

SOUTH AUSTRALIA

**NATIONAL ELECTRICITY (SOUTH AUSTRALIA) REGULATIONS**

## **SUMMARY OF PROVISIONS**

1. Citation
2. Commencement
3. Interpretation
4. NEMMCO must make available copy of Code
5. Classification of provisions of Code and applicable penalties
6. Notice of breach of s. 9 of Law
7. Notice to Code participant under s. 11 of Law
8. Publication of notice of reviewable decision
9. Application by interested person for review of reviewable decision
10. Application by interested person to be made party to proceeding
11. Application by NECA to Tribunal for Part 5 order
12. Summons to appear before or produce documents to Tribunal
13. System operations functions or powers
14. Maximum civil monetary liabilities of NEMMCO or network service providers

### **SCHEDULE**

*Classification of Provisions of Code and Class A Civil Penalties*

### **APPENDIX**

### **LEGISLATIVE HISTORY**

**REGULATIONS UNDER THE NATIONAL ELECTRICITY (SOUTH AUSTRALIA)  
ACT 1996**

*National Electricity (South Australia) Regulations*

being

No. 211 of 1998: *Gaz.* 8 December 1998, p. 1820<sup>1</sup>

as varied by

No. 246 of 1999: *Gaz.* 2 December 1999, p. 3076<sup>2</sup>

<sup>1</sup> Came into operation 13 December 1998: reg. 2.

<sup>2</sup> Came into operation 12 December 1999: reg. 2.

**Citation**

1. These regulations may be cited as the *National Electricity (South Australia) Regulations*.

**Commencement**

2. These regulations will come into operation on the day on which the *National Electricity (South Australia) Act 1996* comes into operation.

**Interpretation**

3. In these regulations—

"Act" means the *National Electricity (South Australia) Act 1996*.

**NEMMCO must make available copy of Code**

4. Pursuant to section 12 of the Act and for the purposes of section 8(2) of the *National Electricity Law*, NEMMCO must make a copy of the Code available for inspection during ordinary working hours on business days at its principal place of business in this jurisdiction.

**Classification of provisions of Code and applicable penalties**

5. Pursuant to section 13 of the Act—

- (a) a provision of the Code set out in the first column of the table in the schedule to these regulations is prescribed as a provision of the class specified in the second column of the table opposite the reference to the provision; and
- (b) in the case of a provision prescribed as a Class A provision, the amount specified in the third column opposite the reference to the provision is prescribed as the civil penalty that NECA may demand from a person who is in breach of that provision.

**Notice of breach of s. 9 of Law**

6. A notice under section 9 of the *National Electricity Law* given by NECA to a person engaged in an activity in contravention of section 9 of the *National Electricity Law* must—

- (a) be in writing; and
- (b) state the name and address of the person to whom the notice is directed; and
- (c) specify the particular provision of section 9 of the *National Electricity Law* that the person is alleged to have contravened; and
- (d) provide details of the contravention; and
- (e) state that criminal proceedings may be instituted against the person and that the person, if convicted of the offence, would be liable to a maximum penalty of \$100 000 and \$10 000 for each day that the contravention continues after the day on which the notice is served on the person.

**Notice to Code participant under s. 11 of Law**

7. A notice under section 11 of the *National Electricity Law* given by NECA to a Code participant who is considered to be in breach of a Class A provision of the Code must—

3.

- (a) be in writing; and
- (b) state the name and address of the Code participant to whom the notice is directed; and
- (c) state that NECA is giving the notice pursuant to section 11(1) of the *National Electricity Law*; and
- (d) specify the Class A provision of the Code that NECA considers the Code participant to be in breach of; and
- (e) provide details of the breach; and
- (f) specify the amount of the civil penalty the Code participant must pay to NECA in respect of the breach and state that it must be paid within 28 days after receipt of the notice; and
- (g) inform the Code participant that the Code participant may apply to the Tribunal for review of NECA's decision to require payment of that specified amount; and
- (h) contain a statement to the effect that if the Code participant does not, within 28 days after receiving the notice—
  - (i) pay the required amount to NECA; or
  - (ii) apply to the Tribunal for review of the decision to require payment of the amount,

NECA may apply to the Tribunal for an order for payment.

