

Authorised Version No. 013
Energy Safe Victoria Act 2005

No. 39 of 2005

Authorised Version incorporating amendments as at
1 April 2019

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The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to establish Energy Safe Victoria; and
- (b) to abolish the Office of Gas Safety and the Office of the Chief Electrical Inspector; and
- (c) to make consequential amendments to the **Gas Safety Act 1997** and the **Electricity Safety Act 1998** and other Acts.

2 Commencement

- (1) Subject to subsection (3), this Act (except section 59) comes into operation on a day to be proclaimed.
- (2) Section 59 is deemed to have come into operation on 23 November 2004.
- (3) If a provision of this Act does not come into operation before 30 December 2005, it comes into operation on that day.

3 Definition

In this Act—

Director means the Director of Energy Safety appointed under Part 2.

Part 2—Energy Safe Victoria

Division 1—Establishment, powers and functions

4 Establishment

- (1) There is established a body called "Energy Safe Victoria".
- (2) Energy Safe Victoria—
 - (a) is a body corporate with perpetual succession;
 - (b) has an official seal;
 - (c) may sue and be sued;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of Energy Safe Victoria affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of Energy Safe Victoria must be kept in such custody as Energy Safe Victoria directs and must not be used except as authorised by Energy Safe Victoria.

5 Objectives of Energy Safe Victoria

The objectives of Energy Safe Victoria are to perform its functions and exercise its powers in such a manner as it considers best achieves the objectives of Energy Safe Victoria specified in the **Electricity Safety Act 1998** and the **Gas Safety Act 1997** and any other Act.

6 Functions

The functions of Energy Safe Victoria are those conferred on it by—

- (a) this Act and the regulations under this Act; and
- (b) the **Electricity Safety Act 1998** and the regulations under that Act; and
- (c) the **Gas Safety Act 1997** and the regulations under that Act; and
- (d) any other Act or the regulations made under any other Act.

7 Powers

For the purpose of performing its functions, Energy Safe Victoria—

- (a) has such powers as are conferred on it by this Act or any other Act or the regulations under this Act or any other Act; and
- (b) may do all other things necessary or convenient to be done for or in connection with, or as incidental to, the achievement of its objectives or the performance of its functions.

7A Provision of information and assistance by Energy Safe Victoria to the AER

- (1) Despite any other Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), Energy Safe Victoria is authorised, on its own initiative or at the request of the AER, to provide the AER with such information (including information given in confidence) in the possession or control of Energy Safe Victoria that is reasonably required by the AER to perform a function or duty or exercise a power under the

S. 7A
inserted by
No. 35/2013
s. 13.

National Electricity (Victoria) Law or the
National Gas (Victoria) Law.

- (2) Nothing done, or authorised to be done, by Energy Safe Victoria in acting under subsection (1)—
- (a) constitutes a breach of, or default under, an Act or other law; or
 - (b) constitutes a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a breach of a duty of confidence (whether arising by contract, in equity, by custom or in any other way); or
 - (d) constitutes a civil or criminal wrong; or
 - (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation or gives rise to any other right or remedy; or
 - (f) releases a surety or any other obligee wholly or in part from an obligation.
- (3) In this section, **AER** means the Australian Energy Regulator established by section 44AE of the Competition and Consumer Act 2010 of the Commonwealth.

S. 7B
inserted by
No. 43/2018
s. 17.

7B Use and disclosure of information by Energy Safe Victoria under Part 4 of the Electricity Safety Act 1998

- (1) Despite any other Act or law (other than the **Charter of Human Rights and Responsibilities Act 2006**), Energy Safe Victoria is authorised, on its own initiative or at the request of a regulatory authority, to disclose information to a regulatory authority obtained in the course of carrying out a function under Part 4 of the **Electricity Safety Act 1998** if—

