



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

2933



PERTH, FRIDAY, 28 JUNE 2013 No. 113

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.00 PM

© STATE OF WESTERN AUSTRALIA

Gas Services Information Act 2012

**Gas Services Information Amendment
Regulations (No. 2) 2013**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Gas Services Information Amendment Regulations (No. 2) 2013*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Gas Services Information Regulations 2012*.

4. Regulation 4 amended

Delete regulation 4(3).

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

5. Parts 4 to 9 and Schedules 1 and 2 inserted

After regulation 11 insert:

Part 4 — Obligations to provide information**12. Ongoing requirement to provide information**

- (1) A gas market participant of a particular class must give to the operator the information specified in the GSI rules in relation to that class of gas market participant.

Penalty: a fine of \$20 000 and a daily penalty of \$2 000.

- (2) The operator may, in accordance with the GSI rules, exempt a gas market participant from the requirement in subregulation (1) in relation to some or all of the information the participant would otherwise be required to give.

13. Operator may request information

- (1) The operator may, for the purposes of the performance of its function, request a gas market participant to give specified information to the operator.

- (2) The request must —
- (a) be in writing; and
 - (b) specify the information; and
 - (c) specify the occasion or occasions on which, or the frequency at which, the information is to be given; and
 - (d) specify the time within which the information must be given.

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (3) A person given a request must comply with it.
Penalty: a fine of \$20 000 and a daily penalty of \$2 000.

Part 5 — Enforcement of GSI rules**Division 1 — Preliminary****14. Terms used**

In this Part —

civil penalty means a penalty demanded by the operator under regulation 16(1) or imposed by the Board under regulation 18(1);

civil penalty provision has the meaning given in regulation 15(1).

Division 2 — Orders and penalties**15. Civil penalty provisions and civil penalties**

- (1) The provisions of the GSI rules specified in Schedule 1 are *civil penalty provisions* for the purposes of these regulations.
- (2) The category of a civil penalty provision is the category specified for the provision in Schedule 1.
- (3) The maximum civil penalty amount (which may include a daily amount) that may be demanded from or imposed upon a gas market participant who contravenes a civil penalty provision is prescribed in Schedule 1.
- (4) An amount specified as a daily amount in Schedule 1 in respect of a contravention of a civil penalty provision applies, as part of the prescription of the maximum civil penalty amount for the contravention,

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

for each day or part of a day that the contravention continues after —

- (a) if a day or time by which the contravention was to be rectified is specified in a warning notice given to the gas market participant — the day by which the contravention was to be rectified; or
 - (b) in any other case — the day on which the gas market participant is given a warning notice.
- (5) For the purposes of subregulation (4), if the contravention consists of a failure to do something required to be done, the contravention is to be regarded as continuing until the act is done, despite the fact that any period within which, or time before which, the act is required to be done has expired or passed.

16. Contravention of category A civil penalty provision: operator may demand civil penalty

- (1) If the operator considers that a gas market participant has contravened a category A civil penalty provision, the operator may, by notice given to the participant, demand that the participant pay to the operator a civil penalty of an amount that does not exceed the lesser of —
 - (a) the maximum civil penalty amount prescribed for the contravention in Schedule 1; and
 - (b) \$20 000.
- (2) The operator cannot demand that the participant pay the civil penalty unless the operator has already given the participant a warning notice.
- (3) The demand must be made within 6 years after the day on which the participant is considered by the operator to have contravened the provision.

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (4) The notice must —
- (a) be in writing; and
 - (b) state the name and address of the participant; and
 - (c) state that the notice is given under the *Gas Services Information Regulations 2012* regulation 16; and
 - (d) specify the category A civil penalty provision that the operator considers the participant has contravened; and
 - (e) provide details of the contravention, including the act or omission that the operator considers constitutes the contravention; and
 - (f) specify the amount of the civil penalty; and
 - (g) inform the participant that the participant may apply to the Board for review of the operator's decision to demand the penalty; and
 - (h) contain a statement to the effect that if the participant does not, within 28 days after the day on which the participant receives the notice —
 - (i) pay to the operator the amount demanded; or
 - (ii) apply to the Board for review of the operator's decision to demand the penalty,the operator may apply to the Board for an order for the payment of the penalty.
- (5) If the participant does not, within 28 days after the day on which the participant received the notice —
- (a) pay to the operator the penalty demanded in the notice; or

