

South Australia

National Gas (South Australia) (Penalties) Variation Regulations 2021

under the *National Gas (South Australia) Act 2008*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *National Gas (South Australia) (Penalties) Variation Regulations 2021*.

2—Commencement

These regulations come into operation on the day on which section 6 of the *Statutes Amendment (National Energy Laws) (Penalties and Enforcement) Act 2020* 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 *National Gas (South Australia) Regulations*

4—Variation of regulation 3—Interpretation

Regulation 3—after the definition of *NGL* insert:

tier 1 civil penalty provision—see regulation 6(2);

tier 2 civil penalty provision —see regulation 6(3);

tier 3 civil penalty provision—see regulation 6(4).

5—Substitution of regulation 6—Civil penalty provisions

Regulation 6—delete the regulation and substitute:

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 Part 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 Part 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—Insertion of regulation 14B

After regulation 14A insert:

14B—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:

$$P = Pc \times A / B$$

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 first 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

A/B is calculated to the nearest 3 decimal places (and a fourth 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—Substitution of Schedule 3

Schedule 3—delete the Schedule and substitute:

Schedule 3—Civil penalty provisions

Part 1—Tier 1 civil penalty provisions

Provisions of the NGL

Section 56
Section 57
Section 83C
Section 91BE(1)
Section 91BF(1)
Section 91BJ(1)
Section 91BN(5)
Section 91BRD(1)
Section 91BRJ(5)
Section 91BRQ(5)

Section 91BRR(1)

Section 91LB(1)

Section 91MB(6)

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

Section 228K

Section 228L

Provisions of the Rules

Rule 109

Rule 137

Rule 138A(2)

Rule 138A(4)

Rule 150(1)

Rule 150(2)

Rule 151(1)

Rule 151(2)

Rule 152(6)(e)

Rule 156(1)

Rule 156(3)

Rule 156(4)

Rule 156(5)

Rule 157

Rule 158B(1)
Rule 158B(2)
Rule 158B(5)
Rule 165(1)
Rule 165(4)
Rule 387
Rule 390(2)
Rule 399(1)
Rule 399(2)
Rule 399(5)
Rule 399(6)
Rule 410(1)
Rule 414(1)
Rule 418(3)
Rule 435(4)
Rule 436(4)
Rule 440(2)
Rule 440(3)
Rule 442(3)
Rule 442(4)
Rule 442(5)
Rule 445(3)
Rule 446(4)
Rule 470
Rule 474(4)
Rule 478(1)
Rule 485(2)
Rule 487(3)
Rule 488(3)
Rule 488(10)
Rule 542
Rule 543
Rule 543A(1)
Rule 543A(2)
Rule 544

Rule 560(1)

Rule 562(3)

Rule 586(2)

Rule 612(2)

Rule 621(3)

Rule 621(4)

Rule 634(3)

Rule 638(1)

Rule 638(3)

Rule 639(2)

Rule 639(5)

Rule 640(1)

Rule 644(2)

Rule 644(3)

Rule 650(2)

Rule 650(3)

Rule 655(3)

Rule 660(2)

Rule 661(1)

Rule 661(2)

Rule 661(3)

Rule 662(1)

Rule 662(2)

Rule 662(3)

Rule 663(1)

Rule 663(2)

Rule 663(3)

Rule 672(4)

Part 2—Tier 2 civil penalty provisions

Provisions of the NGL

Section 91FC(3)

Section 91FC(4)

Section 91FEA

Section 91FEE

Section 131
Section 168
Section 223
Section 223A
Section 228C

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 135CE(2)
Rule 138
Rule 158A(1)
Rule 158A(2)
Rule 369
Rule 380(1)
Rule 419(7)(b)
Rule 420(6)(b)
Rule 551(1)
Rule 551(3)
Rule 552(1)
Rule 558(1)
Rule 558(2)
Rule 585(8)
Rule 593(4)
Rule 611(10)
Rule 634(4)

Rule 634(5)

Rule 636(1)

Rule 636(4)

Rule 649(1)

Rule 649(2)

Rule 665(1)

Rule 665(6)

Rule 666(1)

Rule 666(2)

Rule 666(4)

Part 3—Tier 3 civil penalty provisions

Provisions of the NGL

Section 228B

Provisions of the Rules

Rule 27(4)

Rule 476(1)

Rule 674(1)

Schedule 5, Part 3, rule 4(4)

Schedule 5, Part 3, rule 5(2)

Schedule 5, Part 3, rule 9(1)

Schedule 5, Part 4, rule 4(5)

Schedule 5, Part 4, rule 5(2)

Schedule 5, Part 4, rule 5(4)

Schedule 5, Part 4, rule 6(1)

Schedule 5, Part 4, rule 6(2)

Schedule 5, Part 5, rule 3(1)

Schedule 5, Part 5, rule 3(2)

Schedule 5, Part 5, rule 3(3)

Made by the Governor

on the unanimous recommendation of the Ministers of the participating jurisdictions and with the advice and consent of the Executive Council
on 27 January 2021

No 6 of 2021