



Western Australia

Gas Services Information Act 2012

Gas Services Information Regulations 2012

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Gas Services Information Regulations 2012

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Western Australia

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Gas Services Information Act 2012

Gas Services Information Regulations 2012

Part 1 — Preliminary

[Heading inserted in Gazette 14 Jun 2013 p. 2228.]

1. Citation

These regulations are the *Gas Services Information Regulations 2012*¹.

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 on which the *Gas Services Information Act 2012* section 7 comes into operation¹.

3. Terms used

- (1) In these regulations, unless the contrary intention appears —
Arbitrator means the Western Australian Energy Disputes Arbitrator appointed under the *Energy Arbitration and Review Act 1998* section 62 and includes a person acting under section 71 of that Act;

r. 4A

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

ERA means the Economic Regulation Authority established by the *Economic Regulation Authority Act 2003* section 4;

GSI procedures means procedures, made under the GSI rules, to be followed by gas market participants and by the operator, in complying with, or in connection with, the GSI rules;

GSI rules means the rules referred to in regulation 5;

GSI website means a website maintained for the purposes of regulation 11(2);

IMO means the Independent Market Operator established by the *Electricity Industry (Independent Market Operator) Regulations 2004* regulation 4;

registered, in relation to a gas market participant, means registered under the GSI rules;

specified, in relation to an instrument or document made under or referred to in these regulations, means specified in that instrument or document;

warning notice means a notice, given under the GSI rules, warning a gas market participant that the operator believes that the participant has contravened a provision of the GSI rules.

- (2) Unless the contrary intention appears, a reference to the performance of the functions of the operator is a reference to the performance of its functions under the Act.

[Regulation 3 inserted in Gazette 14 Jun 2013 p. 2228-9.]

4A. Gas market participants

For the purposes of the definition of **user**, paragraph (c), in section 3(1) of the Act, end users who acquire at least 1 terajoule of natural gas per year are prescribed.

[Regulation 4A inserted in Gazette 14 Jun 2013 p. 2229.]

Part 2 — Functions of the operator

[Heading inserted in Gazette 14 Jun 2013 p. 2229.]

4. Functions of operator — IMO

- (1) It is a function of the IMO —
 - (a) to establish and operate the GBB; and
 - (b) to prepare and publish the GSOO.
- (2) Without limiting subregulation (1), the IMO has the following functions —
 - (a) to collect, collate and manage information for the GBB and the GSOO;
 - (b) to derive from the information referred to in paragraph (a) information for inclusion on the GBB or in the GSOO;
 - (c) to include information on the GBB of the kinds that may or must be included on the GBB under the Act or any other written law;
 - (d) to prepare and publish the GSOO periodically.

*[Regulation 4 amended in Gazette 14 Jun 2013 p. 2229;
28 Jun 2013 p. 2933.]*

Part 3 — GSI rules

[Heading inserted in Gazette 14 Jun 2013 p. 2230.]

5. GSI rules

There are to be rules relating to the form, content and operation of the GBB and to the form and content of the GSOO (the **GSI rules**).

[Regulation 5 inserted in Gazette 14 Jun 2013 p. 2230.]

6. Making GSI rules

- (1) In this regulation —
GSI rules includes rules that amend the GSI rules.
- (2) Subject to regulation 7, GSI rules are to be made by the Minister.
- (3) GSI rules commence at a time fixed —
 - (a) by the GSI rules; or
 - (b) in a manner provided for by the GSI rules.
- (4) Different commencement times may be fixed under —
 - (a) subregulation (3)(a) for different provisions of GSI rules; or
 - (b) subregulation (3)(b) for different provisions of GSI rules unless those GSI rules provide otherwise.
- (5) GSI rules made by the Minister are to be published in the *Gazette* and are to be laid before each House of Parliament within 10 sitting days of that House next following their publication in the *Gazette*.

[Regulation 6 inserted in Gazette 14 Jun 2013 p. 2230.]

7. Amending GSI rules

- (1) In this regulation —
amending rules means rules that amend the GSI rules.

