



Australian Energy Market Act 2004

Act No. 99 of 2004 as amended

This compilation was prepared on 14 January 2011
taking into account amendments up to Act No. 103 of 2010

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act relating to the regulation of energy markets, and for related purposes

Part 1—Preliminary

1 Short title *[see Note 1]*

This Act may be cited as the *Australian Energy Market Act 2004*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	30 June 2004
2. Sections 3 to 14	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	30 June 2005

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Definitions

In this Act, unless the contrary intention appears:

Australian Energy Market Commission means the body established by section 5 of the *Australian Energy Market Commission Establishment Act 2004* of South Australia.

Australian Energy Regulator means the body established by section 44AE of the *Competition and Consumer Act 2010*.

coastal waters, in relation to Western Australia, means so much of the scheduled area (within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*) for Western Australia as consists of:

- (a) the territorial sea; and
- (b) the sea that is:
 - (i) on the landward side of the territorial sea; and
 - (ii) not within the limits of Western Australia.

For this purpose, assume that the breadth of the territorial sea of Australia had never been determined or declared to be greater than 3 nautical miles, but had continued to be 3 nautical miles.

Commonwealth Minister means the Minister administering this Act.

Economic Regulation Authority means the body established by section 4 of the *Economic Regulation Authority Act 2003* of Western Australia.

federal tax-exempt matter has the meaning given by subsection 13D(2).

National Electricity (Commonwealth) Law means the provisions applying under section 6.

National Electricity (Commonwealth) Law and Regulations means:

- (a) the National Electricity (Commonwealth) Law; and
- (b) the National Electricity (Commonwealth) Regulations.

National Electricity (Commonwealth) Regulations means the provisions applying under section 7.

National Gas (Commonwealth) Law means the provisions applying under section 11A.

National Gas (Commonwealth) Law and Regulations means:

- (a) the National Gas (Commonwealth) Law; and
- (b) the National Gas (Commonwealth) Regulations.

National Gas (Commonwealth) Regulations means the provisions applying under section 11B.

natural gas has the same meaning as in the National Gas (Commonwealth) Law.

offshore area, in relation to a State or Territory, has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

offshore Western Australian pipeline means a pipeline (within the meaning of the National Gas (Commonwealth) Law) for transporting natural gas from one or more points of origination in the offshore area of Western Australia to one or more points of termination in:

- (a) Western Australia; or
- (b) the coastal waters of Western Australia;

but does not include a pipeline any part of which is situated in another State or in a Territory.

Offshore Western Australian Pipelines (Commonwealth) Law means the provisions applying under section 11J.

Offshore Western Australian Pipelines (Commonwealth) Law and Regulations means:

- (a) the Offshore Western Australian Pipelines (Commonwealth) Law; and
- (b) the Offshore Western Australian Pipelines (Commonwealth) Regulations.

Offshore Western Australian Pipelines (Commonwealth) Regulations means the provisions applying under section 11K.

prescribed uniform energy law means a uniform energy law covered by paragraph (b) of the definition of ***uniform energy law***.

South Australian Electricity Legislation means:

- (a) the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia as in force from time to time; and
- (b) any regulations, as in force from time to time, made under Part 4 of that Act.

The reference in paragraph (a) to the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996*

of South Australia as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

South Australian Gas Legislation means:

- (a) the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia as in force from time to time; and
- (b) any regulations, as in force from time to time, made under Part 3 of that Act.

The reference in paragraph (a) to the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

State/Territory electricity law means:

- (a) the South Australian Electricity Legislation as it applies as a law of South Australia; or
- (b) the South Australian Electricity Legislation as it applies as a law of another State; or
- (c) the South Australian Electricity Legislation as it applies as a law of the Australian Capital Territory or the Northern Territory.

State/Territory energy law means:

- (a) a State/Territory electricity law; or
- (b) a State/Territory gas law.

State/Territory gas law means:

- (a) the South Australian Gas Legislation as it applies as a law of South Australia; or
- (b) the South Australian Gas Legislation as it applies as a law of another State; or
- (c) the South Australian Gas Legislation as it applies as a law of the Australian Capital Territory or the Northern Territory; or
- (d) the Western Australian Gas Legislation as it applies as a law of Western Australia.