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (b) apply to the Board for review of the operator's decision to demand the penalty,
the operator may, within a further 28 days, apply to the Board for an order for the payment of the penalty demanded in the notice.
 - (6) The Board may make an order that the participant pay the civil penalty demanded of the participant if —
 - (a) the operator made the demand in accordance with this regulation; and
 - (b) the participant has not paid the civil penalty to the operator; and
 - (c) the participant has not applied to the Board for review of the operator's decision to demand the amount.
 - (7) If the Board has made an order under regulation 18 that a gas market participant pay a civil penalty in respect of a contravention of a civil penalty provision —
 - (a) the operator may not demand that the participant pay the operator a civil penalty in respect of the contravention; and
 - (b) the Board may not make an order that the participant pay the civil penalty demanded of the participant.
 - (8) The operator cannot make a demand under subregulation (1) in relation to a contravention that occurs before 1 November 2013.
- 17. Contraventions of provisions of GSI rules: applications for orders from Board**
- (1) If the operator considers that a gas market participant has contravened a provision of the GSI rules, the operator may apply to the Board for one or more orders under regulation 18.

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (2) The application must be made within 6 years after the day on which the participant is considered by the operator to have contravened the provision.
- (3) No other person may apply for an order under regulation 18.
- (4) The operator cannot make an application for an order under regulation 18 in relation to a contravention that occurs before 1 November 2013.

18. Contraventions of provisions of GSI rules: orders Board may make

- (1) If the Board determines that a gas market participant has contravened a provision of the GSI rules, the Board may make one or more of the following orders —
 - (a) if the provision is a civil penalty provision — an order that the participant pay to the operator a civil penalty of an amount that does not exceed the maximum civil penalty amount prescribed for the contravention in Schedule 1;
 - (b) an order that the participant cease, within a specified period, the act or omission constituting the contravention;
 - (c) an order that the participant take the action, or adopt the practice, that the Board requires for remedying the contravention or preventing a recurrence of the contravention;
 - (d) an order that the participant implement a specified programme for compliance with the GSI rules.
- (2) Before making an order, the Board must have regard to all relevant matters, including the following —
 - (a) the nature and extent of the contravention;

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (b) the nature and extent of any loss or damage suffered as a result of the contravention;
 - (c) the circumstances in which the contravention took place;
 - (d) whether the participant has previously been found by the Board in proceedings under the Act to have engaged in any similar conduct;
 - (e) the consequences of making the order.
- (3) If the operator has demanded that a gas market participant pay to the operator a civil penalty in respect of the contravention of a civil penalty provision, the Board may not make an order under this regulation that the participant pay a civil penalty in respect of the contravention.

19. Enforcement of orders of the Board

- (1) The operator may enforce an order of the Board made under regulation 16(6) or 18(1) by lodging with the Supreme Court a certified copy of it, and an affidavit stating to what extent it has not been complied with.
- (2) When lodged, the order is to be taken to be a judgment of the court and may be enforced accordingly.

20. Contravention of provision of GSI rules not an offence

A contravention of a provision of the GSI rules is not an offence.

21. Conduct contravening more than one civil penalty provision

- (1) If the conduct of a gas market participant constitutes a contravention of 2 or more civil penalty provisions, action may be taken under this Part against the

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

participant in relation to the contravention of any one or more of those provisions.

- (2) However, the participant is not liable for more than one civil penalty in respect of the same conduct.

22. Application of civil penalties received by the operator

A civil penalty received by the operator must be credited to the Consolidated Account.

23. Operator to inform certain persons of decisions not to take action

- (1) If the operator is given information by a person in relation to a contravention or possible contravention of a provision of the GSI rules by a gas market participant but —
- (a) decides not to investigate the contravention or possible contravention; or
 - (b) following an investigation, decides not to demand a civil penalty under regulation 16 or seek an order from the Board under regulation 18,

the operator must notify the person of the decision in writing.

- (2) This regulation does not apply if the person gave the information anonymously.

24. Applications for orders from Board: procedure

An application by the operator to the Board for an order under regulation 16(6) or 18(1) must —

- (a) be in writing; and
- (b) state that the applicant is the operator; and

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (c) specify the provision of these regulations under which the operator is seeking the order; and
- (d) provide details of the contravention of the GSI rules that the operator considers has occurred, including the name and address of the gas market participant alleged to have contravened the GSI rules; and
- (e) specify the nature of the order sought.

Part 6 — Review by the Board**Division 1 — Review by the Board****25. Reviewable decisions and procedural decisions**

- (1) In this Part —

procedural decision means a reviewable decision made under a provision listed in the Table to Schedule 2 clause 2;

reviewable decision means a decision that is reviewable under section 12(1) of the Act.

