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The Electrical Safety Bill 2002 (Qld)

The Electrical Safety Bill 2002 (Qld) and supporting Regulation will give effect to recommendations of the *Ministerial Electrical Safety Taskforce Final Report* and the *Ministerial Review of the Electrical Safety Office Final Report* and responds to the findings of investigations of recent electrical incidents.

The Bill represents significant reform of the legislative framework and standards for the safe supply and safe use of electricity in workplaces and homes and will stand apart from the regulation of the electricity industry.

The main objective sought to be achieved is the elimination of the human cost of electricity incidents and accidents. To do this the Bill provides for –

- the appointment of a Commissioner for Electrical Safety to advise the Minister on electrical safety issues;
- the establishment of the Electrical Safety Board and committees to be managed by the Commissioner;
- the introduction of Safety Management Systems for prescribed electricity entities;
- providing for safety through licensing and disciplining of persons who perform electrical work and protection for consumers against failures of those persons to properly perform or complete the work;
- imposing obligations on persons who may affect the safety of others through their acts or omissions; and
- the making of regulations, codes of practices and ministerial notices about electrical safety.

The legislation will apply to all places where electricity is transmitted or consumed and will include workplaces, domestic residences and public places.

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1 INTRODUCTION

The [Electrical Safety Bill 2002 \(Qld\)](#) (the Bill) was introduced into the Queensland Legislative Assembly by the Hon G R Nuttall MP, Minister for Industrial Relations, on 7 August 2002. It represents significant reform of the legislative framework and standards for the safe supply and safe use of electricity in workplaces and homes in order to meet community standards and the needs of today. For the first time, electrical safety will be separated from the regulation of the electricity industry, ensuring more independence, transparency and accountability.¹

The main objective sought to be achieved is the elimination of the human cost to individuals, families and the community of electricity incidents and accidents. The legislative framework to attain this goal includes –

- the appointment of a Commissioner for Electrical Safety to advise the Minister on electrical safety issues and to manage the activities of the Electrical Safety Board and its committees;
- the establishment of the Electrical Safety Board and committees (to replace the existing Electrical Health and Safety Council) to enable industry and public participation in developing strategies to improve: electrical safety; standards of electrical equipment and licensing; and to promote electrical safety awareness;
- the introduction of Safety Management Systems for prescribed electricity entities;
- providing for safety through licensing and disciplining of persons who perform electrical work and protection for consumers against failures of those persons to properly perform or complete the work;
- imposing obligations on persons who may affect the safety of others through their acts or omissions; and
- the making of regulations, codes of practices and ministerial notices about electrical safety.

The legislation will apply to all places where electricity is transmitted or consumed and will include workplaces, domestic residences and public places.

¹ Hon G R Nuttall MP, Minister for Industrial Relations, Electrical Safety Bill 2002 (Qld), Second Reading Speech, *Queensland Parliamentary Debates* pp 2722-2724, p 2723.

To meet additional costs associated with the new laws, the Bill will require distribution entities to make an electrical safety contribution based on customer numbers.

2 QUEENSLAND ELECTRICAL ACCIDENTS

Between 1990 and 2000, there were 116 deaths in the following categories: electrical workers in the electricity supply industry (5); electrical workers in general industry (13); other workers (28) and the general public (71). Around two non-fatal electrical incidents are reported daily.²

During 1999-2000, electricity deaths were greatest for non-electrical workers (50%), followed by the public (30%). Interestingly, electrical workers represented 20% of all fatalities.³

From 1995 to 2000, more Queenslanders had electricity accidents in domestic locations than in any other place (26 fatalities or 42% of all such fatalities). The next highest was in commercial settings, with 17 fatalities or 28% of all such deaths. Industrial locations were responsible for 9 fatalities, representing 15% of all electricity deaths.⁴ The main causes of electrical fatalities were from –

- powerlines (including overhead and underground wiring associated with distribution works and other customer installations) (35% of all such deaths). A number involved contact with overhead powerlines in rural workplaces and when working on cranes;
- electrical appliances such as power tools (30%);
- fixed wiring (ie permanent electrical wiring within an installation) (26%), with many accidents being due to unlicensed work or the practice of working 'live'.

Queensland has a poor electrical safety record in terms of number of fatalities per million people compared to other Australian states and also rates comparatively poorly against many countries in the western world. For the five years up to June 2000, Queensland had an average of 3.57 fatalities per million people compared to the 2.18 national average. It has the second highest electrical fatalities rate per million people, being 60%

² Queensland Government, Department of Mines and Energy, Electrical Safety Office, *Queensland Electrical Accident Statistics Report 1990-2000*.

³ Queensland Government, Department of Industrial Relations, *Ministerial Review of the Electrical Safety Office, Final Report*, July 2001, p 5.

⁴ *Ministerial Review of the Electrical Safety Office, Final Report*, p 4.

above the national average.⁵ Victoria and South Australia have among the lowest rates of electrocutions.

2.1 QUEENSLAND ELECTRICAL ACCIDENTS STATISTICS REPORT

The Government's *Queensland Electrical Accidents Statistics Report 1991-2001* reveals that –

- during the 2000-2001 financial year, the ESO recorded 10 **electrical fatalities**:
 - 2 in the electricity industry, 3 in other industries, and 5 in the public domain. Both of the 2 electricity industry deaths involved unsafe work practices;
 - 3 of the deaths were associated with powerlines, 1 with fixed wiring, and 6 deaths involved appliances;
- the rate of electrical fatalities has decreased since 1996 and in the 2000-2001 financial year was 2.8 deaths per million people (compared with 4.29 in 1991-1992 and the abovementioned average of 3.57 each year up to June 2000). The drop in numbers of deaths and hospitalisation rates may indicate a reduction in severity of electricity accidents;⁶
- however, during the 2000-2001 financial year, the ESO recorded 1,234 **non-fatal electricity accidents**, an increase of 131 over the previous year. That increase raises some concern, as every incident has the potential for fatality;⁷
- the main types of non-fatal electricity accidents involved fixed wiring (41.6%); powerlines (32.5%), appliance/hand tools (17.8%), flexible cords (6.6%), and other (1.5%);
- lack of maintenance (supply authority cases, consumer installations, and portable equipment) was identified as the main contributing factor in 50% of non-fatal electricity accidents (an increase of 0.1% over the previous year) while the other

⁵ *Ministerial Review of the Electrical Safety Office, Final Report*, p 4, citing statistics adapted from ERAC Accidental Electrocutation Data: Australia/New Zealand 1999-2000; Queensland Government, Department of Industrial Relations, 'A Review of Industry Compliance with Electrical Safety Standards and the Investigation of Serious Electrical Incidents', *Final Report of the Electrical Safety Taskforce*, April 2001.

⁶ *Queensland Electrical Accidents Statistics Report 1 July 1991 to 30 June 2001*.

⁷ *Ministerial Review of the Electrical Safety Office, Final Report*, p 6.

50% was due to misadventure, faulty work standards or unsafe working by licensed persons, or home handyperson or unauthorised work.

3 BACKGROUND

The Bill and supporting Regulation will give effect to recommendations of the *Ministerial Electrical Safety Taskforce Final Report* and the *Ministerial Review of the Electrical Safety Office, Final Report* and responds to the findings of investigations of electrical incidents over the past few years. In addition, in November 2001, the Department of Industrial Relations published the ‘Safer Workplaces, Safer Homes – Legislating Electrical Safety in Queensland,’ *Issues Paper* as a basis for consultation in relation to new electrical safety legislation.

3.1 ELECTRICAL SAFETY TASKFORCE REPORT

In May 2000, the Queensland Government established a joint Ministerial Taskforce headed by former Queensland Industrial Relations Commissioner Mr Ray Dempsey and comprising industry and union representatives. Its task was to examine and make recommendations about ways to improve electrical safety, particularly strategies to improve compliance with industry safety standards; measures to improve investigations of incidents; and a clarification of the investigation and enforcement roles of regulatory bodies.

