

Legislation that allows short-term gas market interventions and sets out a framework for long term economic regulation of gas markets has sailed through the Australian parliament in a matter of days.

The Treasury Laws Amendment (Energy Price Relief Plan) Act 2022 (Cth) (Act) took effect on 17 December 2022. The Act amends the Competition and Consumer Act 2010 (Cth) (CCA) by introducing a framework to allow the Commonwealth to regulate domestic gas markets. The Act also amends the Federal Financial Relations Act 2009 (Cth) to provide for an appropriation of AU\$1.5 billion to be paid to the states and territories to provide temporary relief on energy bills for eligible households and small businesses.

The framework in the new Part IVBB of the CCA is underpinned by two gas market instruments – a gas market code and gas market emergency price orders. The government has announced its intention to make a gas market emergency price order in December 2022. The Competition and Consumer (Gas Market Emergency Price) Order 2022 (Order), when effective, will impose a gas price cap of AU\$12 per gigajoule during a 12-month period starting on the day when the Order commences. The responsible minister must consult the Australian Competition and Consumer Commission (ACCC) before any order is made. The ACCC has been granted power to require the production of information and documents, investigate non-compliance and impose sanctions. Contraventions of Part IVBB or a gas market instrument will incur civil penalties, infringement notices, warning notices and orders under Part IV of the CCA.

While it is possible to assess the impact of the Order on various market participants, a new mandatory gas market code, expected in February 2023, has not yet been made public. A gas market code may prescribe a broad range of matters relating to the supply and acquisition of gas commodities, such as:

- Regulating dealings between persons who supply or acquire a gas commodity, including negotiations between them
- Dealing with and resolving disputes or complaints between persons who supply or acquire a gas commodity

Gas commodity is broadly defined to include liquefied natural gas (LNG) as well as goods and services relating to supply and acquisition of gas. Notably, gas market conduct is defined to cover conduct that occurs outside Australia, and the Act extends to acts, omissions, matters and things outside Australia and applies to exporting gas commodity from Australia.

A general power of the regulator to direct supply of gas at whatever price and on whatever terms the government sets, which was contained in the exposure draft of the legislation, did not make its way into the Act. It has been replaced with the similar power granted to an arbiter in a dispute resolution context.

If you would like to further understand how these changes might affect your business, please contact one of our team for further advice.

Contacts



Tatiana Gotvig

Partner, Sydney
T +61 2 8248 7814
E tatiana.gotvig@squirepb.com



Simon Adams

Partner, Perth
T +61 8 9429 7431
E simon.adams@squirepb.com



Caroline Brown

Partner, Perth
T +61 8 9429 7432
E caroline.brown@squirepb.com



Natalie Lonergan

Partner, Sydney
T +61 2 8248 7896
E natalie.lonergan@squirepb.com