- (2) The GSI rules may provide for matters relating to the initiation, development, making, approval, publication and commencement of amending rules.
- (3) The GSI rules under subregulation (2) may be made so as to apply to —
 - (a) amending rules of a specified kind; or
 - (b) amending rules other than rules of a specified kind,and have effect despite regulation 6(2).
- (4) Despite anything in this regulation or the GSI rules, rules replacing the GSI rules in whole are to be made by the Minister and regulation 6(5) applies to them.

[Regulation 7 inserted in Gazette 14 Jun 2013 p. 2230-1.]

8. GSI rules generally

- (1) The GSI rules may confer functions, relating to the functions referred to in section 7(2)(a) of the Act, on the operator, the Minister, the Coordinator and the ERA.
- (2) Without limiting anything else in these regulations, the GSI rules may provide for the following —
 - (a) the registration of gas market participants for the purposes of the GSI rules;
 - (b) procedures, fees and other matters relating to registration of gas market participants;
 - (c) governance matters, including financial management, relating to the performance of the functions of the operator under these regulations and the GSI rules;
 - (d) fees and charges to be paid by registered gas market participants for the performance of the functions of the operator under these regulations and the GSI rules;
 - (e) the resolution of disputes between gas market participants and the operator;
 - (f) the limiting of access to parts of the GBB;

- (g) the Coordinator (including in his or her capacity as a hazard management agency) to direct the operator as to the performance of the functions of the operator in circumstances specified in the rules, being circumstances in the nature of an emergency, a disruption to the supply of natural gas or a threat to the safety, reliability or security of a pipeline or the supply of natural gas;
 - (h) a failure to comply with specified requests for information made during or in relation to circumstances specified under paragraph (g) is neither an offence nor a contravention of the GSI rules;
 - (i) the monitoring and investigation of compliance with these regulations, the GSI rules and GSI procedures;
 - (j) the giving of notices warning a gas market participant that the operator believes that the participant has contravened a provision of the GSI rules;
 - (k) the suspension of requirements imposed under the GSI rules or GSI procedures;
 - (l) the use or disclosure of protected information by the operator;
 - (m) the delegation of powers or duties conferred or imposed by the GSI rules other than the power to —
 - (i) make rules amending the GSI rules;
 - (ii) formulate GSI procedures or amendments of GSI procedures;
 - (n) the establishment, functions and governance of advisory committees;
 - (o) transitional matters;
 - (p) any other matters that are necessary or convenient to be dealt with.
- (3) For the purposes of section 8(1) of the Act, the matters referred to in subregulation (2)(a), (c), (d), (e), (i) and (j) are prescribed.

[Regulation 8 inserted in Gazette 14 Jun 2013 p. 2231-2.]

9. Availability of copies of GSI rules

- (1) The operator must make a copy of the GSI rules as in force for the time being available —
 - (a) for inspection free of charge at its principal place of business during its ordinary working hours at that place; and
 - (b) on the GSI website.
- (2) If the GSI rules adopt a text of a published document, either as that text exists at a particular time or as it may from time to time be amended, the operator must make that text available on the GSI website or specify on that website a place where the text may be obtained.

[Regulation 9 inserted in Gazette 14 Jun 2013 p. 2232.]

10. GSI procedures

- (1) The GSI rules may provide for matters relating to the initiation, development, formulation, approval, publication and commencement of —
 - (a) GSI procedures; and
 - (b) amendments of GSI procedures.
- (2) Until GSI rules referred to in subregulation (1) are in operation, the operator may develop, formulate and publish on the GSI website —
 - (a) GSI procedures; and
 - (b) amendments of GSI procedures.
- (3) GSI procedures referred to in subregulation (2) —
 - (a) have effect from the time specified in them; and
 - (b) continue to have effect after GSI rules referred to in subregulation (1) are in operation as if they had been published under those GSI rules.

[Regulation 10 inserted in Gazette 14 Jun 2013 p. 2232-3.]

