



Western Australia

Energy Coordination Act 1994

# **Energy Coordination (General) Regulations 1995**



# Energy Coordination (General) Regulations 1995

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**Defined terms**

## **Energy Coordination (General) Regulations 1995**

### **Part 1 — Preliminary**

*[Heading inserted: Gazette 20 Mar 2007 p. 1044.]*

**1. Citation**

These regulations may be cited as the *Energy Coordination (General) Regulations 1995*.

*[Regulation 1 amended: Gazette 20 Mar 2007 p. 1044;  
30 Nov 2007 p. 5931.]*

**2. Commencement**

These regulations come into operation on the day on which the *Energy Coordination Act 1994* comes into operation.

**3. Terms used in these regulations**

In these regulations, unless the contrary intention appears —  
***issuing authority***, in relation to an inspector designated under section 12 of the Act by the Director, means the Director;  
***the Act*** means the *Energy Coordination Act 1994*.

*[Regulation 3 amended: Gazette 5 Nov 2004 p. 4982.]*

**4. Forms**

The forms set out in Schedule 1 are prescribed in relation to the matters specified in those forms.

*[Regulation 4 inserted: Gazette 20 Mar 2007 p. 1044.]*

## **Part 2 — Designation of inspectors**

*[Heading inserted: Gazette 20 Mar 2007 p. 1044.]*

### **5. Classification of inspectors**

Inspectors designated pursuant to section 12 of the Act shall be classified as follows —

- (a) Inspector (Gas); or
- (b) Inspector (Electricity).

### **6. Qualification of inspectors**

A person shall not be designated as an inspector unless the issuing authority is satisfied that the person has such qualifications and experience as will enable that person to carry out in a proper and efficient manner the duties of an inspector of the classification specified in the instrument of designation of that person.

*[Regulation 6 amended: Gazette 5 Nov 2004 p. 4982.]*

### **7. Power of inspectors**

The powers conferred on an inspector having the classification specified in Column 1 of the Table to this regulation may only be exercised —

- (a) for the purpose of an Act specified in Column 2 of that Table opposite, and corresponding to, that classification; and
- (b) subject to any limitation, and any restriction, specified in the certificate of designation held by that person.

**Table**

<b>Column 1</b> <b>Classification of</b> <b>Inspector</b>	<b>Column 2</b> <b>Acts</b>
Inspector (Gas)	<i>Gas Standards Act 1972,</i> <i>Energy Coordination Act 1994</i>
Inspector (Electricity)	<i>Electricity Act 1945,</i> <i>Energy Coordination Act 1994</i>

**8. Variation or cancellation of certificate**

- (1) Any certificate of designation furnished to an inspector pursuant to section 13 of the Act may be varied or cancelled by the issuing authority.
- (2) Where a certificate of designation is varied or cancelled under subregulation (1), the person in respect of whom the certificate was issued shall return the certificate to the issuing authority.
- (3) A person who fails to comply with subregulation (2) commits an offence.  
Penalty: \$200.

### **Part 3 — Infringement notices**

*[Heading inserted: Gazette 20 Mar 2007 p. 1044.]*

#### **9. Prescribed offences and modified penalties**

- (1) The offences specified in Schedule 2 are offences for which an infringement notice may be issued under the *Criminal Procedure Act 2004* Part 2.
- (2) The modified penalty specified opposite an offence in Schedule 2 is the modified penalty for that offence for the purposes of the *Criminal Procedure Act 2004* section 5(3).

*[Regulation 9 inserted: Gazette 20 Mar 2007 p. 1044.]*

#### **10. Authorised officers and approved officers**

- (1) The Director may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2.
- (2) The Director is to issue to each authorised officer a certificate of his or her appointment.

*[Regulation 10 inserted: Gazette 20 Mar 2007 p. 1045;  
amended: Gazette 6 Nov 2009 p. 4467.]*

## **Part 4 — Appeals under section 19B(2)(b) of the Act**

*[Heading inserted: Gazette 30 Nov 2007 p. 5931.]*

### **11. Terms used in this Part**

In this Part —

***appeal*** means an appeal under section 19B(2)(b) of the Act;

***appellant*** means a network operator who commences an appeal;

***technical review panel*** means a panel mentioned in section 19B(2)(b) of the Act.

*[Regulation 11 inserted: Gazette 30 Nov 2007 p. 5931-2.]*

### **12. Technical review panel**

- (1) If an appeal is made under section 19B(2)(b) of the Act, the chief executive officer must convene a technical review panel.
- (2) The technical review panel is to consist of 3 professional engineers who are competent to deal with the matter the subject of the appeal appointed by the chief executive officer from individuals nominated by the President of the Western Australian Division of The Institution of Engineers Australia.
- (3) The chief executive officer must appoint one of the members of the technical review panel to be the chairperson.
- (4) The chief executive officer may —
  - (a) direct that the members of the technical review panel are to be paid remuneration; and
  - (b) determine the amount of any such payments on the recommendation of the Public Sector Commissioner.
- (5) The chief executive officer must provide the technical review panel with such support services as it may reasonably require.

