

Electricity Industry Participation Code Amendment (Hedge Disclosure Obligations) 2024

Under section 38 of the Electricity Industry Act 2010, and having complied with section 39 of that Act, I make the following amendments to the Electricity Industry Participation Code 2010.

At Wellington on the 27th day of ^{June} July 2024

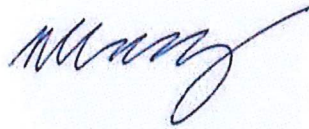


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Amendment

1 Title

This is the Electricity Industry Participation Code Amendment (Hedge Disclosure Obligations) 2024.

2 Commencement

This amendment comes into force on 30 October 2024.

3 Code amended

This amendment amends the Electricity Industry Participation Code 2010.

4 Clause 1.1 amended (Interpretation)

- (1) In clause 1.1(1), definition of **adjustment clause**, replace “**contract for differences** or a **fixed-price physical supply contract**” with “**risk management contract**”.
- (2) In clause 1.1(1), definition of **buyer**,—
 - (a) in paragraph (c)(iii), replace “alphabetically” with “alphabetically; or”; and
 - (b) after paragraph (c), insert:
 - “(ca) for the purposes of subpart 5 of Part 13, in respect of a contract prescribed by the **Authority** under clause 13.219B as a **risk management contract**, either—
 - “(i) the **party** specified as the buyer in the contract; or
 - “(ii) if neither **party** is specified as the buyer, the **party** whose name is the first alphabetically; or”.
- (3) In clause 1.1(1), definition of **contract for differences**,—
 - (a) in paragraph (b), delete “specified”; and
 - (b) replace paragraph (d) with:
 - “(d) that relates to a quantity of **electricity** that equals or exceeds 0.1 MW of **electricity**”.
- (4) In clause 1.1(1), revoke definition of **contract price**.
- (5) In clause 1.1(1), revoke definition of **contract price schedule**.
- (6) In clause 1.1(1), definition of **fixed-price physical supply contract**,—

- (a) in paragraph (a), replace “the contract should be used despite clause 13.219(6)” with “the contract must be used”; and
- (b) in paragraph (b), after “actual consumption”, insert “or generation”.
- (7) In clause 1.1(1), definition of **floating-price payer**, replace “**contract for differences**” with “**risk management contract**”.
- (8) In clause 1.1(1), insert in its appropriate alphabetical order:
“**load weighted contract price** means, in respect of a **risk management contract**, a price that has, in accordance with clause 13.220, been calculated, load weighted, adjusted to a **location factor** for the relevant **grid zone area**, and corrected for **losses**, for the purposes of subpart 5 of Part 13”
- (9) In clause 1.1(1), definition of **options contract**, after “financial derivative contract”, insert “that relates to a quantity of **electricity** that equals or exceeds 0.1 **MW** of **electricity**”.
- (10) In clause 1.1(1), definition of **other party**, delete “to (4)”.
- (11) In clause 1.1(1), definition of **premium**—
 - (a) replace “an **options contract**” with “a **risk management contract**”; and
 - (b) delete “of the **options contract**”.
- (12) In clause 1.1(1), definition of **quantity**, paragraph (a), replace “**contract for differences** or **options contract**” with “**risk management contract** other than a **fixed-price physical supply contract**”.
- (13) In clause 1.1(1), definition of **risk management contract**,—
 - (a) in paragraph (c), replace “but” with “or”; and
 - (b) after paragraph (c), insert:
“(ca) for the purposes of subpart 5 of Part 13, a contract prescribed by the **Authority** under clause 13.219B as a **risk management contract**; but”.
- (14) In clause 1.1(1), definition of **seller**,—
 - (a) in paragraph (c), replace “alphabetically” with “alphabetically; or”; and
 - (b) after paragraph (c), insert:
“(ca) for the purposes of subpart 5 of Part 13, in respect of a contract prescribed by the **Authority** under clause 13.219B as a **risk management contract**, either—
 - “(i) the **party** specified as the seller in the contract; or
 - “(ii) if neither **party** is specified as the seller, the **party** whose name is the second alphabetically; or”.
- (15) In clause 1.1(1), definition of **special credit clause**,—
 - (a) replace “**contract for differences**” with “**risk management contract**”;
 - (b) replace “specified amount or that on execution” with “specified amount or that, on execution”; and
 - (c) replace “in default, is provided” with “in default is provided”.
- (16) In clause 1.1(1), insert in its appropriate alphabetical order:
“**time weighted contract price** means, in respect of a **risk management contract**, a price that has, in accordance with clause 13.220, been calculated, time weighted, adjusted to a **location factor** for the relevant **grid zone area**, and corrected for **losses**, for the purposes of subpart 5 of Part 13”
- (17) In clause 1.1(1), replace definition of **trade date** with:
“**trade date**, for the purposes of subpart 5 of Part 13, means the date the **parties** enter into a **risk management contract**”.

