



Guardianship and Administration and Other Legislation Amendment Bill 2012

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

The Electrical Trades Union (the ETU) is a union of over 12,000 members representing employees employed in, or in connection with, the electrical industry.

This submission has been prepared by the ETU in response to the Guardianship and Administration and Other Legislation Amendment Bill 2012.

While the main objective of this Bill is to amend the Guardianship and Administration Act 2000, it is an omnibus Bill and contains amendments to a range of Acts, including the Electrical Safety Act 2002.

This submission will only address issues in relation to the proposed amendments to the Electrical Safety Act.

The ETU is surprised and disappointed that this Bill has been introduced to Parliament without any consultation with the ETU, the Union that represents electrical workers.

We are also surprised that the Bill was introduced without any discussion with the Commissioner for Electrical Safety, or, to the best of our knowledge, any of the other stakeholders.

The History

In February 2000 the then Minister for Employment, Training and Industrial Relations, the Honourable Paul Braddy MP and the then Minister for Mines and Energy, the Honourable Tony McGrady MP established a joint Ministerial Taskforce to investigate and make recommendations on the manner in which electrical incidents can be prevented, investigated and dealt with. The Taskforce reported in April 2001. It recommended standalone electrical safety legislation as a matter of urgency, based on the Workplace Health and Safety Act 1995 and complementary to other safety legislation.

In addition to the Electrical Safety Taskforce review, the Queensland Ombudsman received a number of complaints about the way in which the former Department of Employment, Training and Industrial Relations (Division of Workplace Health and Safety) and the former Department of Mines and Energy (Electrical Safety Office) investigated 13 electrical fatalities throughout Queensland between 1995 and 1999.

As a result of the findings of the review, the Electrical Safety Act 2002 (Qld) and supporting Electrical Safety Regulation was introduced in 2001 to give effect to the recommendations of the *Ministerial Electrical Safety Taskforce Final Report* (the Ministerial Taskforce) and the *Ministerial Review of the Electrical Safety Office Final Report* (the ESO Review) which responded to the findings of investigations of electrical incidents.

The ETU was actively involved with the review of electrical safety legislation in 2001 and strongly endorsed the focus of the Electrical Safety Bill, which included as its purpose

“..eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity”.¹

The Act when introduced, represented significant reform of the legislative framework and standards for the safe supply and safe use of electricity and electrical equipment in workplaces and homes and stood apart from the regulation of the electricity industry.

The main objective sought to be achieved was the elimination of the human cost of electricity incidents and accidents. When introduced the act provided for –

- “(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;
- (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.”²

¹ Section 4(1) of the *Electrical Safety Act 2002*

² Section 5 of the *Electrical Safety Act 2002*

COMMISSIONER FOR ELECTRICAL SAFETY

In 2002 the transfer of the Electrical Safety Office (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 of stakeholders about potential for a conflict between the commercial interests and the safety role performed by the ESO.

It is important to note that both industry and unions supported 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 the industry was deemed to be crucial in order for safety to have priority over all other interests.

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.

Electrical Safety Boards and Committees

The Electrical Safety Act (the Act) provides for the establishment of the 8 member Electrical Safety Board (the Board). The primary function of the Electrical Safety Board is to give advice and make recommendations to the Minister about policies, strategies and legislative arrangements for electrical safety.

A number of options are at the Board's disposal to enable it to discharge those functions (eg developing, evaluating, and updating 5 year strategic plans). It also reviews the legislation, Ministerial notices and codes of practice that are made under the Act. It promotes electrical safety in workplaces and in the broader community in an effort to foster greater awareness of electricity risks and ways of improving 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 for Electrical Safety chairs the Board and membership comprises 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, the

members of the Board include representatives of employer groups, employee groups and community groups.

Under the Board there are 3 committees –

- the Electrical Licensing Committee provides advice and makes recommendations about licences and training of electrical workers and contractors. It is also able to take necessary disciplinary action against current and previous licence holders (including investigation of complaints) and to hear appeals from licensing decisions of the chief executive;
- the Electrical Safety Education Committee gives advice and makes recommendations to the Board about promotion of electrical safety in workplaces and in the community;
- the Electrical Equipment Committee provides advice and makes recommendations about the safety of electrical equipment and, as a secondary function, gives advice and makes recommendations about energy efficiency and performance of such equipment.

Impact of the Introduction of the Electrical Safety Act 2002

Immediately prior to the introduction of the Act in 2002 and subsequently, the government and the ESO was involved in a massive public awareness campaign about the provisions of the Act and the need for people to work more safely. As a result of this the number of fatalities in the industry dropped dramatically from 10 in 2000/01 to 1 in 2002/3.

Unfortunately, this dramatic reduction has not been maintained. However, looking at the Fatalities in Queensland as a result of an electrical incident, the moving five year average has gone from a figure consistently between 3 and 4 in the 1990's to 1.16 for the period 2006 – 2011. Queensland has gone from having a five year average higher than the national average to one that has consistently been lower than the national average.

