

**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 1 July 2016.

Dated at Perth this 21st day of June 2016.

MIKE NAHAN MLA, Minister for Energy.

**1. GSI Rule 3A amended**

(1) Delete the existing GSI Rule 3A and replace it with the following—

**3A. GSI Website**

- (1) Where the IMO 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 IMO must make that document or information available on its website;
  - (b) the IMO must promptly notify AEMO when the document or information is published on the IMO's website;
  - (c) AEMO must, as a minimum, promptly publish a link to the relevant area of the IMO's website on the GSI Website; and
  - (d) the IMO is deemed to have published or released the document or information, and maintained it on the GSI Website, once it has published or released the document or information on its own website, and has notified AEMO.
- (2) Where the ERA 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 is deemed to have published or released the document or information, and maintained it on the GSI Website, once it has published or released the document or information on its own website, and has notified AEMO.

**2. GSI Rule 8 amended**

(1) Insert a new clause 8(1B), after clause 8(1A), as follows—

(1B) The ERA has the following functions and powers—

- (a) Procedure making functions, to the extent to which the Procedures relate to its functions under the Rules;
  - (b) to monitor compliance by persons with the Rules or Procedures;
  - (c) to investigate breaches or possible breaches of the Rules or the Procedures;
  - (d) to take enforcement action under the GSI Regulations and Rules;
  - (e) information gathering and disclosure functions, to the extent to which the information gathering and disclosure functions relate to its other functions conferred on the ERA under the GSI Regulations and the Rules;
  - (f) to facilitate the transfer of monitoring and compliance functions from the IMO to the ERA; and
  - (g) any other functions conferred on the ERA under the GSI Act, the GSI Regulations and the Rules.
- (2) Amend clause 8(2) by deleting the words “subrule (1) and subrule (1A) (as applicable)” and replacing them with the words “subrule (1), subrule (1A) and subrule (1B) (as applicable)”.

**3. Division 7 amended**

(1) Amend the heading to Division 7, after GSI Rule 16, by inserting the words “and ERA”, after the word “AEMO” and before the words “and working groups”.

**4. GSI Rule 107 amended**

(1) Amend clause 107(1)(i) by deleting the words “the IMO” and replacing them with the word “AEMO”.

**5. Division 2A added**

(1) Insert a new Division 2A, after GSI Rule 110, as follows—

**Division 2A ERA Regulator Fees****6. GSI Rule 110A added**

(1) Insert a new GSI Rule 110A, after the heading to Division 2A, as follows—

**110A Regulator Fees**

- (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 and the GSI Regulations, from the collection of Regulator Fees under these Rules.
- (2) Where the revenue earned via Regulator Fees in the previous Financial Year is greater than or less than the ERA expenditure related to the functions described in subrule (1) for that Financial Year, the current year's budget must take this into account by decreasing the budgeted revenue by the amount of the surplus or adding to the budgeted revenue the amount of any shortfall, as the case may be.
- (3) By the date which is five Business Days prior to 30 June each year, the ERA must notify AEMO of the dollar amount that the ERA may recover under subrule (1).
- (4) AEMO must publish on the GSI Website the amount of the Regulator Fees for each Financial Year by 30 June each year in accordance with the information provided by the ERA under subrule (3).
- (5) If the ERA has not provided AEMO with the information required under subrule (3) by the date which is five Business Days prior to 30 June, AEMO will publish on the GSI Website the expected amount of Regulator Fees based on the most recent information provided to AEMO by the ERA under subrule (3).
- (6) AEMO must publish on the GSI Website a revised amount for Regulator Fees within five Business Days of receiving the information, if in any year, the ERA provides AEMO with the information required under subrule (3) later than the date which is five Business Days prior to 30 June.
- (7) A revised amount for Regulator Fees will supersede any expected amount for Regulator Fees and is recoverable from Registered Shippers and Registered Production Facility Operators in arrears with effect from the start of the Financial Year to which it applies.

**7. GSI Rule 114 amended**

(1) Delete the existing GSI Rule 114 and replace it with the following—

**114 AEMO may recover GSI Services costs and Regulator Fees**

For each Financial Year, AEMO may recover from Registered Shippers and Registered Production Facility Operators—

- (a) an amount equal to the GSI Budget; and
- (b) an amount equal to the Regulator Fees, which amount must be consistent with the amount notified by the ERA in accordance with subrule 110A(3) or, where such amount has not been notified by the ERA in accordance with subrule 110A(3), published by AEMO in accordance with subrule 110A(5) or subrule 110A(6).

