



Western Australia

## **Energy Coordination Exemption Order 2009**

Compare between:

[25 Sep 2010, 00-b0-02] and [24 Dec 2016, 00-c0-02]



## Energy Coordination Exemption Order 2009

### 1. Citation

This order is the *Energy Coordination Exemption Order 2009*.  
[Clause 1 amended ~~in~~; Gazette 24 Sep 2010 p. 5009.]

### 2. Commencement

This order comes into operation as follows —

- (a) clauses 1 and 2 — on the day on which this order is published in the *Gazette*;
- (b) the rest of the order — on the day after that day.

[Clause 2 amended ~~in~~; Gazette 24 Sep 2010 p. 5009.]

### 2A. Terms used

In this order —

*exempt supplier*, in relation to a property, means a person who is exempt from the *Energy Coordination Act 1994* section 11G(1) or (2) under clause 4 in relation to the property;

*occupier*, of a property, means a person in lawful occupation of the property;

*property* means a parcel of land and includes —

- (a) a part of a parcel of land; and
- (b) 2 or more parcels of land with common boundaries that are constituted, owned or occupied as 1 property;

*residential property* means a property or any part of a property used, or intended to be used, as a person's principal place of residence.

[Clause 2A inserted: Gazette 23 Dec 2016 p. 5904.]

**3. Exemption from s. 11G(1) — developer constructing distribution system**

- (1) A person who subdivides land (the *developer*) is exempt from the *Energy Coordination Act 1994* section 11G(1) in relation to the construction of a distribution system for the transportation of gas to lots resulting from that subdivision.
- (2) The exemption provided for in subclause (1) is subject to the conditions set out in subclauses (3), (4) and (6).
- (3) Before construction of the distribution system starts, or within such further time as the Coordinator allows, the developer must provide the Coordinator with evidence to the satisfaction of the Coordinator that the developer has entered into an agreement with the holder of a distribution licence (the *licensee*) making provision for the following matters —
  - (a) the licensee's design and construction requirements for the distribution system;
  - (b) an audit by the licensee or its nominee of the distribution system, after construction is completed, to ensure compliance with the requirements mentioned in paragraph (a) and all relevant statutory requirements;
  - (c) arrangements for the transfer of ownership of the distribution system to the licensee;
  - (d) the allocation of responsibility for maintenance of the distribution system before gas is transported through it;
  - (e) a requirement for the licensee to be given plans and other documentation relating to the distribution system.

- 
- (4) Before construction of the distribution system starts, or within such further time as the Director allows, the developer must give the Director a written notice that —
- (a) sets out or is accompanied by information about the design and attributes of the distribution system including pipe pressure, materials to be used in construction and projected gas load;
  - (b) sets out the name and contact details of the entity with primary responsibility for carrying out construction of the distribution system;
  - (c) sets out the projected timeframe for construction of the distribution system;
  - (d) sets out or is accompanied by a map showing the location of the distribution system.
- (5) The Director may, by written notice given to the developer, specify guidelines that are to be observed in the construction of the distribution system.
- (6) The developer must ensure that guidelines specified under subclause (5) are observed.

#### 4. Exemptions for on-supply to residential premises

- (1) ~~In this clause —~~

~~*administering body* has the meaning given in the *Retirement Villages Act 1992* section 3(1);~~

~~*residential premises* means premises or any part of premises used, or intended to be used, as a person's principal place of residence;~~

~~*retirement village* has the meaning given in the *Retirement Villages Act 1992* section 3(1);~~

~~*scheme* has the meaning given in the *Strata Titles Act 1985* section 3(1);~~

~~*strata company* has the meaning given in the *Strata Titles Act 1985* section 3(1);~~

cl. 4

---

~~— supply charge for gas means the sum of —~~

~~— (a) the volumetric charge for the gas; and~~

~~— (b) any service fee or charge attributable to the supply of the gas;~~

~~— paid or payable by the supplier.~~

~~(2A) A person (the *supplier*) is exempt from the *Energy Coordination Act 1994* section 11G(1) if the distribution system concerned —~~

~~— (a) is located or to be located on a property; and~~

~~— (b) is used or to be used solely for the transportation of gas for consumption on residential premises under the control or management of the supplier~~  
the property.

(2) The exemption provided for in subclause (1) is subject to the conditions set out in clause 5(1) to (3).