The *Electrical Safety Taskforce Final Report of a Review of Industry Compliance with Electrical Safety Standards and the Investigation of Serious Electrical Incidents* (the [Taskforce Report](#)), was released in April 2001.⁸

The *Taskforce Report* commented that while Queensland’s electrical safety record has improved over the last 30 years, it continues to lag behind national and international comparisons. It also noted and commended the considerable electrical safety improvements made by electricity utilities at the workplace level since 1995 but said that much remains to be done before ‘best practice’ is achieved.⁹ The main issue appeared to be a level of industry non-compliance with industry standards.

The key recommendations (relevant to the Electrical Safety Bill) included the enactment of a stand-alone Electrical Safety Act based on the modern provisions of the *WH&S Act*

⁸ At <http://www.whs.qld.gov.au/taskforces/electrical/finalreportelect.pdf>

⁹ *Taskforce Report*, Executive Summary.

1995 to reflect and complement modern enforcement methods; the establishment of an independent electrical safety regulator to report to the Minister about electrical safety matters; a single body to investigate all workplace electrical incidents; and comprehensive Safety Management Plans for network operators to be monitored and enforced by the regulator.

3.2 MINISTERIAL REVIEW OF THE ELECTRICAL SAFETY OFFICE

In response to the recommendations of the *Electrical Safety Taskforce Report* and to recommendations of the Queensland Parliamentary Commissioner for Administrative Investigations (the Ombudsman) for a comprehensive management and strategic review of the Electrical Safety Office (ESO), the Minister for Industrial Relations commissioned a Ministerial Review into the Division of Workplace Health and Safety (DWHS) and the ESO.

The review of the ESO involved consultation with a number of industry stakeholders and ESO representatives and a submission process. The [*Ministerial Review of the Electrical Safety Office Final Report \(ESO Review\)*](#) was released in July 2001.¹⁰ It endorsed many of the recommendations of the *Taskforce Report* concerning legislative reforms, including the need for new, stand-alone electrical safety legislation incorporating modern enforcement tools; and a new electrical safety regulator accountable to the Minister, assisted by a newly established Electrical Safety Board.

3.3 QUEENSLAND OMBUDSMAN'S WORKPLACE ELECTROCUTION PROJECT

During 2001, the Ombudsman investigated 13 complaints about the handling of the investigations of electrical fatalities by the ESO (at the time it formed part of the Department of Mines and Energy) and the DWHS. The [*Electrical Safety Office \(ESO\)*](#) was recently transferred to the Department of Industrial Relations and is responsible for ensuring compliance by electricity entities and electrical contractors, workers, manufacturers and suppliers with the electrical safety and licensing legislation provisions of the *Electricity Act 1994*.¹¹

¹⁰ Queensland Government, Department of Industrial Relations, *Ministerial Review of the Electrical Safety Office, Final Report*, July 2001. At <http://www.whs.qld.gov.au/review/introduction.pdf>

¹¹ Information taken from the ESO homepage at <http://www.eso.qld.gov.au/esoffice.htm>

The Ombudsman is progressively issuing reports of those investigations as part of the *Workplace Electrocution Project*. In addition, in early 2000, an independent report into the electrocution of an electrical contractor, commissioned by the Department of Mines and Energy,¹² found serious shortcomings in the government's investigations of certain incidents.

The first report by the Ombudsman, issued in February 2001, concerning the investigation of the death by electrocution of Mr Nicholas Sokol, found that the investigations carried out by both agencies were severely inadequate. The ESO was used just as a 'post box', adding little to the investigative process. The Ombudsman expressed concern about duplication and overlap in the conduct of investigations by both agencies and canvassed the possibility of a single agency being responsible for the investigation of all electrical accidents.

The Ombudsman's main recommendation was for a management and strategic review of both bodies, together with a review of safety roles and safety laws under Queensland legislation. In relation to the ESO, he believed that issues such as training and competence of staff in compliance and enforcement roles, and the use of performance indicators needed to be addressed.¹³ Indeed, in his second report in April 2001, the Ombudsman criticised the strong culture that had existed within the ESO of not investigating or prosecuting apparent offences in relation to electrical accidents.¹⁴

In response to the first two reports, the Minister for Industrial Relations commissioned an independent management and strategic review into the ESO and the DWHS. In addition, new protocols have been developed.

3.4 SAFETY AUDIT

A Statewide blitz by the ESO of 1000 electrical contractors between August 2001 and February 2002 found that only five were meeting 20 key safety standards (eg using non-

¹² The former DME was responsible for electrical safety matters at that time.

¹³ Queensland Ombudsman, *A review of the investigations undertaken by the Department of Employment, Training and Industrial Relations and the Department of Mines and Energy concerning the electrocution death of Nicholas Sokol at his place of work: The Workplace Electrocution Project, Part 1*, February 2001.

¹⁴ *Ministerial Review of the Electrical Safety Office, Final Report*, p 1, citing the Ombudsman's Kirmos Report - *The Workplace Electrocution Project, Part 2*, April 2001.

conductive ladders, insulated tools, or safety footwear).¹⁵ 200 contractors who recorded a number of non-compliances were re-audited. Around 70% had shown a marked improvement in their operations but some still had numerous problems.

It is understood that 29 contractors had been referred to the Electrical Workers and Contractors Board.¹⁶ The audit considered three factors that have contributed to deaths and injuries of electrical workers. One of those was contractors' practice of working 'live' (examined further later in this Brief). The audit sought to focus ways in which the ESO can better target its programs through improving information about actual field practices.

4 CURRENT LEGISLATIVE FRAMEWORK

The two main pieces of legislation covering electrical safety in Queensland are the *Electricity Act 1994* (including the *Electricity Regulation 1994* and the *Electricity (Electrical Articles) Regulation 1994*) and the *Workplace Health and Safety Act 1995* (and associated Regulations). The *Electricity Act* sets out a framework for the commercial operation of the electricity industry, regulates the industry, and the use of electricity. It also addresses safety matters and the investigation of electrical accidents. The *WH&S Act* covers risks and hazards in the workplace, and also includes electricity dangers. Thus, there is considerable potential for overlap.

The *ESO Review* noted that stakeholders recognise that the current *Electricity Act* fails to provide a sufficient framework for adequately setting or enforcing appropriate safety standards for the electricity industry and no longer reflects new technological developments or changes in workplace practices. It supported the key legislative shortcomings identified by the *Taskforce Report* which will be discussed in the appropriate context when considering the provisions of the Bill.

5 ELECTRICAL SAFETY REFORM PACKAGE

The Government has responded to the recent reviews with the introduction of the Electrical Safety Reform Package, of which the new stand-alone Electrical Safety Bill is part. Important aspects of the Package and associated reform measures, including new Regulations to support the Bill, are briefly examined prior to a consideration of the Bill itself.

¹⁵ David Potter, 'New cherry picker safety counts', *Courier Mail*, 16 July 2002, p 3.

¹⁶ David Potter, 'New cherry picker safety counts'.

5.1 SAFETY SWITCHES

A 'safety switch' is an electrical device that senses electrical current imbalance between the current flowing in the active and neutral conductors of a circuit and 'cuts off' the power before the current going through a person is able to reach a point where it is likely to cause injury or death from electrocution.¹⁷ Power is disconnected in 0.03 of a second (a 30th of a heartbeat) if a leakage of electric current to earth through faulty appliances or incorrect wiring is detected. Examples are where a person is placing vegetables into a faulty electric wok; or a screw is inserted into a wall to hang up a picture and comes into contact with the power circuit wiring.

In the 10 years up to December 2001, there was an average of 3 fatalities each year that may have been prevented by a safety switch in the home.

