



Queensland

Electricity Competition and Protection Legislation Amendment Bill 2014



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	Gas Supply Act 2003	102

2014

A Bill

for

An Act to make consequential and other amendments of the *Electrical Safety Act 2002*, the *Electricity Act 1994*, the *Energy and Water Ombudsman Act 2006*, the *Gas Supply Act 2003*, the *Queensland Competition Authority Act 1997* and the *Retail Shop Leases Act 1994* for the *National Energy Retail Law (Queensland) Act 2014*, and for other purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Electricity Competition and Protection Legislation Amendment Act 2014*. 4
5

Clause 2 Commencement 6

This Act commences on a day to be fixed by proclamation. 7

Part 2 Amendment of Electrical Safety Act 2002 8
9

Clause 3 Act amended 10

This part amends the *Electrical Safety Act 2002*. 11

Clause 4 Replacement of pt 11A, div 8 12

Part 11A, division 8— 13

omit, insert— 14

Division 8 Retailer to give information 15

153 Provision of information by retailer 16

(1) A retailer must, in the way and at the times the 17
regulator reasonably requires, give the regulator 18
information, prescribed by regulation, the retailer 19
holds about— 20

(a)	premises located in Queensland to which the retailer provides customer retail services; and	1 2 3
(b)	persons who are customers of the retailer and who own or occupy the premises mentioned in paragraph (a).	4 5 6
(2)	An official may use information given to the regulator by a retailer under subsection (1) only for administering and enforcing this Act.	7 8 9
(3)	In this section—	10
	<i>official</i> means—	11
(a)	the regulator; or	12
(b)	an inspector.	13
Clause 5	Amendment of sch 2 (Dictionary)	14
(1)	Schedule 2, definition <i>retail premises</i> —	15
	<i>omit.</i>	16
(2)	Schedule 2—	17
	<i>insert—</i>	18
	<i>customer connection service</i> has the meaning given by the NERL (Qld).	19 20
	<i>customer retail service</i> has the meaning given by the NERL (Qld).	21 22
	<i>NERL (Qld)</i> see the <i>National Energy Retail Law (Queensland) Act 2014</i> , section 3.	23 24
	<i>retailer</i> means a retailer under the NERL (Qld) that sells electricity to a customer in Queensland.	25 26
	<i>retail premises</i> , of a distribution entity, means premises that are the subject of both of the following—	27 28 29
(a)	the provision of customer connection services by the distribution entity;	30 31

[s 6]

- (b) the provision of customer retail services by a retailer. 1
2

Part 3 **Amendment of Electricity Act 1994** 3
4

- Clause 6** **Act amended** 5
This part amends the *Electricity Act 1994*. 6
Note— 7
See also the amendments in schedule 1. 8

- Clause 7** **Amendment of s 18A (Declaration for Commonwealth Act)** 9
10
(1) Section 18A(c)— 11
omit. 12
(2) Section 18A(d) and (e)— 13
renumber as section 18A(c) and (d). 14

- Clause 8** **Amendment of s 20 (Definitions for div 1)** 15
(1) Section 20, definitions *accounting period, common area, common area consumption, first accounting period* and *on-supply agreement—* 16
17
omit. 18
19
(2) Section 20, definition *on-supplier*, paragraph (b), ‘, or supplies and sells,’— 20
21
omit. 22
(3) Section 20, definition *receiver*, ‘, or supplied and sold,’— 23
omit. 24

Clause 9	Amendment of s 20A (Exemptions for on-suppliers)	1
	Section 20A, from ‘3 to 7’—	2
	<i>omit, insert—</i>	3
	5 and 7, the on-supplier is exempted from section 88A.	4 5
Clause 10	Omission of ch 1, pt 6, div 1, sdivs 3 and 4	6
	Chapter 1, part 6, division 1, subdivisions 3 and 4—	7
	<i>omit.</i>	8
Clause 11	Amendment of s 20H (Individual metering option)	9
	(1) Section 20H(1) and (2)—	10
	<i>omit, insert—</i>	11
	(1) A receiver may, at any time—	12
	(a) elect, by written notice given to the relevant on-supplier, to have the receiver’s consumption of electricity supplied from the on-supplier measured by a meter; and	13 14 15 16
	(b) have the meter installed, at the receiver’s expense.	17 18
	(2) Section 20H(3) and (4)—	19
	<i>renumber</i> as section 20H(2) and (3).	20
	(3) Section 20H(3), as renumbered, ‘subsection (3)’—	21
	<i>omit, insert—</i>	22
	subsection (2)	23
Clause 12	Omission of s 20J (Maximum charge for metered supply)	24
	Section 20J—	25
	<i>omit.</i>	26

	(3)	A large customer is a person who is a large customer under the NERL (Qld), section 5(3).	1 2
	(4)	A small customer is a person who is a small customer under the NERL (Qld), section 5(2).	3 4
	(3)	Section 23(6)— <i>renumber</i> as section 23(5).	5 6
	(4)	Section 23(7) to (12)— <i>omit</i> .	7 8
Clause 18		Amendment of s 26 (Generation authorities)	9
		Section 26(1)— <i>omit, insert</i> —	10 11
	(1)	A generation authority authorises its holder to connect the generating plant stated in the authority to the transmission grid or supply network stated in the authority.	12 13 14 15
Clause 19		Omission of ch 2, pt 5, divs 2 and 3	16
		Chapter 2, part 5, divisions 2 and 3— <i>omit</i> .	17 18
Clause 20		Replacement of ch 2, pt 5, div 4, hdg (General provisions about customer connection services)	19 20
		Chapter 2, part 5, division 4, heading— <i>omit, insert</i> —	21 22
		Division 4	23
		Customers' premises outside of distribution area	24
Clause 21		Omission of ss 40E and 40H	25
		Sections 40E and 40H—	26

[s 22]

omit. 1

Clause 22 Amendment of s 42 (Conditions of distribution authority) 2

(1) Section 42(a)(ii), after ‘44’— 3

insert— 4

, 44A 5

(2) Section 42(b) to (f)— 6

renumber as section 42(c) to (g). 7

(3) Section 42— 8

insert— 9

(b) the entity must comply with the NERL 10

(Qld), the National Energy Retail Rules and 11

all directions given to it under the NERL 12

(Qld) or the National Energy Retail Rules; 13

Clause 23 Amendment of s 44A (Additional condition to allow credit for electricity produced by small photovoltaic generators) 14
15

(1) Section 44A, ‘small customer’— 16

omit, insert— 17

qualifying customer 18

(2) Section 44A(1)(c), ‘small customers’— 19

omit, insert— 20

qualifying customers 21

(3) Section 44A(1)(c)(v), ‘retail entity’— 22

omit, insert— 23

retailer 24

Clause 24 Replacement of ch 2, pt 6, hdg (Retail entities and their authorities) 25
26

Chapter 2, part 6, heading— 27

omit, insert—

1

Part 6 Retailers

2

Note—

3

For matters relating to retailers, generally, see the NERL
(Qld).

4

5

Clause 25 Omission of ss 46–48B

6

Sections 46 to 48B—

7

omit.

8

Clause 26 Omission of ch 2, pt 6, divs 2 and 3 and div 4, hdg

9

Chapter 2, part 6, divisions 2 and 3 and division 4, heading—

10

omit.

11

Clause 27 Omission of s 55D (Conditions of retail authority)

12

Section 55D—

13

omit.

14

Clause 28 Replacement of s 55DA (Additional condition about community services agreement)

15

16

Section 55DA—

17

omit, insert—

18

55DA Retailer must enter into community services agreement

19

20

(1) A retailer must not provide a customer retail
service unless the retailer—

21

22

(a) enters into an agreement with the State to
provide, for at least 5 years, the community
services—

23

24

25

[s 29]

	(i) agreed between the State and the retailer; or	1 2
	(ii) failing agreement, as decided by the Minister; and	3 4
	<i>Examples of community services—</i>	5
	pensioner rebate and drought relief schemes for customer retail services	6 7
	(b) complies with the agreement.	8
	Maximum penalty—1333 penalty units.	9
	(2) In making a decision under subsection (1)(a)(ii), the Minister must have regard to the retailer's reasonable administration costs and other risks in providing the community services.	10 11 12 13
Clause 29	Amendment of s 55DB (Additional condition about electricity produced by small photovoltaic generators)	14 15
	(1) Section 55DB, heading—	16
	<i>omit, insert—</i>	17
	55DB Electricity produced by small photovoltaic generators	18 19
	(2) Section 55DB(1), from 'It' to 'must—'—	20
	<i>omit, insert—</i>	21
	A retailer must—	22
	(3) Section 55DB(1), 'small customer'—	23
	<i>omit, insert—</i>	24
	qualifying customer	25
	(4) Section 55DB(1)(d), 'small customers'—	26
	<i>omit, insert—</i>	27
	qualifying customers	28
	(5) Section 55DB(1)—	29
	<i>insert—</i>	30

	Maximum penalty—1333 penalty units.	1
Clause 30	Omission of ss 55DC and 55E	2
	Sections 55D and 55E—	3
	<i>omit.</i>	4
Clause 31	Amendment of s 55GA (Additional condition about inclusion of carbon and renewable energy target cost estimates in residential customer accounts)	5
	(1) Section 55GA, heading—	6
	<i>omit, insert—</i>	7
	55GA Renewable energy target cost estimates to be included in residential customer accounts	8
	(2) Section 55GA(1) and (3), ‘retail entity’—	9
	<i>omit, insert—</i>	10
	retailer	11
	(3) Section 55GA(2)—	12
	<i>omit, insert—</i>	13
	(2) A retailer must include a carbon and renewable energy target cost statement in an account issued by the retailer for the provision of customer retail services to the customer.	14
	Maximum penalty—00 penalty units.	15
	(4) Section 55GA(5), definition <i>carbon and renewable energy target cost statement</i> , paragraph (b), ‘retail entity’—	16
	<i>omit, insert—</i>	17
	retailer	18
Clause 32	Omission of s 55G (Restriction on Ergon Energy and its subsidiaries)	19
	Section 55G—	20
		21
		22
		23
		24
		25
		26
		27
		28

[s 33]

omit. 1

Clause 33 Amendment of s 55H (Negotiation of coordination agreement) 2
3

Section 55H(1), ‘retail entity’— 4

omit, insert— 5

retailer 6

Clause 34 Amendment of s 55I (Standard coordination agreement) 7

(1) Section 55I(1)(a), ‘retail entity’— 8

omit, insert— 9

retailer 10

(2) Section 55I(2) and (3), ‘entities’— 11

omit, insert— 12

entity and retailer 13

Clause 35 Amendment of s 56 (Purpose of special approvals) 14

Section 56, ‘, distribution or retail’— 15

omit, insert— 16

or distribution 17

Clause 36 Amendment of s 58 (Special approvals) 18

Section 58, ‘, distribution entity or retail’— 19

omit, insert— 20

or distribution 21

Clause 37 Amendment of s 59 (Authorisation given by special approval) 22
23

Section 59(1), ‘, distribution or retail’— 24

	<i>omit, insert—</i>	1
	or distribution	2
Clause 38	Amendment of s 60 (Conditions of special approval)	3
	Section 60(1)(a)(iii)—	4
	<i>omit, insert—</i>	5
	(iii) the condition stated in section 61 or 61B; and	6 7
Clause 39	Amendment of s 61B (Additional condition for electricity produced by photovoltaic generators)	8 9
	Section 61B(2)—	10
	<i>omit, insert—</i>	11
	(2) It is a condition of the special approval that the holder must comply with section 44A.	12 13
Clause 40	Insertion of new s 64A	14
	Chapter 2, part 9—	15
	<i>insert—</i>	16
	64A Definition for pt 9	17
	In this part—	18
	<i>electricity entity</i> includes a retailer.	19
Clause 41	Amendment of s 66 (Limitation of electricity officer’s powers)	20 21
	Section 66(c), ‘its retail area or’—	22
	<i>omit.</i>	23
Clause 42	Omission of s 89 (Restriction on sale of electricity)	24
	Section 89—	25