5 Clause 13.217 amended (Contents of this subpart)

- (1) In the heading of clause 13.217, replace “**Contents**” with “**Purpose**”.

- (2) In the chapeau of clause 13.217, delete “which may be **contracts for differences, fixed-price physical supply contracts or options contracts**,”.
- (3) In clause 13.217(b), replace “address the lack of information available to” with “enable”.
- (4) In clause 13.217(c)—
 - (a) replace “for persons to assess the competitiveness of the market” with “for the **Authority** to monitor and assess the market”; and
 - (b) after “**electricity**” insert “, for the purposes of its functions under section 16 of the **Act**.”

6 **Clause 13.218 amended (Parties required to submit information)**

- (1) In clause 13.218(1), delete “, 13.222”.
- (2) Revoke clause 13.218(2).

7 **Clause 13.219 replaced (Information that must be submitted)**

Replace clause 13.219 with:

“13.219 Information that must be submitted

- “(1) The party specified in clause 13.218 must submit the following information to the **approved system** in relation to every **risk management contract**, excluding exchange-traded **risk management contracts** where the **parties** have provided consent under clause 13.236AA:
- “(a) each **party’s** legal name;
 - “(b) each **party’s** email address for notice;
 - “(c) the **trade date**;
 - “(d) the **effective date**;
 - “(e) the **end date**;
 - “(f) the **quantity**;
 - “(g) whether the contract is a **contract for differences, a fixed-price physical supply contract, an options contract** or, if the contract is a type of **risk management contract** prescribed by the **Authority** under clause 13.219B, the type of **risk management contract**;
 - “(h) if the contract is an **options contract**—
 - “(i) whether it is a call option or a put option; and
 - “(ii) if it is a call option, whether the **buyer** has the right to buy less than the **quantity**; and
 - “(iii) whether it is a cap option or floor option; and
 - “(iv) the option style (for example, American or Asian);
 - “(i) the fuel type (for example, solar, wind, thermal, or hydro), if specified in the contract;
 - “(j) the **premium**, if specified in the contract;
 - “(k) the **trading periods** during which each price in the contract applies;
 - “(l) in relation to each **trading period** during which a price in the contract applies—
 - “(i) the **node** at which each price is set; and
 - “(ii) the price or series of prices to be paid at each relevant **node**; and
 - “(iii) if applicable, the specified volume of **electricity** for each price to be paid at each relevant **node**;
 - “(m) whether price (or prices) in the contract are linked to consumption or generation of **electricity**;
 - “(n) whether there is an **adjustment clause**;
 - “(o) whether there is a **force majeure** clause;

- “(p) whether there is a **special credit** clause:
 - “(q) whether there is a **suspension** clause:
 - “(r) whether there are any other clauses providing for the pass-through of certain costs, levies or tax or some form of carbon-related cost:
 - “(s) whether the contract uses any version of the International Swaps and Derivatives Association Master Agreement (ISDA Master Agreement) (including where the schedule to the form of the ISDA Master Agreement used for the contract makes an amendment to the main part of the ISDA Master Agreement):
 - “(t) any other information specified in a notice **published** by the **Authority** under clause 13.219A.
- “(2) The party specified in clause 13.218 must submit the information required by this clause in the form specified by the **Authority** and in accordance with clause 13.225(1).”