State/Territory tax-exempt matter has the meaning given by subsection 13E(2).

uniform energy law means:

- (a) the South Australian Electricity Legislation; or

- (aa) the South Australian Gas Legislation; or
- (ab) the Western Australian Gas Legislation; or
- (b) provisions of a law of a State or Territory that:
 - (i) relate to energy; and
 - (ii) are prescribed by the regulations for the purposes of this subparagraph;being those provisions as in force from time to time.

Western Australian Gas Legislation means:

- (a) the National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) as in force from time to time; and
- (b) any regulations, as in force from time to time, made under Part 3 of that Act.

The reference in paragraph (a) to the National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

4 Crown to be bound

Each of the following:

- (a) this Act;
- (b) the National Electricity (Commonwealth) Law and Regulations;
- (c) the National Gas (Commonwealth) Law and Regulations;
- (d) the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations;
- (e) a prescribed uniform energy law applied as a law of the Commonwealth;

binds the Crown in each of its capacities.

5 Extra-territorial operation

It is the intention of the Parliament that the operation of:

- (a) this Act; and
- (b) the National Electricity (Commonwealth) Law and Regulations; and
- (c) the National Gas (Commonwealth) Law and Regulations; and
- (d) the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations; and

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- (e) a prescribed uniform energy law applied as a law of the Commonwealth;

should, as far as possible, include operation in relation to the following:

- (f) things situated in or outside Australia;
- (g) acts, transactions and matters done, entered into or occurring in or outside Australia;
- (h) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of a State, a Territory or a foreign country.

Part 2—Application of energy laws as laws of the Commonwealth

Division 1—Electricity laws

6 Application of National Electricity Law in offshore areas etc.

- (1) The National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia as in force from time to time:
 - (a) applies as a law of the Commonwealth:
 - (i) in the offshore area of each State and Territory; and
 - (ii) in any other places, to any circumstances, or to any persons, that are prescribed by regulations for the purpose of this subparagraph; and
 - (b) so applying may be referred to as the *National Electricity (Commonwealth) Law*.
- (2) The reference in subsection (1) to the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

7 Application of National Electricity Regulations in offshore areas etc.

Regulations, as in force from time to time, made under Part 4 of the *National Electricity (South Australia) Act 1996* of South Australia:

- (a) apply as regulations in force for the purposes of the National Electricity (Commonwealth) Law; and
- (b) so applying may be referred to as the *National Electricity (Commonwealth) Regulations*.

9 Functions and powers of the Australian Energy Market Commission under the National Electricity (Commonwealth) Law and Regulations

- (1) The Australian Energy Market Commission has the functions and powers conferred on it under the National Electricity (Commonwealth) Law and Regulations.

- (2) Any delegation by the Australian Energy Market Commission is taken to extend to, and have effect for the purposes of, the National Electricity (Commonwealth) Law and Regulations.

10 Functions and powers of the Australian Energy Regulator under the National Electricity (Commonwealth) Law and Regulations

- (1) The Australian Energy Regulator has the functions and powers conferred on it under the National Electricity (Commonwealth) Law and Regulations.
- (2) Any delegation by the Australian Energy Regulator is taken to extend to, and have effect for the purposes of, the National Electricity (Commonwealth) Law and Regulations.

10A Functions and powers of the Australian Competition Tribunal under the National Electricity (Commonwealth) Law and Regulations

The Australian Competition Tribunal has the functions and powers conferred on it under the National Electricity (Commonwealth) Law and Regulations.

10B Functions and powers of the Commonwealth Minister under the National Electricity (Commonwealth) Law and Regulations

- (1) The Commonwealth Minister has the functions and powers conferred on him or her under the National Electricity (Commonwealth) Law and Regulations.
- (2) Any delegation by the Commonwealth Minister is taken to extend to, and have effect for the purposes of, the National Electricity (Commonwealth) Law and Regulations.

11 Interpretation of some expressions in the National Electricity (Commonwealth) Law and Regulations etc.

- (1) In the National Electricity (Commonwealth) Law and Regulations:

Court means the Federal Court of Australia.