[s 43]

omit. 1

Clause 43 Replacement ch 4, pt 2, hdg (Pricing) 2

Chapter 4, part 2, heading— 3

omit, insert— 4

Part 2 Market operation 5

Division 1 Preliminary 6

Clause 44 Amendment of s 89A (Definitions for pt 2) 7

Section 89A— 8

insert— 9

designated retail market area means— 10

(a) an area prescribed by regulation; or 11

(b) if no area is prescribed—the distribution
area described in the schedule to the
distribution authority numbered D07/98. 12
13
14

Editor's note— 15

At the commencement of this definition, the distribution
authority was held by Energex. 16
17

Clause 45 Insertion of new ch 4, pt 2, div 2, div 3, hdg and s 89E 18

After section 89A— 19

insert— 20

Division 2	Market monitoring, reporting and review in designated retail market areas	1 2 3 4
89B	Market monitoring direction and report	5
(1)	The Minister may give QCA a written direction requiring QCA to monitor, and give a written report on, the operation of the retail electricity market in designated retail market areas.	6 7 8 9
(2)	The direction must state—	10
(a)	the period (the <i>reporting period</i>) for which the report is to apply; and	11 12
(b)	when the report is required to be given to the Minister; and	13 14
(c)	that the report must be published on QCA’s website and when it is required to be published.	15 16 17
(3)	Without limiting subsection (1), the direction may require QCA to monitor, and report on, the prices that retailers for designated retail market areas are charging for—	18 19 20 21
(a)	the sale of electricity to their customers at premises in the areas; or	22 23
(b)	charges or fees relating to the sale of electricity mentioned in paragraph (a).	24 25
(4)	Also, without limiting subsection (1), the direction may require the report to include—	26 27
(a)	a comparison and assessment of—	28
(i)	retailers’ standing offer prices and market offer prices that were available to customers at premises in designated	29 30 31

[s 45]

retail market areas in the reporting period; and	1 2
(ii) variations to retailers' standing offer prices and market offer prices that were available to customers at premises in designated retail market areas in the reporting period; and	3 4 5 6 7
(b) information about any trends in relation to variations to retailers' standing offer prices and market offer prices available to customers at premises in designated retail market areas in the reporting or another stated period; and	8 9 10 11 12 13
(c) other relevant information the Minister requires.	14 15
(5) QCA must comply with the direction.	16
(6) In this section—	17
<i>market offer prices</i> has the meaning given by the NERL (Qld), section 2.	18 19
<i>standing offer prices</i> has the meaning given by the NERL (Qld), section 2.	20 21
89C Obtaining information to comply with direction	22 23
(1) This section applies if QCA is given a direction under section 89B(1).	24 25
(2) QCA may, by written notice given to a retailer for a designated retail market area, require the retailer to give QCA the relevant information QCA requires to comply with the direction.	26 27 28 29
(3) The retailer must, within the reasonable period stated in the notice, comply with the notice unless, in the circumstances, the retailer could	30 31 32

not reasonably have been expected to have, or to
be able to obtain, the relevant information. 1
2

Maximum penalty for subsection (3)—100 3
penalty units. 4

89D Competition review 5

- (1) The Minister may give a written direction to an 6
appropriate entity to— 7
- (a) conduct a review into the effectiveness of 8
competition in a relevant market for the sale 9
of electricity; and 10
 - (b) give a written advice about whether to keep, 11
remove or reintroduce price controls on 12
prices relating to the sale of electricity in the 13
relevant market. 14
- (2) The direction must state— 15
- (a) the terms of reference of the review; and 16
 - (b) when the advice is required to be given to 17
the Minister; and 18
 - (c) that the advice must be published on the 19
appropriate entity’s website or in another 20
stated way; and 21
 - (d) when the advice is required to be published. 22
- (3) The appropriate entity must comply with the 23
direction. 24
- (4) Subject to the direction, the appropriate entity 25
may conduct the review in the way it considers 26
appropriate. 27
- (5) In this section— 28
- appropriate entity* means— 29
- (a) QCA; or 30

	current or	1
(4)	Section 90(3)(c) and (d)—	2
	<i>renumber</i> as section 90(3)(d) and (e).	3
(5)	Section 90(3)—	4
	<i>insert</i> —	5
	(c) a tariff may be added to the tariff schedule at any time during a tariff year;	6 7
(6)	Section 90(7), definition <i>distribution non-network charges</i> , paragraph (a), ‘retail entity’—	8 9
	<i>omit, insert</i> —	10
	retailer	11
Clause 47	Amendment of s 90A (Obtaining information for price determination)	12 13
	Section 90A, ‘retail entity’—	14
	<i>omit, insert</i> —	15
	retailer	16
Clause 48	Amendment of s 91 (Retail entities charging for GST)	17
(1)	Section 91, heading, ‘Retail entities’—	18
	<i>omit, insert</i> —	19
	Retailers	20
(2)	Section 91(1)(a), ‘retail entity’—	21
	<i>omit, insert</i> —	22
	retailer	23
(3)	Section 91, ‘the entity’—	24
	<i>omit, insert</i> —	25
	the retailer	26
(4)	Section 91, ‘non-market’—	27

[s 49]

<i>omit, insert—</i>	1
standard contract	2
(5) Section 91(5), from ‘a standard’ to ‘contract,’—	3
<i>omit, insert—</i>	4
any of the following contracts under the NERL (Qld),	5
(6) Section 91(5), ‘services.’—	6
<i>omit, insert—</i>	7
services—	8
(a) a standard retail contract;	9
(b) a standard retail contract (card-operated meters);	10
(c) a large customer standard retail contract.	11
	12

Clause 49	Amendment of s 91A (Retail entity must comply with notification or direction)	13
		14
(1)	Section 91A, heading, ‘Retail entity’—	15
	<i>omit, insert—</i>	16
	Retailer	17
(2)	Section 91A, ‘retail entity’—	18
	<i>omit, insert—</i>	19
	retailer	20
(3)	Section 91A(2), ‘non-market’—	21
	<i>omit, insert—</i>	22
	standard contract	23
Clause 50	Insertion of new ch 4, pt 2, div 4	24
	Chapter 4, part 2, after section 91AA—	25
	<i>insert—</i>	26

Division 4	Reintroduction of price determination	1 2
91B Reserve power of Minister to reintroduce price determination		3 4
(1)	This section applies if—	5
(a)	under section 89E, division 3 does not apply to deciding the prices, or the methodology for fixing the prices, that a retailer may charge in relation to the sale of electricity to particular customers; and	6 7 8 9 10
(b)	either—	11
(i)	the AEMC (the <i>reviewer</i>) conducts an MCE directed review into the effectiveness of competition in the market (the <i>relevant market</i>) to which the sale is relevant; or	12 13 14 15 16
(ii)	an appropriate entity (also the <i>reviewer</i>) conducts a review under section 89D(1) into the effectiveness of competition in the relevant market; and	17 18 19 20
(c)	as a result of the review, the reviewer—	21
(i)	considers that competition in the relevant market is not effective; and	22 23
(ii)	gives advice recommending the reintroduction of price controls on the sale of electricity in the relevant market.	24 25 26 27
(2)	The Minister may decide to make a price determination for the prices that the retailer may charge in relation to the sale of electricity to the customers.	28 29 30 31
(3)	If the Minister decides to make a price determination under subsection (2), division 3,	32 33

[s 51]

	other than section 89E, applies for making the price determination.	1 2
	(4) In this section—	3
	<i>AEMC</i> see the NERL (Qld), section 2.	4
	<i>MCE directed review</i> see the NERL (Qld), section 2.	5
Clause 51	Amendment of s 97 (Limitation of liability of electricity entities and special approval holders that are not Registered participants)	6 7 8
	(1) Section 97(1), ‘or sell’—	9
	<i>omit.</i>	10
	(2) Section 97(1), ‘or sale’—	11
	<i>omit.</i>	12
Clause 52	Amendment of s 116 (Authority to acquire land)	13
	Section 116(3A)(b)—	14
	<i>omit, insert—</i>	15
	(b) Ergon Energy Distribution;	16
Clause 53	Omission of s 118 (Financially responsible retail entity may recover amount for electricity consumed by person occupying premises)	17 18 19
	Section 118—	20
	<i>omit.</i>	21
Clause 54	Amendment of s 120 (Regulator’s power to require information from electricity entities)	22 23
	(1) Section 120, heading, after ‘entities’—	24
	<i>insert—</i>	25
	or retailers	26

	(2) Section 120, after ‘entity’—	1
	<i>insert</i> —	2
	or retailer	3
Clause 55	Amendment of s 120AA (Regulator’s powers concerning audit of compliance with Act etc.)	4
	Section 120AA, after ‘entity’—	5
	<i>insert</i> —	6
	, retailer	7
		8
Clause 56	Amendment of s 120AB (Responsibility for cost of audit)	9
	Section 120AB, after ‘entity’—	10
	<i>insert</i> —	11
	, retailer	12
Clause 57	Amendment of s 120AC (Independent auditor may require reasonable help or information)	13
	(1) Section 120AC, after ‘entity’—	14
	<i>insert</i> —	15
	, retailer	16
		17
	(2) Section 120AC(1)(a), examples, after ‘entity’s’—	18
	<i>insert</i> —	19
	, retailer’s	20
Clause 58	Amendment of s 120AD (Audit report and submissions on report)	21
	Section 120AD, after ‘entity’—	22
	<i>insert</i> —	23
	, retailer	24
		25

[s 59]

Clause 59	Amendment of s 120AE (Disclosure of information)	1
(1)	Section 120AE(1), after ‘entity’—	2
	<i>insert—</i>	3
	, retailer	4
(2)	Section 120AE(2)(b)—	5
	<i>insert—</i>	6
	(b) any of the following apply—	7
	(i) the entity or holder—	8
	(A) consents to the disclosure; or	9
	(B) is required, under the entity’s	10
	authority or holder’s approval, to	11
	consent to the disclosure;	12
	(ii) the retailer consents to the disclosure;	13
	or	14
	(iii) subsection (3) applies in relation to the	15
	retailer.	16
(3)	Section 120AE—	17
	<i>insert—</i>	18
	(3) This subsection applies if—	19
	(a) the retailer gave the information to the	20
	regulator under section 55DB(1)(d); and	21
	(b) either—	22
	(i) QCA must, under section 120L,	23
	conduct a review of the Act that relates	24
	to the Queensland electricity market	25
	and involves small photovoltaic	26
	generators; or	27
	(ii) QCA must, under section 253AA, give	28
	the Minister information or advice that	29
	relates to the Queensland electricity	30
	market and involves small photovoltaic	31
	generators.	32

Clause 60	Replacement of ch 5, pt 1A, hdg (Industry codes)	1
	Chapter 5, part 1A, heading—	2
	<i>omit, insert—</i>	3
	Part 1A	4
	Distribution network codes	5
Clause 61	Replacement of ch 5, pt 1A, div 2, hdg (Initial industry codes)	6
	Chapter 5, part 1A, division 2, heading —	7
	<i>omit, insert—</i>	8
	Division 2	9
	Initial distribution network codes	10
Clause 62	Amendment of s 120B (Making of initial industry codes by Minister)	11
	(1) Section 120B, heading and subsection (1)—	12
	<i>omit, insert—</i>	13
	120B Making of initial distribution network codes by Minister	14
	(1) The Minister may make initial distribution network codes to apply to electricity entities or retailers, or both.	15
	(2) Section 120B(2), after ‘electricity entities’—	16
	<i>insert—</i>	17
	or retailers	18
Clause 63	Replacement of s 120C (Specific matters for which code may provide)	19
	Section 120C—	20
	<i>omit, insert—</i>	21
		22
		23
		24
		25
		26
		27

[s 64]