The fact that this change began in 2002, that is, the year that the Act commenced, suggests there is a direct link between the changes brought about with its introduction.

It is impossible to determine which parts of the Act have provided the greatest impetus for this reduction in electrical fatalities. However, one thing is clear, maintaining safety standards in the electrical field is an ongoing task and it is a task that needs ongoing government commitment.

Impact of Proposed Changes

The Commissioner for Electrical Safety is an independent statutory position. The Commissioner's role includes Chairing the Board and the three Committees set up in the legislation. This means that there is consistency and a free exchange of information between these bodies.

The ETU believes that it is a serious step (and contrary to the recommendations of the 2001 Task Force) to remove the statutory position of Commissioner for Electrical Safety and appoint instead a Chairperson for the Electrical Safety Board and a separate Chairperson for the Electrical Licensing Committee³. Removing the position of Commissioner for Electrical Safety means that instead of having a statutory officer setting the agenda for the committees and liaising between the various stakeholders, the Department and the Minister, the Department itself will be setting the agenda.

As it currently stands, if, for example, an electrical contractor or consumer can contact the Commissioner for Electrical Safety and he can raise issues directly with the Department. This role will be lost with the removal of that position.

It also appears that the amendment will reduce the level of mandatory qualification for the position of Chairperson for the Electrical Safety Board (in comparison to the mandatory qualifications for the Commissioner for Electrical Safety).

Currently the Act requires that to be appointed as the Commissioner for Electrical Safety “a person must have an electrical trade or qualification and professional experience in electrical safety”⁴. However, under the proposed amendment, to be appointed the Chairperson of the Electrical Safety Board “a person must have professional experience in the electrical industry”⁵.

This is a significant (and intentional) reduction in the mandatory qualifications for the person appointed to Chair the Electrical Safety Board. Specifically, the Explanatory memorandum states that “... such an approach would remove the current statutory requirement for the appointee to be a qualified and licensed electrical worker.”⁶

Currently all of the Committees⁷ that are set up under the Act are standing committees and as such are required to meet at least 4 times a year. The explanatory memorandum states that “There are significant expenses (especially travel) associated with the ... committee meetings”.⁸

The ETU is surprised by this assertion. The ETU does not believe that there are “significant expenses” associated with the Committee Meetings.

³ While it is possible that the same person could fulfil both roles the mandatory qualifications for each position set out in the Bill differ

⁴ Section 69 of the Electrical Safety Act

⁵ See Clause 20 of the Guardianship and Administration and Other Legislation Amendment Bill 2012

⁶ Guardianship and Administration and Other Legislation Amendment Bill 2012, page 4

⁷ The Electrical Licensing Committee, the Electrical Safety Education Committee and the Electrical Equipment Committee

⁸ *ibid*

For example, the Electrical Equipment committee includes a broad range of industry participants, manufacturers, the Energex Testing Laboratory as well as consumer advocates. It has played an important role in relation to recalls of electrical equipment, testing of electrical equipment, post production auditing and liaising with interstate organisations.

Of all of the committee members, the ETU understands that the only costs for the Electrical Equipment Committee are flights from Cairns, Townsville and Rockhampton. There is no payment of travel allowance, there is no overnight accommodation provision, there is no provision of lunch. Given the clear benefits to the community of this committee, the cost of flights (presumably in the order of \$1000 per committee meeting) seems more than reasonable.

To abolish this Committee as a standing committee, and instead move its functions into the Electrical Safety Board, has the potential to impact negatively on the ongoing safety of electrical equipment in Queensland.

On this basis the ETU believes that this and other committees should be retained.

Summary

The Union finds it appalling, and is extremely saddened, that the Minister for Justice would introduce the "Guardianship and Administration and other Legislation Amendments Bill 2012 that removes the position of Commissioner for Electrical Safety and two standing committees (being the Electrical Safety Education Committee and the Electrical Equipment Committee).

The changes that were introduced in the Act in 2002 were as the result of extensive investigations and industry consultation. These changes have provided significant benefits to the community, in particular by reducing the number of electrical fatalities occurring in Queensland. Our record for electrical safety is second to none around the country.

The changes that are proposed appear to be driven by the need to cut costs, without considering the value of the current arrangements to the Community. It appears that no consideration has been given to the impact on electrical safety in Queensland. Further, it appears that there has been no industry consultation in relation to these proposed changes.

The ETU believes that the proposed changes are a retrograde step and urges the Government to reconsider.

In particular, the ETU urges the Government to retain the position of "Commissioner of Electrical Safety" and the two Statutory Committees, and that "Part 4 – Amendment of Electrical Safety Act 2002" of the proposed Guardianship and Administration and other Legislation Amendments Bill 2012 be removed.