

Authorised Version No. 072
Electricity Safety Act 1998

No. 25 of 1998

Authorised Version incorporating amendments as at
1 September 2017

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Electricity Safety Act 1998

No. 25 of 1998

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1 September 2017

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose

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

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

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

2 Commencement

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

3 Definitions

In this Act—

accepted bushfire mitigation plan means—

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

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

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 of *accepted electricity safety management scheme* amended by No. 89/1998 s. 6(b), repealed by No. 61/2007 s. 4(3).

* * * * *

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 of *accepted electricity safety manager* inserted by No. 89/1998 s. 6(a), repealed by No. 61/2007 s. 4(3).

* * * * *

accepted ESMS means—

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

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

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

accepted ESMS operator means—

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

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

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

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

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

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

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

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

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

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

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

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

Committee means—

* * * * *

- (b) in Part 8, the Electric Line Clearance Consultative Committee;
- (c) in Part 9, the Victorian Electrolysis Committee;

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

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

complex electrical installation means an electrical installation that—

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

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*	*	*	*	*	S. 3 def. of <i>Committee</i> repealed by No. 55/2010 s. 37(1)(a).
		<i>connect</i> , in relation to an electrical installation or electrical equipment, includes make capable of receiving an electric current;			
		Council has the same meaning as in the Local Government Act 1989 ;			S. 3 def. of <i>Council</i> inserted by No. 2/2014 s. 4(a).
		<i>decision</i> for the purposes of Part 6 includes prohibition, requirement or direction;			S. 3 def. of <i>decision</i> inserted by No. 24/2002 s. 3.
		Director means the Director of Energy Safety appointed under the Energy Safe Victoria Act 2005 ;			S. 3 def. of <i>Director</i> inserted by No. 39/2005 s. 44(1).
		<i>distribution area</i> means an area in which a distribution company under a distribution licence under the Electricity Industry Act 2000 is authorised to distribute electricity;			S. 3 def. of <i>distribution area</i> amended by Nos 69/2000 s. 21(a), 55/2010 s. 13(1).
		<i>distribution company</i> has the same meaning as in the Electricity Industry Act 2000 ;			S. 3 def. of <i>distribution company</i> amended by No. 69/2000 s. 21(b).
		<i>electric line</i> means—			
		(a) the whole or any part of a wire, cable or other thing used or to be used for the purpose of transmitting, distributing or supplying electricity; or			

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

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

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

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

electrical contractor means a person who carries out electrical contracting;

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

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

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

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

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

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

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

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

electrical worker means a person who carries out electrical work;

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

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

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

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

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

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

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

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

- (c) the Country Fire Authority, if the area is within the country area of Victoria within the meaning of the **Country Fire Authority Act 1958**;

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

hazardous bushfire risk area means an area—

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

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

install includes lay and place;

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

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

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

major electricity company means—

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

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

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

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

* * * * *

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

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

* * * * *

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

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

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

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

point of supply—

(a) in relation to a low voltage electric line, means—

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

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

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

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

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

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

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

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

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

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

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

rectification notice means a notice given under
section 45AB;

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

* * * * *

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

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

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

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

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

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

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

supply includes supply (including re-supply) by
way of sale, exchange, lease, hire or hire-
purchase;

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

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

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

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

tree includes vegetation;

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

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

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

* * * * *

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

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

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

- (a) subdivided into allotments or lots each of which, in the case of land used or to be used for residential purposes, is not greater than 0.1 hectares; and
- (b) able to be used or developed under a planning scheme for residential, industrial or commercial purposes; and
- (c) provided with constructed streets and services; and

(d) provided with street lighting installed at not less than 3 lanterns in every 500 metres—

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

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

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

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

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

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

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

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

4 Exemptions

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

- (1) The Governor in Council, by Order published in the Government Gazette, may declare that the provisions of this Act, or such of the provisions of this Act as are specified in the Order—

- (a) do not have effect in relation to specified electrical contractors or electrical workers, or a class of electrical contractors or electrical workers, or do not have effect to such extent as is specified; or
 - (b) do not have effect in relation to specified electrical equipment or a class of equipment or do not have effect to such extent as is specified; or
 - (c) do not have effect in relation to specified electrical work or a class of electrical work or do not have effect to such extent as is specified; or
 - (d) do not have effect in relation to a specified responsible person under Part 8 or a class of responsible persons under that Part or do not have effect to such extent as is specified; or
 - (e) do not have effect in relation to specified electricity suppliers or a class of electricity suppliers or do not have effect to such an extent as is specified.
- (2) An Order made under subsection (1)—
- (a) may specify the period during which the Order is to remain in force; or
 - (b) may provide that its operation is subject to such terms and conditions as are specified in the Order.
- (3) A person to whom an Order under this section applies must comply with the terms and conditions (if any) to which the operation of the Order is subject.

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

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

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

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

5 Act to bind the Crown

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

Part 2—Energy Safe Victoria

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

6 Objectives of Energy Safe Victoria

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

The objectives of Energy Safe Victoria under this Act are—

- (a) to ensure the electrical safety of electrical generation, transmission and distribution systems, electrical installations and electrical equipment;
- (b) to control the electrical safety standards of electrical work carried out by electrical workers;
- (c) to promote awareness of energy efficiency through energy efficiency labelling of electrical equipment and energy efficiency regulation of electrical equipment;
- (ca) to promote the prevention and mitigation of bushfire danger;
- (d) to protect underground and underwater structures from corrosion caused by stray electrical currents;
- (e) to maintain public and industry awareness of electrical safety requirements.

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

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

7 Functions of Energy Safe Victoria

The functions of Energy Safe Victoria under this Act are—

- (a) to determine minimum safety standards for electrical equipment, electrical installations and electrical work;
- (b) to encourage and monitor the use of electricity safety management schemes;
- (c) to inspect and test electrical equipment, electrical installations and electrical work for compliance with the specified safety standards;
- (d) to administer the prescribed minimum standards for energy efficiency of electrical equipment;
- (e) to inspect and test electrical equipment for compliance with the specified minimum standards for energy efficiency;
- (f) to investigate events or incidents which have implications for electricity safety;
- (fa) to regulate, monitor and enforce the prevention and mitigation of bushfires that arise out of incidents involving electric lines or electrical installations;
- (g) to provide advisory and consultative services in relation to electricity safety and electrical equipment, electrical installations and electrical work;
- (h) to advise the electricity industry and the community in relation to electricity safety;
- (i) to monitor and enforce compliance with this Act and the regulations;

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

- (j) such other functions are as conferred on Energy Safe Victoria by or under this Act or the regulations under this Act.

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

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

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

8 Funding

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

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

* * * * *

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

Part 3—Electrical work

Division 1—Registration of electrical contractors

30 Contractors

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

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

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

* * * * *

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

31 Registration of electrical contractors

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

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

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

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

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

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

- (4) The registration of an electrical contractor continues, unless sooner suspended, cancelled or surrendered, for a period of up to 5 years determined by Energy Safe Victoria and specified in the register kept under section 33 commencing on the date of registration, or renewal of registration.

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

32 Registered number

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

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

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

33 Register of electrical contractors

- (1) Energy Safe Victoria must cause to be kept a register of electrical contractors.
- (2) The register must be in the prescribed form and contain the prescribed information.
- (3) Energy Safe Victoria must make the register available for inspection at all reasonable hours.

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

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

34 Disciplinary action

- (1) There is proper cause for taking disciplinary action against a registered electrical contractor if the registered electrical contractor—
- (a) has failed to comply with this Act or the regulations; or

- (b) has obtained registration under this Division by fraud or misrepresentation or the concealment of facts; or
- (c) has been convicted of any offence involving fraud, dishonesty, drug trafficking or violence that was punishable by imprisonment for 6 months or more; or
- (d) has failed to hold the prescribed insurance; or
- (e) has failed to comply with any condition of registration; or
- (f) has been negligent or incompetent, or was a party to any negligence or incompetence, in connection with the carrying out of electrical installation work; or
- (g) has engaged in fraudulent conduct in the carrying out of electrical installation work.

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

* * * * *

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

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

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

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

35 Employees of registered electrical contractor

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

Penalty: 10 penalty units.

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

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

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

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

S. 35(3)(b)
amended by
No. 24/2006
s. 6.1.2(Sch. 7
item 15).

Penalty applying to this subsection—

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

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

36 Electrical contractors not to employ certain persons

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

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

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

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

37 Obligations on registered contractors

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

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

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

Division 2—Licensing of electrical workers

38 Electrical workers

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

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

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

Penalty: 50 penalty units.

39 Apprentices deemed to be licensed

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

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

40 Licensing of electrical workers

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

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

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

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

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

(3) Energy Safe Victoria may, in accordance with the regulations, vary a licence given under this section.

(4) A licence under this section continues, unless sooner suspended, cancelled or surrendered, for a period of up to 5 years specified in the licence commencing on the date of the issue of the licence or renewal of the licence.

41 Disciplinary action

- (1) There is proper cause for taking disciplinary action against a licensed electrical worker if the licensed electrical worker—
- (a) has failed to comply with this Act or the regulations; or
 - (b) has obtained a licence under this Division by fraud or misrepresentation or the concealment of facts; or
 - (c) has been convicted of any offence involving fraud, dishonesty, drug trafficking or violence that was punishable by imprisonment for 6 months or more; or
 - (d) has failed to comply with any condition or restriction on the licence; or

- (e) has been negligent or incompetent, or was a party to any negligence or incompetence, in connection with the carrying out of electrical work; or
 - (f) has engaged in fraudulent conduct in the carrying out of electrical work.
- (2) If, after an inquiry into the conduct of a licensed electrical worker and giving the electrical worker the opportunity to be heard, Energy Safe Victoria is satisfied that proper cause exists for taking disciplinary action against the licensed electrical worker, Energy Safe Victoria may do one or more of the following—

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

* * * * *

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

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

Division 3—Electrical installation work

41A Responsible person

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

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

- (a) to a registered electrical contractor, if the registered electrical contractor is engaged to carry out the work; or

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

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

41B Supervisor deemed to carry out certain work

- (1) If, under this Act or the regulations, a licensed electrical installation worker supervises the carrying out of electrical installation work by another person, then, for the purposes of this Division—
 - (a) the licensed electrical installation worker is deemed to be the person carrying out the work; and
 - (b) the other person is deemed not to have carried out the work.
- (2) Subsection (1) does not apply in respect of a licensed electrical installation worker supervising the carrying out of electrical installation work pursuant to the conditions of registration applying to a registered electrical contractor.

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

42 Implied conditions relating to electrical installation work

It is an implied condition of each contract entered into by the electrical contractor in relation wholly or partly to any electrical installation work to be carried out by the electrical contractor that the quality of the materials, fittings and apparatus to

be used in connection with the electrical installation work and the methods to be followed in carrying out the electrical installation work are in accordance with the regulations.

43 Safety of electrical installations

(1) A person must not install any electrical equipment if the person knows or should reasonably be expected to know that—

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

- (a) the electrical equipment is unsafe or will be unsafe if connected to an electricity supply;
or
- (b) the installation will make any other electrical equipment unsafe if connected to an electricity supply; or
- (c) the installation will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.

(1A) A person must not carry out electrical equipment work if the person knows or should reasonably be expected to know that—

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

- (a) the work will make electrical equipment unsafe if connected to an electricity supply;
or
- (b) the work will make a building or structure unsafe if that building or structure is supplied with electricity.

Penalty: 40 penalty units.

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

Penalty: 40 penalty units.

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

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

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

- (4) A person carrying out electrical installation work must ensure that—
- (a) all electrical circuits or electrical equipment handled in the course of that work are disconnected from the electricity supply; or
 - (b) adequate precautions are taken to prevent electric shock or other injury in the handling of electrical circuits or electrical equipment in the course of that work.

Penalty: 40 penalty units.

43A Safety of electrical installations—building work

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

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

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

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

(2) In this section—

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

44 Compliance and testing of electrical installation work

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

- (1) A licensed electrical installation worker must ensure that all electrical installation work carried out by that worker—
 - (a) complies with this Act and the regulations; and
 - (b) is tested in accordance with and at the intervals required by the regulations before it is connected to the electricity supply, or if the electrical circuits or electrical equipment handled in the course of that work were not disconnected from the electricity supply, before the work is first used after it is completed.

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

Penalty: 40 penalty units.

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

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

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

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

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

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

Penalty: 10 penalty units.

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

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

(a) describes the work; and

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

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

Penalty: 10 penalty units.

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

* * * * *

45 Inspection of electrical installation work

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

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

from the electricity supply, before the work is first used after it is completed.

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

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

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

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

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

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

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

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

Penalty: 10 penalty units.

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

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

(a) describes the work; and

(b) states that the inspector has inspected the work; and

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

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

Penalty: 50 penalty units.

* * * * *

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

45A Certificates of electrical safety

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

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

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

Penalty: 10 penalty units.

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

- (b) in the case of prescribed electrical installation work, a certificate of inspection of the installation work completed under section 45 by a licensed electrical inspector.
- (3) The person who is responsible for the carrying out of electrical installation work must not give a certificate of electrical safety under subsection (1) unless the certificate form used is a certificate form supplied to that person under section 45B.
- Penalty: 10 penalty units.
- (4) A document is not a certificate of electrical safety unless the certificate form used is a form that has been supplied by Energy Safe Victoria or a person authorised by Energy Safe Victoria.
- (5) A certificate of electrical safety may be a periodic certificate covering all electrical installation work (other than prescribed electrical installation work) for which a person is responsible that is carried out within a period of 3 months.
- (6) In this section the required time—
- (a) in the case of prescribed electrical installation work, is 4 business days after the certificate of inspection of that work is given under section 45(3); and
- (b) in the case of electrical installation work under a periodic certificate of electrical safety, is 4 business days after the end of the period of 3 months to which the certificate relates; and
- (c) in the case of any other electrical installation work is one month after the certificate of compliance for that work is completed under section 44(2).

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

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

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

- (1) This section applies if an enforcement officer is of the opinion that particular electrical installation work is in breach of any provision of this Act or the regulations applying to that work.
- (2) The enforcement officer may give the person who is responsible for the carrying out of electrical installation work a written rectification notice requiring the person to rectify the work to make it comply with the provision of this Act or the regulations that the work does not comply with within the reasonable time specified by the enforcement officer.
- (3) If a certificate of electrical safety was given in respect of electrical installation work, the person who was responsible for the carrying out of the electrical installation work, and who ensured that the certificate was completed and given under section 45A, must—
 - (a) ensure that a new certificate of electrical safety is completed and given under that section in respect of the rectified work; and
 - (b) give the enforcement officer a copy of that new certificate within a reasonable time specified by the enforcement officer.
- (4) A person—
 - (a) must comply with any requirement made by an enforcement officer in a rectification notice; and
 - (b) must not ask for, or receive, from the person for whom the work was originally carried out (or any agent of that person) any money in respect of any cost arising from anything the

person does in complying with a rectification notice.

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

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

- (5) The enforcement officer must make it clear in a rectification notice in what way the work that needs rectification is non-compliant.
- (6) If a person applies to the Tribunal under section 69 to have the decision to give a rectification notice reviewed, he or she need not comply with the notice until he or she abandons the application or receives written notice that the Tribunal has affirmed the rectification notice or dismissed the application.
- (7) For the purposes of subsection (6), if the time specified to comply with a rectification notice is expressed as a date, the time within which the notice must be complied with is the number of days between that date and the date the notice was given to the person.
- (8) If an enforcement officer gives a rectification notice to a person before the person ensures the completion of, and gives, a certificate of electrical safety in accordance with section 45A in respect of electrical installation work, the person must still ensure that a certificate of electrical safety is completed and given in accordance with that section once the rectification work has been completed.
- (9) A certificate of electrical safety completed and given as required by subsection (8) must be completed in respect of both the original electrical installation work and the rectified electrical installation work.

- (10) The enforcement officer must give a copy of the rectification notice to the person on whose behalf the electrical installation work was carried out.

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

45B Supply of certificate forms

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

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

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

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

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

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

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

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

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

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

Penalty: 20 penalty units.

(5) Energy Safe Victoria must not sell a certificate of electrical safety form to a person who is a registered electrical contractor, a licensed electrical installation worker or a prescribed person at a price greater than the authorised amount.

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

(6) A registered electrical contractor, a licensed electrical installation worker or a prescribed person may authorise a person in writing to buy certificate of electrical safety forms on the contractor's or worker's or prescribed person's behalf.

(7) A registered electrical contractor, a licensed electrical installation worker or a prescribed person must ensure that only one person has such an authority at any one time.

Penalty: 5 penalty units.

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

(9) If—

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

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

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

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

Penalty: 10 penalty units.

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

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

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

(11) If, on the application of a registered electrical contractor, a licensed electrical installation worker or a prescribed person, Energy Safe Victoria is satisfied that a certificate of electrical safety form supplied to the contractor, worker or person under this section is lost or damaged or destroyed, Energy Safe Victoria must provide the contractor, worker or person with a replacement form at no charge.

(12) In this section the authorised amount is—

- (a) \$20 (or any other amount specified by the regulations) for a certificate of electrical safety form relating to prescribed electrical installation work; or
- (b) \$500 (or any other amount specified by the regulations) for a periodic certificate of electrical safety form; or
- (c) \$5 (or any other amount specified by the regulations) for any other certificate of electrical safety form.

- (13) In this section *prescribed person* means a person in a class of persons prescribed for the purposes of section 41A(b).

Division 4—Installation of electric lines on public land

46 Regulation of installation

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

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

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

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

- (ii) a person who is exempted under the **Electricity Industry Act 2000** from holding a licence under section 19 of that Act, for the purposes of carrying out activities authorised to be carried out under the terms of the exemption; or

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

* * * * *

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

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

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

Electricity Safety Act 1998
No. 25 of 1998
Part 3—Electrical work

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

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

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

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

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

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

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

47 Exemption

- (1) The Governor in Council may, by Order published in the Government Gazette, exempt a person from compliance with section 46 in respect of an activity specified in the Order.

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

- (2) An exemption may be of general or specific application.

- (3) An exemption is subject to such terms and conditions as are specified in the Order including a condition requiring—

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

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

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

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

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

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

48 Division not to affect operation of other requirements

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

49 Transitional

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

Part 4—Electrical equipment

*	*	*	*	*	S. 50 repealed by No. 46/2014 s. 9.
*	*	*	*	*	S. 51 amended by No. 39/2005 s. 48(Sch. 1 item 2), repealed by No. 46/2014 s. 9.
*	*	*	*	*	Ss 52, 53 repealed by No. 46/2014 s. 9.

54 Standards of electrical equipment

A person must not supply or offer to supply electrical equipment unless—

- (a) the equipment complies with the minimum standards prescribed for equipment of that class; or

*	*	*	*	*	S. 54(b) amended by No. 39/2005 s. 48(Sch. 1 item 2), repealed by No. 59/2008 s. 41(1).
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Penalty: In the case of a natural person,
40 penalty units;

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

55 Certification of compliance of electrical equipment

S. 55
amended by
No. 39/2005
s. 48(Sch. 1
item 3(a)).

Energy Safe Victoria, on the application of any person and on payment of the prescribed fee—

S. 55(a)
amended by
Nos 38/2000
s. 24(c),
39/2005
s. 48(Sch. 1
item 3(b)).

- (a) may determine whether, in its opinion, electrical equipment complies with the minimum standards prescribed for equipment of that class; and
- (b) if it determines that the equipment does so comply, may issue a certificate to this effect.

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

* * * * *

57 Prescribed electrical equipment

S. 57(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

- (1) Energy Safe Victoria, by notice published in the Government Gazette, may declare that any class, description or type of electrical equipment is, from a date specified in the notice, prescribed electrical equipment for the purposes of this Act.

S. 57(2)
amended by
No. 38/2000
s. 18(b).

- (2) A person must not supply or offer to supply electrical equipment prescribed under subsection (1) unless the equipment—

S. 57(2)(a)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (a) is approved by Energy Safe Victoria and is marked as prescribed; or
- (b) is approved by a prescribed authority or, under the regulations, is deemed to be approved; or

(c) is certified in accordance with a prescribed method or prescribed process.

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

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

(3) If electrical equipment complies with the requirements of subsection (2)(b) or (c), it is deemed for the purposes of this Act to have been approved by Energy Safe Victoria and to be marked as prescribed.

S. 57(3)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

58 Approval of equipment

(1) Energy Safe Victoria, on the application of any person, may approve prescribed electrical equipment.

S. 58(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

(2) An application must—

(a) be in writing; and

(b) contain or be accompanied by the prescribed information; and

(c) be made in accordance with the regulations; and

(d) be accompanied by the relevant prescribed fee.

(3) Energy Safe Victoria must notify the applicant in writing of its decision—

(a) to approve prescribed electrical equipment or a class of electrical equipment; or

(b) to approve electrical equipment subject to certain modifications being made; or

(c) not to approve prescribed electrical equipment.