	120C Specific matters for which code may provide	1
	Without limiting section 120B, a distribution network code may provide for all or any of the following—	2 3
	(a) the service levels to be provided by electricity entities to customers;	4 5
	(b) the payment of amounts by electricity entities to affected customers for failure to provide a stated service level;	6 7 8
	(c) metering;	9
	(d) public lighting.	10
Clause 64	Replacement of ch 5, pt 1A, div 3, hdg (QCA industry codes)	11 12
	Chapter 5, part 1A, division 3, heading—	13
	<i>omit, insert—</i>	14
	Division 3 QCA distribution network codes	15 16
Clause 65	Amendment of ch 5, pt 1A, div 4, hdg (Review of industry codes and related matters)	17 18
	Chapter 5, part 1A, division 4, heading, ‘industry’—	19
	<i>omit, insert—</i>	20
	distribution network	21
Clause 66	Replacement of ch 5, pt 1A, div 5, hdg (Amending Industry codes)	22 23
	Chapter 5, part 1A, division 5, heading—	24
	<i>omit, insert—</i>	25

	Division 5	Amending distribution network codes	1
			2
Clause 67	Replacement of ch 5, pt 1A, div 6, hdg (Enforcing Industry codes)		3
			4
	Chapter 5, part 1A, division 6, heading—		5
	<i>omit, insert—</i>		6
	Division 6	Enforcing distribution network codes	7
			8
Clause 68	Amendment of s 120Z (Injunctions)		9
	(1) Section 120Z(1), (3) and (8), after ‘entity’—		10
	<i>insert—</i>		11
	or retailer		12
	(2) Section 120Z(7), after ‘electricity entity’—		13
	<i>insert—</i>		14
	or retailer		15
	(3) Section 120Z(7)(a) and (b), after ‘entity’—		16
	<i>insert—</i>		17
	or retailer		18
	(4) Section 120Z(7)(c), ‘the person’—		19
	<i>insert—</i>		20
	the entity or retailer		21
Clause 69	Amendment of s 120ZL (Relationship with Fair Trading Act 1989)		22
			23
	Section 120ZL, ‘, subject to section 120ZM, an industry code’—		24
	<i>omit, insert—</i>		25
	a distribution network code		26

[s 70]

Clause 70	Omission of s 120ZM (Compliance with particular requirements under Australian Consumer Law (Queensland) for unsolicited consumer agreements)	1
		2
		3
	Section 120ZM—	4
	<i>omit.</i>	5
Clause 71	Omission of ch 5, pts 1B and 3A	6
	Chapter 5, parts 1B and 3A—	7
	<i>omit.</i>	8
Clause 72	Amendment of s 132 (Grounds for disciplinary action)	9
	(1) Section 132(1)(b), from ‘this Act’—	10
	<i>omit, insert—</i>	11
	this Act, the Electrical Safety Act or the <i>Energy and Water Ombudsman Act 2006</i> ;	12
		13
	(2) Section 132(1)(f)—	14
	<i>omit.</i>	15
Clause 73	Amendment of s 133 (Types of disciplinary action)	16
	(1) Section 133(1)(c)—	17
	<i>omit.</i>	18
	(2) Section 133(2), (3) and (4), ‘an industry’—	19
	<i>omit, insert—</i>	20
	a distribution network	21
Clause 74	Insertion of new ch 5, pt 5	22
	Chapter 5—	23
	<i>insert—</i>	24

Part 5	Enforcing sections 55DA(1) and 55DB(1) against retailers	1 2 3
Division 1	Contravention notices	4
135AA Application of pt 5		5
	This part applies if the regulator suspects—	6
	(a) a retailer has contravened, or is contravening, section 55DA(1) or 55DB(1); and	7 8 9
	(b) the contravention is likely to be a material contravention of the section.	10 11
135AB Criteria for deciding material contravention		12
	(1) This section applies to the making of any decision under this division by the regulator about whether a contravention of section 55DA(1) or 55DB(1) is a material contravention of the section.	13 14 15 16 17
	(2) The regulator must have regard to the objects of the Act.	18 19
	(3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.	20 21
135AC Warning notice may be given		22
	(1) The regulator may give the retailer a notice (the <i>warning notice</i>) warning the retailer that the regulator proposes to give the retailer a further notice about the contravention (a <i>contravention notice</i>).	23 24 25 26 27

[s 74]

- (2) The regulator must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion. 1
2
3
- (3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent contravention notice. 4
5
6
- (4) Despite subsections (2) and (3), if the regulator proposes to give a warning notice for a contravention, it can only be given within 2 years after the day on which the contravention happened. 7
8
9
10
11

135AD Requirements for warning notice 12

- (1) The warning notice must state each of the following— 13
14
 - (a) particulars of the contravention; 15
 - (b) that regulator proposes to give the retailer a contravention notice unless the retailer— 16
17
 - (i) takes steps reasonably necessary to remedy the contravention; and 18
19
 - (ii) gives the regulator a written assurance, in the terms stated in the warning notice, that the retailer will— 20
21
22
 - (A) avoid any similar future contravention; and 23
24
 - (B) take steps reasonably necessary to avoid a future recurrence of the contravention; 25
26
27
 - (c) a period (the *warning period*) after which the contravention notice may be given unless the warning notice is complied with; 28
29
30
 - (d) that the retailer may make, within the warning period, written submissions to 31
32

show why the proposed contravention notice should not be given.	1 2
(2) The warning period must be—	3
(a) if the warning notice is given because the regulator considers the contravention is of a type that requires urgent action—a period the regulator considers is reasonable in the circumstances; or	4 5 6 7 8
(b) otherwise—at least 20 business days.	9
(3) The warning notice may also state the steps the regulator reasonably believes are necessary to remedy the contravention or avoid its future recurrence.	10 11 12 13
<i>Example of a step that may remedy a contravention—</i>	14
paying compensation to someone who has suffered damage, injury or loss because of the contravention	15 16
135AE Considering submissions on warning notice	17 18
(1) The regulator must consider any written submission made under section 135AD(1)(d) by the retailer within the warning period stated in the warning notice.	19 20 21 22
(2) If the regulator at any time decides not to give the proposed contravention notice, it must, as soon as practicable, give the retailer notice of the decision.	23 24 25 26
135AF Giving of contravention notice	27
(1) The regulator may give the proposed contravention notice if—	28 29
(a) the retailer has not complied with the warning notice; and	30 31

[s 74]

(b)	after complying with section 135AE, the regulator still believes the contravention notice ought to be given.	1 2 3
(2)	The contravention notice must state—	4
(a)	the retailer has contravened, or is contravening, section 55DA(1) or 55DB(1); or	5 6 7
(b)	the contravention is a material contravention of the section; and	8 9
(c)	particulars of the contravention.	10
135AG Duration of contravention notice		11
	The contravention notice—	12
(a)	comes into effect—	13
(i)	when it is made; or	14
(ii)	if it states a later time—at the later time; and	15 16
(b)	ends—	17
(i)	on the day stated in the notice; or	18
(ii)	if it is cancelled before that day—when it is cancelled.	19 20
Division 2 Proceedings		21
135AH Proceeding for civil penalty order		22
(1)	This section applies if, on the application of the regulator, the Supreme Court is satisfied the retailer has—	23 24 25
(a)	committed a material contravention of section 55DA(1) or 55DB(1); or	26 27

-
- (b) attempted to a commit a material 1
contravention of section 55DA(1) or 2
55DB(1); or 3
- (c) been involved in a material contravention of 4
section 55DA(1) or 55DB(1). 5
- (2) The court may order the retailer to pay the State 6
as a civil penalty an amount of no more than— 7
- (a) for an individual—\$100000; or 8
- (b) for a corporation—\$500000. 9
- (3) In fixing the penalty, the court must consider— 10
- (a) the nature and extent of— 11
- (i) the contravention; and 12
- (ii) loss or damage suffered because of the 13
contravention; and 14
- (b) the circumstances in which the 15
contravention took place; and 16
- (c) whether the retailer has previously been 17
found by the court in proceedings under this 18
Act to have engaged in any similar conduct. 19
- (4) For subsection (1)(c), a retailer is involved in a 20
contravention if the retailer— 21
- (a) has aided, abetted, counselled or procured 22
the contravention; or 23
- (b) has induced the contravention, whether 24
through threats, promises or in another way; 25
or 26
- (c) has been in any way, directly or indirectly, 27
knowingly concerned in, or party to, the 28
contravention; or 29
- (d) has conspired with others to effect the 30
contravention. 31

[s 74]

135AI How order enforced

If the Supreme Court orders payment of an amount under section 135AH(2), the State may enforce the order as a judgment of the court for a debt of that amount.

135AJ Injunctions

- (1) The Supreme Court may, on the application of the regulator, grant an injunction if satisfied the retailer has engaged or is proposing to engage, in conduct that constitutes, or would constitute—
 - (a) a contravention of section 55DA(1) or 55DB(1); or
 - (b) attempting to contravene section 55DA(1) or 55DB(1).
- (2) An injunction may be granted on conditions.
- (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied the retailer has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
- (4) The court may grant an interim injunction pending its decision on the application.
- (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) The court may amend an injunction or interim injunction.
- (7) An injunction or interim injunction restraining the retailer from engaging in conduct may be granted whether or not—
 - (a) it appears to the court that the retailer intends to engage again, or to continue to engage, in conduct of that kind; or

-
- (b) the retailer has previously engaged in conduct of that kind; or 1
2
 - (c) there is an imminent danger of substantial damage to another person if the retailer engages in conduct of that kind. 3
4
5
 - (8) An injunction or interim injunction requiring the retailer to do an act or thing may be granted whether or not— 6
7
8
 - (a) it appears to the court that the retailer intends to fail again, or to continue to fail, to do that act or thing; or 9
10
11
 - (b) the retailer has previously failed to do the act or thing; or 12
13
 - (c) there is an imminent danger of substantial damage to another person if the retailer does not do the act or thing. 14
15
16

135AK Conduct by directors, servants or agents 17

- (1) This section applies to a proceeding under this division. 18
19
- (2) If— 20
 - (a) the proceeding concerns alleged conduct engaged in by the retailer; and 21
22
 - (b) it is necessary to prove the retailer's state of mind; 23
24it is enough to prove that a director, servant or agent (a *representative*) of the retailer, acting within the scope of the representative's actual or apparent authority, had the state of mind. 25
26
27
28
- (3) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the retailer— 29
30
31

[s 74]

- (a) a representative of the retailer, acting within the scope of the representative's actual or apparent authority; 1
2
3
- (b) another person at the direction, or with the consent or agreement, of a representative of the retailer, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority; 4
5
6
7
8
9
- (c) a servant or agent of the retailer, acting within the scope of the servant's or agent's actual or apparent authority; 10
11
12
- (d) another person at the direction, or with the consent or agreement, of a servant or agent of the retailer, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority. 13
14
15
16
17
18
- (4) In this section— 19
- consent or agreement* includes an implied consent or agreement. 20
21
- state of mind*, of a person, may include— 22
- (a) knowledge, intention, opinion, belief or purpose of the person; and 23
24
- (b) the person's reasons for the person's intention, opinion, belief or purpose. 25
26

Division 3 Production of documents or information 27
28

135AL Notice to produce documents or information 29
30

- (1) This section applies if the regulator is conducting an investigation to find out whether the retailer is complying with section 55DA(1) or 55DB(1). 31
32
33

-
- (2) The regulator may, by written notice to the retailer, require the retailer to give the regulator the following things the regulator believes, on reasonable grounds, are relevant to the investigation—
- (a) information within the retailer’s knowledge or possession;
 - (b) documents in the retailer’s custody, possession or power.
- (3) The notice must state—
- (a) the information or documents required; and
 - (b) a period in which the information or documents must be given of at least 7 days; and
 - (c) a reasonable place at which the information or documents must be given.
- (4) The retailer must comply with the notice, unless it has a reasonable excuse.
- Maximum penalty—500 penalty units.
- (5) The retailer is not required to comply with the notice if it claims, on the ground of self-incrimination, a privilege the retailer would be entitled to claim against giving the information or documents were the retailer a witness in a prosecution for an offence in the Supreme Court.
- (6) If the retailer claims that complying with the notice may tend to incriminate it, the regulator or the retailer may make an application to the Supreme Court to decide the validity of the claim.

