

This document is written by Stop the Electric Silent Killer ABN32657629233 LIC92185 for Landlords and Commercial Tenants. The document outlines the essential sections of the Queensland Electrical Safety Act 2002 that enforces a Duty to a Landlord and Commercial Tenant.

The purpose of this document is to give the reader a general understanding of the Queensland Electrical Safety Act 2002, with the intention for the reader to gain further information to clarify their duty and responsibilities.

Topics covered include:

- 1. What is the Queensland Electrical Safety Act 2002?**
- 2. Why does the Act apply to a landlord and commercial tenant?**
- 3. What is my duty?**
- 4. What are the consequences for breaching the Act?**
- 5. How do I comply with the Act? – The Stop the Electric Silent Killer solution**
- 6. Can I get a second opinion?**
- 7. If you would like more information from Stop the Electric Silent killer.**

1. What is the Queensland Electrical Safety Act 2002?

Electrical Safety Act 2002

An Act about electrical safety, and for other purposes

3. Act binds all persons (1) This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States. (2) The State, Commonwealth and other States are liable for an offence against this Act.

Division 2 Purpose of Act 4 Purpose

(1) This Act is directed at eliminating the human cost to individuals, families and the community of death, injury and destruction that can be caused by electricity.

(2) Accordingly, the purpose of this Act is to establish a legislative framework for—

- (a) preventing persons from being killed or injured by electricity; and
- (b) preventing property from being destroyed or damaged by electricity

How purpose of Act is to be achieved

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

- (a) imposing duties on persons who may affect the electrical safety of others by their acts or omissions

2. Why does the Act apply to a landlord and commercial tenant?

The Act enforces your obligation as having a Duty under the Act.

This subdivision sets out the principles that apply to all duties that persons have under this Act.

27 Duties not transferable A duty can not be transferred to another person.

27A Person may have more than 1 duty A person can have more than 1 duty by virtue of being in more than 1 class of duty holder.

27B More than 1 person can have a duty

- (1) More than 1 person can concurrently have the same duty.
- (2) Each duty holder must comply with that duty to the standard required by this Act even if another duty holder has the same duty.
- (3) If more than 1 person has a duty for the same matter, each person—
 - (a) retains responsibility for the person's duty in relation to the matter; and
 - (b) must discharge the person's duty to the extent to which the person has the capacity to influence and control the matter or would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.

38 Duty of person in control of electrical equipment

(1) This section applies to a person who is in control of electrical equipment.

(2) The person must ensure that the electrical equipment is electrically safe.

You fall under a duty by the definition in the Act as conducting or undertaking a business.

Meaning of person conducting a business or undertaking

For this Act, a person conducts a business or undertaking—

(a) whether the person conducts the business or undertaking alone or with others; and

(b) whether or not the business or undertaking is conducted for profit or gain.

(2) A business or undertaking conducted by a person includes a business or undertaking conducted by a partnership or an unincorporated association.

(3) If a business or undertaking is conducted by a partnership (other than an incorporated partnership), a reference in this Act to a person conducting the business or undertaking is to be read as a reference to each partner in the partnership.

3. What is my duty?

The Act says you need create electrically safety and eliminate the risk of death, shocks and fire.

The wording in the Act is as follows:

(1) Electrical risk means—

(a) in relation to a person, the risk to the person of death, shock or injury caused directly by electricity or originating from electricity; or

(b) in relation to property, the risk to the property of—

(i) damage caused by a cathodic protection system; or

(ii) loss or damage caused directly by electricity or originating from electricity.

(2) Electrically safe means—

(a) for a person or property, that the person or property is free from electrical risk; and

(b) for electrical equipment or an electrical installation, that all persons and property are free from electrical risk from the equipment or installation; and

(c) for the way electrical equipment, an electrical installation or the works of an electricity entity are operated or used, that all persons and property are free from electrical risk from the operation or use of the equipment, installation or works;

(e) for the way a business or undertaking is conducted, that all persons are free from electrical risk from the conduct of the business or undertaking; and

(3) Electrical safety, for a person or property, means the person or property is electrically safe.

