of tree that may remain or be planted in the immediate area around electric lines;
  - (iii) species of tree or classes of tree that must be cleared from the immediate area around electric lines;
  - (iv) the management of trees in the immediate area around electric lines.

S. 151A inserted by No. 55/2010 s. 36.

### **151A Bushfire mitigation**

The Governor in Council may make regulations for or with respect to—

- (a) the prevention of bushfires arising from electric lines or electrical installations;
- (b) the protection of electric lines or electrical installations from the effects of bushfires;
- (c) the inspection of electric lines or electrical installations for the purpose of the prevention of bushfires arising from such lines or installations;
- (d) the training of persons conducting inspections of the kind referred to in paragraph (c);
- (e) the auditing of the training and performance of persons conducting inspections of the kind referred to in paragraph (c).

### **152 Installation safety**

The Governor in Council may make regulations for or with respect to—

- (a) safety standards for the design, construction, operation, alteration, repair, maintenance and dismantling of electrical installations;

- (b) prohibiting or regulating the construction of electrical installations;
- (c) the methods to be followed in carrying out electrical installation work in or in relation to electrical installations;
- (d) safety standards in relation to the connection of electrical equipment or apparatus to electrical installations;
- (e) safety standards in relation to the connection of electrical installations to an electricity supply;
- (f) inspections of electrical installations;
- (g) testing of electrical installations and electrical installation work;
- (h) the certification of electrical installation work;

S. 152(ha) inserted by No. 89/1998 s. 27, amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (ha) the notification (including electronic notification) to be given to Energy Safe Victoria of completion of certificates of compliance under section 44 or certificates of inspection under section 45 or any classes of those certificates;

S. 152(i) amended by No. 39/2005 s. 48(Sch. 1 item 2).

- (i) reasonable fees to be charged by Energy Safe Victoria for the inspection and testing of electrical installations and electrical installation work;
- (j) reasonable fees to be charged for the certification of electrical installation work.

S. 153 (Heading) inserted by No. 43/2018 s. 14(1).

### **153 Electrical equipment**

The Governor in Council may make regulations for or with respect to—

S. 153(a) amended by No. 43/2018 s. 14(2).

- (a) standards for electrical equipment;

S. 153(ab) inserted by No. 43/2018 s. 14(3).

- (ab) prescribing the standards of safety of in-scope electrical equipment and the risk level of in-scope electrical equipment;

S. 153(b) amended by Nos 89/1998 s. 28(1), 39/2005 s. 48(Sch. 1 item 2).

- (b) the examination, inspection and testing of electrical equipment, including the provision of

samples of equipment to Energy Safe Victoria for testing and the disposal of those samples;

S. 153(c) amended by No. 59/2008 s. 41(3)–(6), substituted by No. 43/2018 s. 14(4).

- (c) the certification of suitability of electrical equipment including—
  - (i) applications for certificates of suitability and the information to accompany the applications;
  - (ii) the issuing of certificates of suitability;
  - (iii) the conditions on certificates of suitability;
  - (iv) the modification of electrical equipment as a requirement of the issue of a certificate of suitability;
  - (v) the refusal and cancellation of certificates of suitability;
  - (vi) the renewal, transfer, variation and duration of certificates of suitability;

S. 153(ca) inserted by No. 43/2018 s. 14(4).

- (ca) the certification of conformity of electrical equipment including—
  - (i) applications for certificates of conformity and the information to accompany the applications;
  - (ii) the issuing of certificates of conformity;
  - (iii) the conditions of certificates of conformity;
  - (iv) the modification of electrical equipment as a requirement of the issue of a certificate of conformity;
  - (v) the refusal and cancellation of certificates of conformity;
  - (vi) the renewal, transfer, variation and duration of certificates of conformity;

S. 153(d) amended by No. 43/2018 s. 14(5).

- (d) the marking and labelling of electrical equipment;

S. 153(da) inserted by No. 43/2018 s. 14(6).

- (da) the keeping of registers of certificates of suitability, certificates of conformity and certificate holders;

S. 153(e) amended by No. 89/1998 s. 28(2)(a).

- (e) reasonable fees and charges to be charged for or for the recovery of reasonable costs for—

S. 153(e)(i) substituted by No. 89/1998 s. 28(2)(b), amended by No. 59/2008 s. 41(7), substituted by No. 43/2018 s. 14(7).

- (i) testing and examination in connection with the certification of suitability of electrical equipment or the certification of conformity of electrical equipment;

S. 153(e)(ii) substituted by No. 89/1998 s. 28(2)(b), amended by No. 59/2008 s. 41(7), substituted by No. 43/2018 s. 14(7).

