

Electrical Safety and Other Legislation Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Electrical Safety and Other Legislation Amendment Bill 2025 (the Bill).

Policy objectives and the reasons for them

The policy objectives of the Bill are to:

- ensure Queensland's electrical safety framework continues to protect Queenslanders by minimising, and where possible, eliminating electrical risks to people and property by confirming electricity entities can give electrical equipment defect notices, and empowering the regulator to give unsafe equipment directions to prohibit the sale, installation and use of unsafe electrical equipment; and
- reduce the administrative burden of the regulator and re-align Queensland with other states and territories by removing an additional avenue for health and safety representatives and work health and safety (WHS) entry permit holders to request and receive information in certain notices from the regulator, which has not yet commenced.

Electrical safety

The *Electrical Safety Act 2002* (ES Act) is directed at eliminating the human cost to individuals, families and the community of death, injury and damage that can be caused by electricity. It provides a safety framework to prevent this harm to both people and property.

Electrical equipment defect notices

Electricity entities have duties under the ES Act to ensure that their works, and the way they are operated, are electrically safe. This duty includes requiring electricity entities to inspect, test and maintain their works.

Currently, the *Electrical Safety Regulation 2013* (ES Regulation) provides that an electrical safety inspector or an electricity entity can give a written notice to a person in control of electrical equipment requiring them to fix any defect affecting the equipment's electrical safety.

This situation may arise when an electricity entity, usually an electricity distributor such as Energex or Ergon Energy, attends a property while undertaking their duties to inspect an electrical installation, subsequently observes defective electrical equipment (e.g. a damaged general power outlet or an unsafe switchboard) and gives a notice to a person in control of the equipment to fix the defect. A person who fails to comply after being given a defect notice may be liable for an offence of up to 40 penalty units.

It is a long-standing practice for Queensland electricity entities to alert consumers of issues with electrical equipment since the ES Act first commenced in 2002. However, while the regulation-making power in the ES Act provides for broad prescription powers for a person to discharge their electrical safety duties or ensure the electrical safety of persons or property, it currently does not clearly provide a head of power for electricity entities to give electrical equipment defect notices.

To address this issue, it is proposed to amend the ES Act and ES Regulation to maintain the long-standing practice of electricity entities giving these defect notices by including a clear and limited right to prescribe this ability under the ES Regulation.

Unsafe equipment directions

Currently, the ES Regulation provides that the regulator may prohibit the sale or use of electrical equipment by any person if the regulator believes on reasonable grounds that the item does not comply with safety criteria within the relevant standard (currently, *AS/NZS 3820:2020 Essential safety requirements for electrical equipment*).

As well as notifying the prohibition in the relevant gazette, the regulator must give an information notice for the decision to each person the regulator knows to be, or is likely to be, a seller of the item or type. The prohibition remains in force for a period stated in the gazette notice, or if no period is provided, for an indefinite period.

The regulator's ability to prohibit the sale or use of electrical equipment on safety grounds is a significant but necessary power to protect Queenslanders from electrical risks and ensure the purpose of the ES Act is achieved.

However, prescribing this power in the ES Regulation does not have regard to the potentially far-reaching impact a prohibition may have. Similar safety issues are regulated through the ES Act, rather than the ES Regulation, including the Minister's recall powers for electrical equipment (sections 40G–40K of the ES Act) and the regulator's power to issue electrical safety notifications (section 206 of the ES Act).

Further, the current prohibition power in the ES Regulation does not provide specific particulars about:

- how and when a prohibition may be given by the regulator;
- all circumstances when unsafe equipment may present an electrical safety risk (i.e. section 192 of the ES Regulation prohibits only the sale and use of unsafe equipment, but does not provide specific guidance relating to unsafe equipment being installed, as a subset of use); and
- providing sufficient certainty as a prohibition may currently apply indefinitely.

To provide further clarity and ensure electrical safety is maintained, it is proposed to amend the ES Act and ES Regulation to provide that unsafe equipment directions are appropriately given by the regulator under the ES Act.

