

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Legislation amended 2
Part 2	Building Act 2004
4	Contravention of requirements for building work involving asbestos Section 42A (2) and (3) 3
5	Section 42A (4) 3
6	Section 42A (5) and (6) 4

J2013-349

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page	
7	Structural engineer's certificate Section 47 (1)	5
8	Section 47 (2)	5
9	Section 47 (3)	5
10	Completion of building work Section 48 (1) (a)	5
11	Section 48 (1) (c)	6
12	Section 49	6
13	Section 51	8
Part 3	Construction Occupations (Licensing) Act 2004	
14	Intention to make rectification order Section 34 (2) (d) (i)	10
15	Rectification order inappropriate Section 37 (1) (c)	10
16	Rectification order offence Section 40	10
17	Section 56 heading	11
18	Section 56 (1)	11
19	Considerations before making occupational discipline orders New section 57 (2) (i)	11
20	New part 19	12
Part 4	Construction Occupations (Licensing) Regulation 2004	
21	Reviewable decisions Schedule 4, item 15, column 2	14
Part 5	Electricity Safety Act 1971	
22	Part 2 heading	15
23	Directions to rectify unsafe installations New section 8 (2A)	15
24	New section 8 (3A) and (3B)	15
25	Section 27	16

	Page	
26	Power to inspect electrical wiring work Section 57 (1)	18
27	Regulation-making power New section 66 (2) to (6)	19
Part 6	Electricity Safety Regulation 2004	
28	Section 2 heading	20
29	Section 3 heading	20
30	Section 3	20
31	Energy efficiency standards—Act, s 27 (5) (a) and (7) Section 6	20
32	Articles of electrical equipment—labelling Section 8	20
Part 7	Energy Efficiency (Cost of Living) Improvement Act 2012	
33	New section 19 (1A)	21
34	Information to be given to administrator Section 19 (1) (f)	21
35	Compliance with energy savings obligations—retailer energy savings result New section 20 (1A)	22
36	Section 20 (7) and (8)	22
37	New sections 20A to 20C	22
38	Compliance with priority household obligations—retailer priority household result Section 21 (7) and (8)	25
39	Section 22	26
40	New section 24A	27
41	Power to enter premises Section 32 (1) (d), new example and notes	27
42	Forfeiture of seized things Section 46 (1) (b) (i)	27
43	Section 47	28

Contents

		Page
44	Application for order disallowing seizure Section 48 (1)	29
45	Reviewable decisions Schedule 1, new items 2A and 2B	30

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment and Sustainable Development)

Construction and Energy Efficiency Legislation Amendment Bill 2013 (No 2)

A Bill for

An Act to amend legislation relating to construction and energy efficiency, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Construction and Energy Efficiency Legislation*
4 *Amendment Act 2013 (No 2)*.

5 **2 Commencement**

6 This Act commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [Building Act 2004](#)
- 12 • [Construction Occupations \(Licensing\) Act 2004](#)
- 13 • [Construction Occupations \(Licensing\) Regulation 2004](#)
- 14 • [Electricity Safety Act 1971](#)
- 15 • [Electricity Safety Regulation 2004](#)
- 16 • [Energy Efficiency \(Cost of Living\) Improvement Act 2012](#).

Part 2 Building Act 2004

4 Contravention of requirements for building work involving asbestos Section 42A (2) and (3)

substitute

(2) A person commits an offence if—

(a) the person—

(i) is licensed under the *Construction Occupations (Licensing) Act 2004* as a builder, asbestos assessor or asbestos removalist; and

(ii) carries out the building work; and

(b) the carrying out of the building work fails to comply with 1 or more of the requirements for carrying out the building work under section 42; and

(c) the person either—

(i) knew that the building work was not carried out in compliance with section 42; or

(ii) was reckless about whether the building work was carried out in compliance with section 42.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

5 Section 42A (4)

omit

6 Section 42A (5) and (6)

substitute

(5) A person commits an offence if—

- (a) the person carries out the building work; and
- (b) the carrying out of the building work fails to comply with 1 or more of the requirements for carrying out the building work under section 42; and
- (c) the person intended to carry out the building work in a way that did not comply with the requirements under section 42.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

(6) A person commits an offence if—

- (a) the person is the owner of a parcel of land where the building work is carried out; and
- (b) the carrying out of the building work does not comply with 1 or more of the requirements for carrying out the building work under section 42; and
- (c) the person intended to have the building work carried out in a way that did not comply with section 42.

