

**GAS SERVICES INFORMATION ACT 2012**  
**GAS SERVICES INFORMATION REGULATIONS 2012**

**GAS SERVICES INFORMATION RULES**

Amending Rules 2016

I, Dr Mike Nahan, Minister for Energy for the State of Western Australia, under regulation 7(5) of the *Gas Services Information Amendment Regulations (No. 3) 2015* (WA), hereby make the amending rules contained in this document.

These amending rules are to commence at 8:00am (WST) on the day after the day of publication in the *Gazette*.

Dated at Perth this 24th day of November 2016.

MIKE NAHAN MLA, Minister for Energy.

**1. Rule 3A amended**

- (1) Delete the existing subrule 3A(2) and replace it with the following—
- (2) Where the ERA or the Rule Change Panel is required by the Rules to publish or release a document or information or maintain a document or information on the GSI Website, then—
  - (a) the ERA must make that document or information available on its website;
  - (b) the ERA must promptly notify AEMO when the document or information is published on the ERA's website;
  - (c) AEMO must, as a minimum, promptly publish a link to the relevant area of the ERA's website on the GSI Website; and
  - (d) the ERA or the Rule Change Panel (as applicable) is deemed to have published or released the document or information, and maintained it on the GSI Website, once the ERA has published or released the document or information on its own website, and has notified AEMO.

**2. Rule 5 amended**

- (1) Amend subrule 5(1) by inserting the words “, the Panel Regulations” after the words “the GSI Regulations”.
- (2) Amend subrule 5(2) by inserting the words “, the Panel Regulations” after the words “the GSI Regulations” (each place where they occur).

**3. Rule 8 amended**

- (1) Amend subrule 8(1B) by deleting the word “and” at the end of subrule 8(1B)(f).
- (2) Amend subrule 8(1B) by inserting a new subrule 8(1B)(fa), after subrule 8(1B)(f), as follows—
  - (fa) to provide the RCP Secretariat Support Services to the Rule Change Panel in accordance with the Panel Regulations; and
- (3) Amend subrule 8(1B) by inserting the words “, the Panel Regulations” after the words “the GSI Regulations” in subrule 8(1B)(g).
- (4) Insert a new subrule 8(1C), after the new subrule 8(1B), as follows—
  - (1C) Subject to subrule (1D), the Rule Change Panel has the following functions and powers—
    - (a) Rule making functions;
    - (b) Procedure making functions, to the extent to which the Procedures relate to its functions under the Rules;
    - (c) information gathering and disclosure functions, to the extent to which the information gathering and disclosure functions relate to its other functions conferred on the Rule Change Panel under the GSI Regulations, the Panel Regulations and the Rules; and
    - (d) any other functions conferred on the Rule Change Panel under the GSI Act, the GSI Regulations, the Panel Regulations and the Rules.
- (5) Insert a new subrule 8(1D), after subrule 8(1C), as follows—
  - (1D) Subrule (1C)(a) commences operation on and from 08:00AM on 3 April 2017, in accordance with regulation 2(b) of the *Gas Services Information Amendment Regulations (No. 2) 2016*.
- (6) Amend subrule 8(2) by deleting the words “in subrule (1), subrule (1A) and subrule (1B) (as applicable.” and replacing them with “in subrule (1), subrule(1A), subrule (1B) and subrule (1C) (as applicable.”.

**4. Rule 11 amended**

- (1) Delete the existing subrule 11(2) and replace it with the following—
- (2) The role of the Gas Advisory Board is to advise—
  - (a) the Rule Change Panel in relation to Rule Change Proposals and the IMO, Rule Change Panel, AEMO and the ERA in relation to Procedure Change Proposals;
  - (b) the Rule Change Panel in relation to matters concerning the development of the Rules and the IMO, Rule Change Panel, AEMO and the ERA in relation to matters concerning the development of Procedures;
  - (c) [Blank]; and
  - (d) [Blank].
- (2) Amend subrule 11(3) by deleting the words “under the GSI Act and the GSI Regulations, provide the members” and replacing them with “under the GSI Act, the GSI Regulations and the Panel Regulations, provide the members”.

**5. Rule 12 amended**

- (1) Amend subrule 12(1) by deleting the words “representative of the IMO” in subrule 12(1)(a) and replacing them with “person appointed by the chairperson of the Rule Change Panel”.

