

GAS SERVICES INFORMATION (GSI) REGULATIONS

- Overview Paper - 14 May 2012

1. Summary

Drafting of the GSI Regulations will occur in at least two tranches, to accommodate operational considerations. The first is limited to the conferral of functions onto the 'Operator' of the Gas Bulletin Board (GGB) and Gas Statement of Opportunities (GSOO).

In addition, consequential amendments will be made to the Electricity Industry (Independent Market Operator) Regulations 2004 to formalise the selection of the Independent Market Operator (IMO) as the GGB/GSOO Operator. At the same time, these regulations will also be amended to enable the IMO Board to accommodate a fourth Director with gas market experience.

The second tranche will then pick-up all other relevant matters, with the possible exception of provisions for the Emergency Management (EM) facility, which may be included in a third tranche. Amendments to the Gas Supply (Gas Quality Specifications) Regulations 2010 are likely to be made as part of the second tranche to require that gas quality information is placed on the GGB.

It is expected that the second tranche of GSI Regulations will be gazetted mid-2012, with any third tranche gazetted in the third quarter of 2012.

2. Tranche 1 – GSI Regulations and consequential amendment regulations

2.1 *GSI Regulations will confer functions on the Operator.*

Generally -

- Operate and maintain the GGB.
- Prepare and publish the GSOO.
- Undertake compliance.
- Impose fees and charges for the performance of functions.
- Keep the Minister informed of its function generally.

Specifically -

- Register persons as registered participants.
- Exempt certain persons from being registered as registered participants.
- Impose obligations onto a GMP to provide information, or exempt a Gas Market Participant (GMP) from providing certain types of information for the GGB or GSOO.
- Collect, collate, manage and derive information for the GGB, including information to be included on the GGB;
- Collect, collate, manage and derive information for the GSOO, and to periodically review, revise and publish the GSOO.
- Make Rules (other than the Initial Rules), and amend, replace or revoke Rules (in regard to governance, administration, financial, accounting and all other matters necessary) in order to operate the GGB and produce the GSOO.
- Make, amend, replace or revoke Procedures.
- Apply penalties for minor breaches of civil penalty provisions.
- Dispute resolution.

- Monitor compliance with the rules and take enforcement action, including applying civil penalties for minor infringements and applying to the Electricity Review Board (ERB) for orders to deal with more serious infringements.
- Do all things necessary or convenient to be done for or in connection with the performance of its functions.

3.2 Consequential amendments to Electricity Industry (Independent Market Operator) Regulations 2004:

- To give the IMO functions of the Operator under the GSI Regulations and GSI Rules.
- To enable the IMO Board to accommodate a fourth Director with gas industry experience.

3. Tranche 2 – GSI amendment regulations

3.1 Establish the GBB and publish the GSOO

- Enable the GSI Rules to describe a person as a ‘gas market participant’ (other than a person already described under the GSI Act);
- Authorise the Operator to register, or exempt from registration, a gas market participant (GMP) and to charge a registration fee;
- Authorise the Operator to exempt a registered GMP from providing specific information;
- Require a GMP to register and pay a registration fee;
- Apply a penalty for failure to register or failure to pay the registration fee.

3.2 Confer functions onto a person (other than the Operator)

- Set-out the functions of:
 - Minister;
 - Another person (ie. Economic Regulatory Authority (ERA));

3.3 Delegations

- Limits to delegations.

3.4 Rules for the GBB and GSOO

- Matters pertaining specifically to information requirements and functionality of the GBB and GSOO that will be covered in the GSI Rules;
- Other matters to be covered by the GSI Rules in regard to the GBB and GSOO;
- Regulations to authorise GSI Rules to detail what specific information is required, in what format, and, when and how it is to be provided to the Operator.
- Regulations to authorise GSI Rules to require that a registered GMP inform the Operator whether the information it has provided is (in whole or in part) ‘protected’ information.
- Process for making and changing of GSI Rules (other than the Initial GSI Rules);
- Regulations to authorise the making and changing of GSI Procedures.

3.5 Impose obligations on a (registered) GMP to provide mandatory and requested information to the Operator and authorise the Operator to impose obligations

- Operator to receive required information and requested;
- Registered GMP to give the Operator required and requested information and for that information to comply with the GSI Rules in terms of its content, form and timeframes for provision.
- Civil penalties for:
 - Non-provision of required and requested information;
 - Provision of inaccurate, incomplete outdated or erroneous information;
 - Failure to provide ‘refreshed’ information on request of Operator;
 - Failure to supply supporting evidence of information supplied to Operator;
 - Providing information in bad faith or through negligence.

- Information to be provided by the GMP to the Operator in relation to:
 - Gas Quality Specifications;
 - Voluntary Trade Facility;
 - Emergency Management Facility [potentially defer to Tranche 3].

3.6 *Control the use of protected information*

- Authorise the GSI Rules to specify what action the Operator must take to protect information from unauthorised use or disclosure;
- Consultation process to apply where there is amendment to GSI Rules in regards to controlling the use and disclosure of protected information.

3.7 *Operator to keep the Minister reasonably informed*

- Reporting requirements:
 - Minister to have access to information via written request;
 - Minister to be informed of information confidentiality status;
- Reported information to be limited only to Operator's functions 'generally' in regards to the GBB and GSOO.
- Request from another Minister must proceed to the Operator via the Minister.

3.8 *Compliance arrangements*

- Amnesty period;
- Civil penalties for breaches of GSI Rules – Category A and B;
- IMO to apply penalty for breach of Category A civil penalty;
- Escalation of Category A to ERB at defined threshold amount;
- Breach of Category B civil penalty provision to be considered/determined by the ERB;
- Registered GMP to make payment to Operator by required time;
- Treatment of civil penalties received by the Operator;
- Infringement penalties for contravention of GSI Regulations;
- Civil monetary liability [out for State Solicitor's Office advice]

3.9 *Enable review by the Electricity Review Board (ERB)*

- Enable the ERB (and Arbitrator) to recoup costs;
- Framework for administrative processes for orders to be made and enforced;
- List of reviewable decisions;
- Framework for process for ERB review:
 - Where the Operator applies for an order;
 - Where the GMP makes an application for the review of a reviewable decision.

3.10 *Resolution of disputes*

- Authorise the GSI Rules to provide for resolution of disputes.

3.11 *Fees and charges for the performance of functions*

- Authorise the Operator to generally charge fees and charges generally;
- Enable a registration fee.

3.12 *Subsequent amendments to the Gas Supply (Gas Quality Specifications) Regulations 2010:*

- To require that information that must be supplied to the Coordinator of Energy in regards to gas quality must be published on the GBB.