8 New clause 13.219A inserted (Authority may prescribe additional information that must be submitted)

After clause 13.219, insert:

“13.219A Authority may prescribe additional information that must be submitted

- “(1) The **Authority** may **publish** a notice prescribing additional information relating to a **risk management contract** that must be submitted under clause 13.219(1)(t).
- “(2) The **Authority** may prescribe additional information under subclause (1) only for a purpose specified in clause 13.217.
- “(3) Before **publishing** a notice under subclause (1), the **Authority** must—
 - “(a) **publish** a proposed notice that contains—
 - “(i) the information relating to a **risk management contract** that the **Authority** intends to prescribe as additional information that must be submitted under clause 13.219(1)(t); and
 - “(ii) the **Authority’s** purpose in requiring disclosure of the additional information; and
 - “(iii) the **Authority’s** assessment of the likely benefits of requiring the disclosure of the additional information prescribed in the proposed notice and whether those benefits are expected to outweigh the likely costs; and
 - “(iv) the proposed date or dates on which the disclosure of the additional information will apply; and
 - “(b) provide a reasonable opportunity for persons to make submissions to the **Authority** on the proposed notice; and
 - “(c) consider submissions received under paragraph (b) in deciding whether to—
 - “(i) make any reasonable changes to the additional information required by the proposed notice; and
 - “(ii) **publish** the notice.”

9 New clause 13.219B inserted (Authority may prescribe additional risk management contract)

Before clause 13.220, insert:

“13.219B Authority may prescribe additional risk management contract

- “(1) The **Authority** may **publish** a notice prescribing any type of contract used to manage risk in relation to the spot market for **electricity** as a **risk management contract** to which this subpart applies.

- “(2) The **Authority** may prescribe any type of contract as a **risk management contract** under subclause (1) only for a purpose specified in clause 13.217.
- “(3) Before **publishing** a notice under subclause (1), the **Authority** must—
 - “(a) **publish** a proposed notice that contains—
 - “(i) the type or types of contract that the **Authority** intends to prescribe as a **risk management contract**; and
 - “(ii) the **Authority’s** purpose in prescribing the type or types of contract as a **risk management contract**; and
 - “(iii) the **Authority’s** assessment of the likely benefits of prescribing the type or types of contract as a **risk management contract** and whether those benefits are expected to outweigh the likely costs; and
 - “(iv) a list of any additional information that **parties** to the type or types of contract must submit to the **Authority** under clause 13.219A; and
 - “(v) the proposed date or dates on which this subpart will apply to the type or types of contract; and
 - “(b) provide a reasonable opportunity for persons to make submissions to the **Authority** on the proposed notice; and
 - “(c) consider submissions received under paragraph (b) in deciding whether to—
 - “(i) make any reasonable changes to the proposed notice; and
 - “(ii) **publish** the notice.”

10 Clause 13.220 replaced (Calculation of contract price)

Replace clause 13.220 with:

“13.220 Calculation of contract prices

- “(1) Following the receipt of information submitted under clause 13.219, the **WITS manager** must calculate—
 - “(a) the **time weighted contract price** in accordance with subclause (2); and
 - “(b) the **load weighted contract price** in accordance with subclause (3).
- “(2) The **time weighted contract price** is to be calculated in accordance with the following formula:

$$CP_{tw} = \left(\frac{\sum_{i=1}^n P_i \times TP_i}{\sum_{i=1}^n TP_i} \right) / LF \times LAF$$

where

CP_{tw} is the **time weighted contract price**

n is the number of different prices within the contract

P_i is the price specified in the contract

TP_i is the number of **trading periods** during which each price in the contract applies

LF is the **location factor**, for the relevant **node** at which the price is set in the contract, as **published** by the **WITS manager** in accordance with clause 13.221

LAF means a loss adjustment factor, which is,—

- (a) if the **time weighted contract price** for the contract is referenced to a **point of connection** on the **grid**, 1; or
- (b) for all other contracts, 0.937 (being the difference between 1 and the loss factor of 0.063).

