



New South Wales

Electricity Supply (General) Amendment (Infrastructure Protection) Regulation 2010

under the

Electricity Supply Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electricity Supply Act 1995*.

Minister for Energy

Explanatory note

The object of this Regulation is to amend the *Electricity Supply (General) Regulation 2001* to prescribe elements of the “Dial Before You Dig” scheme. The regulation:

- (a) requires Dial Before You Dig to be contacted for information about the location and type of underground power lines if proposed excavation work requires consent or approval under the *Environmental Planning and Assessment Act 1979*, involves excavation of public roads, public reserves or Crown land controlled by a public authority, involves excavation by or on behalf of a public authority or involved excavation relating to the construction, repair or maintenance of underground utility services, and
- (b) exempts from that requirement specified excavation work, including minor excavations, excavations conducted under authorities granted under the *Mining Act 1992*, excavation in an emergency and excavation by or on behalf of a network operator, and
- (c) requires the relevant network operator to be notified of the proposed excavation work before the work is commenced or authorised to commence, if the information provided to the person carrying out the work after Dial Before You Dig is contacted contains a requirement to so notify, and
- (d) requires proposed work to be commenced, or authorised to commence, within 20 days of the information about the location and type of underground power lines being received, and
- (e) requires a person who carries out the proposed work to have regard to information provided by Dial Before You Dig or the relevant network operator, and

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Explanatory note

- (f) requires a network operator who is notified of excavation work to provide to the person who notifies the work, or the person carrying out the work, information about (and a copy on request of) the WorkCover Authority's *Work Near Underground Assets Guideline*, and
- (g) sets out the manner in which a network operator must be notified of damage to underground power lines caused by excavation work, and
- (h) limits the amount of civil monetary liability of Dial Before You Dig, or a person who is an employee or officer of or who is acting for Dial Before You Dig, to a maximum of \$10 million for an act or omission relating to the provision of information under the scheme.

This Regulation is made under the *Electricity Supply Act 1995*, including sections 63Y (2), 63Z, 63ZA (2), 63ZC (3) and 191 (the general regulation-making power).

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Clause 1 Electricity Supply (General) Amendment (Infrastructure Protection)
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1 Name of Regulation

This Regulation is the *Electricity Supply (General) Amendment (Infrastructure Protection) Regulation 2010*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

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Electricity Supply (General) Amendment (Infrastructure Protection)
Regulation 2010

Amendment of Electricity Supply (General) Regulation 2001

Schedule 1

Schedule 1 Amendment of Electricity Supply (General) Regulation 2001

Part 11A

Insert after Part 11:

Part 11A Infrastructure protection

104A Definitions

- (1) In this clause:

development consent means:

- (a) a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under Part 3A of that Act.

notifiable excavation work means excavation work to which section 63Z of the Act applies (as set out in clause 104B).

power lines information means information provided by the designated information provider or a network operator in response to a request by a person under section 63Z (1) of the Act.

utility service means a water, gas, electricity, sewerage, drainage or telecommunications service.

- (2) Words and expressions used in this Part have the same meaning as they have in Part 5E of the Act.

104B Excavation work requiring contact with designated information provider

- (1) Work of the following kind, that is carried out in New South Wales, is excavation work to which section 63Z of the Act applies:
- (a) excavation for which development consent is required or that is carried out under a development consent,
 - (b) excavation that is, or is carried out in connection with, an activity within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*,
 - (c) excavation by any person of a public road or public reserve, or of Crown land under the control of a public authority,
 - (d) excavation of any land conducted by or on behalf of a public authority,

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- (e) excavation of any land on which an underground utility service is located, or proposed to be located, by or on behalf of the owner or proposed owner of the service,
 - (f) excavation of any land on which an underground utility service is located for the purpose of the repair or maintenance of works connected with the utility service.
- (2) Despite subclause (1), work of the following kind is not excavation work to which section 63Z of the Act applies:
 - (a) excavation (whether or not using machinery) to a depth of less than 150 mm,
 - (b) excavation (whether or not using machinery) for the purposes of ploughing, to a depth of less than 250 mm, on land within a rural zone or a rural-residential zone under an environmental planning instrument,
 - (c) excavation conducted solely by vacuum extraction,
 - (d) excavation conducted without the use of machinery or powered tools to a depth of less than 300 mm,
 - (e) excavation conducted under a lease, licence or mineral claim under the *Mining Act 1992*,
 - (f) excavation conducted in an emergency, including (but not limited to) work to prevent or mitigate injury or death or to prevent or mitigate serious damage to property or the environment,
 - (g) excavation conducted by, or on behalf of, a network operator that owns the underground electricity power lines on the land concerned.

104C Requirements for carrying out excavation work: s63Z (4) of the Act

- (1) **Notification of network operator**

Subclauses (2) and (3) apply if power lines information provided to a person contains a requirement that notice of proposed notifiable excavation work must be given to the network operator that owns underground electricity power lines in the vicinity of the proposed work before the work is commenced.
- (2) A person must not commence to carry out, or authorise the commencement of, the notifiable excavation work unless the person has first given notice of the proposed work to the network operator.

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Schedule 1

- (3) The person must also provide to the network operator any information about the proposed work that is requested by the network operator.

(4) **Commencement within 20 days of provision of power line information**

A person must commence, or authorise the commencement of, notifiable excavation work within 20 days of receiving the power lines information.

(5) **Regard to be had to information**

A person who carries out notifiable excavation work must, in carrying out that work, have regard to any power lines information or other information provided to the person by a network operator or the designated information provider in respect of underground electricity power lines.

Note. A person who undertakes notifiable excavation work is subject to duties and responsibilities under the *Occupational Health and Safety Act 2000*. The WorkCover Authority has prepared the *Work Near Underground Assets Guideline*, which contains practical advice for working near underground utility services and guidance as to how to meet the requirements of the *Occupational Health and Safety Act 2000* when carrying out excavation work.

104D Provision of information by network operator

- (1) A network operator that is notified of proposed notifiable excavation work in the vicinity of underground electricity power lines owned by the network operator must ensure that the person who notifies the work, or the person proposing to carry out the work, is informed of the existence of the *Work Near Underground Assets Guideline* published in 2007 by the WorkCover Authority.
- (2) The network operator must provide a copy of the Guide if requested to do so by the person who notifies the work or who is proposing to carry out the work.

104E Notification of damage to underground electricity power lines

A person who is required to notify a network operator under section 63ZA (1) of the Act must notify the network operator:

- (a) by telephoning the contact telephone number provided to the person by the designated information provider for that purpose, or
- (b) if no such contact telephone number is provided, by telephoning the emergency contact telephone number for

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the network operator that is listed in a telephone or internet
directory.

104F Maximum amount of civil monetary liability

The maximum amount of civil monetary liability of a designated information provider, any officer or employee of a designated information provider or any person acting on behalf of a designated information provider for an act or omission of a kind referred to in section 63ZC (2) of the Act done or made through negligence is \$10 million.