Work health and safety

The *Work Health and Safety Act 2011* (WHS Act) provides a framework to protect the health, safety, and welfare of all workers at work and of all other people who might be affected by the work.

To assist with these objectives, the WHS Act provides for voluntary health and safety representatives to assist workers and represent the health and safety interests of their work group. WHS entry permit holders (union officials who hold a valid entry permit issued under the WHS Act) also assist with maintaining safe and healthy workplaces.

The WHS Act has existing provisions that enable both health and safety representatives and WHS entry permit holders to access and receive certain information including:

- health and safety representatives may be entitled to receive copies of important information directly from the person conducting a business or undertaking (PCBU), including right of entry notices given by WHS entry permit holders; improvement, prohibition or non-disturbance notices issued by WHS inspectors; and notifiable incidents (sections 70(1)(ca), (cb) and (cc) of the WHS Act);
- health and safety representatives may also request and receive information concerning the work health and safety of workers in the work group they are elected to represent (section 68(2)(f) of the WHS Act);
- a WHS entry permit holder may request to inspect and make copies of any document directly relevant to a suspected contravention they are investigating, which may include copies of notices issued by WHS inspectors to the PCBU (section 118(1)(d) of the WHS Act); and
- for all worker representatives, information may also be available through existing frameworks, such as the *Right to Information Act 2009*.

Additionally, under section 210 of the WHS Act, if a person is issued with an improvement, prohibition or non-disturbance notice, as soon as possible, they must display a copy of the notice in a prominent area within the workplace.

These provisions ensure that consultation between workers, their representatives and the PCBU about health and safety issues at a workplace are informed by relevant information. These existing requirements also provide an important safeguard for workplaces with shift work or circulating teams of workers moving across large worksites as it ensures workers and their representatives are aware of issues and any compliance and enforcement action being taken to address them, including that which may require action by workers.

On 28 March 2024, the *Work Health and Safety and Other Legislation Amendment Act 2024* (WHSOLA Act) implemented WHS reforms based on recommendations of the *2022 Review of the WHS Act*.

One of the reforms not yet proclaimed to commence proposed an additional avenue for health and safety representatives, and was expanded to also include an avenue for WHS entry permit holders, to request particular information contained in improvement notices, prohibition notices or non-disturbance notices (relevant notices) directly from the regulator.

However, attempts to operationalise this reform identified insufficient safeguards and an unanticipated administrative burden for the regulator. For example, this additional avenue to obtain information prescribes no limits on the number of requests that can be made, nor specific grounds for making requests. Additionally, the process for the regulator releasing this information is not suitable for automating, and all notices requested would need to be manually reviewed to ensure personal information or commercial in confidence information is not unintentionally released. This additional avenue to request information is also not aligned with other states and territories.

To reduce administrative burden and to re-align Queensland with other states and territories, it is proposed to remove the additional avenue to request information from the regulator before the provision commences on 29 March 2026.

Achievement of policy objectives

To achieve its policy objectives, the Bill will amend the ES Act and ES Regulation to:

- provide a clear pathway for electricity entities to continue their long-standing practice of issuing electrical equipment defect notices;
- recognise the scope and potential impact of the regulator's prohibition power for unsafe electrical equipment by elevating the existing prohibition power to the ES Act from the ES Regulation, and modernising this power to provide greater certainty about its application and ensure it is aligned with contemporary drafting practices.

In addition to the amendments to the ES Act and ES Regulation, the Bill also amends the WHS Act and the WHSOLA Act to:

- remove an additional avenue for health and safety representatives and WHS entry permits holders to request information contained in improvement, prohibition and non-disturbance notices from the regulator prior to this provision commencing; and
- make other minor and technical consequential amendments to give effect to this removal.

Detailed particulars about the amendments contained in the Bill, and how these achieve the policy objectives, are included below.

Electrical safety

Electrical equipment defect notices

The Bill confirms the regulation-making power to prescribe a specific head of power for electricity entities to give electrical equipment defect notices.