S. 58(3)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

S. 58(4)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (4) If Energy Safe Victoria approves prescribed electrical equipment subject to certain modifications being made, the approval has effect when the prescribed electrical equipment has been modified in accordance with the approval.

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

59 Re-examination

Energy Safe Victoria may at any time require any prescribed electrical equipment which has been approved to be re-examined or tested by Energy Safe Victoria.

60 Modifications after approval

S. 60(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

- (1) Energy Safe Victoria may, by notice given to a person, require modifications to be made to prescribed electrical equipment that has been approved under this Part and approve the equipment subject to those modifications being made.

S. 60(2)
amended by
No. 38/2000
s. 18(c).

- (2) A person to whom a notice is given under subsection (1) must not supply or offer to supply the prescribed electrical equipment unless it is modified in accordance with the requirement.

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

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

S. 61
substituted by
No. 39/2005
s. 48(Sch. 1
item 5).

61 Approval of samples

The approval by Energy Safe Victoria of prescribed electrical equipment may be made by the approval of samples or specifications of the electrical equipment or by any other means which it considers appropriate.

62 Withdrawal of approval

- | | |
|--|---|
| (1) Energy Safe Victoria may, by notice in writing given to the person to whom the approval was given, at any time withdraw any approval given under this Part. | S. 62(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1). |
| (2) Energy Safe Victoria must state the reasons for the withdrawal of approval. | S. 62(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 1). |
| (3) Energy Safe Victoria must publish a notice of the withdrawal of an approval in the Government Gazette and in a newspaper circulating generally in the State. | S. 62(3)
amended by
No. 39/2005
s. 48(Sch. 1
item 1). |

63 Prohibition of supply of electrical equipment

- | | |
|--|---|
| (1) Energy Safe Victoria, by notice published in the Government Gazette and in a newspaper circulating generally in the State, may prohibit the supply of specified electrical equipment or electrical equipment of a specified class from the date of publication of the notice in the Government Gazette or from such later date as is specified in that notice. | S. 63(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1). |
| (2) Energy Safe Victoria, by notice in writing given to a person, may prohibit that person from supplying specified electrical equipment or electrical equipment of a specified class from the date of the notice or such later date as is specified in the notice. | S. 63(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 1). |
| (3) Energy Safe Victoria may exercise a power of prohibition under this section only if it appears to Energy Safe Victoria that— | S. 63(3)
amended by
No. 39/2005
s. 48(Sch. 1
items 1, 2). |
| (a) the specified electrical equipment is, or is likely to become, by reason of its design or construction, unsafe to use; and | |

(b) prohibition of the supply of the specified equipment or of all equipment of that specified class is warranted because of the risk of death or injury to any person or damage to any property arising out of the use of that equipment or equipment of that class.

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

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

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

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

(6) This section applies whether or not the equipment was—

S. 63(6)(b)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(a) prescribed electrical equipment; or

(b) approved by Energy Safe Victoria; or

S. 63(6)(c)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(c) certified by Energy Safe Victoria; or

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

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

64 Offence to disobey prohibition

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

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

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

65 Recall of electrical equipment

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

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

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

(b) specific action is necessary—

(i) to make the electrical equipment or equipment of that class safe to use; or

(ii) to render safe the use of that equipment or equipment of that class.

(2) Energy Safe Victoria, by notice in writing served on a person whose business is or includes the supply of electrical equipment and who has supplied the electrical equipment or other equipment of the same class, may require the person to take, within the period specified in the notice, the action specified in the notice.

S. 65(2)
amended by
Nos 38/2000
s. 24(d),
39/2005
s. 48(Sch. 1
item 1).

(3) The action specified in the notice may consist of or include—

(a) sending a written request to the person to whom the electrical equipment, or equipment of the same class, was supplied to return the

equipment to the place at which it was supplied;

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

- (b) placing an advertisement requesting all persons to whom electrical equipment of that class was supplied to return the equipment to the place at which it was supplied;
- (c) making the equipment or equipment of that class safe to use or rendering safe the use of that equipment in the manner specified in the notice.

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

- (3A) An advertisement referred to in subsection (3)(b) must be—
 - (a) in a form approved by Energy Safe Victoria; and
 - (b) placed in a newspaper or newspapers—
 - (i) specified by Energy Safe Victoria; and
 - (ii) for a period or periods specified by Energy Safe Victoria.

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

- (4) Energy Safe Victoria may alter or revoke a requirement under this section by notice given to the person of whom the requirement was made.
- (5) This section applies whether or not the equipment was—

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

- (a) prescribed electrical equipment; or
- (b) approved by Energy Safe Victoria; or

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

- (c) certified by Energy Safe Victoria; or

- (d) approved by a prescribed authority or, under the regulations, was deemed to be approved;
or
- (e) was certified in accordance with a prescribed method or prescribed process.

66 Offence to fail to comply with requirement

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

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

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

Part 5—Energy efficiency

* * * * *

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

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

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

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

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

68A Exemptions from energy efficiency

- (1) Energy Safe Victoria, on the application of a supplier of energy efficiency electrical equipment, or on its own initiative, may exempt that equipment for the purposes of section 68.
- (2) An exemption must be published in the Government Gazette.
- (3) An exemption may be subject to any conditions specified by Energy Safe Victoria in the exemption.
- (4) An exemption takes effect on the day specified in the exemption.

- (5) In the case of an application under subsection (1), the application must—
- (a) be in writing; and
 - (b) contain details of—
 - (i) the applicant's name, telephone number, and business and postal address; and
 - (ii) the exemption requested; and
 - (iii) the reasons for the exemption; and
 - (c) be accompanied by—
 - (i) any relevant technical information; and
 - (ii) the prescribed application fee.
- (6) Energy Safe Victoria may, at any time, by notice published in the Government Gazette, revoke an exemption.
- (7) As soon as is practicable after an exemption or revocation under this section is made, Energy Safe Victoria must notify the applicant in writing of the exemption or revocation.

Pt 6 (Heading and ss 69–74) amended by Nos 89/1998 s. 13(1)(2), 69/2000 s. 26, substituted as Pt 6 (Heading and s. 69) by No. 24/2002 s. 4.

Part 6—Rights of review

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

69 Applications to review

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

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

- (b) a decision under Part 4—
 - (i) to refuse to certify the compliance of electrical equipment; or
 - (ii) to refuse to approve prescribed electrical equipment; or
 - (iii) to withdraw an approval of prescribed electrical equipment;
- (c) a prohibition under section 63;
- (d) a requirement under section 65;
- (e) a decision under the regulations under Part 5—
 - (i) to refuse to register energy efficiency electrical equipment; or S. 69(2)(e)(i)
amended by
No. 57/2009
s. 8(1).
 - (ii) to cancel the registration of energy efficiency electrical equipment; or S. 69(2)(e)(ii)
amended by
No. 57/2009
s. 8(2).
- (f) a decision under section 68A—
 - (i) to exempt energy efficiency electrical equipment from the regulations; or S. 69(2)(f)
inserted by
No. 57/2009
s. 8(3).
 - (ii) to revoke an exemption.
- (2A) A person to whom a rectification notice is given may apply to the Tribunal for review of either or both of the following— S. 69(2A)
inserted by
No. 61/2007
s. 15(1).
 - (a) the decision to give the notice;
 - (b) any requirement contained in the notice.
- (3) A person to whom a direction is given under section 141 may apply to the Tribunal for review of the direction if compliance with it—
 - (a) would impose a significant financial burden on the person;

- (b) would prevent the person from complying with any obligations under a licence issued under Part 2 of the **Electricity Industry Act 2000**.
- (4) A person to whom an improvement notice is issued under Part 12 may apply to the Tribunal for review of either or both of the following—
- (a) the decision to issue the notice;
 - (b) any requirement contained in the notice.
- (5) An application for review under subsection (2A), (3) or (4) must be made within 7 days after the later of—
- (a) the day on which the improvement notice, direction or rectification notice (as the case requires) is received by the person making the application; or
 - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (6) Any other application for review under this section must be made within 28 days after the later of—
- (a) the day on which notice of the decision is received by the person; or
 - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

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

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

Electricity Safety Act 1998
No. 25 of 1998
Part 6—Rights of review

*	*	*	*	*	S. 69(7) repealed by No. 61/2007 s. 15(3).
*	*	*	*	*	Ss 70–74 repealed by No. 24/2002 s. 4.

Pt 7 (Heading)
inserted by
No. 57/2009
s. 9.

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

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

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

- (1) An owner or operator of a complex electrical installation must take reasonable care to ensure that all parts of the complex electrical installation that it owns or operates—
 - (a) are designed, constructed, operated, maintained and decommissioned in accordance with the regulations; and
 - (b) are safe and operated safely.

Penalty: 1500 penalty units.

- (2) An owner or operator of a railway must take reasonable care to ensure that all parts of the supply network of the railway that it owns or operates—
 - (a) are designed, constructed, operated, maintained and decommissioned in accordance with the regulations; and
 - (b) are safe and operated safely.

Penalty: 1500 penalty units.

76 Underground electric lines

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

- (1) A person who controls an underground electric line on public land (other than an electric line forming part of a railway)—
 - (a) must maintain a record of that underground electric line; and
 - (b) before the line is connected to an electricity supply or within 2 business days after relocating the line, give sufficient

information to enable every cable of the line to be located and identified to—

- (i) a person or body specified by Energy Safe Victoria as the asset recording service for the area in which the line is located; or
- (ii) if no such person or body is so specified, the distribution company for that area.

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

Penalty: 75 penalty units.

- (2) A person who operates a railway must keep a register containing sufficient information to enable every cable of the underground electric lines that are under the control of that person to be located and identified.
- (3) A person who operates a railway must ensure that the register kept under subsection (3) is available for inspection by the public during normal business hours.

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

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

77 Underground electric lines—obligations of distribution companies

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

Penalty: 75 penalty units.

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

Penalty: 50 penalty units.

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

Penalty: 50 penalty units.

78 Protection of underground electric lines

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

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

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

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

Pt 8 (Heading)
amended by
No. 55/2010
s. 16.

Division 1—General

79 Urban area

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

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

80 Fire hazard rating

A fire control authority—

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

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

81 Declared area in urban area

- (1) The Governor in Council, by Order published in the Government Gazette, may declare an area of land in an urban area for the purposes of this Part.
- (2) An Order under subsection (1) must contain a description sufficient to identify the land concerned which may include a description by reference to a map held by Energy Safe Victoria.

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

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

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

82 Operation of Part

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

83 Point of supply

- (1) If, in relation to a private electric line, the relevant distribution company is of the opinion that the point of supply as determined in accordance with the definition in section 3 is not appropriate, the relevant distribution company must determine the point of supply.
- (2) If, in relation to a private electric line, the responsible person is of the opinion that the point of supply as determined in accordance with section 3 is not appropriate, the responsible person may ask the relevant distribution company to determine the point of supply.

Electricity Safety Act 1998
No. 25 of 1998
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certain operators and electric line clearance

- (3) The relevant distribution company must notify the responsible person of a determination made under subsection (1) or (2) within 14 days of making it.
- (4) The responsible person may within 21 days of receiving a notification under subsection (3) object to the determination to Energy Safe Victoria on the grounds that the determination is not reasonable. S. 83(4)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).
- (5) Energy Safe Victoria must consider the objection and may vary or revoke the determination under subsection (1) or (2). S. 83(5)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).
- (6) If the relevant distribution company fails to make a determination under subsection (2) within 30 days after a request is made under that subsection, the responsible person may refer the matter to Energy Safe Victoria for determination. S. 83(6)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).
- (7) Energy Safe Victoria must consider a matter referred under subsection (6) and must determine the point of supply. S. 83(7)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).
- (8) Energy Safe Victoria, at the request of the responsible person or the relevant distribution company, may vary or revoke a determination under subsection (7). S. 83(8)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).
- (9) A determination made under subsection (1) or (2) may be varied or revoked by the relevant distribution company in the same manner as a determination is made and is subject to the same procedures as for a determination.

S. 83(10)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (10) A determination made under subsection (1), (2) or (7) takes effect from the date of the determination by the relevant distribution company or Energy Safe Victoria and any variation or revocation of the determination under subsection (5), (8) or (9) takes effect from the date of the variation or revocation.

Pt 8 Div. 1A
(Heading and
ss 83A, 83B)
inserted by
No. 38/2000
s. 19,
amended by
Nos 69/2000
s. 27, 13/2001
s. 11, 39/2005
s. 48(Sch. 1
item 2),
substituted by
No. 55/2010
s. 17.

Division 1A—Bushfire mitigation requirements for certain operators of at-risk electric lines

Subdivision 1—Interpretation

S. 83A
substituted by
No. 55/2010
s. 17.

83A Definitions

In this Division—

at-risk electric line means an electric line (other than a private electric line) that is—

- (a) above the surface of land; and
- (b) in a hazardous bushfire risk area;

specified operator means the operator of an at-risk electric line but does not include a major electricity company.

Subdivision 2—General duties in relation to bushfire mitigation plans

83B General duty of specified operators to minimise bushfire danger

S. 83B
substituted by
No. 55/2010
s. 17.

- (1) A specified operator must design, construct, operate, maintain and decommission an at-risk electric line to minimise as far as practicable the bushfire danger arising from that line.

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

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

- (2) It is a defence to a prosecution of a specified operator for an offence relating to a breach of a duty or obligation set out in subsection (1) if the operator has complied with the accepted bushfire mitigation plan in relation to that duty or obligation.

83BA Submission of bushfire mitigation plans for acceptance

S. 83BA
inserted by
No. 55/2010
s. 17.

- (1) A specified operator must, before 1 July in each year, prepare and submit to Energy Safe Victoria, for acceptance under Subdivision 3, a plan for the operator's proposals for the mitigation of bushfire in relation to the operator's at-risk electric lines.

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

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

- (2) A bushfire mitigation plan under subsection (1)—
- (a) must be in or to the effect of a form approved by Energy Safe Victoria; and
 - (b) must include the prescribed particulars.

- (3) A specified operator must cause a copy of an accepted bushfire mitigation plan to be available for inspection—
- (a) on the operator's Internet site; and
 - (b) at the operator's principal office in the State during ordinary business hours.

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

S. 83BB
inserted by
No. 55/2010
s. 17.

83BB Compliance with bushfire mitigation plan

- (1) During the specified bushfire risk period, a specified operator must not commence to commission, or operate, an at-risk electric line unless a bushfire mitigation plan that applies to the operator's at-risk electric lines has been accepted or provisionally accepted under Subdivision 3.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A specified operator must comply with an accepted bushfire mitigation plan that applies to the operator's at-risk electric lines.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (3) Subsection (1) does not apply to a specified operator who has a reasonable excuse.

- (4) For the purposes of subsection (1), it is a reasonable excuse for a specified operator not to comply with subsection (1) if—
- (a) there is no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines; and
 - (b) the reason for there being no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines is that—
 - (i) Energy Safe Victoria failed to accept the operator's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria; and
 - (ii) that failure arose because of unreasonable delay on Energy Safe Victoria's part.
- (5) For the purposes of subsection (1), it is not a reasonable excuse for a specified operator not to comply with subsection (1) if—
- (a) there is no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines; and
 - (b) the reason for there being no accepted bushfire mitigation plan that applies to the operator's at-risk electric lines is that—
 - (i) Energy Safe Victoria failed to accept the operator's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria and that failure arose because of actions or inactions of the operator that hampered the ability of Energy Safe Victoria to make a decision whether to accept that plan by 31 October; or

- (ii) Energy Safe Victoria has not accepted a plan under section 83BG.
- (6) Subsections (4) and (5) do not limit what may constitute a reasonable excuse.

Subdivision 3—Acceptance and validation of bushfire mitigation plans

83BC Validation of bushfire mitigation plans

S. 83BC
inserted by
No. 55/2010
s. 17.

- (1) If a bushfire mitigation plan has been submitted by a specified operator under section 83BA, Energy Safe Victoria may require the operator to obtain an independent validation of that plan or any part of that plan.
- (2) The specified operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking the validation of a bushfire mitigation plan has the necessary competence and ability and access to information to arrive at an independent opinion in respect of the plan.
- (3) If Energy Safe Victoria requires a specified operator to provide an independent validation of a bushfire mitigation plan or part of a plan, the costs of that validation must be borne by the operator.
- (4) Energy Safe Victoria is not required to proceed with the consideration of a bushfire mitigation plan under this Subdivision until the independent validation is provided.

83BD Additional information

S. 83BD
inserted by
No. 55/2010
s. 17.

- (1) Energy Safe Victoria may require a specified operator to provide any additional information that Energy Safe Victoria thinks fit in relation to a bushfire mitigation plan submitted by the operator under section 83BA.

- (2) Energy Safe Victoria is not required to proceed with the consideration of a bushfire mitigation plan under this Subdivision until the additional information is provided.

83BE Acceptance of bushfire mitigation plan

S. 83BE
inserted by
No. 55/2010
s. 17.

- (1) Energy Safe Victoria must consider a bushfire mitigation plan submitted under section 83BA with as much expedition as the requirements of this Act and the regulations and the proper consideration of the plan permit.
- (2) Energy Safe Victoria must accept a bushfire mitigation plan submitted under section 83BA if it is satisfied that the plan is appropriate for the at-risk electric lines to which it relates.
- (3) Energy Safe Victoria must notify the specified operator in writing of its decision to accept a bushfire mitigation plan.

83BF Provisional acceptance of bushfire mitigation plan

S. 83BF
inserted by
No. 55/2010
s. 17.

- (1) Energy Safe Victoria may provisionally accept a bushfire mitigation plan submitted under section 83BA if it is satisfied that the plan will minimise the bushfire danger arising from the at-risk electric lines to which the plan applies.
- (2) Energy Safe Victoria must notify the operator that submitted the bushfire mitigation plan, in writing, of its decision to provisionally accept the plan.
- (3) The notice of provisional acceptance must state—
 - (a) the period that the provisional acceptance will be in force; and
 - (b) the extent to which the bushfire mitigation plan has been accepted; and
 - (c) any limitations or conditions which will apply in respect of the accepted bushfire mitigation plan or part of the plan.

S. 83BG
inserted by
No. 55/2010
s. 17.

83BG Non-acceptance of bushfire mitigation plan

- (1) If Energy Safe Victoria does not accept or provisionally accept a bushfire mitigation plan submitted to it under section 83BA, it must—
 - (a) notify the specified operator that submitted the plan in writing of the non-acceptance; and
 - (b) give the operator an opportunity to modify and re-submit the bushfire mitigation plan.
- (2) A modified bushfire mitigation plan must be submitted to Energy Safe Victoria within 28 days after the notice is given under subsection (1).
- (3) If, after considering any modified bushfire mitigation plan submitted under this section, Energy Safe Victoria decides not to accept the plan, Energy Safe Victoria must give notice in writing of that decision to the specified operator that submitted the plan.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

S. 83BH
inserted by
No. 55/2010
s. 17.

83BH Energy Safe Victoria may determine bushfire mitigation plan

- (1) Energy Safe Victoria may determine the bushfire mitigation plan which is to apply in relation to a specified operator's at-risk electric lines.
- (2) Energy Safe Victoria may make a determination under subsection (1) if—
 - (a) a specified operator fails to submit a bushfire mitigation plan under section 83BA that relates to the operator's at-risk electric lines; or

- (b) Energy Safe Victoria has decided not to accept a bushfire mitigation plan submitted under section 83BA that relates to a specified operator's at-risk electric lines.
- (3) If Energy Safe Victoria determines the bushfire mitigation plan to apply to a specified operator's at-risk electric lines under this section, Energy Safe Victoria must give notice in writing to the operator of that determination.
- (4) On notice being given to the specified operator under subsection (3), the bushfire mitigation plan determined by Energy Safe Victoria is taken for the purposes of this Act to be the accepted bushfire mitigation plan for that operator's at-risk electric lines.
- (5) Nothing in subsection (4) prevents a specified operator from submitting a bushfire mitigation plan under section 83BA in relation to the operator's at-risk electric lines for acceptance under this Subdivision.

83BI Duration of accepted bushfire mitigation plan

An accepted bushfire mitigation plan ceases to have effect on 30 June in the year after it is accepted under this Subdivision.

S. 83BI
inserted by
No. 55/2010
s. 17.

83BJ Compliance audits for accepted bushfire mitigation plans—*independent audits*

- (1) Energy Safe Victoria may require a specified operator—
 - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the operator's compliance with an accepted bushfire mitigation plan; and
 - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.

S. 83BJ
inserted by
No. 55/2010
s. 17.

- (2) The specified operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the operator and the accepted bushfire mitigation plan to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a specified operator to obtain an independent audit under this section, the costs of that audit must be borne by the operator.
- (4) A specified operator must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

S. 83BK
inserted by
No. 55/2010
s. 17.

83BK Compliance audits—Energy Safe Victoria

Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a specified operator is satisfactorily complying with an accepted bushfire mitigation plan.

Division 2—Responsibility for maintenance of lines

Pt 8 Div. 2
Subdiv. 1
(Heading)
inserted by
No. 2/2014
s. 6(1).

