

COMPLIANCE SYSTEMS AND REPORTING

Water Industry Guideline No. 1 (WG1/2)

July 2013



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The Essential Services Commission of South Australia is the independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. The Commission's primary objective is the *protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services*. For more information, please visit www.escosa.sa.gov.au.

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1 INTRODUCTION

1.1 *Role of the Guideline*

- 1.1.1 The Essential Services Commission of South Australia (**Commission**) is established under the Essential Services Commission Act 2002 (SA) (**ESC Act**) as a regulator of certain essential services in South Australia, with a primary objective of protecting the long-term interests of South Australian consumers with respect to the price, quality and reliability of those essential services.
- 1.1.2 Under the **ESC Act**, the **Commission** is given specific functions, including:
 - (a) to monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts (section 5(b)); and
 - (b) in appropriate cases, to prosecute offences against the **ESC Act** or a relevant industry regulation Act (section 5(i)).
- 1.1.3 In furtherance of those functions, pursuant to section 8 of the **ESC Act** the **Commission** has made this Guideline to specify requirements for **licensees** in relation to:
 - (a) the establishment and maintenance of appropriate and robust compliance systems and processes in respect of standards and conditions of service and supply in the water industry;
 - (b) the reporting of information to the **Commission** to assist in the performance of its compliance and enforcement statutory functions under the **ESC Act** and the **Water Industry Act**; and
 - (c) operational and compliance audits in respect of the operations carried out by **licensees** under the authority of their **licences**.

1.2 *Application*

- 1.2.1 This Guideline applies to all **licensees** issued with a **licence** pursuant to Part 4 of the **Water Industry Act** unless the **Commission** has agreed to alternative reporting arrangements.
- 1.2.2 This Guideline is a minimum requirement and the obligation of a **licensee** to comply with this Guideline is additional to:
 - (a) any obligation imposed under any other law applying to a **licensee's** business and does not derogate from such an obligation; and
 - (b) a **licensee's** obligation to report any breach of an obligation under its **licence** within the stipulated time and in the manner required.

1.3 Definitions and Interpretation

1.3.1 For the purposes of interpreting this Guideline:

- (a) words and phrases presented in a bold italic font such as **this** are defined in the Glossary;
- (b) a word or phrase not defined in the Glossary will have the meaning given by the **Water Industry Act**, the **ESC Act**, the **Industry Codes** (as the case may be) or any other relevant regulatory instrument;
- (c) a reference to this Guideline includes its appendices, annexures and schedules;
- (d) words importing the singular include the plural and vice versa;
- (e) any heading, index or table of contents is for convenience only and does not affect the construction or interpretation of this Guideline;
- (f) a reference to any legislation or regulatory instrument includes:
 - (i) all regulations, orders or instruments issued under the legislation or regulatory instrument; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or regulatory instrument;
- (g) a reference to a **licensee** includes, without limitation, that **licensee's** administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns; and
- (h) where an act is required to be done pursuant to this Guideline on, or by, a stipulated day which is not a **business day**, the act may be done on the following **business day**.

1.3.2 Explanations in this Guideline as to why certain information is required are for guidance only. They do not, in any way, limit the **Commission's** objectives, functions or powers.

1.4 Confidentiality

1.4.1 The confidentiality provisions set out in Part 5 of the **ESC Act** (“Collection and Use of Information”) will apply to any information collected by the **Commission** in accordance with this Guideline.

1.5 Processes for Revision

1.5.1 The **Commission** may, at its absolute discretion, amend or vary this Guideline from time to time when it considers such action necessary in order to meet the needs of a **licensee**, South Australian water or sewerage customers or the **Commission**.

- 1.5.2 The **Commission** will undertake appropriate consultation with relevant **licensees** and other stakeholders in accordance with the **Commission's** Charter of Consultation and Regulatory Practice before making any significant revisions to this Guideline.¹ If the amendments are of a routine nature, or required by law, the **Commission** may elect to modify the Guideline without consultation.
- 1.5.3 For all revisions to this Guideline, a commencement date will be nominated on the Amendment Record on the inside front page. The **Commission** will generally give **licensees** not less than 45 days prior notice of the commencement of any significant revisions of this Guideline.

