



**Model Legislation**  
**Workplace Health and Safety Act**

**SUBMISSION BY**  
**THE ELECTRICAL TRADES UNION OF EMPLOYEES**

The Electrical Trades Union (the ETU) is a union of over 11,000 members representing employees employed in or in connection with the electrical industry.

This draft submission has been prepared by the ETU to consider Workplace Health and Safety and Electrical Safety legislation in Queensland.

The ETU has a strong interest in this Review and we would welcome the opportunity to provide further information to the Review should that be required.

The ETU has also been involved in discussions with the QCU and other unions in relation to the review into Model Workplace Health and Safety legislation and has participated in the preparation of the QCU submissions.

The ETU supports and adopts the submissions of the QCU in relation to the review however, should there be any conflict between the submissions of the QCU and the submissions made by the ETU about specific legislation dealing with electrical safety we indicate that the ETU submission should be given precedence.

The position of the ETU is that we support broad based legislation that provides for health and safety of people in the performance of their work. The provisions of such an Act should provide a robust approach to the health and safety, including an entrenched approach to risk management, a requirement for meaningful consultation with all the affected parties and strong enforcement provisions.

However, given the ubiquitousness of electricity and electrical appliances, the peculiarities and particular work of the electricity industry and the inherent dangers of working with electricity the ETU believes that it is best to maintain a separate and distinct legislative framework that deals specifically with electrical safety.

Separate legislation, while augmenting the generic health and safety legislation, would continue to provide better safety outcomes for the electricity industry as a whole, providing protection for workers and consumers alike.

## **Safety in the Electricity Industry in Queensland**

In Queensland, Electrical Safety is achieved by the interaction of the specialised Electrical Safety Act and the more generic Workplace Health and Safety Act.

The Workplace Health and Safety Act provides broad obligations for employers in terms of providing a safe and healthy work environment. The Electrical Safety Act provides obligations to a broader range of people taking into account the detail relevant to this specialised industry.

The Workplace Health and Safety Act has application in workplaces that are involved in the electricity industry, but to the extent that the Electrical Safety Act has application, the Workplace Health and Safety Act does not.<sup>1</sup>

### **Background**

Prior to the introduction of the Electrical Safety Act in 2002 there were major deficiencies in the legislative framework dealing with electrical safety in Queensland. These deficiencies resulted in a bad record in relation to electrical safety, not just objectively but also in comparison with national and international standards.

In 2001 the Queensland State Government set up a Taskforce to investigate and make recommendations on “the manner in which electrical incidents can be prevented, investigated and dealt with.”<sup>2</sup>

Mr Ray Dempsey was appointed as the Chair of the Taskforce. The Taskforce included a number of industry representatives who participated in the review. Following extensive consultation and feedback from various stakeholders, including the ETU, the Taskforce issued its final report in April 2001.

By way of background to the report the taskforce noted in its report that Queensland had “the highest fatality rate from electrocution by a factor of at least 2. There were 116 deaths between

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<sup>1</sup> Section 3A Workplace Health and Safety Act 1995

<sup>2</sup> Electrical Safety Bill – Explanatory notes

1990 and 2000 (11.6 per year)".<sup>3</sup> This was an issue of serious concern and the figures relating to fatalities were clearly not acceptable to any of the parties involved in the electricity industry.

The report by the Electrical Safety Taskforce identified a number of factors that contributed to the poor safety record in Queensland. These factors included competing legislation that took a different approach to safety regulation and management, ineffective and inefficient investigation of electrical incidents/accidents, potential conflict between the statutory investigative function and a lack of enforcement of electrical safety due to inherent weaknesses in the electricity legislation.<sup>4</sup>

The Task Force recommended, amongst other things, a new stand-alone Electrical Safety Act that dealt with the issue of health and safety across the whole of the Electricity Industry.

In addition to the Taskforce there were a number of complaints to the Queensland Ombudsman about the way in which electrical fatalities were investigated by the Division of Workplace Health and Safety (a Division of the Department of Industrial Relations) and the Department of Mines and Energy.

The investigations by the Queensland Ombudsman focussed on the manner in which the investigations into these fatalities had taken place. The investigation into these complaints by the Ombudsman also included a review of the relevant legislation and processes surrounding electrical safety in Queensland. The Ombudsman's report recommended a review of the role of the Electrical Safety office, including a review of the relevant penalty provisions.

The investigations and a review of legislation were published in a subsequent report in January, 2005, which allowed the Ombudsman to take account not only of the previous inadequacies of the legislation and the investigation process, but also the changes that had occurred in the time since the investigations had occurred.

The Ombudsman's report was scathing about the initial investigations. It went into the detail of "systemic maladministration" in Chapter 6 of the report and it identified, amongst other things,

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<sup>3</sup> Electrical Safety Taskforce, Final Report of A review of Industry Compliance with Electrical Safety Standards and the Investigation of Serious Electrical Incidents, Chapter 3.