**6. Rule 15 amended**

- (1) Amend the heading to Rule 15 by deleting all the existing words and replacing them with “ERA to make available RCP Secretariat for the Gas Advisory Board”.
- (2) Delete the existing subrule 15(1) and replace it with the following—
  - (1) The ERA must make available the RCP Secretariat, who will provide secretariat and other services to the Gas Advisory Board, in accordance with the Panel Regulations.
- (3) Amend subrule 15(2) by inserting the word “RCP” before the word “Secretariat” (each place where it occurs).

**7. Rule 34 amended**

- (1) Amend subrule 34(4) by deleting the word “IMO” and replacing it with “ERA”.

**8. Rule 36 amended**

- (1) Amend subrule 36(5) by deleting the word “IMO” and replacing it with “ERA”.

**9. Rule 39 amended**

- (1) Amend subrule 39(5) by deleting the word “IMO” and replacing it with “ERA”.

**10. Rule 110A amended**

- (1) Delete the existing subrule 110A(1) and replace it with the following—
  - (1) The ERA may recover a portion of its budget determined by the Minister responsible for the ERA which corresponds to the costs of the ERA in undertaking its functions under the Rules, the GSI Regulations and the Panel Regulations, from the collection of Regulator Fees under these Rules. The ERA must identify in its budget the proportion of its costs that relates to the performance of its functions under the Rules and the GSI Regulations and its other functions.
- (2) Insert a new subrule 110A(2A), after subrule 110A(2), as follows—
  - (2A) The ERA may recover, on behalf of the Rule Change Panel, the costs identified by the ERA as costs incurred in the performance of the Rule Change Panel’s functions under the Rules or the GSI Regulations, from the collection of Regulator Fees under these Rules.
- (3) Delete the existing subrule 110A(3) and replace it with the following—
  - (3) By the date which is five Business Days prior to 30 June each year, the ERA must notify AEMO of—
    - (a) the dollar amount that the ERA may recover under subrule (1); and
    - (b) the dollar amount that the ERA may recover under subrule (2A) (to the extent such amount is not already included in the dollar amount referred to in subrule (3)(a)).

**11. Rule 118A amended**

- (1) Insert a new subrule 118A(4), after subrule 118A(3), as follows—
  - (4) The ERA recovers the proportion of the payment referred to in subrule (3) that relates to the costs contemplated in subrule 110A(2A) on behalf of the Rule Change Panel.

**12. Rule 125 amended**

- (1) Delete the existing subrule 125(1) and replace it with the following—
  - (1) The Rule Change Panel, in accordance with the GSI Act, the GSI Regulations, the Panel Regulations and the Rules, may make Amending Rules for or with respect to any matter or thing referred to in the GSI Act, the GSI Regulations and the Panel Regulations, after the initial Rules have been made by the Minister.
- (2) Insert a new subrule 125(3), after subrule 125(2), as follows—
  - (3) This rule 125 and the remainder of Part 8 of the Rules (other than rule 125A) commence operation on and from 08:00AM on 3 April 2017, being the date on which the Rule Change Panel is conferred the function to develop amendments of and replacements for the Rules in

accordance with regulation 2(b) of the *Gas Services Information Amendment Regulations (No. 2) 2016*.

### 13. Rule 125A added

(1) Insert a new Rule 125A, after Rule 125, as follows—

#### 125A.—Rule making by the Minister

- (1) This rule 125A applies from the Rule Change Panel Transfer Date until 08:00AM on 1 July 2017, being the date on which the Minister's power to make Amending Rules under regulation 7(5) of the GSI Regulations ends.
- (2) Despite anything in the Rules, the Minister may develop and make Amending Rules in accordance with regulation 7(5) of the GSI Regulations.

### 14. Rule 126 amended

(1) Delete the existing subrule 126(1) and replace it with the following—

- (1) The Minister may issue a statement of policy principles to the Rule Change Panel with respect to the GBB or the GSOO. The statement of policy principles must not be inconsistent with the GSI Objectives.

### 15. Rule 128 amended

(1) Re-number the existing text of rule 128 as subrule 128(1).

(2) Insert a new subrule 128(2), after the new subrule 128(1), as follows—

- (2) Without limiting subrule (1), in deciding whether or not to make Amending Rules, the Rule Change Panel may request the RCP Secretariat to seek advice, and the Rule Change Panel may have regard to that advice, from any person that the Rule Change Panel considers is appropriate to assist it in assessing the relevant Rule Change Proposal.