- (2) For the purposes of section 12(1) of the Act, the decisions made under provisions of these regulations or the GSI rules not listed in the Table to Schedule 2 clause 1 are specified.

26. Review by the Board: all reviewable decisions

- (1) A person whose interests are adversely affected by a reviewable decision may apply to the Board for a review of the decision.
- (2) The Board may make an order affirming, setting aside or varying (immediately or as from a specified future date) the decision and, for the purposes of the review, may exercise the same powers with respect to the

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

subject matter of the decision as may be exercised with respect to that subject matter by the person who made the decision.

- (3) The Board may refuse to review a reviewable decision if it considers that the application for review is trivial or vexatious.
- (4) A determination by the Board on the review of a reviewable decision has the same effect as if it were made by the person who made the decision.
- (5) If the Board decides that a person's interests are not adversely affected by a reviewable decision, the Board must give the person written reasons for its decision.
- (6) This regulation is subject to regulation 27.

27. Review by the Board: procedural decisions

- (1) In reviewing a procedural decision, the Board is to consider only the question of whether the decision maker followed the procedure required to be followed under these regulations, the GSI rules or the GSI procedures in connection with the making of the decision.
- (2) In reviewing a procedural decision, the Board is to be constituted by a legal practitioner only.
- (3) In reviewing a procedural decision, the Board must —
 - (a) if it finds that the decision maker followed the procedure — affirm the decision; or
 - (b) if it finds that the decision maker did not follow the procedure — set the decision aside and remit the matter to the decision maker.
- (4) If the Board remits a matter to the decision maker under subregulation (3)(b), the Board may make

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

recommendations as to how the decision maker should go about making the decision.

28. Application for review

- (1) An application for review of a reviewable decision must be made within —
 - (a) if notice of the making of the decision is required by these regulations or the GSI rules to be given to a person affected by the decision — 28 days after the day on which the notice is given; or
 - (b) in any other case — 28 days after the day on which notice of the making of the decision is published in accordance with subregulation (2).
- (2) For the purposes of subregulation (1)(b), notice of a decision is published if the notice is published on the GSI website.
- (3) An application for review of a reviewable decision must —
 - (a) be in writing; and
 - (b) state the name and address of the applicant; and
 - (c) provide details of the decision, including who made the decision and under which regulation or GSI rule the decision was made or purportedly made; and
 - (d) state how the applicant is adversely affected by the decision.
- (4) The Board may extend the time within which an application for review of a reviewable decision may be made, by 14 days, and may do so even though the time has elapsed.

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (5) The Board must give written notice of an application for review of a reviewable decision to the person who made the decision.

29. Effect of application for review

- (1) The making of an application for review of a reviewable decision does not affect the operation of the decision or prevent the taking of action to implement it unless the Board, on application by a party to the proceedings, makes an order under subregulation (2).
- (2) The Board may make an order staying or otherwise affecting the operation or implementation of the whole or a part of the decision if the Board thinks that it is appropriate to do so for the purpose of securing the effectiveness of the hearing and determination of the application, after taking into account the interests of any persons who may be affected by the review.
- (3) An order under this regulation —
- (a) may be varied or revoked; and
 - (b) is subject to the conditions specified in the order; and
 - (c) has effect until the earlier of —
 - (i) the end of the period of operation specified in the order (if any); or
 - (ii) the time at which the decision of the Board on the application comes into operation.

30. Procedure generally

- (1) This regulation applies to proceedings before the Board for a review of a reviewable decision.
- (2) The Board must make its determination on the review within 120 days after receiving the application for review.

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (3) The Board may extend, or further extend, the period referred to in subregulation (2) by a period of 30 days if it considers that the matter cannot be dealt with properly without the extension, either because of its complexity or because of other special circumstances.
- (4) If the Board extends the period, it must, before the end of the period, notify the applicant of the extension and the reasons for it.
- (5) The Board may require the operator to give information and other assistance, and to make reports, as specified by the Board for the purposes of the proceedings.
- (6) In the proceedings —
 - (a) it is a reasonable excuse for a person to fail to answer a question if answering the question might tend to incriminate the person; and
 - (b) it is a reasonable excuse for a person to fail to produce a document if producing the document might tend to incriminate the person.
- (7) On the application of a party to the proceedings, the Board may conduct the proceedings in the absence of the public.
- (8) If the Board is satisfied that it is desirable to do so because of the confidential nature of any evidence or matter or for any other reason, relating to the proceedings, the Board may, by order —
 - (a) give directions prohibiting or restricting the publication of evidence given before the Board (whether in public or private) or of matters contained in documents filed with, or received in evidence by, the Board; or

