

EXTRAORDINARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

www.governmentgazette.sa.gov.au

PUBLISHED BY AUTHORITY

ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such

ADELAIDE, FRIDAY, 23 JULY 2004

CONTENTS

	Page
Appointments, Resignations, Etc.....	2614
Development Act 1993—Notice	2615
Proclamations	2616
REGULATION	
Gas Variation Regulations 2004 (No. 156 of 2004).....	2619

Government House, Adelaide, 23 July 2004

HER Excellency the Governor has accepted the following resignations:

The Honourable Paul Holloway, MLC
Minister for Industry, Trade and Regional Development
Minister for Small Business

The Honourable Michael John Atkinson, MP
Minister for Consumer Affairs

The Honourable John David Hill, MP
Minister for the River Murray

By Command,

PENELOPE M. STRATMANN, Official Secretary

Government House, Adelaide, 23 July 2004

HER Excellency the Governor has been pleased to make the following appointments:

The Honourable Paul Holloway, MLC
Minister for Industry and Trade

The Honourable Karlene Ann Maywald, MP
Minister for the River Murray
Minister for Regional Development
Minister for Small Business
Minister for Consumer Affairs

By Command,

PENELOPE M. STRATMANN, Official Secretary

Department of the Premier and Cabinet
Adelaide, 23 July 2004

HER Excellency the Governor in Executive Council has revoked the appointment of the Honourable Jane Diane Lomax-Smith, MP, Minister for Education and Children's Services and Minister for Tourism to be also Acting Minister for the River Murray for the period 24 July 2004 to 5 August 2004 inclusive, during the absence of the Honourable John David Hill, MP.

By command,

MIKE RANN, Premier

DPC 050/96PT13CS

DEVELOPMENT ACT 1993, SECTION 48 (2) (a)

NOTICE BY THE GOVERNOR

Preamble

1. Pursuant to subsection (1) of section 46 of the Development Act 1993, being of the opinion that a declaration was appropriate or necessary for the proper assessment of the development of major social importance, the Minister for Urban Development and Planning declared that section 46 of the Act applies to a proposed concrete storage facility at 23 Chief Street, Brompton (see *Gazette* of 15 May 2004 at page 1283).

2. An application for a proposed development within the ambit of the declaration was lodged with the Charles Sturt Council on 23 September 2003 (see Development Application 252/2364/03).

3. I have decided to indicate pursuant to section 48 (2) (a) of the Development Act 1993, that I will not, in relation to the proposed development referred to in clause 2, grant a development authorisation for the development.

NOTICE

PURSUANT to section 48 (2) (a) of the Development Act 1993 and with the advice and consent of the Executive Council, I indicate that I will not, in relation to the proposed development referred to in clause 2 of the preamble, grant a development authorisation for development within the ambit of the declaration referred to in the preamble.

Given under my hand at Adelaide, 23 July 2004.

MARJORIE JACKSON-NELSON, Governor

South Australia

Administrative Arrangements (Administration of Industries Development Act) Proclamation 2004

under section 5 of the *Administrative Arrangements Act 1994*

1—Short title

This proclamation may be cited as the *Administrative Arrangements (Administration of Industries Development Act) Proclamation 2004*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Committal of Act

The administration of the *Industries Development Act 1941* is committed to the Minister for Industry and Trade.

Made by the Governor

with the advice and consent of the Executive Council
on 23 July 2004

DPC 50/96 CS

South Australia

Administrative Arrangements (Constitution of Ministers as Bodies Corporate) (July 2004) Proclamation 2004

under section 7 of the *Administrative Arrangements Act 1994*

1—Short title

This proclamation may be cited as the *Administrative Arrangements (Constitution of Ministers as Bodies Corporate) (July 2004) Proclamation 2004*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Dissolution of Minister

The body corporate constituted of the Minister for Industry, Trade and Regional Development is dissolved.