### 16. Rule 129 amended

(1) Delete the existing subrule 129(5) and replace it with the following—

- (5) Where the Rule Change Panel considers that a change to the Rules is—

- (a) required to correct a manifest error in the Rules; or
- (b) of a minor or procedural nature,

the Rule Change Panel may develop a Rule Change Proposal and must publish it in accordance with subrule 132(2)(a).

### 17. Rule 134 amended

(1) Amend subrule 134(2) by deleting the words “in rule 128” in subrule 134(2)(b)(ii) and replacing them with “in subrule 128(1)”.

### 18. Rule 136 amended

(1) Amend subrule 136(2) by deleting the words “in rule 128” in subrule 136(2)(b) and replacing them with “in subrule 128(1)”.

### 19. Rule 137 amended

(1) Amend subrule 137(2) by deleting the words “in rule 128” in subrule 137(2)(b)(ii) and replacing them with “in subrule 128(1)”.

### 20. Rule 139 amended

(1) Delete all the existing text in rule 139 and replace them with the following—

Subject to applicable requirements relating to Protected Information under the GSI Act, the GSI Regulations and the Panel Regulations, the Rule Change Panel must publish all written submissions received under this Part.

### 21. Rule 142 amended

(1) Amend subrule 142(1) by deleting the words “in IMO's opinion” and replacing them with “in the Rule Change Panel's opinion”.

(2) Amend subrule 142(2) by deleting subrule 142(2)(d) and replacing it with the following—

- (d) rules 107 to 114, and rules 116, 118A and 120;

(3) Amend subrule 142(2) by deleting the word “and” at the end of subrule 142(2)(h).

(4) Amend subrule 142(2) by inserting the word “; and” at the end of subrule 142(2)(i).

(5) Amend subrule 142(2) by inserting a new subrule 142(2)(j), after subrule 142(2)(i), as follows—

- (j) any other rules that must not be amended, repealed or replaced without the approval of the Minister in accordance with the GSI Regulations.

### 22. Rule 151 amended

(1) Amend the heading to rule 151 by deleting the words “IMO” and replacing them with “ERA”.

(2) Amend rule 151 by deleting all its words and replacing them with the following—

The ERA must, at all times, maintain on the website maintained by the ERA a copy of the Rules, as in force from time to time.

**23. Rule 152**

- (1) Amend rule 152 by deleting the words “IMO” and replacing them with “ERA”.

**24. Rule 154 amended**

- (1) Insert a new subrule 154(1C), after subrule 154(1B), as follows—  
(1C) The Rule Change Panel may make Procedures to the extent to which the Procedures relate to its functions under the Rules, and must do so in accordance with this Part.

**25. Rule 155 amended**

- (1) Amend subrule 155(1) by inserting the words “, the Panel Regulations” after the words “the GSI Regulations”.
- (2) Insert a new subrule 155(6), after subrule 155(5), as follows—  
(6) Without limiting subrule (1) and subrule 154(1C), the Rule Change Panel—  
(a) may make Procedures dealing with the matters referred to in subrule 155(2)(k), to the extent the Procedures relate to its functions under the Rules; and  
(b) must not make Procedures dealing with the matters referred to in subrule 155(2)(a) to (j) (inclusive) and subrule 155(2)(l) to (s) (inclusive) and any matter consequential or related to those matters.

**26. Rule 158 amended**

- (1) Amend subrule 158(1) by inserting the words “(as applicable)” after the words “AEMO or the ERA”.

**27. Schedule 1, Glossary definitions amended**

- (1) Delete the existing definitions, shown below, from Schedule 1 (Glossary) and replace them with the following—

**Draft Rule Change Report** means a report prepared by the Rule Change Panel under rule 136.

**Final Rule Change Report** means—

- (a) for a Fast Track Rule Change Process, a report published by the Rule Change Panel under rule 134 and includes a revised Final Rule Change Report published under subrule 148(2); and  
(b) for a Standard Rule Change Process, a report published by the Rule Change Panel under rule 137, and includes a revised Final Rule Change Report published under subrule 148(2).

**Gas Advisory Board** means the board established by the Rule Change Panel under rule 11.

**GSI Consultation Procedure** means the consultation procedure set out in rule 7 that the IMO, Rule Change Panel, AEMO and the ERA must follow when any of those entities are required to make an instrument (however described) under the Rules in accordance with the GSI Consultation Procedure.

