



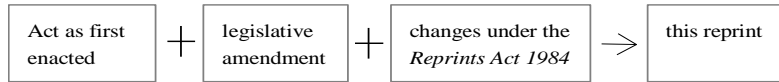
Western Australia

Electricity Act 1945

Reprint 5: The Act as at 6 June 2003

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

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Reprinted under the
Reprints Act 1984 as
at 6 June 2003

Western Australia

Electricity Act 1945

An Act to consolidate and amend the law relating to the establishment and control of electricity generating stations and to the transmission, distribution and use of electricity; to make provision as to the examination and licensing of persons in respect of their competency to carry out works relating to electricity, and the examination, prohibition or approval of electrical appliances; to repeal the *Electricity Act 1937*; and for other relative purposes.

[Long title amended by No. 86 of 1979 s. 3.]

1. Short title and commencement

This Act may be cited as the *Electricity Act 1945*, and shall come into operation on a date to be fixed by Proclamation¹.

[2. Repealed by No. 10 of 1998 s. 76.]

Part I — Preliminary

3. Act repealed

- (1) The *Electricity Act 1937* (No. 45 of 1937), is hereby repealed.
- (2) Nothing in this Act shall affect the operation of section 16 of the *Interpretation Act 1918* ², in relation to any act, matter or thing done or arising under the provisions of the said *Electricity Act 1937*, prior to the commencement of this Act.

[4. Repealed by No. 89 of 1994 s. 66.]

4A. Act not to apply to Government electric railways

- (1) This Act does not apply to or in relation to any Government electric railway under the *Government Railways Act 1904* that is operated at a nominal pressure of 25 kv and the traction system and the signalling and communication systems ancillary thereto whether or not those systems are operated at a pressure of 25 kv.
- (2) Subsection (1) does not of itself have any implication with respect to the Crown in relation to this Act.

[Section 4A inserted by No. 42 of 1988 s. 4.]

5. Interpretation

- (1) In this Act, unless the context otherwise requires —
 - “**apparatus**” means any apparatus, equipment, plant, or appliance in which electricity is capable of being, or is, or is intended to be transmitted, distributed, used, consumed or converted and includes any meter, fitting, or connection;
 - “**concessionaire**” means any person, body or authority to whom or which a concession has been granted by a local government under the provisions of this Act;
 - “**consumer**” means any person to whom electricity is supplied;
 - “**Coordinator**” means the Coordinator of Energy referred to in section 4 of the *Energy Coordination Act 1994*;

“department” or **“Government Department”** includes any branch of the Public Service of the State established as a Department within the meaning of that term as defined in the *Public Sector Management Act 1994*³, but also means any other body established by an Act being a body that —

- (a) administers or carries out in the State functions in the public interest on behalf of the Crown in right of the State, or which carries out the function of a public utility; and
- (b) is declared by the Governor, by Order in Council, to be deemed to be a department for the purposes of this Act;

“Director” means the Director of Energy Safety referred to in section 5 of the *Energy Coordination Act 1994*;

“distribution works” means any works, including lines, poles, switches, and transformers and all apparatus and other equipment or plant used in conjunction therewith, and any part thereof, utilized or capable of being or intended to be utilized for the purpose of distributing electricity to consumers either direct from any generating station or from any transmission works;

“electric fitting” includes any apparatus and any means of connection therefor;

“electric installation” includes all wiring, wiring enclosures, switch gear, control and protective gear, appliances, and other components permanently connected to or associated with the wiring, on premises to which electricity is or is intended to be supplied through distribution works, and where electricity is supplied from a private generating plant includes that plant;

“generating station” means any generating works, including the site on which the same are situated, and all buildings and appurtenances belonging thereto;

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“generating works” means any apparatus or other equipment or plant utilized or capable of being or intended to be utilized for the purpose of generating electricity;

“inspector” means a person designated as an inspector under section 12 of the *Energy Coordination Act 1994*;

“land” includes any legal or equitable estate, right, title, easement, privilege, or other interest in, over, under, affecting, or in connection with, such land;

“linking up scheme” means a scheme, including the works appurtenant thereto, whereby electricity is supplied or interchanged in quantity by or between 2 or more supply systems;

“premises” means any land, street, structure, or other place, and may include a vehicle or other thing in or in connection with which electricity is or is to be supplied;

“public authority” means any authority controlling any service such as roads, bridges, water supply, sewerage or drainage and any service or utility for the benefit of the public;

“service apparatus” means any works, apparatus or system which is or is capable of being or is intended to be used for the purpose of conveying, measuring, or controlling electricity supplied from any distribution works to the position on any premises at which delivery of the electricity is, is capable of being, or is intended to be, made to the consumer, and includes any part of the service apparatus, and any other equipment or plant used in conjunction therewith, whether or not the property of a supply authority;

“street” includes any highway, road, thorough fare, lane, alley, square, court, or place of public passage;

“supply authority” means any person who supplies electricity to the public under the authority of a consent given pursuant to section 7 or as specifically authorised by any other Act by means of transmission or distribution works owned or operated by that person, and may in accordance

with section 6(1) include a reference to the Western Power Corporation;

“transmission works” means any main line, and all poles, switches, transformers and apparatus pertaining thereto, which is or is capable of being or is intended to be used for the purpose of conveying electricity from a generating station to any distribution works;

“Western Power Corporation” means the body corporate continued by section 4 of the *Electricity Corporation Act 1994*.

[(2) repealed]

[Section 5 inserted by No. 86 of 1979 s. 5; amended by No. 89 of 1994 s. 67; No. 14 of 1996 s. 4; No. 63 of 1996 s. 14; No. 24 of 2000 s. 14(13).]

6. Application of Act to Western Power Corporation

- (1) The Western Power Corporation is a supply authority for the purposes of sections 25, 30, 32, 42, and 53, but not otherwise.
- (2) The prohibition in section 7(1) does not apply to the Western Power Corporation.

[Section 6 inserted by No. 89 of 1994 s. 68; amended by No. 14 of 1996 s. 4; No. 24 of 2000 s. 14(13).]

[6A.] *Repealed by No. 63 of 1996 s. 15.]*

Part II — Supply authorities

Division 1 — Establishment of generating stations, grants of concessions, etc.

7. No further generating stations to be erected except under this Act

- (1) Subject to subsections (3) and (4), no person shall —
- (a) construct or establish any generating station; or
 - (b) install or provide any additional main generating unit; or
 - (c) extend any transmission works; or
 - (d) connect or provide facilities to connect any generating works (not being works owned, controlled, or operated by the Western Power Corporation) to any distribution works of the Western Power Corporation or a supply authority,

without the consent in writing of the Coordinator and then only in accordance with any conditions or stipulations which the Coordinator may think fit to impose and shall specify in his or her consent.

Penalty: \$2 000.

- (2) Any person using any generating station or any transmission works which have been established or constructed in contravention of this section shall, in addition to the ordinary penalty provided for in subsection (1), be liable to a penalty not exceeding \$200 for each day or part of a day during which the same are so used.
- (3) Subsection (1) does not apply to or in relation to any generating works which —
- (a) are used solely for the purpose of generating electricity for supply to a private electric installation, where that installation —
 - (i) is owned, controlled or operated by; and

- (ii) is located on the same premises as are the generating works, being premises owned or occupied by,
the person who owns, controls or operates the generating works; and
 - (b) are so designed as to prevent operation in parallel with the transmission or distribution system of a supply authority, or of the Western Power Corporation, whether that operation is deliberate or accidental.
- (4) A person who sells electricity supplied to that person by a supply authority, but only to tenants of that person occupying premises owned by that person and at prices not in excess of the prescribed charges, shall not by doing so be taken, for the purposes of subsection (1), to require to obtain the consent of the Coordinator.

[Section 7 amended by No. 113 of 1965 s. 8; No. 86 of 1979 s. 6; No. 89 of 1994 s. 69, 79 and 82; No. 63 of 1996 s. 4 and 16; No. 24 of 2000 s. 14(13).]

8. Persons to furnish plans of proposed works

- (1) Any person, who desires to carry out any works in respect of which the consent in writing of the Coordinator is necessary under section 7, shall make application to the Coordinator for such consent and therewith shall furnish such preliminary plans, specifications, estimates and technical details of the proposed works as may be prescribed.
- (2) A local government or a supply authority which desires such consent shall not incur expenditure in excess of the sum of \$500 in connection with the preparation and completion of such preliminary plans, specifications, estimates and technical details without the prior approval of the Coordinator.
- (3) On receipt of such preliminary plans, specifications, estimates and technical details the Coordinator shall examine the same

and thereafter may grant or refuse the consent applied for as he or she may think fit.