Maximum penalty: 300 penalty units, imprisonment for 3 years or both.

1 **7 Structural engineer's certificate**
2 **Section 47 (1)**

3 *substitute*

- 4 (1) The owner of a parcel of land where building work is being, or has
5 been, carried out must, if requested by the certifier, give the certifier
6 a certificate by a professional engineer about the structural
7 sufficiency, soundness and stability of the building as erected or
8 altered for the purposes for which the building is to be occupied or
9 used.

10 **8 Section 47 (2)**

11 *omit*

12 require the certificates

13 *substitute*

14 request a certificate

15 **9 Section 47 (3)**

16 *omit*

17 require the

18 *substitute*

19 request a

20 **10 Completion of building work**
21 **Section 48 (1) (a)**

22 *after*

23 appears

24 *insert*

25 to the certifier

1 **11 Section 48 (1) (c)**

2 *omit*

3 **12 Section 49**

4 *substitute*

5 **49 Complying with building code**

6 (1) A person commits an offence if the person—

7 (a) is a licensed builder; and

8 (b) carries out building work; and

9 (c) either—

10 (i) knows the building work does not, or will not, result in a
11 building that complies with the building code; or

12 (ii) is reckless about whether the building work does or will
13 result in a building that complies with the building code.

14 Maximum penalty: 500 penalty units, imprisonment for 5 years or
15 both.

16 (2) A person commits an offence if—

17 (a) the person is a licensed builder; and

18 (b) the person carries out building work; and

19 (c) the building work does not, or will not, result in a building that
20 complies with the building code.

21 Maximum penalty: 50 penalty units.

22 (3) An offence against subsection (2) is a strict liability offence.

1 (4) For an offence against subsection (2), building work is taken not to
2 result in a building that complies with the building code if, for any
3 provision of the building code with which the building must
4 comply—

5 (a) the building does not, or will not, comply with the
6 deemed-to-satisfy provision of the building code; and

7 (b) the approved plans for the building work do not state an
8 alternative solution under the building code.

9 **Example**

10 A building that is being constructed has approved plans showing that the building
11 will comply with the performance standard for fire safety systems in the building
12 code by using the deemed-to-satisfy provisions. However, the parts of the fire
13 safety system that have been installed do not comply with the deemed-to-satisfy
14 provisions. There is no approved alternative solution for the building and so the
15 building work is taken not to result in a building that complies with the building
16 code.

17 *Note 1* Although some provisions of the building code may not apply to a
18 building work, every provision of the building code that does apply to
19 the building work must be complied with.

20 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
21 does not limit, the meaning of the provision in which it appears (see
22 [Legislation Act](#), s 126 and s 132).

23 (5) A person commits an offence if the person—

24 (a) carries out building work; and

25 (b) intends to carry out the building work in a way that will not
26 result in a building that complies with the building code.

27 Maximum penalty: 300 penalty units, imprisonment for 3 years or
28 both.

- 1 (6) For this section, building work is taken to result in a building that
2 complies with the building code if—
- 3 (a) the building complies with the building code as in force at the
4 time the approved plans for the building work were approved;
5 or
- 6 (b) if there are no approved plans for the building work or
7 approved plans are not required for the building work—the
8 building complies with the building code as in force at the time
9 the building work is carried out.

10 **13 Section 51**

11 *substitute*

12 **51 Carrying out building work in contravention of s 42**

- 13 (1) A licensed builder commits an offence if—
- 14 (a) the builder carries out building work on a parcel of land; and
- 15 (b) the carrying out of the building work fails to comply with 1 or
16 more of the requirements for carrying out the building work
17 under section 42.

18 Maximum penalty: 50 penalty units.

- 19 (2) For subsection (1), building work is taken to be carried out in
20 compliance with section 42 (1) (d) if the builder had been issued
21 with an exemption assessment B notice, stating that the building
22 work was exempt from requiring building approval, not more than
23 3 months before the day the building work began.
- 24 (3) An offence against subsection (1) is a strict liability offence.
- 25 (4) A licensed builder commits an offence if—
- 26 (a) the builder carries out building work on a parcel of land; and

1 (b) the carrying out of the building work fails to comply with 1 or
2 more of the requirements for carrying out the building work
3 under section 42; and

4 (c) the builder either—

5 (i) knew that the building work was not carried out in
6 compliance with section 42; or

7 (ii) was reckless about whether the building work was carried
8 out in compliance with section 42.