- (a) the disclosure is reasonably necessary to enable the regulatory authority to perform a function under a corresponding law; or
 - (b) the disclosure is authorised by the person to whom the information relates.
- (2) Nothing done, or authorised to be done, by Energy Safe Victoria in acting under subsection (1)—
- (a) constitutes a contravention of, or default under, an Act or other law; or
 - (b) constitutes a contravention of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) constitutes a contravention of a duty of confidence (whether arising by contract, in equity, by custom or in any other way); or
 - (d) constitutes a civil or criminal wrong; or
 - (e) terminates an agreement or obligation or fulfils any condition that allows a person to terminate an agreement or obligation or gives rise to any other right or remedy; or
 - (f) releases a surety or any other obligee wholly or in part from an obligation.
- (3) In this section—

corresponding law has the same meaning as in section 50 of the **Electricity Safety Act 1998**;

regulatory authority has the same meaning as in section 50 of the **Electricity Safety Act 1998**.

8 Committees

- (1) Energy Safe Victoria may establish such committees as it determines.
- (2) A committee established under subsection (1) is to consist of—
 - (a) such employees of Energy Safe Victoria; and
 - (b) such other persons—as Energy Safe Victoria determines.
- (3) Energy Safe Victoria must appoint one of the members of the committee as chairperson.
- (4) Except as otherwise provided by the regulations, the procedure of a committee is in its discretion.

9 Appointment of persons to assist Energy Safe Victoria

- (1) Energy Safe Victoria may appoint or engage such employees or other persons as are necessary for the performance of its functions.
- (2) The terms and conditions of appointment or engagement are as determined by Energy Safe Victoria.

S. 9A
inserted by
No. 51/2012
s. 12.

9A Functions, duties and powers of employees of Energy Safe Victoria under Commonwealth laws

Subject to the approval of the Minister and any conditions on that approval, an employee of Energy Safe Victoria may perform a function or duty, or exercise a power, under a law of the Commonwealth—

- (a) related to the promotion of the development and adoption of products that—
 - (i) use less energy; or
 - (ii) produce fewer greenhouse gases; or

- (iii) contribute to reducing the amount of energy used, or greenhouse gases produced, by other products; and
- (b) that is specified in the approval.

10 Delegation

Energy Safe Victoria may, by instrument under its official seal, delegate any function or power of Energy Safe Victoria, other than this power of delegation, to—

- (a) an employee of Energy Safe Victoria;
- (b) a member of a committee appointed in accordance with this Part;
- (c) with the consent of the Minister, another person.

Division 2—Director of Energy Safety

11 Energy Safe Victoria consists of Director

Energy Safe Victoria consists of the Director of Energy Safety.

12 Appointment of Director

- (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Director.
- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the Director in respect of the office of Director.

S. 12(2)
substituted by
No. 80/2006
s. 26(Sch.
item 32).

13 Terms and conditions of appointment

- (1) The Director shall be appointed for such term, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

- (2) The Director holds office, subject to this Act, on such terms and conditions as are determined by the Minister.

14 Vacancies, resignations and removal from office

- (1) The Director ceases to hold office if he or she becomes bankrupt.
- (2) The Director may resign by writing delivered to the Minister.
- (3) The Governor in Council may remove the Director from office if the Director—
- (a) becomes incapable of performing his or her duties; or
 - (b) is negligent in the performance of those duties; or
 - (c) engages in improper conduct.

S. 14(3)
substituted by
No. 55/2010
s. 45.

15 Acting appointments

- (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to act as Director—
- (a) during a vacancy in the office of the Director (including an initial vacancy); or
 - (b) during any period, or during all periods, when the Director is absent or, for any other reason, is unable to perform the functions of Director.
- (2) A person appointed to act during a vacancy pursuant to subsection (1)(a) must not continue to act for more than 6 months, unless re-appointed.
- (3) An acting appointment shall be for the term and on the conditions determined by the Minister.
- (4) The Governor in Council may at any time terminate an acting appointment.

- (5) A person appointed under this section has all the powers, and may perform all the functions, of the person for whom he or she is acting.