#### **Publication of notice of reviewable decision**

**8.** For the purposes of section 43(3) of the *National Electricity Law*, notice of a reviewable decision must be published by making such notice publicly available on an internet site maintained by NECA.

#### **Application by interested person for review of reviewable decision**

**9.** An application under section 43 of the *National Electricity Law* to the Tribunal for review of a reviewable decision must—

- (a) be in writing; and
- (b) state the name and address of the applicant; and
- (c) provide details of the reviewable decision in relation to which the applicant is seeking a review (including whether the reviewable decision was made by NECA or NEMMCO and the provision of the *National Electricity Law*, the *National Electricity Regulations* or the Code under which the body purported to make the decision); and
- (d) in the case of an applicant other than the Minister, provide details of how the applicant's interests are affected by the reviewable decision; and
- (e) provide the applicant's reasons for seeking review by the Tribunal of the decision.

**Application by interested person to be made party to proceeding**

**10.** An application under section 29(2) of the *National Electricity Law* to the Tribunal to be made a party to a proceeding for review of a decision must—

- (a) be in writing; and
- (b) state the name and address of the applicant; and
- (c) provide details of the proceeding to which the applicant is applying to be made a party; and
- (d) provide details of how the applicant's interests are affected by the decision.

**Application by NECA to Tribunal for Part 5 order**

**11.** An application by NECA to the Tribunal for an order under Part 5 of the *National Electricity Law* must—

- (a) be in writing; and
- (b) state that the applicant is NECA; and
- (c) specify the provision of the *National Electricity Law* under which NECA is making the application; and
- (d) provide details of any breach of the Code that NECA considers has occurred (including the name and address of the Code participant alleged to be in breach); and
- (e) specify the nature of the order sought under Part 5.

**Summons to appear before or produce documents to Tribunal**

**12.** (1) A summons issued by the chairperson or a deputy chairperson of the Tribunal—

- (a) requiring a person to appear as a witness before the Tribunal; or
- (b) requiring a person to appear before the Tribunal and to produce a document to the Tribunal,

must include—

- (c) the name and address of the person on whom the summons is to be served; and
- (d) if the summons is for the production of a document—
  - (i) a proper description of the document; and
  - (ii) if the document is to be produced by a person that is a corporation, the name and title of the appropriate officer of the corporation who is to attend and produce the document; and
- (e) the date, time and place of the hearing of the Tribunal at which the person is required to attend and (if required) to produce the document.

5.

(2) The summons will remain in force for a period specified in the summons or, if no period is specified, until the conclusion of the proceeding in relation to which the summons has been issued.

(3) The summons will be taken to be effectively served if—

- (a) a copy of the summons is handed to the person to be served or, where service by that method is refused or obstructed or made impracticable, a copy of the summons is placed as near as practicable to the person and the person is informed of the nature of the summons; or
- (b) a copy of the summons is delivered to a legal practitioner acting for the person to be served and the legal practitioner endorses a statement on the summons to the effect that the legal practitioner accepts service; or
- (c) where the person to be served is a corporation, a copy of the summons is served on the corporation in accordance with the provisions of the *Corporations Law*; or
- (d) a copy of the summons is served in accordance with an agreement made between the parties as to the place and method of service and the person on whom service may be effected; or
- (e) an answer to the summons is filed with the Tribunal; or
- (f) the Tribunal is satisfied that the person to be served has received a copy of the summons.

