

Review of Queensland's *Electrical Safety Act 2002*

Issues paper – March 2021

Foreword

The Queensland Government's Office of Industrial Relations (OIR) is responsible for the development and enforcement of electrical safety standards across the state.

As the Queensland Government works to transition Queensland to a low carbon future and embrace technologies that will drive lower prices and increase energy efficiency for electricity customers, the focus must also remain on ensuring the state's electrical safety legislative framework remains able to keep pace with new and emerging technologies.

I am therefore pleased to be leading the review of the *Electrical Safety Act 2002* (QLD), and I am strongly committed to listening to and considering the views of interested parties. This issues paper forms the foundation of my approach to stakeholder consultation and I strongly encourage any interested party to put forward a submission. The information in the submissions I receive in response to this issues paper will be carefully considered and may very well form the key recommendations arising from this review.

An Industry Reference Group (IRG) has been formed, with representation by key industry stakeholders from all sectors across the electrical industry in Queensland. The IRG will consider the issues and provide information to inform recommendations. The IRG had its inaugural meeting on Friday 29 January 2021 where key principles were endorsed to guide the work of this review:

- The best outcome be achieved for safety in the industry, for those who work in it as well as consumers and the general public.
- Legislation designed to eliminate risks at the source.
- Legislation drafted in plain English for readability, comprehension and usability by anyone.
- Duties, responsibilities and accountability of businesses and workers are clear and achieve the objectives of the Act.
- Ensure the highest common denominator adopted when drafting and aligning legislation, noting the need for sensible and practical outcomes.

I look forward to undertaking this review and working with all stakeholders to ensure the best outcomes for electrical safety in Queensland is achieved.

Mr. Dick Williams
Reviewer



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Introduction

Queensland's current electrical safety laws were last reviewed in 2002 when the *Electrical Safety Act 2002* (QLD) (the Act) was introduced. Since this time the technological landscape has changed significantly, with electricity generation, supply and distribution transforming in ways not contemplated 20 years ago.

On 25 June 2019, the Queensland Minister for Education, Minister for Industrial Relations and Minister for Racing, the Honourable Grace Grace MP (the Minister), announced that the Electrical Safety Commissioner, Mr Greg Skyring (the Commissioner), would convene a roundtable to discuss safety in large-scale solar farms. This followed a judicial decision finding that regulations about safety on solar farms did not fall within the powers granted under the Act.

As part of this announcement the Minister noted that the *“decision clearly highlighted that Queensland's electrical safety laws had not kept pace with new and emerging technologies, including large-scale solar farms”*.

In January 2020 the Commissioner drew on the outcomes of the roundtable process, as well as his broader experience as Commissioner, to deliver findings and recommendations to the Minister in the form of *Improving Electrical Safety in Queensland: A Report by the Commissioner for Electrical Safety* (the Commissioner's report), which has been published alongside this issues paper.

The first recommendation of the Commissioner's report was that the Queensland Government should undertake a review of the Act, including *“the objects of the Act and regulation-making powers, to ensure it is fit for purpose and can keep pace with new and emerging technologies”*.

In August 2020, the Minister announced a review of the Act (the review) be undertaken by an external reviewer with the support of a departmental secretariat within OIR.

Mr Dick Williams was appointed to lead the review in December 2020, on the basis of his detailed knowledge and understanding of electrical safety, industry experience, strong working relationships with industry, and his extensive experience overseeing important collaborative work involving government and industry, including in his current role as the Chair of the Queensland Building and Construction Commission Board.

About this review

The purpose of the review of the Act is to consider what legislative changes are necessary to ensure Queensland's electrical safety laws are fit-for-purpose, specifically in relation to new and emerging technologies.

Scope of the review

The review will focus on the Act, including its objects and regulation-making powers, as well as any necessary related changes to subordinate legislation.

The review's assessment of the Act will be focused on, but not limited to, addressing the needs identified in the Commissioner's report:

- ensuring the relevance and effectiveness of definitions
- ensuring the relevance and effectiveness of duties and requirements
- aligning the Act with existing work health and safety legislation
- future-proofing the Act for new and emerging energy technologies including renewable energy generation and storage devices.