**Procedure Change Report** means a report published by the IMO, Rule Change Panel, AEMO or the ERA (as applicable) under rule 160.

**Protected Information** has the meaning given in the GSI Act and includes any confidential information as defined in the Panel Regulations.

**Regulator Fees** means the fees payable by Registered Shippers and Registered Production Facility Operators to AEMO for the services provided by the ERA and the Rule Change Panel in undertaking their respective functions under the Rules, the GSI Regulations and the Panel Regulations (as applicable).

**Rule Change Notice** means a notice issued by the Rule Change Panel in accordance with rule 132.

**Rule Change Proposal** means a proposal made in accordance with rule 129 requesting that the Rule Change Panel make Amending Rules.

**Rule Change Proposal Form** means a form published by the Rule Change Panel on the GSI Website for the purposes of initiating a Rule Change Proposal (see rule 130).

- (2) Insert new definitions in Schedule 1 (Glossary) as follows in their appropriate alphabetical order—

**Panel Regulations** means the *Energy Industry (Rule Change Panel) Regulations 2016*.

**RCP Secretariat** means the executive officer of the Rule Change Panel made available by the ERA in accordance with the Panel Regulations.

**RCP Secretariat Support Services** means the RCP Secretariat and such staff members, services, facilities and assistance as are made available by the ERA to the Rule Change Panel in accordance with the Panel Regulations.

**Rule Change Panel** has the meaning given in the Panel Regulations.

**Rule Change Panel Transfer Date** means 8:00AM on the date the amending rules made under the GSI Regulations, regulation 7(5) giving effect to the transfer of functions from the IMO to the Rule Change Panel commence operation.

- (3) Delete the definition of “Secretariat”.

**28. Schedule 3, Part 4 added**

(1) Insert a new Part 4 in Schedule 3 as follows—

**Part 4—Transitional rules for conferral of functions on Rule Change Panel**

## Division 1—Definitions

**1 Definitions**

In this Part—

**Rule Change Panel Transfer Date** has the meaning given in Schedule 1.

## Division 2—Transitional Rules

**2 Validation of acts, instruments and decisions of Rule Change Panel**

(1) On and from the Rule Change Panel Transfer Date—

- (a) where the Rule Change Panel is required to do an act, matter or thing under a provision of the Rules, and that act, matter or thing was done by the IMO prior to the Rule Change Panel Transfer Date, then the act, matter or thing is deemed to have been done by the Rule Change Panel in accordance with the relevant provision;
  - (b) where the Rule Change Panel is required to do an act, matter or thing under a provision of a Procedure, and that act, matter or thing was done by the IMO prior to the Rule Change Panel Transfer Date, then the act, matter or thing is deemed to have been done by the Rule Change Panel in accordance with the relevant provision;
  - (c) notwithstanding the operation of subrules 2(1)(a) and 2(1)(b), the Rule Change Panel is not liable for any act, matter or thing done by the IMO prior to the Rule Change Panel Transfer Date in breach of the Rules or any Procedure;
  - (d) where the Rule Change Panel is required to develop or maintain a Procedure, and that Procedure was developed or maintained by the IMO prior to the Rule Change Panel Transfer Date, then—
    - (i) the Procedure is deemed to have been developed or maintained by the Rule Change Panel in accordance with the Rules;
    - (ii) a reference to the IMO in that Procedure that should be a reference to the Rule Change Panel having regard to the Rule Change Panel's functions, powers, rights and obligations under the Rules and the other Procedures is deemed to be a reference to the Rule Change Panel;
    - (iii) the Rule Change Panel may amend the Procedure to refer to the Rule Change Panel instead of the IMO (where appropriate) and make any necessary consequential amendments to the Procedure, and the provisions of rules 156 to 162 will not apply to the Rule Change Panel to the extent to which it amends Procedures in accordance with this subrule 2(1)(d); and
    - (iv) any Procedure which is amended by the Rule Change Panel in accordance with this subrule 2(1)(d) may commence operation on the date and time determined by the Rule Change Panel and published on the GSI Website;
  - (e) where the Rule Change Panel is required to publish or release any information or document (other than a Procedure) (including, without limitation, a form, protocol, instrument or other thing and the Constitution) and that information or document was published or released by the IMO prior to the Rule Change Panel Transfer Date, then—
    - (i) the information or document is deemed to have been published or released by the Rule Change Panel in accordance with the Rules; and
    - (ii) any reference to the IMO in such information or document that should be a reference to the Rule Change Panel having regard to the Rule Change Panel's functions, powers, rights and obligations under the Rules and the Procedures is deemed to be a reference to the Rule Change Panel; and
  - (f) where a person (including, without limitation, a Gas Market Participant) is required to provide information to, or do an act, matter or thing for the Rule Change Panel under the Rules or a Procedure and the person has provided that information to, or done that act, matter or thing for the IMO prior to the Rule Change Panel Transfer Date, then the information, act or thing, is deemed to have been provided to, or done for, the Rule Change Panel in accordance with the relevant Rules or Procedure.
- (2) If, by operation of subrule 2(1), the Rule Change Panel is deemed to have made a Reviewable Decision that was made by the IMO, then, on and from the Rule Change Panel Transfer Date, any application to the Board for a review of the Reviewable Decision that might have been brought or continued by a Gas Market Participant against the IMO may be brought or continued against the Rule Change Panel as if all references to the IMO as the relevant decision-maker are references to the Rule Change Panel.