- (ii) preparation of reports in connection with the certification of suitability of electrical equipment or the certification of conformity of electrical equipment;

S. 153(e)(iii) substituted by No. 59/2008 s. 41(8), substituted by No. 43/2018 s. 14(7).

- (iii) applications for certificates of suitability or conformity, or the renewal, variation, modification or transfer of certificates of suitability or conformity.

S. 153(e)(iv) repealed by No. 59/2008 s. 41(8).

\* \* \* \* \*

## 154 Equipment efficiency regulations

The Governor in Council may make regulations for or with respect to—

S. 154(a) amended by No. 57/2009 s. 12(1).

- (a) the standards of energy efficiency and performance required for energy efficiency electrical equipment;

S. 154(b) amended by No. 57/2009 s. 12(2).

- (b) prohibiting or regulating the supply or offer of supply of energy efficiency electrical equipment;

S. 154(c) amended by No. 57/2009 s. 12(3).

- (c) the registration of energy efficiency electrical equipment, including—
  - (i) applications for registration and the renewal, modification or transfer of registration and the information to accompany the applications (including details about tests);
  - (ii) the granting of registration;
  - (iii) conditions on registration;
  - (iv) the transfer of registration;
  - (v) variation of registration;
  - (vi) the refusal and cancellation of registration;
  - (vii) the renewal and duration of registration;

S. 154(c)(viii) amended by No. 57/2009 s. 12(3).

- (viii) the keeping of registers of energy efficiency electrical equipment and registration holders;

S. 154(d) amended by Nos. 39/2005 s. 48(Sch. 1 item 2), 57/2009 s. 12(4).

- (d) the testing, marking and labelling of energy efficiency electrical equipment, including the provision of samples of equipment and labels to Energy Safe Victoria for testing and the disposal of those samples;

S. 154(e) amended by No. 89/1998 s. 29.

- (e) reasonable fees and charges to be charged for or for the recovery of reasonable costs for—

S. 154(e)(i) amended by No. 57/2009 s. 12(5).

- (i) the testing, examination, marking or labelling of energy efficiency electrical equipment;

S. 154(e)(ii) amended by No. 57/2009 s. 12(5).

- (ii) the preparation of reports about energy efficiency electrical equipment;

S. 154(e)(iii) amended by No. 57/2009 s. 12(5).

- (iii) the registration, renewal of registration, modification of registration or transfer of registration of energy efficiency electrical equipment;

S. 154(f) amended by No. 57/2009 s. 12(6).

- (f) authorising or requiring the giving of public notices in relation to energy efficiency electrical

equipment and the recovery of costs associated with those notices.

S. 155 amended by No. 59/2011 s. 22.

### **155 Cathodic protection and stray current corrosion regulations**

The Governor in Council may make regulations for or with respect to—

- (a) standards and requirements for the design, installation and operation of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (b) requiring and regulating the installation, use and maintenance of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (c) the registration of cathodic protection systems and systems for the mitigation of stray current corrosion, including—
  - (i) applications for registration and the information to accompany the applications;
  - (ii) the granting of certificates of registration;
  - (iii) conditions on certificates of registration;
  - (iv) modifications to a system;
  - (v) the refusal and withdrawal of registration;
- (d) the keeping of registers of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (e) the testing of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (f) reasonable fees (including annual fees) to be charged for the testing of, the examination of and for the preparation of reports about cathodic protection systems and systems for the mitigation of stray current corrosion;

S. 155(1)(g) amended by No. 61/2007 s. 12(5).

- (g) prescribing generally the precautions to be taken to secure the working of railways so as to mitigate danger and damage from fusion or electrolytic action and in particular all such matters or things as are necessary or expedient to be prescribed with respect to all or any of the following matters

—

- (i) return conductors;

S. 155(1)(g)(ii) amended by No. 61/2007 s. 12(5).

- (ii) the structure and method of construction of railways and the method of generation, distribution and use of the electrical current;

S. 155(1)(g)(iii) amended by Nos 39/2005 s. 48(Sch. 1 item 2), 61/2007 s. 12(6).

- (iii) the making and recording of electric tests whether by the operator of a railway or Energy Safe Victoria.

## 156 Electrical contractors and electrical workers

The Governor in Council may make regulations for or with respect to—

S. 156(a) substituted by No. 69/2000 s. 30(a).

- (a) the qualifications (including courses of training and examination, re-examination, assessment and re-assessment) required for registration of electrical contractors or any class of electrical contractors;
- (b) the registration of electrical contractors including the conditions under which registration will be granted;
- (c) reasonable fees to be paid—
  - (i) for the registration of electrical contractors;
  - (ii) for the renewal of registrations;
- (d) the suspension or cancellation of the registration of any electrical contractor and the restoration of the registration of any electrical contractor whose registration has been suspended or cancelled.
- (e) grades and standards of qualification and competence of electrical workers and their duties;

S. 156(f) amended by No. 69/2000 s. 30(b).

- (f) the examination, assessment, grading and licensing of electrical workers and applications for and the issue and variation of licences, including the conditions and restrictions to which licences are subject;
- (g) the expiry, renewal, cancellation and suspension of licences;



- (h) prescribing forms of licences;
- (i) prescribing periodic or other tests of the competence of electrical workers for carrying out electrical work;

S. 156(j) amended by No. 69/2000 s. 30(c).

- (j) reasonable fees to be paid for applications for licences and any assessment or any theoretical or practical examination in electrical work and refunds of fees.