The review will not include an assessment of other state-based, federal or applied national laws in relation to electrical safety. While stakeholders may have views on these matters, they are outside the scope of this review. However, models or provisions from other jurisdictions that are identified as 'best practice' by the reviewer or stakeholders may be considered as part of the review.

Overview of Queensland's electrical safety laws

The *Electrical Safety Act 2002* (QLD) (the Act) establishes a legislative framework to define and regulate electrical safety standards across the state, with the aim of preventing people being killed or injured by electricity, and property being destroyed or damaged by electricity.

In addition to outlining electrical safety definitions and duties, the Act sets out an electrical safety framework that:

- establishes safety management systems for electrical entities (including power authorities and Queensland Rail)
- provides a system of licensing for electrical workers and contractors
- establishes standards for both industry and the public through the Electrical Safety Regulation 2013 and codes of practice
- establishes compliance and enforcement including penalties for breaches of the Act
- provides consumer protection against electrical work not being properly performed or completed
- establishes a consultation structure through the Electrical Safety Board and associated committees, with functions including participation in development of requirements for the electrical safety of electrical equipment.

The Act is supported by the Electrical Safety Regulation 2013 (QLD) (the Regulation), and five electrical safety codes of practice.

The Regulation provides further detailed information on how duty holders must meet the electrical safety requirements of the Act. The electrical safety codes of practice give practical advice to duty holders on how to meet their electrical safety responsibilities, in relation to particular hazards or risks.

Approach

The review will incorporate three consultation approaches:

- Publication of this issues paper online, seeking written submissions from all interested parties.
- Targeted consultation by the reviewer with key stakeholders.
- Convening a high-level reference group to provide advice to the reviewer on technical matters and reform proposals.

Written submissions are sought from all interested parties on any of the key issues that have been identified in this paper. In addition, you are invited to respond to the specific questions posed at the end of this paper.

Assessing the Electrical Safety Act 2002

The scope of the Act is necessarily extensive, as it underpins the entire electrical safety framework for Queensland.

In 2019, the industry roundtable process convened by the Commissioner, identified key priorities for reforming the Act. These proposals reflected both longstanding areas of interest for stakeholders, as well as new and emerging changes in the electrical safety landscape that had significant implications for the effectiveness and the relevance of the Act.

Ensuring the relevance and effectiveness of definitions

The core definitions in Division 4 of the Act determine what is encompassed by the duties and requirements of the electrical safety legislation in Queensland, and what is not.

In order for the Act to continue to achieve its purpose, the definitions need to be sufficiently broad to cover the full span of electrical work, equipment, electrical entities and processes that present an electrical risk. However, it is also important that the definitions do not extend unnecessarily into the regulation of entities, equipment and processes that do not present a legitimate electrical safety concern deserving of the government.

The issues outlined below concern the core definitions that are priorities for the review to address:

- The scope of 'electrical equipment' and the related definitions of 'electrical installation' and 'electrical work' considering technological changes over time (see future proofing below).
- The scope of 'serious electrical incident' and 'dangerous electrical event' considering threshold issues of near misses and voltages involved, particularly considering technological changes over time.
- The potential benefit of examples of various terms that draw on technological changes over time and are therefore clearer to interpret and apply to the contemporary environment.

Ensuring the relevance and effectiveness of duties and requirements

The electrical duties and requirements in the Act underpin the standards across the entire electrical safety framework in Queensland. The Commissioner's report identified concerns about the adequacy of these provisions.

The issues outlined below concern duties and requirements that it is proposed the review will need to amend or expand to achieve the purposes of the Act:

- Ensuring that the objects and regulation-making powers of the Act are broad enough to encompass duties to ensure electrical safety in the contemporary environment.
- Ensuring existing duties, such as those of suppliers and importers, are of sufficient scope to ensure safety in the contemporary environment.

Aligning the Act with existing work health and safety legislation

The electrical safety laws in Queensland were originally drafted to align with the state's work health and safety legislation, to ensure consistency in the application of health and safety standards.