[Section 8 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 79 and 81; No. 14 of 1996 s. 4; No. 63 of 1996 s. 11 and 17.]

9. Local governments empowered to generate electricity

- (1) Subject to the provisions of this Act a local government may, with the consent of the Coordinator and in accordance with any conditions and stipulations which he or she may impose and specify in the consent —
 - (a) establish and maintain generating stations in its district, and supply or combine with any other local government in the generation, supply and distribution of electricity either within the limits of its district or within the limits of its district and the district of such other local government combined;
 - (b) grant, in accordance with the standard form of contract for the time being and from time to time prescribed under section 17, a sole concession to a concessionaire for any period not exceeding 21 years, upon such terms and conditions, not inconsistent with the said prescribed form of contract, as the local government may think fit to impose enabling the concessionaire to exercise the powers of the local government conferred by paragraph (a) in the whole or such part of the district of the local government as may be specified;
 - (c) for the purpose of the effectual exercise of its powers under paragraphs (a) and (b) —
 - (i) buy or otherwise acquire freehold and leasehold land, sell or exchange lands of either freehold or leasehold tenure, or let on lease for any period not exceeding 21 years any land of any tenure belonging to the local government at such rent and upon and subject to such terms and conditions as it may think fit; and

- (ii) acquire patent rights, licences, apparatus, machinery, appliances and things; and
- (iii) use all the powers conferred on it by its local governing Act relating to the carrying out of works and undertakings, including but without limiting the generality of this authority, power to use its corporate funds and to borrow money in the same manner as, if as the local governing body under its said local governing Act, it were carrying out an authorised work within the meaning of that Act.

[(2) *repealed*]

[Section 9 amended by No. 94 of 1972 s. 4 (as amended by No. 19 of 1973); No. 89 of 1994 s. 70; No. 14 of 1996 s. 4.]

10. Local government may acquire land compulsorily

- (1) Subject to this Act, whenever any land is required by a local government for the purpose of exercising its powers under this Act such land may be entered upon, surveyed and taken under the powers contained in and in accordance with the procedure prescribed by Part 9 of the *Land Administration Act 1997*.
- (2) If upon the taking of land in pursuance of the power conferred by subsection (1) the local government fails to serve an offer on a claimant against the local government for compensation under Part 10 of the *Land Administration Act 1997* within the time limited for that purpose by that Act then the Coordinator may at any time thereafter serve an offer on behalf of the local government, and such offer shall be deemed to be an offer duly made by the local government for the purposes of the said Act.

[Section 10 amended by No. 89 of 1994 s. 71; No. 14 of 1996 s. 4; No. 31 of 1997 s. 25.]

11. Supply authority to pay compensation for damage done

- (1) A supply authority shall —
 - (a) in the exercise of the powers conferred by this Act, cause as little detriment and inconvenience and do as little damage as possible; and
 - (b) make full compensation to all persons concerned for all damage (other than the compulsory acquisition of land) sustained by them in consequence of the exercise by the supply authority of the powers aforesaid.
- (2) Where in accordance with subsection (1)(b) a supply authority is liable to make compensation to a person for damage sustained by him in consequence of the exercise of its said powers by such supply authority, the amount of the compensation to be paid, shall, in default of agreement between the parties, be determined by means of a reference to an arbitrator or arbitrators under and in accordance with the provisions of the *Commercial Arbitration Act 1985* ¹.

[Section 11 amended by No. 109 of 1985 s. 3(1).]

12. Crossing the district of a local government with transmission works

- (1) A local government may with the consent of the Coordinator, and shall, if so required by the Coordinator, grant to a supply authority a licence, for such period as may be necessary but in any event not exceeding 21 years, authorising the construction and maintenance by the supply authority of transmission works within the district of the local government.
- (2) The exercise by a supply authority of a licence granted to it under subsection (1) shall be deemed to be the exercise by the supply authority of a power conferred by this Act within the meaning of section 11, and the provisions of that section shall apply accordingly, and, where the supply authority does any damage to the works of the local government which has granted

the licence, the local government shall be a “**person concerned**” within the meaning of section 11(1)(b).

[Section 12 amended by No. 89 of 1994 s. 79; No. 14 of 1996 s. 4.]

13. Linking up schemes

- (1) Subject to this Act, and with the approval of the Coordinator, any supply authority may arrange with another supply authority for the establishment, maintenance and carrying on of a linking-up scheme for the supply by the one authority of electricity in bulk to the other, and the sale by such other authority of such electricity by retail.
- (2) The supply authorities concerned in any such arrangement shall make application jointly in writing to the Coordinator for his or her approval and shall furnish therewith such preliminary plans, specifications, estimates, technical details and other information as may be prescribed or be required by the Coordinator.
- (3) After examining the application and the said plans, specifications, estimates, technical details and other information aforesaid and giving full consideration to the proposed arrangement the Coordinator may grant or refuse approval, or grant approval subject to any conditions he or she may think fit to impose.
- (4) When the Coordinator grants approval of an arrangement for a linking-up scheme, he or she shall determine the price or prices to be paid for electricity purchased in bulk by the one supply authority from the other for subsequent sale by retail by the former.
- (5) In fixing the amount to be charged the Coordinator shall take into consideration —
 - (a) the following items of costs incurred or to be incurred at the generating station or proposed generating station based on the cost per kilowatt hour generated —
 - (i) management and administration;

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Part II Supply authorities

Division 1 Establishment of generating stations, grants of concessions, etc.

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- (ii) the cost of fuel;
- (iii) wages, stores, oil, water and other necessities;
- (iv) maintenance of plant;
- (v) transmission; and
- (vi) capital charges (including interest), depreciation and obsolescence;

and

- (b) maximum demand.

- (6) If the linking-up scheme is approved by the Coordinator, the supply authority which supplies the electricity in bulk shall not charge for such electricity prices in excess of those determined by the Coordinator without the consent of the Coordinator.

[Section 13 amended by No. 89 of 1994 s. 79, 81, 82 and 83.]

14. Method of metering bulk supplies

Where a supply authority, which generates electricity, supplies electricity in bulk under a linking-up scheme, then for the purpose of measuring the quantity supplied from the supplier to any supply authority or to any local government participating in such scheme, the electricity supplied in bulk shall be metered at a point to be mutually agreed upon between the supplier and the receiver of the electricity in bulk, or, in default of such agreement, to be determined by the Coordinator.

[Section 14 amended by No. 89 of 1994 s. 79; No. 14 of 1996 s. 4.]

15. Joint schemes

- (1) Subject to the consent of the Coordinator, any 2 or more local governments may, by mutual agreement combine in a joint scheme for the establishment of a generating station, or for the carrying out of transmission or distribution works, and the supply of electricity to consumers in the combined districts of such local governments.

- (2) Any local government which desires to combine with another or other local governments in a joint scheme under this section may give notice in writing to that effect to the other local government or local governments.
- (3) If after service of a notice pursuant to subsection (2) 2 or more local governments agree on a joint scheme, such local governments shall, before putting the scheme into operation, make application in writing to the Coordinator for consent thereto, and with such application shall furnish such particulars as may be prescribed or as may be required by the Coordinator.
- (4) Upon receipt of an application under subsection (3) the Coordinator may grant or refuse consent to the joint scheme proposed as he or she thinks fit.
- (5) Where 2 or more local governments agree on and the Coordinator consents to a joint scheme under this section, the capital cost of the establishment of the generating station, the transmission works, the distribution works and all works in connection therewith shall be apportioned between the local governments which are parties to the scheme on an equitable basis; and, if such parties are not able to agree mutually as to the proper apportionment of such capital cost, the same shall be referred to and determined by the Coordinator.
- (6) The total amount of distribution costs of electricity generated at any generating station established under a joint scheme shall be borne and paid by the local governments which are parties to such scheme in such proportion as may be mutually agreed upon, or, in default of such mutual agreement, as may be determined by the Coordinator.

[Section 15 amended by No. 89 of 1994 s. 79, 81 and 83; No. 14 of 1996 s. 4.]