Clause 75 **Amendment of s 137 (Entry to read meters etc.)** 32
Section 137— 33

[s 76]

insert— 1
(2) In this section— 2
electricity entity includes a retailer. 3

Clause 76 Amendment of s 138 (Disconnection of supply if entry refused) 4
5
Section 138— 6
insert— 7
(4) In this section— 8
electricity entity includes a retailer. 9

Clause 77 Amendment of s 139 (Entry to disconnect supply) 10
Section 139— 11
insert— 12
(3) In this section— 13
electricity entity includes a retailer. 14

Clause 78 Amendment of s 143 (Compensation) 15
Section 143— 16
insert— 17
(4) In this section— 18
electricity entity includes a retailer. 19

Clause 79 Amendment of s 178 (Issue of generation authorities) 20
(1) Section 178(2)(c)— 21
omit. 22
(2) Section 178(2)(d)— 23
renumber as section 178(2)(c). 24

Clause 80	Amendment of s 179 (Application for generation authority)	1
	Section 179(1)(b)(iii)—	2
	<i>omit.</i>	3
		4
Clause 81	Omission of ch 9, pt 4 (Retail authorities)	5
	Chapter 9, part 4—	6
	<i>omit.</i>	7
Clause 82	Amendment of s 210 (Consideration of application for special approval)	8
	(1) Section 210(2), from ‘(6), 197(2)’ to ‘(8)’—	9
	<i>omit, insert—</i>	10
	(6) and 197(2) to (7)	11
	(2) Section 210(3), definition <i>relevant authority</i> , ‘, distribution or retail’—	12
	<i>omit, insert—</i>	13
	or distribution	14
		15
		16
Clause 83	Amendment of s 214 (Who may apply for internal review etc.)	17
	Section 214(1), from ‘following’ to ‘regulator.’—	18
	<i>omit, insert—</i>	19
	regulator for internal review of the decision.	20
		21
Clause 84	Amendment of s 215 (Applying for internal review)	22
	Section 215(3), ‘reviewer’—	23
	<i>omit, insert—</i>	24
	regulator	25

[s 85]

Clause 85	Amendment of s 216 (Stay of operation of decision etc.)	1
	(1) Section 216(4), ‘reviewer’—	2
	<i>omit, insert</i> —	3
	regulator	4
	(2) Section 216(4), ‘reviewer’s’—	5
	<i>omit, insert</i> —	6
	regulator’s	7
Clause 86	Amendment of s 218 (Decision on reconsideration)	8
	(1) Section 218, ‘reviewer’—	9
	<i>omit, insert</i> —	10
	regulator	11
	(2) Section 218(5), ‘reviewer’s’—	12
	regulator’s	13
Clause 87	Amendment of s 219 (Who may apply for external review)	14
	Section 219(1), ‘reviewer’—	15
	<i>omit, insert</i> —	16
	regulator	17
Clause 88	Amendment of s 220 (Application of QCAT Act notice requirement)	18
	Section 220, ‘reviewer’—	19
	<i>omit, insert</i> —	20
	regulator	21
Clause 89	Amendment of s 226B (Avoidance of multiple penalties)	22
	Section 226B(a), ‘section 244A’—	23
		24
		25

	<i>omit, insert—</i>	1
	section 226A	2
Clause 90	Amendment of s 240A (Executive officer may be taken to have committed offence)	3 4
	Section 240A(4), definition <i>deemed executive liability provision</i> , last dot point—	5 6
	<i>omit.</i>	7
Clause 91	Amendment of s 253AA (Direction by Minister to give information or advice)	8 9
	Section 253AA(3), after ‘website’—	10
	<i>insert—</i>	11
	if directed in writing by the Minister to do so	12
Clause 92	Amendment of s 253 (Advisory committees)	13
	Section 253(4)(c), ‘retail entities’—	14
	<i>omit, insert—</i>	15
	retailers	16
Clause 93	Amendment of s 254B (Registers QCA must keep)	17
	(1) Section 254B(a) and (b)—	18
	<i>omit, insert—</i>	19
	(a) distribution network codes;	20
	(2) Section 254B(c) to (e)—	21
	<i>renumber</i> as section 254B(b) to (d).	22
Clause 94	Insertion of new ch 14, pt 16	23
	After section 343—	24

[s 94]

insert—

Part 16	Transitional provisions for Electricity Competition and Protection Legislation Amendment Act 2014	1 2 3 4 5 6
344 Definition for pt 16		7
In this part—		8
<i>commencement</i> means the commencement of this section.		9 10
345 Generation authorities		11
(1) This section applies if, immediately before the commencement, a generation authority authorised the sale of electricity.		12 13 14
(2) The generation authority is taken to have been amended to remove the authorisation for the sale of electricity.		15 16 17
346 Customer connection services		18
(1) This section applies if—		19
(a) before the commencement, a customer and a distribution entity—		20 21
(i) are taken to have entered into a standard connection contract under section 40DB as in force immediately before the commencement; or		22 23 24 25
(ii) have entered into a negotiated connection contract under section 40DC as in force immediately before the commencement; and		26 27 28 29

-
- (b) at the commencement, the customer's premises are not physically connected to the distribution entity's supply network. 1
2
3
- (2) Sections 40E, 40H and 41 and the *Electricity Regulation 2006*, section 34, as in force immediately before the commencement, to the extent they apply to the construction of a new connection, continue to apply to the construction of the connection. 4
5
6
7
8
9
- (3) However, chapter 5A of the National Electricity Rules does not apply to the construction of the connection. 10
11
12
- 347 Undecided retail authority applications** 13
- (1) This section applies if, before the commencement, a person applied to the regulator for a retail authority but the application had not yet been decided. 14
15
16
17
- (2) The application lapses. 18
- Note—* 19
- The person may be able to apply for a retailer authorisation under the NERL (Qld). 20
21
- 348 Existing retail authorities** 22
- (1) This section applies if, immediately before the commencement, a person was the holder of a retail authority. 23
24
25
- (2) The retail authority ceases to have effect. 26
- Note—* 27
- The retail sale of electricity is regulated under the NERL (Qld). 28
29

[s 94]

349 Special approvals	1
(1) Subsection (2) applies if, immediately before the commencement, a special approval authorised only either of the following—	2 3 4
(a) the sale of electricity;	5
(b) the provision of customer retail services.	6
(2) The special approval ceases to have effect.	7
(3) Subsection (4) applies if, immediately before the commencement, a special approval authorised—	8 9
(a) either—	10
(i) the sale of electricity; or	11
(ii) the provision of customer retail services; and	12 13
(b) the performance of other activities under the approval.	14 15
(4) The special approval is taken to have been amended to remove the authorisation for the sale of electricity or the provision of customer retail services.	16 17 18 19
350 QCA industry codes	20
(1) This section applies if, before the commencement, the QCA made an industry code, or made an amendment to an industry code, but had not given the Minister a copy of the code or the amendment.	21 22 23 24 25
(2) Chapter 5, part 1A, divisions 3 and 5, as in force immediately before the commencement, continue to apply to the making of the industry code, or the making of an amendment to the industry code.	26 27 28 29 30

351 Continuation of actions by QCA

- | | |
|---|----|
| | 1 |
| (1) This section applies if, before the | 2 |
| commencement— | 3 |
| (a) QCA has given a warning notice under | 4 |
| section 120S as in force immediately before | 5 |
| the commencement to an electricity entity; | 6 |
| or | 7 |
| (b) QCA has given a code contravention notice | 8 |
| under section 120V as in force immediately | 9 |
| before the commencement to an electricity | 10 |
| entity; or | 11 |
| (c) QCA has, under section 120X as in force | 12 |
| immediately before the commencement, | 13 |
| applied to the Supreme Court for a civil | 14 |
| penalty order in relation to an electricity | 15 |
| entity; or | 16 |
| (d) QCA has, under chapter 5, part 1A, division | 17 |
| 6, subdivision 3 as in force immediately | 18 |
| before the commencement, referred a matter | 19 |
| to the regulator; or | 20 |
| (e) QCA has given an electricity entity a notice, | 21 |
| under section 120ZE as in force | 22 |
| immediately before the commencement, to | 23 |
| produce documents or information; or | 24 |
| (f) QCA has, under section 120ZH(1) as in | 25 |
| force immediately before the | 26 |
| commencement, required an electricity | 27 |
| entity to carry out an internal audit or to | 28 |
| appoint an independent auditor. | 29 |
| (2) QCA may continue to take action under chapter | 30 |
| 5, part 1A as in force immediately before the | 31 |
| commencement. | 32 |

[s 95]

352 Limited continuation of disciplinary action by regulator 1
2

- (1) This section applies if the regulator has, under chapter 5, part 4, started to take disciplinary action against an electricity entity. 3
4
5
- (2) The Act, as in force immediately before the commencement, continues to apply to the matter unless the matter relates to the cancellation, suspension or amendment of a retail authority. 6
7
8
9

Clause 95 Amendment of sch 1 (Review of administrative decisions) 10

- (1) Schedule 1, part 1, entries for sections 205(1), 207C and 55D(i)— 11
12
omit. 13
- (2) Schedule 1, part 3, entries for sections 40A to 40D and 48E to 48I and notes— 14
15
omit. 16

Clause 96 Amendment of sch 2 (Subject matter for regulations) 17

- (1) Schedule 2, section 1, ‘and sale’— 18
omit. 19
- (2) Schedule 2, section 1(a)— 20
omit. 21
- (3) Schedule 2, section 1(b), from ‘interest’— 22
omit, insert— 23
interest); 24
- (4) Schedule 2, section 1(c) to (e), (g), (j) and (k)— 25
omit. 26
- (5) Schedule 2, section 1(b), (f), (h) and (i)— 27
renumber as schedule 2, section 1(a) to (d). 28

Clause 97	Amendment of sch 5 (Dictionary)	1
(1)	Schedule 5, definitions <i>accounting period, area retail entity, common area, common area consumption, connection contract, connection obligation, connection services application, Country Energy, credit support guidelines, customer connection services, customer retail services, electricity entity, Ergon Energy, excluded customer, financially responsible retail entity, first accounting period, industry code, initial industry code, large customer, large market customer, large non-market customer, market customer, negotiated connection contract, negotiated retail contract, net GST effect, non-market customer, on-supply agreement, prospective on-supplier, prospective receiver, retail area, retail authority, retail contract, retail entity, retailer, retailer of last resort scheme, retail obligation, retail services application, reviewer, small customer, spot market, standard connection contract, standard large customer retail contract, standard retail contract, State electricity entity, street lighting customer and warning notice—</i>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
	<i>omit.</i>	20
(2)	Schedule 5—	21
	<i>insert—</i>	22
	<i>contravention notice</i> see section 135AC(1).	23
	<i>customer connection service</i> has the meaning given by the NERL (Qld).	24 25
	<i>customer retail services</i> has the meaning given by the NERL (Qld) to <i>customer retail service</i> so far as it relates to electricity.	26 27 28
	<i>designated retail market area</i> , for chapter 4, part 2, see section 89A.	29 30
	<i>distribution network code</i> means—	31
	(a) an initial distribution network code; or	32
	(b) a distribution network code made by QCA under chapter 5, part 1A and as amended from time to time under that part.	33 34 35

[s 97]

<i>electricity entity</i> —	1
(a) in general—see section 22(1); or	2
(b) for chapter 2, part 9—see also section 64A; or	3 4
(c) for chapter 5, part 1A—see also section 120A.	5 6
<i>energy</i> means electricity or gas or both.	7
<i>Ergon Energy Distribution</i> means Ergon Energy Corporation Limited ACN 087 646 062.	8 9
<i>Ergon Energy Retail</i> means Ergon Energy Queensland Pty Ltd ACN 121 177 802.	10 11
<i>excluded customer</i> see section 23(5).	12
<i>initial distribution network code</i> means an initial distribution network made by the Minister under section 120B and as amended under chapter 5, part 1A, division 5 from time to time.	13 14 15 16
<i>large customer</i> see section 23(3).	17
<i>National Energy Retail Rules</i> has the meaning given by the NERL (Qld).	18 19
<i>NERL (Qld)</i> see the <i>National Energy Retail Law (Queensland) Act 2014</i> , section 3.	20 21
<i>net GST effect</i> , for providing a customer retail service, see section 90(6)(b).	22 23
<i>qualifying customer</i> means a customer whose annual consumption at a premises is, or is estimated by the relevant distributor to be, less than 100MWh.	24 25 26 27
<i>regional system control</i> see section 7.	28
<i>retailer</i> means a retailer under the NERL (Qld), that sells electricity to a customer in Queensland.	29 30
<i>small customer</i> see section 23(4).	31