4—Constitution of new Ministers as bodies corporate

The following Ministers are constituted as bodies corporate:

- (a) Minister for Industry and Trade;
- (b) Minister for Regional Development.

5—Vesting of certain assets, rights and liabilities

The assets, rights and liabilities of the former body corporate known as the Minister for Industry, Trade and Regional Development are vested in and attached to the Minister for Industry and Trade or the Minister for Regional Development according to the distribution of Ministerial responsibilities and functions between the relevant Ministers so that assets, rights and liabilities appropriate to particular responsibilities or functions vest in, or attach to, the appropriate body corporate.

Made by the Governor

with the advice and consent of the Executive Council
on 23 July 2004

DPC 50/96

South Australia

Administrative Arrangements (References to Minister for Industry, Trade and Regional Development) Proclamation 2004

under section 8 of the *Administrative Arrangements Act 1994*

1—Short title

This proclamation may be cited as the *Administrative Arrangements (References to Minister for Industry, Trade and Regional Development) Proclamation 2004*.

2—Commencement

This proclamation comes into operation on the day on which it is made.

3—Interpretative provision

A reference to the Minister for Industry, Trade and Regional Development in an Act, a statutory instrument, any other kind of instrument or a contract, agreement or other document will have effect as if it were a reference to the Minister for Industry and Trade or the Minister for Regional Development according to the distribution of Ministerial responsibilities and functions between the relevant Ministers so that the reference will have effect as if it were a reference to the Minister to whom the relevant responsibilities or functions are currently assigned.

Made by the Governor

with the advice and consent of the Executive Council
on 23 July 2004

DPC 50/96 CS

South Australia

Gas Variation Regulations 2004

under the *Gas Act 1997*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of Gas Regulations 1997

- 4 Variation of regulation 4—Interpretation
 - 5 Variation of regulation 5—Interpretation of certain terms used in Act
 - 6 Insertion of Part 1A
 - Part 1A—Administration
 - 6 Functions and powers of Commission
 - 7 Variation of regulation 6A—Exemption from requirement to hold licence
 - 8 Insertion of regulation 8AA
 - 8AA Licence condition requiring retailers to match available gas to customers' estimated aggregate demand
 - 9 Insertion of regulation 8AB
 - 8AB Licence condition requiring pricing information for small customers
 - 10 Revocation of regulation 8C
 - 11 Insertion of Parts 2A, 2B and 2C
 - Part 2A—Price regulation
 - 8E Price regulation—prescribed class of customers
 - Part 2B—Standard terms and conditions
 - 8F Standard terms and conditions—prescribed class of customers
 - Part 2C—Default contracts
 - 8G Interpretation
 - 8H Provisions relating to default contracts
 - 12 Substitution of regulations 11 and 12
 - 11 Obligations of distribution system operator in relation to quality of gas
 - 12 Obligations of retailer in relation to quality of gas
 - 13 Revocation of regulations 16 and 17
 - 14 Variation of Schedule 1A—Gas specifications
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Gas Variation Regulations 2004*.

2—Commencement

- (1) These regulations (other than regulations 10 and 11) come into operation on the day on which they are made.
- (2) Regulations 10 and 11 will come into operation on the day on which section 34B of the *Gas Act 1997* (as inserted by section 29 of the *Statutes Amendment (Gas and Electricity) Act 2003*) comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of Gas Regulations 1997

4—Variation of regulation 4—Interpretation

- (1) Regulation 4—after the definition of *AS 4551* insert:

AS 4564 means AS 4564/AG 864—*Specification for General Purpose Natural Gas* published by The Australian Gas Association, as in force from time to time (including any code or standard called up by or under AS 4564);

- (2) Regulation 4—after the definition of *AS 5601* insert:

business day means a day other than a Saturday or a Sunday or other public holiday;