### 157 General regulation making powers

- (1) The Governor in Council may make regulations for or with respect to—

S. 157(1)(a) amended by Nos 38/2000 s. 21(c), 39/2005 s. 48(Sch. 1 item 2).

- (a) fixing fees and charges, including maximum or minimum fees and charges, for or with respect to any function or service carried out by Energy Safe Victoria;

S. 157(1)(b) amended by Nos 89/1998 s. 30(1), 39/2005 s. 48(Sch. 1 item 2).

- (b) empowering Energy Safe Victoria to waive or rebate the payment of a fee or charge in specified circumstances or to refund amounts paid to Energy Safe Victoria in specified circumstances;

S. 157(1)(c) repealed by No. 24/2002 s. 8.

\* \* \* \* \*

- (d) forms for the purposes of this Act or the regulations;

S. 157(1)(e) repealed by No. 24/2002 s. 8.

\* \* \* \* \*

- (f) the keeping of records;
- (g) the conducting of tests;
- (h) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

- (2) Regulations made under this Act may be made—

- (a) so as to apply—

- (i) at all times or at a specified time; or
- (ii) throughout the whole of the State or in a specified part of the State;

S. 157(2)(aa) inserted by No. 89/1998 s. 30(2).

- (aa) so as to apply generally or to be of limited application and may differ according to differences in circumstances;
- (b) so as to require a matter affected by the regulations to be—
  - (i) in accordance with a specified standard or specified requirement; or
  - (ii) approved by or to the satisfaction of a specified person or body;
- (c) so as to incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

- (i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or

S. 157(2)(c)(ii) amended by No. 59/2008 s. 42.

- (ii) as published or amended from time to time;

- (d) so as to confer a discretionary authority on or leave any matter to be determined by a specified person or body;

S. 157(2)(e) amended by Nos 39/2005 s. 48(Sch. 1 item 2), 43/2018 s. 15.

- (e) so as to empower Energy Safe Victoria to exempt any person, electrical work, electrical equipment or in-scope electrical equipment from all or any of the requirements of the regulations subject to conditions (if any) specified by Energy Safe Victoria.

- (3) The regulations may impose a penalty not exceeding 20 penalty units for a breach of a regulation.

## 158 Disallowance of regulations

The regulations are subject to disallowance by a House of the Parliament.

## Part 14—Transitional provisions and consequential amendments

S. 159 repealed by No. 39/2005 s. 47.

\* \* \* \* \*

### 160 Transitional provisions—electrical contractors and mechanics

- (1) Any person who was registered as an electrical contractor under Part V of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be registered as an electrical contractor under Division 1 of Part 3 of this Act for the remainder of the registration period.
- (2) Any person who was licensed as an electrical mechanic in respect of a grade of electrical wiring work under Part V of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be licensed under Division 2 of Part 3 of this Act as an electrical worker in respect of an equivalent class of electrical work for the remainder of the licence period.

### 161 Transitional provision—electrical equipment

- (1) Electrical equipment in respect of which an approval was in force under section 51 of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be approved under section 58 of this Act.
- (2) An Order under section 57(1) of the **State Electricity Commission Act 1958** in force immediately before the commencement of this section and declaring any class, description or type of electrical appliance to be a proclaimed electrical appliance has effect as an Order under section 67 of this Act declaring any class, description or type of appliance to which the Order applies to be proclaimed electrical equipment for the purposes of Part 5 of this Act and may be amended or revoked accordingly.

### 162 Transitional provision—urban area

- (1) A notice under section 58(1A) of the **State Electricity Commission Act 1958** specifying an area of land as an

urban area that was in force immediately before the commencement of this section has effect as a notice under section 79 of this Act and may be amended or revoked accordingly.

- (2) A declaration under section 65(3) of the **State Electricity Commission Act 1958** of an area in an urban area for the purposes of section 60(3) of that Act that was in force immediately before the commencement of this section has effect as a declaration under section 81(1) of this Act and may be amended or revoked accordingly.