Legislature of this jurisdiction means the Legislature of the Commonwealth.

magistrate means a Federal Magistrate of the Federal Magistrates Court.

the jurisdiction or *this jurisdiction* means the Commonwealth.

the National Electricity Law or *this Law* means the National Electricity (Commonwealth) Law.

- (2) The *Acts Interpretation Act 1915* of South Australia, and other Acts of South Australia, do not apply to:
- (a) the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia applied as a law of the Commonwealth; or
 - (b) any regulations made under Part 4 of that Act applied as regulations for the purposes of the National Electricity (Commonwealth) Law.
- (3) The reference in paragraph (2)(a) to the National Electricity Law set out in the Schedule to the *National Electricity (South Australia) Act 1996* of South Australia includes a reference to any Rules or other instruments made or having effect under that Law.

Division 2—Gas laws

Subdivision A—General

11A Application of National Gas Law in offshore areas, certain Territories etc.

- (1) The National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia as in force from time to time:
 - (a) applies as a law of the Commonwealth:
 - (i) in the offshore area of each State and the Northern Territory; and
 - (ii) in the offshore area of Norfolk Island; and
 - (iii) in the offshore area of the Territory of Ashmore and Cartier Islands; and
 - (iv) in the Territory of Christmas Island; and
 - (v) in the offshore area of the Territory of Christmas Island; and
 - (vi) in the Territory of Cocos (Keeling) Islands; and
 - (vii) in the offshore area of the Territory of Cocos (Keeling) Islands; and
 - (viii) in the offshore area of the Territory of Heard Island and McDonald Islands; and
 - (ix) in any other places, to any circumstances, or to any persons, that are prescribed by regulations for the purpose of this subparagraph; and
 - (b) so applying may be referred to as the *National Gas (Commonwealth) Law*.
- (2) The National Gas (Commonwealth) Law does not apply in relation to an offshore Western Australian pipeline.
- (3) The reference in subsection (1) to the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

11B Application of National Gas Regulations in offshore areas, certain Territories etc.

- (1) Regulations, as in force from time to time, made under Part 3 of the *National Gas (South Australia) Act 2008* of South Australia:
 - (a) apply as regulations in force for the purposes of the National Gas (Commonwealth) Law; and
 - (b) so applying may be referred to as the *National Gas (Commonwealth) Regulations*.
- (2) The National Gas (Commonwealth) Regulations do not apply in relation to an offshore Western Australian pipeline.

11C Functions and powers of the Australian Energy Market Commission under the National Gas (Commonwealth) Law and Regulations

- (1) The Australian Energy Market Commission has the functions and powers conferred on it under the National Gas (Commonwealth) Law and Regulations.
- (2) Any delegation by the Australian Energy Market Commission is taken to extend to, and have effect for the purposes of, the National Gas (Commonwealth) Law and Regulations.

11D Functions and powers of the Australian Energy Regulator under the National Gas (Commonwealth) Law and Regulations

- (1) The Australian Energy Regulator has the functions and powers conferred on it under the National Gas (Commonwealth) Law and Regulations.
- (2) Any delegation by the Australian Energy Regulator is taken to extend to, and have effect for the purposes of, the National Gas (Commonwealth) Law and Regulations.

11E Functions and powers of the National Competition Council under the National Gas (Commonwealth) Law and Regulations

The National Competition Council has the functions and powers conferred on it under the National Gas (Commonwealth) Law and Regulations.

11F Functions and powers of the Australian Competition Tribunal under the National Gas (Commonwealth) Law and Regulations

The Australian Competition Tribunal has the functions and powers conferred on it under the National Gas (Commonwealth) Law and Regulations.

11G Functions and powers of the Commonwealth Minister under the National Gas (Commonwealth) Law and Regulations

- (1) The Commonwealth Minister has the functions and powers conferred on him or her under the National Gas (Commonwealth) Law and Regulations.
- (2) Any delegation by the Commonwealth Minister is taken to extend to, and have effect for the purposes of, the National Gas (Commonwealth) Law and Regulations.

