

## Electricity Act 1945

**Electricity (Licensing) Amendment Regulations  
(No. 3) 2004**

Made by the Governor in Executive Council.

**1. Citation**

These are the *Electricity (Licensing) Amendment Regulations (No. 3) 2004*.

**2. Commencement**

These regulations come into operation on the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Part 2 Division 40* comes into operation or on the day of their publication in the *Gazette*, whichever is the later.

**3. The regulations amended**

The amendments in these regulations are to the *Electricity (Licensing) Regulations 1991\**.

[\* *Reprint 2 as at 14 March 2003.*

*For amendments to 2 December 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 87, and Gazette 13 July 2004.]*

**4. Regulation 13 amended**

Regulation 13(2)(f) is deleted.

**5. Part 2 Divisions 2 and 3 repealed**

Part 2 Divisions 2 and 3 are repealed.

**6. Regulations 30 and 31 replaced by regulations 30, 31 and 31A**

Regulations 30 and 31 are repealed and the following regulations are inserted instead —

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**30. Discipline**

(1) There is proper cause for disciplinary action in respect of a person who is the holder of a licence or permit if the person —

(a) is not a fit and proper person to be the holder of a licence or permit issued under this Part;

- (b) obtained the licence or permit by misrepresentation as to any material fact or by other fraudulent means;
  - (c) is or has been the subject of a disqualification or suspension imposed in another State, a Territory or New Zealand that prevents or prevented him or her from carrying out in that State or Territory or in New Zealand electrical work of the kind authorised by his or her licence or permit;
  - (d) has carried out electrical work in a manner that —
    - (i) endangers, or is likely to endanger, any person or property; or
    - (ii) is negligent or incompetent;or
  - (e) has committed an offence against the Act or these regulations or other regulations made under the Act, or against the *Energy Operators (Powers) Act 1979* or the *Energy Coordination Act 1994* or regulations made under those Acts.
- (2) Without limiting subregulation (1)(a), there is proper cause for disciplinary action in respect of a person if the person —
- (a) is addicted to alcohol or any drug; or
  - (b) suffers from any mental or physical disorder,
- to a degree that may at any time affect his or her ability to carry out electrical work in a safe and satisfactory manner.
- (3) Without limiting subregulation (1)(d)(i), there is proper cause for disciplinary action in respect of a person if the person has failed to comply with the requirements of regulation 49 or 50.

### **31. Disciplinary powers**

- (1) The Director may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in regulation 30(1), against the holder of a licence or permit.
- (2) If, in a proceeding commenced by an allegation under this regulation against the holder of a licence or permit, the State Administrative Tribunal is of the opinion that there is proper cause for disciplinary action, the Tribunal may do one or more of the following —
  - (a) by order cancel the licence or permit held by that person;

- (b) if the person is a nominated electrical worker — by order cancel the nomination of that person;
  - (c) by order suspend the licence or permit held by that person for a period, not exceeding 12 months, that is specified in the order;
  - (d) by order impose any restriction or condition on the authority conferred by the licence or permit held by that person or vary any restriction or condition to which the licence or permit is already subject;
  - (e) by order require that person to complete successfully a specified educational or training course of study;
  - (f) by order require that person to undergo a specified theoretical or practical assessment, examination or trade test;
  - (g) censure that person;
  - (h) recommend to the Director, where an offence is disclosed, that proceedings be instituted against that person in respect of that offence.
- (3) Where any restriction or condition on the authority conferred by a licence or permit is imposed or varied under subregulation (2)(d), the Board may order the return of the licence or permit document for endorsement and may endorse the licence or permit document accordingly.

**31A. Alternative to bringing proceedings**

- (1) Instead of making an allegation to the State Administrative Tribunal under regulation 31, if the Director —
- (a) is satisfied that the matter may be disposed of satisfactorily without cancelling or suspending the licence or permit of the person;
  - (b) has afforded to the person concerned the opportunity of giving an explanation to the Director either in person or in writing and has not been offered an explanation or is not satisfied by any explanation offered; and
  - (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,

the Director may do one or more of the following —

- (d) if the person is a nominated electrical worker — by order cancel the nomination of that person;

- (e) by order impose any restriction or condition on the authority conferred by the licence or permit held by that person or vary any restriction or condition to which the licence or permit is already subject;
  - (f) by order require that person to complete successfully a specified educational or training course of study;
  - (g) by order require that person to undergo a specified theoretical or practical assessment, examination or trade test;
  - (h) censure that person;
  - (i) where an offence is disclosed — institute proceedings against that person in respect of that offence.
- (2) Before deciding whether a matter may be disposed of satisfactorily without cancelling or suspending the licence or permit of the person, the Director may request the Board to give the Director advice on that matter and the Board is to comply with that request.
- (3) If a person chooses to give the Director an explanation referred to in subregulation (1)(b) in person, the explanation may be given that way by —
- (a) the person; or
  - (b) a legal practitioner or other representative of the person.
- (4) An order under subregulation (1)(e), (f) or (g) has effect according to its tenor.
- (5) Where any restriction or condition on the authority conferred by a licence or permit is imposed or varied under subregulation (1)(e), the Board may order the return of the licence or permit document for endorsement and may endorse the licence or permit document accordingly.
- (6) An order made by the Director under this regulation is to be reduced to writing signed by the Director and a copy of the order given to the person against whom it is made.