<i>standard contract customer</i> means a customer who—	1 2
(a) receives a customer retail service under—	3
(i) a standard retail contract under the NERL (Qld); or	4 5
(ii) a standard retail contract (card-operated meters) under the NERL (Qld); or	6 7 8
(iii) a large customer standard retail contract under the NERL (Qld); or	9 10
(b) is subject to—	11
(i) a deemed customer retail arrangement under the NERL (Qld); or	12 13
(ii) a deemed large customer retail arrangement under the NERL (Qld).	14 15
<i>State electricity entity</i> means—	16
(a) an electricity entity that is a GOC, a GOC subsidiary or a government company; or	17 18
(b) Ergon Energy Retail.	19
<i>warning notice</i> —	20
(a) for chapter 5, part 1A, division 6—see section 120S(1); or	21 22
(b) for chapter 5, part 5, division 1—see section 135AC(1).	23 24
<i>warning period</i> see section 135AD(1)(c).	25
(3) Schedule 5, definition <i>qualifying generator</i> , paragraph (a), ‘small customer’—	26 27
<i>omit, insert</i> —	28
qualifying customer	29

[s 98]

Part 4	Amendment of Energy and Water Ombudsman Act 2006	1 2
Clause 98	Act amended	3
	This part amends the <i>Energy and Water Ombudsman Act 2006</i> .	4 5
Clause 99	Replacement of s 5 (What is an energy Act)	6
	Section 5—	7
	<i>omit, insert—</i>	8
	5 What is an energy Act	9
	Each of the following is an <i>energy Act</i> —	10
	<ul style="list-style-type: none">• the <i>Electricity Act 1994</i>• the <i>Electricity—National Scheme (Queensland) Act 1997</i>• the <i>Gas Supply Act 2003</i>• the National Electricity (Queensland) Law• the <i>National Gas (Queensland) Act 2008</i>• the <i>National Gas (Queensland) Law</i>• the NERL (Qld).	11 12 13 14 15 16 17 18
Clause 100	Amendment of s 6 (Who is a small customer (energy))	19
	(1) Section 6(1), ‘for premises’—	20
	<i>omit.</i>	21
	(2) Section 6(2)—	22
	<i>omit, insert—</i>	23
	(2) Also, a person is a <i>small customer (energy)</i> if—	24
	(a) the person is an exempt customer under the NERL (Qld), section 109; and	25 26

	(b) a condition is imposed under the NERL (Qld) on the exempt seller who sells energy to the customer that the seller complies with this Act to the extent it applies to the seller.	1 2 3 4
(3)	Section 6(3)— <i>renumber</i> as section 6(4).	5 6
(4)	Section 6— <i>insert</i> —	7 8
(3)	However, a customer at street lighting premises under the NERL (Qld) is not a small customer (energy) for the premises.	9 10 11
Clause 101	Amendment of s 7 (What is an <i>energy entity</i>)	12
(1)	Section 7(c), ‘or customer retail services’— <i>omit</i> .	13 14
(2)	Section 7— <i>insert</i> —	15 16
	(d) an exempt seller.	17
Clause 102	Amendment of s 19 (Restrictions on disputes relating to energy entities that can be referred)	18 19
	Section 19(c)— <i>omit, insert</i> —	20 21
	(c) the relevant dispute may be dealt with under the <i>Queensland Competition Authority Act 1997</i> ;	22 23 24
Clause 103	Amendment of s 46 (Failure by relevant entity to comply with accepted order or compliance directions)	25 26
(1)	Section 46(2), ‘subsections (3) to (5) apply’— <i>omit, insert</i> —	27 28

[s 104]

	subsection (3) applies	1
(2)	Section 46(4) and (5)— <i>omit.</i>	2 3
(3)	Section 46(6) and (7)— <i>renumber</i> as section 46(4) and (5).	4 5
(4)	Section 46(4), as renumbered, ‘subsection (7)’— <i>omit, insert—</i> subsection (5)	6 7 8
Clause 104	Amendment of s 64 (Scheme participation—energy entities)	9 10
(1)	Section 64(1), before subsection (1)— <i>insert—</i> (1A) An exempt seller becomes a scheme participant only when it starts to sell energy to a small customer (energy).	11 12 13 14 15
(2)	Section 64(1), ‘customer retail services’— <i>omit, insert—</i> a customer retail service	16 17 18
(3)	Section 64(1A) to (4)— <i>renumber</i> as section 64(1) to (5).	19 20
Clause 105	Amendment of s 67 (Amount of participation fee—energy entity)	21 22
(1)	Section 67(1)(a), from ‘provides’ to ‘Act—’— <i>omit, insert—</i> is the holder of a distribution authority under either the <i>Electricity Act 1994</i> or the <i>Gas Supply Act 2003</i> but not both Acts—	23 24 25 26 27
(2)	Section 67(1)(b), from ‘provides’ to ‘Acts—’—	28

omit, insert— 1

is the holder of a distribution authority under both the 2
Electricity Act 1994 and the *Gas Supply Act 2003—* 3

(3) Section 67(1)(c), from ‘provides’ to ‘Act—’— 4

omit, insert— 5

is the holder of 1 retailer authorisation under the 6
NERL (Qld)— 7

(4) Section 67(1)(d), from ‘provides’ to ‘Acts—’— 8

omit, insert— 9

is the holder of 2 retailer authorisations under the 10
NERL (Qld)— 11

(5) Section 67(1)— 12

insert— 13

(e) if it is the holder of a special approval and 14
provides customer connection services— 15

(i) the amount prescribed under a 16
regulation; or 17

(ii) if no amount is prescribed—\$5000; or 18

(f) if it is an exempt seller—the amount 19
prescribed under a regulation for the exempt 20
seller or the class of exempt sellers to which 21
the exempt seller belongs. 22

Clause 106 Insertion of new pt 13 23

After section 112— 24

insert— 25

[s 107]

Part 13	Transitional provisions for Electricity Competition and Protection Legislation Amendment Act 2014	1 2 3 4 5
113	Scheme participation by retailers and exempt sellers	6 7
(1)	This section applies if, immediately before the commencement, a retailer or an exempt seller was a scheme participant under pre-amended section 64.	8 9 10 11
(2)	The retailer or exempt seller continues to be a scheme participant after the commencement.	12 13
(3)	An obligation to pay a fee under this Act or any other obligation under this Act that accrued before the commencement continues after the commencement.	14 15 16 17
(4)	In this section— <i>commencement</i> means the commencement of this section. <i>pre-amended section 64</i> means section 64 as in force immediately before the commencement.	18 19 20 21 22
Clause 107	Amendment of schedule (Dictionary)	23
(1)	Schedule, definitions <i>customer connection services</i> , <i>customer retail services</i> , <i>distributor</i> and <i>retailer</i> — <i>omit</i> .	24 25 26
(2)	Schedule— <i>insert</i> — <i>customer connection service</i> —	27 28 29

-
- (a) in relation to the Maranoa Regional Council 1
or the Western Downs Regional Council as a 2
distributor—see the *Gas Supply Act 2003*, 3
section 19; or 4
- (b) otherwise—has the meaning given by the 5
NERL (Qld). 6
- customer retail service* has the meaning given by 7
the NERL (Qld). 8
- distributor* means the holder of a distribution 9
authority under the *Electricity Act 1994* or the 10
Gas Supply Act 2003. 11
- energy* has the meaning given by the NERL 12
(Qld). 13
- exempt seller* has the meaning given by the 14
NERL (Qld). 15
- National Electricity (Queensland) Law* see the 16
Electricity—National Scheme (Queensland) Act 17
1997, section 3(1). 18
- National Gas (Queensland) Law* see the 19
National Gas (Queensland) Act 2008, section 20
3(1). 21
- NERL (Qld)* see the *National Energy Retail Law* 22
(Queensland) Act 2014, section 3. 23
- retailer* means the holder of a retailer 24
authorisation under the NERL (Qld). 25

Part 5 **Amendment of Gas Supply Act** 26
2003 27

Clause 108 **Act amended** 28
This part amends the *Gas Supply Act 2003*. 29

[s 109]

Note—

See also the amendments in schedule 1.

		1
		2
Clause 109	Replacement of s 3 (Main purposes of Act)	3
	Section 3—	4
	<i>omit, insert—</i>	5
	3 Main purposes of Act	6
	The main purposes of this Act are to—	7
	(a) promote efficient and economical processed natural gas supply; and	8 9
	(b) ensure the interests of customers are protected by—	10 11
	(i) regulating the distribution services for reticulated processed natural gas; and	12 13
	(ii) providing for the making of relevant distribution network codes.	14 15
	<i>Note—</i>	16
	This Act also includes provisions about LPG distribution pipelines and LPG distribution systems. See sections 75, 75A, 131A, 258, 289, 295 and 297 to 299.	17 18 19
Clause 110	Amendment of s 4 (Gas-related matters to which Act does not apply)	20 21
	(1) Section 4(2), editor’s note, from <i>Queensland Competition Authority Act 1997—</i>	22 23
	<i>omit, insert—</i>	24
	Australian Consumer Law (Queensland) and the <i>Queensland Competition Authority Act 1997</i> .	25 26
	(2) Section 4(3), ‘chapter 2, part 6, and’—	27
	<i>omit.</i>	28

Clause 111	Replacement of s 5A (Declaration for Commonwealth Act)	1
	Section 5A—	2
	<i>omit, insert—</i>	3
	5A Declaration for Commonwealth Act	4
	A distribution authority is declared not to be personal property under the <i>Personal Property Securities Act 2009</i> (Cwlth).	5 6 7
Clause 112	Amendment of s 16 (Who is a <i>customer</i>)	8
	(1) Section 16, heading—	9
	<i>omit, insert—</i>	10
	16 Customers and their types	11
	(2) Section 16—	12
	<i>insert—</i>	13
	(3) A <i>small customer</i> is a person who is—	14
	(a) a small customer, for gas, under the NERL (Qld), section 5(2); or	15 16
	(b) an excluded customer to whom processed natural gas may be sold for premises only by an exempt seller and—	17 18 19
	(i) who purchases processed natural gas from the exempt seller principally for personal, household or domestic use at premises; or	20 21 22 23
	(ii) who consumes energy at premises below the upper consumption threshold applying under the NERL (Qld), section 6.	24 25 26 27
	(4) An <i>excluded customer</i> is a person whose premises are located in—	28 29
	(a) the Maranoa distribution area; or	30
	(b) the Western Downs distribution area.	31

[s 113]

	(5) In this section—	1
	<i>Maranoa distribution area</i> means the	2
	distribution area described in the distribution	3
	authority held by the Maranoa Regional Council.	4
	<i>Western Downs distribution area</i> means the	5
	distribution area described in the distribution	6
	authority held by the Western Downs Regional	7
	Council.	8
Clause 113	Omission of ss 17 and 20	9
	Sections 17 and 20—	10
	<i>omit.</i>	11
Clause 114	Replacement of s 21 (What is a <i>distribution authority</i>)	12
	Section 21—	13
	<i>omit, insert—</i>	14
	21 What are a <i>distribution authority</i> and	15
	<i>distribution area</i>	16
	A <i>distribution authority</i> authorises its holder to—	17
	(a) transport processed natural gas through a	18
	distribution pipeline or system within a	19
	stated area (<i>distribution area</i>); and	20
	(b) provide customer connection services to	21
	premises in the area.	22
Clause 115	Omission of s 23 (Types of distribution authority and	23
	their distributors)	24
	Section 23—	25
	<i>omit.</i>	26

Clause 116	Omission of ch 1, pt 3, div 2, sdiv 7 (Retail authorities and retailers)	1 2
	Chapter 1, part 3, division 2, subdivision 7—	3
	<i>omit.</i>	4
Clause 117	Amendment of s 28 (Requirements for application)	5
	Section 28(a) to (d)—	6
	<i>omit, insert—</i>	7
	(a) describe the distribution area for the distribution authority; and	8 9
	(b) be accompanied by the fee prescribed by regulation.	10 11
Clause 118	Amendment of s 29 (Public notice by regulator and submissions)	12 13
	Section 29(1)—	14
	<i>omit, insert—</i>	15
	(1) This section does not apply if the applicant holds a corresponding authority for the distribution authority.	16 17 18
Clause 119	Amendment of s 37 (Issue and public notice of authority)	19
	Section 37(3)(b)—	20
	<i>omit, insert—</i>	21
	(b) the authority’s distribution area; and	22
Clause 120	Amendment of s 43 (Restriction for area distributors)	23
	(1) Section 43, heading, ‘area’—	24
	<i>omit.</i>	25
	(2) Section 43, ‘An area’—	26

[s 121]

omit, insert—

1

A

2

Clause 121 Amendment of s 48 (Contingency practices and procedures)

3

4

Section 48—

5

insert—

6

- (6) Subsections (3) and (4) do not apply to a distributor within the meaning of the NERL (Qld).