16 Validity of decisions

- (1) An act or decision of Energy Safe Victoria is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of the Director.
- (2) Anything done by or in relation to a person purporting to act as Director is not invalid merely because—
- (a) the occasion for the appointment has not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment has ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

17 Disclosure of interests

- (1) If the Director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by Energy Safe Victoria, he or she must, as soon as practicable after the relevant facts come to his or her knowledge, disclose the nature of the interest to the Minister.
- (2) Subsection (1) does not apply if the interest is as a result of the supply of goods or services that are available to members of the public on the same terms and conditions.
- (3) A failure to comply with this section does not affect the validity of any act or decision of Energy Safe Victoria or the Director.

18 Protection from liability

- (1) The Director is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a power or the performance of a function of Energy Safe Victoria; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function of Energy Safe Victoria.
- (2) Any liability resulting from an act or omission that, but for subsection (1), would attach to the Director attaches instead to Energy Safe Victoria.

Division 3—Corporate plan

19 Corporate plan

- (1) Energy Safe Victoria must prepare a corporate plan each year.
- (2) Energy Safe Victoria must give a copy of the proposed plan to the Minister and the Treasurer on or before 31 May in each year.
- (3) The proposed corporate plan must be in or to the effect of a form approved by the Minister and must include—
 - (a) a statement of corporate intent in accordance with section 20;
 - (b) a business plan containing such information as the Minister requires;
 - (c) financial statements containing such information as the Minister requires.
- (4) Energy Safe Victoria must consider any comments on the proposed plan that are made to it by the Minister within 2 months after the plan was submitted to the Minister.

- (5) Energy Safe Victoria must—
 - (a) consult in good faith with the Minister following communication to it of the comments; and
 - (b) make such changes to the plan as are agreed between it and the Minister; and
 - (c) deliver the completed plan to the Minister and the Treasurer within 2 months after the commencement of the financial year.
- (6) The plan, or any part of the plan, must not be published or made available except for the purposes of this Division without the prior approval of Energy Safe Victoria and the Minister.
- (7) The plan may be modified at any time by Energy Safe Victoria with the agreement of the Minister.
- (8) If Energy Safe Victoria, by written notice to the Minister, proposes a modification of the plan, Energy Safe Victoria may, within 14 days, make the modification unless the Minister, by written notice to Energy Safe Victoria, directs Energy Safe Victoria not to make it.
- (9) The Minister may, from time to time, by written notice to Energy Safe Victoria, direct it to include in, or omit from, a statement of corporate intent, a business plan or a financial statement of a specified kind, any specified matters.
- (10) Before giving a direction under this section, the Minister must consult with Energy Safe Victoria as to the matters to be referred to in the notice.
- (11) Energy Safe Victoria must comply with a direction under this section.
- (12) At any particular time, the statement of corporate intent, the business plan or the financial statements for Energy Safe Victoria are the

statements and plan last completed, with any modifications or deletions made in accordance with this Division.

20 Statement of corporate intent: contents

Each statement of corporate intent must specify for Energy Safe Victoria, in respect of the financial year to which it relates and each of the 2 following financial years, the following information—

- (a) the objectives of Energy Safe Victoria;
- (b) the nature and scope of the activities to be undertaken by Energy Safe Victoria;
- (c) the accounting policies to be applied in the accounts;
- (d) the performance targets and other measures by which the performance of Energy Safe Victoria may be judged in relation to its stated objectives;
- (e) the kind of information to be provided to the Minister by Energy Safe Victoria during the course of those financial years;
- (f) such other matters as may be agreed on by the Minister and Energy Safe Victoria from time to time.

21 Energy Safe Victoria to act in accordance with corporate plan

Energy Safe Victoria must act only in accordance with its corporate plan, as existing from time to time, unless it has first obtained the written approval of the Minister to do otherwise.

22 Nothing void merely because of non-compliance

Nothing done by Energy Safe Victoria is void or unenforceable merely because Energy Safe Victoria has failed to comply with this Division.