“(3) The **load weighted contract price** is to be calculated in accordance with the following formula:

$$CP_{lw} = \left(\frac{\sum_{i=1}^n P_i \times V_i}{\sum_{i=1}^n V_i} \right) / LF \times LAF$$

where

CP_{lw} is the **load weighted contract price**

n is the number of different prices within the contract

P_i is the price specified in the contract

V_i is the volume of **electricity** for each **trading period** during which each price in the contract applies

LF is the **location factor**, for the relevant **node** at which the price is set in the contract, as **published** by the **WITS manager** in accordance with clause 13.221

LAF means a loss adjustment factor, which is,—

- (a) if the **load weighted contract price** for the contract is referenced to a **point of connection** on the **grid**, 1; or
- (b) for all other contracts, 0.937 (being the difference between 1 and the loss factor of 0.063).

“(4) Where a **risk management contract** includes prices at more than 1 **node**, the **WITS manager** will calculate the **time weighted contract price** and **load weighted contract price** at each **node**.

“(5) To avoid doubt, if a **risk management contract** includes an **adjustment clause**, the **time weighted contract price** and **load weighted contract price** is that which applies before the **adjustment clause** takes effect.”

11 Clause 13.222 revoked (Other information that must be submitted)

Revoke clause 13.222.

12 New clause 13.222A inserted (Information about other contracts that must be submitted)

Before clause 13.223, insert:

“13.222A Information about other contracts that must be submitted

If a **participant** enters into a contract where a substantial purpose is to manage risk for the **participant** in relation to the spot market for **electricity**, but that contract is not a **risk management contract**, the **participant** must submit to the **approved system**—

“(a) notification that the **participant** has entered into the contract; and

“(b) a description of the key terms of the contract.”

13 Clause 13.223 amended (Modified or amended information)

(1) Replace clause 13.223(1) with:

“If a **risk management contract** is modified or amended after the information referred to in clause 13.219 is submitted to the **approved system** and the effect of the modification or amendment is that the information submitted to the **approved system** is no longer correct or complete, the **party** specified in clause 13.218 must submit the modified or amended information to the **approved system**.”

(2) In clause 13.223(2),—

(a) after “The”, insert “**party** specified in clause 13.218 must submit the”; and

(b) delete “submitted”; and

(c) replace “subclause (1) must—” with “subclause (1)—”.

(3) In clause 13.223(2)(a), replace “identify” with “so that it identifies”.

(4) In clause 13.223(2)(b), delete “be”.

(5) In clause 13.223(2)(c), delete “be submitted”.

14 Clause 13.224 amended (Correction of information)

In the chapeau to clause 13.224, replace “a **party** to a **risk management contract**” with “the **party** specified in clause 13.218”.

15 Clause 13.225 amended (Timeframes for submitting information)

(1) In the chapeau to clause 13.225(1),—

(a) after “The”, insert “**party** specified in clause 13.218 must submit the”; and

(b) replace “clauses” with “clause”; and

(b) delete “and 13.222 must be submitted”.

(2) In clause 13.225(2),—

(a) after “The”, insert “**party** specified in clause 13.218 must submit any”; and

(b) replace “information submitted under” with “information under”; and

(b) delete “must be submitted”.