Subdivision 1—Persons responsible for maintaining lines

S. 84
amended by
No. 12/2004
s. 155,
substituted by
No. 2/2014
s. 7.

84 Requirement to keep trees clear of electric lines— distribution companies

A distribution company is responsible for the keeping of the whole or any part of a tree clear of an electric line within its distribution area unless under this Subdivision another person is responsible for—

- (a) the maintenance of the line; or
- (b) the keeping of the whole or any part of a tree clear of the line.

Note

Section 3 defines *maintenance* in relation to an electric line or a private electric line as including the keeping of the whole or any part of a tree clear of the line.

84A Requirement to maintain line—occupiers of land with private or low voltage electric lines

S. 84A
inserted by
No. 2/2014
s. 7.

- (1) An occupier of land above or below the surface of which there is a private electric line is responsible for the maintenance of that line.

Note

Section 3 defines *maintenance* in relation to a private electric line as including the keeping of the whole or any part of a tree clear of the line.

- (2) An occupier of land on which there is a low voltage electric line which solely services that land is responsible for the keeping of the whole or any part of a tree situated on the land clear of that line.

84B Requirement to keep trees clear of private electric lines—occupiers of contiguous land

S. 84B
inserted by
No. 2/2014
s. 7.

- (1) An occupier of land that is contiguous to land on which there is a private electric line is responsible for the keeping of the whole or any part of a tree situated on the occupier's land clear of the line.
- (2) For the purposes of this section, the occupier may enter onto the land on which there is a private electric line and perform any acts necessary to keep a tree clear of the line.

S. 84C
inserted by
No. 2/2014
s. 7.

**84C Requirement to keep trees clear of electric lines—
Councils**

A Council responsible for the management of public land in an area of land declared under section 81 is responsible for the keeping of the whole or any part of a tree situated on that land clear of an electric line that is not a private electric line.

S. 84D
inserted by
No. 2/2014
s. 7.

**84D Requirement to keep trees clear of electric lines—
other persons**

A person (other than a distribution company) who owns or operates an electric line, or installs or uses an electric line under an Act of the Commonwealth, is responsible for the keeping of the whole or any part of a tree clear of the electric line.

Pt 8 Div. 2
Subdiv. 2
(Heading)
inserted by
No. 2/2014
s. 6(2).

Subdivision 2—Other matters

85 Exercise of powers with respect to lines

S. 85
amended by
Nos 62/2001
s. 75, 39/2005
s. 48(Sch. 1
item 1).

Energy Safe Victoria or the relevant distribution company or the relevant transmission company may, subject to any code applying in relation to the exercise of powers under this section issued by the Essential Services Commission under the **Essential Services Commission Act 2001**, exercise the following powers in relation to electric lines—

- (a) the power to enter onto land at any reasonable time for the purposes of inspecting an electric line and to remain on the land for so long as is necessary to inspect the line; and

- (b) the power, with the agreement of Energy Safe Victoria, to order that any electric line proposed to be constructed or to be substantially reconstructed be placed underground; and
- (c) the power, upon production of a certificate in a form approved by Energy Safe Victoria and issued by the relevant distribution company or the relevant transmission company and at any reasonable time, to enter onto and remain on any land, for as long as is necessary for the carrying out of any work which is required to be carried out by Energy Safe Victoria or distribution company or transmission company to fulfil its responsibilities under section 84 or 84D.

S. 85(b)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

S. 85(c)
amended by
Nos 39/2005
s. 48(Sch. 1
item 2), 2/2014
s. 8(1).

86 Failure to maintain lines

- (1) Energy Safe Victoria or, with the approval of Energy Safe Victoria, the relevant distribution company, may by notice in writing require a person to perform acts specified in the notice for the purpose of keeping the whole or any part of a tree clear of an electric line in respect of which that person is the responsible person within a time specified in the notice being, subject to subsection (4), not less than 14 days after the date of the notice.
- (2) If—
- (a) there is an electric line above or below the surface of land in respect of which there is in force a planning scheme; and

S. 86(1)
amended by
Nos 89/1998
s. 14(1),
39/2005
s. 48(Sch. 1
items 1, 2).

S. 86(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(b) the planning scheme requires a permit to be obtained to trim or remove trees on the land—

a person required by Energy Safe Victoria or the relevant distribution company by notice in writing under subsection (1) to perform any act for the purpose of keeping the whole or any part of a tree clear of the line must, before taking any action to comply with the notice, obtain any necessary permit pursuant to the **Planning and Environment Act 1987** in respect of the action necessary to comply with the notice unless an officer or employee of Energy Safe Victoria or the relevant distribution company considers the line to be in such a dangerous condition that urgent compliance with the notice is necessary.

S. 86(2A)
inserted by
No. 59/2011
s. 14(1).

(2A) Despite subsection (2), a relevant transmission company or a relevant distribution company is not required to obtain a permit pursuant to the **Planning and Environment Act 1987** in respect of any action necessary to comply with a notice in writing under subsection (1) if the action is carried out in accordance with the Code.

(3) If—

S. 86(3)(a)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(a) Energy Safe Victoria or the relevant distribution company has by notice pursuant to subsection (1) required a person to perform acts for the purpose of keeping the whole or any part of a tree clear of an electric line; and

S. 86(3)(b)
amended by
No. 11/2002
s. 3(Sch. 1
item 21).

(b) the time for compliance with the notice is greater than 14 days; and

(c) the person is required under subsection (2) to obtain a permit—

the person—

(d) must apply for the permit within 14 days of the receipt of the notice; and

(e) must perform all acts specified in the notice within 21 days of obtaining the permit.

(4) If Energy Safe Victoria or the relevant distribution company considers that urgent compliance with the notice under subsection (1) is necessary, the notice may require the person to comply with it within 14 days of the date of the notice.

S. 86(4)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(5) If the responsible person in relation to a private electric line or an electric line of a relevant distribution company—

S. 86(5)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(a) is unable to comply with a notice under this section; or

(b) is unable to perform the duties under the Code; or

(c) would put personal safety at risk if the person performed the duties under the Code or under a notice under this section; or

(d) refuses—

(i) to comply with a notice under this section; or

(ii) to perform the duties under the Code—

the relevant distribution company may, with the agreement of Energy Safe Victoria, and must, if Energy Safe Victoria so directs, carry out the duties and perform any work necessary to ensure that the whole or any part of a tree is kept clear of the line and, if the relevant distribution company does so, the responsible person referred to in paragraph (a), (b) or (c) (as the case may be) is not

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guilty of an offence for failing to perform the duties under the Code.

S. 86(6)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (6) In order to carry out work under subsection (5) an officer, employee or agent of the relevant distribution company may at any reasonable time and upon production of a certificate issued by Energy Safe Victoria or the relevant distribution company enter onto and remain on any land where that work is to be carried out for as long as is necessary for the carrying out of the work.
- (7) The relevant distribution company may recover the costs of carrying out any work under subsection (5) from the responsible person.

S. 86(8)
amended by
No. 2/2014
s. 8(2)(a).

- (8) Despite the provisions of any other Act, if the relevant distribution company is the responsible person under section 84, the relevant distribution company is not required to obtain any permit under any other Act in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is carried out in accordance with the Code.

S. 86(8A)
inserted by
No. 59/2011
s. 14(2),
amended by
No. 2/2014
s. 8(2)(b).

- (8A) Despite the provisions of any other Act, if a transmission company is the responsible person under section 84D, the relevant transmission company is not required to obtain any permit under any other Act in respect of any action necessary to keep the whole or any part of a tree clear of an electric line if the action is carried out in accordance with the Code.

S. 86(9)
amended by
No. 2/2014
s. 8(2)(c).

- (9) Despite the provisions of—

(a) section 77 of the **Forests Act 1958**; or

(b) section 56(2)(1) of the **Transport
(Compliance and Miscellaneous) Act 1983**;
or

S. 86(9)(b)
amended by
No. 6/2010
s. 203(1)(Sch. 6
item 16.2) (as
amended by
No. 45/2010
s. 22).

(c) regulations made under or having effect as if
made under either of those sections—

it is not necessary for a responsible person under
section 84, 84C or 84D to obtain the authority or
permission of the Secretary to the Department of
Natural Resources and Environment or the Roads
Corporation in respect of any action necessary to
keep the whole or any part of a tree clear of an
electric line if the action is required under
Subdivision 1 or under a notice under this section.

(9A) Despite section 63 of the **Road Management
Act 2004**, it is not necessary for a responsible
person under section 84, 84C or 84D to obtain the
written consent of the coordinating road authority
under the **Road Management Act 2004** in respect
of any action necessary to keep the whole or any
part of a tree clear of an electric line if the action
is required under Subdivision 1 or under a notice
under this section.

S. 86(9A)
inserted by
No. 12/2004
s. 171,
amended by
No. 2/2014
s. 8(2)(d).

(10) The relevant distribution company, in exercising a
power under this section, must comply with any
code applying in relation to the exercise of that
power issued by the Essential Services
Commission under the **Essential Services
Commission Act 2001**.

S. 86(10)
amended by
No. 62/2001
s. 75.

(10A) Despite anything to the contrary in this section,
subsection (1) does not empower the relevant
distribution company to give a notice under that
subsection to a transmission company or to the
operator of a railway.

S. 86(10A)
inserted by
No. 89/1998
s. 14(2),
amended by
No. 61/2007
s. 12(3).

(11) A person must not contravene or fail to comply with this section.

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

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

S. 86A
inserted by
No. 55/2010
s. 18.

86A Energy Safe Victoria may give directions for restriction or prevention of tree growth

- (1) If Energy Safe Victoria is satisfied that it is necessary to do so in order to prevent future unsafe electrical situations, Energy Safe Victoria may, in writing, direct a specified person—
- (a) to restrict or cease the planting of specified trees or species or classes of tree in the immediate area around an electric line; or
 - (b) to clear specified trees or species or classes of tree from the immediate area around an electric line; or
 - (c) to do any other thing necessary to minimise or prevent growth of specified trees or species or classes of tree in the immediate area around an electric line.
- (2) A direction under subsection (1) must be reasonable.
- (3) In this section, *specified person* means the owner or occupier of land in the area of an electric line or the relevant distribution company or relevant transmission company that owns or operates the electric line.

(4) A specified person must comply with a direction under subsection (1) that applies to the specified person.

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

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

Division 2A—Electric lines and municipal fire prevention plans

Pt 8 Div. 2A
(Heading and
s. 86B)
inserted by
No. 55/2010
s. 19.

86B Municipal fire prevention plans must specify procedures for the identification of trees that are hazardous to electric lines

S. 86B
inserted by
No. 55/2010
s. 19,
amended by
No. 2/2014
s. 9.

Without limiting section 55A of the **Country Fire Authority Act 1958**, a Council must, in a municipal fire prevention plan required to be prepared and maintained under that section, specify—

- (a) procedures and criteria for the identification of trees that are likely to fall onto, or come into contact with, an electric line (*hazard trees*); and
- (b) procedures for the notification of responsible persons of trees that are hazard trees in relation to electric lines for which they are responsible.

Division 3—Electric Line Clearance Consultative Committee

87 Constitution of Committee

S. 87(1)
amended by
No. 38/2000
s. 24(e).

- (1) There shall be an Electric Line Clearance Consultative Committee.
- (2) The Committee shall be constituted by 13 members to be appointed by the Minister.
- (3) The Minister must appoint one of the members of the Committee to be the chairperson.
- (4) A member shall be appointed for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.
- (5) The Committee is to be constituted by—

S. 87(5)(a)
amended by
No. 6/2010
s. 203(1)(Sch. 6
item 16.3) (as
amended by
No. 45/2010
s. 22).

- (a) an officer or employee of the Roads Corporation, nominated by the Minister administering the **Transport Integration Act 2010**; and
- (b) an officer or employee of the Country Fire Authority, nominated by the Minister administering the **Country Fire Authority Act 1958**; and
- (c) 3 persons selected by the Minister from nominations given to the Minister by the distribution companies; and
- (d) a person selected by the Minister from nominations given to the Minister by the transmission companies; and

S. 87(5)(e)
amended by
Nos 25/2004
s. 23, 70/2013
s. 4(Sch. 2
item 16).

- (e) an officer or employee in the Department of Environment and Primary Industries, nominated by the Minister administering the **Forests Act 1958**; and

- (f) 5 other members to be appointed from interested persons after the advertisement of the positions by the Minister including—
- (i) a member with skills in land management and nature conservation nominated by the Minister administering the **Forests Act 1958**; and
 - (ii) 2 persons each of whom is a private land owner or a person representing the interests of private land owners nominated by the Minister administering the **Dairy Industry Act 1992**; and
 - (iii) a person representing the interests of Local Government; and
 - (iv) a person with environmental or planning expertise nominated by the Minister administering the **Planning and Environment Act 1987**; and
- (g) an officer or employee of Energy Safe Victoria nominated by the Minister administering the **Energy Safe Victoria Act 2005**.
- (6) The Minister must determine the remuneration (if any) and the travelling and other allowances of members and any other terms and conditions of appointment of members.
- (7) If the chairperson is not present at the time fixed for the commencement of a meeting of the committee, the members present must elect one of their number as acting chairperson to preside at that meeting.

S. 87(5)(f)
amended by
No. 55/2010
s. 21(1).

S. 87(5)(f)(iv)
amended by
No. 55/2010
s. 21(2).

S. 87(5)(g)
inserted by
No. 55/2010
s. 21(3).

S. 87(8)
amended by
No. 38/2000
s. 24(f).

- (8) The Electric Line Clearance Consultative Committee is the same body as the Powerline Clearance Consultative Committee existing under the **State Electricity Commission Act 1958** immediately before the commencement of this section despite any change in its membership.

88 Functions of the Committee

The Electric Line Clearance Consultative Committee must—

S. 88(a)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (a) provide advice to Energy Safe Victoria with regard to the preparation and maintenance of the Code;

S. 88(b)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (b) provide advice on any matter relating to the clearance of electric lines when requested so to do by Energy Safe Victoria or the Minister;

- (c) report before 30 September in each year to the Minister on the performance of its functions.

S. 88A
inserted by
No. 55/2010
s. 22.

88A Committee to consider reliability and security of electricity supply

In performing its functions under section 88, the Electric Line Clearance Consultative Committee may have regard to the reliability and security of electricity supply.

89 Procedure for Code

S. 89(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

- (1) Energy Safe Victoria must, before the Governor in Council makes regulations prescribing the Code of Practice or amending or varying the Code—
- (a) refer to the Committee all matters with respect to the contents of those regulations;
and

- (b) make a draft of those regulations available to the public for comment for a period of 90 days; and
 - (c) consider any comments on the draft made to Energy Safe Victoria during that period.
- (2) There shall at all times be in force regulations prescribing the Code but no such regulations shall continue in force for more than 5 years after the date of their coming into operation.
- (3) The regulations must prescribe the provisions of the Code that are, for the purposes of section 90, penalty provisions.
- (4) A regulation shall not be invalidated or affected by reason only of a failure to comply with subsection (1) with respect to that regulation.
- (5) Energy Safe Victoria must cause the Code to be published in the Government Gazette.

S. 89(1)(c)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

S. 89(5)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

90 Offences against Code

A person must not contravene or fail to comply with a prescribed provision of the Code.

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

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

Division 4—Compliance audits in relation to compliance with the Code

Pt 8 Div. 4
(Heading and
ss 90A–90C)
inserted by
No. 55/2010
s. 20,
substituted as
Pt 8 Div. 4
(Heading and
ss 90A, 90B)
by
No. 59/2011
s. 15.

90A Compliance audits in relation to compliance with Code—Energy Safe Victoria

- (1) Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a responsible person is satisfactorily complying with the Code.

S. 90A(2)
repealed by
No. 2/2014
s. 8(3).

* * * * *

90B Compliance audits in relation to compliance with Code—independent audits

S. 90B
substituted by
No. 59/2011
s. 15.

- (1) Energy Safe Victoria may require a responsible person—
 - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the person's compliance with the Code; and
 - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The responsible person must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the responsible

person to enable an independent audit to be carried out.

- (3) If Energy Safe Victoria requires a responsible person to obtain an independent audit under this section, the costs of that audit must be borne by the responsible person.
- (4) A responsible person must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

- (5) In this section, *responsible person* means a person referred to in section 84, 84C or 84D.

S. 90B(5)
amended by
No. 2/2014
s. 8(4).

Division 5—Compliance audits in relation to compliance with the management plan

Pt 8 Div. 5
(Heading and
ss 90C–90E)
inserted by
No. 59/2011
s. 15.

90C Application

S. 90C
substituted by
No. 59/2011
s. 15.

- (1) This Division applies to a responsible person who is required by the regulations to prepare a management plan relating to compliance with the Code.
- (2) In subsection (1) *responsible person* means a person referred to in section 84, 84C or 84D.

S. 90C(2)
amended by
No. 2/2014
s. 8(4).

90D Compliance audits for management plans—Energy Safe Victoria

S. 90D
inserted by
No. 59/2011
s. 15.

Energy Safe Victoria may conduct, or cause to be conducted, an audit to determine whether or not a responsible person is satisfactorily complying with the management plan.

S. 90E
inserted by
No. 59/2011
s. 15.

**90E Compliance audits for management plans—
independent audits**

- (1) Energy Safe Victoria may require a responsible person—
 - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the person's compliance with the management plan; and
 - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The responsible person must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the responsible person and the management plan to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a responsible person to obtain an independent audit under this section, the costs of that audit must be borne by the responsible person.
- (4) A responsible person must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

Part 9—Cathodic protection and mitigation of stray current corrosion

91 Victorian Electrolysis Committee

- (1) There is established a committee to be called the Victorian Electrolysis Committee.
- (2) The Committee shall be constituted by 8 members to be appointed by the Minister.
- (3) The Minister must appoint one of the members of the Committee to be the chairperson.
- (4) A member shall be appointed for such period not exceeding 3 years as is specified in the instrument of appointment and is eligible for re-appointment.
- (5) The Committee is to be constituted by—
 - (a) a person nominated by Energy Safe Victoria;
 - (b) a person representing the interests of train operators nominated by the Minister administering the **Transport (Compliance and Miscellaneous) Act 1983**;
 - (ba) a person representing the interests of tram operators nominated by the Minister administering the **Transport (Compliance and Miscellaneous) Act 1983**;

S. 91(2)
amended by
No. 61/2007
s. 16(1).

S. 91(5)(a)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

S. 91(5)(b)
substituted by
No. 61/2007
s. 16(2),
amended by
No. 6/2010
s. 203(1)(Sch. 6
item 16.4) (as
amended by
No. 45/2010
s. 22).

S. 91(5)(ba)
inserted by
No. 61/2007
s. 16(2),
amended by
No. 6/2010
s. 203(1)(Sch. 6
item 16.5) (as
amended by
No. 45/2010
s. 22).

S. 91(5)(e)
amended by
No. 32/2001
s. 29.

- (c) a person selected by the Minister from nominations given to the Minister by the distribution companies;
 - (d) a person selected by the Minister administering the **Water Industry Act 1994** from nominations given to the Minister by the water companies within the meaning of that Act;
 - (e) a person nominated by the Minister administering the **Gas Safety Act 1997**;
 - (f) a person selected by the Minister from nominations given to the Minister by the carriers under the Telecommunications Act 1997 of the Commonwealth;
 - (g) a person nominated by the Australian Institute of Petroleum Ltd.
- (6) The Minister must determine the remuneration (if any) and the travelling and other allowances of members and any other terms and conditions of appointment of members.
- (7) If the chairperson is not present at the time fixed for the commencement of a meeting of the Committee, the members present must elect one of their number as acting chairperson to preside at that meeting.
- (8) Each member of the Committee, with the consent of the Minister, may nominate an alternate member.

- (9) An alternate member may act in place of the member for whom he or she is the alternate member if the member is unable to attend a meeting of the Committee.
- (10) An alternate member has all the functions of the member when acting in the place of that member.

92 Functions of the Committee

The Victorian Electrolysis Committee must—

- (a) establish and maintain standards for systems for cathodic protection and for the mitigation of stray current corrosion; and
- (b) provide advice to Energy Safe Victoria on any matter related to electrolysis and the regulations relating to the cathodic protection and to the mitigation of stray current corrosion, when requested to do so by Energy Safe Victoria; and
- (c) encourage the development of new methods and technology to increase the efficiency of systems for the mitigation of stray current corrosion.

S. 92(b)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

93 Operation of cathodic protection systems

- (1) The owner of a cathodic protection system must not operate or allow another person to operate that system unless it is registered by Energy Safe Victoria in accordance with the regulations.

S. 93
amended by
No. 39/2005
s. 48(Sch. 1
item 2),
substituted by
No. 25/2008
s. 6.

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

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

(2) The owner of a cathodic protection system must ensure that the system is operated in accordance with—

- (a) this Act and the regulations; and
- (b) any conditions to which the registration is subject.

