Western Australia

National Gas Access (WA) Act 2009

National Gas Access (WA) (Part 3) Amendment Regulations 2024

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National Gas Access (WA) (Part 3) Amendment Regulations 2024

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Schedule 3 — Civil penalties

Division 1 — Tier 1 civil penalty provisions

Division 2 — Tier 2 civil penalty provisions

Division 3 — Tier 3 civil penalty provisions

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National Gas Access (WA) (Part 3) Amendment Regulations 2024

Made by the Governor in Executive Council.

1. Citation

These regulations are the *National Gas Access (WA) (Part 3) Amendment Regulations 2024*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;

(b) the rest of the regulations — on the day on which the *National Gas Access (WA) Adoption of Amendments Order 2024* clause 3 comes into operation.

3. Regulations amended

These regulations amend the *National Gas Access (WA) (Part 3) Regulations 2009*.

4. Regulation 3 amended

(1) In regulation 3 insert in alphabetical order:

tier 1 civil penalty provision has the meaning given in regulation 6(2);

tier 2 civil penalty provision has the meaning given in regulation 6(3);

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tier 3 civil penalty provision has the meaning given in regulation 6(4).

(2) In regulation 3 in the definition of ***NGL*** delete "Law." and insert:

Law;

5. Regulation 6 replaced

Delete regulation 6 and insert:

6. Civil penalty provisions

(1) For the purposes of section 3(b) of the NGL, a provision of the NGL, other than a civil penalty provision under section 3(a) of the NGL, or Rules listed in Schedule 3 is prescribed to be a civil penalty provision.

(2) A civil penalty provision listed in Schedule 3 Division 1 is prescribed for the purposes of section 3A(1)(c) of the NGL and is a ***tier 1 civil penalty provision***.

(3) A civil penalty provision listed in Schedule 3 Division 2 is prescribed for the purposes of section 3A(1)(b) of the NGL and is a ***tier 2 civil penalty provision***.

(4) A civil penalty provision to which section 3A(1)(a) of the NGL applies is a ***tier 3 civil penalty provision***.

6. Regulation 13A inserted

After regulation 13 insert:

13A. Indexation of civil and criminal penalty amounts

(1) For the purposes of clauses 47A and 47B of Schedule 2 to the NGL, each civil penalty amount and criminal penalty amount is to be adjusted in accordance with the following formula —

$$P = Pc \times \frac{A}{B}$$

where —

P is the amount that applies on and from the date of the adjustment;

Pc is the amount that applied immediately before the first adjustment;

A is —

(a) for the 1st adjustment — the sum of the index numbers for the 4 quarters in the 2022 calendar year; and

(b) for each subsequent adjustment — the sum of the index numbers for the 4 quarters in the calendar year that ended most recently before the date of the adjustment;

B is the sum of the index numbers for the 4 quarters in the 2019 calendar year;

$\frac{A}{B}$ is calculated to the nearest 3 decimal places (and a 4th decimal place of 5 is to be rounded up).

(2) An amount adjusted under this regulation is to be rounded up or down as follows —

(a) in the case of an amount that is $10 000 or greater — to the nearest multiple of $100 (with an amount of $50 rounded up);

(b) in the case of an amount that is less than $10 000 — to the nearest multiple of $10 (with an amount of $5 rounded up).

(3) If an amount adjusted under this regulation is less than the amount that applied immediately before the adjustment, the amount that applied immediately before the adjustment applies instead.

(4) In this regulation —

index number, for a quarter, means —

(a) the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter; or

(b) if the Australian Statistician fails or ceases to publish that Index, another index number determined by the MCE for that quarter.

7. Schedule 3 replaced

Delete Schedule 3 and insert:

Schedule 3 — Civil penalties

[r. 6]

Division 1 — Tier 1 civil penalty provisions

Provisions of the NGL

Section 56

Section 57

Section 133

Section 134

Section 135

Section 136

Section 139

Section 140

Section 141

Section 143(6)

Section 147

Section 148

Section 169(3)

Section 170

Section 195

Section 225

Provisions of the Rules

Rule 109

Rule 137

Rule 560(1)

Rule 562(3)

Rule 586(2)

Division 2 — Tier 2 civil penalty provisions

Provisions of the NGL

Section 131

Section 168

Section 223

Provisions of the Rules

Rule 33(1)

Rule 36

Rule 37

Rule 43(1)

Rule 46

Rule 52(1)

Rule 53(6)

Rule 107

Rule 108

Rule 110

Rule 112

Rule 138

Rule 551(1)

Rule 551(3)

Rule 552(1)

Rule 558(1)

Rule 558(2)

Rule 585(8)

Division 3 — Tier 3 civil penalty provisions

Provisions of the NGL

Section 227

Section 228

Provisions of the Rules

Rule 27(4)

K. COLLERAN, Clerk of the Executive Council

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