

Appendix Three

Proposed changes to the scheme documents from the Working Group

- Question 1: Which changes to the scheme documents listed below DO NOT
- meet the regulators' proposed scheme requirements
 - the recommendations from the Wood Report
 - otherwise improve the efficiency and effectiveness of the scheme?

Please provide reasons for your answer.

- Question 2: What other changes are required to be made to the scheme documents in order to comply with the regulators' proposed scheme requirements?

- Question 3: Given that membership of an approved scheme will be mandatory, is it appropriate to retain:
- the ability for members to withdraw from the scheme? (see 3.13 - 3.15)
 - the concept of and consequences for defaulting members (see definitions and clause 3.16 – 3.18 of the Deed)?

- Question 4: Given that membership of an approved scheme will be mandatory, is it appropriate to retain the Board's power to refuse to accept an application to join the scheme on the basis that the Board believes the applicant:
- does not have the ability to carry out its obligations under the Constitution? (see clause 3.9(b))
 - does not have the ability to pay any entry fee or the annual levy the Board requires? (see clause 3.9(c))

	Scheme Document: Deed	Summary of Proposed changes	Proposed Amendment Criteria reference¹
1.	Definitions	"Complainant"	1.2.4
2.		"Complaint"	Wood report
3.		"Gas"	1.2.3
4.		"MARIA Registry" changed to Electricity registry	update
5.		"Retail Complaint"	1.2.4
6.	1.4(a) and (b)	Amended to clarify exclusions from "Land Complaint"	
7.	3.4, 3.5 and 3.6	Deleted initial and establishment members and loan	redundant
8.	3.9(b) and	Deleted some reasons to not accept membership	

¹ Number references refer to the Regulators' Assessment Criteria – see Appendix A

	(c), 3.10	applications from potential new members	
9.	4.3B	Deleted "Review of funding arrangements to be completed by 31 March 2007"	redundant
10	4.12	Deleted provisions about levies to 31 March 2002	redundant
11	5.5(b)	Deleted reference to initial chairperson	redundant
12	5.5(g)	Deleted reference to Protocols	
13	5.10- 5.14	Deleted reference to Interim Board and election of initial board	redundant
14	6	Deleted "Amendments to the Scheme"	7.1.3
15	7.7	Substituted "MARIA Registry" with "Electricity Registry"	update
16	7.10 – 7.13	Deleted reference to "amendments to Dispute Resolution Protocol". Added requirement for amendments to the Deed to be consistent with: <ul style="list-style-type: none"> • Government Policy Statements on the electricity and gas industry; and • the regulators' requirements for a complaints resolution scheme 	7.1.3
17	7.14	Added regulators requirement for the Council to give at least 12 months' notice in winding up the scheme	10.1
18	9.2	Deleted to be consistent with deleting clause 6	7.1.3
19	11	Most of this section is deleted because all these conditions have been fulfilled. Clause 11.2 remains because it sets out the date the Constitution came into effect.	redundant
	Rules		
20	A1.1A	Added overview of the "purpose of the Commission"	1.1.1
21	A1.1	Substituted "purpose" with "role"	
22	A1.1(a)	Substituted "Consumers, Land Owners and Land Occupiers" with "Complainants"	
23	A1.1(d)	Added "efficient" – missing benchmark	ABM5
24	A1.2(a)	Added "independent" before Commission Chairperson and requirement for consultation with the regulators for appointment of Commission chairperson	7.1.6

25	A1.2(c)(i) and (ii)	Added regulators' required characteristics for consumer representatives	7.1.4
26	A1.5 (a)	Added regulators required characteristics for alternate consumer representatives	7.1.4
27	A1.6(a)(v) and (b)(ii)	Substituted "months" with "meetings"	
28	A1.8	Added "independent" before Commission Chairperson	7.1.2
29	A1.10	Deleted reference to Board appointing the initial Commission chairperson	7.1.6
30	A2.2(aa)	Added requirement for Commission to set performance standards	9.1.1, 9.1.2 Wood report
31	A2.2(b)	Added requirement for Commission to consult regulators on the appointment of the Commission Chairperson	7.1.6
32	A2.2(d) and (e)	Deleted references to the Board	
33	A2.2 (ea)	Added requirement for Commission to receive complaints about the operation of the scheme	7.1.3, 7.4.1
34	A2.2 (eb)	Added requirement for Commission to approve any changes to the scheme rules	7.1.3
35	A2.2 (ec)	Added requirement for Commission to receive regular reports about the operation and performance of the scheme from the Commissioner	7.1.3
36	A2.2 (ed)	Added requirement for Commission to take actions to improve the performance of the scheme where reports suggest that is necessary	7.1.3
37	A2.2(ee)	Added requirement for Commission to receive information about, and taking appropriate action in relation to, systemic industry problems referred to it by the Commissioner	7.1.3
38	A2.2(ef)	Added requirement for Commission to ensure the scheme continues to meet the requirements of the regulators for approval of a scheme	7.1.3
39	A2.2 (eg)	Added requirement for Commission to develop and implement a code of practice that sets out minimum standards of conduct for members	7.1.3
40	A2.2 (fa)	Added requirement for Commission to report annually on material non-compliance by members	6.3.1, 6.3.2