16. Local government may apply to supply authority for supply of electricity in bulk

- (1) A local government, in whose district there is no supply authority generating electricity and which desires to negotiate for a supply of electricity in bulk for transmission and distribution to consumers within its district with a supply authority generating electricity in the district of another local government which adjoins its district, may give notice to that effect to such supply authority.
- (2) If such local government and such supply authority cannot reach agreement as to the supply of electricity, or as to the terms and conditions of such supply, the local government may apply to the Coordinator for a determination of the matters in dispute or difference.
- (3) Where any matter is referred to the Coordinator in accordance with subsection (2), the Coordinator shall determine the same as between the parties, and where the Coordinator decides that the supply authority shall supply electricity or determines the terms and conditions upon which the supply authority shall supply electricity as desired by the local government, the supply authority and the local government shall be bound by and shall observe and comply with the decision or determination of the Coordinator according to the tenor thereof.

[Section 16 amended by No. 89 of 1994 s. 79; No. 14 of 1996 s. 4.]

17. Standard form of concession agreement

- (1) The Coordinator may from time to time cause to be prepared and published in the *Government Gazette* a standard form of contract to be entered into and executed by local governments and concessionaries.
- (2) Every contract with respect to the grant of a concession entered into by a local government and a concessionaire shall be in

accordance with the standard form of contract then last prepared and published in accordance with subsection (1).

Provided that with the consent of the Coordinator, and by mutual agreement of the parties, additional provisions not inconsistent with or repugnant to the provisions contained in the standard form of contract aforesaid may be included in the contract entered into by the said parties, or the provisions contained in the said form may be varied in the contract entered into by the said parties.

[Section 17 amended by No. 89 of 1994 s. 79; No. 14 of 1996 s. 4.]

Division 2 — General powers and obligations of supply authorities

18. General powers

Subject to this Act and as in this section hereafter provided, a supply authority may do all or any of the following things, that is to say —

- (a) enter upon any land, street or place and survey and take levels thereof;
- (b) open and break up the soil, surface or pavement of any streets and bridges within the limits of any district or locality to be supplied by the supply authority with electricity, and open and break up any sewers, drains or tunnels within or under any such streets or bridges, and carry out and install transmission and distribution works under, over, along or across any such street, bridge, or shore of the sea, or of any stream or water but so that any electric line crossing above the surface of any street or of any water commonly used for navigation shall be constructed in accordance with the technical standards, and with the clearances from structures and surfaces, prescribed, and that the free use of any street, bridge, shore, stream or water aforesaid shall not be obstructed

more than is necessary for enabling the supply authority to exercise the rights, powers and authorities conferred upon it by this Act;

- (c) from time to time repair, alter or remove any such works;
- (d) for all or any of the purposes aforesaid remove and use all materials in, under or over any streets, and bridges aforesaid;
- (e) carry out and install any transmission works or distribution works in any place or in, against or through any building for the purpose of supplying the same or any other place or building with electricity, and set up any service apparatus necessary for providing thereto a complete supply of electricity, and for measuring and ascertaining the extent of such supply.

Provided that if the owner of the building shall rebuild or alter the same, any work attached to the building shall be removed so far as may be necessary to enable such rebuilding or alteration to be carried out, and, if so required shall be affixed to the new or altered building at the cost of the supply authority; and

- (f) generally all other acts and things which the supply authority from time to time deems necessary with respect to the supply of electricity.

Provided that —

- (i) the supply authority shall not erect or install any distribution works and service apparatus in or against any building or on any land without the consent of the owners and occupiers thereof, but nothing in this proviso shall preclude the supply authority from entering such building or land and carrying out, erecting and installing new distribution works and service apparatus to replace any distribution works or service apparatus already lawfully carried out, erected or

installed or to repair or alter any such works or apparatus;

- (ii) before the supply authority proceeds to open or break up any street, bridge, sewer, drain or tunnel it shall give to any public authority affected, under whose control or management the same or any part of the same or any works on, under or above the same may be placed, at least 3 clear day's notice in writing of the intention of the supply authority so to do except —
 - (a) in cases of emergency arising from defects in any transmission works or distribution works of the supply authority in which cases such notice shall be given with all reasonable dispatch after the beginning of the work or the necessity for the same has arisen; and
 - (b) in cases where the work to be carried out consists of the connection of any distribution works to any transmission works which have been previously laid or erected, in which cases one clear day's notice in writing shall be sufficient;
- (iii) no such street, bridge, sewer, drain or tunnel shall be opened up or broken up (except in the case of emergency) except under the superintendence of the public authority having the control or management thereof or of its officer, and according to such plan as shall be approved by such public authority or its officer, or, in case of any difference regarding such plan, then according to such plan as shall be determined, settled or approved by the Director. Provided that if the public authority or its officer

fails to attend at the time fixed for the opening up or breaking up of any such street, bridge, sewer, drain or tunnel after notice as required by paragraph (ii) of this proviso or shall not submit any plan for opening up or breaking up the same or shall refuse or fail to superintend the operations in connection therewith, then the supply authority may carry out the work specified in the said notice without the superintendence of the public authority or its officer.

[Section 18 amended by No. 94 of 1972 s. 4 (as amended by No. 19 of 1973); No. 86 of 1979 s. 7; No. 89 of 1994 s. 80; No. 63 of 1996 s. 18.]

19. Supply authority to reinstate works of a public authority

- (1) When a supply authority carries out any works in the exercise of its powers under this Act, and in the course thereof damages or prejudicially affects the works of any public authority, the supply authority shall —
 - (a) with all possible speed complete the works of the supply authority, reinstate and make good the damage done to the works of the public authority, and remove all spoil and rubbish occasioned by the operations of the supply authority;
 - (b) cause a light sufficient for the warning of persons, to be set up and maintained at night against or near the works being carried out by the supply authority in any street or public place, and keep the said works adequately fenced and guarded for the protection of persons until the supply authority has duly discharged its obligations as specified in paragraph (a); and
 - (c) keep any streets which have been broken up or disturbed in the course of the works carried out by the supply authority in good repair and condition for a period of 3 months after reinstating and making good any damage

done to the same and for any further period, not exceeding 12 months in all, during which the said streets may continue to subside.

- (2) If a supply authority makes default in the due discharge of any of its obligations under subsection (1), then without prejudice to any other liability at law or in equity to which it may be subject, the supply authority so in default shall forfeit and pay to the public authority, whose works or property have or has been damaged, a sum not exceeding \$200 for every such default and a further sum not exceeding \$100 for each day or part of a day during which any such default is continued after notice thereof in writing has been served by the said public authority upon the said supply authority as shall be fixed and ordered by the Director.

[Section 19 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 80; No. 63 of 1996 s. 7.]

20. Interference with works of public authorities and vice versa

- (1) Subject to this Act and to the regulations made and from time to time in force under this Act —
- (a) Where a supply authority in the exercise of its powers under this Act deems it necessary to alter the position of any works of any public authority in any street or place, the supply authority shall give to the public authority affected notice specifying the nature of the alteration proposed to be made.
 - (b) If the parties cannot agree as to the necessity for the alteration or as to any other matters pertaining to the proposed alteration, the matter in dispute or difference between them shall be referred to and be heard and determined by the Director.
 - (c) The supply authority shall make or secure to the public authority affected such amount of compensation and expenses as may be reasonably necessary to compensate the public authority in respect of the alteration of the

position of works and the re-establishment thereof in such other position as may be agreed upon by the parties, or in default of agreement, be settled and determined by the Director.

- (2) (a) Any public authority which in the exercise of its statutory powers deems it necessary to alter the position of any transmission works or distribution works of a supply authority in any street or place may give to the supply authority notice specifying the nature of the alteration proposed to be made.
- (b) Where notice is given by a public authority to a supply authority under this subsection the provisions of subsection (1) (b) and (c) shall, with such adaptations thereof as may be necessary, apply and have effect.

[Section 20 amended by No. 89 of 1994 s. 80; No. 14 of 1996 s. 4.]

21. Supply authority may let meters and apparatus

A supply authority may let to a consumer any meter for ascertaining the quantity of electricity consumed or supplied and also any electric fittings or other apparatus required by the consumer in connection with the supply to him of electricity for such rent and on such terms in respect of the maintenance and repair of such meter, fittings or other apparatus and the assuring of the safety and return thereof to the supply authority as may be prescribed for that particular part of the State in which the meter, fittings or other apparatus aforesaid are used.

22. Power to contract to supply electricity

Subject to this Act, a supply authority may from time to time —

- (a) enter into a contract with any person for the supply of electricity to any public or private building or for the providing of any person with electric fittings or other apparatus required in connection with the supply or use

of electricity, and for the maintenance and repair of any such fittings or other apparatus; and

- (b) enter into a contract with any public authority having the control of streets within the limits of that area of the State in which the supply of electricity by such supply authority is authorised by or under this Act, for the supply of electricity for the lighting of such streets or of any public building or place with electricity, and for the providing of such public authority with electric fittings and other apparatus required in connection with the supply or use of electricity and for the maintenance and repair of such fittings or other apparatus in such manner and upon such conditions as shall be agreed upon between the parties.

