



Western Australia

Electricity Industry (Licence Conditions) Regulations 2005

Compare between:

[05 Nov 2021, 01-e0-00] and [05 May 2022, 01-f0-00]

Electricity Industry (Licence Conditions) Regulations 2005

1. Citation

These regulations are the *Electricity Industry (Licence Conditions) Regulations 2005*.

2. Commencement

These regulations come into operation on the day on which they are published in the *Gazette*.

3. Terms used

In these regulations, unless the contrary intention appears —
approved contract — see regulations 8 and 8A;

Coordinator means the Coordinator of Energy referred to in section 4 of the *Energy Coordination Act 1994*;

distributed energy, in relation to an eligible customer, means electricity to which 1 or both of the following apply —

- (a) the electricity is generated by a small renewable energy system located on premises owned or occupied by the eligible customer;
- (b) the electricity is discharged from storage works located on premises owned or occupied by the eligible customer;

eligible customer means —

- (a) a customer —
 - (i) to whom electricity is supplied for residential purposes; and

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- (ii) who consumes not more than 50 MWh of electricity per annum;

or

- (b) a customer that is a school, university or other educational institution; or
- (c) a customer that is a non-profit making organisation;

relevant corporation means an electricity corporation or a subsidiary of an electricity corporation;

retailer means a licensee holding —

- (a) a retail licence; or
- (b) an integrated regional licence that authorises the licensee to sell electricity to customers;

small renewable energy system means —

- (a) a system of photovoltaic arrays; or
- (b) a system of wind turbines; or
- (c) a hydro power system; or
- (d) another system for the generation of electricity from a renewable energy source,

that has a generating capacity exceeding 500 W but not exceeding 5 kW;

SPS means stand-alone power system.

[Regulation 3 amended: Gazette 23 Dec 2005 p. 6267; 31 Mar 2006 p. 1346; SL 2020/146 r. 4; SL 2021/185 r. 4.]

4. References to licence held by relevant corporation

A reference in these regulations to a transmission licence, a distribution licence, a retail licence or an integrated regional licence held by a relevant corporation includes a reference to a licence of that kind that the corporation is deemed to hold under section 46 of the Act.

5. Condition requiring compliance with *Electricity Industry (Customer Transfer) Code 2016*

- (1) This regulation applies to —
 - (a) a transmission licence, a distribution licence or an integrated regional licence held by a relevant corporation; and
 - (b) a retail licence or an integrated regional licence that authorises the sale of electricity transported through a transmission system or distribution system operated by a relevant corporation.
- (2) It is a condition of every licence to which this regulation applies that the transfer of customers must be undertaken in accordance with the procedures and arrangements set out in the *Electricity Industry (Customer Transfer) Code 2016*.

[Regulation 5 amended: Gazette 13 Jun 2017 p. 2883.]

5A. Condition requiring compliance with *Electricity Industry (Metering) Code 2012*

- (1) This regulation applies to —
 - (a) a transmission licence, a distribution licence or an integrated regional licence held by a relevant corporation; and
 - (b) a retail licence or an integrated regional licence that authorises the sale of electricity transported through a transmission system or distribution system operated by a relevant corporation; and
 - (c) a generation licence or an integrated regional licence that authorises the operation of generating works connected to a transmission system or distribution system operated by a relevant corporation.
- (2) It is a condition of every licence to which this regulation applies that the metering of the supply of electricity must be undertaken

in accordance with the procedures and arrangements set out in the *Electricity Industry (Metering) Code 2012*.

[Regulation 5A inserted: Gazette 23 Dec 2005 p. 6267; amended: Gazette 13 Jun 2017 p. 2883.]

6. Condition requiring relevant corporation to offer to purchase distributed energy

- (1) It is a condition of every retail licence and integrated regional licence held by a relevant corporation that, on and after 8 September 2020, the corporation must offer to purchase distributed energy, under an approved contract, from an eligible customer who wishes to sell distributed energy to the corporation.
- (2) For the purposes of subregulation (1), the relevant corporation is not required, on any one day, to purchase more than 50 kWh of distributed energy from the eligible customer.
- (2A) If the eligible customer owns or occupies more than 1 premises, subregulation (2) applies separately in respect of each premises.
- (3) Subregulation (2) does not prevent the relevant corporation from purchasing additional distributed energy from the eligible customer under the approved contract or otherwise.
- (4) For the purposes of subregulation (1), the relevant corporation is not required to purchase distributed energy (the **relevant distributed energy**) from the eligible customer at any time when the eligible customer has, in accordance with a direction given to the corporation under the *Electricity Corporations Act 2005* section 111, a contract to sell distributed energy to the corporation if that contract relates to premises which are the same premises as that on which —
 - (a) the small renewable energy system that generates the relevant distributed energy is located; or
 - (b) the storage works from which the relevant distributed energy is discharged are located.