*[Regulation 12 inserted: Gazette 30 Nov 2007 p. 5932;  
amended: Gazette 11 Feb 2011 p. 506-7.]*

**13. Procedure**

- (1) An appeal must be commenced by the appellant giving the chief executive officer a notice of appeal.
- (2) The notice of appeal must —
  - (a) be in writing; and
  - (b) set out the grounds of appeal; and
  - (c) set out any representations that the appellant wishes to make in support of the appeal.
- (3) The notice of appeal must be given to the chief executive officer within 30 days after the day on which the appellant received —
  - (a) written notice of the Director's determination under section 19A(5) of the Act; or
  - (b) written notice of the Director's refusal to approve an agreement reached under section 18C(6) of the Act.
- (4) The chief executive officer must give the technical review panel the notice of appeal as soon as practicable after the technical review panel is convened.
- (5) Subject to subregulation (6), the technical review panel may determine its own procedure.
- (6) The technical review panel must give the Director —
  - (a) a copy of the notice of appeal; and
  - (b) a reasonable opportunity to make submissions in relation to the appeal.
- (7) The technical review panel must complete the review by making a decision under section 19B(3) of the Act within the period specified by the chief executive officer in writing.
- (8) The technical review panel must give the appellant and the Director written notice of its decision made under section 19B(3) of the Act.

*[Regulation 13 inserted: Gazette 30 Nov 2007 p. 5932-3.]*

**Schedule 1 — Forms**

[r. 4]

[Heading inserted: Gazette 20 Mar 2007 p. 1045.]

**Form 1 — Certificate of designation**

*Energy Coordination Act 1994*

*Energy Coordination (General) Regulations 1995* <sup>2</sup>

**CERTIFICATE OF DESIGNATION**

This is to certify that .....  
is designated an \*Inspector (Gas)/\*Inspector (Electricity) for the purposes of  
the following Acts:

.....  
.....

Powers of inspection that may be exercised: .....

.....  
.....  
.....

Limitations/Restrictions applicable: .....

.....  
.....  
.....  
.....  
.....  
.....

This designation has effect until ..... (date)

DIRECTOR OF ENERGY SAFETY

\*Delete as inapplicable.

Dated ..... 20..... Certificate No. ....

[Form 1 amended: Gazette 5 Nov 2004 p. 4982-3; 20 Mar 2007  
p. 1045.]

**Form 2 — Infringement notice**

<i>Energy Coordination Act 1994</i>		Infringement notice no.	
<b>Infringement notice</b>			
<b>Alleged offender</b>	Name: Family name _____		
	Given names _____		
	or Company name _____		
	ACN _____		
Address _____			Postcode _____
<b>Alleged offence</b>	Description of offence _____		
	<i>Energy Coordination Act 1994 s.</i> _____		
	Date	/	/20      Time      a.m./p.m.
	Modified penalty \$ _____		
<b>Officer issuing notice</b>	Name _____		
	Signature _____		
	Office _____		
<b>Date</b>	Date of notice      /      /20		
<b>Notice to alleged offender</b>	<p>It is alleged that you have committed the above offence.          If you do not want to be prosecuted in court for the offence, pay the modified penalty within 28 days after the date of this notice.  <b>By post:</b> Send a cheque or money order (payable to 'Director of Energy Safety') to:              Director of Energy Safety              [Address]  <b>In person:</b> Pay the cashier at:              Energy Safety              [Address]</p> <p><b>If you do not pay</b> the modified penalty within 28 days, you may be prosecuted or enforcement action may be taken under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>. Under that Act, some or all of the following action may be taken — your driver's licence may be suspended, your vehicle licence may be suspended or cancelled, you may be disqualified from holding or obtaining a driver's licence or vehicle licence, your vehicle may be immobilised or have its number plates removed, your details may be published on a website, your earnings or bank accounts may be garnished, and your property may be seized and sold.</p> <p><b>If you need more time</b> to pay the modified penalty, you can apply for an extension of time by writing to the Director of Energy Safety at the above address.</p>		

	<p><b>If you want this matter to be dealt with by prosecution in court</b>, tick this box <input type="checkbox"/> and post this notice to the Director of Energy Safety at the above address within 28 days after the date of this notice.</p>
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*[Form 2 inserted: Gazette 20 Mar 2007 p. 1045-6; amended: Gazette 20 Aug 2013 p. 3831; SL 2020/163 r. 26.]*