S. 162A inserted by No. 38/2000 s. 22.

### **162A Making of certain statutory rules**

- (1) A notice advising of the decision to make a proposed statutory rule referred to in subsection (2) is deemed to have been published in the Government Gazette as soon as practicable after the decision was made and to have been so published before the proposed statutory rule was made.
- (2) In subsection (1), *proposed statutory rule* means any of the following proposed statutory rules that were made on 14 December 1999 as—
  - (a) the Electricity Safety (Management) Regulations 1999;
  - (b) the Electricity Safety (Network Assets) Regulations 1999;
  - (c) the Electricity Safety (Electric Line Clearance) Regulations 1999.

S. 163 substituted by No. 24/2002 s. 9.

### **163 Transitional provisions—abolition of the Electrical Appeals Board**

Schedule 1 has effect.

S. 164 repealed by No. 24/2002 s. 10, new s. 164 inserted by No. 61/2007 s. 11.

### **164 Transitional provisions—Electricity Safety Amendment Act 2007**

- (1) In this section—

*accepted electricity safety management scheme* has the same meaning as it had in section 3 immediately before the commencement of section 4(3) of the **Electricity Safety Amendment Act 2007**.
- (2) An accepted electricity safety management scheme that is in force immediately before the commencement of

section 7 of the **Electricity Safety Amendment Act 2007** is deemed on that commencement to be—

- (a) if the accepted electricity safety management scheme is in respect of the design, construction, operation, maintenance or decommissioning of a supply network owned or operated by a major electricity company—an electricity safety management scheme accepted by Energy Safe Victoria under Division 2 of Part 10;
- (b) if the accepted safety management scheme is in respect of electrical work carried out by electrical workers employed by a scheme operator (as defined by section 107(1)(a) immediately before that section's repeal by section 7 of the **Electricity Safety Amendment Act 2007**)—an electricity safety management scheme accepted by Energy Safe Victoria under section 114;
- (c) if the accepted safety management scheme is in respect of electrical work carried out at specified premises occupied by a scheme operator (as defined by section 107(1)(c) immediately before that section's repeal by section 7 of the **Electricity Safety Amendment Act 2007**)—an electricity safety management scheme accepted by Energy Safe Victoria under section 115;
- (d) if the accepted safety management scheme is in respect of the design, construction, operation and maintenance of an upstream network of a network operator that is not a major electricity company—an electricity safety management scheme accepted by Energy Safe Victoria under section 116.

S. 165 repealed by No. 24/2002 s. 10, new s. 165 inserted by No. 57/2009 s. 43.

### **165 Savings provision—proclaimed electrical equipment**

On the day section 7 of the **Energy and Resources Legislation Amendment Act 2009** comes into operation, electrical equipment that was proclaimed electrical equipment immediately before the repeal of section 67 by section 6 of that Act is taken to be energy efficiency electrical equipment for the purposes of Part 5.

S. 166 repealed by No. 24/2002 s. 10,  
new s. 166 inserted by No. 59/2011 s. 23.

### **166 Transitional provision—Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011**

(1) In this section—

*commencement day* means the day on which section 18 of the **Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011** comes into operation.

(2) In any proceeding commenced on or after the commencement day, section 130(2) as in force immediately before that commencement day continues to apply in respect of an entry and search conducted under section 129 before that commencement day.

S. 167 repealed by No. 24/2002 s. 10, new s. 167 inserted by No. 43/2018 s. 16.

### **167 Transitional provision—Electricity Safety Amendment (Electrical Equipment Safety Scheme) Act 2018**

(1) In this section—

*certificate of compliance* means a certificate issued under section 55 as in force immediately, before the commencement day;

*certification* means a certification given in accordance with section 57(2)(c) as in force immediately before the commencement day;

*commencement day* means the day on which Part 2 of the **Electricity Safety Amendment (Electrical Equipment Safety Scheme) Act 2018** comes into operation;

*controlled electrical equipment* has the same meaning as in section 50;

*in-scope electrical equipment* has the same meaning as in section 50;

*level 1 in-scope electrical equipment* has the same meaning as in section 50;

*level 2 in-scope electrical equipment* has the same meaning as in section 50;

*Register* has the same meaning as in section 50;

*registered responsible supplier* has the same meaning as in section 50;

*regulatory compliance mark* has the same meaning as in section 50;

*responsible supplier* has the same meaning as in section 50.