- (5) For the purposes of subregulation (1), the relevant corporation is not required to purchase distributed energy from the eligible customer at any time unless, at that time, the corporation has a contract with the eligible customer to sell to the eligible customer electricity for the purpose of consumption at premises which are the same premises as that on which —
- (a) the small renewable energy system that generates the distributed energy is located; or
 - (b) the storage works from which the distributed energy is discharged are located.
- (6) For the purposes of subregulation (1), the relevant corporation is not required to purchase distributed energy from the eligible customer if —
- (a) the eligible customer occupies premises that —
 - (i) are let or leased to the eligible customer by the Housing Authority under the *Housing Act 1980*; and
 - (ii) are attached or connected to a distribution system that forms part of the South West interconnected system;and
 - (b) the distributed energy is generated by a small renewable energy system that —
 - (i) is located on the premises; and
 - (ii) is owned by the relevant corporation; and
 - (iii) was installed on the premises by the relevant corporation during the period beginning on 1 November 2020 and ending on 30 June 2024.

[Regulation 6 inserted: SL 2020/146 r. 5; amended: SL 2021/27 r. 4.]

7. Condition requiring relevant corporation to report on cost of purchasing distributed energy

It is a condition of every retail licence and integrated regional licence held by a relevant corporation that the corporation must, as soon as practicable after the end of each financial year, submit a written report to the Coordinator setting out the costs incurred by the corporation during that year in purchasing distributed energy under approved contracts.

[Regulation 7 amended: SL 2020/146 r. 6.]

8. Approved contracts

- (1) An **approved contract** is a contract prepared by a relevant corporation, and approved by the Coordinator (subject to subregulation (3)), that sets out the terms and conditions on which the corporation is to purchase distributed energy from eligible customers for the purposes of regulation 6(1).
- (2) The contract may include (without limitation) technical specifications, or other technical requirements, that must be met in relation to small renewable energy systems or storage works.
- (3) The price or prices at which the relevant corporation is to purchase distributed energy from eligible customers under the contract are to be approved by the Minister, with the concurrence of the Treasurer, and not by the Coordinator.
- (4) The Coordinator must not approve a contract for the purposes of subregulation (1) unless the Coordinator considers that the contract, apart from the matters within subregulation (3), will provide for the purchase of distributed energy on fair and reasonable terms and conditions.
- (5) The Minister must not approve any price for the purposes of subregulation (3) unless the Minister considers that the price is fair and reasonable.

- (6) This regulation is subject to regulation 8A.

[Regulation 8 inserted: SL 2020/146 r. 7.]

8A. Changes to approved contract

- (1) A relevant corporation may amend or replace an approved contract as follows —
- (a) in relation to the matters within regulation 8(3) — with the approval of the Minister given with the concurrence of the Treasurer;
 - (b) in relation to all other matters — with the approval of the Coordinator.
- (2) An approved contract may also be amended in accordance with subregulations (3) to (6).
- (3) If the Coordinator considers that an approved contract, apart from the matters within regulation 8(3), no longer provides for the purchase of distributed energy on fair and reasonable terms and conditions, the Coordinator may, for the purpose of remedying the situation, direct the relevant corporation —
- (a) to submit an appropriate amendment to the contract to the Coordinator for approval; and
 - (b) to do so within a period specified by the Coordinator.
- (4) In subregulation (3) —
- appropriate amendment** means an amendment —
- (a) specified by the Coordinator; or
 - (b) otherwise determined by the Coordinator to be suitable for approval.
- (5) The Coordinator may approve the appropriate amendment to take effect at a future time specified by the Coordinator, and the relevant corporation must amend the approved contract accordingly.

- (6) The Minister may, with the concurrence of the Treasurer, direct an amendment to an approved contract in relation to any matter within regulation 8(3) to take effect at a future time specified by the Minister, and the relevant corporation must amend the approved contract accordingly.
- (7) The Coordinator must not give an approval for the purposes of this regulation unless the Coordinator considers that the amended or new approved contract, apart from the matters within regulation 8(3), will provide for the purchase of distributed energy on fair and reasonable terms and conditions.
- (8) The Minister must not approve or direct any price for the purposes of this regulation unless the Minister considers that the price is fair and reasonable.
- (9) It is a condition of every retail licence and integrated regional licence held by a relevant corporation that the corporation must do the following —
 - (a) comply with a direction given to the corporation under subregulation (3);
 - (b) amend an approved contract as required by subregulation (5) or (6).

[Regulation 8A inserted: SL 2020/146 r. 7.]