9 Maximum penalty: 300 penalty units, imprisonment for 3 years or
10 both.

11 (5) A person commits an offence if—

12 (a) the person—

13 (i) carries out building work on a parcel of land; or

14 (ii) is the owner of the parcel of land on which building work
15 is carried out; and

16 (b) the carrying out of the building work fails to comply with 1 or
17 more of the requirements for carrying out the building work
18 under section 42; and

19 (c) the person

20 (i) if the person carried out the building work—intended to
21 carry out the building work in a way that did not comply
22 with the requirements under section 42.

23 (ii) if the person is the owner of the parcel of land—intended
24 to have the building work carried out in a way that did
25 not comply with section 42.

26 Maximum penalty: 200 penalty units, imprisonment for 2 years or
27 both.

1 **Part 3** **Construction Occupations**
2 **(Licensing) Act 2004**

3 **14 Intention to make rectification order**
4 **Section 34 (2) (d) (i)**

5 *omit*

6 , because of the relationship between the entity and the land owner

7 **15 Rectification order inappropriate**
8 **Section 37 (1) (c)**

9 *substitute*

10 (c) is not satisfied that it is appropriate to make a rectification
11 order in relation to the entity, because—

12 (i) the registrar is satisfied on reasonable grounds that the
13 entity is not able to do a thing in the way that would be
14 required by the order; or

15 (ii) of the relationship between the entity and the land owner;
16 and

17 (d) is satisfied that the act that caused the contravention happened,
18 or ended, less than 10 years before the day the Territory
19 proposes to authorise someone under this section.

20 **16 Rectification order offence**
21 **Section 40**

22 *omit*

23 200

24 *substitute*

25 2000

1 **17 Section 56 heading**

2 *substitute*

3 **56 Occupational discipline**

4 **18 Section 56 (1)**

5 *substitute*

6 (1) If the registrar believes on reasonable grounds that a ground for
7 occupational discipline exists in relation to a licensee, the registrar
8 may take 1 or more of the following actions—

9 (a) apply to the ACAT for an occupational discipline order in
10 relation to the licensee;

11 (b) reprimand the licensee;

12 (c) require the licensee, or, if the licensee is a corporation or
13 partnership, a nominee of the licensee, to complete a stated
14 course of training to the satisfaction of the registrar or another
15 stated person;

16 (d) impose a condition on the licence, or amend an existing
17 condition.

18 **19 Considerations before making occupational discipline**
19 **orders**
20 **New section 57 (2) (i)**

21 *insert*

22 (i) any action taken by the registrar under section 56.

1 **20 New part 19**

2 *insert*

3 **Part 19 Transitional—rectification orders**

4 **171 Meaning of *commencement day*—pt 19**

5 In this part:

6 *commencement day* means the day this part commences.

7 **172 Further notice about making rectification order**

8 (1) This section applies if before the commencement day—

9 (a) the registrar gave written notice to an entity and land owner
10 under section 34 (Intention to make rectification order); and

11 (b) the registrar did not—

12 (i) make a rectification order under section 38; or

13 (ii) authorise a licensee to enter the land under section 37 (2).

14 (2) The registrar must give further written notice to the entity and land
15 owner, stating that—

16 (a) as stated in the notice under section 34, the registrar will not
17 make a rectification order if the registrar is not satisfied that it
18 is appropriate to make a rectification order in relation to the
19 entity, because of the relationship between the entity and the
20 land owner; and

21 (b) in addition, the registrar will not make a rectification order if
22 the registrar is not satisfied that it is appropriate to make a
23 rectification order in relation to the entity, because the registrar
24 is satisfied on reasonable grounds that the entity is not able to
25 do a thing in the way that would be required by the order; and

- 1 (c) as stated in the notice under section 34, if the registrar does not
2 make a rectification order—
- 3 (i) the Territory may authorise someone else to enter the
4 land to—
- 5 (A) do the things stated in this notice; or
6 (B) start or finish the work stated in the notice; and
- 7 (ii) if the Territory authorises someone under
8 subparagraph (i)—the entity will have to pay for the
9 things to be done.