**System operations functions or powers**

**13.** (1) For the purposes of section 77A of the *National Electricity Law*, the following are prescribed as a system operations function or power:

- (a) a function or power of NEMMCO under the Code performed or exercised as an agent engaged by NEMMCO under clause 4.3.3(a)(1) of the Code;
- (b) a function or power that NEMMCO could have performed or exercised under the Code performed or exercised pursuant to a contractual arrangement with NEMMCO under clause 4.3.3(a)(2) of the Code;
- (c) the provision of information to NEMMCO in relation to the performance or exercise of a function or power referred to in paragraph (a) or (b);
- (d) the provision of information to NEMMCO for the purposes of clause 3.13.3(f), (g), (i) or (n), 4.5.1(b) or (c), 4.6.1(a), 4.6.2 or 4.6.5(a) of the Code;
- (e) the provision of information to NEMMCO for the purposes of clause 3.11.2(b) or 4.3.4(d) of the Code or paragraph 5.2(b) of Schedule 9G of the Code in so far as the compiling of the information involves analysis, judgements or calculations;
- (f) the development of procedures for the purposes of clause 4.8.8(c) or 4.10.1(b) of the Code;

6.

- (g) a function under any of the following clauses of the Code:
- clause 4.3.4(a), (b), (c) or (f)
  - clause 4.6.5(c)
  - clause 4.10.3(a)
  - clause 4.10.5(b)
  - clause 4.11.2(a) or (d);
- (h) the disconnection or reconnection of a facility as contemplated by the power system operating procedures defined in clause 4.10.1(a) of the Code in so far as the disconnection or reconnection is performed by—
- (i) a Transmission Network Service Provider; or
  - (ii) a Distribution Network Service Provider at the direction of a Transmission Network Service Provider;
- (i) the disconnection of a Code participant's facilities under clause 5.9.3(a)(1), (2) or (3) or 5.9.4(a) of the Code;
- (j) the reconnection of a Code participant's facilities under clause 5.9.6(a) or (b) of the Code;
- (k) action taken as directed by NEMMCO under any of the following clauses of the Code:
- clause 5.9.3
  - clause 5.9.4
  - clause 5.9.5
  - clause 5.9.6;
- (l) action taken as required by NEMMCO under paragraph S5.1.14 of Schedule 5.1 of the Code;
- (m) the provision and maintenance of communications systems between a communications interface at a power station and the control centre as required under paragraph S5.2.6.3 of Schedule 5.2 of the Code;
- (n) the provision and maintenance of equipment by means of which routine and emergency control telephone calls may be made as required under paragraph S5.2.6.3(a) of Schedule 5.2 of the Code;
- (o) the provision and maintenance of a telephone link or radio installation as required under paragraph S5.2.6.3(b) of Schedule 5.2 of the Code.

(2) In this regulation—

"**control centre**" has the same meaning as in the Code;

"**Distribution Network Service Provider**" means a person who is registered under the Code as a Network Service Provider in respect of a distribution system (within the meaning of the Code);

"**facility**" has the same meaning as in the Code;

"**power station**" has the same meaning as in the Code;

"**Transmission Network Service Provider**" means a person who is registered under the Code as a Network Service Provider in respect of a transmission system (within the meaning of the Code).

#### **Maximum civil monetary liabilities of NEMMCO or network service providers**

**14.** (1) For the purposes of section 77A(4)(c) of the *National Electricity Law*, maximum amounts are prescribed as follows:

- (a) the maximum amount of NEMMCO's civil monetary liability to each person who suffers loss as a result of a relevant event is, in respect of that event, \$2 million;
- (b) however, if the amount of NEMMCO's civil monetary liability to the person in respect of that event (as affected, if at all, by paragraph (a)) exceeds the prescribed amount, the maximum amount of NEMMCO's civil monetary liability to that person in respect of that event is the prescribed amount;
- (c) the maximum amount of each network service provider's civil monetary liability to each person who suffers loss as a result of a relevant event is, in respect of that event, \$2 million;
- (d) however, if the amount of the network service provider's civil monetary liability to the person in respect of that event (as affected, if at all, by paragraph (c)) exceeds the prescribed amount, the maximum amount of the network service provider's civil monetary liability to that person in respect of that event is the prescribed amount;
- (e) paragraphs (a), (b), (c) and (d) do not apply in relation to civil monetary liability for death or bodily injury;
- (f) the maximum amount of the civil monetary liability of each officer or employee of NEMMCO or a network service provider to each person who suffers loss as a result of a relevant event is, in respect of that event, \$1.