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

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

S. 93A
inserted by
No. 25/2008
s. 6.

93A Evidentiary provision—operation of cathodic protection systems

(1) This section applies if—

- (a) the person operating a cathodic protection system is not the owner of that system; and
- (b) that person is operating that system under the authority or with the consent of the owner of that system.

(2) The owner of a cathodic protection system is not guilty of an offence under section 93(2) if the owner reasonably believed that the system was operated by the person in accordance with—

- (a) this Act and the regulations; and
- (b) any conditions to which the registration is subject.

94 Railway operator—duty in relation to stray electrical current leakage

A person who is the operator of a railway must ensure that that railway is designed, installed, operated and maintained in such a manner as to minimise the risks to safety of any person and the risks of damage to property arising from the leakage of stray electrical currents from that railway.

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

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

S. 94
(Heading)
inserted by
No. 61/2007
s. 12(4)(a).

S. 94
amended by
No. 61/2007
s. 12(4)(b)(c).

95 Mitigation systems

- (1) If, in the opinion of Energy Safe Victoria, a system is required to be installed to mitigate the effects of stray current corrosion, Energy Safe Victoria may, by notice in writing, direct any person whose assets are the cause of or are affected by the stray current corrosion to take action to install, operate and maintain a mitigation system in the manner specified in the direction and in accordance with the regulations.
- (2) A person to whom a notice is given under this section must comply with the directions in the notice.

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

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

S. 95(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

96 Directions of Energy Safe Victoria

S. 96
(Heading)
inserted by
No. 39/2005
s. 48(Sch. 1
item 8).

S. 96(1)
amended by
No. 39/2005
s. 48(Sch. 1
items 1, 2).

- (1) Energy Safe Victoria from time to time by notice in writing may require a person who is the operator of a cathodic protection system or mitigation system to carry out such tests of the system and such modifications to or replacement of the system as Energy Safe Victoria directs.
- (2) A person to whom a notice is given under this section must comply with the directions in the notice.

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

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

97 Costs in relation to mitigation systems

S. 97(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (1) If a person is required under this Act or the regulations to carry out any action in relation to a mitigation system, Energy Safe Victoria may require the person to contribute to the cost of that action an amount or amounts determined by Energy Safe Victoria after consultation with the Victorian Electrolysis Committee.

S. 97(2)
amended by
No. 39/2005
s. 48(Sch. 1
items 1, 2).

- (2) Energy Safe Victoria may require a person or body whose assets are affected by any action carried out under this Act or the regulations in relation to a mitigation system to contribute to the cost of that action an amount or amounts determined by Energy Safe Victoria after consultation with the Victorian Electrolysis Committee.

Electricity Safety Act 1998

No. 25 of 1998

Part 9—Cathodic protection and mitigation of stray current corrosion

- | | |
|---|---|
| (3) If a person is required under this Act or the regulations to carry out any action in relation to a mitigation system, Energy Safe Victoria, after consultation with the Victorian Electrolysis Committee, may carry out that action on behalf of that person. | S. 97(3)
amended by
No. 39/2005
s. 48(Sch. 1
item 2). |
| (4) Subject to subsection (2), if Energy Safe Victoria carries out an action under subsection (3) it may recover the costs of that action from the person who is required to carry out that action. | S. 97(4)
amended by
No. 39/2005
s. 48(Sch. 1
item 9). |
| (5) Any amount determined under subsection (1), (2) or (4) may be recovered by Energy Safe Victoria in any court of competent jurisdiction as a debt due to Energy Safe Victoria. | S. 97(5)
amended by
No. 39/2005
s. 48(Sch. 1
item 2). |
| (6) In this section <i>action</i> , in relation to a mitigation system, means installation, testing, modification, maintenance or replacement. | |

Pt 10
(Headings
and
ss 98–120)
amended by
Nos 89/1998
ss 15–21,
38/2000 s. 20,
13/2001 s. 12,
25/2004 s. 22,
33/2005
s. 3(2),
39/2005
s. 48(Sch. 1
items 1, 2,
10–12),
29/2006
s. 3(Sch. 1
item 10),
substituted as
Pt 10
(Headings
and ss 98–
120J) by
No. 61/2007
s. 7 (as
amended by
Nos 25/2008
s. 20, 57/2009
s. 16).

Part 10—Electricity safety management

Pt 10 Div. 1AA
(Heading and
s. 98AA)
inserted by
No. 55/2010
s. 23,
repealed by
No. 59/2011
s. 3.

* * * * *

Division 1—General duty of major electricity companies

S. 98
substituted by
No. 61/2007
s. 7.

98 General duty of major electricity companies

A major electricity company must design, construct, operate, maintain and decommission its supply network to minimise as far as practicable—

- (a) the hazards and risks to the safety of any person arising from the supply network; and
- (b) the hazards and risks of damage to the property of any person arising from the supply network; and
- (c) the bushfire danger arising from the supply network.

S. 98(b)
amended by
No. 55/2010
s. 24(1).

S. 98(c)
inserted by
No. 55/2010
s. 24(2),
substituted by
No. 59/2011
s. 4.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

Division 2—Mandatory electricity safety management schemes (major electricity companies)

99 Electricity safety management scheme

- (1) A major electricity company must submit an electricity safety management scheme to Energy Safe Victoria for each of its supply networks in accordance with this section.

S. 99
substituted by
No. 61/2007
s. 7.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) An electricity safety management scheme for a supply network must—
 - (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed by the major electricity company—

- (i) to comply with the major electricity company's duties under Division 1; and
- (ii) in relation to any other matters relating to the safe design, construction, operation, maintenance and decommissioning of the supply network that are prescribed.

S. 99(2A)
inserted by
No. 55/2010
s. 25,
amended by
No. 59/2011
s. 5.

- (2A) Without limiting subsection (2)(b), an electricity safety management scheme must include a plan for the mitigation of bushfire danger in relation to the major electricity company's supply network.
- (3) The electricity safety management scheme for a supply network which is in operation immediately before the commencement of this section must be submitted within 12 months after that commencement.
- (4) The electricity safety management scheme for any other supply network must be submitted to Energy Safe Victoria before the major electricity company commences to commission, or operate, that supply network.
- (5) An electricity safety management scheme may apply to more than one supply network.
- (6) An electricity safety management scheme that is submitted under this section must be accompanied by the prescribed fee.

S. 100
substituted by
No. 61/2007
s. 7.

100 Validation of electricity safety management scheme for a supply network

- (1) If an electricity safety management scheme has been submitted for a supply network, Energy Safe Victoria may require the major electricity company to obtain an independent validation of that electricity safety management scheme or any part of that electricity safety management scheme.

- (2) Energy Safe Victoria may require the validation to assess the design, construction, operation, maintenance and decommissioning of the supply network or any part of the supply network or all or any of those matters to determine if the supply network or part of the supply network will be fit for the purpose.
- (3) The major electricity company must establish to the satisfaction of Energy Safe Victoria that each person undertaking the validation of a matter has the necessary competence and ability and access to information on the matter to arrive at an independent opinion on the matter.
- (4) If Energy Safe Victoria requires a major electricity company to provide an independent validation of an electricity safety management scheme or part of an electricity safety management scheme, the costs of that validation must be borne by the major electricity company.
- (5) Energy Safe Victoria is not required to proceed with the consideration of an electricity safety management scheme until the independent validation is provided.

101 Additional information

- (1) Energy Safe Victoria may require a major electricity company to provide any additional information that Energy Safe Victoria thinks fit in relation to an electricity safety management scheme submitted by the major electricity company under this Division.
- (2) Energy Safe Victoria is not required to proceed with the consideration of an electricity safety management scheme until the additional information is provided.

S. 101
substituted by
No. 61/2007
s. 7.

S. 102
substituted by
No. 61/2007
s. 7.

102 Acceptance of electricity safety management scheme

- (1) Energy Safe Victoria must consider an electricity safety management scheme submitted under this Division with as much expedition as the requirements of this Act and the regulations and the proper consideration of the electricity safety management scheme permit.
- (2) Energy Safe Victoria must accept an electricity safety management scheme submitted under this Division if it is satisfied that the electricity safety management scheme is appropriate for the supply network to which it applies and complies with this Act and the regulations relating to electricity safety management schemes.
- (3) Energy Safe Victoria must notify the major electricity company in writing of its decision to accept an electricity safety management scheme.

S. 103
substituted by
No. 61/2007
s. 7.

103 Provisional acceptance of electricity safety management scheme

- (1) Energy Safe Victoria may provisionally accept an electricity safety management scheme if it is satisfied that it will provide for the safe operation of the supply network.
- (2) Energy Safe Victoria must notify the major electricity company in writing of its decision to provisionally accept an electricity safety management scheme.
- (3) The notice of acceptance must state—
 - (a) the period that the provisional acceptance will be in force; and
 - (b) the extent to which the electricity safety management scheme has been accepted; and

- (c) any limitations or conditions which will apply in respect of the design, construction, operation, maintenance or decommissioning of the supply network while the provisional acceptance is in force.

104 Non-acceptance of electricity safety management scheme

S. 104
substituted by
No. 61/2007
s. 7.

- (1) If Energy Safe Victoria does not accept or provisionally accept an electricity safety management scheme it must—
 - (a) notify the major electricity company in writing of the non-acceptance; and
 - (b) give the major electricity company an opportunity to modify and re-submit the electricity safety management scheme.
- (2) A modified electricity safety management scheme must be submitted to Energy Safe Victoria within 28 days after the notice is given under subsection (1).
- (3) If, after considering any modified electricity safety management scheme submitted under this section, Energy Safe Victoria decides not to accept an electricity safety management scheme, Energy Safe Victoria must give notice in writing of that decision to the major electricity company.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

105 Energy Safe Victoria may determine electricity safety management scheme

S. 105
substituted by
No. 61/2007
s. 7.

- (1) Energy Safe Victoria may determine the electricity safety management scheme which is to apply in respect of a supply network which is in operation at the time of the determination if—

- (a) the major electricity company fails to submit an electricity safety management scheme for the supply network in accordance with this Division; or
 - (b) Energy Safe Victoria has decided not to accept an electricity safety management scheme for the supply network.
- (2) If Energy Safe Victoria determines the electricity safety management scheme to apply to a supply network under this section, Energy Safe Victoria must give notice in writing to the major electricity company of that determination.
- (3) On notice being given to the major electricity company under subsection (2), the electricity safety management scheme determined by Energy Safe Victoria is deemed for the purposes of this Act to be the accepted ESMS for the supply network to which it applies.
- (4) Nothing in subsection (3) prevents a major electricity company from submitting an electricity safety management scheme or a revised electricity safety management scheme for a supply network to Energy Safe Victoria for acceptance under this Division.

S. 105A
inserted by
No. 55/2010
s. 26,
amended by
No. 59/2011
s. 6,
repealed by
No. 2/2014
s. 10.

* * * * *

106 Compliance with electricity safety management scheme

S. 106
substituted by
No. 61/2007
s. 7.

- (1) A major electricity company must not commence to commission, or operate, a supply network unless an electricity safety management scheme for that supply network has been accepted or provisionally accepted under this Division.

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

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

- (2) A major electricity company must comply with the accepted ESMS for a supply network.

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

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

- (3) A major electricity company must comply with the accepted ESMS for a supply network in relation to the removal, dismantling or decommissioning of the supply network.

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

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

- (4) A major electricity company must not—

- (a) undertake or permit a modification of a supply network that has the potential to significantly increase the overall levels of risk to the safety of any person or property arising from the supply network; or
- (b) undertake or permit a modification of a supply network that has the potential to significantly influence the level of specific

risk to the safety of any person or property arising from the supply network or the ranking of risk contributing factors; or

- (c) make or permit a significant change to the safety management system in relation to the supply network—

unless Energy Safe Victoria has accepted a revision of the accepted ESMS in relation to that matter for that supply network.

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

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

S. 107
substituted by
No. 61/2007
s. 7.

**107 Revision of electricity safety management scheme—
change**

A major electricity company must submit a revised electricity safety management scheme to Energy Safe Victoria if—

- (a) developments in technical knowledge or the assessment of hazards relevant to the supply network make it appropriate to revise the accepted ESMS; or
- (b) a proposed modification to the supply network will result in a significant increase in the overall level of risk to the safety of any person or property arising from the supply network; or
- (c) a proposed modification to the work practices covered by the accepted ESMS will result in a significant increase in the overall levels of risk to the safety of any person or property arising from the supply network; or
- (d) the major electricity company proposes to make a significant change to the accepted ESMS.

**108 Revision of electricity safety management scheme—
each 5 years**

S. 108
substituted by
No. 61/2007
s. 7.

A major electricity company must submit a revised electricity safety management scheme to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

- (a) the date when the accepted ESMS is first accepted; or
- (b) the date of the most recent acceptance of a revision of the accepted ESMS submitted under this Division.

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

**109 Energy Safe Victoria may request submission of a
revised electricity safety management scheme**

S. 109
substituted by
No. 61/2007
s. 7.

- (1) Energy Safe Victoria may at any time request a major electricity company to submit a revised electricity safety management scheme for a supply network of the major electricity company.
- (2) The request must—
 - (a) be in writing; and
 - (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and
 - (iii) the grounds for the request.

- (3) The major electricity company to whom the request is given may make a submission to Energy Safe Victoria on all or any of the following grounds—
- (a) that the revision should not occur;
 - (b) that the revision should be in different terms from the proposed terms;
 - (c) that the revision should take effect on a later date than the proposed date of effect.
- (4) The submission must—
- (a) be in writing; and
 - (b) state the major electricity company's reasons for the submission; and
 - (c) be made within 21 days, or such later period as Energy Safe Victoria allows, after the request is received.
- (5) If a major electricity company makes a submission under this section, Energy Safe Victoria must decide—
- (a) to accept the submission or part of the submission and vary or withdraw the request accordingly; or
 - (b) to reject the submission.
- (6) Energy Safe Victoria must give the major electricity company notice in writing of its decision on the submission and the reasons for that decision.

S. 110
substituted by
No. 61/2007
s. 7.

110 Offence to fail to submit revised electricity safety management scheme on request

If Energy Safe Victoria requests the revision of an electricity safety management scheme in accordance with section 109, the major electricity company must submit a revised electricity safety

management scheme for a supply network to Energy Safe Victoria—

- (a) if the major electricity company does not make a submission under that section, within the time (being not less than 60 days) specified by Energy Safe Victoria in the request; or
- (b) if the major electricity company has made a submission under that section and Energy Safe Victoria has not withdrawn the request, within the time (being not less than 60 days) specified by Energy Safe Victoria in the decision on the submission.

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

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

111 Application of provisions to revised electricity safety management scheme

S. 111
substituted by
No. 61/2007
s. 7.

Sections 100 to 105 apply to the revision of an electricity safety management scheme in the same manner as they apply to an electricity safety management scheme.

112 Revisions that do not relate to bushfire mitigation

S. 112
substituted by
No. 61/2007
s. 7,
repealed by
No. 55/2010
s. 28, new
s. 112
inserted by
No. 2/2014
s. 11.

- (1) This section applies if—
 - (a) a major electricity company is required, or has been requested, to submit a revised electricity safety management scheme to Energy Safe Victoria under section 107 or 109; and

- (b) the matter giving rise to that requirement or forming the basis of the request does not relate to that part of the scheme that is an accepted bushfire mitigation plan.

Note

See also section 113D(1).

- (2) Despite anything to the contrary in this Division or Division 2A, the company is not required to submit to Energy Safe Victoria a revised bushfire mitigation plan as part of the revised electricity safety management scheme.

S. 113
substituted by
No. 61/2007
s. 7.

113 Compliance with electricity safety management scheme is a defence

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in Division 1 if the person has complied with the accepted ESMS in relation to that duty or obligation.

Pt 10 Div. 2A
(Heading)
amended by
No. 18/2017
s. 6.

Division 2A—Ongoing bushfire mitigation plan requirements for major electricity companies

Pt 10 Div. 2A
(Heading and
ss 113A–
113F)
inserted by
No. 55/2010
s. 27.

113A Submission of bushfire mitigation plans for acceptance

S. 113A
inserted by
No. 55/2010
s. 27.

- (1) A major electricity company must prepare and submit to Energy Safe Victoria, for acceptance under this Division, a plan for the company's proposals for mitigation of bushfire in relation to

S. 113A(1)
amended by
No. 59/2011
s. 7,
substituted by
No. 2/2014
s. 12(1).

the company's supply network at the end of each period of 5 years commencing on the later of—

- (a) the date when the accepted bushfire mitigation plan is first accepted under this Division; or
- (b) the date of the most recent acceptance of a revision of the accepted bushfire mitigation plan submitted under this Division.

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

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

(2) A bushfire mitigation plan under subsection (1)—

- (a) must be in or to the effect of a form approved by Energy Safe Victoria; and
- (b) must include the prescribed particulars.

(3) A major electricity company must cause the prescribed information about its accepted bushfire mitigation plan to be made available for inspection—

- (a) on the company's Internet site; and
- (b) at the company's principal office in the State during ordinary business hours.

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

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

S. 113A(3)
amended by
No. 2/2014
s. 12(2).

113B Compliance with bushfire mitigation plan

S. 113B
inserted by
No. 55/2010
s. 27.

S. 113B(1)
amended by
No. 59/2011
s. 8(1).

- (1) During the specified bushfire risk period, a major electricity company must not commence to commission, or operate, a supply network unless a bushfire mitigation plan that applies to the company's supply network has been accepted or provisionally accepted under this Division.

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

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

S. 113B(2)
amended by
No. 59/2011
s. 8(1).

- (2) A major electricity company must comply with an accepted bushfire mitigation plan that applies to the company's supply network.

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

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

- (3) Subsection (1) does not apply to a major electricity company that has a reasonable excuse.
- (4) For the purposes of subsection (1), it is a reasonable excuse for a major electricity company not to comply with subsection (1) if—

S. 113B(4)(a)
amended by
No. 59/2011
s. 8(3).

- (a) there is no accepted bushfire mitigation plan that applies to the company's supply network; and

S. 113B(4)(b)
amended by
No. 59/2011
s. 8(3).

- (b) the reason for there being no accepted bushfire mitigation plan that applies to the company's supply network is that—

- (i) Energy Safe Victoria failed to accept the company's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria; and
 - (ii) that failure arose because of unreasonable delay on Energy Safe Victoria's part.
- (5) For the purposes of subsection (1), it is not a reasonable excuse for a major electricity company not to comply with subsection (1) if—
- (a) there is no accepted bushfire mitigation plan that applies to the company's supply network; and
 - (b) the reason for there being no accepted bushfire mitigation plan that applies to the company's supply network is that—
 - (i) Energy Safe Victoria failed to accept the company's bushfire mitigation plan by 31 October in the year it was submitted to Energy Safe Victoria and that failure arose because of actions or inactions of the company that hampered the ability of Energy Safe Victoria to make a decision whether to accept that plan by 31 October; or
 - (ii) Energy Safe Victoria has not accepted a plan under section 83BG (as applied and modified by section 113C).
- (6) Subsections (4) and (5) do not limit what may constitute a reasonable excuse.

S. 113B(5)(a)
amended by
No. 59/2011
s. 8(3).

S. 113B(5)(b)
amended by
No. 59/2011
s. 8(3).

113C Validation, acceptance, provisional acceptance and determination of bushfire mitigation plans

S. 113C
inserted by
No. 55/2010
s. 27.

Sections 83BC to 83BH apply to the validation, or acceptance, provisional acceptance or non-acceptance or determination by Energy Safe

Victoria, of a bushfire mitigation plan under this Division—

(a) as if—

- (i) a reference to a specified operator were a reference to a major electricity company; and
- (ii) a reference to an at-risk electric line were a reference to a supply network; and
- (iii) a reference to a bushfire mitigation plan were a reference to a bushfire mitigation plan submitted under this Division; and
- (iv) a reference to an accepted bushfire mitigation plan were a reference to an accepted bushfire mitigation plan accepted or provisionally accepted under this Division; and

(b) with any other modifications that are necessary.

S. 113C(a)(ii)
amended by
No. 59/2011
s. 9.

113D Accepted bushfire mitigation plan forms part of accepted ESMS

S. 113D
inserted by
No. 55/2010
s. 27.

S. 113D(1)
amended by
No. 59/2011
s. 10.

(1) An accepted bushfire mitigation plan applying to a major electricity company's supply network is taken to form part of the major electricity company's accepted ESMS.

S. 113D(2)
amended by
No. 2/2014
s. 13.

(2) However, despite anything to the contrary in Division 2, sections 106 and 108 do not apply to that part of an accepted ESMS that is constituted by an accepted bushfire mitigation plan.

(3) In addition, to avoid doubt, an acceptance, provisional acceptance or determination of a bushfire mitigation plan under this Division is not

a revision of an accepted ESMS for the purposes of section 108.

113E Revisions that only relate to bushfire mitigation

- (1) This section applies if a major electricity company is required, or has been requested, to submit a revised bushfire mitigation plan to Energy Safe Victoria under section 107 or 109.