1.6 *Input from Interested Parties*

- 1.6.1 The **Commission** welcomes comments, discussion, or suggestions for amendments to this Guideline from any interested party. Any contributions in this regard should be addressed to:

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2 GENERAL PRINCIPLES

2.1 *Regulatory Framework*

- 2.1.1 Under the legislation and licensing regime, each **licensee** is required to undertake compliance audits and report on its compliance with applicable legislative and regulatory instruments.
- 2.1.2 The **Commission** has implemented a compliance auditing and reporting system which:
 - (a) minimises costs and disruption to **licensees**; and
 - (b) provides assurance to the **Commission** that **licensees** have implemented appropriate and robust compliance systems that operate efficiently and effectively.
- 2.1.3 The requirement for **licensees** to demonstrate compliance with applicable legislative and regulatory conditions derives primarily from the obligation placed on the **Commission** by the **Water Industry Act** to insert certain mandatory conditions into **licences**.
- 2.1.4 In the **Water Industry Act**:

¹ The Charter can be viewed at www.escosa.sa.gov.au.

- (a) the key mandatory **licence** conditions relating to compliance auditing and reporting are set out in sections 25(1)(l) and (n); and
 - (b) sections 25(1)(b) and 25(1)(i) mandate conditions requiring **licensees** to monitor and report on levels of compliance with standards of service.
- 2.1.5 Many regulatory instruments specify minimum requirements regarding the monitoring of compliance with those instruments. For example:
- (a) **Licences**, which require monitoring by **licensees** in relation to compliance with minimum standards for customers prescribed by applicable **Industry Codes**; and
 - (b) **Industry Codes**, which require the **licensees** to maintain sufficient records as to permit the **Commission** to monitor **licensee's** performance in respect the obligations and requirements specified by those **Industry Codes**.

2.2 Alternative Approaches

- 2.2.1 There are alternative approaches to compliance monitoring that are available to the **Commission** such as:
- (a) adopting a positive assurance regime which would require **licensees** to report to the **Commission** on its compliance with all regulatory obligations rather than simply reporting non-compliance; and
 - (b) requiring **licensees** to undertake external compliance audits each reporting year.
- 2.2.2 The **Commission** is of the view that if the **Compliance Reporting Scheme** in the terms set out in this Guideline is implemented effectively by **licensees**, there will be a reduced need to adopt alternative approaches or for costly and resource intensive external audits to be undertaken.

3 COMPLIANCE SYSTEMS

3.1 The Objectives of Compliance Reporting

- 3.1.1 The **Compliance Reporting Scheme** requires that **licensees** have, and rigorously adhere to, a sound and robust compliance system. By submitting **Compliance Reports**, **licensees** warrant to the **Commission** that they have compliance systems which satisfy that requirement. The **Commission** relies on those warranties in the performance of its statutory functions arising under the **ESC Act** and the **Water Industry Act**.

3.2 Expectations in relation to the Compliance Reporting Scheme

- 3.2.1 A sound and robust compliance system should be based on the Australian Standard on Compliance Programs, AS 3806-2006 (as amended from time to

- time), or on another credible compliance standard (as approved by the **Commission** in writing on application by the **licensee**).
- 3.2.2 **Compliance Reports** are to provide assurance to the **Commission** that a **licensee** has a credible compliance system in operation which records the results of that compliance system by way of “exception reporting” – that is, compliance with all obligations is assumed unless breaches are reported to the **Commission**.
- 3.2.3 As a matter of policy, the **Commission** will be inclined to exercise its enforcement powers in respect of a regulatory non-compliance more favourably where a **licensee** has actively co-operated in relation to the non-compliance and reported the non-compliance in a prompt manner.