Over the last two decades, amendments have been made to harmonise the two legislative frameworks. However, the Commissioner's report identified that there were aspects of the Act that could be better aligned with the *Work Health and Safety Act 2011* (QLD).

The issues outlined below concern provisions of the Act and Queensland's work health and safety legislative scheme that the review will need to consider:

- Ensuring the clarity of the status and application of codes of practice.
- Aligning the provisions of the Act with Queensland's work health and safety legislative scheme under the work health and safety laws, whilst ensuring the highest common denominator for work health and safety is achieved.
- Ensuring clarity regarding reviewable decisions.

Future-proofing the Act for new and emerging energy technologies including renewable energy generation and storage devices

Rapid technology changes over the past 20 years has changed the landscape of electricity generation, transmission and supply. New technologies and equipment in the workplace and community have had significant consequences for electrical work, while customer choice has increased in the generation and storage of energy (e.g. solar rooftop photovoltaic and battery systems).

As the Queensland Government embrace the potential of these changes, it is vital that our electrical safety legislation can keep pace so that safety standards stay relevant and effective. The ideal is always to have legal concepts with sufficient generality to allow them to encompass technological advancements that did not exist at the time the legislation was drafted. However, in the case of the Act, it is proposed that the generality built into the law is reaching its limit, and that changes are needed for the legislation to adapt these standards to new circumstances and the changing electrical risks they bring.

The broad issue outlined below overlaps and encompasses several issues already highlighted above and allows scope for further, open-ended consideration of 'future-proofing' the Act:

- Ensuring new technologies for generating, distributing and supplying electricity are captured within key definitions, reflected in the scope of 'electrical work', and also reflected in key duties to ensure electrical safety.

Ensuring the Act is fit for purpose into the future also includes consideration of changes proposed to national mutual recognition of licenses, license renewal (continuing professional development and skills maintenance), and contractor qualifications (for both qualified technical persons and qualified business persons), to ensure such changes are addressed in relation to eligibility, currency, competency, compliance and disciplinary action.

Invitation for feedback

Mr Dick Williams and the Office of Industrial Relations invites written submissions from all interested parties and members of the community on the Issues paper.

Stakeholders may respond to (but are not limited by) the following questions, related to each of the issues highlighted above:

1. If any, what changes should be made to the scope of 'electrical equipment' and the related definitions of 'electrical installation' and 'electrical work' under the Act, considering technological changes over time?
2. If any, what changes should be made to the scope of 'serious electrical incident' and 'dangerous electrical event' considering threshold issues of near misses and voltages involved, particularly considering technological changes over time?
3. Is there benefit in adding examples of various terms that draw on technological changes over time and are therefore clearer to interpret and apply to the contemporary environment? If so, what examples should be included?
4. If any, what changes should be made to the objects and regulation-making powers of the Act to ensure they are broad enough to encompass duties to ensure electrical safety in the contemporary environment?
5. If any, what changes should be made to ensure existing duties, such as those of suppliers and importers, are of sufficient scope to ensure safety in the contemporary environment?
6. Is it necessary to make changes to ensure the clarity of the status and application of codes of practice? If so, how could this be achieved?
7. If any, what changes should be made to align the Act with the Work Health and Safety Act?
8. More broadly, if relevant, how should the Act be changed to ensure new technologies for generating, distributing and supplying electricity are captured within key definitions, reflected in the scope of 'electrical work', and also reflected in key duties to ensure electrical safety?
9. What, if any, changes are required to improve electrical safety in relation to electrical worker and contractor licenses?
10. Are there any other changes that should be made to the Act that would improve electrical safety in Queensland?

Make a submission

Written comments should be provided by 11.59pm, 18 April 2021. All submissions received by the due date will be considered.

Responses and submissions should be sent by email to esreviewer@oir.qld.gov.au.

As this is a public consultation process, the Queensland Government is committed to openness in its considerations of public policy. For this reason, written comments and submissions may be published on the WorkSafe website. Please mark clearly any comments or information you wish to be kept confidential.



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