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (b) give directions prohibiting or restricting the disclosure to some or all of the parties to the proceedings, of evidence given before the Board or of matters contained in documents filed with, or received in evidence by, the Board.
- (9) In considering whether to make an order under subregulation (8) the Board is to take as the basis of its consideration the principle that the evidence and the matters contained in the documents should be made available to all parties, but must pay due regard to any reasons given to the Board as to why publication or disclosure of the evidence or matter should be prohibited or restricted.
- (10) A witness summoned to appear at a hearing of the Board is entitled to be paid such allowances and expenses as the Board determines.

31. Procedure: conferences

- (1) If an application is made to the Board for review of a reviewable decision, the Board may direct that a conference of the parties to the proceedings be held, presided over by a member of the Board.
- (2) If —
 - (a) a conference is held; and
 - (b) at or after the conference, agreement is reached between the parties as to the terms of a decision of the Board in the proceedings that would be acceptable to the parties; and
 - (c) the terms of the agreement are written down, signed by the parties and given to the Board; and

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (d) the Board is satisfied that —
 - (i) a decision in those terms would be within the powers of the Board; and
 - (ii) that it would be appropriate to make a decision in those terms,

the Board may, without holding a hearing, make a decision in accordance with those terms.

- (3) At the hearing of proceedings before the Board evidence must not be given, and statements must not be made, about anything that happened at a conference held under subregulation (1) in relation to the proceedings, unless the parties otherwise agree.
- (4) If, in relation to the hearing of proceedings before the Board —
 - (a) a party to the proceedings who was present at a conference objects to the member of the Board who presided over the conference participating in the proceedings; and
 - (b) that party notifies the Board of that objection before or at the start of the hearing,

the member is not entitled to be a member of the Board constituted for the purposes of the proceedings.

32. Parties to proceedings

- (1) If a party to proceedings before the Board has had reasonable notice of the proceedings and fails, without reasonable excuse, either to appear at a conference or at the hearing of the proceedings, the Board may —
 - (a) if the only other party to the proceedings is the person who made the reviewable decision — dismiss the application concerned; or

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (b) in any other case — direct that the person who failed to appear ceases to be a party to the proceedings.
- (2) If an application has been made by a person for review of a reviewable decision, any other person whose interests are adversely affected by the decision may apply to the Board to be made a party to the proceedings and the Board may, by order, make the person a party to the proceedings.
- (3) An application under subregulation (2) must —
 - (a) be in writing; and
 - (b) state the name and address of the applicant; and
 - (c) provide details of the proceedings to which the applicant is applying to be made a party; and
 - (d) provide details of how the applicant's interests are adversely affected by the decision.

Division 2 — Arbitrator and Board funding**33. Terms used**

In this Division —

assessment amount means the amount payable as specified in a notice of assessment under regulation 34(3)(b);

core functions costs, for a quarter, means costs that —

- (a) are incurred in the quarter in connection with the performance by the Arbitrator of the Arbitrator's functions under the *Energy Arbitration and Review Act 1998* in relation to the Board's functions under this Part; and
- (b) cannot be recovered under regulation 35;

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

determined costs means an amount determined by the Board under regulation 35 to be payable by a party to proceedings;

proceedings includes proceedings that are commenced but discontinued or otherwise not brought to finality;

quarter means a period of 3 months beginning on 1 July, 1 October, 1 January or 1 April, but does not include a quarter beginning before 1 July 2013;

standing charge means a charge under regulation 34.

34. Arbitrator funding: standing charges

- (1) At the end of each quarter the operator is liable to pay a charge in connection with the performance by the Arbitrator of the Arbitrator's functions under the *Energy Arbitration and Review Act 1998* in relation to the Board's functions under this Part.
- (2) The amount of the charge is the amount of the core functions costs for the quarter.
- (3) As soon as is practicable after the end of each quarter the Arbitrator must —
 - (a) assess the standing charge payable; and
 - (b) give a notice of assessment specifying —
 - (i) the amount of the charge payable; and
 - (ii) the core functions costs used in calculating the charge; and
 - (iii) the day on which the notice of assessment was issued.

35. Costs and expenses of proceedings before the Board

- (1) The Board may fix an amount that represents the cost and expenses of the hearing and determination of particular proceedings before it.