9. Condition requiring compliance with *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*

- (1) In this regulation —
Director of Energy Safety means the official referred to in section 5 of the *Energy Coordination Act 1994*.
- (2) This regulation applies to —
 - (a) a distribution licence; and
 - (b) a transmission licence; and

- (c) an integrated regional licence which authorises the carrying out of the activities described in section 4(1)(b) or (c) of the Act.
- (3) It is a condition of every licence to which this regulation applies that the holder of the licence must comply with the obligations imposed on the holder by Part 2, section 21 and Part 4 of the *Electricity Industry (Network Quality and Reliability of Supply) Code 2005*.
- (4) If the Authority in the performance of its functions under section 32 of the Act in relation to the obligations referred to in subregulation (3) requests the Director of Energy Safety to provide advice to assist the Authority in that performance, it is a function of the Director of Energy Safety to do all such things as are required to comply with the request.

[Regulation 9 inserted: Gazette 13 Dec 2005 p. 5980.]

10. Condition requiring certain relevant corporations to have SPS engagement strategy

- (1) In this regulation, a reference to a distribution licence includes a reference to an integrated regional licence that authorises the operation of a distribution system.
- (2) It is a condition of every distribution licence held by a relevant corporation that the corporation must —
 - (a) have an SPS engagement strategy that complies with the requirements under subregulation (3); and
 - (b) comply with the strategy in relation to the provision of SPSs to eligible customers; and
 - (c) have the initial strategy endorsed by the Minister; and
 - (d) review the strategy at least every 2 years; and
 - (e) ensure that the current version of the strategy is publicly available on a website maintained by or on behalf of the corporation.

(3) For the purposes of subregulation (2)(a), the requirements are that the strategy —

(a) set out protocols for engagement with customers and potential customers; and

(b) set out protocols for engagement and coordination with retailers who sell, or propose to sell, electricity through SPSs; and

(c) set out the following information for customers and potential customers in relation to the provision of SPSs —

(i) the basic specifications of the SPSs available;

(ii) a description of the process of installing an SPS and of the services to be provided by it;

(iii) a description of a customer's obligations in relation to an installed SPS;

(iv) a description of a customer's consumer rights in relation to the provision of an SPS and the services provided by it;

and

(d) set out indicative costs for upgrading an installed SPS; and

(e) set out the contact details of the following —

(i) the corporation's customer and fault services;

(ii) the electricity ombudsman (as defined in section 92(1) of the Act);

(iii) the corporation.

(4) The Minister's endorsement of an initial strategy under subregulation (2)(c) is limited to whether the strategy sets out the information required by this regulation, that is, the Minister is not required to verify the information in the strategy.

[Regulation 10 inserted: SL 2021/185 r. 5.]

Notes

This is a compilation of the *Electricity Industry (Licence Conditions) Regulations 2005* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. ~~For provisions that have not yet come into operation see the uncommenced provisions table.~~

Compilation table

Citation	Published	Commencement
<i>Electricity Industry (Licence Conditions) Regulations 2005</i>	7 Jan 2005 p. 57-9	7 Jan 2005 (see r. 2)
<i>Electricity Industry (Licence Conditions) Amendment Regulations (No. 3) 2005</i>	13 Dec 2005 p. 5979-80	1 Jan 2006 (see r. 2)
<i>Electricity Industry (Licence Conditions) Amendment Regulations 2005</i>	23 Dec 2005 p. 6266-7	23 Dec 2005 (see r. 2)
<i>Electricity Corporations (Consequential Amendments) Regulations 2006</i> r. 74	31 Mar 2006 p. 1299-357	1 Apr 2006 (see r. 2)
Reprint 1: The <i>Electricity Industry (Licence Conditions) Regulations 2005</i> as at 4 Nov 2011 (includes amendments listed above)		
<i>Electricity Industry (Licence Conditions) Amendment Regulations 2017</i>	13 Jun 2017 p. 2882-3	r. 1 and 2: 13 Jun 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 14 Jun 2017 (see r. 2(b))
<i>Electricity Industry (Licence Conditions) Amendment Regulations 2020</i>	SL 2020/146 1 Sep 2020	r. 1 and 2: 1 Sep 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Sep 2020 (see r. 2(b))
<i>Electricity Industry (Licence Conditions) Amendment Regulations 2021</i>	SL 2021/27 26 Feb 2021	r. 1 and 2: 26 Feb 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Feb 2021 (see r. 2(b))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made on the WA Legislation website*.

Citation	Published	Commencement
<i>Electricity Industry Regulations Amendment (Stand-Alone Power Systems) Regulations-2021 Pt. 2</i>	SL 2021/185 5 Nov 2021	5 May 2022 (see r. 2(b))