S. 113E
inserted by
No. 55/2010
s. 27,
substituted by
No. 2/2014
s. 14.

Note

See also section 113D(1) and (2).

- (2) Despite anything to the contrary in Division 2 or this Division, the company is only required to submit that revised plan.

113F Inspection of overhead private electric lines

- (1) A major electricity company that has a distribution area must cause an inspection to be carried out at such times as are prescribed, and in accordance with the prescribed standards (if any), of private electric lines that are above the surface of land within its distribution area, other than any prescribed parts of those lines.

S. 113F
inserted by
No. 55/2010
s. 27.

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

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

- (2) A major electricity company must give to the occupier of land above which there is a private electric line notice in the prescribed form (if any) during the prescribed period (if any) before an inspection under subsection (1) is carried out.
- (3) A major electricity company may, for the purpose of an inspection under this section, enter onto land at any reasonable time for the purposes of inspecting a private electric line under this section and remain on the land for so long as is necessary to inspect the line.

- (4) If an inspection carried out under this section reveals that maintenance is required on a private electric line above land, the major electricity company must give the owner of the land written notice of the maintenance required.

Division 3—Voluntary electricity safety management schemes

114 Electricity safety management scheme for employers of electrical workers

S. 114
substituted by
No. 61/2007
s. 7.

- (1) Energy Safe Victoria may permit a person who is an employer of electrical workers to submit an electricity safety management scheme in respect of electrical work carried out by those workers for that person.
- (2) An electricity safety management scheme submitted under this section must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safety of electrical work to which the electricity safety management scheme applies; and
 - (c) be accompanied by the relevant prescribed application fee.
- (3) Sections 100 to 104 apply to an electricity safety management scheme under this section—
- (a) as if—
 - (i) a reference to a supply network were a reference to electrical work carried out by electrical workers; and

- (ii) a reference to a major electricity company were a reference to the employer of the electrical workers carrying out electrical work; and
 - (iii) a reference to the design, construction, operation, maintenance and decommissioning of the supply network were a reference to the carrying out of electrical work by electrical workers; and
 - (iv) a reference to the safe operation of the supply network were a reference to the safe carrying out of electrical work by electrical workers; and
- (b) with any other alterations or modifications that are necessary.

115 Electricity safety management scheme for specified premises

S. 115
substituted by
No. 61/2007
s. 7.

- (1) Energy Safe Victoria may permit a person who is the occupier of specified premises to submit an electricity safety management scheme in respect of electrical work carried out at those premises by electrical workers employed or engaged by that person.
- (2) An electricity safety management scheme submitted under this section must—
 - (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the electrical work to which the electricity safety management scheme applies; and
 - (c) be accompanied by the relevant prescribed application fee.

- (3) Sections 100 to 104 apply to an electricity safety management scheme under this section—
- (a) as if—
- (i) a reference to a supply network were a reference to electrical work carried out at specified premises; and
 - (ii) a reference to a major electricity company were a reference to the occupier of the specified premises at which electrical work is carried out; and
 - (iii) a reference to the design, construction, operation, maintenance and decommissioning of the supply network were a reference to the carrying out of electrical work at the specified premises; and
 - (iv) a reference to the safe operation of the supply network were a reference to the safe carrying out of electrical work at the specified premises; and
- (b) with any other alterations or modifications that are necessary.

S. 116
substituted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
ss 16(1)–(3)).

116 Electricity safety management scheme for owner of complex electrical installation

- (1) Energy Safe Victoria may permit an owner of a complex electrical installation to submit an electricity safety management scheme in respect of the design, construction, operation, maintenance and decommissioning of the owner's complex electrical installation.

- (2) An electricity safety management scheme submitted under this section must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the complex electrical installation to which the electricity safety management scheme applies; and
 - (c) be accompanied by the relevant prescribed application fee.
- (3) Sections 100 to 104 apply to an electricity safety management scheme under this section—
- (a) as if—
 - (i) any reference to a major electricity company were a reference to the owner of a complex electrical installation; and
 - (ii) any reference to a supply network were a reference to a complex electrical installation; and
 - (b) with any other alterations or modifications that are necessary.

S. 116(2)(b)
amended by
No. 46/2014
s. 10(1).

S. 116(3)
substituted by
No. 46/2014
s. 10(2).

117 Exemption from certain provisions of Act or regulations

- (1) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 114, Energy Safe Victoria may exempt any person authorised under the accepted ESMS to carry out a class or type of electrical work from compliance with any of the regulations relating to the carrying out of that class or type of electrical work or from compliance with section 44(2), 45(1), (2) or (3) or 45A.

S. 117
substituted by
No. 61/2007
s. 7 (as
amended by
No. 25/2008
s. 20(a)).

S. 117(2A)
inserted by
No. 59/2011
s. 16.

(2) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 115, Energy Safe Victoria may exempt a person carrying out a specified class or type of electrical work on the specified premises to which the accepted ESMS applies from compliance with any of the regulations relating to the carrying out of that class or type of work or from compliance with section 44(2), 45(1), (2) or (3) or 45A.

(2A) If Energy Safe Victoria accepts an electricity safety management scheme submitted under section 116, Energy Safe Victoria may exempt an owner of a complex electrical installation to which the accepted ESMS applies from compliance with any of the regulations relating to the operation, maintenance and decommissioning of the complex electrical installation or from compliance with section 44(2), 45(1), (2) or (3) or 45A.

(3) If Energy Safe Victoria accepts an electricity safety management scheme submitted under this Division, Energy Safe Victoria may exempt the person from compliance with any of the regulations relating to the installation and operation of electrical installations or supply networks.

S. 118
substituted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
s. 16(4)).

118 Compliance with electricity safety management scheme

(1) An employer of electrical workers must comply with an accepted ESMS that applies in respect of electrical work carried out by those workers for that person.

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

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

- (2) A person who is an occupier of specified premises must comply with an accepted ESMS that applies in respect of electrical work carried out at the specified premises occupied by that person by electrical workers employed or engaged by that person.

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

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

- (3) An owner of a complex electrical installation must comply with an accepted ESMS that applies in respect of that owner's complex electrical installation.

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

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

119 Revision of voluntary electricity safety management scheme—each 5 years

S. 119
substituted by
No. 61/2007
s. 7.

A voluntary ESMS operator must submit a revised electricity safety management scheme to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

- (a) the date when the relevant electricity safety management scheme is first accepted; or
(b) the date of the most recent acceptance of a revision of the electricity safety management scheme submitted under this section.

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

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

S. 120
substituted by
No. 61/2007
s. 7.

120 Revision of voluntary electricity safety management scheme—change

A voluntary ESMS operator must submit a revised electricity safety management scheme to Energy Safe Victoria if—

- (a) developments in technical knowledge or the assessment of hazards make it appropriate to revise the electricity safety management scheme; or
- (b) a proposed modification to, as the case requires, the supply network or electrical installation will result in a significant increase in the overall levels of risk to the safety of any person or property arising from the supply network or electrical installation; or
- (c) a proposed change to the electrical work to which the electricity safety management scheme applies will result in a significant increase in the overall levels of risk to the safety of any person or property arising from electricity; or
- (d) the voluntary ESMS operator proposes to make a significant change to the accepted ESMS.

S. 120A
inserted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
s. 16(5)).

120A Energy Safe Victoria may request submission of revised electricity safety management scheme

- (1) Energy Safe Victoria may at any time request a voluntary ESMS operator to submit a revised electricity safety management scheme for—
 - (a) in the case of an employer of electrical workers—electrical work carried out by those workers for that person; or

- (b) in the case of an occupier of specified premises—electrical work carried out at the specified premises occupied by that person by electrical workers employed or engaged by that person; or
 - (c) in the case of an owner of a complex electrical installation—a complex electrical installation.
- (2) The request must—
- (a) be in writing; and
 - (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and
 - (iii) the grounds for the request.

120B Compliance with request

A voluntary ESMS operator must comply with a request under section 120A within the time (being not less than 60 days) specified by Energy Safe Victoria in the request.

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

S. 120B
inserted by
No. 61/2007
s. 7.

120C Lapsing of electricity safety management scheme

- (1) If a voluntary ESMS operator fails to comply with section 119, 120, 120A or 120H, Energy Safe Victoria, by notice in writing to the operator, may determine that the relevant accepted ESMS applying to, as the case requires—

S. 120C
inserted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
ss 16(6)(7)).

S. 120C(1)(b)
amended by
Nos 55/2010
s. 37(2),
43/2012 s. 3
(Sch. item 14).

- (a) electrical work carried out by electrical workers employed or engaged by that operator; or
- (b) a complex electrical installation—

has lapsed.

- (2) A voluntary ESMS operator may, by notice in writing to Energy Safe Victoria, withdraw an accepted ESMS applying to, as the case requires—
 - (a) the electrical work carried out by electrical workers employed or engaged by that operator; or
 - (b) the owner's complex electrical installation.
- (3) If an accepted ESMS has lapsed or been withdrawn, any exemption granted under section 117 in respect of that electricity safety management scheme lapses.

S. 120D
inserted by
No. 61/2007
s. 7.

120D Duty of employer of electrical workers

An employer of electrical workers who carry out electrical work to which an accepted ESMS applies must manage the carrying out of that electrical work to minimise as far as practicable—

- (a) the hazards and risks to safety of any person arising from electricity; and
- (b) the hazards and risks to property arising from electricity.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

120E Duty of occupier of specified premises

S. 120E
inserted by
No. 61/2007
s. 7.

The occupier of specified premises at which electrical work is carried out, and to which an accepted ESMS applies, must manage the carrying out of that electrical work at the specified premises to minimise as far as practicable—

- (a) the hazards and risks to safety of any person arising from electricity; and
- (b) the hazards and risks to property arising from electricity.

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

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

120F Duty of owner of complex electrical installation

S. 120F
inserted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
ss 16(8)–(11)).

An owner of a complex electrical installation must, in respect of the complex electrical installation to which an accepted ESMS applies, manage that complex electrical installation to minimise as far as practicable—

- (a) hazards and risks to the safety of any person arising from the complex electrical installation; and
- (b) the hazards and risks of damage to property of any person arising from the complex electrical installation.

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

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

S. 120G
inserted by
No. 61/2007
s. 7.

120G Compliance with electricity safety management scheme is a defence

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in section 75 or this Division if the person has complied with the accepted ESMS in relation to that duty or obligation.

Division 4—Other matters

S. 120H
inserted by
No. 61/2007
s. 7 (as
amended by
Nos 25/2008
s. 20(b),
57/2009
s. 16(12)).

120H Compliance audits—-independent audits

- (1) Energy Safe Victoria may require an accepted ESMS operator—
 - (a) to obtain, at the intervals determined by Energy Safe Victoria, independent audits of the operator's compliance with the accepted ESMS that applies to, as the case requires—
 - (i) the electrical work carried out by electrical workers employed or engaged by that operator; or
 - (ii) the operator's supply network or complex electrical installation; and
 - (b) to forward a copy of each audit report to Energy Safe Victoria within a time specified by Energy Safe Victoria.
- (2) The accepted ESMS operator must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence and ability and access to information on the operations of the accepted ESMS operator and the accepted ESMS to enable an independent audit to be carried out.

S. 120H(1)
(a)(ii)
substituted by
No. 55/2010
s. 29,
amended by
No. 59/2011
s. 11.

- (3) If Energy Safe Victoria requires an accepted ESMS operator to obtain an independent audit under this section, the costs of that audit must be borne by the accepted ESMS operator.
- (4) An accepted ESMS operator must comply with a requirement of Energy Safe Victoria under this section.

Penalty: 200 penalty units.

120I Compliance audits—Energy Safe Victoria

Energy Safe Victoria may conduct, or cause to be conducted, an audit, to determine whether or not an accepted ESMS operator is satisfactorily complying with the accepted ESMS that applies to, as the case requires—

- (a) the electrical work carried out by electrical workers employed or engaged by that operator; or
- (b) the operator's supply network or complex electrical installation.

S. 120I
inserted by
No. 61/2007
s. 7 (as
amended by
No. 57/2009
s. 16(13)).

S. 120(b)
substituted by
No. 55/2010
s. 30,
amended by
No. 59/2011
s. 12.

120J Annual fees

An accepted ESMS operator must pay the relevant prescribed annual administration fee in accordance with the regulations.

S. 120J
inserted by
No. 61/2007
s. 7.

Pt 10A
(Headings
and ss 120K–
120Z)
inserted by
No. 18/2017
s. 4.

Part 10A—Additional bushfire mitigation requirements for major electricity companies

Division 1—Preliminary

S. 120K
inserted by
No. 18/2017
s. 4.

120K Definitions

In this Part—

allocated substation points means points that are prescribed in respect of a zone substation;

Automatic Circuit Recloser means a device in relation to a SWER line that—

- (a) may be remotely controlled; and
- (b) is able to automatically interrupt and reclose an electric circuit by means of a programmed sequence that involves one or more of the following—
 - (i) opening and reclosing the electric circuit;
 - (ii) resetting the electric circuit;
 - (iii) holding the electric circuit closed;
 - (iv) permanently interrupting the electric circuit;

civil penalty provision means section 120M, 120N, 120O, 120P or 120Q;

complying substation has the meaning given by section 120L;

electric line construction area means land delineated and shown on a prescribed plan;

pecuniary penalty means—

- (a) for a contravention of section 120M(1)—see section 120M(3)(a), (b) or (c);
- (b) for a contravention of section 120N(1) or (2)—see section 120N(3)(a) or (b);
- (c) for a contravention of section 120O(1)—see section 120O(2)(a) or (b);
- (d) for a contravention of section 120P(1)—see section 120P(3)(a) or (b);
- (e) for a contravention of section 120Q(1)—see section 120Q(4)(a) or (b);

polyphase electric line means an electric line comprising more than one phase of electricity with a nominal voltage that is not less than 1 kV or greater than 22 kV;

required capacity means the prescribed capacity in relation to a polyphase electric line in the event of a phase to ground fault;

SWER line means a single wire earth return electric line;

zone substation means a prescribed substation.

120L Meaning of *complying substation*

A zone substation is a ***complying substation*** if every polyphase electric line that originates from the substation has the required capacity.

S. 120L
inserted by
No. 18/2017
s. 4.

Division 2—Additional bushfire mitigation duties

S. 120M
inserted by
No. 18/2017
s. 4.

120M Polyphase electric lines with required capacity

- (1) A major electricity company must ensure that—
 - (a) for the initial period, a sufficient number of zone substations in its supply network are complying substations so that the total number of allocated substation points prescribed in respect of all of the complying substations is not less than 30 (the *period 1 minimum points*); and
 - (b) for the intermediate period, a sufficient number of zone substations in its supply network are complying substations so that the total number of allocated substation points prescribed in respect of all of the complying substations is not less than 55 (the *period 2 minimum points*); and
 - (c) on and after 1 May 2023, or if Energy Safe Victoria specifies a later date under section 120X, that date, all zone substations in its supply network are complying substations.
- (2) Subsection (1)(a) or (b) does not apply to a major electricity company if the allocated substation points prescribed in respect of all of the zone substations in the company's supply network cannot meet the period 1 minimum points or the period 2 minimum points.
- (3) A major electricity company is liable to pay—
 - (a) if subsection (1)(a) or (b) is contravened, a pecuniary penalty not exceeding \$2 000 000 for every point forming the difference between the total number of allocated substation points prescribed in respect of all of the complying substations and, as the case requires—

- (i) the period 1 minimum points; or
 - (ii) the period 2 minimum points; and
- (b) if subsection (1)(c) is contravened, a pecuniary penalty not exceeding \$2 000 000 for every allocated substation point prescribed in respect of each zone substation that is not a complying substation; and
- (c) if there is a continuing contravention of subsection (1)(a), (b) or (c), a pecuniary penalty that is a daily amount not exceeding \$5500 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (4) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.
- (5) In this section—
- initial period*** means—
- (a) the period beginning 1 May 2019 and ending 30 April 2021; or
 - (b) if Energy Safe Victoria specifies a later period under section 120X, that period;
- intermediate period*** means—
- (a) the period beginning 1 May 2021 and ending 30 April 2023; or
 - (b) if Energy Safe Victoria specifies a later period under section 120X, that period.

S. 120N
inserted by
No. 18/2017
s. 4.

120N Covering or placing underground electric lines

- (1) A major electricity company must cover or place underground each new electric line that meets the prescribed specification that it constructs within an electric line construction area.
- (2) A major electricity company must cover or place underground each electric line that—
 - (a) meets the prescribed specification; and
 - (b) it reconstructs or substantially reconstructs within an electric line construction area; and
 - (c) is of at least 4 consecutive spans or has conductors on at least 4 consecutive spans.
- (3) A major electricity company that contravenes subsection (1) or (2) is liable to pay a pecuniary penalty—
 - (a) not exceeding \$350 000 for each kilometre or a part of a kilometre of an electric line that is not covered or placed underground in accordance with that subsection; and
 - (b) in the case of a continuing contravention of subsection (1) or (2), a daily amount not exceeding \$1000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (4) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.
- (5) In this section—

cover, in relation to an electric line, means install a system of insulation on a bare open wire in accordance with the relevant major

electricity company's accepted bushfire mitigation plan.

120O Installation of Automatic Circuit Recloser for SWER lines

S. 120O
inserted by
No. 18/2017
s. 4.

- (1) A major electricity company must install an Automatic Circuit Recloser for each SWER line in its supply network before 1 January 2021 or if Energy Safe Victoria specifies a later date under section 120X, that date.
- (2) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
 - (a) not exceeding \$50 000 in respect of each contravention of that subsection; and
 - (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$150 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (3) This section does not apply to a major electricity company that is exempted from complying with this section under an Order under section 120W and complies with that Order.

120P Annual compliance reports

S. 120P
inserted by
No. 18/2017
s. 4.

- (1) A major electricity company must give a written report to Energy Safe Victoria before 1 August each year that—
 - (a) includes the following information for the reporting period—
 - (i) details of work carried out during the reporting period (including the date of the work) to modify zone substations in its supply network so that the polyphase

- electric lines originating from the zone substations have the required capacity;
- (ii) details of work carried out during the reporting period (including the date of the work) to cover or place underground each electric line in its supply network that meets the prescribed specification within an electric line construction area;
 - (iii) details of work carried out during the reporting period (including the date of the work) to install an Automatic Circuit Recloser for each SWER line in its supply network; and
- (b) includes details of the location of each zone substation, electric line and Automatic Circuit Recloser referred to in paragraph (a) and in the case of an electric line referred to in that paragraph, the length of the electric line (in kilometres); and
- (c) includes the following plans of work to be carried out during the next reporting period—
- (i) a plan to modify polyphase electric lines originating from zone substations to have the required capacity, which includes the date on which the work is to be completed and the location of the polyphase electric lines;
 - (ii) a plan to cover or place underground electric lines that meet the prescribed specification in an electric line construction area, which includes the date on which the work is to be completed and the locations where the electric lines will be covered or placed

- underground and the length (in kilometres) of the electric lines;
- (iii) a plan to install Automatic Circuit Reclosers for SWER lines in its supply network, which includes the date on which the work is to be completed and the location of installation of the Automatic Circuit Reclosers; and
- (d) is in the form, and includes the information, specified by Energy Safe Victoria; and
- (e) has been approved by the board of the major electricity company.
- (2) Energy Safe Victoria must publish a copy of a report on its Internet site.
- (3) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
- (a) not exceeding \$10 000 in respect of each contravention of that subsection; and
- (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$1000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.
- (4) In this section—
- reporting period* means the year beginning 1 May and ending the following 30 April.

120Q Independent audits

- (1) A major electricity company must obtain, on the request of Energy Safe Victoria and at the intervals determined by Energy Safe Victoria, an independent audit of the major electricity

S. 120Q
inserted by
No. 18/2017
s. 4.

company's compliance with section 120M, 120N, 120O or 120P.

- (2) The major electricity company must establish to the satisfaction of Energy Safe Victoria that each person undertaking an audit under this section has the necessary competence, ability and access to information on the operations of the major electricity company to enable an independent audit to be carried out.
- (3) If Energy Safe Victoria requires a major electricity company to obtain an independent audit under this section, the costs of that audit must be borne by the major electricity company.
- (4) A major electricity company that contravenes subsection (1) is liable to pay a pecuniary penalty—
 - (a) not exceeding \$50 000 in respect of each contravention of that subsection; and
 - (b) in the case of a continuing contravention of that subsection, a daily amount not exceeding \$5000 for each day that contravention continues after service on the major electricity company by Energy Safe Victoria of notice of that contravention.

Division 3—Enforcement of additional bushfire mitigation duties

120R Proceedings

S. 120R
inserted by
No. 18/2017
s. 4.

- (1) A person may not commence a civil proceeding in respect of a matter arising under Division 2 except in accordance with this Division.
- (2) The Minister or Energy Safe Victoria may commence a civil proceeding in respect of a civil penalty provision in accordance with this Division.