(3) Replace clause 13.225(4) with:

“The **party** specified in clause 13.227A(3) must submit the corrected information agreed under clause 13.227(3A) to the **approved system** no later than 5pm on the date that is 2 **business days** after the date that the **parties** to the **risk management contract** agreed on the corrected information.”

16 Clause 13.226 amended (WITS manager must make certain information available to the public)

- (1) In the heading of clause 13.226 replace “**to the public**” with “**to Authority**”.
- (2) Replace clause 13.226(1) with:
 - “(1) The **WITS manager** must, as soon as practicable, make the following information in relation to every **risk management contract** available to the **Authority**:
 - “(a) information submitted under clause 13.219:
 - “(b) whether the contract applies to all **trading periods** within its **term**:
 - “(c) the **time weighted contract price** and **load weighted contract price** calculated in accordance with clause 13.220 or, if clause 13.220(4) applies, the **time weighted contract prices** and **load weighted contract prices**:
 - “(d) the **premium**, expressed as an amount of dollars per **MWh**:
 - “(e) the **grid zone area** in which the, or each, **time weighted contract price** and **load weighted contract price** is determined or applies:
 - “(f) where any information is submitted under clauses 13.223(1) and 13.224,—
 - “(i) that information, to the extent that it modifies, amends, or corrects information made available under paragraph (a); and
 - “(ii) any necessary amendments to the information made available under paragraphs (b) to (e).”
- (3) After clause 13.226(1), insert:

“(1A)The **WITS manager** must, as soon as practicable, make information submitted under clause 13.222A available to the **Authority**.”
- (4) In the chapeau to clause 13.226(2)—
 - (a) replace “the submitted information” with “information submitted under clause 13.219 or 13.223(1)”; and
 - (b) delete “, for all information other than that submitted under clause 13.224”.
- (5) Revoke clause 13.226(2)(a).
- (6) In clause 13.226(2)(b), replace “if the contract is a **contract for differences** or an **options contract**” with “for a **risk management contract** other than a **fixed-price physical supply contract**”.

17 Clause 13.226A inserted (Authority must make certain information publicly available)

After clause 13.226, insert:

“13.226A Authority must make certain information publicly available

- “(1) Subject to subclause (2), the **Authority** must, as soon as practicable after the **WITS manager** makes information available to the **Authority** under clause 13.226(1), **publish** the following information in relation to every **risk management contract**:
 - “(a) information submitted under clauses 13.219(1)(c) to 13.219(1)(h), 13.219(1)(j), and 13.219(1)(m) to 13.219(1)(s):
 - “(b) information made available under clauses 13.226(1)(b) to (e):
 - “(c) where any information is submitted under clauses 13.223(1) and 13.224,—
 - “(i) that information, to the extent that it modifies, amends, or corrects information **published** under paragraph (a); and
 - “(ii) any necessary amendment to the information **published** under paragraph (b).
- “(2) If the **risk management contract** is for the purchase of **electricity** linked to **generation** at a particular **generating plant** or **generating plants**, or **generating**

station or **generating stations**, the **Authority** may also **publish** the following information in relation to the **risk management contract**:

- “(a) information submitted under clauses 13.219(1)(c), 13.219(1)(f) to 13.219(1)(h), and 13.219(1)(m) to 13.219(1)(s):
- “(b) information made available under clause 13.226(1)(b):
- “(c) where any information is submitted under clauses 13.223(1) and 13.224,—
 - “(i) that information, to the extent that it modifies, amends, or corrects information **published** under paragraph (a); and
 - “(ii) any necessary amendment to the information **published** under paragraph (b).
- “(3) When information submitted under clause 13.219 or 13.223(1) is first **published** under subclause (1) or (2), the **Authority** must indicate that the information is unverified.
- “(4) The **Authority** must, as soon as practicable, update the indication made under subclause (3) to verified, pending verification, not disputed, disputed or subject to a long-term dispute every time the **WITS manager** notifies the **Authority** of a change in accordance with clauses 13.227(1) to (3), 13.227(4) and 13.227A(4).”