3.3 Categorisation of Reporting Obligations

- 3.3.1 The **Commission** has adopted a tiered approach to compliance reporting, based on the **Commission's** assessment and categorisation of obligations arising under applicable regulatory instruments.
- 3.3.2 Annexure A – Indicative Obligations for Major Retailers and Annexure B – Indicative Obligations for Minor and Intermediate Retailers, show the allocation of indicative obligations for **licences** between:
- (a) Type 1: those regulatory obligations which are identified as being of such importance that a breach of one gives rise to an immediate requirement to provide to the **Commission** a **Material Breach Compliance Report** in accordance with clause 3.4;
 - (b) Type 2: those regulatory obligations which are identified as being of an importance that a breach of one must be identified to the **Commission** in the **Quarterly Compliance Report** in accordance with clause 3.5; and
 - (c) Type 3: all regulatory obligations other than those identified as Type 1 or Type 2, a breach of which must be identified to the **Commission** in the **Annual Compliance Report** in accordance with clause 3.6.
- 3.3.3 **Licensees** should note that Annexure A and Annexure B contain only an indicative, not an exhaustive, list of all regulatory obligations that may apply to a **licensee**. **Licensees** are required, for the purposes of this Guideline, to review all applicable regulatory obligations and advise the **Commission** of the categorisation through Schedule A to each **Annual Compliance Report**.
- 3.3.4 The **Commission** may change the categorisation of regulatory obligations at any time (or for any **licensee** if circumstances require it do so). Unless the public interest or the exigencies of a particular case require otherwise, any such change will be dealt with in the manner referred to in paragraph 1.5.
- 3.3.5 If a **licensee** has no applicable obligations of a certain Type, then the **licensee** is not required to submit a **Compliance Report** for the reporting period for that Type of obligation. For example, if a retail **licensee** has no

Type 2 obligations, then it is not required to submit a **Quarterly Compliance Report**.

- 3.3.6 If the **Commission** imposes new or varied conditions on **licensees**, for example through a **licence** variation or the making or variation to an **Industry Code**, then each **licensee** must report compliance against those new or varied conditions as advised by the **Commission**, even if the **Commission** has not amended this Guideline to reflect the new conditions.

3.4 *Material Breach Reporting*

- 3.4.1 **Material Breach Compliance Reports** must be provided to the **Commission** in the form set out in Annexure C if a **licensee** breaches a Type 1 obligation or an obligation that the **Commission** or a **licensee** otherwise considers to be “material” as soon as the **licensee** becomes aware of the breach and, in any event, no later than 3 days after becoming aware that the breach has occurred.
- 3.4.2 An indicative list of Type 1 obligations are set out in relevant section of Annexure A and Annexure B. In determining whether other obligations are “material” and therefore Type 1 obligations, a **licensee** should consider:
- (a) the impact of the breach of that obligation on consumers;
 - (b) whether the breach of the obligation has a financial impact on consumers;
 - (c) the number of consumers affected; and
 - (d) the potential (and actual) impact on safety and risk to the public.
- 3.4.3 A **Material Breach Compliance Report** must be approved and signed by:
- (a) the Chief Executive Officer of the **licensee**;
 - (b) a person holding an equivalent position to Chief Executive Officer of the **licensee**;
 - (c) a person to whom the Board or Council of the **licensee** has formally delegated the exercise of the powers and functions of the **licensee** at a level equivalent to that held by a Chief Executive Officer; or
 - (d) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive office-holder.

3.5 *Quarterly Compliance Reporting*

- 3.5.1 **Quarterly Compliance Reports** must be provided to the **Commission** by all **licensees** required to report on Type 2 obligations within two calendar months of the last day of the relevant quarter (i.e. 28 February, 31 May, 31 August and 30 November) in the form set out in Annexure D.
- 3.5.2 A **Quarterly Compliance Report** must be approved and signed by:

- (a) the Chief Executive Officer of the **licensee**;
- (b) a person holding an equivalent position to Chief Executive Officer of the **licensee**;
- (c) a person to whom the Board of the **licensee** has formally delegated the exercise of the powers and functions of the **licensee** at a level equivalent to that held by a Chief Executive Officer; or
- (d) the person acting as Chief Executive Officer or equivalent position during an absence of the substantive office-holder.

3.6 Annual Compliance Reporting

- 3.6.1 **Annual Compliance Reports** must be provided to the **Commission**:
- (a) by all **major licensees**, by no later than 31 August immediately following the end of each regulatory year, in the form set out in Annexure D;
 - (b) by all **intermediate and minor licensees**, by no later than 30 November immediately following the end of each regulatory year, in the form set out in Annexure D.
- 3.6.2 An **Annual Compliance Report** must contain:
- (a) details of all non-compliances (Types 1, 2 and 3) which occurred during the reporting year, including details of any non-compliances with Type 1 or Type 2 obligations that may have already been reported in a **Material Breach Compliance Report** or a **Quarterly Compliance Report** during that reporting year and non-compliances which occurred in a previous regulatory year but remain unrectified; and
 - (b) in respect of each non-compliance, sufficient information to allow the **Commission** to understand the timing, nature and scope of the non-compliance, how it was addressed and rectified, the impact of the non-compliance on consumers, the systems and processes which have been put in place to ensure the same non-compliance are not repeated in future years and the implications of the non-compliance on the effectiveness of the **licensee's** compliance system.
- 3.6.3 **Annual Compliance Reports** must be approved and signed by:
- (a) 2 Directors of the **licensee**, one of whom must be an “External Director” (see clause 3.10.3); or
 - (b) 2 Members of the Compliance Committee of the **licensee**, one of whom must be an “External Member” (see clause 3.7 and clause 3.10.3); or
 - (c) an external and independent auditor approved by the **Commission**, provided that such approval has been sought in writing by the **licensee**