10 **173 Expiry—pt 19**

11 This part expires 1 year after the day it commences.

12 *Note* Transitional provisions are kept in the Act for a limited time.
13 A transitional provision is repealed on its expiry but continues to have
14 effect after its repeal (see [Legislation Act](#), s 88).

1 **Part 4** **Construction Occupations**
2 **(Licensing) Regulation 2004**

3 **21** **Reviewable decisions**
4 **Schedule 4, item 15, column 2**

5 *after*

6 (b)

7 *insert*

8 , (c) or (d)

Part 5 Electricity Safety Act 1971

22 Part 2 heading

substitute

Part 2 Electrical wiring work and electrical installations

23 Directions to rectify unsafe installations New section 8 (2A)

insert

(2A) The direction may also require the person to give the inspector written information about the installation or work.

Examples

- 1 a written report about a test required in the direction by the person who did the test
- 2 an electrical engineer's report about whether work complies with relevant standards

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

24 New section 8 (3A) and (3B)

insert

(3A) Subsection (3B) applies if—

- (a) the direction requires the person who carried out the electrical wiring work to do a thing; and
- (b) the person—
 - (i) is not licensed, authorised or qualified to do the thing; or

1 (ii) if a licence, authorisation or qualification is not required
2 to do the thing—does not have appropriate experience
3 and skill to do the thing.

4 (3B) The person must arrange, and pay for, the thing to be done by
5 someone who—

6 (a) is licensed, authorised or qualified to do the thing; or

7 (b) if a licence, authorisation or qualification is not required to do
8 the thing—has appropriate experience and skill to do the thing.

9 **25 Section 27**

10 *substitute*

11 **27 Offences—energy efficiency requirements for**
12 **non-prescribed articles of electrical equipment**

13 (1) A trader commits an offence if—

14 (a) the trader sells an article of electrical equipment; and

15 (b) the article does not comply with the energy efficiency standard
16 prescribed by regulation that applies to the article.

17 Maximum penalty: 50 penalty units.

18 (2) A trader commits an offence if—

19 (a) the trader sells an article of electrical equipment; and

20 (b) the article is not labelled in accordance with a regulation with
21 an energy efficiency label.

22 Maximum penalty: 10 penalty units.

- 1 (3) A person commits an offence if—
2 (a) the person attaches an energy efficiency label to an article of
3 electrical equipment; and
4 (b) the article does not have the energy efficiency rating indicated
5 by the label.

6 Maximum penalty: 30 penalty units.

- 7 (4) A person commits an offence if the person attaches to an article of
8 electrical equipment anything that falsely appears to be an energy
9 efficiency label.

10 Maximum penalty: 30 penalty units.

- 11 (5) This section does not apply to a second-hand article of electrical
12 equipment.

13 *Note* The defendant has an evidential burden in relation to the matters
14 mentioned in s (5) (see [Criminal Code](#), s 58).

- 15 (6) An offence against this section is a strict liability offence.

- 16 (7) In this section:

17 ***energy efficiency label*** means an energy efficiency label prescribed
18 by regulation.

19 **Examples if regulation made for s 27—applicable law**

- 20 1 The ACT makes a regulation under s 27 about 2 articles of electrical
21 equipment that are not the subject of Ministerial determinations (***GEMS***
22 ***determinations***). The ACT law is the applicable law about those articles.

1 2 The ACT makes a regulation under s 27 about an article of electrical
2 equipment that is the subject of a GEMS determination. The ACT requires
3 ‘5 star’ efficiency for that article, while the GEMS determination provides
4 for ‘4 star’ efficiency. Even though the ACT law appears to be inconsistent
5 with the GEMS determination, the 5 star standard must be met, as the 5 star
6 article would comply simultaneously with both the ACT law and the
7 Commonwealth law.

8 *Note 1* The *Greenhouse and Energy Minimum Standards Act 2012* (Cwlth) (the
9 *Commonwealth Act*) applies greenhouse and energy minimum
10 standards (*GEMS*) in association with the supply and commercial use of
11 products that use energy, or affect the energy used by another product.
12 These standards are provided for by requirements in GEMS
13 determinations.

14 Section 27 only operates if a regulation is made for it, and s 27 and the
15 regulation are consistent with the Commonwealth Act and able to
16 operate concurrently with it (see *Self-Government Act*, s 28 and
17 *Commonwealth Act*, s 9).