11. Administration of GSI rules and GSI procedures

- (1) The operator is responsible for the administration of the GSI rules and the GSI procedures and for the development of amendments of them and replacements for them in accordance with the GSI rules.
- (2) The operator is to maintain a website (the **GSI website**) for the purpose of —
 - (a) publishing the GSOO; and
 - (b) publishing or releasing information to gas market participants that is not published or released via the GBB.

[Regulation 11 inserted in Gazette 14 Jun 2013 p. 2233.]

Part 4 — Obligations to provide information

[Heading inserted in Gazette 28 Jun 2013 p. 2934.]

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.

[Regulation 12 inserted in Gazette 28 Jun 2013 p. 2934.]

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.

- (3) A person given a request must comply with it.

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

[Regulation 13 inserted in Gazette 28 Jun 2013 p. 2934-5.]

Part 5 — Enforcement of GSI rules

[Heading inserted in Gazette 28 Jun 2013 p. 2935.]

Division 1 — Preliminary

[Heading inserted in Gazette 28 Jun 2013 p. 2935.]

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).

[Regulation 14 inserted in Gazette 28 Jun 2013 p. 2935.]

Division 2 — Orders and penalties

[Heading inserted in Gazette 28 Jun 2013 p. 2935.]

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, 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.

[Regulation 15 inserted in Gazette 28 Jun 2013 p. 2935-6.]

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.

- (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
 - (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.
- [Regulation 16 inserted in Gazette 28 Jun 2013 p. 2936-8.]*

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.
- (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.

[Regulation 17 inserted in Gazette 28 Jun 2013 p. 2938-9.]

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;
 - (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.

[Regulation 18 inserted in Gazette 28 Jun 2013 p. 2939-40.]

19. Enforcement of orders of 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.

[Regulation 19 inserted in Gazette 28 Jun 2013 p. 2940.]

20. Contravention of provision of GSI rules not an offence

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

[Regulation 20 inserted in Gazette 28 Jun 2013 p. 2940.]

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 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.

[Regulation 21 inserted in Gazette 28 Jun 2013 p. 2940-1.]

22. Application of civil penalties received by operator

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

[Regulation 22 inserted in Gazette 28 Jun 2013 p. 2941.]

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.

[Regulation 23 inserted in Gazette 28 Jun 2013 p. 2941.]

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
- (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.

[Regulation 24 inserted in Gazette 28 Jun 2013 p. 2941-2.]

Part 6 — Review by the Board

[Heading inserted in Gazette 28 Jun 2013 p. 2942.]

Division 1 — Review by the Board

[Heading inserted in Gazette 28 Jun 2013 p. 2942.]

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.

[Regulation 25 inserted in Gazette 28 Jun 2013 p. 2942.]

26. Review by 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 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.

[Regulation 26 inserted in Gazette 28 Jun 2013 p. 2942-3.]

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

[Regulation 27 inserted in Gazette 28 Jun 2013 p. 2943-4.]

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

[Regulation 28 inserted in Gazette 28 Jun 2013 p. 2944-5.]

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.

[Regulation 29 inserted in Gazette 28 Jun 2013 p. 2945.]

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.
- (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
 - (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.

[Regulation 30 inserted in Gazette 28 Jun 2013 p. 2945-7.]

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
 - (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.

[Regulation 31 inserted in Gazette 28 Jun 2013 p. 2947-8.]

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
 - (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.

[Regulation 32 inserted in Gazette 28 Jun 2013 p. 2948-9.]

Division 2 — Arbitrator and Board funding

[Heading inserted in Gazette 28 Jun 2013 p. 2949.]

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;

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.

[Regulation 33 inserted in Gazette 28 Jun 2013 p. 2949-50.]

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.

[Regulation 34 inserted in Gazette 28 Jun 2013 p. 2950.]

35. Costs and expenses of proceedings before Board

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

[Regulation 35 inserted in Gazette 28 Jun 2013 p. 2950-1.]

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.

- (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.

[Regulation 36 inserted in Gazette 28 Jun 2013 p. 2951-2.]

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.

[Regulation 37 inserted in Gazette 28 Jun 2013 p. 2952.]