Clause 6 of the Bill provides a clearly defined and limited power for a regulation to provide for an entity, or a class of entities, to give notices requiring action to be taken in relation to defective electrical equipment.

Clarifying this regulation-making power removes any doubt that electricity entities are able to give electrical equipment defect notices under section 74 of the ES Regulation, and ensures that this long-standing practice continues.

Clause 7 of the Bill provides for the validation of any past notices given by electricity entities before the proposed amendment to clarify the regulation-making power commences.

Electricity entities have given electrical equipment defect notices in good faith of there being a sufficient head of power since the ES Act, and the relevant regulations, were first introduced in 2002. The retrospective validation of past notices is limited in application, and is intended to avoid doubt and confirm the long-standing practice of protecting against electrical safety risks where an electricity entity undertaking their duties under the ES Act or ES Regulation identifies defective electrical equipment under a person's control.

Unsafe equipment directions

Clause 4 of the Bill provides a robust regulatory framework and modernises the regulator's long-standing power to give directions about unsafe electrical equipment.

In addition to elevating this power to the ES Act from the ES Regulation, further clarity and certainty about the operation of unsafe equipment directions is provided by:

- clarifying the existing application to allow the regulator to prohibit the sale, installation or use of an item of electrical equipment or a type of electrical equipment if it is unsafe;
- setting out the grounds for the regulator to give an unsafe equipment direction and other matters the regulator may consider in doing so;
- specifying that a set period of not more than 10 years applies;
- ensuring natural justice for a person to seek an external review of the regulator's decision by the Queensland Civil and Administrative Tribunal (QCAT);
- requiring the regulator to publish a copy of each unsafe equipment direction and a notice with sufficient information for a person to apply for a QCAT review on the department's website, and to give a copy of the direction and information notice to a person selling the unsafe equipment.

Noting the significant and potentially wide-reaching impact on Queenslanders, the Bill confirms that the regulator cannot delegate its power to give an unsafe equipment direction. A decision to prohibit the sale, installation or use of such equipment must be given personally by the regulator.

Failure to comply with an unsafe equipment direction is an offence of up to 40 penalty units, which is aligned with the offence currently prescribed by section 192 of the ES Regulation.

Clause 7 of the Bill includes transitional arrangements to clarify the treatment of certain prohibitions that were gazetted in accordance with section 192 of the ES Regulation. Seven gazetted prohibitions from 2013 to 2024 relating to the sale, use and/or installation (as a subset of use) will continue to have effect as unsafe equipment directions for a further period of ten years.

Any other prohibitions which are not specified in this transitional arrangement will cease to have effect on commencement of unsafe equipment directions in the ES Act.

The Bill also makes other minor consequential amendments to the ES Act and ES Regulation, including simultaneously omitting section 192 of the ES Regulation under clause 9; ensuring unsafe equipment directions are effective; and to align similar provisions for electrical safety notifications with contemporary drafting practices.

Work health and safety

Clause 12 of the Bill omits section 52 of the WHSOLA Act. This provision, if proclaimed to commence, would amend the WHS Act to introduce new section 155A (Power of regulator to give particular information to particular persons).

Omitting this additional avenue to request information before it commences will mean that health and safety representatives and WHS entry permit holders will not be entitled to request particular information contained in improvement notices, prohibition notices or non-disturbance notices from the regulator. However, they will continue to be entitled to rely on existing mechanisms to access WHS information under the WHS Act for workers they represent. This omission in no way changes existing rights to information under the WHS Act.

To give effect to this objective, the Bill also makes a minor consequential amendment to the WHS Act to remove a reference to section 155A. A further minor consequential change is proposed to omit section 9 of the WHSOLA Act, which would have amended section 32(3) of the *Safety in Recreational Water Activities Act 2011* to include a reference to section 155A.

Alternative ways of achieving policy objectives

The policy objectives can only be achieved by legislative amendment.

Estimated cost for government implementation

Electrical safety

No additional administrative costs to Government will be introduced by providing further clarity to the requirements for electrical equipment defect notices or unsafe equipment directions. Any implementation costs will be managed through the existing resources of the Office of Industrial Relations.