(2) NEMMCO and each network service provider must ensure that the following provisions are complied with in relation to claims against NEMMCO or the network service provider alleging civil monetary liabilities in respect of relevant events:

- (a) the claims must be dealt with in an orderly manner, without bad faith and with reasonable dispatch;

8.

- (b) a register must be maintained containing the following in relation to each claim lodged with it:
- (i) a unique identifier assigned to the claim and linked to each entry in the register relating to the claim;
  - (ii) the date on which the claim was lodged;
  - (iii) the amount of the claim (if stated by the claimant);
  - (iv) the date or dates on which the relevant event to which the claim relates is alleged to have occurred;
  - (v) the date of payment of the claim;
  - (vi) the amount paid on the claim;
- (c) running totals must be kept in the register of—
- (i) the amounts of the claims (as stated by the claimants); and
  - (ii) the amounts paid on the claims;
- (d) the running totals kept in the register must be made available for inspection by the public, during ordinary business hours and at no fee, in each participating jurisdiction in which NEMMCO or the network service provider carries on business;
- (e) a person appointed by NECA must be allowed, at any time during ordinary business hours, to conduct inspections of the register and other records of NEMMCO or the network service provider, and to question officers and employees of NEMMCO or the network service provider, for the sole purpose of checking the accuracy of the register.

(3) In this regulation—

**"prescribed amount"** means—

- (a) in relation to NEMMCO—the amount obtained by deducting from \$100 million the aggregate of the amounts already paid by NEMMCO in discharge of NEMMCO's civil monetary liabilities to persons suffering losses as a result of relevant events;
- (b) in relation to a network service provider—the amount obtained by deducting from \$100 million the aggregate of the amounts already paid by the network service provider in discharge of the network service provider's civil monetary liabilities to persons suffering losses as a result of relevant events;

**"relevant event"** means—

- (a) in relation to NEMMCO—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a function or power of NEMMCO under the *National Electricity Law* or the Code, done or made during the period of 12 months from the prescribed day;
- (b) in relation to a network service provider—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a system operations function or power, done or made during the period of 12 months from the prescribed day;
- (c) in relation to an officer or employee of NEMMCO—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a function or power of NEMMCO under the *National Electricity Law* or the Code;
- (d) in relation to an officer or employee of a network service provider—a negligent act or omission, or a series of connected negligent acts or omissions, in the performance or exercise, or purported performance or exercise, of a system operations function or power.

**SCHEDULE**  
*Classification of Provisions of Code and Class A*  
*Civil Penalties*

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
1.9	C	
2.2.2(c)	C	
2.2.3(d)	C	
2.2.4(c)	C	
2.2.4(d)	C	
2.3.2(c)	C	
2.3.3(c)	C	
2.3.4(c)	C	
2.3.4(h)	A	\$20 000
2.10.2(a)	C	
2.11.2(c)	C	
3.3.1(a)-(b)	B	
3.3.2(a)-(e)	B	
3.3.5	B	
3.3.6(a)-(b)	B	
3.3.7(b)	B	
3.3.13(a)	C	
3.3.16(a)	C	
3.3.18(a)	B	
3.6.3(a)	C	
3.6.3(b)	A	\$10 000
3.6.3(f)(1)	C	
3.6.3(f)(3)	B	
3.6.3(g)	A	\$20 000
3.7.2(d)-(e)	C	
3.7.3(e)-(g)	C	
3.8.2(a)-(b)	A	\$20 000
3.8.2(e)	C	
3.8.4(a)-(d)	C	
3.8.8(b)	C	
3.8.17(e)	A	\$5 000