18 Clause 13.227 amended (Verification of information)

- (1) Replace the heading of clause 13.227 with “**Process on verification of information or otherwise**”.
- (2) Replace clause 13.227(1) with:

“The **WITS manager** must notify the **Authority**, as soon as practicable, that the information made available under clause 13.226(1) is verified if the **other party** to a **risk management contract** submits a **verification notice** to the **approved system** within 2 **business days** of receiving notice under clause 13.226(2) confirming that the information made available under clause 13.226(1) is correct.”
- (3) In the chapeau to clause 13.227(2), replace “indicate on the **approved system**” with “notify the **Authority**, as soon as practicable,”.
- (4) In clause 13.227(2)(a), replace “**contract for differences** or an **options contract**” with “**risk management contract** other than a **fixed-price physical supply contract**”.
- (5) Replace clause 13.227(3) with:

“The **WITS manager** must notify the **Authority**, as soon as practicable, that the information made available under clause 13.226(1) is disputed if the **other party** to a **risk management contract** submits a **verification notice** to the **WITS manager** within 2 **business days** of receiving notice under clause 13.226(2) advising that the information made available under clause 13.226(1) is not correct.”
- (6) After clause 13.227(3), insert:

“(3A) If the information made available under clause 13.226(1) is disputed, the **WITS manager** must give the **parties** to the relevant **risk management contract** a written notice requiring the **parties** to use all reasonable endeavours to agree within 10 **business days** of receiving the notice on—

 - “(a) whether the information made available under clause 13.226(1) is correct; and
 - “(b) if not, what corrections should be made to the information.”
- (7) In the chapeau to clause 13.227(4)—
 - (a) replace “**contract for differences** or an **options contract**” with “**risk management contract** other than a **fixed-price physical supply contract**”; and
 - (b) replace “but does not submit” with “that has not submitted”.
- (8) In clause 13.227(4)(a) replace “indicate on the **approved system**” with “notify the **Authority**, as soon as practicable,”.

(9) Revoke clauses 13.227(5) to 13.227(9) (inclusive).

19 New clause 13.227A inserted (Parties to comply with written notices from WITS manager)

After clause 13.227, insert:

“13.227A Parties to comply with written notices from WITS manager

- “(1) The **parties** must comply with any written notice from the **WITS manager** under clause 13.227(3A) or (4)(b).
- “(2) If the **parties** to the **risk management contract** agree under clause 13.227(3A) that the information made available under clause 13.226(1) is correct, the **other party** must submit a **verification notice** to the **approved system** confirming that the information is correct.
- “(3) If the **parties** to the **risk management contract** agree under clause 13.227(3A) to a correction to the information made available under clause 13.226(1), the **party** that submitted that information to the **approved system** must submit the corrected information in accordance with clause 13.225(4).
- “(4) If the **parties** to the **risk management contract** have not complied with subclauses (2) or (3) within 10 **business days** of receiving the written notice from the **WITS manager** under clause 13.227(3A) or (4)(b), the **WITS manager** must notify the **Authority** that the information is subject to a long term dispute.”

20 Clause 13.228 amended (Confirmation of information submitted through approved system)

In clause 13.228(1), replace “clauses 13.221, or 13.222 to 13.224” with “clauses 13.219, 13.222A, 13.223 or 13.224.”

21 Clause 13.229 amended (Submitting party to check if no confirmation received)

- (1) In the heading of clause 13.229, after “**Submitting party**”, insert “**or participant**”.
- (2) Replace clause 13.229(1) with:
- “(1) If a **party** or **participant** does not receive confirmation from the **WITS manager** under clause 13.228(1) within 6 hours of submitting the information, they must contact the **WITS manager** within 1 **business day** from the end of that 6 hour period to check whether the **approved system** has received the information.”
- (3) In clause 13.229(2),—
- (a) after “If the”, insert “**WITS manager** advises the **party** or **participant** that the”; and
- (b) replace “the **party** must” with “the **party** or **participant** must”.
- (4) In clause 13.229(3), insert “**or participant**” after “the **party**”.