Division 4—Financial provisions

23 Borrowing and investment by Energy Safe Victoria

Energy Safe Victoria has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

24 General Account

- (1) Energy Safe Victoria must keep an account called the General Account.
- (2) Energy Safe Victoria must ensure that there is paid into the General Account—
 - (a) all money paid to it under section 8 of the **Electricity Safety Act 1998** or section 11 of the **Gas Safety Act 1997** or section 132A of the **Pipelines Act 2005**; and
 - (b) all fees and charges received or recovered under the **Electricity Safety Act 1998** or the **Gas Safety Act 1997**; and
 - (c) all other money received by it or on its behalf.
- (3) Energy Safe Victoria may pay money out of the General Account—
 - (a) to meet any costs or expenses incurred in carrying out its functions or powers;
 - (b) in paying remuneration, allowances or expenses to which the Director, any acting Director or employees of Energy Safe Victoria are entitled;
 - (c) for any other purpose authorised by this Act.

S. 24(2)(a)
amended by
No. 60/2006
s. 7.

Division 5—Confidentiality

25 Improper use of information

A person who is, or has been, Director or an employee, agent or contractor of Energy Safe Victoria, must not make improper use of any information acquired only in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 100 penalty units.

Pt 2 Div. 5A
(Heading and
ss 19A, 19B)
inserted by
No. 55/2010
s. 46.

Division 5A—Other matters

S. 19A
inserted by
No. 55/2010
s. 46,
renumbered
as s. 25A by
No. 29/2011
s. 3(Sch. 1
item 33.1).

25A Energy Safe Victoria must publish Charter

- (1) Energy Safe Victoria must develop and publish a Charter of Consultation and Regulatory Practice including guidelines relating to the preparation of its corporate plan and conducting inquiries under Part 3.
- (2) The Charter of Consultation and Regulatory Practice—
 - (a) must include such matters as are prescribed;
and
 - (b) may include any other matters that Energy Safe Victoria considers appropriate.
- (3) The Charter of Consultation and Regulatory Practice, or any part of the Charter, must not require or allow the public release of a draft of Energy Safe Victoria's corporate plan or a draft of a part of that plan without the prior approval of Energy Safe Victoria and the Minister.

25B Memoranda of Understanding

- (1) In this section *prescribed body* means a person, body or agency which is prescribed for the purposes of this section.
- (2) Energy Safe Victoria and a prescribed body must enter into a Memorandum of Understanding by a date determined by the Minister.
- (3) A Memorandum of Understanding entered into under subsection (2)—
 - (a) must include such matters as are prescribed; and
 - (b) may include any other matters that the parties consider appropriate.
- (4) Energy Safe Victoria must ensure that a Memorandum of Understanding entered into under subsection (2) is published—
 - (a) in the Government Gazette; and
 - (b) on the Internet.

S. 19B
inserted by
No. 55/2010
s. 46,
renumbered
as s. 25B by
No. 29/2011
s. 3(Sch. 1
item 33.2).

Part 3—Inquiries and reports

26 Inquiry by Energy Safe Victoria

Energy Safe Victoria may, after consultation with the Minister, conduct an inquiry if it considers an inquiry is necessary or desirable for the purpose of carrying out its functions.

27 Minister may refer matter for inquiry

- (1) Energy Safe Victoria must conduct an inquiry into any matter which the Minister by written notice refers to it under this Part.
- (2) The written notice must specify the terms of reference for the inquiry.
- (3) The Minister may—
 - (a) specify a period within which a report is to be submitted to the Minister;
 - (b) require Energy Safe Victoria to make a draft report publicly available or available to specified persons or bodies during the inquiry;
 - (c) require Energy Safe Victoria to consider specified matters;
 - (d) give Energy Safe Victoria specific directions in respect of the conduct of the inquiry.
- (4) Energy Safe Victoria must report to the Minister on the results of any inquiry.
- (5) The Minister may amend the terms of reference or extend the period within which a report is to be submitted to the Minister.