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
3.8.18(b)-(c)	B	
3.8.19(a)	B	
3.8.19(b)(1)	B	
3.8.20(g)	C	
3.9.6(b)	C	
3.9.7(a)	C	
3.12.2(c)	C	
3.12.5(e)	C	
3.12.9(c)	C	
3.12.11(a)(1)	C	
3.12.11(e)	A	\$5 000
3.12.11(g)	C	
3.12.11(l)	C	
3.13.2(h)	A	\$20 000
3.13.3(b)-(c)	C	
3.13.3(h)-(i)	B	
3.13.3(p)	B	
3.14.3(e)-(f)	B	
3.15.7	C	
3.15.8(b)	C	
3.15.9(f)	C	
3.15.9(i)	C	
3.15.16	C	
3.15.20(a)	C	
3.15.21(h)	C	
3.15.25(a)	B	
4.3.3(c)	A	\$10 000
4.3.3(e)(1)-(3)	C	
4.3.4(a)-(c)	C	
4.3.4(d)	A	\$5 000
4.3.4(f)	C	
4.3.5(a)-(b)	B	
4.4.2(b)	C	
4.4.3	C	

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
4.5.2(b)	B	
4.6.5(c)	C	
4.7.1(a)	B	
4.8.1	C	
4.8.2(a)-(b)	C	
4.8.5(d)	C	
4.8.12(a)	A	\$10 000
4.8.13(a)(1)-(4)	C	
4.8.13(b)	C	
4.8.14(b)	C	
4.8.14(d)-(e)	C	
4.9.2(c)	C	
4.9.3(d)	C	
4.9.4(a)-(f)	C	
4.9.6(a)(1)-(2)	C	
4.9.6(b)(3)	A	\$10 000
4.9.6(b)(4)	C	
4.9.7(a)	A	\$10 000
4.9.7(b)(1)-(4)	A	\$10 000
4.9.8(a)-(c)	C	
4.9.9	A	\$10 000
4.10.2(b)-(c)	C	
4.10.2(d)	A	\$10 000
4.10.3(a)	B	
4.10.4(a)	C	
4.10.4(b)	A	\$5 000
4.11.1(b)-(c)	C	
4.11.2(a)	B	
4.11.2(d)	B	
4.11.3(a)	A	\$5 000
4.11.3(b)(1)-(5)	A	\$5 000
4.11.3(c)-(e)	A	\$5 000
4.11.4(a)-(b)	A	\$5 000
4.11.5(a)	A	\$5 000

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
4.11.5(b)	A	\$10 000
4.12(a)	A	\$5 000
4.12(c)	A	\$5 000
4.12(e)-(f)	A	\$5 000
5.2.2(a)	A	\$10 000
5.2.3(b)-(c)	C	
5.2.3(d)(7)-(12)	B	
5.2.3(e)	B	
5.2.4(a)	C	
5.2.4(b)(6)	C	
5.2.5(a)	C	
5.2.5(b)(6)	C	
5.3.2(b)	A	\$5 000
5.3.3(b)-(c)	A	\$5 000
5.3.5(g)-(h)	B	
5.3.6(a)	B	
5.3.6(c)	B	
5.3.6(h)	B	
5.3.7(e)	A	\$5 000
5.3.8(c)	B	
5.4.2(a)-(b)	B	
5.6.2(a)-(c)	B	
5.6.2(e)-(h)	B	
5.6.2(k)	B	
5.6.2(m)	B	
5.7.1(l)	A	\$10 000
5.7.2(h)	A	\$5 000
5.7.2(i)	A	\$10 000
5.7.3(a)	A	\$5 000
5.7.3(c)	A	\$5 000
5.7.3(d)	B	
5.7.5(a)-(d)	B	
5.7.5(h)	A	\$5 000
5.7.6(d)	B	