- (3) The Minister or Energy Safe Victoria must not commence a civil proceeding under this Division for an alleged contravention of a civil penalty provision if a civil proceeding is on foot under this Division in respect of the same conduct.
- (4) Nothing in this section affects the right of a person to commence a civil proceeding in respect of any matter or thing, or seek any relief or remedy, if the cause of action arises, or the relief or remedy is sought, on grounds that do not rely on this Part.

120S Criminal proceedings do not lie

S. 120S
inserted by
No. 18/2017
s. 4.

Criminal proceedings do not lie against a person by reason only that the person—

- (a) has contravened a civil penalty provision; or
- (b) has attempted to contravene a civil penalty provision; or
- (c) has aided, abetted, counselled or procured a person to contravene a civil penalty provision; or
- (d) has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene a civil penalty provision; or
- (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of a civil penalty provision; or
- (f) has conspired with others to contravene a civil penalty provision.

120T Proceedings for contravention of civil penalty provisions

S. 120T
inserted by
No. 18/2017
s. 4.

- (1) The Minister or Energy Safe Victoria may apply to the Supreme Court for an order under this Division in respect of the doing by a major

electricity company of a thing specified in subsection (3).

- (2) If the Supreme Court is satisfied that a thing specified in subsection (3) has been done, the Court may make an order that the major electricity company pay a pecuniary penalty to the Minister in respect of each act or omission by the major electricity company as the Court determines.
- (3) For the purposes of subsections (1) and (2), a specified thing is—
 - (a) that a major electricity company has contravened a civil penalty provision; or
 - (b) that a major electricity company has attempted to contravene a civil penalty provision; or
 - (c) that a major electricity company has aided, abetted, counselled or procured a person to contravene a civil penalty provision; or
 - (d) that a major electricity company has induced, or attempted to induce, a person whether by threats or promises or otherwise, to contravene a civil penalty provision; or
 - (e) that a major electricity company has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a major electricity company of a civil penalty provision; or
 - (f) that a major electricity company has conspired with others to contravene a civil penalty provision.
- (4) In determining the amount of the pecuniary penalty to be paid by the major electricity company, the Supreme Court may have regard to all relevant matters including—

- (a) the nature and extent of the act or omission and of any loss or damage suffered as a result of the act or omission; and
- (b) the circumstances in which the act or omission took place; and
- (c) whether the major electricity company has previously been found by the Court in a proceeding under this Division to have contravened a civil penalty provision.

120U Pecuniary penalties to be paid into the Consolidated Fund

S. 120U
inserted by
No. 18/2017
s. 4.

Every pecuniary penalty received by the Minister must be paid into the Consolidated Fund.

120V Declaratory relief

S. 120V
inserted by
No. 18/2017
s. 4.

- (1) The Supreme Court, on an application by the Minister or Energy Safe Victoria, by order, may declare whether or not the major electricity company to which the application relates has contravened a civil penalty provision.
- (2) If the order declares the major electricity company to have contravened a civil penalty provision, the order may include either or both of the following—
 - (a) a requirement that the major electricity company cease, within a specified period, the act, activity or practice constituting the contravention;
 - (b) a requirement that the major electricity company take a specified action or adopt a specified practice, as the Court requires, for remedying the contravention or preventing a recurrence of the contravention.

Division 4—Miscellaneous

S. 120W
inserted by
No. 18/2017
s. 4.

120W Exemptions

- (1) The Governor in Council, on the recommendation of the Minister, by Order published in the Government Gazette, may exempt a major electricity company from complying with section 120M, 120N or 120O.
- (2) An Order must specify the relevant section that a major electricity company is exempt from complying with.
- (3) An exemption may be of general or specific application.
- (4) An exemption is subject to such terms and conditions as are specified in the Order.

S. 120X
inserted by
No. 18/2017
s. 4.

120X Specification of later dates and periods for compliance with civil penalty provisions

- (1) A major electricity company to which section 120M or 120O applies may request Energy Safe Victoria to—
 - (a) in the case of section 120M(1)(a) or (b), specify a period as the period within which the company must comply with section 120M(1)(a) or (b); or
 - (b) in the case of section 120M(1)(c) or 120O(1), specify a date as the date by which the company must comply with section 120M(1)(c) or 120O(1).
- (2) A request under subsection (1) must set out the reasons for the request.
- (3) On receiving a request under subsection (1), Energy Safe Victoria may—
 - (a) in the case of a request under subsection (1)(a), specify a period as the period within which the company must comply with

- section 120M(1)(a) or (b), as the case requires; or
- (b) in the case of a request under subsection (1)(b), specify a date as the date by which the company must comply with section 120M(1)(c) or 120O(1), as the case requires.
- (4) Energy Safe Victoria must consult with the Minister before specifying a period or date under subsection (3).

120Y Information notices

S. 120Y
inserted by
No. 18/2017
s. 4.

- (1) Energy Safe Victoria, by written notice, may require a major electricity company to give Energy Safe Victoria information in the major electricity company's possession or control for the purpose of verifying the information provided in—
- (a) a report under section 120P; or
- (b) an independent audit under section 120Q.
- (2) A notice under subsection (1) must—
- (a) specify or describe the information that is required by Energy Safe Victoria; and
- (b) specify the format in which that information is to be given to Energy Safe Victoria; and
- (c) specify the date by which the information must be given to Energy Safe Victoria.
- (3) A major electricity company that is given a notice under subsection (1) must comply with the notice unless the major electricity company has a lawful excuse.

Penalty: 200 penalty units.

- (4) This section does not require a major electricity company to give information that is the subject of legal professional privilege or client legal privilege.
- (5) It is not a lawful excuse for a major electricity company to fail to comply with a notice under subsection (1) on the ground of any duty of confidence.

S. 120Z
inserted by
No. 18/2017
s. 4.

120Z Audit by Energy Safe Victoria

Energy Safe Victoria may conduct, or cause to be conducted, an audit of a major electricity company's compliance with one or more of the civil penalty provisions.

Part 11—Enforcement officers and powers

Division 1—Appointment of enforcement officers

121 Enforcement officers

- (1) Energy Safe Victoria may appoint the Director or an employee of Energy Safe Victoria or an agent or contractor of Energy Safe Victoria to be an enforcement officer for the purpose of this Act and the **Electricity Industry Act 2000**.
S. 121(1) amended by Nos 36/1999 s. 20(1)(3), 69/2000 s. 28(1), 39/2005 s. 48(Sch. 1 items 1, 2, 13).
- (2) Energy Safe Victoria must give an identity card to each person who is appointed an enforcement officer.
S. 121(2) amended by No. 39/2005 s. 48(Sch. 1 item 1).
- (3) The identity card—
- (a) must be signed by the Director; and
S. 121(3)(a) amended by No. 39/2005 s. 48(Sch. 1 item 13).
- (b) bear a photograph and the signature of the enforcement officer.
- (4) An enforcement officer must, in the course of performing his or her functions under this Act or the **Electricity Industry Act 2000**, produce his or her identity card to any person who requests its production.
S. 121(4) amended by Nos 36/1999 s. 20(2), 69/2000 s. 28(1).
- (5) Energy Safe Victoria must not appoint an agent or contractor of Energy Safe Victoria to be an enforcement officer unless satisfied that the agent or contractor—
- (a) is competent to exercise the functions of an enforcement officer; and
S. 121(5) substituted by No. 36/1999 s. 20(4), amended by No. 39/2005 s. 48(Sch. 1 items 1, 2).

S. 121(5)(c)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (b) is of good repute, having regard to character, honesty and integrity; and
- (c) agrees in writing to carry out the functions of an enforcement officer in accordance with such criteria as are established from time to time by Energy Safe Victoria.

Division 2—Powers of entry—general

122 Powers of entry—compliance

S. 122(1)(b)
amended by
No. 69/2000
s. 31.

- (1) An enforcement officer may exercise powers under this section only to the extent that is reasonably necessary to do so for the purpose of—
 - (a) investigating a serious electrical incident; or
 - (b) determining compliance with an electricity safety management scheme; or
 - (c) determining compliance with this Act or the regulations.

S. 122(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (2) An enforcement officer must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for the purpose of determining compliance with this Act or the regulations.
- (3) An enforcement officer may enter any residence or the land on which a residence is situated if—
 - (a) the enforcement officer gives the occupier not less than 24 hours notice, or such other notice as may be agreed with the occupier, before the enforcement officer enters the land or residence; and
 - (b) the occupier consents in writing to that entry; and

- (c) the entry occurs only between 8 a.m. and 6 p.m, unless the occupier consents in writing to entry outside those hours.
- (4) An enforcement officer may enter any other land or premises during normal business hours.
- (5) In carrying out an inspection under this section, an enforcement officer must—
 - (a) cause as little harm and inconvenience or damage as possible; and
 - (b) not remain on the land or premises any longer than is reasonably necessary; and
 - (c) leave the land or premises as nearly as possible in the same condition as it was found prior to the inspection being carried out.
- (6) An enforcement officer may not exercise any powers under this section if the enforcement officer fails to produce, on request, his or her identity card for inspection by the occupier of the land or premises.
- (7) If an enforcement officer exercises a power of entry under this section, without the owner or occupier being present, the enforcement officer must—
 - (a) on leaving the land or premises, leave a notice setting out—
 - (i) the time of entry; and
 - (ii) the purpose of entry; and
 - (iii) a description of all things done while on the land or premises; and
 - (iv) the time of departure; and

S. 122(7)(a)(v)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (v) the procedure for contacting Energy Safe Victoria for further details of the entry; and
- (b) post a copy of that notice—
 - (i) to the owner of the land or premises, if the identity and address of that owner are known to the enforcement officer; and
 - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the enforcement officer.

123 Occupier to be given copy of consent

- (1) An occupier who consents in writing to entry of his or her residence or the land on which the residence is situated under section 122 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry under section 122.

124 Emergency access

- (1) An enforcement officer may enter any land or premises at any time in an emergency if there is a threat to the safety of persons or property arising from a situation relating to electricity.
- (2) If an enforcement officer exercises a power of entry under this section, without the owner or occupier being present, the enforcement officer must—

- (a) on leaving the land or premises, leave a notice setting out—
 - (i) the time of entry; and
 - (ii) the purpose of entry; and
 - (iii) a description of all things done while on the land or premises; and
 - (iv) the time of departure; and
 - (v) the procedure for contacting Energy Safe Victoria for further details of the entry; and

S. 124(2)(a)(v)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (b) post a copy of that notice—
 - (i) to the owner of the land or premises, if the identity and address of that owner are known to the enforcement officer; and
 - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the enforcement officer.

125 Powers on entry

- (1) On exercising a power of entry under this Division, an enforcement officer may—
 - (a) search the land or premises and anything found at the land or premises;
 - (b) inspect and take photographs (including video recordings), or make sketches, of the land or premises or anything on the land or premises;

- (c) inspect, and make copies of, or take extracts from, any document kept on the land or premises;
 - (d) seize anything on the land or premises the enforcement officer believes on reasonable grounds that it is necessary to seize in order to prevent its concealment, loss or destruction;
 - (e) examine, test and, if necessary, disconnect, seize and remove or otherwise make safe any electrical equipment, electrical installation or electrical installation work that the enforcement officer considers unsafe or does not comply with this Act or the regulations or was involved in a serious electrical incident.
- (2) If an enforcement officer is unable to ascertain the identity of the owner or custodian of anything seized, the enforcement officer must—
- (a) leave a receipt with, or post it to, the owner or occupier of the land or premises from which the thing was seized; and
 - (b) if a document is seized, leave a copy of the document, if practicable, with, or post it to, the owner or occupier of the land or premises from which the document was seized.

126 Return of things seized

- (1) If an enforcement officer seizes a thing under section 125, the enforcement officer must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned within 14 days after it is seized, the enforcement officer must take reasonable steps to return it unless—

- (a) proceedings have commenced and those proceedings (including any appeal) have not been completed; or
- (b) a court makes an order under section 127 extending the period of 14 days.

127 Magistrates' Court may extend period

- (1) An enforcement officer may apply to the Magistrates' Court before the expiration of the period referred to in section 126 or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The enforcement officer must give notice of the application to the person from whom the thing was seized unless the Court otherwise directs.

128 Entry to be reported to Energy Safe Victoria

- (1) If an enforcement officer exercises a power of entry under this Division, the enforcement officer must report the exercise of the power to Energy Safe Victoria within 3 business days after the entry.

S. 128
(Heading)
substituted by
No. 39/2005
s. 48(Sch. 1
item 14).

S. 128
substituted by
No. 24/2002
s. 6.

S. 128(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (2) The report must be in writing and include all relevant details of the entry including the following—
- (a) the full name of the enforcement officer; and
 - (b) the time of the entry; and
 - (c) the address of the land or premises entered; and
 - (d) the purpose of the entry; and
 - (e) a description of all things done while on the land or premises, including photographs or video recordings taken, and details of items inspected, examined or tested, and details of items seized or removed, copies made and extracts taken; and
 - (f) the time of departure from the land or premises.
- (3) Energy Safe Victoria must keep a register containing the particulars of all matters reported to it under this section.
- (4) Energy Safe Victoria must keep, as part of that register, the register sent to it under clause 6(1)(a) of Schedule 1.

S. 128(3)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

S. 128(4)
amended by
No. 39/2005
s. 48(Sch. 1
item 1).

Division 3—Powers of entry—enforcement

129 Powers of entry—enforcement

- (1) If an enforcement officer has reasonable grounds for suspecting that there is on any land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations, the enforcement officer may—

- (a) enter the land or premises; and
- (b) search for and seize the thing. **S. 129(1)(b) amended by No. 59/2011 s. 17(1).**
- (2) An enforcement officer must not enter and search land or premises or seize any thing under this Division except— **S. 129(2) amended by No. 59/2011 s. 17(2).**
- (a) with the written consent of the occupier of the land or premises; or
- (b) under the authority of a search warrant.
- (3) Before the occupier consents to entry and search of his or her residence under this section, the enforcement officer must inform the occupier— **S. 129(3) inserted by No. 59/2011 s. 17(3).**
- (a) of the purpose of the search; and
- (b) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
- (c) that anything seized during the search with the consent of the occupier may be used in evidence in proceedings.
- (4) If the occupier consents to entry and search, the enforcement officer must ask the occupier to sign an acknowledgement stating— **S. 129(4) inserted by No. 59/2011 s. 17(3).**
- (a) that the occupier has been informed of the purpose of the search and that anything seized in the search with the consent of the occupier may be used in evidence in proceedings; and
- (b) that the occupier has been informed that he or she may refuse to give consent to the entry and search or to the seizure of anything; and
- (c) that the occupier has consented to such an entry and search.

S. 129(5)
inserted by
No. 59/2011
s. 17(3).

- (5) If the occupier consents to the seizure of any thing during a search under this section, the enforcement officer must before seizing the thing ask the occupier to sign an acknowledgment stating that the occupier has consented to the seizure of the thing.

S. 130
substituted by
No. 59/2011
s. 18.

130 Occupier to be given copy of acknowledgement

- (1) An occupier who signs an acknowledgement under section 129 must be given a copy of the signed acknowledgement immediately.
- (2) If, in any proceeding, an acknowledgement is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search or to the seizure of the thing.

131 Search warrant

- (1) An enforcement officer may apply to a magistrate for the issue of a search warrant in relation to particular land or premises if the enforcement officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within 72 hours, on land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (3) The search warrant may authorise an enforcement officer named in the warrant and any assistants the enforcement officer considers necessary—

- (a) to enter the land or premises, or part of the land or premises, named or described in the warrant; and
 - (b) to search for and seize the thing named or described in the warrant.
- (4) In addition to any other requirement, a search warrant issued under this section must state—
- (a) the offence suspected; and
 - (b) the land or premises to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

S. 131(3)(b)
amended by
No. 59/2011
s. 19.

132 Announcement before entry

- (1) Before executing a search warrant, the enforcement officer named in the warrant or a person assisting the enforcement officer named in the warrant must—
 - (a) announce that he or she is authorised by the warrant to enter the land or premises; and

- (b) give any person at the land or premises an opportunity to allow entry to the land or premises.
- (2) The enforcement officer or a person assisting the enforcement officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the land or premises is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated.

133 Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the land or premises when a search warrant is being executed, the enforcement officer must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

Division 4—General

134 Power of enforcement officer to require information or documents

- (1) An enforcement officer may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of—
 - (a) investigating a serious electrical incident; or
 - (b) investigating an emergency where there is a threat to the safety of persons or property arising from a situation relating to electricity;
or

(c) determining compliance with an electricity safety management scheme; or

S. 134(1)(c)
amended by
No. 69/2000
s. 31.

(d) determining compliance with this Act or the regulations.

(2) An enforcement officer must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for the purpose of determining compliance with this Act or the regulations.

S. 134(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(3) An enforcement officer may require a person to give information to the enforcement officer, to produce documents to the enforcement officer and to give reasonable assistance to the enforcement officer.

(4) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (3).

Penalty: 200 penalty units.

135 Offence to give false information to enforcement officer

A person must not—

(a) give information to an enforcement officer under this Part that the person knows to be false or misleading in a material particular; or

(b) produce a document to an enforcement officer under this Part that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: 200 penalty units.

136 Copying of documents

If a person produces a document to an enforcement officer in accordance with a requirement under section 134, the enforcement officer may make copies of, or take extracts from, the document.

137 Protection against self-incrimination

A natural person may refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Part if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.

S. 138
amended by
Nos 36/1999
s. 20(5),
69/2000
s. 28(2).

138 Offence to obstruct enforcement officer

A person must not without reasonable excuse obstruct or hinder an enforcement officer exercising functions under this Act or the **Electricity Industry Act 2000**.

Penalty: 300 penalty units.

S. 139
amended by
Nos 36/1999
s. 20(6),
69/2000
s. 28(2),
37/2014
s. 10(Sch.
items 51) (ILA
s. 39B(1)).

139 Police to assist enforcement officers

- (1) An enforcement officer may request the assistance of a police officer and a police officer may assist an enforcement officer to take any action authorised by this Part or the **Electricity Industry Act 2000**.

S. 139(2)
inserted by
No. 37/2014
s. 10(Sch.
item 51.2).

- (2) In this section—

police officer has the same meaning as in the **Victoria Police Act 2013**.

140 Impersonation of enforcement officer

A person must not impersonate an enforcement officer.

Penalty: 100 penalty units.

Part 11A—Infringement notices

Pt 11A
(Heading and
ss 140A–
140J)
inserted by
No. 89/1998
s. 22.

140A Definition

S. 140A
inserted by
No. 89/1998
s. 22,
amended by
No. 40/2003
s. 27.

In this Part—

prescribed offence means—

S. 140A def. of
*prescribed
offence*
substituted by
No. 25/2008
ss 7, 8,
amended by
No. 55/2010
s. 31.

- (a) an offence against section 30, 32, 35(1), 35(3), 36(1), 37, 38, 43(2)(a), 43(2)(b), 43(4), 44(2), 44(3), 45(1), 45(2), 45(3), 45(4), 45A(1), 45A(3), 45B(4), 45B(9)(a), 45B(9)(b), 54, 57(2), 60(2), 68, 76(1), 77(1), 77(2), 77(3), 78, 83BA(3), 108, 110, 113A(3), 113F(1), 119, 120B, 120H(4) or 142(2); or
- (b) an offence against a provision of the regulations that is prescribed.

140B Power to serve a notice

S. 140B
inserted by
No. 89/1998
s. 22.

- (1) An enforcement officer may serve an infringement notice on any person that he or she has reason to believe has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 140B(2)
substituted by
No. 32/2006
s. 94(Sch.
item 14(1)).

Electricity Safety Act 1998
No. 25 of 1998
Part 11A—Infringement notices

* * * * *

S. 140C
inserted by
No. 89/1998
s. 22,
repealed by
No. 32/2006
s. 94(Sch.
item 14(2)).

140D Infringement penalties

The infringement penalty for an offence against a provision of this Act or the regulations is one-tenth of the maximum monetary penalty fixed by that provision.

S. 140D
inserted by
No. 89/1998
s. 22.

* * * * *

Ss 140E–140J
inserted by
No. 89/1998
s. 22,
repealed by
No. 32/2006
s. 94(Sch.
item 14(2)).

Part 12—General

Division 1—Directions

141 Director may give directions

S. 141
(Heading)
inserted by
No. 39/2005
s. 48(Sch. 1
item 15).

S. 141(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 16).

(1) If the Director considers that it is necessary to do so for safety reasons, the Director may, in writing, direct a relevant person—

(a) to disconnect the supply of electricity to an electrical installation, or part of an electrical installation; and

S. 141(1)(b)
amended by
No. 39/2005
s. 48(Sch. 1
item 16).

(b) to keep that supply disconnected until the Director considers that it is safe to reconnect the supply.