Work health and safety

There are no costs to Government associated with not proceeding with the additional avenue for health and safety representatives or WHS entry permit holders to request or receive information contained in certain notices from the regulator.

Consistency with fundamental legislative principles

The Bill has been drafted having regard to the fundamental legislative principles in the *Legislative Standards Act 1992*.

Electrical safety

Potential breaches of fundamental legislative principles for the proposed amendments to the electrical safety framework are considered justified and reasonable and are addressed below.

ES Act – electrical equipment defect notices – sufficient regard to the rights and liberties of individuals (Legislative Standards Act 1992, section 4(2)(a))

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

Clause 6 of the Bill amends section 210 of the ES Act to confirm that an electricity entity can give an electrical equipment defect notice under section 74 of the ES Regulation. Clause 7 of the Bill also inserts a provision to validate any electrical equipment defect notices given previously.

The confirmation of the regulation-making power related to electricity entities is considered justified and reasonable. While the power may infringe on the rights and liberties of individuals (in that an electrical entity may require a person to fix any defect affecting an item of equipment's electrical safety), confirming that electricity entities can give electrical equipment defect notices is the most practical approach for ensuring electricity entities can fulfil their duties under the ES Act. In particular, section 29 of the ES Act requires electricity entities to make sure their works are electrically safe and are operated in a way that is electrically safe.

Electricity entities are not, and will not, be able to exercise any additional powers or functions under the ES Act as a result of the proposed amendments.

ES Act – electrical equipment defect notices – makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (Legislative Standards Act 1992, section 4(3)(a))

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, amongst other things, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

Clause 6 of the Bill amends section 210 of the ES Act to confirm that an electricity entity can give an electrical equipment defect notice under section 74 of the ES Regulation. In doing so, the Bill maintains the status quo in relation to natural justice associated with electrical equipment defect notices. Currently, there is no right to seek a review of a defect notice given by an electricity entity under section 74 of the ES Regulation.

While there is no specific right of review in the ES Act, a person aggrieved by the decision of an electricity entity to give a defect notice may be entitled to request a review of this decision under the *Judicial Review Act 1991*.

A review of natural justice principles will be undertaken as part of the sunset review of the ES Regulation, including in relation to section 74 of the ES Regulation. It is also noted that, while not currently subject to review processes, the ability for an electricity entity to give electrical equipment defect notices is aligned with the ES Act's purpose to eliminate the human cost to

individuals, families and the community of death, injury and damage to property that can be caused by electricity.

ES Act – electrical equipment defect notices – allows the delegation of administrative power only in appropriate cases and to appropriate persons (Legislative Standards Act 1992, section 4(3)(c))

Section 4(3)(c) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, amongst other things, the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons.

Clause 6 of the Bill amends section 210 of the ES Act to confirm the long-standing practice of an electricity entity can give an electrical equipment defect notice under section 74 of the ES Regulation. In turn, this will confirm a delegation of an administrative function to electricity entities (who may be a non-government entity) that may have otherwise been performed by electrical safety inspectors authorised under the ES Act.

Confirming the ability for an electricity entity to give electrical equipment defect notices is the most practical and reasonable approach for the exercise of this administrative power. Although electrical safety inspectors are also able to give these notices, practically, the majority are issued by electricity entities due to their duties under the ES Act and their active role providing safe, reliable and efficient energy services throughout Queensland.

It is highlighted that electricity entities have been giving these notices appropriately and reasonably to Queenslanders to protect against the risks of electricity for more than twenty years. It is further noted that the provision is specifically limited to provide that electricity entities can only give notices which ‘require action to be taken in relation to defective electrical equipment’, and the provision does not provide a general power to give notices more broadly.

Electricity entities are not, and will not, be able to exercise any additional powers or functions under the ES Act as a result of the proposed amendments in the Bill. Enforcement action for a failure to comply with an electrical equipment defect notice can only be taken by the regulator and, ultimately, the independent Office of the Work Health and Safety Prosecutor, if necessary.