Under the *Electricity Regulation 1994* (Qld), electrical installations (ie a group of items of electrical equipment that are permanently connected together, for example, the wiring, power points, lighting permanently connected for each shop in a shopping centre) must be wired in accordance with the Australian New Zealand Standard AS/NZS 3000 – Electrical Installations Wiring Rules 1991 (the Wiring Rules). The Wiring Rules require that domestic dwellings constructed since June 1992 have a safety switch installed on power circuits and that all new houses built after 1 June 2000 must have a safety switch installed on power and lighting circuits. Until the new Regulation now under discussion, houses built before 1992 did not need to have a safety switch.

It has been estimated that at least 500,000 homes do not have safety switches. Yet the simplest and least expensive option, involving a single safety switch for power circuits leading to the general purpose socket outlets, costs around \$200. It will not consume any electricity once installed, having a purely protective function. It is claimed that a safety switch can work effectively for over 20 years if installed and maintained correctly.¹⁸

The *Electrical Safety Regulation* will be amended to require that, from 1 September 2002, safety switches must be installed in all domestic homes within 3 months of the sale of the home. The seller will have to declare (in the standard sales contract and property transfer form) whether a safety switch has been installed but it is the buyer's responsibility to ensure that it is installed within three months of purchase.¹⁹ The new laws will be

¹⁷ Queensland Government, Department of Industrial Relations, *Regulatory Impact Statement - Proposed Regulation for the Provision of Safety Switches in Domestic Dwellings under the Electricity Regulation 1994*, January 2002, (RIS) p 2.

¹⁸ RIS, p 11.

¹⁹ Electricity Amendment Regulation (No 3) 2002 (Qld).

accompanied by an advertising campaign to encourage people to install safety switches in their homes even if they are not intending to sell.

Electrical contractors will not be permitted to perform electrical installation work on the home, except in an emergency and 'make safe' situation, unless it is to install a safety switch.

In terms of workplaces, the *WH&S Act 1995* and the *WH&S Regulation 1997* have the effect of requiring that all equipment in a workplace be connected to a safety switch either at the switchboard or via a lead that must be connected to a portable safety switch.

5.2 WORKING 'LIVE'

There have been 9 deaths in the past 10 years attributable to live work. As noted earlier, a safety audit coordinated by the ESO of 1000 randomly chosen electrical contractors, targeted three factors that have contributed to recent fatalities and injuries of electrical workers. A major problem in the contracting industry was found to be the common practice of 'live' work where the worker is exposed to live conductors or apparatus directly or indirectly, through tools or testing instruments. Examples include fitting circuit breakers within an energised switchboard; fault finding on live circuits. In a competitive industry, there is increased pressure on contractors to perform live work, particularly in businesses or organisations that operate 24 hours per day (eg casinos, nightclubs).

The audit found that few companies had any policies allowing live work to take place safely. In most instances, sections of the installation can be isolated to allow work to be done safely on the installations. It is essential that policies are in place requiring that if live work must be performed, a risk assessment is undertaken to determine if it can be safely carried out and control measures adopted to minimise the risk of harm. Those requirements are covered in a recently introduced Australian Standard and the Queensland Electrical Contracting Industry Code.

However, new Regulations will be introduced to impose tight restrictions on live work, prohibiting it from being undertaken unless there is no reasonable alternative. A risk assessment will first have to be undertaken to assess its safety. An example provided by the ESO is that the Regulation may permit live electrical work on traffic lights at a major intersection but only following a documented risk assessment of the work.²⁰

²⁰ ESO, 'Frequently Asked Questions – New Electrical Safety laws' at <http://www.eso.qld.gov.au>

The electricity supply industry has developed a number of systems, procedures, training, protective equipment etc to enable work to be carried out safely where it is impractical to stop supply to large residential or industrial areas.²¹

5.3 WORKING AROUND LIVE PARTS AND OVERHEAD POWERLINES

At present, the *Electricity Regulation 1994* sets out the requirements for employers of persons working on or near an electric line or installation. Electrical work must not be performed by direct contact with, or in proximity to, exposed high voltage conductors or parts of high voltage electrical articles unless they are isolated from supply sources and earthed. Strict requirements also apply to indirect contact in the same circumstances. Provisions about minimum clearance distances; protective clothing; insulated tools; safe work practices etc. are included.

Under the *WH&S Regulation*, employers and self-employed persons must consult with a relevant authority (usually the electricity entity) if any person or equipment may come within 2 metres of an overhead powerline. There is no requirement upon the electricity entity to issue any safety precautions. The law does not apply to electrical workers on the basis that requirements for those persons are in the electricity legislation. Thus, workers such as painters, builders, and crane operators are not covered by the more comprehensive provisions of the *Electricity Regulation*.

New Regulations will set out a new set of requirements, eg safe approach distances, for all persons working around live parts (eg persons trimming trees and crane operators). It will be accompanied by a code of practice to establish safe systems of work and assist persons in meeting their obligations by providing practical examples of how to perform work safely.

5.4 OTHER MEASURES

- the recruitment of 12 new electrical workplace health and safety inspectors authorised to audit and inspect workplaces and domestic premises;
- a new investigations and prosecutions unit to investigate workplace and domestic electrical fatalities and serious accidents; and
- electrical safety public awareness campaigns.

²¹ 'Legislating Electrical Safety in Queensland,' *Issues Paper*, November 2001, pp 15-17.

6 MAIN FEATURES OF THE ELECTRICAL SAFETY BILL

The Electrical Safety Bill 2002 presents a completely new model for the regulation of electrical safety. Safety provisions will be removed from the *Electricity Act*, ensuring that the latter deals only with the commercial aspects of the electricity industry.

In situations where the *WH&S Act* and the new Bill both apply, the Bill will take precedence.

The Bill proposes to have extensive coverage, applying to all persons, workplaces, domestic premises, and public places. However, there are some exclusions, generally where a legislative framework for safety already exists. Also, only the electrical safety obligation provisions will apply to the design of electrical equipment that provides electrical traction or signalling for a railway.

Terms that are used in the new Bill and throughout this Brief sometimes have complex definitions. These are explained in the Department of Industrial Relations' [*Electrical Safety Bill 2002 – The Guide*](#).²² A general feature of the new legislation is a requirement that persons and property be 'electrically safe' which means that all persons must be free from electrical risk (of death, shock or injury) and property must be free from electrical risk (ie from damage caused by cathodic protection systems or by electricity).

The *Taskforce Report* and the *ESO Review* both suggested that a levy could be imposed on electricity entities to resource the initiatives to be introduced under the Bill. The new provisions will require electricity distribution entities to make a contribution to increased administration costs, based on customer numbers.

6.1 COMMISSIONER FOR ELECTRICAL SAFETY

Under s 62 of the *Electricity Act*, the Under-Treasurer is currently the Regulator whose functions include ensuring compliance with safety requirements under the legislation; ensuring that only suitable persons become electricity entities; and reviewing and making recommendations about standards and practices; and assisting in dispute resolution. The Regulator has, in fact, delegated safety functions of the role to the ESO.

²² At http://www.eso.qld.gov.au/pdfs/bill_02/guide.pdf

6.1.1 Recommendations for Change

The transfer of the ESO from the Department of Mines and Energy (then responsible for promoting the commercial arm of the electricity industry) to the Department of Industrial Relations addressed some of the concerns about potential for a conflict between commercial interests and the ESO's safety role. However, both industry and unions support the concept of an independent regulator removed from the threat of capture by commercial interests of the electricity industry. Separation of safety considerations from commercial arrangements of industry was deemed crucial in order for the former to have priority over all other interests.²³

The *ESO Review* noted that the review team had been urged to take care in determining the options for the legal status of the regulator. For instance, the Department of Premier and Cabinet submitted that it was reluctant to support the creation of new statutory office-holders outside the normal reporting frameworks.