- by no later than 30 June, or a date otherwise agreed by the **Commission**, in respect of a regulatory year; or
- (d) an internal auditor, provided that the **licensee's** internal audit function is undertaken by an independent and expert auditor and the **Commission** approves that auditor for the purposes of signing **Annual Compliance Reports** (see clause 3.8 below); or
 - (e) 2 Directors of the **licensee's** parent company (see clause 3.9); or an alternative method approved by the **Commission** (see clause 3.10), provided that such approval must be sought by the **licensee** in writing by no later than 30 June, or a date otherwise agreed by the **Commission**, in respect of a regulatory year; or
 - (f) for **intermediate licensees** and **minor licensees**, by the Chief Executive Officer or equivalent, where the Board or Council has formally delegated authority for the Chief Executive Officer or equivalent to approve and sign the report on its behalf.
- 3.6.4 Where **Annual Compliance Reports** are signed by the appropriate persons in accordance with clause 3.6.3(a) to 3.6.3(e), **Annual Compliance Reports** must also be approved by the **licensee's** Board reflecting the importance that the **Commission** attaches to the credibility of the **Compliance Reporting Scheme** as an alternative to external, independent audits. Approval must be recorded as a formal decision taken by the Board, which must be noted on the **Annual Compliance Report**, including the date of the Board's decision.
- 3.6.5 Where **Annual Compliance Reports** are signed in accordance with clause 3.6.3(f), evidence of the delegation by the Board or Council must be provided with the **Annual Compliance Report**, including the date the delegation was approved.

3.7 Compliance Committee sign off for Annual Compliance Reports

- 3.7.1 Where a **licensee** seeks to use 2 Members of the Compliance Committee of the **licensee** for the purposes of signing an **Annual Compliance Report** in accordance with clause 3.6.3(b), the **licensee** must, at the time the **Annual Compliance Report** is submitted, provide the **Commission** with sufficient information to establish that the Committee satisfies the following criteria:
- (a) it must be a Committee comprised of at least two persons appointed by the Board, but it is not necessarily composed of Directors;
 - (b) at least 50% of the Members of the Compliance Committee must be "External Members" of that Committee (see 3.11.2); and
 - (c) the Committee must have its Terms of Reference approved by the Board and must be given functions and powers as if it was a Compliance Committee composed of Board members (the function of having ultimate responsibility for the **licensee's** compliance with water

industry obligations, and sufficient powers to enable it to ensure compliance with those obligations).

3.8 Internal Auditor sign off for Annual Compliance Reports

- 3.8.1 A **licensee** seeking to use an internal auditor (which must be an independent and expert auditor) for the purposes of signing an **Annual Compliance Report** in accordance with clause 3.6.3(d) is required to obtain the **Commission's** approval annually, prior to the end of the reporting year for which this option is intended to be used.
- 3.8.2 If the **Commission** approves a **licensee's** request to use an internal auditor to sign off an **Annual Compliance Report**, the annual internal audit report:
 - (a) must be specifically addressed to the **Commission** as well as to the **licensee**; and
 - (b) need not rely precisely on the form of **Annual Compliance Report** described at Annexure D, provided that the internal audit report at least:
 - (i) certifies that the **licensee** has an efficient and effective compliance scheme in operation;
 - (ii) lists all applicable Type 1, Type 2 and Type 3 obligations that the **licensee** is required to comply with by Act section, **licence** clause and **Industry Code** clause number and by summary description; and
 - (iii) lists all non-compliances that occurred within the reporting period and provides sufficient information on how such non-compliances were addressed and rectified.