ES Act – electrical equipment defect notices – not adversely affecting rights and liberties, or imposing obligations, retrospectively (Legislative Standards Act 1992, section 4(3)(g))

Section 4(3)(g) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, amongst other things, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

Clause 7 of the Bill retrospectively validates past electrical equipment defect notices (new section 260), thereby imposing obligations retrospectively. However, this approach is considered appropriate as electricity entities have given electrical equipment defect notices in good faith of there being a sufficient regulation-making power since the ES Act and the relevant regulations were first introduced in 2002.

The retrospective validation of past notices is limited in application, and is intended to avoid doubt and confirm the long-standing practice of protecting against electrical safety risks where an electricity entity undertaking their duties under the ES Act or ES Regulation identifies defective electrical equipment under a person's control.

ES Act – unsafe equipment directions – sufficient regard to the rights and liberties of individuals (Legislative Standards Act 1992, section 4(2)(a))

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

Clause 4 of the Bill inserts a power (new section 122D) for the regulator to give an unsafe equipment direction that prohibits a person from selling, installing or using certain electrical equipment if it is unsafe. This is a power currently prescribed to the regulator under section 192 of the ES Regulation, (without providing specific guidance on installation as a subset of 'use'), which will be simultaneously omitted under clause 9 of the Bill.

While the new power infringes on the rights and liberties of individuals, it is necessary in order to maintain electrical safety standards and achieve the purpose of the ES Act, noting that an item or type of electrical equipment that does not meet the required electrical safety standards has a higher chance of causing an electrical hazard such as fire, injury or death.

Given the scope and gravity of the prohibition power on Queenslanders, it is considered more appropriate that these directions be given under the authority of the ES Act, rather than the ES Regulation. This approach is consistent with issuing electrical safety notifications under section 206 of the ES Act. Confirming the right of individuals to challenge these directions through an external review to QCAT will balance the potential infringement with appropriate natural justice mechanisms.

The Bill maintains the status quo for the regulator to notify sellers of an unsafe equipment direction. This may be viewed as limiting direct communication with a person who has purchased the electrical item. However, sellers are best placed to identify, contact and notify affected consumers through existing sales and distribution records, and in practice, the Electrical Safety Office actively works with sellers to ensure those impacted are notified and electrical safety issues are quickly addressed. The regulator also publishes, and will continue to publish, the unsafe equipment direction notice on the department's website to ensure broad coverage to all persons affected.

ES Act – unsafe equipment directions – does not reverse the onus of proof in criminal proceedings without adequate justification (Legislative Standards Act 1992, section 4(2)(d))

Section 4(3)(d) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether, amongst other things, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.

The offence and associated penalties in new section 122D of the ES Act that apply should a direction not be complied with are consistent with that under section 192 of the ES Regulation. The offence requires a reverse onus of proof, in that a person must demonstrate they have a reasonable excuse for failing to comply with an unsafe equipment direction. This approach is

considered justified as the existence of a reasonable excuse will generally only be a matter within that person's knowledge. It is also consistent with existing requirements in the ES Act which places the evidential burden on a defendant to demonstrate their reasonable excuse (e.g. failing to comply with the regulator's request for information under section 122C of the ES Act).

Work health and safety

Proposed amendments to the work health and safety framework are generally consistent with fundamental legislative principles. Removing the additional avenue for health and safety representatives and WHS entry permit holders to obtain information in relevant notices from the regulator does not infringe on the rights and liberties of individuals as this information sharing provision has not yet commenced.

There are also existing ways for health and safety representatives and WHS entry permit holders to access WHS information, including in consultation with the PCBU, as a function of their powers or rights to investigate WHS matters as part of their roles, and through the *Right to Information Act 2009*.

Consultation

The proposed amendments to the ES and WHS frameworks were not released for community consultation. The Parliamentary Committee process will provide an appropriate forum for the community and any impacted persons to raise issues in relation to these proposed amendments.