- (3) Regulation 4—after the definition of *distribution system operator* insert:

flame speed factor means the flame speed factor determined in accordance with the formula set out in Schedule 1;

inset distribution system means a distribution system that serves only a group of premises or parts of premises in the same ownership or subject to the same community plan or strata plan under the *Community Titles Act 1996* or *Strata Titles Act 1988*;

- (4) Regulation 4—after the definition of *liquefied petroleum gas* insert:

natural gas has the same meaning as in AS 4564;

prescribed transmission pipeline means a pipeline in respect of which any of the following licences has been granted under the *Petroleum Act 2000*:

PL1

PL3

PL4

PL6

PL11

PL13;

- (5) Regulation 4—after the definition of *retailer* insert:

sooting index means the sooting index determined in accordance with the formula set out in Schedule 1;

- (6) Regulation 4—after the definition of *Type B appliance* insert:

Wobbe Index has the same meaning as in AS 4551.

5—Variation of regulation 5—Interpretation of certain terms used in Act

- (1) Regulation 5(1)(a)—delete paragraph (a) and substitute:

, prescribed transmission pipelines are declared to form part of a distribution system.

- (2) Regulation 5(3)—delete subregulation (3) and substitute:

- (3) For the purposes of the definition of *retailing* in section 4 of the Act, retailing does not include—

(a) a customer charging for the supply of gas if the charge forms an unspecified part of rent or charges for the occupation or use of premises; or

(b) a customer charging for the supply of gas if—

(i) the charge is a specified amount for gas supplied by the customer to another person during a period through an inset distribution system; and

(ii) the charge does not exceed an amount determined as follows:

$$A = \frac{BC}{D}$$

where—

A is the amount to be determined;

B is the cost to the customer of the gas supplied to the inset distribution system during the period;

C is the quantity of gas drawn from the system by the other person during the period (or a reasonable estimate of the quantity);

D is the total quantity of gas drawn from the system during the period; and

(iii) the customer gives the other person, when charging the other for the supply of gas, written notice of—

(A) the cost to the customer of the gas supplied to the inset distribution system during the period; and

(B) the quantity of gas drawn from the system by the other person during the period (or if the quantity is estimated, the quantity estimated and the basis of the estimate).

- (3a) For the purposes of the definition of *retail market rules* in section 4 of the Act, interactions between any of the following persons is prescribed as a matter to which the rules may relate:
- (a) persons referred to in paragraph (a) of the definition;
 - (b) persons who operate prescribed transmission pipelines;
 - (c) persons who acquire, hold or dispose of rights to prescribed transmission pipeline capacity;
 - (d) persons who contract for the conveyance of gas with persons having rights to prescribed transmission pipeline capacity.
- (3b) For the purposes of the definition of *retail market rules* in section 4 of the Act—
- (a) the following provisions govern the process for approval by the Commission of amendments of retail market rules:
 - (i) the retail market administrator may submit a proposed amendment of a rule to the Commission;
 - (ii) the proposed amendment must be accompanied by a statement of reasons and other information as required by the Commission by condition of the retail market administrator's licence;
 - (iii) the Commission then has an initial period of 30 business days from its receipt of the material referred to in subparagraphs (i) and (ii) to consider the proposed amendment and notify the retail market administrator of its response;
 - (iv) however—
 - (A) the Commission may notify the retail market administrator that it requires further information to be submitted to it by the retail market administrator, in which case, the period for consideration of the proposed amendment is suspended until the Commission receives the further information; and
 - (B) the Commission may notify the retail market administrator that it requires further time to consider the proposed amendment, in which case, the period for consideration of the proposed amendment is extended by a period not exceeding 20 business days specified by the Commission;
 - (v) the Commission's response to the proposed amendment must take the form of rejection of the proposed amendment or approval of the proposed amendment or approval of the proposed amendment on the condition that a specified change is made to the proposed amendment;

- (vi) material must be submitted to the Commission by the retail market administrator by writing delivered to the office of the Commission or sent by facsimile transmission or e-mail to a number or address specified by the Commission;
 - (vii) a response or other decision must be notified to the retail market administrator by the Commission by writing delivered to the office of the retail market administrator or sent by facsimile transmission or e-mail to a number or address specified by the retail market administrator;
- (b) a proposed amendment will be deemed to have the approval of the Commission if—
- (i) having been submitted to the Commission in accordance with paragraph (a), the Commission fails to notify the retail market administrator of its response within the period allowed for that purpose under that paragraph; or
 - (ii) having been approved by the Commission in accordance with paragraph (a) on the condition that a specified change is made to it, the retail market administrator makes the amendment with that change.