23. Power to cut off supply in case of illegal or fraudulent interference with works

Where on the premises of any consumer any person (whether the consumer or not) has wilfully or fraudulently damaged or tampered with or permitted or suffered to be damaged or tampered with any distribution works or service apparatus belonging to the supply authority, or altered the index of any meter or prevented any meter from registering correctly the quantity of electricity supplied, the supply authority may discontinue the supply of electricity to the said premises until the damage caused has been repaired or the interference has been rectified but for no longer period.

24. Power of officer of supply authority to enter premises

- (1) Subject as hereinafter provided, any officer appointed for the purposes of this section by the supply authority in writing may at all reasonable times enter upon or into any place, building or premises in which electricity is or has been supplied by the supply authority.

Provided that if the occupier or other person for the time being in charge of such place, building or premises shall request such

officer so to do, he shall before making any entry as aforesaid produce to such occupier or other person the written instrument of his said appointment.

- (2) Upon making such entry such officer may —
- (a) inspect and examine all distribution works, and all service apparatus and electric fittings in or upon the place, building or premises entered and which belong to the supply authority for the purpose of ascertaining the quantity of electricity consumed or supplied therein or thereto; and
 - (b) subject as hereinafter provided, where the supply authority desires to discontinue the supply of electricity as authorised by this Act, remove any service apparatus and electric fittings belonging to the supply authority.

Provided that when the supply authority does remove any service apparatus or electric fittings as aforesaid it shall make good or otherwise compensate the owner of the premises concerned in respect of the damage caused by such removal.

Division 3 — Specific obligations of supply authority

25. Duties of supply authority

- (1) A supply authority shall —
- (a) at all times maintain all service apparatus belonging to the supply authority which is on the premises of any consumer, in a safe and fit condition for supplying electricity;
 - (b) in the actual supply of electricity to the premises of a consumer take all reasonable precautions in order to avoid the risk of fire or of other damage on the said premises to the position on the said premises where the electricity passes beyond the service apparatus of the supply authority;

- (c) from the time when the supply authority begins to supply electricity through a distributing main, maintain a supply sufficient for the use of all consumers for the time being entitled to be supplied with electricity from that main, and in the case of continuous current, maintain such supply constantly without a change of polarity; and
 - (d) declare the system pressure and/or frequency at which the supply authority proposes to supply electricity to the premises of a consumer at the position thereon where the electricity will pass beyond the service apparatus of the supply authority, and maintain constantly the said pressure within the limit of $\pm 6\%$ and the said frequency within the limit of $\pm 2\frac{1}{2}\%$.
- (2) If any supply authority fails to comply faithfully with any of the obligations imposed upon it by subsection (1), any person aggrieved by the default of the supply authority may make a complaint thereof to the Minister, and the Minister may refer such complaint to the Director for inquiry and determination.

[Section 25 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 80; No. 63 of 1996 s. 19.]

Part III — Inspection

[26-29. Repealed by No. 89 of 1994 s. 72.]

30. Powers of inspectors, relating to electricity

- (1) The exercise of a power conferred by this section is subject to —
 - (a) the terms of the designation of the inspector under the *Energy Coordination Act 1994*; and
 - (b) Part 3 of that Act.
- (2) Where an inspector is of the opinion, having inspected any thing which that inspector is authorised to inspect, that —
 - (a) the thing is dangerous; or
 - (b) the thing has been rendered dangerous, having regard to its actual or possible use, by —
 - (i) the introduction of any other object into the proximity of that thing;
 - (ii) the use of any other object in conjunction with or in relation to that thing; or
 - (iii) any circumstance,

the inspector may serve an order, in writing, specifying the reason for that opinion, on the person who has apparently caused the danger, or who has apparent control of that thing, or who is responsible under this Act for the control of that thing, requiring that immediate steps be taken to remove or mitigate the danger, in such manner, if any, as the order may specify.

- (3) If the inspector is of the further opinion that any immediate steps taken or to be taken under an order served under subsection (2) may not remove the danger, or are in the nature of a temporary expedient, the inspector may serve an order, in writing, specifying the reason for that opinion, on —
 - (a) the person having apparent control of that thing;

- (b) the person who is responsible under this Act for the control of that thing;
 - (c) the person having apparent control of an object, specified in the order, which may render that thing dangerous; or
 - (d) the person who is responsible for the circumstance, specified in the order, which may render that thing dangerous.
- (4) An order served under subsection (3) may require that, within such period of not less than 28 days as that order may specify —
 - (a) the thing giving rise to the danger be modified, dismantled or removed; or
 - (b) a specified object the introduction of which may render that thing dangerous, or a specified circumstance which may render that thing dangerous, be so dealt with as to remove the danger,

in such manner, if any, as the order may specify.

- (5) An inspector may inspect any work practice related to safety used in, or in relation to, the construction, repair, maintenance or operation of any thing the inspector is authorised to inspect and, if in the opinion of the inspector such a work practice may give rise to any danger from electricity or does not comply with this Act, by order in writing given to the person appearing to be responsible for the carrying out of that work practice, specifying the work practice of concern and the reason why it is unsafe or does not so comply, require —
 - (a) the modification of that work practice, in such manner, if any, as the order may specify, within such period of not less than 28 days as the order may specify; and
 - (b) that meanwhile the work practice be carried out in accordance with any condition, restriction or limitation specified in the order until the modification required under paragraph (a) has taken effect,

or may prohibit the carrying out of the work practice absolutely.

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- (6) A person aggrieved by any order made by an inspector under subsection (3) or (5) may appeal in the prescribed manner in accordance with section 19 of the *Energy Coordination Act 1994* as though the order were an order made under section 18 of that Act.
- (7) A person who fails to comply with any requirement of an order served under subsection (3) or (5) commits an offence.

[Section 30 inserted by No. 63 of 1996 s. 20.]

[31. Repealed by No. 89 of 1994 s. 74.]

Part IV — Regulations

[Heading amended by No. 14 of 1996 s. 4.]

32. Regulations

- (1) The Governor may make any regulations not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation or for facilitating the operation of this Act, and, without in any way limiting or restricting the generality of this section, may make regulations particularly in respect of the following matters, namely —
- (a) the limit within which and the conditions under which a supply of electricity by a supply authority shall be compulsory or permissive;
 - (b) securing a regular and sufficient supply of electricity by supply authorities;
 - (c) securing the safety of the public from personal injury and the property of the public from damage by fire or otherwise;
 - (d) subject to existing contracts the limitation of the prices which may be charged by supply authorities in respect of the supply of electricity and the rent and sale of service apparatus and electric fittings;
 - (e) authorising inspection and inquiry;
 - (f) the examination, qualifications and licensing of electrical workers, radio workers and contractors or of special classes of electrical workers and contractors (including cinematograph operators who operate plants electrically supplied with a pressure of not less than 100 volts);
 - (g) the enforcement of the due performance of the duties of any concessionaire in relation to the supply of electricity by the imposition of penalties or otherwise;
 - (h) for the prevention of radio interference, authorising inspection of any premises in any part of the State from

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which radio interference is or is suspected of being caused;

[(i) repealed]

- (j) prescribing standards for electrical wires and cables and for the materials used in the manufacture of electrical appliances, fittings and things used in connection with any supply of electricity;
- (k) prescribing the fees which may be charged for any services performed or rendered by the Director or by any officer, inspector or other authority pursuant to this Act or the regulations made thereunder;
- (l) prescribing the form and basis of charging for electricity by a supply authority, and the methods to be adopted in fixing such charges, and prescribing times for revising the same;
- (m) prohibiting interference by unauthorised persons with any electric work, service apparatus, electric fitting or other electrical installation;
- (n) conferring upon a supply authority power to refuse or discontinue the supply of electricity where under the conditions existing such supply may be dangerous to life, health or property, and regulating the exercise of such power by the supply authority;
- (o) requiring the periodical inspection by a supply authority for all its electric works installed in, on, over or under any street, or any public or private building or premises;
- (p) the safety of persons employed in or about generating stations or in the construction or installation of electric works;
- (q) prescribing standards for the voltages to be maintained by persons operating generating stations at that position on the premises of a consumer at which the main switch is situated; and prescribing standards and rules for the construction or installation of electric works, service