28 Notice of inquiry

- (1) Energy Safe Victoria must, after notifying the Minister, publish notice of an inquiry—
 - (a) in the Government Gazette; and
 - (b) in a daily newspaper generally circulating in Victoria; and
 - (c) on the Internet.
- (2) The notice must specify—
 - (a) the purpose of the inquiry;
 - (b) the period during which the inquiry is to be held;
 - (c) the period within which, and the form in which, members of the public may make submissions, including details of public hearings;
 - (d) the matters that Energy Safe Victoria would like submissions to deal with.
- (3) If the inquiry relates to a matter referred to Energy Safe Victoria by the Minister, the notice must include the terms of reference and the matters specified in section 27(3).
- (4) Energy Safe Victoria must publish a further notice if the Minister amends the terms of reference or extends the period within which the report is to be submitted to the Minister.
- (5) Energy Safe Victoria must send a copy of any notice published under this section to any person or body that it considers should be notified.

29 Conduct of inquiry

- (1) Subject to this Act, Energy Safe Victoria may conduct an inquiry in such a manner as it considers appropriate.
- (2) In conducting an inquiry, Energy Safe Victoria is not bound by rules or practice as to evidence but may inform itself in relation to any matter in such manner as it considers appropriate.
- (3) Energy Safe Victoria may receive written submissions or statements.
- (4) Energy Safe Victoria—
 - (a) must hold at least one public hearing; and
 - (b) has a discretion as to whether any person may appear before Energy Safe Victoria in person or be represented by another person.
- (5) Energy Safe Victoria may determine that a hearing or a part of a hearing be held in private if it is satisfied that—
 - (a) it would be in the public interest; or
 - (b) the evidence is of a confidential or commercially-sensitive nature.
- (6) In conducting an inquiry Energy Safe Victoria may—
 - (a) consult with any person that it considers appropriate;
 - (b) hold public seminars and conduct workshops;
 - (c) establish working groups and task forces.

30 Powers relating to inquiries

- (1) Energy Safe Victoria may serve upon any person a summons to—
 - (a) provide specified information; or

- (b) produce specified documents; or
 - (c) appear before Energy Safe Victoria to give evidence.
- (2) Energy Safe Victoria may make an order for the manner of service, including substituted service, of a summons under subsection (1).
- (3) A person who without lawful excuse disobeys a summons of Energy Safe Victoria is guilty of an offence.
- Penalty: 60 penalty units.
- (4) It is a lawful excuse for the purposes of subsection (3) that compliance may tend to incriminate that person or make that person liable to a penalty for any other offence.
- (5) A person must not give information which the person knows is false or misleading to Energy Safe Victoria.
- Penalty: 120 penalty units or imprisonment for 6 months.
- (6) A person must not—
- (a) threaten, intimidate or coerce another person; or
 - (b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage—
- because that other person assisted, or intends to assist, any inquiry conducted by Energy Safe Victoria.
- Penalty: 120 penalty units.

- (7) A person who, in good faith, makes a statement or gives a document or information to Energy Safe Victoria in connection with an inquiry under this Part is not liable in respect of loss, damage or injury of any kind suffered by another person because of the making of that statement or the giving of that document or information, whether or not the statement is made, or the document or information is given, in connection with a written submission or a public hearing.

31 Reports

- (1) Energy Safe Victoria must submit a copy of its final report on an inquiry to the Minister.
- (2) If, in the opinion of Energy Safe Victoria, a final report will contain confidential or commercially-sensitive information, Energy Safe Victoria must divide the report into—
- (a) a document containing the confidential or commercially-sensitive information; and
 - (b) another document containing the rest of the report.
- (3) If Energy Safe Victoria submits a final report to the Minister in the form required by subsection (2), a reference to the final report in subsections (4), (5) and (6) is to be read as a reference to the document described in subsection (2)(b).
- (4) The Minister must cause a copy of the final report to be laid before each House of the Parliament within 7 sitting days of the House after receiving the final report.
- (5) The Minister must, after the final report has been laid before each House of the Parliament, or if the Parliament is not sitting, within 30 days after receiving a final report, ensure that a copy of the final report is available for public inspection.

- (6) After the Minister has made a final report publicly available, Energy Safe Victoria must ensure that copies are made publicly available.

32 Special reports

- (1) If in the course of an inquiry Energy Safe Victoria considers that there is another matter on which it should report to the Minister, Energy Safe Victoria may do so, in the final report or in a special report.
- (2) If Energy Safe Victoria prepares a special report, subsections (4), (5) and (6) of section 31 apply to the special report as if it were a final report.