- (2) Part 4 applies to a certificate of compliance in respect of electrical equipment, as in force immediately before the commencement day, as if a reference to a certificate of suitability were a reference to a certificate of compliance for the period beginning on the commencement day and ending on (whichever first occurs)—
  - (a) the day the certificate of compliance for the electrical equipment expires or is cancelled; or
  - (b) the fifth anniversary of the commencement day.
- (3) Part 4 applies to an approval under section 57(2)(b), as in force immediately before the commencement day, of electrical equipment where the approval is in force immediately before the commencement day, as if a reference to a certificate of conformity were a reference to that approval for the period beginning on the commencement day and ending on (whichever first occurs)—
  - (a) the day the approval for the electrical equipment expires or is cancelled; or
  - (b) the fifth anniversary of the commencement day.
- (4) Part 4 applies to an approval under section 58, as in force immediately before the commencement day, of electrical equipment where the approval is in force immediately before the commencement day, as if a reference to a certificate of conformity were a reference to that approval for the period beginning on the commencement day and ending on (whichever first occurs)—
  - (a) the day the approval for the electrical equipment expires or is cancelled; or
  - (b) the fifth anniversary of the commencement day.
- (5) Part 4 applies to a certification in respect of electrical equipment, in force immediately before the commencement day, as if a reference to a certificate of conformity were a reference to that certification for the period beginning on the commencement day and ending on (whichever first occurs)—
  - (a) the day the certification for the electrical equipment expires or is cancelled; or
  - (b) the fifth anniversary of the commencement day.



- (6) For 6 months on and from the commencement day a responsible supplier who supplies or offers to supply any in-scope electrical equipment—
- (a) is taken to be a registered responsible supplier; and
  - (b) is taken to have marked the in-scope electrical equipment with a regulatory compliance mark as required; and
  - (c) is taken to have satisfied a request to supply a compliance folder or a certificate of suitability under section 67C(2), if the responsible supplier supplies on request the relevant documentary evidence within the meaning of section 67B as if a reference in section 67B to level 1 in-scope electrical equipment were a reference to level 2 in-scope electrical equipment; and
  - (d) is taken to have registered that equipment in the Register.
- (7) A person other than a responsible supplier who purchases in-scope electrical equipment for the purpose of supplying it or offering it for supply to another person before the commencement day or in the period not exceeding 6 months after the commencement day may supply or offer to supply that in-scope electrical equipment to another person as if—
- (a) the electrical equipment was registered in the Register on the day that the person took possession of the electrical equipment; and
  - (b) the electrical equipment is marked with a regulatory compliance mark as required on the day that the person supplies or offers to supply the electrical equipment.

Ss 168–170 repealed by No. 24/2002 s. 10.

\* \* \* \* \*



## Schedule 1—Transitional provisions

### 1 Definitions

In this Schedule—

**Board** means Electrical Appeals Board established under the **Electricity Safety Act 1998** as in force prior to the commencement day;

**commencement day** means the day on which section 9 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002** comes into operation;

**VCAT Act** means the **Victorian Civil and Administrative Tribunal Act 1998**.

### 2 Abolition of the Electrical Appeals Board

- (1) On the commencement day, the Electrical Appeals Board is abolished and its members go out of office.
- (2) On and from the commencement day, a reference to the Board in any Act or subordinate instrument (other than this Schedule) or in any other document, so far as it relates to any period after that day and unless the context otherwise requires, must be construed as a reference to the Tribunal.
- (3) Subclause (1) does not affect any other provision of this Schedule—
  - (a) dealing with proceedings before the Electrical Appeals Board; or
  - (b) providing for the Electrical Appeals Board to continue for certain purposes.
- (4) If under this Schedule the Electrical Appeals Board continues for certain purposes, the provisions of the **Electricity Safety Act 1998** as in force immediately before the commencement day relating to membership and procedure continue to apply for those purposes.

### 3 Pending proceedings

- (1) If, immediately before the commencement day, a proceeding was pending before the Board but the Board had not begun to hear the matter or had not been presented with any evidence on any material question of fact, the proceeding is to be heard and determined by the Tribunal and for that purpose—
  - (a) the proceeding is to be taken to have been commenced in the Tribunal; and

- (b) anything done in relation to the proceeding by the Board before the commencement day is deemed to have been done by the Tribunal; and
  - (c) the procedure that applies to the proceeding on and after the commencement day is the procedure set out in the VCAT Act and the rules made under it in relation to that class of proceedings; and
  - (d) anything done or omitted to be done in relation to the proceeding by a party or other person before the commencement day, under or in accordance with the procedure that applied before that day, must be taken, so far as possible, to have been done or omitted under or in accordance with the procedure applying on or after that day; and
  - (e) the Tribunal has only the powers, functions and duties which the Board would have had in relation to the proceeding under this Act as in force immediately before the commencement day; and
  - (f) any order made by the Tribunal may only be appealed against in accordance with Part 5 of the VCAT Act.
- (2) If, immediately before the commencement day, a proceeding was pending before the Board and the Board had begun to hear the matter or had been presented with evidence on a material question of fact
- 
- (a) the proceeding is to be heard and determined by the Board in accordance with the provisions of the **Electricity Safety Act 1998** as in force immediately before the commencement day; and
  - (b) the Board may make any determination or order in respect of the proceeding that it could have made immediately before the commencement day; and
  - (c) for the purpose of completing the proceeding and making a determination or order the Board will, despite clause 2(1), continue to exist; and
  - (d) the procedure that applies to the proceeding on and after the commencement day is the procedure that applied immediately before the commencement day.