3.9 Parent company Director(s) sign off for Annual Compliance Reports

- 3.9.1 Where the **licensee** does not have any “External Directors” (as defined in clause 3.11.1) on its Board, the **licensee** may apply to the **Commission** prior to the end of the reporting year for which this option is intended to be used to use “External Director(s)” of an Australian incorporated company that has a **substantial shareholding** (meaning: controlling and of a considerable size) in the **licensee** as a substitute for the “External Directors” of the **licensee**.
- 3.9.2 If the **Commission** agrees in writing, such Director(s) will be accepted by the **Commission** as “External Director(s)” of the **licensee** solely for the purpose of signing **Annual Compliance Reports** in accordance with clause 3.6.3(e).
- 3.9.3 The **Commission** will only give approval for such an arrangement if satisfied that the proposed Director(s) have relevant expertise, and independence from the **licensee**.

3.10 Alternative Options for the sign off of Annual Compliance Reports

- 3.10.1 The **Commission** will consider other reasonable options proposed by **licensees** for the signing off an **Annual Compliance Report**. Such options must be submitted in writing for the **Commission's** approval not less than 1 month prior to the end of the relevant regulatory year.
- 3.10.2 Any such option must be based on the **licensee** having a sound and effective compliance system and on providing the **Commission** with expert and independent assurance of those matters.
- 3.10.3 **Licensees** that have not had an alternative sign off option approved by the **Commission** under this clause must ensure sign off complies with one of the alternative sign off requirements specified in clause 3.6.3 of this Guideline, otherwise the **Annual Compliance Report** will not be accepted by the **Commission**.

3.11 External Directors or Members

- 3.11.1 A Director is an “External Director” if the Director:
 - (a) is not, and has not been in the previous 2 years, an employee of the **licensee** or a related body corporate; and
 - (b) is not, and has not been in the previous 2 years, an executive officer of a related body corporate; and
 - (c) is not, and has not been in the previous 2 years, substantially involved in business dealings, or in a professional capacity, with the **licensee** or a related body corporate; and
 - (d) is not a member of a partnership that is, or has been in the previous 2 years, substantially involved in business dealings, or in a professional capacity, with the **licensee** or a related body corporate; and
 - (e) does not have a material interest in the **licensee** or a related body corporate; and
 - (f) is not a relative or de facto spouse of a person who has a material interest in the **licensee** or a related body corporate.
- 3.11.2 A member of the Compliance Committee is an “External Member” if that member:
 - (a) is not, and has not been in the previous 2 years, a non-executive Director, an executive officer or an employee of the **licensee** or a related body corporate; and
 - (b) is not, and has not been in the previous 2 years, substantially involved in business dealings, or in a professional capacity, with the **licensee** or a related body corporate; and

- (c) is not a member of a partnership that is, or has been in the previous 2 years, substantially involved in business dealings, or in a professional capacity, with the **licensee** or a related body corporate; and
- (d) does not have a material interest in the **licensee** or a related body corporate; and
- (e) is not a relative or de facto spouse of a person who has a material interest in the **licensee** or a related body corporate.

3.12 Compliance Auditing by the Commission

- 3.12.1 The Compliance Audit framework is outlined in the **Commission's** Final Decision on the Electricity Compliance Audit Framework dated 1 September 2004.
- 3.12.2 For any **licensee**, the **Commission** reserves the right to require, at any time, an external, independent audit, of some or all of the **licensee's** obligations if the **Commission** considers that such a course is necessary.
- 3.12.3 The **Commission** may require that compliance audits be undertaken in respect of a **licensee** on the basis of:
 - (a) the **Commission's** determination of areas of regulatory concern (howsoever identified), based on a risk-based approach that broadly reflects the principles and processes of the Australian and New Zealand Standard on Risk Management, AS/NZS ISO 31000:2009 (as amended from time to time);
 - (b) the **Commission's** assessment of the adequacy of a **licensee** compliance system;
 - (c) the level and nature of non-compliances by the **licensee**; or,
 - (d) any relevant matter disclosed in the **Compliance Reports** provided by the **licensee**.
- 3.12.4 The **Commission** may require, in its absolute discretion, that compliance audits be paid for by a **licensee**.

