
ENERGY

EN301*

Electricity Industry Act 2004

Electricity Industry (Wholesale Electricity Market) Amendment Regulations 2016

Made by the deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Electricity Industry (Wholesale Electricity Market) Amendment Regulations 2016*.

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 fixed by the Minister by an order published in the *Gazette*.

3. Regulations amended

These regulations amend the *Electricity Industry (Wholesale Electricity Market) Regulations 2004*.

4. Regulation 11 replaced

Delete regulation 11 and insert:

11. Functions of Economic Regulation Authority

- (1) The market rules may confer functions and impose requirements on the Authority.
- (2) The Authority is responsible for the development, in accordance with the market rules, of amendments of and replacements for the market procedures, to the extent to which the procedures relate to its functions.
- (3) The Authority is to maintain an internet website for the purpose of publishing and releasing information to participants that relates to its functions under the market rules.

5. Regulation 17B inserted

After regulation 17A insert:

17B. Transitional market rules for transfer of functions from IMO to Authority

- (1) Without limiting regulation 17(n), the market rules may provide for transitional matters arising in connection with the transfer of a function from the IMO to the Authority including, without limitation, by providing for —
 - (a) a thing done or omitted to be done by, to or in relation to the IMO before the transfer to be taken after the transfer to have been done or omitted by, to or in relation to the Authority; and
 - (b) a right or obligation of the IMO before the transfer to be taken after the transfer to be a right or obligation of the Authority; and
 - (c) a reference to the IMO in an instrument or document made or given for the purposes of these regulations or the market rules to be taken after the transfer to be a reference to the Authority.

- (2) A reference in this regulation to the transfer of a function from the IMO to the Authority is a reference to a function —
- (a) being conferred on the Authority under these regulations or the market rules; and
 - (b) ceasing to be a function of the IMO under these regulations or the market rules.

6. Regulation 21 amended

In regulation 21(2)(b) after “functions under” insert:

these regulations or

7. Regulation 31 amended

- (1) In regulation 31(1):

- (a) delete “IMO” (1st and 2nd occurrences) and insert:

Authority

- (b) delete “IMO” (3rd occurrence) and insert:

operator

- (2) In regulation 31(3)(b) delete “IMO” (each occurrence) and insert:

Authority

- (3) In regulation 31(4) delete “IMO” and insert:

Authority

- (4) In regulation 31(5):

- (a) in paragraphs (d) and (e) delete “IMO” and insert:

Authority

- (b) in paragraph (g) delete “IMO’s” and insert:

Authority’s

- (c) in paragraph (h)(i) delete “IMO” and insert:
operator
 - (d) in paragraph (h)(ii) delete “IMO’s” and insert:
Authority’s
 - (e) in paragraph (h) delete “IMO may” and insert:
Authority may
- (5) In regulation 31(6):
- (a) in paragraph (a) delete “IMO” and insert:
Authority
 - (b) in paragraph (b) delete “IMO’s” and insert:
Authority’s
 - (c) delete “IMO may,” and insert:
Authority may,
- (6) In regulation 31(7):
- (a) in paragraph (a) delete “IMO” and insert:
Authority
 - (b) in paragraph (b) delete “IMO; and” and insert:
operator; and
 - (c) in paragraph (c) delete “IMO’s” and insert:
Authority’s
- (7) In regulation 31(8):
- (a) delete “IMO” (1st occurrence) and insert:
Authority

- (b) delete “IMO” (2nd occurrence) and insert:

operator

Note: The heading to amended regulation 31 is to read:

**Authority may demand civil penalty for contravention of
category A civil penalty provision**

8. Regulation 32 amended

- (1) In regulation 32(1) and (2) delete “IMO” (each occurrence) and insert:

Authority

- (2) Delete regulation 32(3), (4) and (6).

9. Regulation 33 amended

- (1) In regulation 33(1)(a) delete “IMO” and insert:

operator

- (2) In regulation 33(3)(b) and (5) delete “IMO” (each occurrence) and insert:

Authority

- (3) In regulation 33(6):

- (a) delete “IMO” (1st occurrence) and insert:

Authority

- (b) delete “IMO” (2nd occurrence) and insert:

operator

10. Regulation 37 amended

In regulation 37 delete “IMO” (each occurrence) and insert:

operator

Note: The heading to amended regulation 37 is to read:

Application of civil penalties received by operator

11. Regulation 38 replaced

Delete regulation 38 and insert:

38. Authority to notify 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 market rules by a participant —
 - (a) the operator must give the information to the Authority; and
 - (b) if authorised by the person to do so, the operator must give the person's contact details to the Authority.
- (2) Subregulation (3) applies if the Authority is given information in relation to a contravention or possible contravention of a provision of the market rules by a participant —
 - (a) by a person (otherwise than anonymously); or
 - (b) by the operator under subregulation (1)(a), together with the contact details referred to in subregulation (1)(b).
- (3) If the Authority —
 - (a) decides not to investigate the contravention or possible contravention; or
 - (b) following an investigation, decides not to demand a civil penalty under regulation 31 or seek an order from the Board under regulation 33,

the Authority must, in writing, notify the person who gave the information to the Authority or to the operator (whichever is relevant) of the decision.

12. Regulation 39 amended

- (1) In regulation 39(1) delete "IMO" (each occurrence) and insert:

Authority

- (2) Delete regulation 39(2).

13. Regulation 40 amended

(1) Before regulation 40(1) insert:

(1AA) In this regulation —

person required to pay means, as the case requires —

- (a) a registered participant required to pay an amount, as referred to in subregulation (1)(a)(i) or (2)(a)(i); or
- (b) the operator required to pay an amount, as referred to in subregulation (1)(a)(ii) or (2)(a)(ii).

(2) Delete regulation 40(1)(a) and insert:

(a) either —

- (i) a registered participant is required to pay an amount to another registered participant or to the operator; or
- (ii) the operator is required to pay an amount to a registered participant;

and

(3) Delete regulation 40(2)(a) and insert:

(a) either —

- (i) a registered participant is required to pay an amount to another registered participant or to the operator; or
- (ii) the operator is required to pay an amount to a registered participant;

and

(4) In regulation 40(3) delete “participant, the operator or the IMO” and insert:

participant or the operator

14. Regulation 51 amended

Delete regulation 51(e).

15. Part 10 inserted

After regulation 54 insert:

Part 10 — Authority may prosecute offences**55. Authority may prosecute offences**

A prosecution for an offence against these regulations may be commenced by the Authority or a person authorised by the Authority to do so.

16. Various references to “IMO” amended

In the provisions listed in the Table delete “IMO” (each occurrence) and insert:

Authority

Table

r. 19(1) penalty	r. 19(2) penalty
r. 20	r. 22 def. of <i>civil penalty</i>
r. 23	r. 34(1)

N. HAGLEY, Clerk of the Executive Council.