The *ESO Review* ultimately recommended the creation of an independent safety regulator as a statutory-officer reporting directly to the Minister for Industrial Relations with a broad-based standard setting role focusing on safety aspects.²⁴

Victoria is one of the few Australian jurisdictions with a dedicated statutory authority and independent regulator. The Office of the Chief Electrical Inspector is responsible for, among other things, electricity industry safety; and the development, administration and enforcement of standards for electrical safety. The Office oversees the registration of electrical contractors and the licensing of electrical workers and enforces standards of electrical work.²⁵ The *Taskforce Report* commented that Victoria having one of the best electrical safety records in Australia is testimony to the need for a strong and independent regulator of electrical safety.²⁶

6.1.2 Commissioner for Electrical Safety

A proposed new Part 6 of the Bill will establish a 'stand-alone' **Commissioner for Electrical Safety**. The Commissioner, to be appointed by the Governor in Council, will

²³ *Ministerial Review of the Electrical Safety Office, Final Report*, pp 15ff; Department of Industrial Relations, 'Legislating Electrical Safety in Queensland,' *Issues Paper*, p 5.

²⁴ *Ministerial Review of the Electrical Safety Office, Final Report*, pp 17-18.

²⁵ *Electrical Safety Act 1998* (Vic), Part 2.

²⁶ *Taskforce Report*, p 10.

be independent of the electricity industry and will report directly to the Minister for Industrial Relations. The appointee must have an electrical trade or qualification and professional experience in electrical safety.

The Commissioner's functions include managing the activities of the Electrical Safety Board (discussed below) and each committee (discussed below); chairing the Board and the Electrical Licensing Committee; and providing advice to the Minister about electrical safety issues and on proposed codes of practice.

6.2 ELECTRICAL SAFETY BOARD

The current Health and Safety Council (the Council) was established in 1998 to replace the Electricity Industry Safety Advisory Council (EISAC). EISAC made recommendations to the Regulator about safety issues including electrical employee training, development of safety guidelines for electrical work, working procedures for live line work and other work etc. and had, apparently, served the safety needs of Queensland's electricity industry well.²⁷ It was seen as a consultative body, having regard to interests of employee and employer groups. However, there was, apparently, some complaint by a previous director of the ESO, that EISAC was able to be influenced by unions.²⁸

The Council that took over the functions of EISAC has not received enthusiastic support among unions and consumer representatives, with the main areas of concern being the low level of employee representation and the infrequency of Council meetings for the setting of strategies and developing policy initiatives. The *ESO Review* commented that the lack of employee involvement appears to have been a deliberate attempt to stifle debate or manage contentious issues. That comment was backed by a consumer representative's submission that there was often considerable delay between the raising of an issue and the tabling of a report to have the matter dealt with.²⁹

²⁷ *Taskforce Report*, pp 54-55; *Ministerial Review of the Electrical Safety Office, Final Report*, p 22.

²⁸ *Ministerial Review of the Electrical Safety Office, Final Report*, p 23.

²⁹ *Ministerial Review of the Electrical Safety Office, Final Report*, p 23.

6.2.1 Recommendations for Change

The *ESO Review* commented that there was widespread support for the creation of a broader consultative process that represents all of the major stakeholders in a balanced way which can advise and inform the Minister and/or the Regulator of any critical issues that may need attention. It thus recommended that the existing Council be replaced by an Electrical Safety Board which will make recommendations to the Minister for improvements in safety performance with membership to reflect broad interests of the industry.

6.2.2 Proposed Electrical Safety Board

A proposed new **Part 7** of the Bill will govern the establishment of the proposed 8 member Electrical Safety Board (the Board). Its primary function will be to give advice and make recommendations to the Minister about policies, strategies and legislative arrangements for electrical safety. A number of options will be at the Board's disposal to enable it to discharge those functions (eg developing, evaluating, and updating 5 year strategic plans). It can also review the legislation, Ministerial notices and codes of practice that will be made under the Bill. It may promote electrical safety in workplaces and in the broader community to foster greater awareness of electricity risks and ways to improve safety.

A secondary function of the Board is to provide advice and make recommendations to the Regulator under the *Electricity Act*, as requested by the Regulator, about energy efficiency and performance of electrical equipment.

The Commissioner will chair the Board and membership will also comprise the chief executive plus 6 members appointed by the Minister having regard to each person's practical experience and competence in electrical safety management. In response to concerns raised during the abovementioned reviews about under-representation of worker interests, members will comprise employer group, employee group and community body representatives. To appease concerns about infrequency of the current Council's meetings, the Bill requires a minimum of four meetings a year.

6.2.3 Committees

Under **Part 8** the Board will have 3 committees –

- the **Electrical Licensing Committee** to provide advice and make recommendations about licences and training of electrical workers and contractors. It will also be able to take necessary disciplinary action against current and previous licence holders

(including investigation of complaints) and hear appeals from licensing decisions of the chief executive;

- the **Electrical Safety Education Committee** to give advice and make recommendations to the Board about promotion of electrical safety in workplaces and in the community;
- the **Electrical Equipment Committee** to provide advice and make recommendations about the safety of electrical equipment and, as a secondary function, to give advice and make recommendations about energy efficiency and performance of such equipment.

The Bill allows further advisory committees to be established to support the Board.

6.3 ELECTRICAL SAFETY OBLIGATIONS

The Bill will impose clear obligations upon persons and entities about electrical safety: **proposed new Part 2**. Enforcement of the performance of an obligation will be by way of criminal proceedings and disciplinary action. If a breach of an obligation causes death or grievous bodily harm, a person may face 2 years' imprisonment or a \$75,000 fine (\$375,000 for a corporation); and 1 year in gaol or \$56,250 fine for individuals (\$281,250 for a corporation) for a breach causing bodily harm. Defences will be provided. The obligations are understood to be consistent with workplace health and safety obligations under the *WH&S Act 1995*.

Obligations will be imposed upon a whole range of persons and entities including employers, self-employed persons, electricity entities, repairers of electrical equipment, persons in control of electrical equipment, designers or electrical equipment, etc. The **proposed new Division 2** will then set out the obligation attaching to each person or entity. For instance, electricity entities will be obliged to ensure their works are electrically safe and operated in an electrically safe way (including inspection, testing and maintenance). The [Explanatory Notes](#) provide other excellent examples.³⁰

However, it can be noted here that as a result of concerns by the Ombudsman, there will be an obligation on employers and self-employed persons to ensure the business or undertaking is conducted in a way that is electrically safe (eg inspecting and maintaining electric drills on a building site). If the business or undertaking involves carrying out electrical work, there is an obligation to ensure the safety of all persons and property likely to be affected by it (eg requiring that electricity is disconnected from circuits to be

³⁰ Electrical Safety Bill 2002 (Qld), *Explanatory Notes*, pp 12-15.

worked on). If it involves work (even if not electrical work) near exposed parts, the employer or self-employed person must ensure that the persons performing the work are electrically safe. In addition, workers will be obliged to comply with electrical safety instructions and use protective equipment etc.

An interesting example is provided by the *Explanatory Notes* regarding obligations on a person in control of electrical equipment. Such persons will include owners in control of rental housing who will have to ensure that the electrical equipment at the house remains safe such as through installing a safety switch and implementing a regular maintenance program.³¹

The **proposed new Division 3** sets out how people discharge their obligations if that is set out in a **regulation**, or in a **Ministerial notice** (if an urgent electrical risk requires such a notice to be made outlining how obligations are to be met), or under a **code of practice** (setting out practical advice about meeting obligations). For example, a regulation will deal with employers' obligations where workers are working around live parts (eg. overhead powerlines), accompanied by a code of practice.