**8. GSI Rule 116 amended**

(1) Delete the existing clause 116(1) and replace it with the following—

(1) The GSI Fees  $F$  for the GSI Invoice Period  $p$  in Financial Year  $y$  is calculated as—

$$F(p) = [Budget(y) + Regulator Fees(y)] \times \frac{days\ in\ p}{days\ in\ y} + U(p) - UR(p)$$

Where—

$Budget(y)$  is the GSI Budget for Financial Year  $y$ ;

$Regulator\ Fees(y)$  are the Regulator Fees for Financial Year  $y$ ;

$U(p)$  is the sum of any GSI Fees invoiced for preceding GSI Invoice Periods but unpaid at the time GSI Fees for GSI Invoice Period  $p$  are invoiced and which AEMO reasonably believes it will not be able to recover from the party invoiced (and has not been previously reallocated as a  $U(p)$  amount); and

$UR(p)$  is the sum of any amounts included in the calculation of  $U$  for a preceding GSI Invoice Period which have been recovered since the GSI Fees for GSI Invoice Period  $p-1$  were invoiced.

**9. GSI Rule 117 amended**

(1) Delete the existing clause 117(1)(b) and replace it with the following—

(b) issue a GSI Invoice to each Registered Shipper for that period, which separately itemises—

- (i) the proportion of the GSI Fee attributable to the IMO's Approved Annual Revenue for that period;
- (ii) the proportion of the GSI Fee attributable to the AEMO Budget for that period; and
- (iii) the proportion of the GSI Fee attributable to Regulator Fees for that period.

(2) Delete the existing clause 117(3)(b) and replace it with the following—

- (b) issue a GSI Invoice to each Registered Production Facility Operator for that period, which separately itemises—
  - (i) the proportion of the GSI Fee attributable to the IMO's Approved Annual Revenue for that period;
  - (ii) the proportion of the GSI Fee attributable to the AEMO Budget for that period; and
  - (iii) the proportion of the GSI Fee attributable to Regulator Fees for that period.

#### **10. GSI Rule 118A amended**

- (1) Amend the heading to GSI Rule 118A by inserting the words “and ERA”, after the words “to IMO”.
- (2) Delete the existing clause 118A(1) and replace it with the following—

- (1) AEMO is an agent for the IMO and the ERA for the collection of the proportion of the GSI Fees attributable to the IMO's Approved Annual Revenue and the Regulator Fees each Financial Year (as applicable) and payable by Registered Shippers and Registered Production Facility Operators to AEMO.

(3) Amend the existing clause 118A(2) by deleting the words “The IMO” and replacing them with the words “Each of the IMO and the ERA”.

(4) Delete the existing clause 118A(3) and replace it with the following—

- (3) Following receipt of a payment of GSI Fees in accordance with rule 118 or rule 119, AEMO must pay to each of the IMO and the ERA an amount corresponding to the proportion of the GSI Fees attributable to the IMO's Approved Annual Revenue and the Regulator Fees (as applicable) for the relevant Financial Year.

#### **11. GSI Rule 119 amended**

(1) Delete the existing clause 119(1) and replace it with the following—

- (1) AEMO must recalculate the GSI Fees for a GSI Invoice Period p—
    - (a) within 10 Business Days after the end of period p+4;
    - (b) if required to do so as part of the resolution of a dispute under rule 120;
    - (c) if required to do so following approval of the GSI Budget Proposal under subrule 113(3); or
    - (d) if it receives information from the ERA under subrule 110A(6).

#### **12. GSI Rule 154 amended**

(1) Insert a new clause 154(1B), after clause 154(1A), as follows—

- (1B) The ERA 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.

(2) Amend clause 154(3) by inserting the words “and the ERA”, after the word “AEMO”.

#### **13. GSI Rule 155 amended**

(1) Amend clause 155(4)(b) by deleting the words “and subrule 155(2)(m)”.

(2) Amend clause 155(4)(c) by inserting the word “subrule”, after the words “referred to in”.

(3) Amend clause 155(4)(c) by inserting the words “to (s) (inclusive)” after the words “subrule 155(2)(l)”.

(4) Insert a new clause 155(5), after clause 155(4), as follows—

- (5) Without limiting subrule (1) and subrule 154(1B), the ERA—
      - (a) may make Procedures dealing with the matters referred to in subrule 155(2)(n) to (s) (inclusive) and any matter consequential or related to those matters;
      - (b) may make Procedures dealing with the matters referred to in subrule 155(2)(k) and subrule 155(2)(m), to the extent the Procedures relate to its functions under the Rules; and
      - (c) must not make Procedures dealing with the matters referred to in subrule 155(2)(a) to (j) (inclusive) and subrule 155(2)(l) and any matter consequential or related to those matters.