~~(3) A person (the *supplier*) who sells gas to a small use customer for consumption on residential premises under the control or management of the supplier~~  
gas transported through a distribution system located on a property is exempt from the *Energy Coordination Act 1994* section 11G(2) in relation to that sale if the gas is sold for consumption on the property.

~~(3) For the purposes of subclauses (2A) and (2) residential premises are under the control or management of a supplier if the supplier is —~~

~~— (a) the owner of the premises; or~~

~~— (b) in the case of premises on land to which a scheme relates, the strata company for the scheme; or~~

~~— (c) in the case of premises in a retirement village, the administering body of the retirement village.~~

(4) The exemption provided for in subclause (2~~3~~) is subject to the condition that the amount paid by the small use customer to the supplier for the gas must not exceed the sum of — conditions set out in clause 5.

- ~~— (a) — the volumetric charge for the gas; and~~
- ~~— (b) — any service fee or charge attributable to the supply of the gas;~~
- ~~— paid or payable by the supplier.~~

~~[Clause 4 amended in~~*inserted: Gazette 24 Sep 2010*~~23 Dec 2016 p. 5010~~*5904.*~~]~~

**5. Exemption Condition applying to exemptions for on-supply to commercial premises**

- ~~— (1) — In this clause —~~
  - ~~— *commercial premises* means premises or any part of premises used, or intended to be used, for commercial or industrial purposes;~~
  - ~~— *scheme* has the meaning given in the *Strata Titles Act 1985* section 3(1);~~
  - ~~— *strata company* has the meaning given in the *Strata Titles Act 1985* section 3(1).~~
- ~~— (2) — A person (the *supplier*) is exempt from the *Energy Coordination Act 1994* section 11G(1) if the distribution system concerned is used or to be used solely for the transportation of gas for consumption on commercial premises under the control or management of the supplier.~~
- ~~— (3) — For the purposes of subclause (2) commercial premises are under the control or management of a supplier if the supplier is —~~
  - ~~— (a) — the owner or occupier of the premises; or~~
  - ~~— (b) — in the case of premises on land to which a scheme relates, the strata company for the scheme.~~

(1) If an exempt supplier supplies gas to a property, the exempt supplier must make available to an occupier of the property information that clearly sets out —

- (a) the volume of gas supplied to the occupier; and

cl. 5

---

- (b) the volumetric charge for the gas payable by the occupier; and
- (c) any service fee or charge attributable to the supply of the gas payable by the occupier.
- (2) Information referred to in subclause (1) must be made available in a manner that is easily accessible.
- (3) If information referred to in subclause (1) is not included in an account issued to an occupier of the property, the exempt supplier must inform the occupier of how to gain access to the information.
- (4) If an exempt supplier supplies gas to a residential property the amount paid by the small use customer to the exempt supplier for the gas must not exceed the sum of —
  - (a) the volumetric charge for the gas paid or payable by the exempt supplier; and
  - (b) any service fee or charge attributable to the supply of the gas paid or payable by the exempt supplier.

*[Clause 5 inserted ~~in~~ Gazette ~~24 Sep 2010~~ 23 Dec 2016  
p. ~~5010~~ 5905.]*



---

## Notes

- <sup>1</sup> This is a compilation of the *Energy Coordination Exemption Order 2009* and includes the amendments made by the other written laws referred to in the following table.

### Compilation table

Citation	Gazettal	Commencement
<i>Energy Coordination Exemption Order 2009</i>	31 Mar 2009 p. 1022-4	cl. 1 and 2: 31 Mar 2009 (see cl. 2(a)); Order other than cl. 1 and 2: 1 Apr 2009 (see cl. 2(b))
<i>Energy Coordination Exemption Amendment Order 2010</i>	24 Sep 2010 p. 5009-10	cl. 1 and 2: 24 Sep 2010 (see cl. 2(a)); Order other than cl. 1 and 2: 25 Sep 2010 (see cl. 2(b))
<a href="#"><u><i>Energy Coordination Exemption Amendment Order 2016</i></u></a>	<a href="#"><u>23 Dec 2016</u></a> <a href="#"><u>p. 5903-5</u></a>	<a href="#"><u>cl. 1 and 2: 22 Dec 2016</u></a> <a href="#"><u>(see cl. 2(a));</u></a> <a href="#"><u>Order other than cl. 1 and 2:</u></a> <a href="#"><u>24 Dec 2016 (see cl. 2(b))</u></a>