18 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
19 does not limit, the meaning of the provision in which it appears (see
20 *Legislation Act*, s 126 and s 132).

21 **26 Power to inspect electrical wiring work**
22 **Section 57 (1)**

23 *omit*

24 part 2 (Electrical wiring work)

25 *substitute*

26 part 2 (Electrical wiring work and electrical installations)

1 **27** **Regulation-making power**
2 **New section 66 (2) to (6)**

3 *after the note, insert*

4 (2) A regulation may make provision in relation to energy for articles of
5 electrical equipment, including the following:

6 (a) standards of energy efficiency;

7 (b) examination and testing;

8 (c) labels and labelling.

9 (3) A regulation may apply, adopt or incorporate the law of another
10 jurisdiction or an instrument as in force from time to time.

11 (4) The [Legislation Act](#), section 47 (5) or (6) does not apply in relation
12 to the law of another jurisdiction or an instrument applied, adopted
13 or incorporated under a regulation.

14 *Note* Laws of another jurisdiction and instruments mentioned in s (4) do not
15 need to be notified under the [Legislation Act](#) because s 47 (5) and (6) do
16 not apply (see [Legislation Act](#), s 47 (7)).

17 (5) A regulation may create offences and fix maximum penalties of not
18 more than 60 penalty units for the offences.

19 (6) In this section:

20 *law of another jurisdiction*—see the [Legislation Act](#),
21 section 47 (10).

1	Part 6	Electricity Safety
2		Regulation 2004
3	28	Section 2 heading
4		<i>substitute</i>
5	2	Exemption from inspection etc—Act, s 4
6	29	Section 3 heading
7		<i>substitute</i>
8	3	Exemption from AS/NZS 3000—Act, s 5 (3) and s 6 (2)
9	30	Section 3
10		<i>omit</i>
11		5 (1) (a)
12		<i>substitute</i>
13		5 (1)
14	31	Energy efficiency standards—Act, s 27 (5) (a) and (7)
15		Section 6
16		<i>omit</i>
17	32	Articles of electrical equipment—labelling
18		Section 8
19		<i>omit</i>

1 **Part 7** **Energy Efficiency (Cost of**
2 **Living) Improvement Act 2012**

3 **33 New section 19 (1A)**

4 *before subsection (1), insert*

5 (1A) This section applies to a NERL retailer in a compliance period
6 unless, during the compliance period the retailer did not—

- 7 (a) have electricity sales in the ACT; and
8 (b) undertake eligible activities, including to complete eligible
9 activities commenced in a previous compliance period; and
10 (c) acquire or apply for approval to acquire an abatement factor
11 under section 18; and
12 (d) have a carried forward shortfall or surplus from a previous
13 compliance period.

14 **34 Information to be given to administrator**
15 **Section 19 (1) (f)**

16 *substitute*

- 17 (f) for a tier 2 NERL retailer—the extent to which the retailer’s
18 energy savings obligation will be achieved by paying an
19 energy savings contribution;

20 *Note* For par (f), the energy savings contribution may be expressed as a
21 percentage of the retailer’s energy savings obligation.

- 1 **35 Compliance with energy savings obligations—retailer**
2 **energy savings result**
3 **New section 20 (1A)**
- 4 *before subsection (1), insert*
- 5 (1A) This section applies to—
- 6 (a) a tier 1 retailer; and
- 7 (b) a tier 2 retailer that tells the administrator under
8 section 19 (1) (f) that the retailer energy saving obligation will
9 not include an energy savings contribution.
- 10 **36 Section 20 (7) and (8)**
- 11 *omit*
- 12 2 weeks
- 13 *substitute*
- 14 10 working days
- 15 **37 New sections 20A to 20C**
- 16 *insert*
- 17 **20A Compliance with energy savings obligations—tier 2**
18 **retailer energy savings result and contribution**
- 19 (1) This section applies to a tier 2 retailer that tells the administrator
20 under section 19 (1) (f) that the retailer energy saving obligation will
21 include an energy savings contribution.
- 22 (2) The administrator must determine the result (a *retailer energy*
23 *savings result*) of a NERL retailer’s compliance with the retailer’s
24 energy savings obligation, expressed as a number of tonnes of
25 carbon dioxide equivalent greenhouse gas emissions.

