

EN302*

Energy Coordination Act 1994

Energy Coordination (Ombudsman Scheme) Regulations 2004

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Energy Coordination (Ombudsman Scheme) Regulations 2004*.

2. Definitions

In these regulations —

“**complainant**” includes a person who is in dispute with a member of an approved scheme or a gas marketing agent;

“**complaint**” includes a dispute with a member of an approved scheme or a gas marketing agent;

“**GIO**” has the meaning given to the term “gas industry ombudsman” in section 11ZPZ of the Act;

“**the Act**” means the *Energy Coordination Act 1994*.

3. Scheme to have a governing body

In order to receive approval under section 11ZPZ of the Act a scheme must provide for there to be a governing body of the scheme that has overall responsibility for overseeing and administering the scheme's operations, and in particular for —

- (a) maintaining the independence of the GIO;
- (b) providing advice to the GIO on policy matters;
- (c) appointing, and terminating the appointment of, the GIO, and appointing an acting GIO as and for so long as may be required;
- (d) determining policies relating to the administration of the scheme;
- (e) approving GIO budgets, in consultation with the GIO, and ensuring that the scheme has sufficient funding for its operations;
- (f) considering the appropriateness, scope, and effectiveness of the scheme, and in particular, reviewing the scheme at least by the second anniversary of the inception of the scheme; and
- (g) providing advice to the GIO on the promotion of the scheme and the preparation of an annual report,

and must provide —

- (h) for there to be equal representation on the governing body of —
 - (i) members of the scheme; and
 - (ii) customers of gas services and the public;and
- (i) for the governing body to have an independent chairperson.

4. Additional jurisdiction of GIO

For the purposes of section 11ZPZ(1)(d) of the Act, the following kinds of complaint may be investigated and dealt with by the GIO under an approved scheme —

- (a) complaints from owners or occupiers of land or other property about the way in which a member of the scheme has exercised its statutory powers in relation to that particular land or other property or in relation to neighbouring land or other property;
- (b) complaints relating to a member of the scheme or a gas marketing agent that are referred to the GIO by the member or agent with the agreement of the GIO and the complainant.

5. Functions of GIO

- (1) The functions of the GIO under an approved scheme are —
 - (a) to have day to day responsibility for overseeing and administering the scheme's operations; and
 - (b) to investigate and deal with a complaint referred to in section 11ZPZ(1)(a), (b) or (c) of the Act or regulation 4 to the extent that it relates to commercial activities of a member of the scheme that are within the scope of the licence held by the member.
- (2) It is not a function of the GIO to set prices or tariffs or determine price structures.

6. Powers of GIO

Without limiting the things that the GIO under an approved scheme may do for the purpose of dealing with a complaint, but subject to any limitations set out in the scheme, the GIO may give a member of the scheme one or more of the following directions —

- (a) a direction to pay compensation to a complainant;
- (b) a direction to provide a gas service;
- (c) a direction to amend, or not to impose, a charge in relation to a service;
- (d) a direction to supply goods or services the subject of the complaint or undertake any necessary corrective or other work to resolve the complaint;
- (e) a direction to make an appropriate correction, deletion or addition to a record;
- (f) a direction to attach to a record a statement provided by the complainant of a correction, deletion or addition sought by the complainant;
- (g) a direction to do, not do or cease doing an act,

and may give a gas marketing agent a direction to provide a gas service.

7. Enforcement against gas marketing agents

A gas marketing agent must comply with a direction given to that gas marketing agent by the GIO under an approved scheme.

Penalty: A fine of —

- (a) \$2 000 in the case of an individual; or
- (b) \$8 000 in the case of a body corporate.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.