11H Interpretation of some expressions in the National Gas (Commonwealth) Law and Regulations etc.

- (1) In the National Gas (Commonwealth) Law and Regulations:

Court means the Federal Court of Australia.

designated Minister means the Commonwealth Minister.

magistrate means a Federal Magistrate of the Federal Magistrates Court.

- (2) The *Acts Interpretation Act 1915* of South Australia, and other Acts of South Australia, do not apply to:
 - (a) the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia applied as a law of the Commonwealth; or
 - (b) any regulations made under Part 3 of that Act applied as regulations for the purposes of the National Gas (Commonwealth) Law.
- (3) The reference in paragraph (2)(a) to the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia includes a reference to any Rules or other instruments made or having effect under that Law.

Subdivision B—Offshore Western Australian pipelines

11J Application of Offshore Western Australian Pipelines Law in offshore area of Western Australia

- (1) The National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) as in force from time to time:
 - (a) applies as a law of the Commonwealth in relation to so much of an offshore Western Australian pipeline as is situated in the offshore area of Western Australia; and
 - (b) so applying may be referred to as the *Offshore Western Australian Pipelines (Commonwealth) Law*.
- (2) The reference in subsection (1) to the National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) as in force from time to time includes a reference to any Rules or other instruments, as in force from time to time, made or having effect under that Law.

11K Application of Offshore Western Australian Pipelines Regulations in offshore area of Western Australia

- Regulations, as in force from time to time, made under Part 3 of the *National Gas Access (WA) Act 2009* of Western Australia:
- (a) apply as regulations in force for the purposes of the Offshore Western Australian Pipelines (Commonwealth) Law; and
 - (b) so applying may be referred to as the *Offshore Western Australian Pipelines (Commonwealth) Regulations*.

11L Functions and powers of the Australian Energy Market Commission under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

- (1) The Australian Energy Market Commission has the functions and powers conferred on it under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.
- (2) Any delegation by the Australian Energy Market Commission is taken to extend to, and have effect for the purposes of, the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.

11M Functions and powers of the Economic Regulation Authority under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

- (1) The Economic Regulation Authority has the functions and powers conferred on it under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.
- (2) Any delegation by the Economic Regulation Authority is taken to extend to, and have effect for the purposes of, the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.

11N Functions and powers of the National Competition Council under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

The National Competition Council has the functions and powers conferred on it under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.

11P Functions and powers of the Australian Competition Tribunal under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

The Australian Competition Tribunal has the functions and powers conferred on it under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.

11Q Functions and powers of a Western Australian Minister under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

- (1) A Minister of Western Australia has the functions and powers conferred on him or her under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.
- (2) Any delegation by such a Minister of Western Australia is taken to extend to, and have effect for the purposes of, the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.

11R Interpretation of some expressions in the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations etc.

- (1) In determining who is the relevant Minister for the purposes of the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations, an offshore Western Australian pipeline is taken to be situated wholly within Western Australia.
- (2) The *Interpretation Act 1984* of Western Australia, and other Acts of Western Australia, do not apply to:
 - (a) the National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) applied as a law of the Commonwealth; or
 - (b) any regulations made under Part 3 of that Act applied as regulations for the purposes of the Offshore Western Australian Pipelines (Commonwealth) Law.
- (3) The reference in paragraph (2)(a) to the National Gas Access (Western Australia) Law (within the meaning of the *National Gas Access (WA) Act 2009* of Western Australia) includes a reference to any Rules or other instruments made or having effect under that Law.

11S Inter-governmental arrangements relating to the administration of the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations

- (1) The Commonwealth may enter into arrangements with Western Australia for the effective administration of the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.
- (2) Without limiting subsection (1), such an arrangement may provide for the exercise of powers, or the performance of functions or duties, by an officer or authority of Western Australia in relation to offshore Western Australian pipelines.

Division 3—Prescribed uniform energy laws

12 Application of other uniform energy laws in offshore areas

A prescribed uniform energy law:

- (a) applies as a law of the Commonwealth in the offshore area of each State and Territory; and
- (b) so applying may be referred to by the name given to it by the regulations.