6.4 DEFINITION OF 'ELECTRICAL WORK'

To undertake 'electrical work' a person must be licensed. The current definition of 'electrical work' under the *Electricity Act* is the 'work of installing or repairing of an electric line or electric article used for generating, transmitting, supplying or using electricity'. It applies to all voltages and all locations except for specified activities or work. The definition has been criticised as outdated in relation to technological advancements and current work practices because it focuses upon a range of activities that may not involve safety risks. Because of that, numerous exceptions have been created under the Act for work where voltages are not dangerous or there are safeguards.³²

6.4.1 Recommendations for Change

The 'Legislating Electrical Safety in Queensland,' *Issues Paper*, noted that requiring a licence to undertake 'electrical work' prevents unlicensed repairs to non-electrical parts of an electrical appliance even if unplugged from the power socket (which would mean that one cannot even remove caught toast in a toaster once the toaster is unplugged). It

³¹ Electrical Safety Bill 2002 (Qld), *Explanatory Notes*, p 14.

³² 'Legislating Electrical Safety in Queensland,' *Issues Paper*, ' p 7.

noted also that the electronics sector and electrical engineers have argued that the framework in place, where unlicensed persons cannot undertake electrical work, contributes to the poor safety record because such persons are not likely to seek training or guidance.³³

The *Issues Paper* believed that a change to the definition of ‘electrical work’ was needed and that a possible solution might be to use extra-low voltage as the threshold, ie one which is generally accepted to not pose a risk of shock or fire.

6.4.2 Proposed ‘Electrical Work’ Definition

Clause 18 will establish a new definition for ‘**electrical work**’ as the manufacturing, constructing, installing, testing, maintaining, repairing, altering, removing or replacing of electrical equipment. Examples are provided eg installing lighting or power circuits in a building; maintaining an electricity entity’s overhead distribution system.

It then sets out what is *not* electrical work through providing 10 exemptions. Many exemptions are basic, such as removing electrical equipment by disconnecting it from electricity by a plug and socket outlet (eg unplugging an electric iron); replacing a component part if designed so an unskilled person can readily and safely replace it (eg replacing a light bulb or a modem in a computer). The *Explanatory Notes* (pp 7-10) contain the complete range of exclusions and examples.

6.5 ELECTRICAL SAFETY MANAGEMENT SYSTEMS

In complex industries, such as the electricity industry, it is difficult to anticipate and provide for outcomes or standards to be achieved when the hazards and risks are so diverse, depending upon the situation or workplace involved. As a result, employers have some problems determining the ways in which to comply with their safety obligations.³⁴

6.5.1 Recommendations for Change

The *Taskforce Report* and the *ESO Review* found that there were deficiencies in the current auditing system. It was found that there were persistent faults in routine pole

³³ ‘Legislating Electrical Safety in Queensland,’ *Issues Paper*, p 8.

³⁴ ‘Legislating Electrical Safety in Queensland,’ *Issues Paper*, p 9.

inspection and maintenance, vegetation management, staff training and protective earthing maintenance and that it was of concern that significant faults have not been systematically addressed and given appropriate priority. It was also noted that at each stage of the Generation, Transmission and Distribution process there is a potential danger to both workers and the public and that statistics reveal that overhead conductors are the most significant cause of electrical accidents.³⁵

It was also noted that the performance indicators and performance measures (eg system audits, overview audits, inspections and investigations) used by the ESO appear to have had little effect in getting the message through or improving safety performance. The *ESO Review* considered that the performance indicators should be replaced by a more systematic approach that would identify, assess and control electrical hazards.

It was recommended that a new system reflecting a baseline position of safety performance with a view to continuous improvement should be considered.³⁶ It was noted that the oil industry has had mandatory safety management systems for some years and that they have recently been introduced into the mining industry and into other organisations where breakdowns can have catastrophic consequences.

The New South Wales *Electricity Supply (Safety Plans) Regulation 1997* requires each network operator to develop and implement annual safety plans to ensure the safe operation of the transmission or distribution system to which it relates. The plans comprise a safety and operations plan, a customer installations safety plan, and public safety and education awareness plan. The plans must be approved by the regulator, implemented by the operator, and audited by an independent body. The *Taskforce Report* considered that the features of the NSW approach were appropriate for Queensland.³⁷

6.5.2 Safety Management Systems for Electricity Entities

A **proposed new Part 5** provides for the development and implementation of safety management systems by a prescribed electricity entity (ie prescribed by Regulation), other than a generation entity. The maximum penalty for contravening Part 5 is \$30,000.

Clause 66 sets out the characteristics of a safety management system (SMS). Essentially, it details risks and hazards involved in a particular entity's works (recognising

³⁵ *Ministerial Review of the Electrical Safety Office, Final Report*, p 34.

³⁶ *Ministerial Review of the Electrical Safety Office, Final Report*, p 35.

³⁷ *Taskforce Report*, p 52.

that such risks and hazards vary across entities) and how they are to be managed in order to discharge the entity's safety obligations (mentioned earlier), and includes details about how the entity will ensure compliance by contractors. They are to be developed in consultation with employee representatives and contractors engaged by the entity.

The SMS is required to be periodically assessed by accredited auditors to ensure all aspects of safety have been properly addressed and validated. The *ESO Review* noted that a SMS should provide relevant mechanisms for measuring, monitoring and evaluating the performance of the SMS and for taking necessary action to prevent or correct matters that do not conform to the SMS.³⁸

A key issue when introducing safety management systems was whether to make them mandatory or to provide incentives to encourage voluntary implementation. The concern was that a mandatory approach may suffer from a lack of senior management commitment or over-emphasis on paperwork rather than creating a safety culture where employees feel consulted and involved in the process. Because of such concern, a higher level of monitoring and auditing might be required. The drawback of a voluntary approach is, however, the danger that not all entities would introduce safety management systems.³⁹ It appears that the **proposed new Part 5** adopts the mandatory approach.

6.6 'AUTHORISED PERSONS'

Electrical accidents and incidents are currently investigated by 'authorised persons' employed either by the ESO or the electricity entity. Under the *Electricity Act*, an authorised person has power to enter places to carry out safety regulatory functions or to act in emergencies but authorised persons employed by the entities have more limited powers.

An electricity entity must immediately tell the regulator upon becoming aware of a fatal or serious accident on its works or installations and, on receiving an accident report, the entity must ensure that an authorised person immediately investigates the accident and reports to the entity. Thus, the entity uses its authorised person to undertake its investigative role but the authorised person must act independently. The entity must provide the report to the regulator within 7 days of receipt, although another provision of the *Electricity Act* states that reports do not have to be provided to the ESO if the information would incriminate the entity.

³⁸ *Ministerial Review of the Electrical Safety Office, Final Report*, Appendix 9.

³⁹ 'Legislating Electrical Safety in Queensland,' *Issues Paper*, p 11.

The authorised person's activities are considered to be a community service obligation by the electricity generators, transmitters and distributors that engage them to ensure a safe supply of electricity to consumers.⁴⁰ In addition to accident/incident investigations, the authorised person has a range of other functions which include: investigation of alleged breaches of the *Electricity Act* and Regulations; auditing to ensure compliance with electrical contracting standards; inspections of hazardous and high voltage installations; responding to consumer concerns regarding safety of fixed wiring or appliances; checking homes and appliances; safety and compliance audits and rulings; ensuring compliance with standards prior to electricity supply. However, while the authorised person can issue instructions, he or she has no authority to enforce compliance.

6.6.1 Recommendations for Change

The independence of the authorised person is potentially compromised by the fact that the authorised person is generally an employee of the entity about which he or she is required to investigate and report.⁴¹ The Ombudsman was critical of the perceptions (and sometimes reality) of conflict associated with the role. This was reinforced by the *ESO Review*. A further problem is that an electricity entity is not compelled to pass on an adverse report to the ESO, if it might incriminate it.