- apparatus, electric fittings and other electrical installations;
- (r) generally in regard to any other matters in connection with the supply of electricity by a supply authority; and
 - (s) imposing penalties for any offence committed against a regulation made under this section —
 - (i) in the case of an individual, of \$5 000; and
 - (ii) in the case of a body corporate, of \$20 000.
- (2) Such regulations may be either general or restricted to the whole or any part of the area of the district or districts of a particular local government or particular local governments, and, except where the context of subsection (1) specifically requires, may be of general application throughout the State and apply generally to and incidental to the generation and use of electricity throughout the State.
- (3) Without prejudice to the generality of subsection (1) or subsection (2), such regulations may —
- (a) provide for the establishment, functions and conduct of a Board or Boards appointed by the Minister and subject to the directions of, the Director for the purposes of administering, pursuant to the powers respectively set out in the regulations relating thereto, schemes for —
 - (i) the regulation of electrical work, and the licensing of persons as electrical workers;
 - (ii) the regulation of the practice of cinematograph operating, and the licensing of persons as cinematograph operators;
 - (iii) the regulation of electrical contracting, and the licensing of persons as electrical contractors;
 - (iiia) the licensing or registration of persons having qualifications obtained in another State or Territory of the Commonwealth and approved by the Board as electrical workers or electrical

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contractors under this Act either unconditionally or subject to such terms and conditions as may be imposed by the Board;

- (iv) the regulation of such other trades or practices relating to electricity, and the licensing of persons in relation thereto, as may be prescribed;
- (b) provide that the carrying out of prescribed kinds of electrical work, or the doing of any prescribed act or thing in relation to electricity or electrical work, shall be prohibited unless carried out or done pursuant to a licence, permit or authorisation under this Act and in accordance with the regulations and any conditions imposed thereby or by the relevant licence, permit or authorisation;
- (c) prohibit persons from employing or permitting other persons to carry out work or do any act or thing in contravention of the regulations, and provide for the registration of employees engaged in work of a kind to which the regulations apply;
- (d) provide for the conduct of examinations for, and the classification, issue, suspension, cancellation, or surrender of, differing kinds of licences, permits or authorisations and for their duration and renewal or the grounds upon which renewal may be refused;
- (e) authorise the Director to delegate his or her powers to a Board, and the exercise by the Board of such powers as are so delegated or as are prescribed including the issue of licences, permits and authorisations, and the conduct of proceedings, in the name of the Board, and provide for the control or supervision of all such Boards by the Director;
- (f) establish systems of inspection, inquiry, and supervision, (including the appointment of persons as inspectors and specifying their duties and powers), and provide for the hearing of disciplinary proceedings and the imposition

of disciplinary penalties, and for appeals, to the Minister or a Local Court;

- (fa) contain such provisions of a savings and transitional nature as are necessary or convenient for the purposes of dealing with matters that are incidental to or consequential on an amendment to any regulations made under this section and for adjustments to any fees and charges payable under the regulations;
- (g) create offences, and provide for the payment, enforcement and recovery of penalties, fees and charges;
- (h) adopt, by reference to the text as from time to time amended and for the time being in force, unless a particular text is specified at the time of such adoption, —
 - (i) such rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act, or under any Act of the Parliament of the Commonwealth or of the Parliament of the United Kingdom; or
 - (ii) such standards, rules, codes or specifications issued by the Standards Association of Australia⁴, the British Standards Institution, or other specified body,either wholly or in part or with modifications, as are specified;
- (i) provide that where by reason of unavailability of materials or other reason that the Director considers valid any requirement imposed by the Director cannot be conformed to, the Director may dispense with that requirement and in lieu authorise in writing in any particular case the use of materials or any other matters which he or she considers to be appropriate;
- (j) provide that, in a specified case or a specified class of case, whether on specified conditions or unconditionally, a person or thing or a class of persons or things, may be

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exempted from the provisions of those regulations either wholly or to such extent as is specified; and

- (k) require a matter affected by them to be in accordance with a specified standard, specification or requirement or to be as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body, or so as to confer on a specified person or body or a specified class of person or body a discretionary authority.
- (4) In this section, “**specified**” means specified in the regulation in relation to which the term is used.
- (5) After the commencement of Part 4 of the *Energy Corporations (Transitional and Consequential Provisions) Act 1994*¹ the powers conferred by this section are not to be exercised so as to impose, or authorise the imposition of, any obligation on the Western Power Corporation unless —
- (a) the responsible Ministers have recommended that exercise; and
 - (b) the recommendation is made after consultation between the Coordinator or the Director, as the case may require, and the Western Power Corporation.
- (6) In subsection (5) “**responsible Ministers**” means —
- (a) the Minister to whom the administration of this Act is committed by the Governor; and
 - (b) the Minister to whom the administration of the *Electricity Corporation Act 1994* is committed by the Governor.

[Section 32 amended by No. 72 of 1953 s. 3; No. 113 of 1965 s. 8; No. 86 of 1979 s. 8; No. 42 of 1988 s. 5; No. 89 of 1994 s. 75 and 81; No. 14 of 1996 s. 4; No. 63 of 1996 s. 21; No. 24 of 2000 s. 14(13).]

[33. *Repealed by No. 14 of 1996 s. 4.]*

33AA. Guidelines

- (1) The Director may from time to time formulate and publish guidelines recommending safe practices to be adopted in electrical work under this Act.
- (2) Guidelines under subsection (1) may —
 - (a) specify standards to be observed, practices and procedures to be followed and measures to be taken with respect to electrical work;
 - (b) recommend practices and procedures that may be followed, and measures that may be taken to promote the safety of the public and persons engaged in electrical work.
- (3) Guidelines published under this section may incorporate or adopt guidelines or codes of practices made, formulated, published or issued under any law of another State or the Commonwealth, the Standards Association of Australia⁴, the Electricity Supply Association of Australia or any other standards with such variations and modifications, if any, as the Director specifies.

[Section 33AA inserted by No. 42 of 1988 s. 6; amended by No. 89 of 1994 s. 80.]

Part IVA — Approval of electrical appliances

[Heading inserted by No. 72 of 1953 s. 4.]

33A. Interpretation

For the purposes of this Part —

“electrical appliance” means an appliance fitting, wire, or other apparatus or material intended suggested or designed for use in or for purposes of or for connection to any electrical installation;

“electrical installation” means any appliances, wires, fittings or other apparatus placed in or on or over any land or premises and used for or for purposes incidental to the conveyance, control, supply or use of electricity and includes additions, alterations and repairs to an electrical installation.

[Section 33A inserted by No. 72 of 1953 s. 4.]

33B. Power of Director to prescribe classes or types of electrical apparatus, etc., which shall not be sold, etc., unless approved by the Director

- (1)
 - (a) The Director may by notice published in the *Gazette* prescribe any class or type of electrical appliance which shall not after a date specified in the notice be sold, hired or exposed for sale or hire or advertised for sale or hire, unless the electrical appliance of that class or type is approved by the Director and is stamped or labelled if and as prescribed in the regulations.
 - (b) An application to the Director for approval under the provisions of paragraph (a) shall be in the prescribed form, and shall, unless exempted by the Director, be accompanied by a test report from a testing laboratory approved by him or her.
- (2) A person who, after the date so specified sells, hires or exposes for sale or hire or advertised for sale or hire or causes to be sold

or hired or exposed for sale or hire or advertised for sale or hire an electrical appliance of the class or type prescribed commits an offence unless the electrical appliance is approved by the Director and is stamped as prescribed or is approved by the Director and labelled as prescribed.

- (3) For the purposes of this section the approval of the Director may be signified by approval of samples or specifications of an electrical appliance or by such other means as the Director thinks proper.
- (4) Subject to this section the Director may withdraw at any time and from time to time an approval given under this section.
- (5)
 - (a) The Director shall as soon as practicable determine whether the application in respect of the electrical appliance is —
 - (i) approved;
 - (ii) not approved; or
 - (iii) deferred.
 - (b) The Director may approve the electrical appliance, without an examination or test of the electrical appliance, where —
 - (i) the appliance has been approved by a duly constituted authority in another State of the Commonwealth, in which case the approval may take the form of the approval of that authority; or
 - (ii) the appliance has been approved by a person recognized by the Director as a competent authority for that purpose and carries a mark recognized by the Director for that purpose.
 - (c) The recognition of a person by the Director as a competent authority for the purposes of paragraph (b) does not have any effect in relation to the approval or marking of an electrical appliance if the person may

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have a financial interest in the manufacture, sale or hire of that appliance.