Consistency with legislation of other jurisdictions

Electrical safety

Electrical equipment defect notices

Most other jurisdictions provide for an electricity entity to give a defect notice requiring that defective electrical equipment or installations be fixed. However, there are differences across jurisdictions regarding the legislation used to achieve this, core definitions and how powers are delegated.

Unsafe equipment directions

The majority of jurisdictions have specific powers for the relevant regulator (or Minister) to prohibit the sale, supply, hire and/or use of unsafe electrical equipment in their equivalent of the ES Act, rather than prescribing this power by regulation. Queensland will be the only state specifically empowered to prohibit the installation, as a subset of use, of unsafe electrical equipment.

Work health and safety

Removing the additional avenue for health and safety representatives and WHS entry permit holders to request information contained in certain notices from the regulator will re-align Queensland with other states and territories.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Electrical Safety and Other Legislation Amendment Act 2025*.

Part 2 Amendment of Electrical Safety Act 2002

Clause 2 states that this part amends the *Electrical Safety Act 2002*.

Clause 3 amends section 122B (Delegation by regulator) by inserting new subsection (2) to provide that the regulator cannot delegate a power under new sections 122D or 122E. This means that a decision under these sections is made by the regulator personally, which will also confirm the appropriate rights of review under Part 12 of the *Electrical Safety Act 2002*.

Clause 4 inserts new section 122D (Unsafe equipment directions) which provides that the regulator may, by gazette notice, give certain directions regarding the sale, installation, or use of particular items of electrical equipment, or types of electrical equipment (an unsafe equipment direction). Section 122D elevates and modernises former section 192 of the *Electrical Safety Regulation 2013*, which is being simultaneously omitted under clause 9.

New section 122D(1) provides that, to make an unsafe equipment direction, the regulator must be satisfied on reasonable grounds that an item of electrical equipment, or type of electrical equipment is, or is likely to become, unsafe in use, or has inadequate information marked on, or accompanying, the equipment.

Under new section 122D(7), in considering whether there are reasonable grounds to give an unsafe equipment direction, the regulator may consider any relevant standards which provide for safety requirements about electrical equipment, and any other relevant matters.

New section 122D(3) provides that an unsafe equipment direction under new section 122D must state the person, or class of persons, to whom the direction applies. An unsafe equipment direction must also state the period of time for which the direction applies. That stated period of time must not be for more than 10 years. However, to avoid any doubt, new section 122D(4) provides that the same unsafe equipment direction may be given more than once in relation to the same electrical equipment or type of electrical equipment.

Under new section 122D(5), a person to whom the direction applies must comply with the direction, unless the person has a reasonable excuse. The evidential burden is on the defendant (a person affected by a direction) to show a reasonable excuse for the purpose of this section. A maximum penalty of 40 penalty units may apply.

Under new section 122D(8), the regulator must publish on its website a copy of the unsafe equipment direction and a notice complying with section 157(2) of the *Queensland Civil and Administrative Tribunal Act 2009* for the decision to give the unsafe equipment direction.

Under new section 122D(9), when an unsafe equipment direction is given under new subsection (2)(a), the regulator must give a copy of the relevant direction and compliant notice to each person the regulator knows to be, or is likely to be, a seller of the item or type of electrical equipment to which the direction applies.

A note is included under new section 122D(9) to clarify that for an unsafe equipment direction given under new subsection (2)(b) or (c), the section 157(1) of the *Queensland Civil and Administrative Tribunal Act 2009* should be referred to in relation to the requirement for giving written notice of a decision.

For the avoidance of doubt, new section 122D(10) clarifies what does not constitute a reasonable excuse for a person not complying with an unsafe equipment direction. For a direction under new subsection (2)(a) related to the sale of an item, it is not a reasonable excuse if the person is not given a copy of the direction or the compliant notice. For a direction under new subsections (2)(b) or (c) related to the installation or use of an item, it is not a reasonable excuse if the person is not given a copy of notice complying with the *Queensland Civil and Administrative Tribunal Act 2009*. This distinction between directions given under new subsections (2)(a) and (2)(b) and (c) is made on the basis that the regulator is not required to give a copy of a direction made under subsections (2)(b) or (c).