41	A2.2 (g)	Deleted reference to AGM	
42	A2.2(h)	Deleted reference to AGM	
43	A5.2	Amended to allow Commission to use information for purpose of reporting on material non-compliance by members	6.3.1, 6.3.2
44	A5.20	Deleted requirement for Commission to hold a general meeting before the end of each financial year	redundant
45	A5.21(ga) and (gb)	Added requirement for notice of every annual and general meeting to be given to the regulators	7.2.1
46	A6.1(a)	Deleted requirement to review the Electricity Code of Practice 12 months after its adoption	redundant
47	A6.1(b)	Added requirement for Commission to commission and independent review of the scheme at least every 3 years	9.3.4 Wood report
48	A6.1(ba) and (bb)	Added criteria for the review and the appointment of the independents reviewer Added requirement for findings of independent review to be reported publicly and to include: <ul style="list-style-type: none"> • Electricity Commission • Gas Industry Co • Ministers of Energy and Consumer Affairs • Board 	9.3
49	A6.1A	Deleted	redundant
50	A6.1B	Added requirement for Commission to commission and independent review at any time if requested by the regulators	9.3.5
51	A6.2	Deleted reference to the Board	9.3
52	A6.3	Added requirement for Commission to consult with regulators on the review of and/or amendments to the scheme	7.2.2, 7.2.3
53	A6.3A	Added requirement for amendments to the Scheme to be consistent with: <ul style="list-style-type: none"> • Government Policy Statements on governance of the electricity and gas industry; and • the regulators' requirements for a complaints resolution scheme 	7.2.2
	Terms of reference		

54	B1.1(a)	Substituted “consumer” with “complainant”	
55	B1.3	Added requirement for Commissioner to consult with regulators on “good industry practice”	
56	B1.5AA	Added requirement for the Commissioner to ensure complainants are advised of the reasons their complaint is outside jurisdiction of the scheme	3.5.2
57	B1.10 (e)	Amended to remove requirement for complainant to provide confidentiality waiver in writing.	Wood report
58	B2.1	Added regulators’ requirement for the complaints procedure to be simple for complainants to understand and easy to use and sets out specific processes	3
59	B2.1A	Added regulators’ requirements for the Commissioner to assist complainants to access the scheme at no cost	4.2.5
60	B2.1B	Added regulators’ requirements for the Commissioner to assist complainants unable to put their complaint in writing	4.2.6
61	B2.2A	Added requirement for the Commissioner to ensure complainants receive a receipt indicating acceptance of the complaint within 2 weeks	3.9.3
62	B2.3	Amended requirement for the Commissioner to “forward written waiver to the member” to “promptly advise member that complainant has waived confidentiality”	Wood report
63	B2.5A	Added provision for Commissioner to use discretion to delete references to a third party in a member’s document before releasing it to a complainant	2.4.2
64	B2.5B	Added provision to limit the Commissioner’s ability to request information from a complainant	3.6.2
65	B3.2(a)	Substituted” 20 working days” with “15 working days”	Wood report
66	B3.2 (d)	Added new provision to allow the Commissioner to close a file if no objections to proposed recommendation are received from either party	
67	B3.6	Substituted” 20 working days” with “15 working days”	Wood report
68	B3.11(b)	Added ban against awards for punitive damages	5.3.1
69	B3.12(e)	Substituted” 20 working days” with “15 working days”	Wood report
70	B5.1 (d)	Added: “sensitive to people who are disadvantaged or have special needs”	4.1.2 (ABM1.6)

71	B5.1	<p>Added requirement for the Commissioner to:</p> <ul style="list-style-type: none"> (ga) report regularly to Commission on performance of the scheme (gb) conduct internal reviews each year (gc) respond in a timely and appropriate manner to any recommendations of the Commission in response to complaints about the operation of the scheme (gd) identify and report to the Commission on material problems with member compliance with the scheme (ge) keep systemic records of all complaints and enquiries, their progress and outcomes (h) prepare an annual report containing specified matters (ha) provide written reports of determinations to members and any interested bodies for the purpose of educating members and consumers and demonstrating consistency and fairness in decision making (i) consider making observations about each member's compliance with the scheme and the effectiveness of the member's internal complaints process (ia) have a mechanism to ensure time limits for dealing with complaints are complied with (k) report quarterly to the Commission when performance standards have not been achieved (l) address systemic issues and refer them to members and regulators 	<p>9.4.1</p> <p>7.4.2</p> <p>6.2.2</p> <p>3.9.1</p> <p>9.4.2</p> <p>5.2.1</p> <p>3.8.2</p> <p>3.9.2</p> <p>9.4.5</p> <p>3.8.2, Wood report</p>
72	B5.4	Added Commissioner's ability to delegate decision-making powers	Wood report
	Codes of Practice		
73	C2.2(da) CA2.2(da)	Added "efficient" – missing benchmark	ABM5
74	C3.1(b) CA3.1(b)	Added requirement for companies to provide information to consumers "promptly in response to reasonable requests"	
75	C3.1(ca) CA3.1(ca)	Added requirement for companies to ensure consumers enter into most appropriate contracts for their needs	1.3.2

76	C16.1 CA16.1	Added requirement for companies to: <ul style="list-style-type: none"> • ensure consumers are aware of payment options offered by retailers and social agencies; • cooperate with low income and vulnerable consumers to establish arrangements that meet their needs 	1.3.2
77	C22A.1 CA22A.1 CB2.1(a)	Added requirement to be sensitive to health and safety for consumers	1.3.2
78	C23.1A CA23.1A	Added requirement for companies to include advice on consumer invoices about their free internal complaints process	2.2.2
79	C23.1B CA23.1B	Added requirement to include information about the Electricity and Gas Complaints Commissioner on consumer invoices	2.2.3
80	C23.4 CA23.4	Added “regardless of whether the Company considers the Complaint to be frivolous or vexatious”	1.4.2
	Dispute Resolution Protocols		
81	D1.3(h) DA1.3(d) DB1.4(d)	Added requirement for all members to monitor their compliance with the scheme rules and report annually to the Electricity and Gas Complaints Commission	6.2.1