Part 3—Miscellaneous

13 Application of the *Administrative Decisions (Judicial Review) Act 1977*

- (1) This section applies in respect of any decision under:
 - (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Electricity (Commonwealth) Regulations; or
 - (c) the National Gas (Commonwealth) Law; or
 - (ca) the National Gas (Commonwealth) Regulations; or
 - (cb) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (cc) the Offshore Western Australian Pipelines (Commonwealth) Regulations; or
 - (d) a prescribed uniform energy law applied as a law of the Commonwealth.
- (2) For the purposes of applying the *Administrative Decisions (Judicial Review) Act 1977* to such a decision, that decision is taken to be a decision made under an enactment within the meaning of the *Administrative Decisions (Judicial Review) Act 1977*.

13A Commonwealth consent to conferral of functions etc. on Commonwealth Minister

- (1) A State/Territory energy law may confer functions or powers, or impose duties, on the Commonwealth Minister for the purposes of that law.

Note 1: Section 13C sets out when such a law imposes a duty on the Commonwealth Minister.

Note 2: Functions and powers conferred, and duties imposed, on the National Competition Council by a State/Territory energy law are dealt with under section 29BA of the *Competition and Consumer Act 2010*.

Note 3: Functions and powers conferred, and duties imposed, on the Australian Energy Regulator by a State/Territory energy law are dealt with under section 44AI of the *Competition and Consumer Act 2010*.

Note 4: Functions and powers conferred, and duties imposed, on the Australian Competition Tribunal by a State/Territory energy law are dealt with under section 44ZZM of the *Competition and Consumer Act 2010*.

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- (2) Subsection (1) does not authorise the conferral of a function or power, or the imposition of a duty, by a State/Territory energy law to the extent to which:
 - (a) the conferral or imposition, or the authorisation, would contravene any constitutional doctrines restricting the duties that may be imposed on the Commonwealth Minister; or
 - (b) the authorisation would otherwise exceed the legislative power of the Commonwealth.
- (3) The Commonwealth Minister cannot perform a duty or function, or exercise a power, under a State/Territory energy law unless the conferral of the function or power, or the imposition of the duty, is in accordance with an agreement between the Commonwealth and the State or Territory concerned.

13B How duty is imposed

Application

- (1) This section applies if a State/Territory energy law purports to impose a duty on the Commonwealth Minister.

Note: Section 13C sets out when such a law imposes a duty on the Commonwealth Minister.

State or Territory legislative power sufficient to support duty

- (2) The duty is taken not to be imposed by this Act (or any other law of the Commonwealth) to the extent to which:
 - (a) imposing the duty is within the legislative powers of the State or Territory concerned; and
 - (b) imposing the duty by the law of the State or Territory is consistent with the constitutional doctrines restricting the duties that may be imposed on the Commonwealth Minister.

Note: If this subsection applies, the duty will be taken to be imposed by force of the law of the State or Territory (the Commonwealth having consented under section 13A to the imposition of the duty by that law).

Commonwealth legislative power sufficient to support duty but State or Territory legislative powers are not

- (3) If, to ensure the validity of the purported imposition of the duty, it is necessary that the duty be imposed by a law of the Commonwealth (rather than by the law of the State or Territory), the duty is taken to be imposed by this Act to the extent necessary to ensure that validity.

- (4) If, because of subsection (3), this Act is taken to impose the duty, it is the intention of the Parliament to rely on all powers available to it under the Constitution to support the imposition of the duty by this Act.
- (5) The duty is taken to be imposed by this Act in accordance with subsection (3) only to the extent to which imposing the duty:
 - (a) is within the legislative powers of the Commonwealth; and
 - (b) is consistent with the constitutional doctrines restricting the duties that may be imposed on the Commonwealth Minister.
- (6) Subsections (1) to (5) do not limit section 13A.

13C When a State/Territory energy law imposes a duty

For the purposes of sections 13A and 13B, a State/Territory energy law *imposes a duty* on the Commonwealth Minister if:

- (a) the law confers a function or power on the Commonwealth Minister; and
- (b) the circumstances in which the function or power is conferred give rise to an obligation on the Commonwealth Minister to perform the function or to exercise the power.