7

8

Clause 122 Amendment of s 60 (Notice of proposed action)

9

Section 60(3)—

10

omit.

11

Clause 123 Replacement of s 102 (Application of pt 3)

12

Section 102—

13

omit, insert—

14

102 Application of pt 3

15

This part applies to a distributor in relation to the distributor's gas infrastructure that is not a distribution system under the NERL (Qld).

16

17

18

Clause 124 Amendment of s 108 (Commencement of customer connection services)

19

20

Section 108(3)—

21

insert—

22

- (c) the payment of charges for establishing a connection to the applicant's premises, if the charges are reasonable having regard to the expected revenue from the transportation of gas as a result of the connection.

23

24

25

26

27

Clause 125	Amendment of s 109C (Provisions for large customers)	1
	Section 109C—	2
	<i>insert</i> —	3
	(4) In this section—	4
	<i>large customer</i> , for premises, means a customer other than a small customer for the premises.	5 6
Clause 126	Amendment of s 125 (Operation of pt 4)	7
	Section 125(2)—	8
	<i>omit</i> .	9
Clause 127	Replacement of ch 3, pt 1, hdg (Retail authorities)	10
	Chapter 3, part 1, heading—	11
	<i>omit, insert</i> —	12
	Part 1	13
	Retailers and particular exempt sellers	14
Clause 128	Omission of ch 3, pt 1, div 1 (Applying for and obtaining retail authority)	15 16
	Chapter 3, part 1, division 1—	17
	<i>omit</i> .	18
Clause 129	Omission of ch 3, pt 1, div 2, hdg and ss 159–175	19
	Chapter 3, part 1, division 2, heading and sections 159 to 175—	20
	<i>omit</i> .	21
Clause 130	Amendment of s 175A (Additional condition about community services agreement)	22 23
	(1) Section 175A, heading—	24

[s 131]

omit, insert—

**175A Retailer or particular exempt sellers must
enter into community services agreement**

(2) Section 175A(1), example—

omit.

(3) Section 175A(1), penalty—

omit, insert—

Maximum penalty—1333 penalty units.

(4) Section 175A—

insert—

(3) In this section—

retailer includes each of the following councils if
the council is taken under the National Energy
Retail Regulations (Queensland), section 14 as an
exempt seller holding an individual exemption
under the NERL (Qld), part 5, division 6—

(a) the Maranoa Regional Council;

(b) the Western Downs Regional Council.

Clause 131 Omission of ch 3, pt 1, divs 3 and 4 and pt 2

Chapter 3, part 1, divisions 3 and 4 and part 2—

omit.

Clause 132 Amendment of ch 3, pt 3, hdg (On-supply)

Chapter 3, part 3, heading, editor's note—

omit.

Clause 133 Omission of ch 3, pt 3, div 1, hdg (Preliminary)

Chapter 3, part 3, division 1, heading—

omit.

Clause 134	Omission of ss 214 and 215	1
	Sections 214 and 215—	2
	<i>omit.</i>	3
Clause 135	Omission of ch 3, pt 3, divs 2 and 3 and div 4, hdg	4
	Chapter 3, part 3, divisions 2 and 3 and division 4, heading—	5
	<i>omit.</i>	6
Clause 136	Amendment of s 222 (Individual metering option)	7
	(1) Section 222(1) and (2)—	8
	<i>omit, insert—</i>	9
	(1) A receiver may, at any time—	10
	(a) elect, by written notice given to the relevant on-supplier, to have the receiver's consumption of processed natural gas supplied from the on-supplier measured by a meter; and	11 12 13 14 15
	(b) have the meter installed, at the receiver's expense.	16 17
	(2) Section 222(3) and (4)—	18
	<i>renumber</i> as section 222(2) and (3).	19
	(3) Section 222(3), as renumbered, 'subsection (3)'—	20
	<i>omit, insert—</i>	21
	subsection (2)	22
Clause 137	Amendment of s 223 (Compensation for installation damage)	23 24
	Section 223(1)(c)(i), 'section 222(3)(b)'—	25
	<i>omit, insert—</i>	26
	section 222(2)(b)	27

[s 138]

Clause 138	Omission of ch 3, pt 3, div 5 (Disclosure requirements for common area consumption charges)	1 2
	Chapter 3, part 3, division 5—	3
	<i>omit.</i>	4
Clause 139	Amendment of s 228 (Fixing of prices for standard contracts or for on-supply)	5 6
	(1) Section 228, heading—	7
	<i>omit, insert—</i>	8
	228 Fixing of prices	9
	(2) Section 228(1)—	10
	<i>omit, insert—</i>	11
	(1) Subject to section 228A, the Minister may fix any or all of the following—	12 13
	(a) standing offer prices of a retailer for or relating to the sale of processed natural gas to a customer;	14 15 16
	(b) charges relating to the sale of processed natural gas to a customer;	17 18
	(c) a methodology to fix the standing offer prices or charges.	19 20
	<i>Examples of matters for which prices, charges or a methodology may be fixed—</i>	21 22
	• charges for selling processed natural gas	23
	• charges or fees for late or dishonoured payments	24
	• charges or fees for discontinuing or recommencing the sale of processed natural gas	25 26
	(3) Section 228, before the note—	27
	<i>insert—</i>	28
	(5) In this section—	29
	<i>retailer</i> means a retailer under the NERL (Qld).	30

	<i>standing offer prices</i> has the meaning given by the NERL (Qld), section 2.	1 2
Clause 140	Amendment of s 228A (Restrictions on the first exercise of price fixing power)	3 4
	(1) Section 228A(3)(b), ‘area’— <i>omit.</i>	5 6
	(2) Section 228A(4)— <i>insert—</i> <i>retailer</i> means a retailer under the NERL (Qld).	7 8 9
Clause 141	Amendment of s 229 (Review of notified prices)	10
	Section 229(1), ‘or on-supplier’— <i>omit.</i>	11 12
Clause 142	Amendment of s 231 (Requirement to comply with notified prices)	13 14
	(1) Section 231(1)(a)— <i>omit, insert—</i> (a) there is a notified price for or relating to the sale of processed natural gas; and	15 16 17 18
	(2) Section 231(2)— <i>omit.</i>	19 20
Clause 143	Amendment of s 232 (Additional consequences of failure to comply with notified prices)	21 22
	(1) Section 232, ‘or on-supplier’— <i>omit.</i>	23 24
	(2) Section 232(3), ‘or receiver’— <i>omit.</i>	25 26

[s 144]

- (3) Section 232(4), ‘or receiver’s’— 1
omit. 2
- (4) Section 232(5), ‘or on-supply agreement’— 3
omit. 4

- Clause 144 Amendment of s 233 (Directions for prices notification)** 5
- (1) Section 233(1), ‘or on-supplier’— 6
omit. 7
- (2) Section 233(1), examples, ‘customer retail services’— 8
omit, insert— 9
the sale of processed natural gas 10

- Clause 145 Amendment of s 234 (Requirement to comply with direction for prices notification)** 11
12
- Section 234, ‘or on-supplier’— 13
omit. 14

- Clause 146 Amendment of s 241 (Limitation of industry participant’s liability because of compliance with plan)** 15
16
- (1) Section 241(2)(a), ‘or retail authority’— 17
omit, insert— 18
authority or retailer authorisation 19
- (2) Section 241— 20
insert— 21
- (4) In this section— 22
retailer authorisation means a retailer 23
authorisation under the NERL (Qld). 24

Clause 147	Replacement of s 247 (Notice of intention to stop processed natural gas transport or customer connection or retail services)	1
		2
		3
(1)	Section 247, heading—	4
	<i>omit, insert—</i>	5
	247 Notice of intention to stop processed natural gas transport or sale or customer connection services	6
		7
		8
(2)	Section 247(2), ‘An area’—	9
	<i>omit, insert—</i>	10
	A	11
(3)	Section 247(3), ‘provision of customer retail services’—	12
	<i>omit, insert—</i>	13
	sale of processed natural gas to a customer	14
(4)	Section 247(4)(a), ‘retail contract’—	15
	<i>omit, insert—</i>	16
	contract for the sale of processed natural gas to a customer	17
		18
Clause 148	Omission of ch 4, pt 4 (Retailer of last resort scheme)	19
	Chapter 4, part 4—	20
	<i>omit.</i>	21
Clause 149	Amendment of s 257 (Direction overrides contracts)	22
	Section 257(b) and (c)—	23
	<i>omit, insert—</i>	24
	(b) another contract relating to the production, transport or sale of processed natural gas.	25
		26

[s 150]

Clause 150	Replacement of ch 5A, hdg and pt 1, hdg	1
	Chapter 5A, heading and part 1, heading—	2
	<i>omit, insert—</i>	3
	Chapter 5A Distribution network codes	4
		5
	Part 1 Initial distribution network codes	6
		7
Clause 151	Amendment of s 270A (Making of initial industry codes by Minister)	8
	Section 270A, ‘and retailers’—	9
	<i>omit.</i>	10
		11
Clause 152	Replacement of s 270B (Specific matters for which code may provide)	12
	Section 270B—	13
	<i>omit, insert—</i>	14
	270B Specific matters for which code may provide	15
	Without limiting section 270A, a distribution network code may provide for the rights and obligations of distributors and customers about customer connection services.	16
		17
		18
		19
		20
Clause 153	Insertion of new s 270BA	21
	After section 270B—	22
	<i>insert—</i>	23

	270BA Required consultation	1
	(1) This section applies if the Minister proposes to make a distribution network code, unless the Minister considers the proposed code—	2 3 4
	(a) is needed urgently; or	5
	(b) will not be materially detrimental to anyone’s interests.	6 7
	(2) Before the Minister makes the distribution network code, the Minister must prepare a draft of the code and consult with—	8 9 10
	(a) entities the Minister is satisfied are likely to be affected by the proposed code; and	11 12
	(b) entities representing gas consumers.	13
Clause 154	Replacement of ch 5A, pt 2, hdg (QCA industry codes)	14
	Chapter 5A, part 2, heading—	15
	<i>omit, insert—</i>	16
	Part 2	
	QCA distribution network codes	17 18
Clause 155	Amendment of ch 5A, pt 3, hdg (Review of industry codes and related matters)	19 20
	Chapter 5A, part 3, ‘industry’—	21
	<i>omit, insert—</i>	22
	distribution network	23
Clause 156	Amendment of ch 5A, pt 4, hdg (Amending industry codes)	24 25
	Chapter 5A, part 4, heading, ‘industry’—	26
	<i>omit, insert—</i>	27

