



**Australian Government**

**Department of Defence**

Defence Support and Reform Group

## Minute

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**See distribution**

### **AUSTRALIAN GOVERNMENT SOLICITOR LEGAL ADVICE – APPLICATION OF STATE AND TERRITORY ELECTRICAL LEGISLATION TO DEFENCE**

#### **Reference:**

A. AGS legal advice *Defence fuel farm audit outcome management* dated 28 June 2013

1. Please find enclosed important legal advice from the Australian Government Solicitor (AGS) on the application of State and Territory Electrical Safety legislation to the Commonwealth for your information (enclosed as Reference A).
2. In summary, AGS has advised Defence to comply with State and Territory electrical regulations. They have found that the Commonwealth is directly bound in NSW, QLD, VIC, TAS, SA and NT and, in all jurisdictions, Commonwealth facilities can be refused power connection or can be disconnected if considered unsafe by the local Regulator. Additionally, Defence contractors are bound by the electrical regulations in all jurisdictions and must be licensed.
3. AGS have also advised that State and Territory laws are likely to be taken to reflect minimum standards in terms of managing relevant electrical risks for work health and safety purposes.
4. The legal implications for non-conformance are broad ranging and AGS has recommended that Defence, its officers and employees be mindful of the following possible outcomes:
  - a. criminal and civil liabilities under work health and safety laws and regulations and under the Queensland Electricity Act in the case of Queensland;
  - b. disconnection of, or refusal of connection to, electrical supply under the laws of all States and Territories; and
  - c. tortious liability (e.g. negligence claims) should an accident or incident eventuate as a result of the non-compliance that causes loss or damage.
5. AGS have recommended that, at a general level, Defence needs to ensure:
  - a. there is a system in place for ensuring the continuing safe operation of installations e.g. regular checks, reviews and audits;
  - b. factors that may compromise safe operation, including installations which do not comply with applicable standards, are identified and remedied at an early stage e.g. through maintenance by appropriately competent persons, replacement of parts as needed;

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- c. installations and hazardous areas are clearly marked and visible to those who are in or near them;
- d. appropriate training and supervision is provided to those who work with and near electrical installations or perform electrical work, and
- e. installations are prevented from becoming sources posing fire or electric shock risk.

6. Given the above advice from AGS, it is important for Defence to ensure that suitably licensed electrical workers perform electrical installation work, alteration and repairs. All Defence employees need to be vigilant and ensure that adequate systems are in place for continued compliance.

7. It is recommended this advice be distributed widely to those involved in electrical safety including Defence Contractors. My point of contact for further information is the Director Estate Engineering Policy, Mr Mark Turner who can be contacted on 02 6266 8178 or mark.turner2@defence.gov.au.



ON BEHALF OF  
**Michael Healy**  
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Environment and Engineering Branch

26 July 2013

**Enclosure:**

- 1. Reference A

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