13D No Commonwealth tax consequences for certain transfers of assets and liabilities etc.

- (1) No consequences arise, for the purposes of a prescribed law of the Commonwealth relating to taxation, in respect of:
 - (a) a federal tax-exempt matter; or
 - (b) anything done (including, for example, a transaction entered into or an instrument or document made, executed, lodged or given) because of, or arising out of, a federal tax-exempt matter.
- (2) In this Act:

federal tax-exempt matter means a transfer of assets or liabilities that the Commonwealth Minister and the Treasurer are satisfied is made:

- (a) for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas in breach of:
 - (i) a State/Territory gas law; or
 - (ii) the National Gas (Commonwealth) Law; or
 - (iii) the National Gas (Commonwealth) Regulations; or

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- (iv) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (v) the Offshore Western Australian Pipelines (Commonwealth) Regulations; or
 - (b) for the purpose of the separation of certain activities from other activities of a person as required by:
 - (i) a State/Territory gas law; or
 - (ii) the National Gas (Commonwealth) Law; or
 - (iii) the National Gas (Commonwealth) Regulations; or
 - (iv) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (v) the Offshore Western Australian Pipelines (Commonwealth) Regulations;
- and for no other purpose.
- (3) In paragraph (a) of the definition of *federal tax-exempt matter* in subsection (2), *natural gas* has the same meaning as in the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia.

13E Exemption from State and Territory taxes

- (1) Any stamp duty or other tax imposed by or under a law of a State or Territory is not payable in relation to:
- (a) a State/Territory tax-exempt matter; or
 - (b) anything done (including, for example, a transaction entered into or an instrument or document made, executed, lodged or given) because of, or arising out of, a State/Territory tax-exempt matter.
- (2) In this Act:
- State/Territory tax-exempt matter* means a transfer of assets or liabilities that the Commonwealth Minister is satisfied is made:
- (a) for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas in breach of:
 - (i) the National Gas (Commonwealth) Law; or
 - (ii) the National Gas (Commonwealth) Regulations; or
 - (iii) the Offshore Western Australian Pipelines (Commonwealth) Law; or

- (iv) the Offshore Western Australian Pipelines (Commonwealth) Regulations; or
- (b) for the purpose of the separation of certain activities from other activities of a person as required by:
 - (i) the National Gas (Commonwealth) Law; or
 - (ii) the National Gas (Commonwealth) Regulations; or
 - (iii) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (iv) the Offshore Western Australian Pipelines (Commonwealth) Regulations;
 and for no other purpose.
- (3) In paragraph (a) of the definition of *State/Territory tax-exempt matter* in subsection (2), *natural gas* has the same meaning as in the National Gas Law set out in the Schedule to the *National Gas (South Australia) Act 2008* of South Australia.

13F Legislative instruments

- (1) To avoid doubt, an instrument made or having effect under:
 - (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Electricity (Commonwealth) Regulations; or
 - (c) a prescribed uniform energy law applied as a law of the Commonwealth;
 is taken not to be, and never to have been, a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (2) To avoid doubt, an instrument made or having effect under:
 - (a) the National Gas (Commonwealth) Law; or
 - (b) the National Gas (Commonwealth) Regulations; or
 - (c) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (d) the Offshore Western Australian Pipelines (Commonwealth) Regulations;
 is taken not to be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

13G Jurisdiction of the Federal Court

- (1) The Federal Court is invested with jurisdiction with respect to civil and criminal matters arising under:

Section 13H

- (a) the National Electricity (Commonwealth) Law and Regulations;
or
 - (b) the National Gas (Commonwealth) Law and Regulations.
- (2) If a provision of:
- (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Gas (Commonwealth) Law;
- whether expressly or by implication, authorises a civil or criminal proceeding to be instituted in the Federal Court in relation to a matter, that provision is taken to vest the Court with jurisdiction in that matter.