[s 157]

	distribution network	1
Clause 157	Amendment of ch 5A, pt 5, hdg (Enforcing industry codes)	2 3
	Chapter 5A, part 5, heading, ‘industry’—	4
	<i>omit, insert—</i>	5
	distribution network	6
Clause 158	Amendment of s 270ZD (How regulator deals with referral)	7 8
	(1) Section 270ZD, ‘all or any of the following action’—	9
	<i>omit, insert—</i>	10
	either or both of the following actions	11
	(2) Section 270ZD(c)—	12
	<i>omit.</i>	13
Clause 159	Amendment of s 270ZJA (Relationship with Fair Trading Act 1989)	14 15
	Section 270ZJA, ‘, subject to section 270ZJB,’—	16
	<i>omit.</i>	17
Clause 160	Omission of s 270ZJB (Compliance with particular requirements under Australian Consumer Law (Queensland) for unsolicited consumer agreements)	18 19 20
	Section 270ZJB—	21
	<i>omit.</i>	22
Clause 161	Amendment of s 270ZK (Application of pt 1A)	23
	(1) Section 270ZK, ‘or retailer’—	24
	<i>omit.</i>	25

	(2) Section 270ZK, ‘an industry’—	1
	<i>omit, insert</i> —	2
	a distribution network	3
	(3) Section 270ZK(1)(b), ‘or retailer’s’—	4
	<i>omit.</i>	5
	(4) Section 270ZK(3), ‘or chapter 3, part 1, division 3’—	6
	<i>omit.</i>	7
Clause 162	Amendment of s 270ZL (Regulator may impose civil penalty)	8
	Section 270ZL, ‘or retailer’—	9
	<i>omit.</i>	10
Clause 163	Amendment of s 270ZM (Information notice about and taking effect of decision)	11
	Section 270ZM(1), ‘or retailer’—	12
	<i>omit.</i>	13
Clause 164	Insertion of new ch 6, pt 1B	14
	Chapter 6, after part 1A—	15
	<i>insert</i> —	16
		17
		18

[s 164]

Part 1B	Enforcing section 175A against retailers	1 2
Division 1	Contravention notices	3
Subdivision 1	Preliminary	4
271AA	Application of pt 1B	5
	This part applies if the regulator suspects—	6
	(a) a retailer has contravened, or is contravening, section 175A; and	7 8
	(b) the contravention is likely to be a material contravention of section 175A.	9 10
271AB	Criteria for deciding material contravention	11
	(1) This section applies to the making of any decision under this Act about whether a contravention of section 175A is a material contravention of the section.	12 13 14 15
	(2) The regulator must have regard to the objects of the Act.	16 17
	(3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.	18 19
Subdivision 2	Warning notices	20
271AC	Warning notice may be given	21
	(1) The regulator may give the retailer a notice (the <i>warning notice</i>), warning the retailer that the regulator proposes to give the retailer a further notice about the contravention (a <i>contravention notice</i>).	22 23 24 25 26

-
- (2) The regulator must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion. 1
2
3
- (3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent contravention notice. 4
5
6
- (4) Despite subsections (2) and (3), if the regulator proposes to give a warning notice for a contravention, it can only be given within 2 years after the day on which the contravention happened. 7
8
9
10
11

271AD Requirements for warning notice 12

- (1) The warning notice must state each of the following— 13
14
- (a) particulars of the contravention; 15
- (b) that the regulator proposes to give the retailer a contravention notice unless the retailer— 16
17
18
- (i) takes steps reasonably necessary to remedy the contravention; and 19
20
- (ii) gives the regulator a written assurance, in the terms stated in the warning notice, that the retailer will— 21
22
23
- (A) avoid any similar future contravention; and 24
25
- (B) take steps reasonably necessary to avoid a future recurrence of the contravention; 26
27
28
- (c) a period (the *warning period*) after which the contravention notice may be given unless the warning notice is complied with; 29
30
31
- (d) that the retailer may make, within the warning period, written submissions to 32
33

[s 164]

show why the proposed contravention notice should not be given.	1 2
(2) The warning period must be—	3
(a) if the warning notice is given because the regulator considers the contravention is of a type that requires urgent action—a period that the regulator considers is reasonable in the circumstances; or	4 5 6 7 8
(b) otherwise—at least 20 business days.	9
(3) The warning notice may also state the steps the regulator reasonably believes are necessary to remedy the contravention or avoid its future recurrence.	10 11 12 13
<i>Example of a step that may remedy a contravention—</i>	14
paying compensation to someone who has suffered damage, injury or loss because of the contravention	15 16
271AE Considering submissions on warning notice	17 18
(1) The regulator must consider any written submission made under section 271AD(1)(d) by the retailer within the warning period stated in the warning notice.	19 20 21 22
(2) If the regulator at any time decides not to give the proposed contravention notice, it must, as soon as practicable, give the distributor or retailer notice of the decision.	23 24 25 26
Subdivision 3 Action after warning notice	27
271AF Giving of contravention notice	28
(1) The regulator may give the proposed contravention notice if—	29 30

(a) the retailer has not complied with the warning notice; and	1 2
(b) after complying with section 271AE, the regulator still believes the contravention notice ought to be given.	3 4 5
(2) The contravention notice must state—	6
(a) that the retailer has contravened, or is contravening, section 175A; or	7 8
(b) the contravention is likely to be a material contravention of the section.	9 10
271AG Duration of contravention notice	11
The contravention notice—	12
(a) comes into effect—	13
(i) when it is made; or	14
(ii) if it states a later time—at the later time; and	15 16
(b) ends—	17
(i) on the day stated in the notice; or	18
(ii) if it is cancelled before that day—when it is cancelled.	19 20
Division 2 Proceedings	21
271AH Proceeding for civil penalty order	22
(1) This section applies if, on the application of the regulator, the Supreme Court is satisfied the retailer has—	23 24 25
(a) committed a material contravention of section 175A; or	26 27

[s 164]

- (b) attempted to commit a material contravention of section 175A; or 1
2
 - (c) been involved in a material contravention of section 175A. 3
4
- (2) The court may order the retailer to pay the State as a civil penalty an amount of no more than— 5
6
 - (a) for an individual—\$100000; or 7
 - (b) for a corporation—\$500000. 8
- (3) In fixing the penalty, the court must consider— 9
 - (a) the nature and extent of— 10
 - (i) the contravention; and 11
 - (ii) loss or damage suffered because of the contravention; and 12
13
 - (b) the circumstances in which the contravention took place; and 14
15
 - (c) whether the retailer has previously been found by the court in proceedings under this Act to have engaged in any similar conduct. 16
17
18
- (4) For subsection (1)(c), a distributor or retailer is involved in a contravention if the distributor or retailer— 19
20
 - (a) has aided, abetted, counselled or procured the contravention; or 21
22
23
 - (b) has induced the contravention, whether through threats, promises or in another way; or 24
25
26
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or a party to, the contravention; or 27
28
29
 - (d) has conspired with others to effect the contravention. 30
31

271AI How order enforced

If the Supreme Court orders payment of an amount under section 271AH(2), the State may enforce the order as a judgment of the court for a debt of that amount.

271AJ Injunctions

- (1) The Supreme Court may, on the application of the regulator, grant an injunction if satisfied the retailer has engaged, or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
 - (a) a contravention of section 175A;
 - (b) attempting to contravene section 175A.
- (2) An injunction may be granted on conditions.
- (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied the retailer has engaged, or is proposing to engage, in conduct of a kind mentioned in subsection (1).
- (4) The court may grant an interim injunction pending its decision on the application.
- (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) The court may amend an injunction or interim injunction.
- (7) An injunction or interim injunction restraining the retailer from engaging in conduct may be granted whether or not—
 - (a) it appears to the court that the retailer intends to engage again, or to continue to engage, in conduct of that kind; or

[s 164]

- (b) the retailer has previously engaged in conduct of that kind; or 1
2
- (c) there is an imminent danger of substantial damage to another person if the retailer engages in conduct of that kind. 3
4
5
- (8) An injunction or interim injunction requiring the retailer to do an act or thing may be granted whether or not— 6
7
8
 - (a) it appears to the court that the retailer intends to fail again, or to continue to fail, to do that act or thing; or 9
10
11
 - (b) the retailer has previously failed to do the act or thing; or 12
13
 - (c) there is an imminent danger of substantial damage to another person if the retailer does not do the act or thing. 14
15
16

271AK Conduct by directors, servants or agents 17

- (1) This section applies to a proceeding for a civil penalty, an interim injunction or an injunction under this division. 18
19
20
- (2) If— 21
 - (a) the proceeding concerns alleged conduct engaged in by the retailer; and 22
23
 - (b) it is necessary to prove the retailer's state of mind; 24
25it is enough to prove that a director, servant or agent (a *representative*) of the distributor or retailer, acting within the scope of the representative's actual or apparent authority, had the state of mind. 26
27
28
29
30
- (3) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the retailer— 31
32
33

-
- (a) a representative of the retailer, acting within the scope of the representative's actual or apparent authority; 1
2
3
- (b) another person at the direction, or with the consent or agreement, of a representative of the retailer, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority. 4
5
6
7
8
9
- (4) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the principal— 10
11
12
- (a) a servant or agent of the retailer, acting within the scope of the servant's or agent's actual or apparent authority; 13
14
15
- (b) another person at the direction or with the consent or agreement, of a servant or agent of the retailer, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority. 16
17
18
19
20
21
- (5) In this section— 22
- consent or agreement* includes an implied consent or agreement. 23
24
- state of mind*, of a person, may include— 25
- (a) knowledge, intention, opinion, belief or purpose of the person; and 26
27
- (b) the person's reasons for the person's intention, opinion, belief or purpose. 28
29

[s 164]

Division 3	Production of documents or information	1 2
271AL Notice to produce documents or information		3 4
(1)	This section applies if the regulator is conducting an investigation to find out whether the retailer is complying with section 175A.	5 6 7
(2)	The regulator may, by written notice to the retailer, require the retailer to give the regulator all or any the following things the regulator believes, on reasonable grounds, are relevant to the investigation—	8 9 10 11 12
(a)	information within the retailer’s knowledge or possession;	13 14
(b)	documents in the retailer’s custody, possession or power.	15 16
(3)	The notice must state—	17
(a)	the information or documents required; and	18
(b)	a period in which the information or documents must be given of no less than 7 days; and	19 20 21
(c)	a reasonable place at which the information or documents must be given.	22 23
(4)	The retailer must comply with the notice, unless it has a reasonable excuse. Maximum penalty—500 penalty units.	24 25 26
(5)	The retailer is not required to comply with the notice if the retailer claims, on the ground of self-incrimination, a privilege the retailer would be entitled to claim against giving the information or documents were the retailer a witness in a prosecution for an offence in the Supreme Court.	27 28 29 30 31 32 33

	(6)	If the retailer claims that complying with the notice may tend to incriminate it, the regulator or retailer may make an application to the Supreme Court to decide the validity of the claim.	1 2 3 4
Clause 165		Omission of s 288 (Unlawful selling reticulated processed natural gas)	5 6
		Section 288—	7
		<i>omit.</i>	8
Clause 166		Amendment of ch 6, pt 4, hdg (General remedies)	9
		Chapter 6, part 4, heading, editor’s note—	10
		<i>omit, insert—</i>	11
		<i>Note—</i>	12
		See also sections 101 and 145.	13
Clause 167		Omission of s 302 (Additional consequences of unlawfully selling reticulated processed natural gas)	14 15 16
		Section 302—	17
		<i>omit.</i>	18
Clause 168		Amendment of s 303 (Recovery of unlawful profits)	19
		Section 303, ‘or retailer’—	20
		<i>omit.</i>	21
Clause 169		Amendment of s 307 (Other evidentiary aids)	22
		Section 307(a)(iii) and (e), ‘or retail’—	23
		<i>omit.</i>	24

[s 170]