#### **4 Determinations or orders made by Board**

A determination or order made by the Board in a proceeding finally determined by it before the

commencement day may be enforced in accordance with this Act as in force immediately before that day.

## **5 Power to resolve transitional difficulties**

If any difficulty arises because of the operation of this Schedule in relation to a proceeding (including a proceeding pending before the Board) to which clause 3 applies, the Tribunal may make any order that it considers appropriate to resolve the difficulty.

## **6 Transfer of registers**

- (1) The Secretary to the Department of Natural Resources and Environment must ensure that—
  - (a) the register, required to be kept by the Electrical Appeals Board under section 128(2) of the **Electricity Safety Act 1998**, as in force immediately before the commencement of section 6 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, is sent to the Office; and
  - (b) the Register, required to be kept by the Registrar of the Board by clause 15 of Schedule 1 to the **Electricity Safety Act 1998** as in force immediately before the commencement of section 9 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, and any other documents in the possession of the Board relating to proceedings before the Board, are sent to the principal registrar of the Tribunal.
- (2) Despite subclause (1)(b), the Secretary is not required to send to the principal registrar documents relating to a proceeding to which clause 3(2) applies until the conclusion of that proceeding.

# Endnotes

## 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current Versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 17 March 1998*

*Legislative Council: 21 April 1998*

The long title for the Bill for this Act was "A Bill relating to the safety of electricity supply and use and the efficiency of electrical equipment, to repeal the **Electric Light and Power Act 1958**, to amend certain other Acts and for other purposes."

The **Electricity Safety Act 1998** was assented to on 12 May 1998 and came into operation as follows:

Part 1 (sections 1–5) on 12 May 1998: section 2(1); Part 2 (sections 6–29), Part 3 Division 4 (sections 46–49), sections 121–127, 129–140, Part 12 Division 4 (sections 146–148), sections 157–159, 163(1)(a)–(c)(2), 164, 165(1)–(4)(6), 166–170 on 1 July 1998: Special Gazette (No. 65) 30 June 1998 page 2; sections 30–45, 50–69, 70(1)–(3)(5)(6), 71–74, 91–97, 128, 141, 152–156, 160, 161, 163(1)(d) and Schedule 1 on 3 May 1999: Government Gazette 29 April 1999 page 967; sections 70(4), 75–90, 98–120, 142–145, 149–151, 162, 163(1)(e)–(i), 165(5) on 31 December 1999: section 2(3).

## INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

## 2 Table of Amendments

This publication incorporates amendments made to the **Electricity Safety Act 1998** by Acts and subordinate instruments.

### Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

<i>Assent Date:</i>	26.5.98
<i>Comment Date:</i>	S. 7(Sch. 1) on 1.7.98: s. 2(2)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

### Electricity Industry Acts (Amendment) Act 1998, No. 89/1998

<i>Assent Date:</i>	24.11.98
<i>Comment Date:</i>	Ss 5, 7–12, 13(1), 22, 27–30 on 3.5.99: Government Gazette 29.4.99 p. 967; ss 6, 13(2), 14–21, 23–26 on 31.12.99: s. 2(3)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>



**Electricity Industry Acts (Further Amendment) Act 1999, No. 36/1999**

<i>Assent Date</i> :	8.6.99
<i>Comment Date</i> :	Ss 20–22 on 8.6.99: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Transport (Amendment) Act 2000, No. 30/2000**

<i>Assent Date</i> :	30.5.00
<i>Comment Date</i> :	31.5.00: s. 2
<i>Current State</i> :	All of Act in operation

**Electricity Industry Acts (Amendment) Act 2000, No. 38/2000**

<i>Assent Date</i> :	6.6.00
<i>Comment Date</i> :	Ss 15–18, 20–24 on 29.6.00; s. 19 on 1.9.00: Government Gazette 29.6.00 p. 1455

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000**

<i>Assent Date</i> :	21.11.00
<i>Comment Date</i> :	Ss 21–31 on 1.1.01: s. 2(4)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Electricity Industry Acts (Further Amendment) Act 2001, No. 13/2001**

<i>Assent Date</i> :	22.5.01
<i>Comment Date</i> :	Ss 11, 12 on 23.5.01: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001**

<i>Assent Date</i> :	19.6.01
<i>Comment Date</i> :	S. 29 on 1.9.01: s. 2(2)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Corporations (Consequential Amendments) Act 2001, No. 44/2001**

<i>Assent Date</i> :	27.6.01
<i>Comment Date</i> :	S. 3(Sch. item 36) on 15.7.01: s. 2
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Essential Services Commission Act 2001, No. 62/2001**