13H Jurisdiction of the Supreme Court of Western Australia

- (1) The Supreme Court of Western Australia is invested with jurisdiction with respect to civil and criminal matters arising under the Offshore Western Australian Pipelines (Commonwealth) Law and Regulations.
- (2) If a provision of the Offshore Western Australian Pipelines (Commonwealth) Law, whether expressly or by implication, authorises a civil or criminal proceeding to be instituted in the Supreme Court of Western Australia in relation to a matter:
 - (a) that provision is taken to vest the Court with jurisdiction in that matter; and
 - (b) the jurisdiction so vested is not limited by any limits to which any other jurisdiction of the Court may be subject.

13J Jurisdiction of a State or Territory court under a prescribed uniform energy law

- (1) The courts of a State or Territory are invested with jurisdiction with respect to civil and criminal matters arising under a prescribed uniform energy law of the State or Territory applied as a law of the Commonwealth.
- (2) If a provision of a prescribed uniform energy law of a State or Territory applied as a law of the Commonwealth, whether expressly or by implication, authorises a civil or criminal proceeding to be instituted in a court of the State or Territory in relation to a matter:
 - (a) that provision is taken to vest the court with jurisdiction in that matter; and
 - (b) the jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court may be subject.

14 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Regulations may be made providing for the interpretation of a uniform energy law applied as a law of the Commonwealth. In particular, the regulations may provide that the following do not apply to the uniform energy law applied as a law of the Commonwealth:
 - (a) any law, or any provision of a law, of the Commonwealth, a State or Territory, being a law relating to the interpretation of laws;
 - (b) any other law, or any other provision of a law, of the Commonwealth, a State or Territory.

- (3) The regulations may modify or adapt any provision of:
 - (a) the National Electricity (Commonwealth) Law; or
 - (b) the National Electricity (Commonwealth) Regulations; or
 - (c) the National Gas (Commonwealth) Law; or
 - (ca) the National Gas (Commonwealth) Regulations; or
 - (cb) the Offshore Western Australian Pipelines (Commonwealth) Law; or
 - (cc) the Offshore Western Australian Pipelines (Commonwealth) Regulations; or
 - (d) a prescribed uniform energy law applied as a law of the Commonwealth;as it applies as a provision of a law of the Commonwealth.

Table of Acts**Notes to the *Australian Energy Market Act 2004*****Note 1**

The *Australian Energy Market Act 2004* as shown in this compilation comprises Act No. 99, 2004 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Australian Energy Market Act 2004</i>	99, 2004	30 June 2004	Ss. 3–14: 30 June 2005 Remainder: Royal Assent	
<i>Offshore Petroleum (Repeals and Consequential Amendments) Act 2006</i>	17, 2006	29 Mar 2006	Schedule 2 (items 2–5): 1 July 2008 (see s. 2(1) and F2008L02273)	—
as amended by				
<i>Australian Energy Market Amendment (Gas Legislation) Act 2007</i>	45, 2007	10 Apr 2007	Schedule 2 (item 9): (see 45, 2007 below)	—
<i>Energy Legislation Amendment Act 2006</i>	60, 2006	22 June 2006	Schedule 2 (items 2–11): (a)	—
<i>Australian Energy Market Amendment (Gas Legislation) Act 2007</i>	45, 2007	10 Apr 2007	Schedule 1 (items 2–50): 1 July 2008 (see F2008L02164) Schedule 2 (items 1–4): (b) Schedule 2 (item 9): (b)	—
as amended by				
<i>Australian Energy Market Amendment (Minor Amendments) Act 2008</i>	60, 2008	30 June 2008	Schedule 3: 1 July 2008 (see s. 2(1) and F2008L02164)	—
<i>Australian Energy Market Amendment (Minor Amendments) Act 2008</i>	60, 2008	30 June 2008	Schedule 2: (c)	—
<i>Offshore Petroleum Amendment (Greenhouse Gas Storage) Act 2008</i>	117, 2008	21 Nov 2008	Schedule 3 (items 1, 2): 22 Nov 2008	—
<i>Australian Energy Market Amendment (AEMO and Other Measures) Act 2009</i>	17, 2009	26 Mar 2009	Schedule 1 (items 2–6): 27 Mar 2009	—
<i>Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010</i>	103, 2010	13 July 2010	Schedule 6 (items 1, 25, 26): 1 Jan 2011	—