There are also concerns raised, particularly by electrical contractors' representatives, about authorised persons auditing contractors (with whom they compete for work) to ensure compliance with standards.⁴² Of greater concern to the *ESO Review* was the current practice for only a small sample of each electrical contractor's installation work to be checked, as distributors do not regard the inspection of installation work of private contractors as part of their core business. The *ESO Review* noted that the 5000 or so contractors working in Queensland would have just one job inspected every two years and sample reports indicated breaches or non-compliances or serious defects (ie sufficient to cause shock or fire) ranging between 8% and 12%. However, deeper analysis was needed to ascertain whether the breaches were severe and, if so, what response was required.⁴³

⁴⁰ 'Legislating Electrical Safety in Queensland,' *Issues Paper*, p 17.

⁴¹ *Ministerial Review of the Electrical Safety Office, Final Report*, p 31.

⁴² *Ministerial Review of the Electrical Safety Office, Final Report*, p 33.

⁴³ *Ministerial Review of the Electrical Safety Office, Final Report*, pp 32-33.

Until fairly recently, the ESO tended to rely on the reports of the entities' own authorised persons to assist its own investigation or, indeed, used them as an alternative to that independent investigation. This was of particular concern because entities do not always pass on unfavourable reports. The Ombudsman was heavily critical of the heavy reliance on the authorised person's reports and, in response, the ESO now conducts its own investigations instead of relying on authorised persons of the entity.⁴⁴

The *ESO Review* recommended that a complete analysis be undertaken of how the authorised person performs his or her duties. If significant safety breaches were revealed, then special consideration needed to be given to transferring the role to the ESO and the Regulator, with funding issues taken into account. There may be increased costs associated with the Government taking over some of the authorised person's functions.⁴⁵

6.6.2 Proposed Provisions for Inspectors and Accredited Auditors

A **proposed new Part 10** provides for the appointment of inspectors and accredited auditors. Those persons will undertake functions currently carried out by authorised persons of the electricity entities.⁴⁶ An additional 22 senior electrical inspectors have been employed by the ESO, making a total of 38 inspectors and specialist officers.

6.7 ENFORCEMENT PROVISIONS

The *ESO Review* commented that a core element of any new legislation is the introduction of a broad range of endorsement tools that gives the enforcement agency discretion in tailoring penalties to fit the 'crime'. In most modern legislation, such as the *WH&S Act*, those tools range from warnings through to prohibition notices, improvement notices and on-the-spot fines culminating in a prosecution, depending upon the seriousness of the breach. However, the *Electricity Act* currently lacks such tools and the main enforcement mechanism is monetary penalties for breaches of safety provisions. In addition, the ESO appears to focus on prosecuting licence breaches rather than other safety breaches.⁴⁷

⁴⁴ *Ministerial Review of the Electrical Safety Office, Final Report*, p 31.

⁴⁵ 'Legislating Electrical Safety in Queensland,' *Issues Paper*, p 19.

⁴⁶ Hon G R Nuttall MP, Second Reading Speech, p 2724.

⁴⁷ 'Legislating Electrical Safety in Queensland,' *Issues Paper*, p 14.

6.7.1 Recommendations for Change

Both the *Taskforce Report* and the *ESO Review* found that there were variable penalties for similar offences between the *Electricity Act* and the *WH&S Act* with the former having considerably weaker penalties and, also, that there were inconsistencies within the *Electricity Act* penalty provisions themselves. For example, a breach causing death may attract a maximum fine of \$1,500 whereas climbing a pole can cost a person \$3,000.⁴⁸ There is also confusion about what standards are legally enforceable and the way in which the Queensland *Criminal Code* applies.

The *ESO Review* stated that competitiveness of the industry and the heavy reliance on the use of contractors are also reasons for ensuring that there is a strong regulatory system with strong and consistent enforcement and, also, that workers are competent and have the ability to work to required standards.⁴⁹

6.7.2 New ‘Enforceable Undertakings’

A **proposed new Part 3** introduces the concept of an **enforceable undertaking** as part of a holistic approach to enforcement. It is available only at the discretion of the chief executive in relation to breaches of the obligation provisions in Part 2. An entity may undertake, for example, to implement a program to prevent future breaches.

When introducing the Bill, the Minister stated that the main benefits of enforceable undertakings were that they can be publicised in order to deter other obligation holders from breaching those obligations; outcomes can be practical and broader in range so that they are tailored to fit different situations; and they can be implemented on a relatively cost neutral basis.⁵⁰

In recommending the inclusion of enforceable undertakings in the new legislation, the *ESO Review* noted that the concept is relatively new but appears to have been successfully applied within the ACCC’s jurisdiction and is being considered as a new measure under the workplace health and safety framework. It noted that care was needed to ensure that obligations under the undertaking are reasonable, clearly expressed and not unfairly obtained. They should be tailored to the particular circumstances of the matter and

⁴⁸ *Ministerial Review of the Electrical Safety Office, Final Report*, p 12.

⁴⁹ *Ministerial Review of the Electrical Safety Office, Final Report*, p 34-36.

⁵⁰ Hon G R Nuttall MP, Second Reading Speech, p 2724.

especially to the outcomes desired. Finally, there has to be a positive commitment on the part of the person to stop the particular offending conduct.⁵¹

When accepted by the chief executive, the undertaking becomes effective and is enforceable against the person. It is an offence to contravene the undertaking and the chief executive can apply to the Industrial Court for various orders if that occurs. A person can also be prosecuted for contravention of the undertaking.

6.7.3 Improvement Notices, Electrical Safety Protection Notices, and Unsafe Equipment Notices

Pursuant to provisions contained in the **proposed new Part 11**, the new inspectors will be empowered to issue, after giving an oral direction –

- an **improvement notice** requiring a person to remedy matters or operations causing a contravention of the legislation in a particular way by a certain time, or to remedy the contravention or likely contravention;
- an **electrical safety protection notice** if there is or could be an immediate risk to persons or property, to direct the person in control of the activity or electrical equipment to stop the activity or stop the use of and disconnect the equipment;
- an **unsafe equipment notice** to the owner of electrical equipment, if it is so defective or hazardous that it is likely to cause a serious electrical incident or dangerous electrical event, to direct that the equipment be made harmless or incapable of operation.

In each case, details must be set out in the notices to enable the person to fix up the problems. In each case, contravention of the notice is an offence and, in relation to unsafe equipment notices, if there is an imminent risk of a serious electrical incident because of the non-compliance, the chief executive may apply for a court order.

It would also appear that a number of offences under the Bill will be amenable to **on-the-spot fines** under the *State Penalties Enforcement Regulation 2000*.

6.8 LICENSING PROVISIONS

The new Bill also deals with electrical work licences for the performance of electrical work and addresses the situations in which they are not required: see **Part 4**.

⁵¹ *Ministerial Review of the Electrical Safety Office, Final Report, Appendix 10.*

Disciplinary action against licence holders will be covered by the **proposed new Part 9** of the Bill. The range of disciplinary actions that the new Electrical Licensing Committee may take seeks to ensure that work is performed to appropriate standards. Those actions include cancellation or suspension (eg until the licence holder completes a stated training course or examination), reprimands, cautions or imposition of fine. Rectification work may also be required.

6.8.1 Other Powers

The **proposed new Part 11** also provides the new inspectors with a broad range of powers to enable them to perform their functions under the legislation. Those powers such as procedures for entry to places, search and seizure, production of documents etc are similar to those found in other legislation establishing regulatory frameworks and standards concerning safety and consumer protection, including the *WH&S Act*. Compensation provisions are also included for loss or expenses incurred due to exercise of a power under the legislation.

6.9 CLARITY OF ROLES BETWEEN AGENCIES

Both the Taskforce Report and the ESO Review noted that there was overlap and inconsistency between the WH&S Act and the Electricity Act such that there had tended to be confusion regarding the investigation of electrical incidents. This was particularly pronounced in situations where a domestic residence or public place was used as a temporary workplace. The DWHS is concerned with electricity incidents in workplaces. The Ombudsman found that investigations of electrical fatalities were severely inadequate, the process was fragmented and there was lack of skill in some instances to undertake a proper investigation.