Clause 170	Amendment of s 307A (Evidentiary effect of code contravention notice)	1 2
	Section 307A(1)(c), ‘or retailer’—	3
	<i>omit.</i>	4
Clause 171	Amendment of s 308 (Register of authorities)	5
	Section 308(a), ‘and retail’—	6
	<i>omit.</i>	7
Clause 172	Amendment of s 309 (Keeping of register of authorities)	8
	(1) Section 309(1)—	9
	<i>omit, insert—</i>	10
	(1) The regulator must include in the register of authorities information about the distribution area mentioned in section 28(a) for a distribution authority.	11 12 13 14
	(2) Section 309(3), ‘or retail’—	15
	<i>omit.</i>	16
Clause 173	Amendment of s 310A (Registers QCA must keep)	17
	(1) Section 310A(a) and (b)—	18
	<i>omit, insert—</i>	19
	(a) distribution network codes;	20
	(2) Section 310A(c) to (e)—	21
	<i>renumber</i> as section 310A(b) to (d).	22
Clause 174	Amendment of s 316 (Limitation of liability of distributors and retailers)	23 24
	(1) Section 316, heading, ‘and retailers’—	25
	<i>omit.</i>	26

-
- (2) Section 316(2)— 1
omit, insert— 2
- (1A) This section applies to a distributor only in 3
relation to the distributor’s gas infrastructure that 4
is not a distribution system under the NERL 5
(Qld). 6
- (2) A distributor is not civilly liable for the cost, 7
damage or loss if— 8
- (a) the failure or defect was caused by a 9
circumstance beyond the distributor’s 10
control; and 11
- (b) in relation to the supply, the distributor— 12
- (i) complied with this Act and the 13
conditions of any relevant distribution 14
authority; and 15
- (ii) acted in good faith and without 16
negligence. 17
- (3) Section 316(3), ‘Subsection (3)’— 18
omit, insert— 19
- Subsection (2) 20
- (4) Section 316(1A) to (3)— 21
renumber as section 316(2) to (4). 22

- Clause 175 Insertion of new ch 7, pt 3** 23
- After section 334— 24
- insert—* 25

[s 175]

Part 3	Transitional provisions	1
	for Electricity	2
	Competition and	3
	Protection Legislation	4
	Amendment Act 2014	5
335 Definition for pt 3		6
In this part—		7
<i>commencement</i> means the commencement of this		8
section.		9
336 Continuation of cancellation or suspension of		10
 distribution authorities		11
(1) This section applies if, before the		12
commencement—		13
(a) an event mentioned in section 57(2) has		14
happened; and		15
(b) the regulator had commenced procedures		16
under section 58 or chapter 2, part 1,		17
division 3, subdivision 5 in relation to the		18
event for cancellation or suspension of a		19
distribution authority.		20
(2) This Act, as in force immediately before the		21
commencement, continues to apply for the		22
cancellation or suspension of the distribution		23
authority.		24
337 Unfinished customer connection services		25
(1) This section applies if—		26
(a) before the commencement, a customer and a		27
distributor have entered into a connection		28
contract under section 106; and		29

-
- (b) at the commencement, the customer's premises are not physically connected to the distributor's distribution system. 1
2
3
- (2) Section 108 as in force immediately before the commencement, continues to apply to the construction of the connection under the connection contract. 4
5
6
7

338 Undecided retail authority applications 8

- (1) This section applies if, before the commencement, a person applied to the regulator for a retail authority but the application had not been decided. 9
10
11
12

- (2) The application lapses. 13

Note— 14

The person may be able to apply for a retailer authorisation under the NERL (Qld). 15
16

339 Existing retail authorities 17

- (1) This section applies if, immediately before the commencement, a person was the holder of a retail authority. 18
19
20

- (2) The retail authority ceases to have effect. 21

Note— 22

The retail sale of processed natural gas is regulated under the NERL (Qld) from the commencement. 23
24

340 Continuation of actions by QCA 25

- (1) This section applies if, before the commencement— 26
27

- (a) QCA has given a warning notice under former section 270R to a distributor or retailer; or 28
29
30

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- (b) QCA has given a code contravention notice, under former section 270U, to a distributor or retailer; or
 - (c) QCA has, under former section 270W, applied to the Supreme Court for an order about the payment of a civil penalty by a distributor or retailer; or
 - (d) QCA has, under former chapter 5A, part 5, division 3, referred a matter to the regulator; or
 - (e) QCA has given a distributor or retailer a notice under former section 270ZE to produce documents or information; or
 - (f) QCA has, under former section 270ZG, required a distributor or retailer to carry out an internal audit or to appoint an independent auditor.
- (2) QCA may continue to take action under chapter 5A, part 5 as in force immediately before the commencement.
- (3) In this section—
former, for a provision mentioned in this section, means the provision as in force immediately before the commencement.

341 Regulator may continue to impose civil penalties

- (1) This section applies if, before the commencement—
- (a) a matter mentioned in section 270ZK, as in force immediately before the commencement, was referred to the regulator; and

	(b) the regulator has not yet exercised a power under section 270ZL in relation to the matter.	1 2 3
	(2) The regulator may exercise the power under section 270ZL in relation to the matter.	4 5
Clause 176	Amendment of sch 1 (Decisions subject to internal review)	6 7
	Schedule 1, entries for sections 151 or 156, 180, 182, 186, 189, 193 and 197—	8 9
	<i>omit.</i>	10
Clause 177	Amendment of sch 2 (Dictionary)	11
	(1) Schedule 2, definitions <i>acceptance notice, accounting period, area distribution authority, area distributor, area retail authority, area retailer, area retailer obligation, common area, common area consumption, customer retail services, decision notice, defaulting retailer, distribution area, excluded customer, first accounting period, general retail authority, general retailer, industry code, initial industry code, large customer, negotiated retail contract, on-supply agreement, point-to-point distribution authority, proposed action, prospective on-supplier, prospective receiver, retail area, retail authority, retailer, retailer of last resort scheme, retail services application, small customer, standard retail contract, standard terms, suitability criteria and warning notice—</i>	12 13 14 15 16 17 18 19 20 21 22 23 24 25
	<i>omit.</i>	26
	(2) Schedule 2—	27
	<i>insert—</i>	28
	acceptance notice see section 35(1)(d).	29
	contravention notice see section 271AC(1).	30
	decision notice see section 35(1).	31

[s 177]

<i>distribution area</i> see section 21(a).	1
<i>distribution network code</i> means—	2
(a) an initial distribution network code; or	3
(b) a distribution network code made by QCA under chapter 5A and as amended from time to time under that chapter.	4 5 6
<i>excluded customer</i> see section 16(4).	7
<i>exempt seller</i> means an exempt seller under the NERL (Qld), that sells gas to a customer in Queensland.	8 9 10
<i>initial distribution network code</i> means an initial distribution network code made by the Minister under chapter 5A and as amended from time to time under that chapter.	11 12 13 14
<i>NERL (Qld)</i> see the <i>National Energy Retail Law (Queensland) Act 2014</i> , section 3(1).	15 16
<i>proposed action</i> see section 60(1)(a).	17
<i>retailer</i> means a retailer under the NERL (Qld), that sells gas to a customer in Queensland.	18 19
<i>retailer of last resort scheme</i> means the RoLR scheme under the NERL (Qld), section 122.	20 21
<i>small customer</i> see section 16(3).	22
<i>suitability criteria</i> see section 32(2).	23
<i>warning notice</i> —	24
(a) for chapter 5A, part 5—see section 270R(1); or	25 26
(b) for chapter 6, part 1B, division 1—see section 271AC(1).	27 28
<i>warning period</i> see section 271AD(1)(c).	29
(3) Schedule 2, definition <i>corresponding authority</i> , ‘or retail’— <i>omit.</i>	30 31

-
- (4) Schedule 2, definition *corresponding authority*, paragraph (g)— 1
2
omit, insert— 3
(g) *Utilities Act 2000* (ACT); 4

Part 6 **Amendment of Queensland** 5
Competition Authority Act 1997 6

- Clause 178 Act amended** 7
This part amends the *Queensland Competition Authority Act 1997*. 8
9

- Clause 179 Amendment of s 10 (Authority's functions)** 10
(1) Section 10(j) and (k), 'industry'— 11
omit, insert— 12
distribution network 13
(2) Section 10(ka)— 14
omit. 15

- Clause 180 Amendment of s 227A (Keeping registers)** 16
Section 227(2), 'industry'— 17
omit, insert— 18
distribution network 19

[s 181]

Part 7	Amendment of Retail Shop Leases Act 1994	1
		2
Clause 181	Act amended	3
	This part amends the <i>Retail Shop Leases Act 1994</i> .	4
Clause 182	Omission of s 37A (Lessor's recovery of electricity charges)	5
		6
	Section 37A—	7
	<i>omit.</i>	8
Part 8	Acts amended	9
Clause 183	Acts amended	10
	Schedule 1 amends the Acts it mentions.	11

Schedule 1	Minor amendments	1
	section 183	2
Electricity Act 1994		3
1	Sections 55H(2), 55I(2), 120F(4), 120G, 120H(1), 120I(1), 120J(1), 120K(1), 120L(1), 120P, 120Q(a), 120R(1), 120V(2)(a), 120X(1), 120Z(1), 120ZA(2)(a), 120ZB, 120ZC(1), 170ZE(1), 120ZG(1)(a), 120ZH(1)(a)(i) and 253(6)(a), ‘an industry’—	4 5 6 7 8
	<i>omit, insert—</i>	9
	a distribution network	10
2	Sections 120AA(1)(a)(i), 120B(3) note, 120D(1), 120E(1), 120F heading, (1) and (3), 120H(2), 120J heading, 120K heading, 120V(3) and (4), 120ZH heading, 226B(b) and 253(9), ‘industry’—	11 12 13 14
	<i>omit, insert—</i>	15
	distribution network	16
3	Section 120F(4), ‘initial industry’—	17
	<i>omit, insert—</i>	18
	initial distribution network	19
4	Sections 120ZA, 120ZE(2), 120ZF(2)(b)(ii), 120ZH(1)(a)(i) and 120ZJ(1)(a), examples, after ‘entity’s’—	20 21
	<i>insert—</i>	22
	or retailer’s	23

Schedule 1

5	Sections 120Q(a), 120S(1), 120T(1), 120U, 120V, 120X, 120ZA, 120ZB, 120ZC(1), 120ZE, 120ZF, 120ZG(1), 120ZH, 120ZI, 120ZJ and 120ZK, after ‘entity’—	1 2 3
	<i>insert—</i>	4
	or retailer	5
6	Sections 120Z(7)(a) and (b) and (8)(a) and (b), ‘; and’—	6
	<i>omit, insert—</i>	7
	; or	8
7	Section 120ZD(2), after ‘entities’—	9
	<i>insert—</i>	10
	or retailers	11

Gas Supply Act 2003 12

8	Sections 50A, 109A(1), 109B(2), 109C(3), 270A, 270C(1), 270D(1), 270E heading, (1) and (3), 270G(2), 270I heading, 270J, 270U(3) and (4), 270ZG heading and 299B(b), ‘industry’—	13 14 15 16
	<i>omit, insert—</i>	17
	distribution network	18
9	Sections 57(2)(b)(v), 109(4)(d), 270E(4), 270F, 270G(1), 270H(1), 270I(1), 270J(1), 270K(1), 270O, 270P(a), 270Q(1), 270U(2)(a), 270W(1), 270Y(1), 270Z(2)(a), 270ZA, 270ZB(1), 270ZE(1), 270ZF(1)(a), 270ZG(1)(a)(i) and 270ZJA, ‘an industry’—	19 20 21 22 23
	<i>omit, insert—</i>	24
	a distribution network	25

10	Section 270E(4), ‘initial industry’—	1
	<i>omit, insert—</i>	2
	initial distribution network	3
11	Sections 270P(a), 270R(1), 270S(1), 270T, 270U, 270W, 270Y, 270Z, 270ZA, 270ZB(1), 270ZD, 270ZE, 270ZF(1), 270ZG, 270ZH, 270ZI, 270ZJ, 279(3) and 316(3)(a), ‘or retailer’—	4
	<i>omit.</i>	5
		6
		7
12	Sections 270Y(7)(a) and (b) and (8)(a) and (b), ‘; and’—	8
	<i>omit, insert—</i>	9
	; or	10
13	Sections 270Z(2)(b), 270ZE(2), 270ZG(1)(a)(i) and 270ZI(1)(a) examples, ‘or retailer’s’—	11
	<i>omit.</i>	12
		13