- 1 (3) A retailer energy savings result for a NERL retailer must be worked
2 out as follows:
3 $(RESO + CFS) - (A + S)$
4 *A* means the total abatement factors for eligible activities undertaken
5 or acquired in the compliance period.
6 *CFS* means the carried forward shortfall.
7 *RESO* means the retailer's energy savings obligation.
8 *S* means the carried forward surplus.
9 (4) A retailer energy savings result is—
10 (a) if the result is a positive number—a notional shortfall; and
11 (b) if the result is a negative number—a surplus.
12 (5) The administrator must give a NERL retailer written notice of the
13 retailer's retailer energy savings result.
14 (6) If the NERL retailer has a surplus, the notice must show the surplus
15 to be carried forward to the next compliance period.

16 **20B Compliance with energy savings obligations—tier 2**
17 **retailer contribution for shortfall**

- 18 (1) This section applies if a tier 2 NERL retailer's retailer energy
19 savings result is a notional shortfall.
20 (2) The administrator's notice under section 20A (5) must give the
21 retailer the following information:
22 (a) the notional shortfall;
23 (b) the maximum percentage of the retailer's retailer energy
24 savings result that the retailer may carry forward to the next
25 compliance period being the following:
26 (i) for a shortfall in the compliance period 1 January 2013 to
27 31 December 2013—10%;

- 1 (ii) for a shortfall in the compliance period 1 January 2014 to
2 31 December 2014—10%;
- 3 (iii) for a shortfall in the compliance period 1 January 2015 to
4 31 December 2015—nil;
- 5 (c) the amount of energy savings contribution the retailer told the
6 administrator would be paid to meet the retailer's energy
7 savings obligation;
- 8 (d) the amount of energy savings contribution that the retailer must
9 pay to—
- 10 (i) have no shortfall; or
- 11 (ii) if the notional shortfall exceeds the amount that the
12 retailer may carry forward to the next compliance
13 period—carry forward the maximum shortfall that may
14 be carried forward (the *minimum payment*);
- 15 (e) if the retailer does not pay the energy savings contribution—
16 the shortfall penalty payable by the retailer.
- 17 (3) Not later than 10 working days after receiving a notice under
18 section 20A (5), the NERL retailer must give the administrator
19 written notice of—
- 20 (a) the percentage of the retailer's retailer energy savings result
21 that the retailer elects to carry forward to the next compliance
22 period; and
- 23 (b) the amount of energy savings contribution that the retailer will
24 pay; and
- 25 (c) acknowledgement that a shortfall penalty is payable for any
26 shortfall not paid for by the energy savings contribution.

- 1 (4) Not later than 10 working days after receiving a notice mentioned in
2 subsection (3), the administrator must give the NERL retailer
3 written notice of—
- 4 (a) the amount of the retailer's retailer energy savings result to be
5 carried forward to the next compliance period; and
- 6 (b) the amount of the energy savings contribution payment; and
- 7 (c) the method of payment; and
- 8 (d) the period, of at least 28 days, within which the payment must
9 be made; and
- 10 *Note* A payment invoice issued to a tier 2 retailer for an energy savings
11 contribution may form part of the written notice.
- 12 (e) the shortfall penalty payable by the retailer if the retailer does
13 not pay the energy savings contribution.

14 **20C Compliance with energy savings obligations—tier 2**
15 **retailer failure to pay energy saving contribution**

- 16 (1) This section applies if a tier 2 NERL retailer fails to pay the
17 retailer's energy savings contribution within the period stated in the
18 notice to the retailer under section 20B (4) (d).
- 19 (2) For section 22 (Penalties for noncompliance), the NERL retailer's
20 energy saving contribution is taken to be 0.

21 **38 Compliance with priority household obligations—retailer**
22 **priority household result**
23 **Section 21 (7) and (8)**

- 24 *omit*
- 25 2 weeks
- 26 *substitute*
- 27 10 working days

39 Section 22

2 *substitute*

22 Penalties for noncompliance

- 4 (1) If a NERL retailer's retailer energy savings result is a net shortfall,
5 the retailer is liable to pay a penalty (a *shortfall penalty*) to the
6 Territory.
- 7 (2) If a tier 1 NERL retailer's retailer priority household result is a net
8 shortfall, the retailer is liable to pay a shortfall penalty to the
9 Territory.
- 10 (3) A shortfall penalty is \$70 per tonne of carbon dioxide equivalent
11 greenhouse gas emissions in the net shortfall.