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (2) Without limiting subregulation (1), the cost and expenses of the hearing and determination of particular proceedings include —
- (a) the costs of constituting the Board for the purposes of those proceedings, including the payment of any remuneration and allowances payable under the *Energy Arbitration and Review Act 1998* section 55 to the members of the Board; and
 - (b) any cost and expenses attributable to the provision of services, facilities and support under the *Energy Arbitration and Review Act 1998* section 56(1) for the purposes of those proceedings.
- (3) The Board may determine —
- (a) which of the parties to the proceedings is liable for payment of the whole or any part of an amount fixed under subregulation (1); and
 - (b) the manner in which, and time within which, payment is to be made.
- (4) A party to proceedings must pay any amount determined by the Board to be payable by the person in the manner and within the time determined by the Board.

36. Recovery of unpaid amounts

- (1) The Arbitrator may recover —
- (a) any unpaid assessment amount; or
 - (b) any unpaid determined costs,
- in a court of competent jurisdiction as a debt due to the Arbitrator.

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (2) In proceedings under subregulation (1) a certificate —
- (a) purporting to be signed by the Arbitrator; and
 - (b) specifying an amount as being an assessment amount or determined costs; and
 - (c) specifying a person as being liable to pay the specified amount; and
 - (d) stating that the specified amount is unpaid,
- is, without proof of the appointment of the Arbitrator or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

37. Matters to be included in Arbitrator's annual report

The annual report submitted by the Arbitrator under the *Financial Management Act 2006* section 61 must include details of the following matters in respect of the financial year to which the annual report relates —

- (a) the total core functions costs;
- (b) the total amount of standing charges;
- (c) the total determined costs.

Part 7 — Protection of information**38. Protection of protected information**

- (1) The operator must take all reasonable measures to protect protected information from unauthorised use or disclosure.
- (2) The operator may use or disclose protected information if the use or disclosure is authorised or required under the Act.
- (3) Regulations 39 to 42 do not limit subregulation (2).

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5**39. Disclosure with prior written consent**

The operator is authorised to disclose protected information if it has the written consent of the person from whom the information was obtained.

40. Disclosure authorised or required by law

- (1) The operator is authorised to disclose protected information as authorised or required under a written law, or a law of the Commonwealth, a State or a Territory.
- (2) A person or body to whom protected information is disclosed under subregulation (1) is, to the extent consistent with the law, limited to using the information in connection with the performance of the functions, or the exercise of the powers, of the person or body for the purposes of which the information was disclosed.

41. Disclosure for purposes of proceedings before court or tribunal

The operator is authorised to disclose protected information for the purposes of —

- (a) civil or criminal proceedings; or
- (b) proceedings before a tribunal established by or under a written law or a law of the Commonwealth, a State or a Territory.

42. Other grounds for disclosure

- (1) If a document contains both protected information and other information, the operator is authorised to disclose the document if the protected information is omitted.
- (2) The operator must include a note at the place in the document from which the protected information is

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

omitted to the effect that protected information has been omitted from the document.

- (3) The operator is authorised to disclose protected information if —
 - (a) it does not disclose any elements of the information that could lead to the identification of the person to whom the information relates; or
 - (b) the manner in which it discloses the information does not identify the person to whom that information relates and could not reasonably be expected to lead to the person being identified.
- (4) The operator is authorised to disclose protected information if the information is in the public domain.

Part 8 — Accountability and review of operations**43. Minister may give directions**

- (1) The Minister may give directions in writing to the operator with respect to the general performance of its functions and, subject to regulation 44, the operator must give effect to any such direction.
- (2) A direction under subregulation (1) must not be inconsistent with the objectives set out in section 6 of the Act.
- (3) The Minister must cause the text of any direction under subregulation (1) to be laid before each House of Parliament or dealt with under regulation 51 —
 - (a) within 14 days after the direction is given; or

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

- (b) if the direction is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, within 14 days after it is confirmed under that section.

44. When directions take effect

- (1) A direction under regulation 43(1) becomes effective —
 - (a) on the expiry of 7 days after its receipt by the operator or of such longer period as the Minister may, at the request of the operator, determine; or
 - (b) if it is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, on its being confirmed under that section.
- (2) If the operator asks the Minister to extend the 7 day period under subregulation (1), the Minister must consider the request and notify the operator of his or her decision before the 7 day period has expired.