(4) In this section— free from electrical risk, for a person or property, means that—

(a) electrical risk to the person or property has been eliminated, so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate electrical risk to the person or property, the risk has been minimised so far as is reasonably practicable

4. What are the consequences for breaching the Act?

Consequences range from heavy fines to 20 years imprisonment.

Division 2A

Offences and penalties

40A Electrical safety duty Electrical safety duty means a duty imposed under division 2.

40B Reckless conduct—category 1

(1) A person commits a category 1 offence if—

(a) the person has an electrical safety duty; and

(b) the person, without reasonable excuse, engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness; and

(c) the person is reckless as to the risk to an individual of death or serious injury or illness. Maximum penalty—

(a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—3,000 penalty units or 5 years imprisonment; or

(b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—6,000 penalty units or 5 years imprisonment; or

(c) for an offence committed by a body corporate—30,000 penalty units.

(2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.

(3) A category 1 offence is a crime.

40C Failure to comply with electrical safety duty— category 2

A person commits a category 2 offence if— (a) the person has an electrical safety duty; and

(b) the person fails to comply with that duty; and

(c) the failure exposes an individual to a risk of death or serious injury or illness. Maximum penalty—

(a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—1,500 penalty units; or

(b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—3,000 penalty units; or

(c) for an offence committed by a body corporate—15,000 penalty units.

40D Failure to comply with electrical safety duty— category 3

A person commits a category 3 offence if— (a) the person has an electrical safety duty; and

(b) the person fails to comply with that duty. Maximum penalty—

(a) for an offence committed by an individual, other than as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—500 penalty units; or

(b) for an offence committed by an individual as a person conducting a business or undertaking or as an officer of a person conducting a business or undertaking—1,000 penalty units; or

(c) for an offence committed by a body corporate—5,000 penalty units.

40E Duty prevails over particular excuses For an offence against sections

40C and 40D, the Criminal Code sections 23(1) and 24 are subject to division 2. Note— This rule is similar to the rule in the Criminal Code section 23(1) (extended to section 24), which makes that provision subject to express provisions of the Criminal Code relating to negligent acts and omission.

40F Exceptions (1) A volunteer does not commit an offence under this division for a failure to comply with an electrical safety duty, except a duty under section 39 or 40.

(2) An unincorporated association does not commit an offence under this Act for a failure to comply with a duty imposed on the unincorporated association under this Act.

(3) However—

(a) an officer of an unincorporated association (other than a volunteer) may be liable for a failure to comply with a duty under section 38A; and

(b) a member of an unincorporated association may be liable for failure to comply with a duty under section 39 or 40

48N Industrial manslaughter—person conducting business or undertaking

(1) A person conducting a business or undertaking commits an offence if—

(a) a worker—

(i) dies in the course of carrying out work for the business or undertaking; or

(ii) is injured in the course of carrying out work for the business or undertaking and later dies; and

(b) the person's conduct causes the death of the worker; and

(c) the person is negligent about causing the death of the worker by the conduct. Maximum penalty—

(a) for an individual—20 years imprisonment; or

(b) for a body corporate—100,000 penalty units.

(2) An offence against subsection (1) is a crime

5. How do I comply with the Act? – The Stop the Electric Silent Killer solution

Simply provide the “electrician test form” to a licenced electrician to check, test and rectify any dangers. Once the form completed and all dangers eliminated, simply organise a periodic test schedule and check specified by industry requirements or as recommended by the electrician. If you don’t have an electrician or would like us to be of service simply contact Clem on 0419 313 460 or send an email clem@electricsilentkiller.com for a free quote.

At Stop the Electric Silent Killer, Clem Capdevila an electrical contractor and electrician for over 16 years servicing over 10,000 customers. Has written books, news articles and door knock campaigns to create community protection against the risk of electric death, shocks and fire. Visit www.electricsilentkiller.com to find out more.

Get a copy



**Electrician
Test Form**

6. Can I get a second opinion?

Yes of course, you can and here are my suggestions:

1. Get legal advice
2. Contact the Electrical Safety Office 1300 632 128
3. Download a copy of the Act



7. If you would like more information from Stop the Electric Silent killer.

- Visit the website for more information, products and services
- Download an Electrician Test Form to comply with your duty
- Download a free eBook – Please Stop Death, Shocks & Fire 14+
- Download a free eBook – Electricity with Marley & Friends 5+