Part 4—General

33 Regulations

The Governor in Council may make regulations for or with respect to prescribing any matter or thing authorised or required to be prescribed or necessary to be prescribed for the carrying of this Act into effect.

Part 5—Transitional provisions

Division 1—Introductory

34 Definitions

In this Part—

chief electrical inspector means the chief electrical inspector appointed under the **Electricity Safety Act 1998**;

commencement day means the date of commencement of this Part;

Director of Gas Safety means the Director of Gas Safety appointed under the **Gas Safety Act 1997**;

OCEI means the Office of the Chief Electrical Inspector established under the **Electricity Safety Act 1998**;

OGS means the Office of Gas Safety established under the **Gas Safety Act 1997**.

Division 2—Office of the Chief Electrical Inspector

35 Abolition of OCEI

On the commencement day—

- (a) OCEI is abolished; and
- (b) the chief electrical inspector goes out of office; and
- (c) Energy Safe Victoria is the successor in law of OCEI; and
- (d) all rights, assets, liabilities and obligations of OCEI immediately before its abolition become rights, assets, liabilities and obligations of Energy Safe Victoria; and

- (e) all money standing to the credit of the General Account of OCEI under the **Electricity Safety Act 1998** becomes money standing to the credit of the General Account of Energy Safe Victoria under this Act; and
- (f) Energy Safe Victoria is substituted as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to OCEI; and
- (g) Energy Safe Victoria may continue and complete any other continuing matter or thing commenced by or against or in relation to OCEI; and
- (h) the Director may continue and complete any continuing matter or thing commenced by or against or in relation to the chief electrical inspector.

36 Staff

- (1) On the commencement day the person who holds the office of the chief electrical inspector under the **Electricity Safety Act 1998** immediately before that day is deemed to be an employee of Energy Safe Victoria, with the same accrued and accruing entitlements as applied to that person immediately before that day as the chief electrical inspector and on the terms and conditions determined by the Minister, unless that person is appointed as the Director of Energy Safety under Part 2 with effect from that day.
- (2) On the commencement day any person who was an employee of OCEI immediately before that day is deemed to be an employee of Energy Safe Victoria on the same terms and conditions and with the same accrued and accruing entitlements as applied to that person immediately before that day as an employee of OCEI.

- (3) If subsection (2) applies to a person—
 - (a) the service of the person as an employee with Energy Safe Victoria is to be regarded for all purposes as having been continuous with the service of the employee with OCEI; and
 - (b) the person is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of OCEI.
- (4) Nothing in this section prevents an employee of OCEI from resigning or being dismissed at any time after the commencement day in accordance with the terms and conditions of his or her employment.

37 Superseded references to OCEI

On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind, a reference to OCEI is deemed to be a reference to Energy Safe Victoria so far as it relates to any period after the commencement day, unless the context otherwise requires.

38 Superseded references to chief electrical inspector

On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind, a reference to the chief electrical inspector is deemed to be a reference to the Director so far as it relates to any period after the commencement day, unless the context otherwise requires.

Division 3—Office of Gas Safety

39 Abolition of OGS

On the commencement day—

- (a) OGS is abolished; and
- (b) the Director of Gas Safety goes out of office; and
- (c) Energy Safe Victoria is the successor in law of OGS; and
- (d) all rights, assets, liabilities and obligations of OGS immediately before its abolition become rights, assets, liabilities and obligations of Energy Safe Victoria; and
- (e) all moneys standing to the credit of the General Account of OGS under the **Gas Safety Act 1997** become moneys standing to the credit of the General Account of Energy Safe Victoria under this Act; and
- (f) Energy Safe Victoria is substituted as a party in any proceedings, contract, agreement or arrangement commenced or made by or against or in relation to OGS; and
- (g) Energy Safe Victoria may continue and complete any other continuing matter or thing commenced by or against or in relation to OGS; and
- (h) the Director may continue and complete any continuing matter or thing commenced by or against or in relation to the Director of Gas Safety.