22 Clause 13.230 amended (Certification of information)

- (1) In clause 13.230(1),—
- (a) after “submitted information”, insert “to the **approved system**”; and
- (b) replace “clause 13.225” with “this subpart”; and
- (c) replace “within 3 months of the end of the year ending 31 March” with “by 30 June that year”.
- (2) In clause 13.230(2)(b), replace “form specified by the **Authority**” with “**prescribed form**”.

23 Clause 13.231 amended (Audit of information)

- (1) Replace the heading of clause 13.231 with “**Appointment of auditor**”.
- (2) In clause 13.231(1), replace “carry out” with “require”.

- (3) Replace clause 13.231(2) with:
 - “(2) If the **Authority** requires an **audit** under subclause (1),—
 - “(a) the **Authority** must require the **participant** to nominate an appropriate **auditor**; and
 - “(b) the **participant** must provide that nomination within a reasonable timeframe; and
 - “(c) the **Authority** may direct the **participant** to appoint the **auditor** nominated by the **participant**; and
 - “(d) if the **participant** fails to nominate an appropriate **auditor** within 20 **business days**, the **Authority** may direct the **participant** to appoint an **auditor** of the **Authority**’s choice.”
- (4) After clause 13.231(2), insert:
 - “(2A) The **participant** must appoint an **auditor** in accordance with a direction made under paragraph (2)(c) or (2)(d).”
- (5) Revoke clauses 13.231(3) to 13.231(5) (inclusive).

24 **New clause 13.231A inserted (Audit process)**

After clause 13.231, insert:

“13.231A Audit process

- “(1) A **participant** subject to an **audit** under this clause must, on request from the **auditor**, provide the **auditor** with a copy of every **risk management contract** that it has entered into in the previous 12 months or within such other period specified by the **auditor**.
- “(2) The **participant** must provide the information no later than 20 **business days** after receiving a request from the **auditor** for the information.
- “(3) The **participant** must ensure that the **auditor** produces an **audit** report on the **participant**’s compliance with this subpart and submits the **audit** report to the **Authority** within the timeframe specified by the **Authority**.
- “(4) Before the **audit** report is submitted to the **Authority**, the **auditor** must refer any apparent failure by the **participant** to comply with this subpart that the auditor has identified to the **participant** for comment within the timeframe specified by the **auditor**.
- “(5) The **audit** report must include any comments from the **participant** on any apparent non-compliance that the **auditor** referred to the participant under subclause (4) if the **participant** provided comments to the **auditor** within the time specified by the **auditor**.
- “(6) The **audit** report does not need to contain a copy of any **risk management contract** that the **participant** has provided to the **auditor** in accordance with subclause (1), unless the **Authority** has specifically required the **auditor** to include a copy of any **risk management contract** in the **audit** report.”

25 **Clause 13.232 amended (Payment of costs relating to audits)**

- (1) In clause 13.232(1),—
 - (a) replace “establishes, to the reasonable satisfaction of the **Authority**,” with “establishes to the reasonable satisfaction of the **Authority**”; and
 - (b) delete “(whether or not the **Authority** appoints an investigator to investigate the alleged breach)”; and
 - (c) after “must pay for the **audit**”, insert “even if the **Authority** declines to appoint an investigator to investigate the alleged breach”.
- (2) In clause 13.232(2), after “If the **Authority** considers that the”, insert “apparent”.