45. Consultation

The operator and the Minister, at the request of either, are to consult together, either directly or through appropriate representatives, in relation to the general performance of the functions of the operator.

46. Minister to have access to information

- (1) In this regulation —
document includes any tape, disk or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

information means information (including protected information) specified, or of a description specified, by the Minister that relates to the general performance of the functions of the operator.

- (2) The Minister is entitled —
 - (a) to have information in the possession of the operator; and
 - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (3) For the purposes of subregulation (2) the Minister may —
 - (a) request, in writing, the operator to provide information to the Minister; and
 - (b) request, in writing, the operator to give the Minister access to information; and
 - (c) for the purposes of paragraph (b), make use of the staff of the operator to obtain information and provide it to the Minister.
- (4) A request under subregulation (3)(a) may specify a time before which the information is to be provided.
- (5) The operator must —
 - (a) comply with a request under subregulation (3); and
 - (b) make staff and facilities available to the Minister for the purposes of subregulation (3)(c).
- (6) Where the operator provides or gives access to information to the Minister, the Minister must be advised whether or not, in the opinion of the operator, the public disclosure of the information may adversely

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

affect the commercial interests of the operator or any gas market participant.

47. Provision of information in compiled form

- (1) Subregulation (2) applies if the Minister wishes to obtain from the operator information, that relates to the general performance of the functions of the operator, that —
 - (a) is not itself in the possession of the operator; but
 - (b) is capable of being assembled or compiled from information in the possession of the operator.
- (2) The Minister may request the operator to provide to the Minister a document containing information that —
 - (a) is of a specified description; or
 - (b) is presented in a specified way; or
 - (c) relates to a specified period; or
 - (d) has some other specified characteristic.
- (3) A request under subregulation (2) must be in writing and may specify a time before which the document is to be provided.
- (4) The operator is to comply with a request under subregulation (2) and is to take, or cause to be taken, whatever steps are necessary in order to do so.
- (5) Regulation 46(2) applies to a document prepared or compiled for the purposes of this regulation in the same way as it applies to other information in the possession of the operator.
- (6) Regulation 46(6) applies where a document is provided under this regulation in the same way as it applies where information is provided under regulation 46.

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

48. Review of GBB and GSOO

- (1) The Minister may, after consulting with the operator, appoint a person to conduct a strategic review of the operation and content of the GBB and the preparation and content of the GSOO.
- (2) The operator must, for the purposes of subregulation (1) —
 - (a) give the person access to information, including protected information, in the possession of the operator; and
 - (b) give the person all reasonable assistance; and
 - (c) make staff and facilities available to the person.
- (3) A person who conducts a strategic review cannot use or disclose protected information obtained during the course of the review other than —
 - (a) for the purposes of the review; or
 - (b) under regulation 40 or 41, which apply to the person as if references in those regulations to the operator were references to the person.
- (4) In the report to the Minister on a strategic review, the person conducting the review must not include protected information unless —
 - (a) the person from whom the information was obtained has consented to the inclusion of the information in the report; or
 - (b) it is included in such a way that the identity of the person to whom it relates is not apparent and could not reasonably be worked out; or
 - (c) it is in the public domain.
- (5) The Minister may direct the operator to conduct a review of the operation and content of the GBB and the

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

preparation and content of the GSOO and, as part of that, may direct the operator as to —

- (a) the scope of the review; and
- (b) consulting with gas market participants and other persons and entities; and
- (c) when the review should be undertaken; and
- (d) reporting to the Minister on the results of the review.

Part 9 — Miscellaneous**49. Maximum civil monetary liabilities**

- (1) For the purposes of section 14(3) of the Act, the following maximum amounts are prescribed —
 - (a) in relation to the civil monetary liability of a gas market participant to a person who suffers loss as a result of an act or omission, the lesser of —
 - (i) \$400 000; and
 - (ii) the maximum amount worked out under subregulation (2);
 - (b) in relation to the civil monetary liability of the operator, or an officer or employee of the operator, to a person who suffers loss as a result of an act or omission — \$1.
- (2) The maximum amount of a person's civil monetary liability under subregulation (1)(a) is worked out by deducting from \$20 million the aggregate of the amounts already paid by the person in the discharge of the person's civil monetary liabilities to persons suffering losses as a result of acts or omissions occurring during the financial year in which the relevant act or omission occurred.