<i>Assent Date</i> :	23.10.01
<i>Comment Date</i> :	S. 75 on 1.1.02: s. 2

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Statute Law (Further Revision) Act 2002, No. 11/2002**

<i>Assent Date</i> :	23.4.02
<i>Comment Date</i> :	S. 3(Sch. 1 item 21) on 24.4.02: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy Legislation (Further Miscellaneous Amendments) Act 2002, No. 24/2002**

<i>Assent Date</i> :	12.6.02
<i>Comment Date</i> :	S. 5 on 13.6.02: s. 2(1); ss 3, 4, 6–11 on 29.7.02: Government Gazette 18.7.02 p. 1658

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Energy Legislation (Consumer Protection and Other Amendments) Act 2003, No. 40/2003**

<i>Assent Date</i> :	11.6.03
<i>Commencement Date</i> :	Ss 26, 27 on 12.6.03: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Road Management Act 2004, No. 12/2004**

<i>Assent Date</i> :	11.5.04
<i>Comment Date</i> :	S. 155 on 1.7.04: s. 2(2); s. 171 on 1.1.05: s. 2(4)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy Legislation (Regulatory Reform) Act 2004, No. 25/2004**

<i>Assent Date</i> :	25.5.04
<i>Comment Date</i> :	Ss 22, 23 on 26.5.04: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Public Administration Act 2004, No. 108/2004**

<i>Assent Date</i> :	21.12.04
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<i>Com men ceme nt Date</i> :	S. 117(1) (Sch. 3 item 64) on 5.4.05: Govern ment Gazette 31.3.05 p. 602
<i>Curr ent State</i> :	This informa tion relates only to the provisio n/s amendi ng the <b>Electric ity Safety Act 1998</b>

**Energy Legislation (Miscellaneous Amendments) Act 2005, No. 33/2005**

<i>Asse nt Date</i> :	21.6.05
<i>Com men ceme nt Date</i> :	S. 3 on 22.6.05: s. 2
<i>Curr ent State</i> :	This informa tion relates only to the provisio n/s amendi ng the <b>Electric ity Safety Act 1998</b>

**Energy Safe Victoria Act 2005, No. 39/2005**

<i>Asse nt Date</i> :	27.7.05
<i>Com men ceme nt Date</i> :	Ss 44– 48, Sch. 1 on 10.8.05: Special Gazette (No. 14 7) 9.8.05 p. 1

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Education and Training Reform Act 2006, No. 24/2006**

<i>Assent Date</i> :	16.5.06
<i>Comment Date</i> :	S. 6.1.2(Sch. 7 item 15) on 1.7.07: Government Gazette 28.6.07 p. 1304
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Statute Law (Further Revision) Act 2006, No. 29/2006**

<i>Assent Date</i> :	6.6.06
<i>Comment Date</i> :	S. 3(Sch. 1 item 10) on 10.8.05: s. 2(2) (e)



<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

<i>Assent Date</i> :	13.6.06
<i>Comment Date</i> :	S. 94(Sch. item 14) on 1.7.06: Government Gazette 29.6.06 p. 1315
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Electricity Safety Amendment Act 2007, No. 61/2007 (as amended by Nos 25/2008, 57/2009)**

<i>Assent Date</i> :	4.12.07
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<p><i>Com men ceme nt Date</i> :</p>	<p>Ss 12–16 on 5.12.07: s. 2(1), ss 4(1) (3), 5, 7–11 on 13.12.09: Government Gazette 10.12.09 p. 3215; s. 4(2) never proclaimed, repealed by No. 57/2009 s. 13(2); s. 6 never proclaimed, repealed by No. 57/2009 s. 15</p>
<p><i>Curr ent State</i> :</p>	<p>This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b></p>

**Energy and Resources Legislation Amendment Act 2008, No. 25/2008**

<p><i>Asse nt Date</i> :</p>	<p>3.6.08</p>
<p><i>Com men ceme nt Date</i> :</p>	<p>Ss 3–7 on 4.6.08: s. 2(1); s. 8 on 1.1.10: s. 2(3)</p>

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Energy Legislation Amendment (Retail Competition and Other Matters) Act 2008, No. 59/2008**

<i>Assent Date</i> :	22.10.08
<i>Commencement Date</i> :	Ss 41, 42 on 23.10.08: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy and Resources Legislation Amendment Act 2009, No. 57/2009**

<i>Assent Date</i> :	21.10.09
<i>Commencement Date</i> :	Ss 4, 5, 9–11 on 13.12.09: Government Gazette 10.12.09 p. 3215; ss 6–8, 12, 43 on 1.9.10: s. 2(2)

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Transport Integration Act 2010, No. 6/2010** (as amended by No. 45/2010)