Under the new reform package, if there is potential for application of both the WH&S Act and the Bill, the latter has precedence. All electrical fatalities and serious incidents in both workplaces and domestic residences will be investigated by DWHS with the ESO responsible for all other electrical safety functions. In the past few years, both the ESO and DWHS have made considerable efforts to resolve inconsistencies in the context of common or overlapping jurisdictions. Both offices have undergone a number of strategic and operational improvements.

APPENDIX A – MINISTERIAL MEDIA STATEMENTS

Hon Peter Beattie MP, Premier and Minister for Trade

5 August 2002

State Takes Drastic Action To Cut Electrocutions & Shocks

The State Government is taking drastic action to turn Queensland's appalling electrical safety record into the best in Australia, Premier Peter Beattie announced today (Monday).

"We are taking concerted action to deal with the fact that Queensland has had the highest per capita rate of household electrocutions in Australia," said Mr Beattie.

Mr Beattie and Industrial Relations Minister Gordon Nuttall announced:

- New regulations to make safety switches compulsory within three months of the sale of a home;
- An advertising campaign designed to prompt people to fit safety switches;
- Queensland's first stand-alone electrical safety legislation will be introduced into Parliament this week.

"Queensland is the first state in Australia to make safety switches compulsory in all homes, with new regulations to take effect from September 1," said Mr Beattie.

"Forty-three people died in domestic electrical accidents between July 1992 and December 2000.

"Another six people died in domestic electrical incidents last year, and almost 2000 were injured through faulty appliances and cords, home handywork and renovations.

"The tragedy is that most of these deaths could have been prevented by an electrical safety switch, at a cost of about \$200 each.

"The cost of a safety switch is a small price to pay to save a life."

Mr Nuttall said: "Under these new regulations, a purchaser will be required to have a safety switch installed within three months of taking over a property if it does not already have a safety switch.

"The laws will apply to all homes, units and flats, including estate, family law and mortgage transfers.

"Sellers must declare - on both the standard sales contract and the property transfer form - whether the home has a safety switch.

"Legally, it will be up to the buyer to ensure the safety switch is installed.

"While these devices are only compulsory on the sale of a home, I would urge all Queenslanders to install a safety switch as soon as possible for the best chance of protection against electrical injury or even death.

In the event of an electric shock, a safety switch will cut the power in 1/30 of a second, in time to save a life.

“A circuit breaker is NOT a safety switch. A circuit breaker will only protect equipment. You need a safety switch to protect lives.

“The legislation we are introducing this week involves a completely new model of regulating electrical safety in Queensland.

“For the first time in this state we will have a stand-alone electrical safety regulator and new laws which clearly separate electrical safety from the commercial aspects of regulating the industry.

The reforms include:

- A new Commissioner for Electrical Safety to provide independent advice to the Government on electrical safety.
- A new Electrical Safety Board to develop strategies to improve electrical safety.
- New, increased penalties and new on-the-spot fines.
- A new State-wide Inspectorate with specialist electrical inspectors to administer and enforce the Act.
- Introduction of Safety Management Plans by which all distributors, for the first time, will be required to have a comprehensive safety plan to manage their overall electrical networks.
- Bans on most live electrical work and improved electrical safety for anyone working around, or with, electricity through live work or working near live parts.

The new legislation also means increased audits of electrical work in homes and businesses; tougher restrictions on live electrical work; higher standards for electricity suppliers; and greater enforcement of safety laws.

The Department of Industrial Relations will work in close partnership with industry, electrical contractors and workers to ensure the new safety reforms are clearly communicated and understood.

The new laws will also apply to other workers such as tree loppers and crane drivers working around power lines or other live electrical circuits.

“The Government has established a 1300 number for all enquires relating to safety switches. The number is 1300 650 662. Additionally, details of safety switches can be located on the Department of Industrial Relations website: www.dir.qld.gov.au.” said Mr Nuttall.

Media Contact: Leisa Schultz 07 3225 2210

Hon Gordon Nuttall MP, Minister for Industrial Relations

8 February 2002

New Electrical Safety Laws for Queensland

Electrical safety in Queensland will fall under a new stand-alone Act after Cabinet today gave the go-ahead to prepare legislation for the state's first Electrical Safety Act.

Premier Peter Beattie said for the first time in Queensland, electrical safety would be separated from the commercial aspects of regulating the electricity industry.

"This new Act will give Queensland the best possible chance of reducing the unacceptable number of electrical fatalities every year in this state.

"The new regulations will mean more audits of electrical work in homes and businesses; greater enforcement of safety laws, and new laws such as restrictions on live electrical work and improved standards for electricity suppliers.

"For example, new regulations under the Act will mean the electricity supply will have to be cut in almost all instances before a contractor can undertake electrical work in a home or business.

"In the last 10 years, 9 electrical workers have died while working on or near live electrical circuits."

"Live electrical work is becoming far too common with more and more workplaces operating 24 hours a day. Without these new measures there is a fear that each year more electrical workers will die unnecessarily while working on live circuits."

Mr Beattie said the new regulations would also apply to other workers like tree loppers and crane drivers carrying out work around power lines or other live electrical circuits.

Industrial Relations Minister Gordon Nuttall said the Electrical Safety Act will be enforced by an increased number of specialist electrical inspectors responsible for investigating electrical fatalities throughout Queensland.

"These electrical inspectors will carry out increased numbers of audits of contractors' work and their work practices."

Mr Nuttall said the Act would also include a new safety management system for electrical distributors meaning increased numbers of safety checks on power and lighting poles and transformers.

"The application of this new Act will be critical to reducing the 10 electrical fatalities and 1,234 electric shocks reported in Queensland last year."

Mr Nuttall said the new Electrical Safety Act would include a Commissioner of Electrical Safety and a new Electrical Safety Board to advise on standards for the industry and which would report directly to the Minister for Industrial Relations.

"Like all the electricity reforms the Queensland Government has put in place over the last six months, the new Act will be developed in consultation with industry, unions, community groups including the families of victims of electrical incidents."

Media Contact: Steve Bishop

Leisa Schultz 3225 2017 or 0419 746 093

APPENDIX B– NEWSPAPER ARTICLES

Title **Qld Cabinet considering electrical safety**

Source **The ABC News Online**

Date Issue **05/08/02**

Queensland Cabinet today will consider more ways to improve electrical safety

in homes and workplaces.

Premier Peter Beattie says Queensland has a poor record of electrical safety.

A safety audit this year of 1,000 Queensland electrical contractors found only five were meeting 20 key safety standards - there were 10 electrical fatalities last year.

Already this year the Government has announced a new electrical safety regime, with company directors facing fines or jail terms for breaches.

Live electrical work was banned in homes and businesses meaning the power has to be shut off first.

Energex and Ergon were given two years to prepare new safety plans, including routine checks on power poles and transformers.

Today, Cabinet will consider further measures to continue the Government's electrical safety reforms.

Title **New cherry picker safety counts**

Author **David Potter**

Source **The Courier-Mail**

Date Issue **16/07/02**

Page **3**

An electrical contracting company fined \$45,000 two years ago after the death of a 17-year-old apprentice has been charged again with similar breaches of the Workplace Health and Safety Act.

This comes as a Government audit of 1000 Queensland electrical contractors has revealed more than 80 per cent had on six or more occasions not complied with specific safety provisions within the Electricity Act.

Timothy Martin died in September 1999 from horrific injuries sustained in an electricity fireball while working from a cherry picker servicing a line connected to a KFC outlet in Cairns.

His employer, AJC Electrical, was fined \$45,000 in September 2000 for Workplace Health and Safety breaches.

A government department "whitewash" over Timothy's death prompted a Queensland Ombudsman's report following a six-month investigation into the death.