S. 141(2)
amended by
No. 39/2005
s. 48(Sch. 1
item 16).

(2) If the Director is satisfied that it is necessary to do so for safety reasons, the Director may, in writing, direct a person—

S. 141(2)(a)
amended by
No. 39/2005
s. 48(Sch. 1
item 16).

(a) to cease to use particular electrical equipment or a class of electrical equipment until the Director considers that it is safe to use; or

S. 141(2)(b)
amended by
Nos 36/1999
s. 21, 39/2005
s. 48(Sch. 1
item 16).

(b) to cease a particular electrical work practice or class of electrical work practice until the Director considers that it is safe; or

- (c) to make safe an electrical installation or particular electrical equipment; or
S. 141(2)(c) inserted by No. 36/1999 s. 21.
- (d) to do any other thing necessary to make an unsafe electrical situation safe; or
S. 141(2)(d) inserted by No. 36/1999 s. 21, amended by No. 55/2010 s. 32(1).
- (e) to do any other thing necessary to prevent an unsafe electrical situation from arising.
S. 141(2)(e) inserted by No. 55/2010 s. 32(2).
- (3) In this section, *relevant person* means an electricity supplier, the holder of a licence under the **Electricity Industry Act 2000** to supply or sell electricity, or any other person supplying electricity.
S. 141(3) amended by No. 69/2000 s. 29.
- (4) A person must comply with a direction under this section that applies to the person.
- Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

141A Additional powers in emergencies

S. 141A inserted by No. 36/1999 s. 22.

- (1) In addition to the powers under section 141, the Director may do anything or give any direction that the Director considers necessary to make an electricity emergency situation safe.
S. 141A(1) amended by No. 39/2005 s. 48(Sch. 1 item 16).

- (2) A person must comply with a direction under this section that applies to the person.

Penalty: In the case of a natural person,
500 penalty units or 5 years
imprisonment or both;

In the case of a body corporate,
10 000 penalty units.

- (3) An offence under subsection (2) is an indictable offence.

- (4) Energy Safe Victoria must include in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, a statement setting out details of each direction given by the Director under this section during that financial year.

S. 141A(4)
amended by
No. 39/2005
s. 48(Sch. 1
items 1, 16).

S. 141AB
inserted by
No. 55/2010
s. 33.

141AB Information notices

S. 141AB(1)
amended by
No. 18/2017
s. 5.

- (1) Energy Safe Victoria, by written notice, may require a person to give Energy Safe Victoria information in the person's possession or control that Energy Safe Victoria reasonably requires for the purpose of verifying the performance of distribution companies in complying with Divisions 1A, 2 and 4 of Part 8, and Part 10.
- (2) A notice under subsection (1) must—
- (a) specify or describe the information that is required by Energy Safe Victoria; and
 - (b) specify the format in which that information is to be given to Energy Safe Victoria; and
 - (c) specify the date by which the information must be given to Energy Safe Victoria.

- (3) A person who is given a notice under subsection (1) must comply with the notice unless the person has a lawful excuse.

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

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

- (4) A natural person cannot be compelled, by the giving of a notice under subsection (1), to give information if the information might tend to incriminate the person of an offence.
- (5) This section does not require a person to give information that is the subject of legal professional privilege or client legal privilege.
- (6) It is not a lawful excuse for a person to fail to comply with a notice under subsection (1) on the ground of any duty of confidence.

141AC Director may give directions to preserve, retain or store

**S. 141AC
inserted by
No. 59/2011
s. 20.**

- (1) This section applies if the Director believes on reasonable grounds that—
- (a) an electrical incident or an electricity emergency situation has occurred; or
 - (b) an unsafe electrical situation has occurred or may occur.
- (2) The Director may, in writing, direct a relevant person to preserve, retain or store any of the following that the Director considers may be relevant to the electrical incident, electricity emergency situation or unsafe electrical situation—

- (a) electrical equipment;
 - (b) electrical installations or parts of electrical installations;
 - (c) supply networks or parts of supply networks.
- (3) In this section, *relevant person* means an owner of electrical equipment or an owner or operator of a supply network or an electrical installation.
- (4) A person must comply with a direction under this section that applies to the person.

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

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

S. 141B
inserted by
No. 36/1999
s. 22,
substituted by
No. 39/2005
s. 46.

141B Delegation by Director

The Director may, with the consent of the Minister, by instrument, delegate any function or power of the Director under section 141 or 141A to an employee of Energy Safe Victoria.

Division 2—Reporting of serious electrical incidents

142 Notification of serious electrical incidents

S. 142(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (1) An electricity supplier must report to Energy Safe Victoria in accordance with the regulations any serious electrical incident which occurs in relation to its supply network.

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

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

- (2) An electricity supplier must report to Energy Safe Victoria in accordance with the regulations any serious electrical incident of which it is aware and which occurs in relation to an electrical installation to which it supplies electricity.
- Penalty: In the case of a natural person,
10 penalty units;
In the case of a body corporate,
50 penalty units.
- (3) A fire control authority must report to Energy Safe Victoria in accordance with the regulations—
- (a) any serious electrical incident which it attends; and
- (b) the results of any investigation it conducts into a fire of an electrical nature.
- S. 142(2) amended by No. 39/2005 s. 48(Sch. 1 item 2).
- S. 143(3) amended by No. 39/2005 s. 48(Sch. 1 item 2).

Division 3—Improvement notices

143 Enforcement officer may issue improvement notice

- (1) An enforcement officer may issue an improvement notice to a person if the officer is of the opinion that the person—
- (a) is contravening any provision of Division 2 or 3 of Part 10; or
- (b) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated.
- (2) The improvement notice may require the person to whom it is issued to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.
- S. 143(1)(a) amended by No. 61/2007 s. 8.

S. 143(3)(a)(i)
amended by
No. 61/2007
s. 8.

- (3) An improvement notice must—
- (a) state that the enforcement officer is of the opinion that the person—
 - (i) is contravening a provision of Division 2 or 3 of Part 10; or
 - (ii) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated; and
 - (b) state the reasons for that opinion; and
 - (c) specify the provision of the electricity safety management scheme in respect of which that opinion is held; and
 - (d) specify the day (being a day more than 7 days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

144 Offence not to comply with improvement notice

- (1) A person to whom an improvement notice is issued must comply with the improvement notice.

Penalty: in the case of a natural person,
80 penalty units;
in the case of a body corporate,
400 penalty units.

S. 144(2)
amended by
No. 24/2002
s. 7.

- (2) Subsection (1) does not apply during any period that the operation of the improvement notice is stayed by the Tribunal.

145 Notices may include directions

- (1) An enforcement officer may include in an improvement notice directions as to the measures to be taken to remedy any contravention or likely contravention, to which the notice relates.
- (2) A direction under subsection (1) may offer the person to whom it is issued a choice of ways in which to remedy the contravention or likely contravention.

Division 4—Other matters

145A Offences under Part 8

Proceedings for an offence against Part 8 may be brought only by Energy Safe Victoria.

S. 145A
inserted by
No. 89/1998
s. 23,
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

146 Offences by bodies corporate

- (1) If a body corporate commits an offence against this Act or the regulations, any officer of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act or the regulations.

- (4) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.
- (5) In subsection (1), *officer*, in relation to a body corporate, means—
- (a) a director, secretary or executive officer of the body corporate; or
 - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
 - (c) a person concerned in the management of the body corporate.

147 Offences by partnerships or unincorporated associations

If this Act or a regulation made under this Act provides that a person is guilty of an offence, that reference to a person must—

- (a) in the case of a partnership, be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated body or association, be read as a reference to each member of the committee of management of the body or association.

148 False or misleading information

- (1) A person must not give information that is false or misleading in a material particular to Energy Safe Victoria or to an employee of Energy Safe Victoria in connection with an application, notice or submission under this Act or the regulations.

Penalty: 100 penalty units.

S. 148(1)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (2) In a proceeding for an offence against subsection (1), it is a defence for the accused to prove that the accused believed on reasonable grounds—
- (a) in the case of false information, that the information was true; and
 - (b) in the case of misleading information, that the information was not misleading.

148A Period within which proceedings for offences may be brought

S. 148A
inserted by
No. 59/2011
s. 21.

Despite anything to the contrary in any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**), proceedings for an offence against this Act or the regulations may be commenced within the period of 3 years after the commission of the alleged offence.

Part 13—Regulations

149 Supply safety

The Governor in Council may make regulations for or with respect to the safe generation, transmission, distribution and supply of electricity, including—

- (a) the protection of persons from risk and property from damage associated with the generation, transmission, distribution and supply of electricity;
- (b) the protection and maintenance of and the prevention of interference with operations, electric lines, works and structures associated with the generation, transmission, distribution and supply of electricity.

149A Reliability and security of electricity supply

The Governor in Council may make regulations for or with respect to the reliability and security of the supply of electricity.

S. 149A
inserted by
No. 89/1998
s. 24,
amended by
Nos 38/2000
s. 21(a),
39/2005
s. 48(Sch. 1
item 2),
repealed by
No. 61/2007
s. 9, new
s. 149A
inserted by
No. 55/2010
s. 34.

150 Safety management schemes

The Governor in Council may make regulations for or with respect to electricity safety management schemes including regulations—

- (a) specifying the requirements and standards with which an electricity safety management scheme must comply;

- (b) specifying the procedures for the acceptance and revision of an electricity safety management scheme; **S. 150(b) substituted by Nos 89/1998 s. 25(a), 61/2007 s. 10.**
- (c) requiring an electricity safety management scheme to nominate the persons who are to carry out electrical work under the scheme;
- (d) providing for a compliance audit of an accepted ESMS; **S. 150(d) substituted by Nos 89/1998 s. 25(b), 57/2009 s. 11.**
- (e) providing for the keeping of records in relation to electricity safety management schemes;
- (f) providing for the payment of bonds to Energy Safe Victoria in respect of electricity safety management schemes; **S. 150(f) amended by No. 39/2005 s. 48(Sch. 1 item 2).**
- (g) regulating and requiring the keeping of accounts by the manager of an electricity safety management scheme;
- (h) empowering Energy Safe Victoria to exempt an electricity safety management scheme from all or any of the requirements of the regulations made in relation to electricity safety management schemes subject to conditions (if any) specified by Energy Safe Victoria. **S. 150(h) amended by Nos 38/2000 s. 21(b), 39/2005 s. 48(Sch. 1 item 2).**

151 Electric line clearance

The Governor in Council may make regulations for or with respect to—

- (a) standards of design, construction and maintenance of private electric lines;

- (b) the manner in which a distribution company or transmission company may exercise its powers under section 85(b) and (c);
- (c) the Code of Practice for Electric Line Clearance setting out—
 - (i) the duties of responsible persons;
 - (ii) the standards and practices to be adopted and observed in tree pruning or clearing in the vicinity of electric lines;
 - (iii) management procedures to minimise danger of electric lines causing fire or electrocution;
 - (iv) any other matters for or with respect to the maintenance of electric lines;
- (d) requiring responsible persons to prepare and submit to Energy Safe Victoria for approval management plans relating to compliance with the Code and requiring compliance with an approved management plan;
- (e) the standards and practices to be adopted and observed in relation to—
 - (i) tree planting, pruning or clearing in the immediate area around electric lines;
 - (ii) species of tree or classes of tree that may remain or be planted in the immediate area around electric lines;
 - (iii) species of tree or classes of tree that must be cleared from the immediate area around electric lines;
 - (iv) the management of trees in the immediate area around electric lines.

S. 151(d)
inserted by
No. 89/1998
s. 26,
amended by
Nos 39/2005
s. 48(Sch. 1
item 2),
55/2010
s. 35(1).

S. 151(e)
inserted by
No. 55/2010
s. 35(2).

151A Bushfire mitigation

S. 151A
inserted by
No. 55/2010
s. 36.

The Governor in Council may make regulations for or with respect to—

- (a) the prevention of bushfires arising from electric lines or electrical installations;
- (b) the protection of electric lines or electrical installations from the effects of bushfires;
- (c) the inspection of electric lines or electrical installations for the purpose of the prevention of bushfires arising from such lines or installations;
- (d) the training of persons conducting inspections of the kind referred to in paragraph (c);
- (e) the auditing of the training and performance of persons conducting inspections of the kind referred to in paragraph (c).

152 Installation safety

The Governor in Council may make regulations for or with respect to—

- (a) safety standards for the design, construction, operation, alteration, repair, maintenance and dismantling of electrical installations;
- (b) prohibiting or regulating the construction of electrical installations;
- (c) the methods to be followed in carrying out electrical installation work in or in relation to electrical installations;
- (d) safety standards in relation to the connection of electrical equipment or apparatus to electrical installations;

S. 152(ha)
inserted by
No. 89/1998
s. 27,
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

S. 152(i)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

- (e) safety standards in relation to the connection of electrical installations to an electricity supply;
- (f) inspections of electrical installations;
- (g) testing of electrical installations and electrical installation work;
- (h) the certification of electrical installation work;
- (ha) the notification (including electronic notification) to be given to Energy Safe Victoria of completion of certificates of compliance under section 44 or certificates of inspection under section 45 or any classes of those certificates;
- (i) reasonable fees to be charged by Energy Safe Victoria for the inspection and testing of electrical installations and electrical installation work;
- (j) reasonable fees to be charged for the certification of electrical installation work.

153 Equipment safety

The Governor in Council may make regulations for or with respect to—

S. 153(b)
amended by
Nos 89/1998
s. 28(1),
39/2005
s. 48(Sch. 1
item 2).

S. 153(c)
amended by
No. 59/2008
s. 41(3).

- (a) standards of safety for electrical equipment;
- (b) the examination, inspection and testing of electrical equipment, including the provision of samples of equipment to Energy Safe Victoria for testing and the disposal of those samples;
- (c) the approval of prescribed electrical equipment and the certification of compliance of electrical equipment including—

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- | | |
|---|---|
| (i) applications for certificates of approval or compliance and the information to accompany the applications; | S. 153(c)(i) amended by No. 59/2008 s. 41(4). |
| (ii) the issuing of certificates of approval or compliance; | S. 153(c)(ii) amended by No. 59/2008 s. 41(4). |
| (iii) conditions on certificates of approval or compliance; | S. 153(c)(iii) amended by No. 59/2008 s. 41(4). |
| (iv) the modification of certificates of approval or compliance; | S. 153(c)(iv) amended by No. 59/2008 s. 41(4). |
| (v) the refusal and withdrawal of approval; | S. 153(c)(v) amended by No. 59/2008 s. 41(5). |
| (vi) the renewal, transfer and duration of certificates of approval or compliance; | S. 153(c)(vi) substituted by No. 59/2008 s. 41(6). |
| (vii) the keeping of registers of certificates of approval or compliance and certificate holders; | S. 153(c)(vii) amended by No. 59/2008 s. 41(4). |
| (d) the marking and labelling of prescribed electrical equipment; | |
| (e) reasonable fees and charges to be charged for or for the recovery of reasonable costs for— | S. 153(e) amended by No. 89/1998 s. 28(2)(a). |
| (i) testing and examination in connection with the approval of prescribed electrical equipment and the certification of compliance of electrical equipment; | S. 153(e)(i) substituted by No. 89/1998 s. 28(2)(b), amended by No. 59/2008 s. 41(7). |

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| S. 153(e)(ii)
substituted by
No. 89/1998
s. 28(2)(b),
amended by
No. 59/2008
s. 41(7). | (ii) preparation of reports in connection with the approval of prescribed electrical equipment and the certification of compliance of electrical equipment; |
| S. 153(e)(iii)
substituted by
No. 59/2008
s. 41(8). | (iii) applications for certificates of approval or compliance, or the renewal, modification or transfer of certificates of approval or compliance. |
| S. 153(e)(iv)
repealed by
No. 59/2008
s. 41(8). | * * * * * |

154 Equipment efficiency regulations

The Governor in Council may make regulations for or with respect to—

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|---|---|
| S. 154(a)
amended by
No. 57/2009
s. 12(1). | (a) the standards of energy efficiency and performance required for energy efficiency electrical equipment; |
| S. 154(b)
amended by
No. 57/2009
s. 12(2). | (b) prohibiting or regulating the supply or offer of supply of energy efficiency electrical equipment; |
| S. 154(c)
amended by
No. 57/2009
s. 12(3). | (c) the registration of energy efficiency electrical equipment, including— <ul style="list-style-type: none">(i) applications for registration and the renewal, modification or transfer of registration and the information to accompany the applications (including details about tests);(ii) the granting of registration;(iii) conditions on registration;(iv) the transfer of registration; |

- (v) variation of registration;
- (vi) the refusal and cancellation of registration;
- (vii) the renewal and duration of registration;
- (viii) the keeping of registers of energy efficiency electrical equipment and registration holders; S. 154(c)(viii) amended by No. 57/2009 s. 12(3).
- (d) the testing, marking and labelling of energy efficiency electrical equipment, including the provision of samples of equipment and labels to Energy Safe Victoria for testing and the disposal of those samples; S. 154(d) amended by Nos. 39/2005 s. 48(Sch. 1 item 2), 57/2009 s. 12(4).
- (e) reasonable fees and charges to be charged for or for the recovery of reasonable costs for—
 - (i) the testing, examination, marking or labelling of energy efficiency electrical equipment; S. 154(e)(i) amended by No. 57/2009 s. 12(5).
 - (ii) the preparation of reports about energy efficiency electrical equipment; S. 154(e)(ii) amended by No. 57/2009 s. 12(5).
 - (iii) the registration, renewal of registration, modification of registration or transfer of registration of energy efficiency electrical equipment; S. 154(e)(iii) amended by No. 57/2009 s. 12(5).
- (f) authorising or requiring the giving of public notices in relation to energy efficiency electrical equipment and the recovery of costs associated with those notices. S. 154(f) amended by No. 57/2009 s. 12(6).

S. 155
amended by
No. 59/2011
s. 22.

155 Cathodic protection and stray current corrosion regulations

The Governor in Council may make regulations for or with respect to—

- (a) standards and requirements for the design, installation and operation of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (b) requiring and regulating the installation, use and maintenance of cathodic protection systems and systems for the mitigation of stray current corrosion;
- (c) the registration of cathodic protection systems and systems for the mitigation of stray current corrosion, including—
 - (i) applications for registration and the information to accompany the applications;
 - (ii) the granting of certificates of registration;
 - (iii) conditions on certificates of registration;
 - (iv) modifications to a system;
 - (v) the refusal and withdrawal of registration;
- (d) the keeping of registers of cathodic protection systems and systems for the mitigation of stray current corrosion;

- (e) the testing of cathodic protection systems and systems for the mitigation of stray current corrosion;
 - (f) reasonable fees (including annual fees) to be charged for the testing of, the examination of and for the preparation of reports about cathodic protection systems and systems for the mitigation of stray current corrosion;
 - (g) prescribing generally the precautions to be taken to secure the working of railways so as to mitigate danger and damage from fusion or electrolytic action and in particular all such matters or things as are necessary or expedient to be prescribed with respect to all or any of the following matters—
 - (i) return conductors;
 - (ii) the structure and method of construction of railways and the method of generation, distribution and use of the electrical current;
 - (iii) the making and recording of electric tests whether by the operator of a railway or Energy Safe Victoria.
- S. 155(1)(g) amended by No. 61/2007 s. 12(5).
- S. 155(1)(g)(ii) amended by No. 61/2007 s. 12(5).
- S. 155(1)(g)(iii) amended by Nos 39/2005 s. 48(Sch. 1 item 2), 61/2007 s. 12(6).

156 Electrical contractors and electrical workers

The Governor in Council may make regulations for or with respect to—

- (a) the qualifications (including courses of training and examination, re-examination, assessment and re-assessment) required for registration of electrical contractors or any class of electrical contractors;
- S. 156(a) substituted by No. 69/2000 s. 30(a).

- (b) the registration of electrical contractors including the conditions under which registration will be granted;
- (c) reasonable fees to be paid—
 - (i) for the registration of electrical contractors;
 - (ii) for the renewal of registrations;
- (d) the suspension or cancellation of the registration of any electrical contractor and the restoration of the registration of any electrical contractor whose registration has been suspended or cancelled.
- (e) grades and standards of qualification and competence of electrical workers and their duties;
- (f) the examination, assessment, grading and licensing of electrical workers and applications for and the issue and variation of licences, including the conditions and restrictions to which licences are subject;
- (g) the expiry, renewal, cancellation and suspension of licences;
- (h) prescribing forms of licences;
- (i) prescribing periodic or other tests of the competence of electrical workers for carrying out electrical work;
- (j) reasonable fees to be paid for applications for licences and any assessment or any theoretical or practical examination in electrical work and refunds of fees.

S. 156(f)
amended by
No. 69/2000
s. 30(b).

S. 156(j)
amended by
No. 69/2000
s. 30(c).

157 General regulation making powers

(1) The Governor in Council may make regulations for or with respect to—

(a) fixing fees and charges, including maximum or minimum fees and charges, for or with respect to any function or service carried out by Energy Safe Victoria;

S. 157(1)(a) amended by Nos 38/2000 s. 21(c), 39/2005 s. 48(Sch. 1 item 2).

(b) empowering Energy Safe Victoria to waive or rebate the payment of a fee or charge in specified circumstances or to refund amounts paid to Energy Safe Victoria in specified circumstances;

S. 157(1)(b) amended by Nos 89/1998 s. 30(1), 39/2005 s. 48(Sch. 1 item 2).

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S. 157(1)(c) repealed by No. 24/2002 s. 8.