- (d) The Director may, by notice published in the *Gazette*, specify the persons and the marks which are recognized by the Director for the purposes of paragraph (b).
- (6) The Governor on the recommendation of the Director may make regulations for or with respect to —
 - (a) the examination, testing and approval and the deferring and withdrawal of approval and the stamping and labelling of electrical appliances to which this Act applies; and for regulating and controlling the use of the stamps and labels under this Act;
 - (b) the fees to be charged under this Part, including fees to be charged for the examination and approval of the electrical appliances;
 - (c) prohibiting the fraudulent or improper use of marks similar to those used by the Director or of marks so nearly resembling those used by the Director as to be likely to deceive;
 - (d) prescribing penalties not exceeding in the case of an individual, \$5 000, and in the case of a body corporate, \$20 000, for a breach of the regulations; and
 - (e) prescribing any matters or things required to be prescribed for the purposes of this Part or necessary or expedient to be prescribed for carrying the purposes of this Part into effect.

[Section 33B inserted by No. 72 of 1953 s. 4; amended by No. 113 of 1965 s. 8; No. 86 of 1979 s. 9; No. 89 of 1994 s. 77, 80 and 83; No. 63 of 1996 s. 4 and 12.]

33C. Power to Director to prohibit the sale, etc. or use of unsafe or dangerous electrical apparatus, etc.

- (1) If in the opinion of the Director an electrical appliance is or is likely to become unsafe or dangerous in use, the Director

notwithstanding the provisions of section 33B, may prohibit by notice the sale, hire or use of the electrical appliance of the description referred to in the notice.

- (2) The notice shall —
- (a) be in writing;
 - (b) contain a description of the prohibited electrical appliance; and
 - (c) contain a direction prohibiting the person to whom it is addressed from selling, hiring, exposing for sale or hire or advertising for sale or hire or, as the case may be, from using an electrical appliance of the description specified in the notice.
- (3) A person to whom a notice is given who fails to comply with a direction contained in the notice is guilty of an offence.

[Section 33C inserted by No. 72 of 1953 s. 4; amended by No. 89 of 1994 s. 80.]

33D. Penalties

A person who is guilty of an offence against this Part for which no penalty is specially provided is liable —

- (a) in the case of an individual, to a fine of \$5 000; and
- (b) in the case of a body corporate, to a fine of \$20 000.

[Section 33D inserted by No. 72 of 1953 s. 4; amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 5.]

Part IVB — Energy efficiency

[Heading inserted by No. 63 of 1996 s. 13.]

33E. Energy efficiency standards

- (1) Regulations may be made under section 32 in respect of the conservation and management of electrical energy, and any such regulations may —
 - (a) set minimum energy efficiency standards with which any electrical apparatus or installation must comply;
 - (b) specify procedures to be used, and measurements to be taken, to —
 - (i) assess the relative energy efficiency of any electrical apparatus or installation; or
 - (ii) ascertain whether or not any electrical apparatus or installation complies with prescribed energy efficiency standards;
 - (c) provide for the declaration, by notice published in the *Gazette*, of —
 - (i) the various types or classes of apparatus or installation that are to be subject to the regulations; and
 - (ii) the procedures, measurements or formulae, either expressly or by reference to published technical documents, to be used for the evaluation of the energy consumption rate and the energy efficiency rating;
 - (d) specify the product information standard requirements, and the form and manner of disclosure required, in relation to any such apparatus or installation;
 - (e) prescribe labelling requirements;
 - (f) provide that the requirements of this Act, or the specific requirements prescribed, are to be deemed to have been complied with if the apparatus or installation in question

has been approved under, or is labelled in accordance with, the relevant provisions of —

- (i) the *State Electricity Commission (Energy Efficiency Labelling) Regulations 1987*, the *State Electricity Commission (Energy Efficiency Labelling) (Refrigerative Air Conditioners) Regulations 1988*, the *State Electricity Commission (Energy Efficiency Labelling) (Dishwashers for Domestic Use) Regulations 1988*, the *State Electricity Commission (Energy Efficiency Labelling) (Rotary Clothes Dryers) Regulations 1989*, or the *State Electricity Commission (Energy Efficiency Labelling) (Clothes Washing Machines) Regulations 1990* made under the *State Electricity Commission Act 1958* of the State of Victoria;
- (ii) the *Electrical Products Regulations 1990* made under the *Electrical Products Act 1988* of the State of South Australia;
- (iii) the *Electricity (Energy Labelling of Electrical Articles) Regulations 1995* made under the *Electricity Act 1945* of the State of New South Wales;
- (iv) the *Electricity (Electrical Articles) Regulations 1994* made under the *Electricity Act 1994* of the State of Queensland; or
- (v) any other corresponding law specified for the purpose of this paragraph by notice published in the *Gazette*;

and

- (g) provide for exclusions or exemptions from the application of the regulations.

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- (2) The Director may approve an apparatus or installation, or a manner of labelling, for the purposes of this Part where —
- (a) the apparatus or installation is approved, or the label is registered, by a duly constituted authority in another State of the Commonwealth; or
 - (b) the approval was given, or the labelling was carried out, by a person recognized by the Director as a competent authority for that purpose,
- and the apparatus or installation carries a mark recognized by the Director for that purpose.
- (3) The Director may, by notice published in the *Gazette*, specify the authorities, the persons and the marks which are recognized by the Director for the purposes of subsection (2).
- (4) An approval given by the Director for the purposes of this Part —
- (a) is, unless sooner revoked, valid for 5 years or such lesser period as may be specified by the Director; and
 - (b) may be revoked by the Director.

[Section 33E inserted by No. 63 of 1996 s. 13; amended by No. 10 of 1998 s. 31.]

33F. Offences related to energy efficiency labelling

Where by regulations to which this Part relates any apparatus or installation is required to be labelled in accordance with those regulations a person who —

- (a) sells or hires;
- (b) exposes or advertises for sale or hire; or
- (c) causes to be sold or hired, or exposed or advertised for sale or hire,

any such apparatus or installation, not being so labelled, commits an offence.

Penalty: In the case of an individual, \$5 000 and in the case of a body corporate, \$20 000.

[Section 33F inserted by No. 63 of 1996 s. 13.]

Part V — Miscellaneous

34. Service apparatus, etc. of supply authority not subject to distraint

Distribution works or service apparatus or electric fittings belonging to a supply authority in any place or building (not in the possession of the supply authority) and which are used for the purpose of supplying or in connection with the supply of electricity shall be exempted from any execution under any process of a court of law.

35. Power to cut off supply

If any consumer neglects to pay to a supply authority any rent or the price of or any charge in respect of any service apparatus or electric fittings due and payable to the supply authority for the space of 14 days next after demand in writing for payment of the amount due shall have been served on the consumer, the supply authority may cut off the supply of electricity, and, until payment of the amount demanded together with any expenses incurred in connection with the collection or recovery of such amount may discontinue the supply of electricity to the consumer.

36. Powers where electricity wasted or misused

- (1) If a consumer does anything or suffers or permits anything to be done or omits to do anything whereby electricity supplied by a supply authority escapes from any electric line laid in, over or along any street or land before it reaches the meter on the premises of the consumer, he shall be guilty of an offence.

Penalty: \$500.

- (2) Where a consumer acts in contravention of subsection (1), in addition to prosecuting the offender for such offence, the supply authority may —

- (a) disconnect such electric line and discontinue the supply of electricity to the consumer during such time as the

cause of the escape of electricity from such line remains not remedied; and

- (b) recover from the consumer the amount of all loss which is sustained by the supply authority in consequence of the wrongful act of such consumer.
- (3) Any amount recoverable by the supply authority under paragraph (b) of subsection (2) may be recovered summarily by a complaint before justices sitting in petty sessions.

Provided that where the supply authority prosecutes a consumer for an offence under subsection (1), the supply authority may in the same proceedings claim payment of compensation for loss sustained as provided for in subsection (2)(b), and, if the consumer is convicted of the offence with which he is charged the Court may, in addition to imposing a fine in respect of such conviction, assess and order payment of compensation by the consumer to the supply authority; and in such case the amount of compensation ordered to be paid shall be recoverable in the same manner as the fine is recoverable.

[Section 36 amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 4.]

37. Power to remove appliances

- (1) Where the contract between a supply authority and a consumer for the supply of electricity or for the supply or letting of service apparatus or other apparatus or electric fittings has expired or otherwise been determined the supply authority may at any reasonable time enter the premises of the consumer and disconnect, remove and take away all service apparatus, other apparatus and electric fittings which belong to the supply authority.
- (2) All damage to property of whatever description occasioned by such disconnection and removal shall be made good by or on behalf and at the expense of the supply authority.