6—Insertion of Part 1A

After Part 1 insert:

Part 1A—Administration

6—Functions and powers of Commission

Pursuant to section 6A of the Act, the Commission has (in addition to the Commission's functions and powers under the Act and the *Essential Services Commission Act 2002*) the function of determining, in accordance with a process specified by the Minister by notice in the Gazette, and at the expense of one or more of the entities, any matter in dispute between 2 or more gas entities that falls within a range of matters specified by the Minister by notice in the Gazette.

7—Variation of regulation 6A—Exemption from requirement to hold licence

- (1) Regulation 6A(1)—delete subregulation (1) and substitute:
- (1) A person who carries on the operation of a distribution system is not required to be licensed under the Act if the system consists only of an inset distribution system.
- (2) Regulation 6A(2)—delete "pipeline referred to in regulation 5(1)(a)" and substitute:
prescribed transmission pipeline
- (3) Regulation 6A(4)—delete "An exemption" and substitute:
Subject to these regulations, an exemption

8—Insertion of regulation 8AA

After regulation 8 insert:

8AA—Licence condition requiring retailers to match available gas to customers' estimated aggregate demand

The Commission must make a licence authorising the retailing of gas subject to a condition requiring the gas entity to ensure that at all times the quantity of gas available to it for delivery to its customers from a distribution system is sufficient to meet reasonable forecasts of its customers' aggregate demand for gas from the distribution system.

9—Insertion of regulation 8AB

After regulation 8A insert:

8AB—Licence condition requiring pricing information for small customers

For the purposes of section 26A(2)(d) of the Act, 1 January 2005 is the prescribed date.

10—Revocation of regulation 8C

Regulation 8C—delete the regulation

11—Insertion of Parts 2A, 2B and 2C

After Part 2 insert:

Part 2A—Price regulation

8E—Price regulation—prescribed class of customers

For the purposes of section 33(1)(a) of the Act, each customer whose annual gas consumption level for a metered delivery point equals or exceeds one terajoule but is less than 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point.

Part 2B—Standard terms and conditions

8F—Standard terms and conditions—prescribed class of customers

For the purposes of section 34(1) of the Act—

- (a) each customer whose annual gas consumption level for a metered delivery point equals or exceeds 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point;
- (b) each customer whose annual gas consumption level for a metered delivery point equals or exceeds one terajoule but is less than 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point.

Part 2C—Default contracts

8G—Interpretation

In this Part—

default contract means a retail contract under which a gas entity to which section 34B of the Act applies sells gas at the entity's default contract price and subject to the entity's default contract terms and conditions;

default contract price and *default contract terms and conditions* have the same respective meanings as in section 34B of the Act;

excluded area means an area that is for the time being determined by the Minister to be an excluded area;

market contract means a retail contract other than a standing contract or default contract;

standing contract means a retail contract under which a gas entity to which section 34A of the Act applies sells gas at the entity's standing contract price and subject to the entity's standing contract terms and conditions;

standing contract price and *standing contract terms and conditions* have the same respective meanings as in section 34A of the Act.