Clause 5 omits section 206(3)(b) (Electrical safety notification), which provided that, amongst other matters, the regulator may only issue an electrical safety notification if the decision to issue the notification is made by the regulator personally. The omission of section 206(3)(b) is a consequential change following the amendment being made under clause 3 to section 122B in clarifying which particular regulator powers can be delegated. This clause also consequentially renumbers section 206(3)(c) to 206(3)(b).

The clause further relocates section 206 from Part 14A, Division 2 to be in Part 10, Division 1, and subsequently renumbers the section as new section 122E.

Clause 6 amends section 210 (Regulation-making power) to insert new subsection (6), which provides that a regulation may provide for an electricity entity, or class of electricity entities, to give notices requiring action to be taken in relation to defective electrical equipment.

Clause 7 inserts new Part 24, which provides a validation and transitional provision for the *Electrical Safety and Other Legislation Amendment Act 2025*.

New section 260 (Definition for part) provides that, for new Part 24, the word ‘new’, in relation to a provision of the Bill, means the provision as in force from the commencement of the Bill. For example, a reference in this part to ‘new section 122D’ means section 122D as amended by clause 4 is in force following commencement of the Bill.

New section 261 (Validation of notices given by electricity entities before commencement) provides that a notice given by an electricity entity to a person in control of electrical equipment about a defect prior to commencement of new section 210 is taken to be, and to always have been, valid as if new section 210 had been in force at the time the notice was given.

This validation ensures notices given by an electricity entity to a person in control of electrical equipment about defective electrical equipment prior to commencement of the Bill continue to operate and are valid as if they were notices that had been given following commencement of new section 210 (as amended by clause 6).

New section 262 (Continuation of particular prohibitions as unsafe equipment directions) provides that certain prohibitions made under former section 192 of the *Electrical Safety Regulation 2013* that are in effect immediately before commencement of the Bill continue to be in effect from commencement, as unsafe equipment directions under new sections 122D.

This transitional arrangement applies to the seven gazetted prohibitions identified in new section 262(8).

New subsection (2) provides that the three prohibitions published in the gazette on 11 October 2013 (page 207), 23 December 2014 (page 563), and 9 October 2015 (page 175) (collectively referred to in the Bill as ‘continuing installing prohibitions’) that prohibit the sale and installation of an item or type of electrical equipment, are to continue in effect from commencement of the Bill as if they were each unsafe equipment directions given under new sections 122D(2)(a) and (b).

New subsection (3) provides that the four prohibitions issued on 10 May 2017 (page 29), 9 June 2020 (page 331), 6 July 2022 (page 345), and 6 March 2024 (page 337) (collectively referred to in the Bill as ‘continuing use prohibitions’) that prohibit the sale and use of an item or type of electrical equipment, are to continue in effect from commencement of the Bill as if they were each unsafe equipment directions given under new section 122D(2)(a) and (c).

This arrangement ensures the operation of these seven existing prohibitions is maintained and brings the prohibitions into the new, modernised ‘unsafe equipment direction’ framework, as established under clause 4. Any other gazetted prohibitions before the commencement of the Bill which are not specifically identified under section 262(8) cease to have effect on commencement of the Bill, as confirmed in section 262(7).

For the avoidance of doubt, new subsection (6) declares that, for the purposes of new subsection (2) (which relates to ‘continuing installing prohibitions’), a reference in former section 192 or repealed section 126D of the *Electrical Safety Regulation 2002* to prohibiting the ‘use’ of an item of electrical equipment, or type of electrical equipment, is taken to have always included a reference to ‘installing’ the item.

The inclusion of new subsection (6) clarifies that installation is to be regarded as always having been a subset of ‘use’ for the purposes of former section 192 of the *Electrical Safety Regulation 2013* and repealed section 126D of the *Electrical Safety Regulation 2002*. New section 122D, in establishing the modernised unsafe equipment directions framework, will explicitly delineate between directions given for sale, installation and use to provide all affected persons with greater clarity on the exact nature of the prohibition.