Part 7 — Protection of information

[Heading inserted in Gazette 28 Jun 2013 p. 2952.]

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).

[Regulation 38 inserted in Gazette 28 Jun 2013 p. 2952.]

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.

[Regulation 39 inserted in Gazette 28 Jun 2013 p. 2953.]

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.

[Regulation 40 inserted in Gazette 28 Jun 2013 p. 2953.]

r. 41

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.

[Regulation 41 inserted in Gazette 28 Jun 2013 p. 2953.]

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 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.

[Regulation 42 inserted in Gazette 28 Jun 2013 p. 2953-4.]

Part 8 — Accountability and review of operations

[Heading inserted in Gazette 28 Jun 2013 p. 2954.]

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
 - (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.

[Regulation 43 inserted in Gazette 28 Jun 2013 p. 2954-5.]

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.

[Regulation 44 inserted in Gazette 28 Jun 2013 p. 2955.]

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.

[Regulation 45 inserted in Gazette 28 Jun 2013 p. 2955.]

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

[Regulation 46 inserted in Gazette 28 Jun 2013 p. 2955-7.]

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.

[Regulation 47 inserted in Gazette 28 Jun 2013 p. 2957.]

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 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.

[Regulation 48 inserted in Gazette 28 Jun 2013 p. 2958-9.]

Part 9 — Miscellaneous

[Heading inserted in Gazette 28 Jun 2013 p. 2959.]

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.

[Regulation 49 inserted in Gazette 28 Jun 2013 p. 2959.]

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.

[Regulation 50 inserted in Gazette 28 Jun 2013 p. 2960.]

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.
- (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.

[Regulation 51 inserted in Gazette 28 Jun 2013 p. 2960-1.]

Schedule 1 — Civil penalty provisions and amounts

[r. 15]

[Heading inserted in Gazette 28 Jun 2013 p. 2961.]

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
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

Rule	Category	Maximum civil penalty amount
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
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

Gas Services Information Regulations 2012**Schedule 1** Civil penalty provisions and amounts

Rule	Category	Maximum civil penalty amount
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
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
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

Rule	Category	Maximum civil penalty amount
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

[Schedule 1 inserted in Gazette 28 Jun 2013 p. 2961-5.]

Schedule 2 — Reviewable decisions and procedural decisions

[r. 25]

[Heading inserted in Gazette 28 Jun 2013 p. 2966.]

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)		

[Clause 1 inserted in Gazette 28 Jun 2013 p. 2966.]

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)
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)

[Clause 2 inserted in Gazette 28 Jun 2013 p. 2966-7.]

Notes

¹ This reprint is a compilation as at 16 August 2013 of the *Gas Services Information Regulations 2012* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Gas Services Information Regulations 2012</i>	29 Jun 2012 p. 2932-3	r. 1 and 2: 29 Jun 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Jun 2012 (see r. 2 and <i>Gazette</i> 29 Jun 2012 p. 2929)
<i>Gas Services Information Amendment Regulations 2013</i>	14 Jun 2013 p. 2228-33	r. 1 and 2: 14 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Jun 2013 (see r. 2(b))
<i>Gas Services Information Amendment Regulations (No. 2) 2013</i>	28 Jun 2013 p. 2933-67	r. 1 and 2: 28 Jun 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Jun 2013 (see r. 2(b))
Reprint 1: The <i>Gas Services Information Regulations 2012</i> as at 16 Aug 2013 (includes amendments listed above)		

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amending rules	7(1)
Arbitrator	3(1)
assessment amount	33
civil penalty	14
civil penalty provision	14
civil penalty provisions	15(1)
Coordinator	3(1)
core functions costs	33
determined costs	33
document	46(1)
ERA	3(1)
GSI procedures	3(1)
GSI rules	3(1), 5, 6(1)
GSI website	3(1), 11(2)
IMO	3(1)
information	46(1)
procedural decision	25(1)
proceedings	33
quarter	33
registered	3(1)
reviewable decision	25(1)
specified	3(1)
standing charge	33
warning notice	3(1)