4 GLOSSARY

In this Guideline, unless the contrary intention appears –

Annual Compliance Report means a report in the form set out in Annexure D, to be submitted by a **licensee** in accordance with the requirements of this Guideline;

Commission means the Essential Services Commission of South Australia established under the **ESC Act**;

Compliance Audit framework means the framework outlined in the **Commission's** Electricity Compliance Audit Framework, Final Decision, September 2004;

Compliance Report means a **Material Breach Compliance Report**, a **Quarterly Compliance Report** and/or an **Annual Compliance Report**;

Compliance Reporting Scheme means the reporting scheme established under this Guideline;

ESC Act means the *Essential Services Commission Act 2002 (SA)*, as in force from time to time and, where the context allows, includes all regulations made under that Act;

Industry Codes means the codes in force from time to time made by the **Commission** under the **ESC Act** relating to the conduct or operations of the water industry or of **licensees**;

intermediate retailer means a retailer which provides retail services to more than 500 but up to and including 50,000 connections, with intermediate **licensee** having the same meaning;

licence means a licence issued to a person pursuant to Part 4 of the **Water Industry Act** and, where an Exemption from the requirement to hold such a licence has been granted to a person containing a condition that requires that person to report compliance with certain obligations, includes that Exemption;

licensee means a person for whom a **Licence** is in force and for whom there is no Exemption under section 108 of the **Water Industry Act** alleviating that person from the requirement to report the results of the audit of the entity's operations in the water industry to the **Commission**;

major retailer means a retailer which provides retail services to more than 50,000 connections, with major **licensee** having the same meaning;

minor retailer means a retailer which provides retail services to up to and including 500 connections, with minor **licensee** having the same meaning;

Material Breach Compliance Report means a report in the form set out in Annexure C, to be submitted by a **licensee** in accordance with the requirements of this Guideline;

Quarterly Compliance Report means a report in the form set out in Annexure D, to be submitted by a **Licensee** in accordance with the requirements of this Guideline;

Substantial Shareholding means a substantial holding as defined in the *Corporations Act 2001 (Cth)*; and

Water Industry Act means the *Water Industry Act 2012 (SA)*, as in force from time to time and, where the context allows, includes all regulations made under that Act.

ANNEXURE A – INDICATIVE OBLIGATIONS FOR MAJOR RETAILERS

Obligations under relevant legislation and Retail Licence

It is a condition of all water **licences** that **licensees** comply with all applicable laws including, but not limited to, the **Water Industry Act** and regulations under that Act. In addition, **licensees** are expected to examine all relevant Acts, **Industry Codes** and regulations to identify all applicable obligations that may apply.

The list below is a non-exhaustive list of obligations which may apply to Licensees. The description of obligations is intended as a guide only. Obligations are categorized as Type 1, Type 2 or Type 3 and Licensees must list these obligations in the **Compliance Reports** provided to the **Commission**. **Licensees** are expected to examine their particular **licence** to confirm clause numbering and the summary description of each obligation.

Water Industry Act

Type 2

CLAUSE	SUMMARY DESCRIPTION
63	Disconnection etc if entry refused

Type 3

CLAUSE	SUMMARY DESCRIPTION
24	Licence Fees & Returns
27	Offence to contravene licence conditions
36	Standard terms and conditions for retail services
37	Customer hardship policies
39	Appointment of Operator
43	Identity cards
44	Power to enter land to conduct investigations
45	Power to carry out work on land
52	Duty to give notice before paving a road etc
54	Water meters
68	Responsibilities of water industry entity
98	Fire plugs
114	Protection of tenants and lessees of residential premises

Water Licence

Type 1

CLAUSE	SUMMARY DESCRIPTION
11.2, 11.3	Information to the Commission
6.2	Material breach of the Act
6.3(d)	Material breach of any applicable industry code or industry rule

Type 3

CLAUSE	SUMMARY DESCRIPTION
4	Fees
5	Sale and Supply of Retail Services to Customers
6	Compliance with Laws and Industry Codes
7	Provision of Information to Customers
8	Restriction, Discontinuance & Disconnection
9	Ombudsman & Disputes
10	Accounts and Separate Business
11	Information to the Commission
12	Operational & Compliance Audits
13	Insurance
14	Customer Concessions & Community Service Obligations
15	Confidentiality

Water Retail Code

Type 2

CLAUSE	SUMMARY DESCRIPTION
10.3	Provision of Retail Services - Rural and Remote Services
16.1, 16.3	Retailer Supply Obligations - Quality and Reliability of Supply

Type 3

CLAUSE	SUMMARY DESCRIPTION
1.5	Obtaining a copy of this industry code or the standard contract
2	Customer Charter
3	Enquiries, Complaints and Dispute Resolution
4	Price Disclosure
5	Water Efficiency Advice
6	Leaks Monitoring and Notification
7	Concessions, Rebates or Grants
8	Life Support Equipment
9	Customer Hardship Policies
10	Provision of Retail Services
11	Application for Provision of Retail Services

