

**Industry Working Group Response to
Recommendations of the Public Benefit Test
Report – Licensing Provisions**

(Prepared by ACIL Consulting, January 2002)

BACKGROUND

A national competition policy review of the licensing aspects of the *Electricity Act 1994* has been conducted in accordance with Queensland Treasury's Public Benefit Test (PBT) Guidelines. A PBT report, prepared by an independent consultant company ACIL Consulting Group in January 2002, concluded that continuation of the current licensing approach was justified to ensure the safety of electrical workers, other workers and consumers. It considered the arrangements were appropriate and did not propose any reduction to them.

However, the report noted a number of areas where the existing licensing system could be improved to maximise benefits and minimise costs. Several key recommendations were effectively implemented through the drafting and commencement of the *Electrical Safety Act 2002*, as summarised below:

Recommendation	<i>Electrical Safety Act 2002</i>
The definition of 'electrical work' is too broad and should exclude extra-low voltage work	Extra-low voltage now excluded from definition of electrical equipment, and by association electrical work
Some provisions which relate to general consumer protection should be removed or alternatively the objectives of the Act broadened to include consumer protection	Providing for protection for consumers against failures of persons who perform electrical work to properly perform and complete the work is nominated as one of the ways the Act will achieve its purpose
Disciplinary provisions appear appropriate although there are concerns about how effective they are in practice in terms of supporting compliance	Penalty provisions now align with comparable modern health and safety legislative regimes. The penalty levels accord with the severity of risk to the electrical safety of all persons, and will act as a significant deterrent to persons who have an obligation under the Act.
Administrative arrangements for the licensing system need to be addressed in consideration of institutional options such as the creation of a new independent electricity safety regulator	The Act provides that the Department of Industrial Relations assumes responsibility for the licensing regime.

Timeframes for the introduction of the *Electrical Safety Act 2002* did not allow sufficient time for the consideration and resolution of three other recommendations prior to commencement, specifically:

1. *Consideration should be given to rationalisation of existing electrical worker licence classes to more closely align with national approaches;*
2. *Some adjustments should be made to the qualification requirements with a view to a more competency-based approach; and*

3. *Ownership restrictions on electrical contracting businesses could be reduced and made more consistent across business forms.*

INDUSTRY WORKING GROUP

In March 2002, the Minister for Industrial Relations the Honourable Gordon Nuttall MP, approved the establishment of an Industry Working Group ('the IWG') to consider the remaining recommendations and report back to the Minister by 31 December 2002.

Key stakeholder groups including the National Electrical and Communications Association (Qld); Trades Recognition Australia; Communications, Electrical and Plumbing Union (Electrical Division – Qld); Department of Industrial Relations and Treasury Department were represented

Energex, Ergon Energy and Powerlink were consulted during the review.

INDUSTRY WORKING GROUP RESPONSE TO RECOMMENDATIONS

Based on the limited scope of the restrictions in terms of their effect and impact on stakeholders, the relatively minor restrictions on business and perceived low level of community concern, the IWG considered a minor assessment of the outstanding PBT recommendations suffice. The IWG further considered any restrictions imposed by the legislation requirements were made for very clear social reasons i.e. providing for the safety of all persons affected by the performance of electrical work.

PBT Recommendation

Consideration should be given to rationalisation of existing electrical worker licence classes to more closely align with national approaches

Consideration 1 – Removal of electrical fitter licence class

- Simple elimination of the fitter class of licence would leave approximately 1000 Queensland electrical workers either without the status of a licence or having to 'upgrade', when they may not have the workplace need, personal desire or opportunity to gain such experience and/or training.
- Increasing the number of classes of electrician licence would be problematic, increasing confusion and demarcation.
- The IWG consider electrical fitters highly trained and competent tradespersons and were concerned with any perceived downgrading that a change in licensing may create.

IWG Recommendation 1

Maintain current arrangements for separate electrical fitter and mechanic licences.

Consideration 2 – Removal of electrical linesperson and electrical cable jointer classes of licence

- Most linespersons and cable jointers are employed by electricity entities (Energex, Ergon and Powerlink), or businesses contracted to electricity entities. The IWG considered the increased contracting out of this type of electrical work provides a justification for the continuation of the licences.
- The IWG noted that electricity entities consulted during the review expressed a preference for a national register of qualified linespersons and cable jointers, should the licence classes be removed.

IWG Recommendation 2
Maintain current arrangements for electrical linesperson and cable jointer licences, based on safety arguments.