8H—Provisions relating to default contracts

- (1) If a person receives gas supply through a metered delivery point otherwise than under a retail contract—
 - (a) that person; and
 - (b) the gas entity that was last a party to a retail contract in relation to that delivery point,
become parties to a default contract in relation to that delivery point for the purposes of section 34B(2) of the Act.
- (2) Subregulation (1) does not apply in relation to a metered delivery point situated within an excluded area.
- (3) The default contract continues until—
 - (a) the customer becomes a party to a market contract or standing contract (whether with the same entity or some other gas entity) in relation to the delivery point; or
 - (b) some other person becomes a party to a retail contract in relation to the delivery point; or
 - (c) the occurrence of an event of a kind determined by the Commission.
- (4) On the gas entity becoming aware that it has become a party to the default contract, the entity must, within 5 business days, give the customer a written notice setting out the terms and conditions of the default contract and describing, in general terms, the other contractual options that may be available to the customer for the purchase of gas.

- (5) The gas entity must, in giving notice under subregulation (4), comply with any requirements imposed by a code made by the Commission under the *Essential Services Commission Act 2002*, relating to the contents of the notice or the manner in which the notice is to be given.
- (6) For the purposes of the definition of *default contract price* in section 34B(3) of the Act, the prescribed period is—
 - (a) before 1 September 2004—5 days; or
 - (b) on or after 1 September 2004—28 days.

12—Substitution of regulations 11 and 12

Regulations 11 and 12—delete the regulations and substitute:

11—Obligations of distribution system operator in relation to quality of gas

- (1) A distribution system operator must ensure that the following requirements are complied with in relation to gas distributed by the system:
 - (a) the gas must—
 - (i) be at a safe temperature and pressure and safe in all other respects for the purposes of the system; and
 - (ii) contain sufficient odorant that it has a distinctive smell to a person with a normal sense of smell at one-fifth of the lower explosive limit in air; and
 - (iii) comply with the relevant specifications set out in Schedule 1A (unless otherwise agreed between the Technical Regulator and the operator);
 - (b) before connection or reconnection of a gas supply to a place, steps must be taken to ensure that the gas supply is suitable for each gas installation situated in the place that will be connected to the gas supply;

- (c) the gas must be supplied so that—
 - (i) the operating pressure of the gas at the outlet of each meter set for recording a customer's consumption of gas is 1kPa or more but less than 3kPa subject to any written requirement of the customer or agreement between the Technical Regulator and the operator for gas to be supplied at more than 3kPa; and
 - (ii) the pressure of the gas at each such meter set is within the meter set manufacturer's designated pressure operating range.
- (2) For the purposes of ensuring compliance with subregulation (1)(b), reliance may be placed on a certificate of compliance issued for the purposes of section 56 of the Act in relation to the gas installation.
- (3) Despite regulation 6A(4), a person who operates a prescribed transmission pipeline is not bound to comply with subregulation (1)(a)(ii).

12—Obligations of retailer in relation to quality of gas

- (1) A retailer must ensure that the following requirements are complied with in relation to gas supplied by the retailer to a customer:
 - (a) before connection or reconnection of a gas supply to a place, steps must be taken to ensure that the gas supply is suitable for each gas installation situated in the place that will be connected to the gas supply;
 - (b) the heating value of the gas must, when measured at each measuring point approved by the Technical Regulator for that purpose, be within a margin of plus or minus 1 per cent of the claimed heating value used by the gas entity as the basis for its charges to the customer for the gas;
 - (c) the measured heating value of the gas must not show systematic bias within that margin.
- (2) For the purposes of ensuring compliance with subregulation (1)(a), reliance may be placed on a certificate of compliance issued for the purposes of section 56 of the Act in relation to the gas installation.

13—Revocation of regulations 16 and 17

Regulations 16 and 17—delete the regulations

14—Variation of Schedule 1A—Gas specifications

- (1) Schedule 1A, clause 1—delete the clause
- (2) Schedule 1A, clause 2—delete the clause and substitute:

2—Specifications for natural gas

The specifications for natural gas are the limits set out in AS 4564 for general purpose natural gas (within the meaning of that Standard).

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 23 July 2004

No 156 of 2004

MENE001/04CS