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

50. Continuing offences: daily penalties

- (1) If, in addition to a penalty specified for an offence under these regulations, a daily penalty is specified for the offence, a person convicted of the offence is also liable to a daily penalty, not exceeding the amount specified, for each day or part of a day during which the offence continues after notice of the alleged offence has been given to the offender.
- (2) A notice referred to in subregulation (1) must —
 - (a) be in writing; and
 - (b) state the name and address of the person to whom the notice is directed; and
 - (c) specify the particular provision that the person is alleged to have contravened; and
 - (d) provide details of the contravention; and
 - (e) state that criminal proceedings may be instituted against the person.

51. Supplementary provision for laying documents before Parliament

- (1) If —
 - (a) at the commencement of a period referred to in regulation 43(3) a House of Parliament is not sitting; and
 - (b) the Minister is of the opinion that that House will not sit during that period,

the Minister must transmit a copy of the document to the Clerk of that House.

- (2) A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House.

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

- (3) The laying of a copy of a document that is to be regarded as having occurred under subregulation (2) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

Schedule 1 — Civil penalty provisions and amounts

[r. 15]

Rule	Category	Maximum civil penalty amount
r. 18(5)	A	first contravention: \$10 000 subsequent contraventions: \$20 000
r. 18(6)	B	first contravention: \$40 000 subsequent contraventions: \$80 000
r. 22	B	\$25 000 plus a daily amount of \$5 000
r. 23	B	\$25 000 plus a daily amount of \$5 000
r. 27(4)	A	\$5 000 plus a daily amount of \$1 000
r. 32(6)	A	\$5 000 plus a daily amount of \$1 000
r. 34(3)	A	\$5 000 plus a daily amount of \$1 000
r. 36(3)	A	\$5 000 plus a daily amount of \$1 000
r. 39(4)	A	\$5 000 plus a daily amount of \$1 000
r. 49(1)	A	\$5 000 plus a daily amount of \$1 000
r. 49(2)	A	\$5 000 plus a daily amount of \$1 000
r. 53(1)	A	\$5 000 plus a daily amount of \$1 000
r. 53(2)	A	\$5 000 plus a daily amount of \$1 000

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

Rule	Category	Maximum civil penalty amount
r. 54(1)	A	\$5 000 plus a daily amount of \$1 000
r. 54(2)	A	\$5 000 plus a daily amount of \$1 000
r. 54(3)	A	\$5 000 plus a daily amount of \$1 000
r. 55(1)	A	\$5 000 plus a daily amount of \$1 000
r. 55(2)	A	\$5 000 plus a daily amount of \$1 000
r. 56(1)	A	\$5 000 plus a daily amount of \$1 000
r. 56(4)	A	\$5 000 plus a daily amount of \$1 000
r. 57(1)	A	\$5 000 plus a daily amount of \$1 000
r. 57(2)	A	\$5 000 plus a daily amount of \$1 000
r. 58(1)	A	\$5 000 plus a daily amount of \$1 000
r. 58(2)	A	\$5 000 plus a daily amount of \$1 000
r. 59(1)	A	\$5 000 plus a daily amount of \$1 000
r. 59(2)	A	\$5 000 plus a daily amount of \$1 000
r. 59(3)	A	\$5 000 plus a daily amount of \$1 000
r. 60	A	\$5 000 plus a daily amount of \$1 000
r. 61(1)	A	\$20 000 plus a daily amount of \$2 000
r. 61(2)	A	\$20 000 plus a daily amount of \$2 000
r. 62(1)	A	\$5 000 plus a daily amount of \$1 000
r. 62(2)	A	\$5 000 plus a daily amount of \$1 000

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

Rule	Category	Maximum civil penalty amount
r. 63(1)	A	\$5 000 plus a daily amount of \$1 000
r. 63(2)	A	\$5 000 plus a daily amount of \$1 000
r. 64(1)	A	\$5 000 plus a daily amount of \$1 000
r. 64(4)	A	\$5 000 plus a daily amount of \$1 000
r. 65(1)	A	\$5 000 plus a daily amount of \$1 000
r. 65(2)	A	\$5 000 plus a daily amount of \$1 000
r. 66(1)	A	\$5 000 plus a daily amount of \$1 000
r. 66(2)	A	\$5 000 plus a daily amount of \$1 000
r. 67(1)	A	\$5 000 plus a daily amount of \$1 000
r. 67(2)	A	\$5 000 plus a daily amount of \$1 000
r. 68(1)	A	\$5 000 plus a daily amount of \$1 000
r. 69(1)	A	\$5 000 plus a daily amount of \$1 000
r. 69(2)	A	\$5 000 plus a daily amount of \$1 000
r. 70(1)	A	\$5 000 plus a daily amount of \$1 000
r. 70(2)	A	\$5 000 plus a daily amount of \$1 000
r. 71(1)	A	\$5 000 plus a daily amount of \$1 000
r. 71(4)	A	\$5 000 plus a daily amount of \$1 000
r. 72(1)	A	\$5 000 plus a daily amount of \$1 000
r. 72(2)	A	\$5 000 plus a daily amount of \$1 000