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
5.7.7(g)	B	
5.8.1(a)	B	
5.8.1(b)	A	\$5 000
5.8.3(a)-(e)	A	\$5 000
5.8.5(c)	A	\$5 000
5.9.1(a)-(b)	A	\$10 000
5.9.2(a)	A	\$5 000
5.9.3(c)	A	\$10 000
5.9.4(d)	A	\$10 000
5.9.5(b)	A	\$10 000
5.9.6(c)	A	\$10 000
7.2.2(a)	A	\$10 000
7.2.2(b)(2)	A	\$5 000
7.2.3(a)(1)-(2)	A	\$10 000
7.2.3(a)(3)	A	\$5 000
7.2.4(b)	A	\$5 000
7.2.5(a)-(c)	A	\$10 000
7.2.5(d)	A	\$5 000
7.3.1(a)(1)-(4)	A	\$10 000
7.3.1(a)(5)-(7)	A	\$5 000
7.3.1(a)(8)-(9)	A	\$10 000
7.3.2(a)	A	\$5 000
7.3.5(a)	A	\$5 000
7.3.5(f)	A	\$5 000
7.4.1(a)	B	
7.4.2(c)	B	
7.5.2(b)	A	\$10 000
7.6.1(a)	A	\$20 000
7.6.1(e)	B	
7.6.2(a)(1)-(2)	A	\$5 000
7.6.3(d)	B	
7.7(b)	C	
7.8.1(a)	A	\$10 000
7.8.2(a)-(e)	A	\$10 000

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
7.8.2(g)	A	\$10 000
7.8.3(a)	A	\$5 000
7.8.3(b)-(c)	A	\$10 000
7.8.4	C	
7.9.3	A	\$10 000
7.11(a)-(c)	B	
7.12(a)-(b)	B	
7.13(b)	B	
8.2.3	A	\$10 000
8.2.5(g)	C	
8.2.9(c)	C	
8.5.1(a)-(b)	B	
8.5.6(c)	C	
8.5.9(a)	C	
8.5.9(d)	C	
8.6.1(b)(1)-(3)	C	
8.6.1(d)	C	
8.6.1(e)	A	\$5 000
8.6.3	B	
8.7.2(e)	A	\$10 000
8.7.2(f)	C	
9.4.3(b)	C	
9.4.3(d)(1)-(2)	C	
9.4.3(f)	C	
9.4.3(g)	A	\$5 000
9.5.6(c)	C	
9.7.2(c)	A	\$5 000
9.9.2(b)	A	\$10 000
9.9.3(b)	A	\$10 000
9.9.4(b)	A	\$10 000
9.9.5(a)	A	\$10 000
9.9.6(b)	A	\$10 000
9.9.7(b)	A	\$10 000
9.9.8(b)	A	\$10 000

Provision of Code	Class of Provision	Civil Penalty—Class A Provision
9.12.3(c)(1)-(2)	C	
9.12.3(e)(1)-(2)	C	
9.12.3(h)	C	
SCHEDULE 9A1.1		
3(a)(1)-(3)	C	
3(b)-(c)	B	
6(i)	A	\$5 000
7(a)(2)	C	
7(b)	B	
8(a)	C	
SCHEDULE 9A2		
2.1	A	\$5 000
5.1	B	
6.5	B	
6.7	B	
SCHEDULE 9A3		
6.3(a)-(b)	C	
SCHEDULE 9F1		
4(a)-(b)	A	\$5 000
6(a)	A	\$10 000
6(f)	A	\$20 000
SCHEDULE 9G		
5.2(b)	A	\$5 000
5.2(c)	C	
5.5(b)	C	
5.5(i)	C	
5.7	C	
5.8(b)	C	
6.2	C	

17.

## **APPENDIX**

### **LEGISLATIVE HISTORY**

Regulation 14:

inserted by 246, 1999, reg. 3