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## 7. **Regulation 32 amended**

- (1) Regulation 32(2) is amended by deleting “The” and inserting instead —

“ Subject to subregulation (3), the ”.

(2) After regulation 32(2) the following subregulation is inserted —

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- (3) The Board cannot to any extent revoke a suspension that was imposed by an order of the State Administrative Tribunal unless it has applied for, and obtained, the approval of the State Administrative Tribunal to do so.

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**8. Regulations 46 and 47 replaced by regulations 46, 47 and 47A**

Regulations 46 and 47 are repealed and the following regulations are inserted instead —

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**46. Discipline**

- (1) There is proper cause for disciplinary action in respect of a person who is the holder of a licence if the person —
- (a) is not a fit and proper person to be the holder of a licence issued under this Part;
  - (b) obtained the licence or enabled the licence to be obtained by misrepresentation as to any material fact or by other fraudulent means;
  - (c) has carried out or caused or permitted to be carried out any electrical work in a manner that —
    - (i) endangers, or is likely to endanger, any person or property; or
    - (ii) is negligent or incompetent;
  - (d) has, personally or through a person authorised by him or her, signed a notice of completion of electrical work in respect of electrical work that has not been carried out by him or her or on his or her behalf; or
  - (e) has committed an offence against the Act or these regulations or other regulations made under the Act, or against the *Energy Operators (Powers) Act 1979* or the *Energy Coordination Act 1994* or regulations made under those Acts.
- (2) Without limiting subregulation (1)(c)(i), there is proper cause for disciplinary action in respect of a person if the person has failed to comply with the requirements of regulation 49 or 50.

**47. Disciplinary powers**

- (1) The Director may allege to the State Administrative Tribunal that there is proper cause for disciplinary action, as mentioned in regulation 46(1), against the holder of a licence.
- (2) If, in a proceeding commenced by an allegation under this regulation against the holder of a licence, the State Administrative Tribunal is of the opinion that there is proper cause for disciplinary action, the Tribunal may do one or more of the following —
  - (a) by order cancel the licence held by that person;
  - (b) by order suspend the licence held by that person for a period, not exceeding 12 months, that is specified in the order;
  - (c) by order impose any restriction or condition on the authority conferred by the licence held by that person or vary any restriction or condition to which the licence is already subject;
  - (d) by order require that person to complete successfully a specified educational or training course of study;
  - (e) by order require that person to undergo a specified theoretical or practical assessment, examination or trade test;
  - (f) censure that person;
  - (g) recommend to the Director, where an offence is disclosed, that proceedings be instituted against that person in respect of that offence.
- (3) Where any restriction or condition on the authority conferred by a licence is imposed or varied under subregulation (2)(c), the Board may order the return of the licence document for endorsement and may endorse the licence document accordingly.

**47A. Alternative to bringing proceedings**

- (1) Instead of making an allegation to the State Administrative Tribunal under regulation 47, if the Director —
  - (a) is satisfied that the matter may be disposed of satisfactorily without cancelling or suspending the licence of the person;
  - (b) has afforded to the person concerned the opportunity of giving an explanation to the Director either in person or in writing and has not been offered an explanation or is not satisfied by any explanation offered; and

- (c) has afforded to the person concerned the option of the matter proceeding before the Tribunal and that option has not been taken up,

the Director may do one or more of the following —

- (d) by order impose any restriction or condition on the authority conferred by the licence held by that person or vary any restriction or condition to which the licence is already subject;
  - (e) by order require that person to complete successfully a specified educational or training course of study;
  - (f) by order require that person to undergo a specified theoretical or practical assessment, examination or trade test;
  - (g) censure that person;
  - (h) where an offence is disclosed — institute proceedings against that person in respect of that offence.
- (2) Before deciding whether a matter may be disposed of satisfactorily without cancelling or suspending the licence of the person, the Director may request the Board to give the Director advice on that matter and the Board is to comply with that request.
  - (3) If a person chooses to give the Director an explanation referred to in subregulation (1)(b) in person, the explanation may be given that way by —
    - (a) the person; or
    - (b) a legal practitioner or other representative of the person.
  - (4) An order under subregulation (1)(d), (e) or (f) has effect according to its tenor.
  - (5) Where any restriction or condition on the authority conferred by a licence is imposed or varied under subregulation (1)(d), the Board may order the return of the licence document for endorsement and may endorse the licence document accordingly.
  - (6) An order made by the Director under this regulation is to be reduced to writing signed by the Director and a copy of the order given to the person against whom it is made.

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## 9. Regulation 61 amended

Regulation 61 is amended as follows:

- (a) in paragraph (a) by deleting “17, 30(4) or 46(4);” and inserting instead —  
“ 31(2)(c) or 47(2)(b); ”;

- (b) in paragraph (b) by deleting “17;” and inserting instead —  
“ 31(2)(a) or 47(2)(a); ”;
- (c) in paragraph (c) by deleting “a request from” and inserting instead —  
“ an order by ”;
- (d) in paragraph (c) by deleting “17” and inserting instead —  
“ 31(3), 31A(5), 47(3) or 47A(5) ”.

**10. Regulation 63B inserted**

After regulation 63A the following regulation is inserted —

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**63B. Delegation by Director**

- (1) The Director may delegate to the Board a power of the Director under regulation 31A or 47A.
- (2) The delegation is to be in writing signed by the Director.
- (3) The Board cannot delegate a power delegated to it under this regulation.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

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