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

Rule	Category	Maximum civil penalty amount
r. 73(1)	A	\$5 000 plus a daily amount of \$1 000
r. 74(1)	A	\$20 000 plus a daily amount of \$2 000
r. 74(3)	A	\$20 000 plus a daily amount of \$2 000
r. 74(4)	A	\$20 000 plus a daily amount of \$2 000
r. 75(5)	A	\$20 000 plus a daily amount of \$2 000
r. 76(1)	A	\$5 000 plus a daily amount of \$1 000
r. 76(2)	A	\$5 000 plus a daily amount of \$1 000
r. 77(1)	A	\$5 000 plus a daily amount of \$1 000
r. 77(2)	A	\$5 000 plus a daily amount of \$1 000
r. 78(1)	A	\$5 000 plus a daily amount of \$1 000
r. 98(1)	A	\$5 000 plus a daily amount of \$1 000
r. 98(2)	A	\$5 000 plus a daily amount of \$1 000
r. 99(1)	A	\$5 000 plus a daily amount of \$1 000
r. 99(2)	A	\$5 000 plus a daily amount of \$1 000
r. 100(1)	A	\$5 000 plus a daily amount of \$1 000
r. 100(2)	A	\$5 000 plus a daily amount of \$1 000
r. 101(1)	A	\$5 000 plus a daily amount of \$1 000
r. 101(2)	A	\$5 000 plus a daily amount of \$1 000

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5**

Rule	Category	Maximum civil penalty amount
r. 106(2)	A	first contravention: \$10 000 plus a daily amount of \$2 000 subsequent contraventions: \$20 000 plus a daily amount of \$2 000
r. 115(1)	A	\$10 000 plus a daily amount of \$2 000
r. 115(3)	A	\$10 000 plus a daily amount of \$2 000
r. 118(1)	A	\$10 000 plus a daily amount of \$2 000
r. 118(3)	A	\$10 000 plus a daily amount of \$2 000
r. 119(5)	A	\$10 000 plus a daily amount of \$2 000
r. 166	A	\$5 000 plus a daily amount of \$1 000
r. 169(3)	B	first contravention: \$15 000 plus a daily amount of \$500 subsequent contraventions: \$30 000 plus a daily amount of \$1 000
r. 169(5)	B	first contravention: \$15 000 plus a daily amount of \$500 subsequent contraventions: \$30 000 plus a daily amount of \$1 000
r. 173(2)	B	first contravention: \$15 000 plus a daily amount of \$500 subsequent contraventions: \$30 000 plus a daily amount of \$1 000

Gas Services Information Amendment Regulations (No. 2) 2013**r. 5****Schedule 2 — Reviewable decisions and procedural decisions**

[r. 25]

1. Reviewable decisions

For the purposes of regulation 25(2), the following provisions are listed: reg. indicates a provision of these regulations and r. indicates a provision of the GSI rules.

Table

reg. 16(1)	r. 13(1)	r. 28(2)
r. 34(2)	r. 36(2)	r. 39(3)
r. 43(2)	r. 46(3)	r. 48(2)
r. 67(4)	r. 68(3)	r. 73(3)
r. 78(3)	r. 131(1)(a)	r. 131(2)
r. 134(1)(a)	r. 137(1)(a)	r. 156(3)(a)
r. 160(2)		

2. Procedural decisions

For the purposes of definition of *procedural decision* in regulation 25(1), the following provisions of the GSI rules are listed.

Table

r. 13(1)	r. 28(2)	r. 34(2)
r. 36(2)	r. 39(3)	r. 43(2)
r. 46(3)	r. 48(2)	r. 67(4)

Gas Services Information Amendment Regulations (No. 2) 2013

r. 5

r. 68(3)

r. 73(3)

r. 78(3)

r. 131(1)(a)

r. 131(2)

r. 134(1)(a)

r. 137(1)(a)

r. 156(3)(a)

r. 160(2)

By Command of the Lieutenant-Governor and
deputy of the Governor,

N. HAGLEY, Clerk of the Executive Council.