Two government officials were asked to show cause as to why they should not be disciplined for not properly investigating the accident.

AJC Electrical Service Pty Ltd, and directors Gregory Michael Caulfield and John Anthony Caulfield, have been charged under the Workplace Health and Safety Act to appear in the Innisfail Magistrate's Court next month.

The charges were triggered by photos taken by Timothy's father Bill last year, while on a work trip to north Queensland, of a workman in a cherry picker working at a KFC outlet at Innisfail.

Mr Martin made a report to the Department of Workplace Health and Safety.

AJC director Greg Caulfield yesterday denied the Innisfail incident was anything like the one in which Timothy Martin died.

"It is not the same," Mr Caulfield said. "There was not even an accident on this occasion."

The Government electrical contractor Blitz Report has showed that 202 out of 1000 electrical contractors recorded 12 or more non-compliances with the Electricity Act and Regulation 1994.

The audit, carried out from August 2001 to February 2002, also revealed that 637 contractors recorded between six and 11 non-compliances, in areas such as not using non-conductive ladders, insulated tools or safety footwear.

Just five contractors recorded no non-compliances.

Two hundred electrical contractors who recorded 12 or more non-compliances were re-audited. Of the 200, about 70 per cent demonstrated a marked improvement in their compliances with safety equipment and 27 again recorded 12 or more non-compliances.

Major concerns listed in the report were the number of contractors who had no policy or documented safe work practice for working in live situations; operated with inadequate levels or personal protective equipment; and failed to regularly test their testing instruments.

Contractors who failed to ensure workers could work safely and were suitably protected were to be referred to the Electrical Licensing Board for "show cause" hearings.

The Department of Industrial Relations said yesterday 29 contractors had been referred to the Electrical Workers and Contractors Board.

Title **State cranks up electrical safety**

Author **Sean Parnell**

Source **The Courier-Mail**

Date Issue **29/08/01**

Page **3**

Compulsory electrical safety switches and inspections on all homes offered for sale may be introduced by the State Government in an effort to prevent electrocutions and injuries.

The Government yesterday outlined a series of reforms - including the creation of an independent electrical safety regulator - in response to damning criticism of Queensland's electrical safety record.

But Industrial Relations Minister Gordon Nuttall said the Government would also consider tougher penalties for industrial negligence and further preventative measures when drafting a new Electrical Safety Act.

"This is not a quick fix," Mr Nuttall said. "If we're going to get this right, it will take some time."

A Ministerial Review of the Electrical Safety Office, completed last month, found a potential for conflicts of interest and "significant cultural issues that have prevented the Electrical Safety Office from understanding and fulfilling its role as a safety regulator."

Under the Government reforms, an investigation and prosecutions unit would be established and staff appointed, including 12 electrical health and safety inspectors who would be recruited immediately.

Mr Nuttall said inspectors would receive more training and authorities made more accountable by a requirement that all electrical fatalities and serious incidents be investigated by the Division of Workplace Health and Safety.

But lobbyist Bob Grimley, from the Group Requiring Action for Victims of Electric Shock, said yesterday the reforms were worthless without a centralised and independent Office of State Coroner.

"If the Government is talking about rectifying the present situation with the present people it will not work," Mr Grimley said.

"Workplace deaths must be investigated by a judicial officer such as a State Coroner." Mr Nuttall said the proposal for an Office of State Coroner was not covered in the review process, but investigators had been asked to follow methods used by police in referring matters to the Coroner.

Last month, Attorney-General Rod Welford said budgetary limitations may prevent the creation of a specific Office of State Coroner in the new Coroners Act, despite it being "a desirable thing".

Mr Nuttall said of the 40 recommendations from the review process, only four

were still under consideration and he hoped all would be implemented within 12 months.

An Electrical Safety Advisory Board will replace the existing Electrical Licensing Board and other statutory committees, and the Government will also increase education and safety blitz campaigns.

The Government has allocated \$4 million to the reforms, but Mr Nuttall said Energex and Ergon may be levied as part of future funding arrangements.

A report released by the State Ombudsman in May found Queensland had one of the worst electrical safety standards in the world, with more than 116 electricity-related deaths in the past 10 years.

Title **State the big loser in electrical accidents**

Author **Marshall Wilson**

Source **The Courier-Mail**

Date Issue **08/05/01**

Page **3**

A Safety taskforce has found Queensland's electrical safety performance is among the worst in the world.

Despite safety standards it found non-compliance was a contributing factor towards 116 electricity-related deaths in the past 10 years. Of these, 45 were killed at work.

"Queensland has the highest fatality rate from electrocution in Australia by a factor of at least two," noted the taskforce's 124- page report.

In addition two non-fatal accidents were reported in Queensland every day with overhead powerlines a significant source of electrical hazard.

Headed by former industrial relations commissioner Ray Dempsey, the report by the 13-member taskforce reinforces last month's finding by the State Ombudsman that government departments have consistently failed to enforce the Electricity Act.

The Division of Workplace Health and Safety and the Electrical Safety Office were singled out for mention.

The report, which made 12 recommendations on how to fix the problem, also identified serious deficiency in the auditing process.

"The audit reports have identified persistent faults in routine pole inspection and maintenance, vegetation management, staff training and protective earthing maintenance," the report noted.

"There is an ongoing concern that significant faults identified have not been systematically addressed and given the warranted priority".

While acknowledging supply corporations like Energex and Ergon Energy had improved their safety systems, the report said many audit provisions were the exception rather than the rule.

To improve the situation it recommended an independent safety regulator with beefed-up powers to ensure "point-of-sale" safety checks and the fitting of safety switches in all establishments including domestic households.

A key recommendation included provision for existing electricity lines to be moved underground.

But yesterday Bob Grimley, co-ordinator of the Group Requiring Action for Victims of Electric Shock, said the report sanitised the conduct of the supply corporations in relation to Queensland's electrical safety.

Changes made were largely as a result of a spate of electrocution deaths that had sparked a public outcry in recent years.

Mr Grimley also criticised the report for pre-empting an independent investigation by the ombudsman into the electrocution death of trainee linesman Aaron Morel that is still under investigation.

"It is an attempt to pre-empt the Ombudsman's finding," Mr Grimley told The Courier-Mail.

Title **Agencies brace for findings**
Author **Chris Griffith**
Source **The Courier-Mail**
Date Issue **18/12/00**
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The Queensland Ombudsman this week will hand down what are expected to be damning findings against some State Government agencies and individuals who investigate electrical deaths in Queensland.

For the past 12 months, the Ombudsman's Workplace Electrocutation Project has been examining 13 workplace electrocution deaths and the performance of agencies that investigate them, including the Division of Workplace Health and Safety and the Department of Mines and Energy.

The Ombudsman's office established the project after allegations in The Courier-Mail in November last year that some government officers investigating electrocutions had been guilty of serious misconduct, including the supply of false, misleading, and incomplete documents.

Former Queensland chairman of Ansett Australia's occupational health and safety committee Bob Grimley, whose son Scott, 28, was electrocuted while repairing overhead power lines, made the claims to the Ombudsman's office last year.

Mr Grimley, now co-ordinator of the Group Requiring Action for Victims of Electric Shock (GRAVES), said the Division of Workplace Health and Safety had not bothered to recommend a prosecution into the death of electrical apprentice Nicholas Sokol, 17, until his parents complained to the Ombudsman.

Mr Sokol's employer was later fined a record \$40,000 in the Brisbane Industrial Magistrates Court in August last year.

Mr Grimley said from January 1995 to March 1998, Workplace Health and Safety took no action to address the causes of non-fatal injuries referred to it, despite eight fatalities and 172 injuries being recorded in minutes of the Electrical Industry Safety Advisory Committee in that period.

A ministerial task force on electrical safety set up in February is also expected to issue a report on the safety of the electricity industry and investigation processes.

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