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38. Incoming tenant must be supplied although outgoing tenant in arrears

Whenever any consumer shall leave the premises where electricity has been supplied to him by a supply authority without paying to such supply authority the rent and all charges due and payable by him for or in connection with such supply, the supply authority shall not be entitled to require from the next incoming occupier of such premises the payment of the arrears left unpaid by the former consumer as a condition precedent to the supply of electricity to such incoming occupier, unless to the knowledge of the supply authority the latter has undertaken with the former consumer to pay either for himself or on behalf of the former consumer, the amount of such arrears.

39. Supply authority to keep meter in order

The supply authority shall owe a duty to the consumer to keep any meter let on hire to him at all times in proper order for correctly registering the quantity of electricity supplied to the consumer; and if the supply authority fails, and while it continues to fail in the discharge of that duty, the consumer shall not be liable to pay rent or other consideration for the use of such meter.

40. Control of meters and fittings

- (1) Subject to subsection (3) every meter used for ascertaining the quantity of electricity supplied by a supply authority to a consumer shall during the continuance of such supply and until all rent or other charges payable in respect thereof have been paid, be under the sole control of the supply authority, whether such meter belongs to the supply authority or not.
- (2) A person shall not cut, connect, tap, fix, alter or remove any service apparatus, other apparatus or electric fittings which belong to a supply authority and are used in connection with the supply of electricity by that supply authority unless authorised so to do in writing by the supply authority.

Penalty: \$500.

- (3) Nothing in this section shall affect the lawful exercise by any person or by any public authority of any power vested in such person or in such public authority by or under the provisions of this Act or of any other Act or the regulations made under this Act or under any other Act.

[Section 40 amended by No. 113 of 1965 s. 8; No. 14 of 1996 s. 4; No. 63 of 1996 s. 4.]

41. Meter record to be *prima facie* evidence

- (1) The register of the meter or other device used for ascertaining the quantity of electricity supplied by a supply authority shall be *prima facie* evidence of the quantity supplied or used.
- (2) The supply authority shall be entitled to test any such meter or other device at any time, and if it fails to register or is found to register incorrectly, the account of the consumer for or in respect of the supply of electricity to him on the premises upon which the said meter or other device is installed for the period next following the period for which the then last preceding account was rendered to the consumer may be adjusted by the supply authority at its option upon any one of the following bases, namely —
- (a) any test carried out under the authority of this Act; or
 - (b) the account rendered to the consumer in respect of such premises for the corresponding period of the then next preceding year; or
 - (c) the account rendered to the consumer for the then last preceding account period in respect of such premises with a reasonable adjustment thereof for any known variation in the consumer's demand for electricity; or
 - (d) the certificate of testing of the meter or other device aforesaid hereinafter provided for.
- (3) Subject to subsection (4) a consumer shall, upon payment of the prescribed testing fee, be entitled to demand a test of any meter or other device used for ascertaining the quantity of electricity

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supplied to him and when such a test is demanded the following provisions shall apply, that is to say —

- (a) The test demanded may, at the option of the person requiring the test, be performed —
 - (i) on the basis of a comparison of the working of the meter or other device under consideration with that of any other meter which has been certified by any tester approved by the Director to be effective; or
 - (ii) on the basis of testing the meter or other device under consideration by a testing laboratory approved by the Director.
- (b) The testing fee prescribed in respect of a test upon the basis mentioned in paragraph (a)(i) shall not exceed \$20, and the testing fee prescribed in respect of a test upon the basis mentioned in the said paragraph (a)(ii) shall not exceed \$50.
- (c) If it be found on testing that the meter or other device is not more than 2% fast, the testing fee shall be retained by the supply authority.
- (d) If it be found on testing that the meter or other device is more than 2% fast the testing fee shall be refunded to the consumer and a rebate, based on the result of the test shall be made on the last account rendered to the consumer and on the current account up to the date when the meter is removed or re-adjusted.
- (4) Meters or other devices shall be considered correct if on testing they are found to register within 2% of the correct registration.
- (5) All outstanding accounts between the consumer and the supply authority shall be paid before any test demanded by such consumer is made.

[Section 41 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 80; No. 63 of 1996 s. 10.]

42. Apparatus

- (1) A supply authority shall not be entitled —
- (a) to insist on the use of any special form of electrical installation, or electric apparatus or fitting by any person; or
 - (b) to control or interfere with the manner in which electricity supplied by the supply authority in pursuance of this Act is used.

Provided that —

- (i) a person shall not be entitled to use any form of electrical installation or electric apparatus or fitting or to use electricity supplied to him or to deal with such electricity for any purpose or in such manner as to interfere unduly or improperly with the supply of electricity to any other person; and
 - (ii) where electricity is supplied at a cheaper rate or concession rate for any particular use or purpose, a person shall not, with intent to obtain electricity at such cheaper rate or concession rate, use the electricity for any use or purpose for which a higher rate is charged or higher charge is made.
- (2) If any dispute or difference shall arise between a supply authority and any person in relation to any matter mentioned in subsection (1) (except paragraph (ii) of the proviso to subsection (1)) such dispute or difference shall be referred to the Coordinator for settlement and the decision of the Coordinator shall be final and binding on the parties concerned and shall have effect according to the tenor thereof.

[Section 42 amended by No. 89 of 1994 s. 79.]

43. Uniform charges and zoning

- (1) The Coordinator may create zones in any district which is supplied or which it is proposed to supply with electricity by a supply authority, and may from time to time alter the boundaries of such zones.

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- (2) (a) A supply authority shall not make against any person for the supply to him of electricity any charge which exceeds the standard charge made by such supply authority against all other persons in the same zone for electricity supplied to them for the same use or purpose as that for which the first mentioned person desires to obtain a supply of electricity.

Penalty: \$500.

- (3) Any supply authority which acts in contravention of subsection (2) shall, in addition to its liability under that subsection, be liable to repay on demand to the person against whom the overcharge has been made the amount of the excess overcharged; and if such repayment is not paid when demanded the person entitled to such repayment shall be entitled to recover the same as and for a debt owing to him by action against the supply authority in any court of competent jurisdiction.

[Section 43 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 79; No. 63 of 1996 s. 4.]

44. Obligation to supply

There shall not be any obligation upon a supply authority to supply electricity to any person if the supply of electricity to such person would necessitate an extension of the then existing distribution system of such supply authority.

45. Damages may be assessed by justices

Subject to the express provisions of this Act, whenever any person or any supply authority is liable to pay any sum of money by way of compensation or damages or for costs or expenses of any examination or inquiry or in relation to any matter or thing concerning the repairing or reinstating of any loss or damage caused by such person or such supply authority, the same may be recovered in a court of petty sessions.

[Section 45 amended by No. 78 of 1995 s. 36.]

46. Power to Coordinator to relieve gas company from obligation to supply gas in certain cases

- (1) Where a supply authority is supplying electricity within the limits of the district of a local government, and the supplying of gas by any other person is also authorised within the same limits by any Act under the provisions of which such other person is under any general or limited obligation to supply gas to any person demanding the same, the Coordinator may on application by such other person inquire into the circumstances of the case, and if satisfied that any specified part of the area comprised within the said limits is sufficiently supplied with electricity and that the supply of gas in such specified part of the said area has ceased to be remunerative to such other person authorised to supply the same as aforesaid and that it is just that the said other person shall be relieved from his obligation to supply gas to any person demanding the same, the Coordinator may make an order relieving such other person aforesaid from his said obligation within such specified part of such area either wholly or in part and upon such terms and conditions as he or she may think proper, and from and after the date of such order the other person aforesaid shall be so relieved accordingly.
- (2) All expenses in connection with any inquiry by the Coordinator under subsection (1) shall be borne and paid by the person upon whose application the inquiry and order is made.

[Section 46 amended by No. 89 of 1994 s. 79 and 81; No. 14 of 1996 s. 4.]

47. Illegal interference with works, etc.

- (1) Any person who —
 - (a) wilfully and unlawfully removes, destroys, or damages any electric works connected with or relating to the supply of electricity by a supply authority in pursuance of this Act; or

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- (b) wilfully and unlawfully extinguishes any public lamps or lights maintained by a supply authority in pursuance of this Act; or
- (c) wastes or wilfully and wrongfully uses electricity supplied by a supply authority under this Act,

shall be guilty of an offence.

Penalty: \$1 000.