- 26 Clause 13.233 amended (WITS manager and Authority must not publish certain information and may use information only under this subpart)**
- (1) In the heading of clause 13.233, replace “**not publish**” with “**keep**” and replace “**and may use information only under this subpart**” with “**confidential**”.
 - (2) In the chapeau to clause 13.233(1)—
 - (a) delete “and each **auditor** appointed under clause 13.231(2)”; and
 - (b) replace “keep” with “keeps”; and
 - (c) replace “clauses 13.219, or 13.222 to 13.224 and copies of any **risk management contract** provided to the **auditor** under clause 13.231” with “this subpart”.
 - (3) Replace clause 13.233(1)(b) with:

“(b) disclosure is required to enable the **Authority** or the **WITS manager** to carry out its obligations and duties under the **Act**, this Code or the Electricity Industry (Enforcement) Regulations 2010 or is otherwise required by law; or”.
 - (4) In clause 13.233(1)(c), replace “**party or parties**” with “**party, parties** or other persons”.
 - (5) Revoke clause 13.233(1)(d).
 - (6) After clause 13.233(1)(d), insert:

“(e) the information is otherwise publicly available at the time that the **Authority** discloses it.”
 - (7) After clause 13.233(1), insert:

“(1A) The obligation in subclause (1) does not prevent the **Authority** from—

 - (a) using the information for any purpose in connection with the **Authority’s** objectives set out in section 15 of the **Act** or the **Authority’s** functions in section 16 of the **Act** or section 14 of the Crown Entities Act 2004; or
 - (b) disclosing the information in connection with a purpose referred to in paragraph (a) in anonymised form or in consolidated form.”
 - (8) In clause 13.233(2)—
 - (a) delete “the information submitted under clause 13.222 and”; and
 - (b) replace “by an **auditor** appointed under clause 13.231(2)” with “under clause 13.231A(6)”.

27 Clause 13.236 replaced (Availability of information)

Replace clause 13.236 with:

“13.236 Availability of information

The **WITS manager** may only remove information that is submitted under clauses 13.219, 13.223, or 13.224 from the **approved system** 12 months after the termination of the **risk management contract** that the information relates to.”

28 Clause 13.236AA amended (Requirement to provide consent to exchange)

- (1) In the chapeau to clause 13.236AA(2)—
 - (a) replace “The consent required under subclause (1) must be” with “The **participant** must ensure that the consent is”; and
 - (b) replace “allow” with “allows”.
- (2) Replace clause 13.236AA(3) with:

“(b) The **participant** must ensure that all necessary arrangements are in place with any agent, associate, contractor, service provider, or other person acting on behalf of, or on the instructions of the **participant**, immediately after providing consent in accordance with subclause (1), to permit and facilitate the provision of all information described in subclause (2) by the exchange to the **Authority**.”
- (3) In clause 13.236AA(4), replace “Each **participant** must” with “The **participant** must”.

Explanatory Note

This note is not part of the amendment but is intended to indicate its general effect.

This amendment to the Electricity Industry Participation Code 2010 (“Code”) comes into force on 30 October 2024.

This amendment amends clause 1.1 and subpart 5 of Part 13 of the Code to support effective risk management by improving transparency in the contracts market and enhancing market performance during the transition to a highly renewable, electrified economy.

This amendment:

- a. broadens the scope of information participants must disclose to the approved system about risk management contracts
- b. broadens the specified information published about risk management contracts
- c. changes the publication arrangements for specified information about risk management contracts, to require this information to be published by the Authority on its website rather than on the approved system
- d. provides for the disclosure of information about novel risk management contracts to increase the Authority’s visibility of these kinds of contracts
- e. future-proofs the hedge disclosure obligations by enabling the Authority to prescribe additional information about risk management contracts, and additional categories of risk management contracts, that are subject to the disclosure provisions
- g. otherwise updates and clarifies the hedge disclosure obligations, including clarifying the purpose of subpart 5 of Part 13 of the Code, the Authority’s power to use information disclosed under this subpart, the requirement to maintain confidentiality by only disclosing certain information in anonymised or consolidated form, and updating the audit process that applies to participants under this subpart, and
- h. makes consequential amendments related to the above.