40 Staff

- (1) On the commencement day the person who holds the office of the Director of Gas Safety under the **Gas Safety Act 1997** immediately before that day is deemed to be an employee of Energy Safe Victoria, with the same accrued and accruing entitlements as applied to that person immediately before that day as the Director of Gas Safety and on the terms and conditions determined by the Minister, unless that person is appointed as the Director of Energy Safety under Part 2 with effect from that day.
- (2) On the commencement day any person who was an employee of OGS immediately before that day is deemed to be an employee of Energy Safe Victoria on the same terms and conditions and with the same accrued and accruing entitlements as applied to that person immediately before that day as an employee of OGS.
- (3) If subsection (2) applies to a person—
 - (a) the service of the person as an employee with Energy Safe Victoria is to be regarded for all purposes as having been continuous with the service of the employee with OGS; and
 - (b) the person is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of OGS.
- (4) Nothing in this section prevents an employee of OGS from resigning or being dismissed at any time after the commencement day in accordance with the terms and conditions of his or her employment.

41 Superseded references to OGS

On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind, a reference to OGS is deemed to be a reference to Energy Safe Victoria so far as it relates to any period after the commencement day, unless the context otherwise requires.

42 Superseded references to Director of Gas Safety

On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind, a reference to the Director of Gas Safety is deemed to be a reference to the Director so far as it relates to any period after the commencement day, unless the context otherwise requires.

Division 4—Confidentiality

43 Confidentiality

In section 25—

- (a) a reference to the Director includes a reference to the chief electrical inspector and the Director of Gas Safety;
- (b) a reference to an employee, agent or contractor of Energy Safe Victoria includes a reference to an employee, agent or contractor of OCEI or OGS.

Pt 6 (Heading
and ss 44–59)
repealed by
No. 28/2007
s. 3(Sch.
item 21).

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Schs 1, 2
repealed by
No. 28/2007
s. 3(Sch.
item 21).

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 19 May 2005

Legislative Council: 20 July 2005

The long title for the Bill for this Act was "to establish Energy Safe Victoria, to amend the **Gas Safety Act 1997** and the **Electricity Safety Act 1998** and other Acts and for other purposes."

The **Energy Safe Victoria Act 2005** was assented to on 27 July 2005 and came into operation as follows:

Section 59 on 23 November 2004: section 2(2); rest of Act on 10 August 2005: Special Gazette (No. 147) 9 August 2005 page 1.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

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- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Energy Safe Victoria Act 2005** by Acts and subordinate instruments.

Energy Legislation (Hardship, Metering and Other Matters) Act 2006, No. 60/2006

Assent Date: 29.8.06
Commencement Date: S. 7 on 1.4.07: Government Gazette 29.3.07 p. 532
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 32) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 21) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date: 14.9.10
Commencement Date: Ss 45, 46 on 14.10.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 33) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Energy Legislation Amendment Act 2012, No. 51/2012

Assent Date: 18.9.12
Commencement Date: S. 12 on 27.9.12: Special Gazette (No. 324) 26.9.12 p. 1
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

Energy Legislation Amendment (Feed-in Tariffs and Other Matters) Act 2013, No. 35/2013

Assent Date: 18.6.13
Commencement Date: S. 13 on 10.7.13: Special Gazette (No. 257) 9.7.13 p. 1
Current State: This information relates only to the provision/s amending the **Energy Safe Victoria Act 2005**

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Statute Law Revision Act 2015, No. 21/2015

Assent Date: 16.6.15
Commencement Date: S. 3(Sch. 1 item 18) on 1.8.15: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Energy Safe Victoria Act 2005**

**Electricity Safety Amendment (Electrical Equipment Safety Scheme) Act 2018,
No. 43/2018**

Assent Date: 18.9.18
Commencement Date: S. 17 on 1.4.19: Special Gazette (No. 517) 30.10.18
p. 1
Current State: This information relates only to the provision/s
amending the **Energy Safe Victoria Act 2005**

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.