Act Notes

(a) Subsection 2(1) (item 4) of the *Energy Legislation Amendment Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
4. Schedule 2, items 2 to 11	Immediately after the commencement of sections 3 to 14 of the <i>Australian Energy Market Act 2004</i> .	30 June 2005

(b) Subsection 2(1) (items 3 and 4) of the *Australian Energy Market Amendment (Gas Legislation) Act 2007* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 2, items 1 to 8	The later of: (a) immediately after the commencement of Schedule 1; and (b) immediately after the commencement of Chapter 2 of the <i>Offshore Petroleum Act 2006</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2008 (paragraph (b) applies)
4. Schedule 2, item 9	Immediately after the commencement of Chapter 2 of the <i>Offshore Petroleum Act 2006</i> . However, the provision(s) do not commence at all if Chapter 2 of the <i>Offshore Petroleum Act 2006</i> commences before the commencement of Schedule 1 to this Act.	1 July 2008

Act Notes

(c) Subsection 2(1) (item 2) of the *Australian Energy Market Amendment (Minor Amendments) Act 2008* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedules 1 and 2	Immediately after the commencement of Schedule 1 to the <i>Australian Energy Market Amendment (Gas Legislation) Act 2007</i> .	1 July 2008 (see F2008L02164)

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 3.....	am. Nos. 17 and 60, 2006; No. 45, 2007; Nos. 60 and 117, 2008; No. 17, 2009; No. 103, 2010
Ss. 4, 5.....	rs. No. 45, 2007
Part 2	
Division 1	
Heading to Div. 1 of Part 2	ad. No. 45, 2007
Heading to s. 6	am. No. 17, 2006
S. 6.....	am. Nos. 17 and 60, 2006; No. 45, 2007
Heading to s. 7	am. No. 17, 2006
S. 8.....	am. No. 60, 2006 rep. No. 45, 2007
Heading to s. 9.....	am. No. 45, 2007
S. 9.....	am. No. 45, 2007
Heading to s. 10.....	am. No. 45, 2007
S. 10.....	am. No. 45, 2007
Ss. 10A, 10B	ad. No. 45, 2007
Heading to s. 11	am. No. 45, 2007
S. 11.....	am. No. 60, 2006; No. 45, 2007
Division 2	
Div. 2 of Part 2.....	ad. No. 45, 2007
Subdivision A	
Heading to s. 11A.....	am. No. 45, 2007
S. 11A	ad. No. 45, 2007 am. No. 45, 2007; No. 60, 2008
Heading to s. 11B.....	am. No. 45, 2007
S. 11B	ad. No. 45, 2007 am. No. 60, 2008
Ss. 11C–11G.....	ad. No. 45, 2007
S. 11H	ad. No. 45, 2007 am. No. 60, 2008
Subdivision B	
Heading to s. 11J	am. No. 45, 2007
S. 11J.....	ad. No. 45, 2007 am. No. 45, 2007; No. 60, 2008; No. 17, 2009
Heading to s. 11K.....	am. No. 45, 2007
S. 11K	ad. No. 45, 2007 am. No. 60, 2008; No. 17, 2009
Ss. 11L–11N	ad. No. 45, 2007
Ss. 11P, 11Q.....	ad. No. 45, 2007

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 11R	ad. No. 45, 2007 am. No. 60, 2008; No. 17, 2009
S. 11S	ad. No. 45, 2007
Division 3	
Heading to Div. 3 of Part 2	ad. No. 45, 2007
Heading to s. 12	am. No. 17, 2006
S. 12.....	am. No. 17, 2006; No. 45, 4007
Part 3	
S. 13.....	am. No. 45, 2007
S. 13A	ad. No. 45, 2007
Notes 2–4 to s. 13A(1)	am. No. 103, 2010
Ss. 13B, 13C	ad. No. 45, 2007
Ss. 13D, 13E	ad. No. 45, 2007 am. No. 60, 2008
Ss. 13F–13H	ad. No. 45, 2007
S. 13J.....	ad. No. 45, 2007
S. 14.....	am. No. 45, 2007