Consideration 3 – Removal of the first level restricted licence class for electrical work on plug-in equipment

- At the time of the PBT report, permission to undertake training to repair plug-in equipment was only given to non-electrical tradespersons (or those with approved callings) who wished to carry out electrical work incidental to their trade (or approved calling).
- The *Electrical Safety Act 2002* allows for non-trade personnel to undertake approved coursework (including units 1, 3 and 5 of National Restricted Electrical Licence package) and on-the-job training leading to assessed competence and a restricted licence outcome with relevant endorsements (s.38(2) *Electrical Safety Regulation 2002*).
- In effect the legislation removes previous ‘tradesman barriers to entry’ and provides licensing outcomes for any person who satisfactorily completes a course of instruction approved by the chief executive.
- Further, s.38(3) of the *Electrical Safety Regulation 2002* allows persons to enter the Queensland labour market for the repair of plug-in equipment where their training and experience has been obtained inter-state, even though no equivalent licence may exist in that state.
- With these significant impediments to competitive labour markets removed, it may be argued that additional savings to be had from fully deregulating/eliminating this licence class are small, given the electrical safety concerns of industry.

IWG Recommendation 3

Maintain current requirements for electrical work on plug-in equipment, acknowledging the existence of a new framework which removes the ‘tradesman’s barrier to entry’ to the market for labour services repairing plug-in electrical equipment.

PBT Recommendation

Some adjustments should be made to the qualification requirements with a view to a more competency-based approach

- Traditionally, undertaking an apprenticeship supervised by a Registered Training Organisation (RTO) is the path to achieving competency in an electrical trade, leading to the granting of a Certificate of Completion and subsequent electrical worker licence.
- Particularly for overseas trained persons and defence force trained personnel, Trades Recognition Australia (TRA) administers a national scheme to recognise knowledge and skills obtained outside the traditional Australian apprenticeship system. A TRA-awarded trade certificate is an alternative basis of a successful electrical worker licence application.
- The PBT argued that competency may also be obtained from engaging in related professions (eg electrical engineers and technicians) or even by self trained persons (eg electronics hobbyists), but also acknowledged the difficulty in designing an appropriate open entrance examination with an appropriate practical component.
- In preparing its report, ACIL was apparently not aware of national developments in electro-technology training which have resulted in the identification of 66 Essential Performance Criteria (implemented) and a Capstone Assessment (soon to be implemented) for electrician apprentices. It is anticipated that these initiatives will not only assist the training system in delivering quality of training outcome, but also provide a basis for consistency in RTO Recognition of Prior Learning (RPL) for those who can justify accelerated progress through the apprenticeship system.
- RPL will not remove the requirement for apprenticeship applicants to be indentured by an electrical business.
- However, it is argued that minor benefit would accrue in designing and administering another pathway to a trade certificate and subsequent worker licence which competes against the TRA path and an apprenticeship system, which is in the process of gaining a more consistent basis of administering RPL.

IWG Recommendation 4

Acknowledge the existence of alternate pathways available through TRA and a likely improving RPL mechanism through RTOs within an approved apprenticeship system.

PBT Recommendation

Ownership restrictions on electrical contracting businesses could be reduced and made more consistent across business forms.

- The PBT observed that a technically *unqualified individual* (s.7 *Electrical Safety Regulation 2002*) who wishes to commence an electrical contracting business is forced to adopt either a partnership business form (with a qualified partner) or incorporate with associated costs.
- No appreciable reduction in electrical safety seems likely to arise if unqualified individuals are permitted to operate under a sole trader business form, provided the business has at least one qualified individual's name endorsed on the licence. In a technical (electrical safety) sense, this is the same requirement as for a corporate electrical contractor licence.
- Apart from electrical technical requirements, a *qualified individual* (s.7 *Electrical Safety Regulation 2002*) must be a fit and proper person and have satisfactorily completed a business course of instruction or completed an approved exam or operated a business for 5 years.
- The PBT further suggested a possible contractor's exam covering basic safety and technical requirements including regulatory requirements, replacing technical and/or business qualifications for a *qualified individual*.
- An applicant for an electrical contractor's licence must also meet minimum financial (net realisable assets of \$5k or \$10k for corporate) and insurance requirements (\$5M public liability insurance in approved form which includes \$100k combined professional indemnity and 'goods in care' component and \$50k consumer protection/completion component).

IWG Recommendation 5

The IWG recommended a reduction in ownership restrictions and the making of contractor licensing requirements more consistent across business forms, by allowing unqualified individuals to obtain a contractor's licence provided at least one qualified individual is endorsed on any such licence, ensuring electrical work is carried out and supervised by licensed electrical workers.

SUMMARY

The commencement of the *Electrical Safety Act 2002* on 1 October 2002 implemented 4 key recommendations of the Public Benefit Test Report prepared by ACIL Consulting, and largely addressed the consultant's concerns with restrictions on eligibility requirements for a restricted electrical work licence for plug-in equipment.

An IWG has further considered three recommendations. Amendments to the *Electrical Safety Regulation 2002* will be necessary to give effect to the IWG's recommendation 5. The Department of Industrial Relations will progress the necessary regulatory amendments with the intent of the amendments being made by Executive Council on 20 March 2003 for immediate commencement.