CLAUSE	SUMMARY DESCRIPTION
12	Classification of Customers
13	Customer Sale Contracts
14	Connections
15	Termination of Retail Services
16	Retailer Supply Obligations
17	Service Standards
18	Billing
19	Changes in Tariff Types or Rates
20	Billing Disputes
21	Undercharging
22	Overcharging
23	Payments
24	Payment Difficulties and Flexible Payment Plans
25	Restriction of Water Supply
26	Disconnects
27	Restoration of Supply
28	Force Majeure
29	Appointment of Operator
30	Illegal Use

ANNEXURE B – INDICATIVE OBLIGATIONS FOR MINOR AND INTERMEDIATE RETAILERS

Obligations under relevant legislation and Retail Licence

It is a condition of all water **licences** that **licensees** comply with all applicable laws including, but not limited to, the **Water Industry Act** and regulations under that Act. In addition, **licensees** are expected to examine all relevant Acts, **Industry Codes** and regulations to identify all applicable obligations that may apply.

The list below is a non-exhaustive list of obligations which may apply to Licensees. The description of obligations is intended as a guide only. Obligations are categorized as Type 1, Type 2 or Type 3 and Licensees must list these obligations in the **Compliance Reports** provided to the **Commission**. **licensees** are expected to examine their particular **licence** to confirm clause numbering and the summary description of each obligation.

Water Industry Act

Type 3

CLAUSE	SUMMARY DESCRIPTION
24	Licence Fees & Returns
27	Offence to contravene licence conditions
36	Standard terms and conditions for retail services
37	Customer hardship policies
39	Appointment of Operator
43	Identity cards
44	Power to enter land to conduct investigations
45	Power to carry out work on land
52	Duty to give notice before paving a road etc
54	Water meters
63	Disconnection etc if entry refused
68	Responsibilities of water industry entity
98	Fire plugs
114	Protection of tenants and lessees of residential premises

Water Licence

Type 1

CLAUSE	SUMMARY DESCRIPTION
11.2, 11.3	Information to the Commission
6.2 or 6.3	Material breach of the Act
6.3(d) or 6.4(d)	Material breach of any applicable industry code or industry rule

Type 3

CLAUSE	SUMMARY DESCRIPTION
4	Fees
5	Sale and Supply of Retail Services to Customers
6	Compliance with Laws and Industry Codes
7	Provision of Information to Customers
8	Restriction, Discontinuance & Disconnection
9	Ombudsman & Disputes
10	Accounts and Separate Business
11	Information to the Commission
12	Operational & Compliance Audits
13	Insurance
14	Customer Concessions & Community Service Obligations
15	Confidentiality

Water Retail Code

Type 3

CLAUSE	SUMMARY DESCRIPTION
1.4	Obtaining a copy of this industry code or the standard contract
2	Customer Sale Contracts
3	Customer Information Obligations
4	Retailer Supply Obligations
5	Customer Service Obligations
6	Restriction of Water Supply
7	Disconnects
8	Restoration of Supply

ANNEXURE C - MATERIAL BREACH COMPLIANCE REPORT

To: Essential Services Commission of South Australia
Level 8
50 Pirie Street
ADELAIDE SA 5000

[Name of licensee] reports as follows:

1. This Report is a Material Breach Compliance Report and has been prepared in a manner that meets the requirements of the Compliance Systems and Reporting Water Industry Guideline No. 1 (**the Guideline**).
 2. This Report has been approved by the Chief Executive Officer (or equivalent in accordance with clause 3.4.3 of the Guideline).
 3. The **licensee** reports a breach of the obligations listed in Schedule A of this Report.

SIGNED, in accordance with clause 3.4.3 of the Guideline, by:

Print Name:

Designation:

position equivalent to CEO, formal delegate exercising powers and functions of CEO, person acting as CEO).

Signatures: _____

Schedule A

NON-COMPLIANCES	LICENSEE COMMENTS ON THE NON-COMPLIANCE
NOTE: ALL NON-COMPLIANCES MUST BE SEPARATELY LISTED	<p>Provide information on how the non-compliance:</p> <ul style="list-style-type: none">• occurred;• was addressed;• has been (or will be) rectified and the timeframes around this process; and• impacted:<ul style="list-style-type: none">○ consumers and other entities; and○ on the effectiveness of the licensee's compliance system.