Following commencement of the Bill, the seven identified existing prohibitions are to be regarded as unsafe equipment directions that were given by the regulator personally, published on the commencement date of the Bill, stated for a 10-year period, and included the matters mentioned in new section 122D(3)(c).

As the existing prohibitions were given in accordance with former section 192 of the *Electrical Safety Regulation 2013*, new section 262(4) clarifies that new section 122D(8) and (9) do not apply to any of the seven gazetted prohibitions identified in new sections 262(2) or (3). This means that the regulator is not required to publish or give copies of the existing prohibitions or compliant notices on commencement, as these prohibitions have already been given and are continuing.

For the avoidance of doubt, new section 122D(10), which provides for what is not a reasonable excuse for a person in failing to comply with an unsafe equipment direction, applies to the seven existing prohibitions. This ensures, irrespective that new sections 122D(8) and (9) are not enlivened, that a person cannot purport to have a reasonable excuse for non-compliance with a continuing prohibition on the basis of not being given a copy of the relevant documents.

Part 3 Amendment of Electrical Safety Regulation 2013

Clause 8 provides that this part amends the *Electrical Safety Regulation 2013*.

Clause 9 omits section 192 (Regulator may prohibit the sale or use of electrical equipment on safety grounds), which provided that the regulator may, by gazette notice, prohibit the sale or use by any person of an item of electrical equipment, or items of electrical equipment of a particular type, in certain circumstances. Under clause 4, section 192 has been elevated from the *Electrical Safety Regulation 2013* and modernised in being included in new section 122D of the *Electrical Safety Act 2002*.

Part 4 Amendment of Work Health and Safety and Other Legislation Amendment Act 2024

Clause 10 provides that this part amends the *Work Health and Safety and Other Legislation Amendment Act 2024*.

Clause 11 omits section 9, which proposed to amend section 32(3) (Amendment of s 32 (The regulator)) of the *Safety in Recreational Water Activities Act 2011* to omit the reference to ‘section 155’ and to insert in its place the words ‘section 155A’. This amendment is a consequential change due to the omission of section 52 of the *Work Health and Safety and Other Legislation Amendment Act 2024* under clause 12.

Clause 12 omits section 52 (Power of regulator to give particular information to particular persons), which proposed to insert new section 155A into the *Work Health and Safety Act 2011*, to enable the regulator to give particular information contained in particular notices issued by a work health and safety inspector to a health and safety representative for a worker for the workplace to which the relevant notice relates, or to a WHS entry permit holder representing a relevant union for a relevant worker for the workplace to which the relevant notice relates.

Clause 13 omits section 64(1) (Amendment of s 271 (Confidentiality of information)), which proposed to amend section 271 of the *Work Health and Safety Act 2011* to insert a new subsection to clarify that the section also applied if a person mentioned in section 155A(3)(a) or (b) obtained information under that section. This amendment is a consequential change due to omission of section 52 of the *Work Health and Safety and Other Legislation Amendment Act 2024* under clause 12.

Part 5 Other amendments

Clause 14 provides that schedule 1 of the Bill amends the legislation it mentions.

Schedule 1 Other amendments

Schedule 1 makes consequential amendments to the following Acts:

- the *Electrical Safety Act 2002* to amend section 35(1) (Additional duties of designer, manufacturer, importer or supplier of electrical equipment) to remove the reference to ‘section 206’ in the note, and to insert in its place the words ‘section 122E’, as a consequence of the relocation of section 206 to new section 122E. The definition of *electrical safety notification* under schedule 2 is also amended to omit the reference to ‘section 206’ and to insert in its place the words ‘section 122E’.
- the *Work Health and Safety Act 2011* to amend section 271A(1) (Additional ways that regulator may use and share information) to remove the words ‘or (1A)’, as a consequence of the omission of section 64 of the *Work Health and Safety and Other Legislation Amendment Act 2024* under clause 13.