- (2) Upon the conviction of a person for an offence under subsection (1), the court, in addition to imposing a fine under such subsection, may order the offender to pay to the supply authority the amount of any damage caused by him or a sum equal to the value of any electricity wasted or wrongfully used by him, and the amount so ordered shall be recoverable in the same manner as a fine imposed under subsection (1) is recoverable.

[Section 47 amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 4.]

48. Obtaining supply under false name

Any person who obtains a supply of electricity from a supply authority under the name of any other person shall, unless he proves that such supply was obtained without any intent to defraud, be guilty of an offence.

Penalty: \$200.

[Section 48 amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 4.]

49. Unauthorised use

- (1) Where electricity is supplied to a consumer and the quantity supplied is not ascertained by a meter; and the consumer does or permits or suffers any other person to do any one or more of the following things, namely —
 - (a) uses any electric fitting other than such as has been provided or approved of by the supply authority, or of

larger dimensions or consuming capacity than the consumer has contracted to use; or

- (b) uses electricity for a longer time or in greater quantities than he has contracted to pay for; or
- (c) uses the electricity in a manner not authorised by the contract under which the electricity is supplied; or
- (d) contrary to the provisions of this Act, supplies any other person with any electricity supplied to him,

the consumer shall be liable to forfeit and pay to the supply authority in respect of each act complained of a penalty (not exceeding \$100) to be fixed by the Coordinator on the application of the supply authority and also an additional penalty of \$50 for every day or part of a day during which the doing of the act complained of shall continue.

- (2) The supply authority may cut off the supply of electricity from the premises of the consumer who is responsible for the doing of any act mentioned in subsection (1) notwithstanding any contract made between the supply authority and such consumer and still subsisting.

[Section 49 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 79; No. 63 of 1996 s. 6.]

50. Alteration of meter

- (1) Any person who alters the index to any meter or prevents any meter from duly registering the quantity of electricity supplied by the supply authority or by any means causes any meter to register incorrectly or by any means diverts electricity for his own or any other purpose so that the quantity of such electricity will not be registered by the meter shall be guilty of an offence.
Penalty: In the case of an individual, \$2 000, and in the case of a body corporate, \$10 000.
- (2) Upon the conviction of a person for an offence under subsection (1), the court, in addition to imposing a fine under such subsection, may order that the offender pay to the supply

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authority affected a further sum as compensation for actual damage suffered in consequence of the wrongful act of the offender and also a still further sum (not exceeding \$200) as exemplary damages, and payment of the total amount specified in such order shall be enforceable in the same manner as payment of the fine imposed under subsection (1) is enforceable.

- (3) The existence of artificial means for causing any alteration, prevention or diversion or for abstracting, consuming or using electricity mentioned in subsection (1) shall, when the meter lines or works interfered with are under the control or charge or in the care of the consumer, be *prima facie* evidence that such alteration, prevention, diversion, abstraction or consumption (as the case may be) has been caused or carried out by the consumer in contravention of subsection (1).

[Section 50 amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 4 and 8.]

51. Summary remedy for damage to electric works

- (1) Any person who carelessly or accidentally damages any electric works belonging to or under the control of a supply authority shall forfeit and pay to the supply authority by way of satisfaction for the damage done a sum (not exceeding \$500) to be fixed by the Coordinator on the application of the supply authority.
- (2) The amount of compensation fixed by the Coordinator under subsection (1) shall be a debt payable by the person concerned to the supply authority and as such shall be recoverable by the supply authority by action in any court of competent jurisdiction.
- (3) Nothing in this section shall affect or prejudice any other right, power or remedy which the supply authority may have at law in respect of the interference with its property or the damage suffered by the supply authority.

[Section 51 amended by No. 113 of 1965 s. 8; No. 89 of 1994 s. 79; No. 63 of 1996 s. 9.]

52. General penalty

Any person who by any act or omission commits a breach of any provision of this Act shall be guilty of an offence, and, where no penalty is expressly provided by this Act for such offence, shall be liable to a penalty not exceeding in the case of an individual, \$5 000, and in the case of a body corporate, \$20 000.

[Section 52 amended by No. 113 of 1965 s. 8; No. 63 of 1996 s. 4.]

53. Method of recovery of forfeitures and penalties

- (1) Whenever by the provisions of this Act it is provided that a sum of money shall be forfeited and paid or that a penalty shall be paid by a supply authority or by a person, such sum may, if no other method of recovery is specified by or under this Act and without prejudice to any such other method of recovery authorised by law, be recovered summarily on complaint made before justices sitting in petty sessions.
- (2) All proceedings for offences against this Act may be taken and dealt with summarily under the provisions of the *Justices Act 1902*, save that a complaint for an offence under this Act may be made at any time within 2 years from the time when the matter of complaint arose.

[Section 53 amended by No. 86 of 1979 s. 10.]

[54. Repealed by No. 89 of 1994 s. 78.]

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Notes

- ¹ This reprint is a compilation as at 6 June 2003 of the *Electricity Act 1945* and includes the amendments made by the other written laws referred to in the following table ⁵. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Electricity Act 1945</i>	19 of 1945	9 Jan 1946	29 Mar 1946 (see s. 1 and <i>Gazette</i> 29 Mar 1946 p. 310)
<i>Electricity Act Amendment Act 1953</i>	72 of 1953	9 Jan 1954	9 Jan 1954
Reprint of the <i>Electricity Act 1945</i> approved 11 Apr 1958 in Vol. 13 of Reprinted Acts (includes amendments listed above)			
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Metric Conversion Act 1972</i>	94 of 1972	4 Dec 1972	Relevant amendments (see First Sch.) ⁶ took effect on 1 Jan 1974 (see s. 4(2) and <i>Gazette</i> 7 Dec 1973 p. 4490)
Reprint of the <i>Electricity Act 1945</i> authorised 6 Aug 1973 (includes amendments listed above except those in the <i>Metric Conversion Act 1972</i>)			
<i>Electricity Act Amendment Act 1979</i>	86 of 1979	11 Dec 1979	1 Feb 1980 (see s. 2 and <i>Gazette</i> 1 Feb 1980 p. 284)
Reprint of the <i>Electricity Act 1945</i> approved 26 Jun 1984 (includes amendments listed above)			
<i>Commercial Arbitration Act 1985 s. 3(1)</i>	109 of 1985	7 Jan 1986	1 Apr 1986 (see s. 2 and <i>Gazette</i> 28 Feb 1986 p. 605)
<i>Electricity Amendment Act 1988</i>	42 of 1988	30 Nov 1988	30 Nov 1988 (see s. 2)
<i>Energy Corporations (Transitional and Consequential Provisions) Act 1994 Pt. 4</i> ⁷	89 of 1994	15 Dec 1994	1 Jan 1995 (see s. 2(2) and <i>Gazette</i> 23 Dec 1994 p. 7069)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 27</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Electricity Amendment Act 1996</i>	63 of 1996	11 Nov 1996	Act other than s. 18: 25 Dec 1996 (see s. 2 and <i>Gazette</i> 24 Dec 1996 p. 7097); s. 18: 8 Mar 2002 (see s. 2 and <i>Gazette</i> 8 Mar 2002 p. 941)
Reprint of the <i>Electricity Act 1945</i> as at 26 Feb 1997 (includes amendments listed above except those in the <i>Electricity Amendment Act 1996</i> s. 18)			
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 23	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998</i> s. 31 and 76	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 14(13)	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
Reprint 5: The <i>Electricity Act 1945</i> as at 6 Jun 2003 (includes amendments listed above)			

- ² Repealed by the *Interpretation Act 1984*.
- ³ Under the *Public Sector Management Act 1994* s. 112(1), a reference to the *Public Service Act 1978* is to be read as a reference to the *Public Sector Management Act 1994*. The reference was changed under the *Reprints Act 1984* s. 7(3)(g).
- ⁴ The Standards Association of Australia has changed its corporate status and its name. It is now Standards Australia International Limited (ACN 087 326 690). It also trades as Standards Australia.
- ⁵ Marginal notes in the *Electricity Act 1945* referring to the legislation from which provisions were derived have been omitted from this reprint.
- ⁶ The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Act Amendment Act 1973*.
- ⁷ The *Energy Corporations (Transitional and Consequential Provisions) Act 1994* s. 84 reads as follows:
- “

84. Transitional provision

Every instrument under a provision of the principal Act in force immediately before the commencement of this Part is to continue to have effect after that commencement according to its terms and conditions, as if it had been made under that provision as amended by this Part.

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