ANNEXURE D – QUARTERLY*/ANNUAL* COMPLIANCE REPORT

* Delete if inapplicable.

To: Essential Services Commission of South Australia
Level 8
50 Pirie Street
ADELAIDE SA 5000

[Name of licensee] reports as follows:

1. This Report is a Quarterly* / Annual* Compliance Report for the period [insert] and has been prepared in a manner that meets the requirements of the Compliance Systems and Reporting Water Industry Guideline No. 1 (**the Guideline**).
2. The **licensee**, having made appropriate and due enquiry, is not aware of any breach of any of the obligations listed in Schedule A to this Report (**Applicable Obligations**), other than as detailed in Schedule B.
3. The **licensee** has maintained a robust compliance program during the relevant period that ensures that:
 - (a) it has identified all Applicable Obligations that apply to the **licensee** (and not simply reported against the indicative list of obligations set out in Schedule A);
 - (b) it has a “Responsible Officer” who has operational control over the activity or work area where each of the relevant Applicable Obligations arise;
 - (c) it has ensured that the “Responsible Officer” has programmed the relevant Applicable Obligation into the operational procedures for the relevant activity or work area, and is accountable to the Board of Directors* / Council* / Compliance Committee of the Board of Directors* through the Chief Executive Officer for ensuring compliance with that Applicable Obligation;
 - (d) the Chief Executive Officer (or equivalent) and, where relevant the Board, of the **licensee** will be made aware of any breaches of Applicable Obligations without delay and the process for the remediation of a breach;
 - (e) remedial action is taken as soon as possible to rectify breaches of Applicable Obligations, and that the breach of the Applicable Obligation, and the completion of the remedial action, is reported to the Board* / Council* / Compliance Committee of the Board of Directors*;

- (f) the compliance system is reviewed every two years with a view to improve it, and also where:

 - continued breaches indicate systemic failure to ensure that the compliance system is effective and relevant; and
 - there is a significant change to the regulatory regime, in order to update the system to accommodate the change.

4. The **licensee** has established a process for signing this Compliance Report that is in accordance with clause 3.5.2/3.6.3* of the Guideline.

5. Both Directors/ External Directors/ parent company External Directors/ Member of Compliance Committees/ External Members of Compliance Committee*/Chief Executive Officer (or equivalent)* who have signed the Report below state that:

"We certify that we have made all necessary inquiries of appropriate officers in this organisation to confirm that management has developed a robust compliance system that meets the regulatory arrangements relating to the water industry in South Australia, and that the system has been implemented and is being appropriately used by the organisation."

[*Only relevant for Annual Compliance Reports]

SIGNED, in accordance with clause 3.5.2/3.6.3* of the Guideline, by:

Signature

Signature

Name (Please Print)

Name (Please Print)

Designation (Please Print)

Designation (Please Print)

(Sign-off must be pursuant to clause 3.5.2/3.6.3* of the Guideline. Please indicate who has signed the report. (e.g. Director, External Director, parent company External Director, Member of Compliance Committee, External Compliance Committee member, Chief Executive Officer (or equivalent) etc*).

6. This signed **Quarterly Compliance Report** has been approved by the Chief Executive Officer (or equivalent) in accordance with clause 3.5.2 of the Guideline* / This signed **Annual Compliance Report** has been approved by the Board of Directors of the **licensee** at its meeting on (insert date) as required by clause 3.6.3 of the Guideline*.

Schedule A – Relevant Obligations

[**licensees** are to list all TYPE 1, TYPE 2 or TYPE 3 obligations that are applicable]

Schedule B – Non Compliances

NON-COMPLIANCES NOTE: ALL NON-COMPLIANCES FOR THE RELEVANT REPORTING PERIOD MUST BE SEPARATELY LISTED	LICENSEE COMMENTS ON THE NON-COMPLIANCE
TYPE 2 (Quarterly Compliance Report); or TYPE 1 and TYPE 2 and TYPE 3 (Annual Compliance Report).	Provide information on how the non-compliance: <ul style="list-style-type: none">• occurred;• was addressed;• has been (or will be) rectified and the timeframes around this process; and• impacted:<ul style="list-style-type: none">○ consumers and other entities; and○ the effectiveness of the licensee's compliance system.



The Essential Services Commission of South Australia

Level 1, 151 Pirie Street Adelaide SA 5000

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