<sup>4</sup> Ibid, Executive Summary

“inadequate (multiple and overlapping) legislation”. It also identified that the investigations into the fatalities were “generally neither thorough nor competent”<sup>5</sup>

The ETU was actively involved in the review of electrical safety legislation in 2001 and strongly endorsed the introduction of the Electrical Safety Act 2002, legislation that focussed specifically on the electricity industry and the subsequent changes to the monitoring, enforcement and investigation of safety in the electricity industry.

### **The Electrical Safety Act**

The Electrical Safety Act (the ESA) sets out its purpose at Section 4 of the Act. It includes “..eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity”.

This is a much broader coverage than traditional Workplace Health and Safety Legislation as it recognises the rights of all people in terms of safe access to electricity and electrical goods, as well as imposing obligations on people providing either electrical services or equipment. These people include not only electrical workers, installers and repairers of electrical equipment and persons in control of electrical equipment, but also designers, manufacturers importers and suppliers of electrical equipment.

Section 5 of the ESA “How the purpose of the Act is to be achieved” provides the detail for how the purpose of the Act will be achieved. It states:

“The purpose of this Act is to be achieved in the following ways:

- (a) imposing obligations on persons who may affect the electrical safety of others by their acts or omissions;
- (b) establishing benchmarks for industry and the community generally through--
  - (i) making regulations, ministerial notices and codes of practice about achieving electrical safety; and
  - (ii) introducing safety management systems for particular electricity entities;

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<sup>5</sup> Report of the Queensland Ombudsman – The Workplace Electrocutation Project

- (c) providing for the safety of all persons through licensing and discipline of persons who perform electrical work;
- (d) providing for protection for consumers against failures of persons who perform electrical work to properly perform and complete the work;
- (e) providing for the appointment of a Commissioner of Electrical Safety to advise the Minister on electrical safety matters and to manage the activities of the Electrical Safety Board and its committees;
- (f) establishing the Electrical Safety Board and its committees to--
  - (i) allow industry and the community to participate in developing strategies for improving electrical safety; and
  - (ii) participate in developing requirements for the licensing and discipline of persons who perform electrical work; and
  - (iii) promote community awareness about electrical safety; and
  - (iv) participate in developing requirements for the electrical safety of electrical equipment.”

The ESA creates of the position of Commissioner for Electrical Safety, a Statutory Office that provides independent advice about electrical safety to the Minister for Industrial Relations. The Commissioner for Electrical Safety must hold either an electrical trade or qualification and have experience in electrical safety, ensuring they are a person with the necessary knowledge and skills to undertake this role.

The ESA also provides for more active involvement of the electricity industry through the creation of the Electrical Safety Board and various Committees. As well as providing for the involvement of the industry this all brings an increased level of awareness and expertise to these bodies. (In addition to industry representation, the ESA also provides for community representation on these bodies.<sup>6</sup>)

The Electrical Safety Board meets six times during the year. It is chaired by the Commissioner for Electrical Safety and helps inform him of the needs within the industry and within the community. The board oversees training for the general electrical industry to ensure the ongoing

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<sup>6</sup> See for example section 77 of the Electrical Safety Act

safety benefits of electrical licensing. A skills maintenance program on the ESO website is popular with workers wishing to renew their electrical licences.

A working party was established by the Electrical Safety Board to examine and report on the electrical safety issues raised by the Queensland Ombudsman in Workplace Electrocution Project. The vast majority of the working party's recommendations have been completed, such as the legislative compliance audits of the crane industry dealing with the application of safe approach distances when working around powerlines.

There are also the Electrical Licensing Committee, the Electrical Safety Education Committee and the Electrical Equipment Committee.

The Electrical Licensing Committee establishes and safeguards appropriate standards of performance for electrical services providers. The committee provides advice to the board about electrical licences and training and takes disciplinary action against current and previous holders of electrical contractor and electrical worker licences. It also reviews appeals against decisions revoking electrical licences.

The Electrical Safety Education Committee is responsible for the provision of information about the safe use of electricity and met four times during the year to undertake a number of activities, including the development an education and awareness campaign linked to the Electrical Safety Plan.

The Electrical Equipment Committee provides advice and makes recommendations to the board about the safety, energy efficiency and performance of electrical equipment. The committee met four times during the year and, in accordance with the strategies of the Electrical Safety Plan, focused on identifying design problems associated with electrical equipment or appliances.

The ETU firmly believes that by putting all of these structures in place, providing strong sources of information from industry, the level of awareness in relation to electricity and issues around safety in the industry has increased significantly. It is also important to note that there has been a decrease in both the number of electrical incidents and the number of fatalities in the industry.

## **Conclusion**

The ETU in its submission strongly supports the harmonisation of the generic Workplace Health and Safety Legislation, but only to the extent that that legislation can only deal with the broader issues of health and safety.

In relation to the requirement to provide for health and safety in the electricity industry and more generally in dealing with electricity there is a proven necessity to maintain a separate and distinct legislative framework that focuses on the particular needs of electricity.

Whilst acknowledging that there is always room for improvement when it comes to the issue of health and safety, the record of electrical safety in Queensland in recent years clearly demonstrates the improvements that have come about as a result of the current framework.