**Form 3 — Withdrawal of infringement notice**

<i>Energy Coordination Act 1994</i>		Withdrawal no.
<b>Withdrawal of infringement notice</b>		
<b>Alleged offender</b>	Name: Family name	
	Given names	
	or Company name _____	
	ACN	
Address		
		Postcode
<b>Infringement notice</b>	Infringement notice no.	
	Date of issue ____ / ____ /20	
<b>Alleged offence</b>	Description of offence _____	
	<i>Energy Coordination Act 1994 s.</i>	
	Date ____ / ____ /20	Time ____ a.m./p.m.
<b>Officer withdrawing notice</b>	Name	
	Signature	
	Office	
<b>Date</b>	Date of withdrawal ____ / ____ /20	
<b>Withdrawal of infringement notice</b>	The above infringement notice issued against you has been withdrawn.	
	If you have already paid the modified penalty for the alleged offence you are entitled to a refund. * Your refund is enclosed. <i>or</i> * If you have paid the modified penalty but a refund is not enclosed, to claim your refund sign this notice and post it to: Director of Energy Safety [Address]	
<i>[*delete whichever is not applicable]</i>	Signature	/ /20

*[Form 3 inserted: Gazette 20 Mar 2007 p. 1046.]*

## Schedule 2 — Prescribed offences and modified penalties

[r. 9]

[Heading inserted: Gazette 6 Nov 2009 p. 4468.]

	Offences under <i>Energy Coordination Act 1994</i>	Modified penalty	
		Individual	Body corporate
s. 20(1)(b)	Failing to give inspector access to land, premises or thing, or to give reasonable assistance, when required under s. 14(b) .....	\$1 000	\$5 000
s. 20(2)	Failing to provide information, records or documents when requested under s. 14(d) ...	\$1 000	\$5 000
s. 20(3)	Giving false or misleading information in response to a request under s. 14(d) .....	\$1 000	\$5 000
s. 20(4)	Failing to comply with order given by inspector under s. 18 .....	\$2 000	\$10 000
s. 20(4)	Failing to comply with order given by inspector under s. 18A, 18B or 18C .....	\$3 000	\$15 000

[Schedule 2 inserted: Gazette 6 Nov 2009 p. 4468.]

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## Notes

This is a compilation of the *Energy Coordination (General) Regulations 1995* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

### Compilation table

Citation	Published	Commencement
<i>Energy Coordination (Designation of Inspectors) Regulations 1995</i> <sup>1</sup>	23 Dec 1994 p. 7139-42	1 Jan 1995 (see r. 2 and <i>Gazette</i> 23 Dec 1994 p. 7069)
<b>Reprint 1: The Energy Coordination (Designation of Inspectors) Regulations 1995 as at 7 May 2004</b>		
<i>Energy Coordination (Designation of Inspectors) Amendment Regulations 2004</i>	5 Nov 2004 p. 4982-3	5 Nov 2004
<i>Energy Coordination (Designation of Inspectors) Amendment Regulations 2007</i>	20 Mar 2007 p. 1043-7	20 Mar 2007
<i>Energy Coordination (Inspectors and Infringement Notices) Amendment Regulations 2007</i>	30 Nov 2007 p. 5931-3	r. 1 and 2: 30 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2007 (see r. 2(b) and <i>Gazette</i> 30 Nov 2007 p. 5927)
<b>Reprint 2: The Energy Coordination (General) Regulations 1995 as at 25 Jan 2008</b> (includes amendments listed above)		
<i>Energy Coordination (General) Amendment Regulations 2009</i>	6 Nov 2009 p. 4467-8	r. 1 and 2: 6 Nov 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Nov 2009 (see r. 2(b))
<i>Public Sector Reform (Consequential Amendments) Regulations 2011</i> r. 20	11 Feb 2011 p. 502-7	12 Feb 2011 (see r. 2(d))
<i>Energy Coordination (General) Amendment Regulations 2013</i>	20 Aug 2013 p. 3831	r. 1 and 2: 20 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Aug 2013 (see r. 2(b) and <i>Gazette</i> 20 Aug 2013 p. 3815)
<i>Commerce Regulations Amendment (Infringement Notices) Regulations 2020</i> Pt. 13	SL 2020/163 25 Sep 2020	29 Sep 2020 (see r. 2(b) and SL 2020/159 cl. 2(a))

**Other notes**

- <sup>1</sup> Citation was initially the *Energy Coordination (Designation of Inspectors) Regulations 1995* and was subsequently changed to the *Energy Coordination (Inspectors and Infringement Notices) Regulations 1995* then to the *Energy Coordination (General) Regulations 1995* (see note under r. 1).
- <sup>2</sup> Formerly referred to the *Energy Coordination (Inspectors and Infringement Notices) Regulations 1995* the citation of which was changed (see note under r. 1). This reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

**Defined terms**

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

<b>Defined term</b>	<b>Provision(s)</b>
appeal.....	11
appellant.....	11
issuing authority.....	3
technical review panel.....	11
the Act.....	3