**29. Various references to IMO amended**

(1) In each place in the existing Rules listed in the Table, delete the word "IMO" or "IMO's" (as the case may be) and replace it with "Rule Change Panel" or "Rule Change Panel's" (as appropriate)—

**Table**

|                    |
|--------------------|
| Heading to rule 11 |
| Subrule 11(1)      |

|                                                             |
|-------------------------------------------------------------|
| Subrule 12(1)(e)                                            |
| Rule 13 (each place where it occurs)                        |
| Rule 14 (each place where it occurs)                        |
| Subrule 15(2)                                               |
| Heading to Rule 125                                         |
| Subrule 125(2)                                              |
| Rule 126 (each place where it occurs)                       |
| Rule 127                                                    |
| Heading to Rule 128                                         |
| Rule 128 (each place where it occurs)                       |
| Rule 129 (each place where it occurs except subrule 129(5)) |
| Rule 130                                                    |
| Heading to Rule 131                                         |
| Rule 131 (each place where it occurs)                       |
| Rule 132 (each place where it occurs)                       |
| Rule 133 (each place where it occurs)                       |
| Rule 134 (each place where it occurs)                       |
| Rule 135 (each place where it occurs)                       |
| Rule 136 (each place where it occurs)                       |
| Rule 137 (each place where it occurs)                       |
| Rule 138                                                    |
| Heading to Rule 139                                         |
| Rule 140                                                    |
| Heading to Rule 141                                         |
| Rule 141 (each place where it occurs)                       |
| Heading to Rule 143                                         |
| Rule 143 (each place where it occurs)                       |
| Rule 144 (each place where it occurs)                       |
| Rule 145 (each place where it occurs)                       |
| Rule 147                                                    |
| Rule 148 (each place where it occurs)                       |
| Rule 149                                                    |
| Rule 150 (each place where it occurs)                       |
| Heading to Rule 153                                         |
| Rule 153                                                    |
| Rule 159 (each place where it occurs)                       |

### 30. Various references to Rule Change Panel inserted

(1) In each place in the existing Rules listed in the Table, delete the words “IMO, AEMO” and replace them with “IMO, Rule Change Panel, AEMO” (each place where it occurs)—

**Table**

|                                    |
|------------------------------------|
| Rule 3                             |
| Rule 5                             |
| Rule 7                             |
| Heading to Division 4 of the Rules |
| Heading to Rule 8                  |
| Subrule 8(2)                       |
| Heading to Rule 9                  |
| Rule 9                             |
| Subrule 11(3)                      |
| Rule 16                            |
| Heading to Rule 154                |
| Rule 154                           |

|                                                 |
|-------------------------------------------------|
| Rule 155                                        |
| Heading to Rule 156                             |
| Rule 156                                        |
| Rule 157                                        |
| Rule 158                                        |
| Rule 160                                        |
| Rule 161                                        |
| Rule 162 (including the Note to subrule 162(1)) |
| Heading to Rule 163                             |
| Rule 163                                        |
| Heading to Rule 164                             |
| Rule 164                                        |

**31. Various rules deleted**

(1) In each of the existing rules listed in the Table, delete the existing text and replace it with “[Blank]”—

**Table**

|                   |
|-------------------|
| Subrule 8(1A)(a)  |
| Subrule 15(2)(b)  |
| Subrule 107(2)(a) |
| Subrule 107(2)(b) |