<i>Assent Date</i> :	2.3.10
<i>Commencement Date</i> :	S. 203(1) (Sch. 6 item 16) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy and Resources Legislation Amendment Act 2010, No. 55/2010**

<i>Assent Date</i> :	14.9.10
<i>Commencement Date</i> :	S. 36 on 15.9.10: s. 2(2); ss 12–35, 37 on 21.10.10: Government Gazette 14.10.10 p. 2404

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011, No. 59/2011**

<i>Assent Date</i> :	8.11.11
<i>Commencement Date</i> :	Ss 3–23 on 1.1.12: Special Gazette (No. 407) 13.12.11 p. 1
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Statute Law Revision Act 2012, No. 43/2012**

<i>Assent Date</i> :	27.6.12
<i>Commencement Date</i> :	S. 3(Sch. item 14) on 28.6.12: s. 2(1)

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Rail Safety National Law Application Act 2013, No. 22/2013**

<i>Assent Date</i> :	23.4.13
<i>Comment Date</i> :	S. 56 on 19.5.14: Special Gazette (No. 148) 13.5.14 p. 2
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013, No. 35/2013**

<i>Assent Date</i> :	18.6.13
<i>Comment Date</i> :	S. 12 on 10.7.13: Special Gazette (No. 257) 9.7.13 p. 1

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Statute Law Revision Act 2013, No. 70/2013**

<i>Assent Date</i> :	19.11.13
<i>Commencement Date</i> :	S. 4(Sch. 2 item 16) on 1.12.13: s. 2(1)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Electricity Safety Amendment (Bushfire Mitigation) Act 2014, No. 2/2014**

<i>Assent Date</i> :	11.2.14
<i>Commencement Date</i> :	Ss 4–11, 12(1), 13, 14 on 1.4.14: Special Gazette (No. 94) 25.3.14 p. 1; s. 12(2) on 29.6.15: s. 2(2)

<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

<i>Assent Date</i> :	3.6.14
<i>Commencement Date</i> :	S. 10(Sch. item 51) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Energy Legislation Amendment (Customer Metering Protections and Other Matters) Act 2014, No. 46/2014**

<i>Assent Date</i> :	1.7.14
<i>Commencement Date</i> :	Ss 8–10 on 30.7.14: Special Gazette (No. 254) 29.7.14 p. 1



<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>
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**Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and Markets) Act 2017, No. 1/2017**

<i>Assent Date</i> :	14.2.17
<i>Commencement Date</i> :	Ss 11–13 on 1.1.18: s. 2(3)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Act 2017, No. 18/2017**

<i>Assent Date</i> :	16.5.17
<i>Commencement Date</i> :	Ss 4–6 on 1.9.17: s. 2(2)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Oaths and Affirmations Act 2018, No. 6/2018**

<i>Assent Date</i> :	27.2.18
<i>Comment Date</i> :	S. 68(Sch. 2 item 47) on 1.3.19: s. 2(2)
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

**Electricity Safety Amendment (Electrical Equipment Safety Scheme) Act 2018, No. 43/2018**

<i>Assent Date</i> :	18.9.18
<i>Comment Date</i> :	Ss 4–16 on 1.4.19: Special Gazette (No. 517) 30.10.18 p. 1
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

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### 3 Amendments Not in Operation

This publication does not include amendments made to the **Electricity Safety Act 1998** by the following Act/s.

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#### Emergency Management Legislation Amendment Act 2018, No. 36/2018

<i>Assessment Date</i> :	21.8.18
<i>Comment Date</i> :	S. 81 not yet proclaimed
<i>Current State</i> :	This information relates only to the provision/s amending the <b>Electricity Safety Act 1998</b>

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At the date of this publication, the following provisions amending the **Electricity Safety Act 1998** were Not in Operation:

#### Amending Act/s:

#### **Emergency Management Legislation Amendment Act 2018, No. 36/2018**

##### **81 Electricity Safety Act 1998**

- (1) In the heading to Division 2A of Part 8 of the **Electricity Safety Act 1998**, for "**fire prevention**" substitute "**emergency management**".
- (2) In the heading to section 86B of the **Electricity Safety Act 1998**, for "**fire prevention**" substitute "**emergency management**".
- (3) In section 86B of the **Electricity Safety Act 1998**, for "section 55A of the **Country Fire Authority Act 1958**, a Council must, in a municipal fire prevention plan required to be prepared and maintained under that section" substitute "section 60ADB or 60AN of the **Emergency Management Act 2013**, a Municipal Emergency Management Planning Committee must, in a municipal emergency

management plan prepared under section 60ADB or in an updated municipal emergency management plan prepared under section 60AN (as the case may be)".

#### **4 Explanatory details**

No entries at date of publication.