(d) forms for the purposes of this Act or the regulations;

* * * * *

S. 157(1)(e) repealed by No. 24/2002 s. 8.

(f) the keeping of records;

(g) the conducting of tests;

(h) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

- (2) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State;
 - (aa) so as to apply generally or to be of limited application and may differ according to differences in circumstances;
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or body;
 - (c) so as to incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
 - (i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or
 - (ii) as published or amended from time to time;
 - (d) so as to confer a discretionary authority on or leave any matter to be determined by a specified person or body;

S. 157(2)(aa)
inserted by
No. 89/1998
s. 30(2).

S. 157(2)(c)(ii)
amended by
No. 59/2008
s. 42.

(e) so as to empower Energy Safe Victoria to exempt any person, electrical work or electrical equipment from all or any of the requirements of the regulations subject to conditions (if any) specified by Energy Safe Victoria.

S. 157(2)(e)
amended by
No. 39/2005
s. 48(Sch. 1
item 2).

(3) The regulations may impose a penalty not exceeding 20 penalty units for a breach of a regulation.

158 Disallowance of regulations

The regulations are subject to disallowance by a House of the Parliament.

Part 14—Transitional provisions and consequential amendments

S. 159
repealed by
No. 39/2005
s. 47.

* * * * *

160 Transitional provisions—electrical contractors and mechanics

- (1) Any person who was registered as an electrical contractor under Part V of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be registered as an electrical contractor under Division 1 of Part 3 of this Act for the remainder of the registration period.
- (2) Any person who was licensed as an electrical mechanic in respect of a grade of electrical wiring work under Part V of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be licensed under Division 2 of Part 3 of this Act as an electrical worker in respect of an equivalent class of electrical work for the remainder of the licence period.

161 Transitional provision—electrical equipment

- (1) Electrical equipment in respect of which an approval was in force under section 51 of the **State Electricity Commission Act 1958** immediately before the commencement of this section is deemed on that commencement to be approved under section 58 of this Act.
- (2) An Order under section 57(1) of the **State Electricity Commission Act 1958** in force immediately before the commencement of this section and declaring any class, description or

type of electrical appliance to be a proclaimed electrical appliance has effect as an Order under section 67 of this Act declaring any class, description or type of appliance to which the Order applies to be proclaimed electrical equipment for the purposes of Part 5 of this Act and may be amended or revoked accordingly.

162 Transitional provision—urban area

- (1) A notice under section 58(1A) of the **State Electricity Commission Act 1958** specifying an area of land as an urban area that was in force immediately before the commencement of this section has effect as a notice under section 79 of this Act and may be amended or revoked accordingly.
- (2) A declaration under section 65(3) of the **State Electricity Commission Act 1958** of an area in an urban area for the purposes of section 60(3) of that Act that was in force immediately before the commencement of this section has effect as a declaration under section 81(1) of this Act and may be amended or revoked accordingly.

162A Making of certain statutory rules

- (1) A notice advising of the decision to make a proposed statutory rule referred to in subsection (2) is deemed to have been published in the Government Gazette as soon as practicable after the decision was made and to have been so published before the proposed statutory rule was made.
- (2) In subsection (1), *proposed statutory rule* means any of the following proposed statutory rules that were made on 14 December 1999 as—
 - (a) the Electricity Safety (Management) Regulations 1999;

S. 162A
inserted by
No. 38/2000
s. 22.

(b) the Electricity Safety (Network Assets) Regulations 1999;

(c) the Electricity Safety (Electric Line Clearance) Regulations 1999.

S. 163
substituted by
No. 24/2002
s. 9.

163 Transitional provisions—abolition of the Electrical Appeals Board

Schedule 1 has effect.

S. 164
repealed by
No. 24/2002
s. 10, new
s. 164
inserted by
No. 61/2007
s. 11.

164 Transitional provisions—Electricity Safety Amendment Act 2007

(1) In this section—

accepted electricity safety management scheme
has the same meaning as it had in section 3 immediately before the commencement of section 4(3) of the **Electricity Safety Amendment Act 2007**.

(2) An accepted electricity safety management scheme that is in force immediately before the commencement of section 7 of the **Electricity Safety Amendment Act 2007** is deemed on that commencement to be—

(a) if the accepted electricity safety management scheme is in respect of the design, construction, operation, maintenance or decommissioning of a supply network owned or operated by a major electricity company—an electricity safety management scheme accepted by Energy Safe Victoria under Division 2 of Part 10;

(b) if the accepted safety management scheme is in respect of electrical work carried out by electrical workers employed by a scheme operator (as defined by section 107(1)(a) immediately before that section's repeal by section 7 of the **Electricity Safety Amendment Act 2007**)—an electricity

- safety management scheme accepted by Energy Safe Victoria under section 114;
- (c) if the accepted safety management scheme is in respect of electrical work carried out at specified premises occupied by a scheme operator (as defined by section 107(1)(c) immediately before that section's repeal by section 7 of the **Electricity Safety Amendment Act 2007**)—an electricity safety management scheme accepted by Energy Safe Victoria under section 115;
- (d) if the accepted safety management scheme is in respect of the design, construction, operation and maintenance of an upstream network of a network operator that is not a major electricity company—an electricity safety management scheme accepted by Energy Safe Victoria under section 116.

165 Savings provision—proclaimed electrical equipment

On the day section 7 of the **Energy and Resources Legislation Amendment Act 2009** comes into operation, electrical equipment that was proclaimed electrical equipment immediately before the repeal of section 67 by section 6 of that Act is taken to be energy efficiency electrical equipment for the purposes of Part 5.

S. 165
repealed by
No. 24/2002
s. 10,
new s. 165
inserted by
No. 57/2009
s. 43.

166 Transitional provision—Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011

- (1) In this section—

commencement day means the day on which section 18 of the **Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011** comes into operation.

S. 166
repealed by
No. 24/2002
s. 10,
new s. 166
inserted by
No. 59/2011
s. 23.

Electricity Safety Act 1998
No. 25 of 1998
Part 14—Transitional provisions and consequential amendments

(2) In any proceeding commenced on or after the commencement day, section 130(2) as in force immediately before that commencement day continues to apply in respect of an entry and search conducted under section 129 before that commencement day.

**Ss 167–170
repealed by
No. 24/2002
s. 10.**

* * * * *

Schedule 1—Transitional provisions

1 Definitions

In this Schedule—

Board means Electrical Appeals Board established under the **Electricity Safety Act 1998** as in force prior to the commencement day;

commencement day means the day on which section 9 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002** comes into operation;

VCAT Act means the **Victorian Civil and Administrative Tribunal Act 1998**.

2 Abolition of the Electrical Appeals Board

- (1) On the commencement day, the Electrical Appeals Board is abolished and its members go out of office.
- (2) On and from the commencement day, a reference to the Board in any Act or subordinate instrument (other than this Schedule) or in any other document, so far as it relates to any period after that day and unless the context otherwise requires, must be construed as a reference to the Tribunal.
- (3) Subclause (1) does not affect any other provision of this Schedule—
 - (a) dealing with proceedings before the Electrical Appeals Board; or
 - (b) providing for the Electrical Appeals Board to continue for certain purposes.
- (4) If under this Schedule the Electrical Appeals Board continues for certain purposes, the provisions of the **Electricity Safety Act 1998** as in force immediately before the commencement

Sch. 1
amended by
Nos 46/1998
s. 7(Sch. 1),
38/2000 s. 23,
substituted by
No. 24/2002
s. 11.

day relating to membership and procedure
continue to apply for those purposes.

3 Pending proceedings

- (1) If, immediately before the commencement day, a proceeding was pending before the Board but the Board had not begun to hear the matter or had not been presented with any evidence on any material question of fact, the proceeding is to be heard and determined by the Tribunal and for that purpose—
 - (a) the proceeding is to be taken to have been commenced in the Tribunal; and
 - (b) anything done in relation to the proceeding by the Board before the commencement day is deemed to have been done by the Tribunal; and
 - (c) the procedure that applies to the proceeding on and after the commencement day is the procedure set out in the VCAT Act and the rules made under it in relation to that class of proceedings; and
 - (d) anything done or omitted to be done in relation to the proceeding by a party or other person before the commencement day, under or in accordance with the procedure that applied before that day, must be taken, so far as possible, to have been done or omitted under or in accordance with the procedure applying on or after that day; and
 - (e) the Tribunal has only the powers, functions and duties which the Board would have had in relation to the proceeding under this Act as in force immediately before the commencement day; and
 - (f) any order made by the Tribunal may only be appealed against in accordance with Part 5 of the VCAT Act.

- (2) If, immediately before the commencement day, a proceeding was pending before the Board and the Board had begun to hear the matter or had been presented with evidence on a material question of fact—
- (a) the proceeding is to be heard and determined by the Board in accordance with the provisions of the **Electricity Safety Act 1998** as in force immediately before the commencement day; and
 - (b) the Board may make any determination or order in respect of the proceeding that it could have made immediately before the commencement day; and
 - (c) for the purpose of completing the proceeding and making a determination or order the Board will, despite clause 2(1), continue to exist; and
 - (d) the procedure that applies to the proceeding on and after the commencement day is the procedure that applied immediately before the commencement day.

4 Determinations or orders made by Board

A determination or order made by the Board in a proceeding finally determined by it before the commencement day may be enforced in accordance with this Act as in force immediately before that day.

5 Power to resolve transitional difficulties

If any difficulty arises because of the operation of this Schedule in relation to a proceeding (including a proceeding pending before the Board) to which clause 3 applies, the Tribunal may make any order that it considers appropriate to resolve the difficulty.

6 Transfer of registers

- (1) The Secretary to the Department of Natural Resources and Environment must ensure that—
 - (a) the register, required to be kept by the Electrical Appeals Board under section 128(2) of the **Electricity Safety Act 1998**, as in force immediately before the commencement of section 6 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, is sent to the Office; and
 - (b) the Register, required to be kept by the Registrar of the Board by clause 15 of Schedule 1 to the **Electricity Safety Act 1998** as in force immediately before the commencement of section 9 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, and any other documents in the possession of the Board relating to proceedings before the Board, are sent to the principal registrar of the Tribunal.
- (2) Despite subclause (1)(b), the Secretary is not required to send to the principal registrar documents relating to a proceeding to which clause 3(2) applies until the conclusion of that proceeding.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 17 March 1998

Legislative Council: 21 April 1998

The long title for the Bill for this Act was "A Bill relating to the safety of electricity supply and use and the efficiency of electrical equipment, to repeal the **Electric Light and Power Act 1958**, to amend certain other Acts and for other purposes."

The **Electricity Safety Act 1998** was assented to on 12 May 1998 and came into operation as follows:

Part 1 (sections 1–5) on 12 May 1998: section 2(1); Part 2 (sections 6–29), Part 3 Division 4 (sections 46–49), sections 121–127, 129–140, Part 12 Division 4 (sections 146–148), sections 157–159, 163(1)(a)–(c)(2), 164, 165(1)–(4)(6), 166–170 on 1 July 1998: Special Gazette (No. 65) 30 June 1998 page 2; sections 30–45, 50–69, 70(1)–(3)(5)(6), 71–74, 91–97, 128, 141, 152–156, 160, 161, 163(1)(d) and Schedule 1 on 3 May 1999: Government Gazette 29 April 1999 page 967; sections 70(4), 75–90, 98–120, 142–145, 149–151, 162, 163(1)(e)–(i), 165(5) on 31 December 1999: section 2(3).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Electricity Safety Act 1998** by Acts and subordinate instruments.

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Industry Acts (Amendment) Act 1998, No. 89/1998

Assent Date: 24.11.98
Commencement Date: Ss 5, 7–12, 13(1), 22, 27–30 on 3.5.99: Government Gazette 29.4.99 p. 967; ss 6, 13(2), 14–21, 23–26 on 31.12.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Industry Acts (Further Amendment) Act 1999, No. 36/1999

Assent Date: 8.6.99
Commencement Date: Ss 20–22 on 8.6.99: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Transport (Amendment) Act 2000, No. 30/2000

Assent Date: 30.5.00
Commencement Date: 31.5.00: s. 2
Current State: All of Act in operation

Electricity Industry Acts (Amendment) Act 2000, No. 38/2000

Assent Date: 6.6.00
Commencement Date: Ss 15–18, 20–24 on 29.6.00; s. 19 on 1.9.00: Government Gazette 29.6.00 p. 1455
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000

Assent Date: 21.11.00
Commencement Date: Ss 21–31 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Industry Acts (Further Amendment) Act 2001, No. 13/2001

Assent Date: 22.5.01
Commencement Date: Ss 11, 12 on 23.5.01: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

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Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 29 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 36) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Essential Services Commission Act 2001, No. 62/2001

Assent Date: 23.10.01
Commencement Date: S. 75 on 1.1.02: s. 2
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Statute Law (Further Revision) Act 2002, No. 11/2002

Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 21) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation (Further Miscellaneous Amendments) Act 2002, No. 24/2002

Assent Date: 12.6.02
Commencement Date: S. 5 on 13.6.02: s. 2(1); ss 3, 4, 6–11 on 29.7.02: Government Gazette 18.7.02 p. 1658
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation (Consumer Protection and Other Amendments) Act 2003, No. 40/2003

Assent Date: 11.6.03
Commencement Date: Ss 26, 27 on 12.6.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: S. 155 on 1.7.04: s. 2(2); s. 171 on 1.1.05: s. 2(4)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation (Regulatory Reform) Act 2004, No. 25/2004

Assent Date: 25.5.04
Commencement Date: Ss 22, 23 on 26.5.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Safety Act 1998

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Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 64) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation (Miscellaneous Amendments) Act 2005, No. 33/2005

Assent Date: 21.6.05
Commencement Date: S. 3 on 22.6.05: s. 2
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Safe Victoria Act 2005, No. 39/2005

Assent Date: 27.7.05
Commencement Date: Ss 44–48, Sch. 1 on 10.8.05: Special Gazette (No. 147) 9.8.05 p. 1
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 15) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Statute Law (Further Revision) Act 2006, No. 29/2006

Assent Date: 6.6.06
Commencement Date: S. 3(Sch. 1 item 10) on 10.8.05: s. 2(2)(e)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 14) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Safety Amendment Act 2007, No. 61/2007 (as amended by Nos 25/2008, 57/2009)

Assent Date: 4.12.07
Commencement Date: Ss 12–16 on 5.12.07: s. 2(1), ss 4(1)(3), 5, 7–11 on 13.12.09: Government Gazette 10.12.09 p. 3215; s. 4(2) never proclaimed, repealed by No. 57/2009 s. 13(2); s. 6 never proclaimed, repealed by No. 57/2009 s. 15
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

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Energy and Resources Legislation Amendment Act 2008, No. 25/2008

Assent Date: 3.6.08
Commencement Date: Ss 3–7 on 4.6.08: s. 2(1); s. 8 on 1.1.10: s. 2(3)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation Amendment (Retail Competition and Other Matters) Act 2008, No. 59/2008

Assent Date: 22.10.08
Commencement Date: Ss 41, 42 on 23.10.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy and Resources Legislation Amendment Act 2009, No. 57/2009

Assent Date: 21.10.09
Commencement Date: Ss 4, 5, 9–11 on 13.12.09: Government Gazette 10.12.09 p. 3215; ss 6–8, 12, 43 on 1.9.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: S. 203(1)(Sch. 6 item 16) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date: 14.9.10
Commencement Date: S. 36 on 15.9.10: s. 2(2); ss 12–35, 37 on 21.10.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation Amendment (Bushfire Mitigation and Other Matters) Act 2011, No. 59/2011

Assent Date: 8.11.11
Commencement Date: Ss 3–23 on 1.1.12: Special Gazette (No. 407) 13.12.11 p. 1
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. item 14) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Rail Safety National Law Application Act 2013, No. 22/2013

Assent Date: 23.4.13
Commencement Date: S. 56 on 19.5.14: Special Gazette (No. 148) 13.5.14 p. 2
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Safety Act 1998
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Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013, No. 35/2013

Assent Date: 18.6.13
Commencement Date: S. 12 on 10.7.13: Special Gazette (No. 257) 9.7.13 p. 1
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 16) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Safety Amendment (Bushfire Mitigation) Act 2014, No. 2/2014

Assent Date: 11.2.14
Commencement Date: Ss 4–11, 12(1), 13, 14 on 1.4.14: Special Gazette (No. 94) 25.3.14 p. 1; s. 12(2) on 29.6.15: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 51) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Energy Legislation Amendment (Customer Metering Protections and Other Matters) Act 2014, No. 46/2014

Assent Date: 1.7.14
Commencement Date: Ss 8–10 on 30.7.14: Special Gazette (No. 254) 29.7.14 p. 1
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

Electricity Safety Amendment (Bushfire Mitigation Civil Penalties Scheme) Act 2017, No. 18/2017

Assent Date: 16.5.17
Commencement Date: Ss 4–6 on 1.9.17: s. 2(2)
Current State: This information relates only to the provision/s amending the **Electricity Safety Act 1998**

3 Amendments Not in Operation

This publication does not include amendments made to the **Electricity Safety Act 1998** by the following Act/s.

Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and Markets) Act 2017, No. 1/2017

<i>Assent Date:</i>	14.2.17
<i>Commencement Date:</i>	Ss 11–13 not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the Electricity Safety Act 1998

At the date of this publication, the following provisions amending the **Electricity Safety Act 1998** were Not in Operation:

Amending Act/s:

Energy Legislation Amendment (Feed-in Tariffs and Improving Safety and Markets) Act 2017, No. 1/2017

11 Recall of electrical equipment

(1) For section 65(1)(b) of the **Electricity Safety Act 1998** substitute—

"(b) specific action is necessary—

- (i) to make particular electrical equipment, or a particular class of electrical equipment, safe to use; or
- (ii) to render safe the use of particular electrical equipment or a particular class of electrical equipment; or
- (c) particular electrical equipment, or a particular class of electrical equipment, does not comply with the minimum standards prescribed for that equipment or for equipment of that class."

(2) For section 65(2) of the **Electricity Safety Act 1998 substitute**—

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

(2A) This section applies to a person—

(a) who supplies or has supplied electrical equipment in the course of the person's business; and

(b) who has supplied—

(i) the particular electrical equipment specified in the notice; or

(ii) electrical equipment of a particular class specified in the notice.

Example

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

(3) In section 65(3) of the **Electricity Safety Act 1998**—

(a) after "include" **insert** "any of the following actions in relation to the particular electrical equipment specified in the notice, or electrical equipment of a particular class specified in the notice";

- (b) in paragraph (c), for "notice." **substitute** "notice;"
- (c) after paragraph (c) **insert**—
 - "(d) carrying out inspections and tests on that electrical equipment or equipment of that class;
 - (e) rectifying that electrical equipment, or equipment of that class, so it complies with a specified standard;
 - (f) repairing or replacing that electrical equipment or equipment of that class;
 - (g) arranging for the disconnection from the supply of electricity of that electrical equipment or equipment of that class;
 - (h) modifying premises on which that electrical equipment, or equipment of that class, is used or installed so the equipment is safe to use;
 - (i) affixing warning labels to—
 - (i) that electrical equipment or equipment of that class; or
 - (ii) the premises on which that electrical equipment, or equipment of that class, is used or installed;
 - (j) giving specified information to owners of premises on which that electrical equipment, or equipment of that class, is used or installed;
 - (k) giving specified information to occupiers of premises on which that electrical equipment, or equipment of that class, is used or installed;

- (l) placing an advertisement containing specified information in a specified publication that is not a newspaper;
 - (m) publishing specified information on the person's Internet site."
- (4) After section 65(5) of the **Electricity Safety Act 1998** insert—
- "(6) A person who is required to take action specified in a notice under this section must pay the cost of taking that action.
 - (7) A requirement specified in a notice served on a person under this section does not have effect to the extent that it is inconsistent with a requirement for the person to take action specified in a recall notice issued under Division 3 of Part 3-3 of the Australian Consumer Law (Victoria)."

12 Offence to fail to comply with requirement

At the end of section 66 of the **Electricity Safety Act 1998** insert—

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

13 Director may give directions

(1) In section 141(2) of the **Electricity Safety Act 1998**—

(a) in paragraph (e), for "arising." **substitute** "arising; or";

(b) after paragraph (e) **insert**—

"(f) to do any other thing necessary for the prevention and mitigation of bushfires that may arise out of incidents involving electric lines or electrical installations."

(2) For section 141(3) of the **Electricity Safety Act 1998** **substitute**—

"(3) In this section—

relevant person means—

(a) an electricity supplier; or

(b) the holder of a licence under the **Electricity Industry Act 2000** to supply or sell electricity; or

(c) any other person supplying electricity;

safety reasons includes the prevention and mitigation of bushfires that may arise out of incidents involving electric lines or electrical installations."

4 Explanatory details

No entries at date of publication.