#### **14. GSI Rule 159 amended**

(1) Delete the existing clause 159(2) and replace it with the following—

- (2) The IMO must convene a meeting of the Gas Advisory Board concerning a Procedure Change Proposal if—
    - (a) the Procedure Change Proposal relates to the IMO's functions under the Rules and the IMO considers that advice on the Procedure Change Proposal is required from the Gas Advisory Board;
    - (b) two or more members of the Gas Advisory Board have informed the IMO in writing that they consider that advice on the Procedure Change Proposal is required from the Gas Advisory Board;
    - (c) AEMO requests the IMO to convene a meeting under subrule (3); or
    - (d) the ERA requests the IMO to convene a meeting under subrule (4).

(2) Insert a new clause 159(4), after clause 159(3), as follows—

- (4) The ERA may request the IMO to convene a meeting of the Gas Advisory Board concerning a Procedure Change Proposal if the Procedure Change Proposal relates to the ERA's functions under the Rules.

#### **15. GSI Rule 165 amended**

(1) Amend clause 165(1) by deleting the words "Gas Market Participants and AEMO" and replacing them with the words "Gas Market Participants, AEMO and the IMO".

(2) Delete the existing clause 165(2) and replace it with the following—

- (2) The ERA must ensure it has processes and systems in place to allow it to monitor the activities of Gas Market Participants, AEMO and the IMO for compliance with the Rules and the Procedures.

#### **16. GSI Rule 165A amended**

(1) Amend clause 165A(3) by deleting the words "developed by AEMO".

(2) Delete the existing clause 165A(4) and replace it with the following—

- (4) AEMO and the IMO must co-operate with any investigation by the ERA in respect of AEMO's or the IMO's compliance with the Rules and the Procedures applicable to it.

#### **17. GSI Rule 168 amended**

(1) Amend clause 168(1) by inserting the words "or AEMO", before the words "in writing".

#### **18. GSI Rule 171 amended**

(1) Amend clause 171(5)(b) by inserting the words "or AEMO", before the words "of an alleged breach".

#### **19. Glossary definitions amended**

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

**GSI Consultation Procedure** means the consultation procedure set out in rule 7 that the IMO, 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.

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

**Regulator Fees** means the fees payable by Registered Shippers and Registered Production Facility Operators to AEMO for the services provided by the ERA in undertaking its functions under the Rules and the GSI Regulations.

#### **20. Schedule 3 amended**

(1) Insert a new Part 3 of Schedule 3, after clause 4 of Part 2 of Schedule 3, as follows—

##### **Part 3 Transitional rules for conferral of functions on ERA**

##### **Division 1 Definitions**

###### **1 Definitions**

In this Part—

**ERA Transfer Date** means 8:00 AM on 1 July 2016.

##### **Division 2 Transitional Rules**

###### **2 Validation of acts, instruments and decisions of ERA**

(1) On and from the ERA Transfer Date—

- (a) where the ERA 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 ERA Transfer Date, then the act, matter or thing is deemed to have been done by the ERA in accordance with the relevant provision;
- (b) where the ERA 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 ERA Transfer Date, then the act, matter or thing is deemed to have been done by the ERA in accordance with the relevant provision;
- (c) notwithstanding the operation of subrules 2(1)(a) and 2(1)(b), the ERA is not liable for any act, matter or thing done by the IMO prior to the ERA Transfer Date in breach of the Rules or any Procedure;
- (d) where the ERA is required to develop or maintain a Procedure, and that Procedure was developed or maintained by the IMO prior to the ERA Transfer Date, then—
- (i) the Procedure is deemed to have been developed or maintained by the ERA in accordance with the Rules;
- (ii) a reference to the IMO in that Procedure that should be a reference to the ERA having regard to the ERA's functions, powers, rights and obligations under the Rules and the other Procedures is deemed to be a reference to the ERA;
- (iii) the ERA may amend the Procedure to refer to the ERA 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 ERA 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 ERA in accordance with this subrule 2(1)(d) may commence operation on the date and time determined by the ERA and published on the GSI Website;
  - (e) where the ERA 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 that information or document was published or released by the IMO prior to the ERA Transfer Date, then—
    - (i) the information or document is deemed to have been published or released by the ERA in accordance with the Rules; and
    - (ii) any reference to the IMO in such information or document that should be a reference to the ERA having regard to the ERA's functions, powers, rights and obligations under the Rules and the Procedures is deemed to be a reference to the ERA;
  - (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 ERA 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 ERA Transfer Date, then the information, act or thing, is deemed to have been provided to, or done for, the ERA in accordance with the relevant Rules or Procedure;
  - (g) any investigation or enforcement action (including proceedings before the Board) that, immediately before the ERA Transfer Date, might have been brought or continued by the IMO may be brought or continued by the ERA as if the ERA were the IMO; and
  - (h) if, immediately before the ERA Transfer Date, the Rules required the IMO to bring or continue any investigation or enforcement action (including proceedings before the Board), then the ERA must bring or continue that investigation or enforcement action as if the ERA were the IMO.
- (2) If, by operation of subrule 2(1), the ERA is deemed to have made a Reviewable Decision that was made by the IMO, then, on and from the ERA 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 ERA as if all references to the IMO as the relevant decision-maker are references to the ERA.