12 *Note* A shortfall penalty imposed under this Act must be paid to the Territory.

- 13 (4) In this section:

14 *net shortfall* means—

- 15 (a) for a tier 1 NERL retailer—the total of the retailer's—
- 16 (i) retailer energy savings result shortfall less the amount of
17 the shortfall that the retailer carries forward to the next
18 compliance period; or
- 19 (ii) retailer priority household result shortfall less the amount
20 of the shortfall that the retailer carries forward to the next
21 compliance period; and
- 22 (b) for a tier 2 NERL retailer—the total of the retailer's retailer
23 energy savings result shortfall, less—
- 24 (i) the amount of the shortfall that the retailer carries
25 forward to the next compliance period; and
- 26 (ii) the retailer's energy savings contribution.

1 **40 New section 24A**

2 *insert*

3 **24A Delegation**

4 The administrator may delegate the administrator's functions under
5 this Act to a public servant.

6 *Note* For the making of delegations and the exercise of delegated functions,
7 see the [Legislation Act](#), pt 19.4.

8 **41 Power to enter premises**
9 **Section 32 (1) (d), new example and notes**

10 *insert*

11 **Example—par (d)**

12 an imminent risk to the health or safety of a person

13 *Note 1* An authorised person who enters premises may seize anything at the
14 premises in accordance with s 36 (3) and (4). The authorised person has
15 the power to make a direction to destroy or otherwise dispose of the
16 thing, or make the thing safe or arrange for someone else to make it safe
17 in accordance with s 47.

18 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
19 does not limit, the meaning of the provision in which it appears (see
20 [Legislation Act](#), s 126 and s 132).

21 **42 Forfeiture of seized things**
22 **Section 46 (1) (b) (i)**

23 *after*

24 10

25 *insert*

26 working

43 Section 47

2 *substitute*

47 Power to destroy etc unsafe things

4 (1) This section applies to anything inspected or seized under this part
5 by an authorised person if the person is satisfied on reasonable
6 grounds that the thing—

7 (a) puts the health or safety of people at risk; or

8 (b) is likely to cause damage to property or the environment.

9 (2) The authorised person may give a written direction to any of the
10 following to destroy or otherwise dispose of the thing, or make the
11 thing safe:

12 (a) a person who owned the thing;

13 (b) a person in charge of the premises where the thing is;

14 (c) if the authorised person believes on reasonable grounds that an
15 eligible activity by a NERL retailer relating to the thing is a
16 reason for the matters mentioned in subsection (1) (a) or (b)—
17 the NERL retailer.

18 (3) The direction may state 1 or more of the following:

19 (a) what action must be taken;

20 (b) how the thing must be kept until the action is taken;

21 (c) the period within which the action must be taken.

22 (4) A person must comply with a direction given to the person under
23 subsection (2).

24 Maximum penalty: 50 penalty units.

25 (5) An offence against this section is a strict liability offence.

- 1 (6) Alternatively, if the thing has been seized under this part, the
2 authorised person may—
- 3 (a) destroy or otherwise dispose of the thing; or
4 (b) make the thing safe.
- 5 (7) Costs incurred by the Territory in relation to an action under
6 subsection (6) are a debt owing to the Territory by, and are
7 recoverable together and separately from, the following people:
- 8 (a) if the authorised person is satisfied on reasonable grounds that
9 the owner is responsible for making the thing unsafe—the
10 owner of the thing;
- 11 (b) if the authorised person is satisfied on reasonable grounds that
12 a person in control of the premises where the thing was is
13 responsible for making the thing unsafe—the person in control
14 of the premises who is responsible for making the thing unsafe;
- 15 (c) if the authorised person is satisfied on reasonable grounds that
16 the NERL retailer is responsible for making the thing unsafe—
17 the NERL retailer.

18 **44 Application for order disallowing seizure**
19 **Section 48 (1)**

- 20 *after*
21 10
22 *insert*
23 working

1
2
3

**45 Reviewable decisions
Schedule 1, new items 2A and 2B**

insert

2A	20A	determining retailer energy savings result	NERL retailer receiving the result
2B	20B	determining minimum payment for tier 2 retailer	NERL retailer receiving the result

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 28 November 2013.

2 Notification

Notified under the [Legislation Act](#) on 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