### 3 Review Period 1 July 2016 to 1 July 2019

- (1) For the Review Period from 1 July 2016 to 1 July 2019—
  - (a) the Allowable Revenue and Forecast Capital Expenditure deemed to have been submitted by AEMO and the IMO under rule 3(1) of Part 2 of this Schedule 3 are deemed to have been withdrawn;
  - (b) AEMO is not required to submit its proposal for Allowable Revenue and Forecast Capital Expenditure for that Review Period until 16 September 2016; and
  - (c) the ERA is not required to determine AEMO's Allowable Revenue and Forecast Capital Expenditure for that Review Period until 16 December 2016.
- (2) From the ERA Transfer Date and until the ERA determines AEMO's Allowable Revenue and Forecast Capital Expenditure for the Review Period from 1 July 2016 to 1 July 2019, rule 108A(5) will continue to apply to AEMO in respect of its Allowable Revenue and Forecast Capital Expenditure.
- (3) From the ERA Transfer Date, unless the Minister notifies the IMO otherwise—
  - (a) the IMO is not required to seek approval of its Allowable Revenue and Forecast Capital Expenditure for the Review Period from 1 July 2016 to 1 July 2019; and
  - (b) rule 108(5) will continue to apply to the IMO in respect of its Allowable Revenue and Forecast Capital Expenditure for providing the IMO GSI Services.

### 21. Various references to IMO amended

- (1) In each place in the GSI Rules listed in the Table, delete the word "IMO" or "IMO's" (case the case may be) and replace it with the word "ERA" or "ERA's" (respectively).

**Table**

Clause 8(1)(ja) (in each place where it occurs)
Clause 107(1)(f) (in each place where it occurs)
Clause 155(2)(m)
Clause 155(2)(p)
Clause 155(2)(s)
Heading to GSI Rule 165
Clause 165(1)
Heading to GSI Rule 165A
Clauses 165A(1), (2) and (3) (in each place where it occurs)



GSI Rules 166 to 172 (inclusive) (in each place where it occurs in each of those GSI Rules)
Heading to GSI Rule 173
GSI Rule 173 (in each place where it occurs)
Clause 174(5)
Definition of "Warning Notice" in Schedule 1 (Glossary)

## 22. Various references to IMO and AEMO amended

(1) In each place in the GSI Rules listed in the Table, delete the words "IMO and AEMO" and replace them with the words "IMO, AEMO and the ERA".

**Table**

Clause 3(2)
Clause 8(2)
Clause 11(2) (in each place where it occurs)
GSI Rule 17 (in the first place where it occurs)
Clause 155(2)(k)
GSI Rule 163
GSI Rule 164

(2) In each place in the GSI Rules listed in the Table, delete the words "IMO and AEMO" and replace them with the words "IMO, AEMO and ERA".

**Table**

Heading to Division 4, after GSI Rule 7
Heading to GSI Rule 8
Heading to GSI Rule 9
Heading to GSI Rule 17
Heading to GSI Rule 154
Heading to GSI Rule 156
Heading to GSI Rule 163
Heading to GSI Rule 164

(3) In each place in the GSI Rules listed in the Table, delete the words "IMO or AEMO" and replace them with the words "IMO, AEMO or the ERA".

**Table**

Clause 7(1) (in each place where it occurs)
Clauses 7(2) (in each place where it occurs)
Clause 7(3)
Clause 7(4)
GSI Rule 9 (in each place where it occurs)
Clause 11(3)
GSI Rule 16
Clause 17(b)
Clauses 156 (in each place where it occurs)
GSI Rules 157 and 158 (inclusive) (in each place where it occurs in each of those GSI Rules)
GSI Rules 160 to 162 (inclusive) (in each place where it occurs in each of those GSI Rules)
Definition of "Procedure Change Report" in Schedule 1 (Glossary)

## 23. Various clauses deleted

(1) In each of the existing clauses listed in the Table, delete the existing text and replace it with "[Blank]".

**Table**

Clauses 8(1A)(c), (d) and (e)
Clauses 107(2)(d) and (e)
Clause 155(4)(a)
Clause 3(1)(b) of Part 2 of Schedule 3