



Independent Pricing and Regulatory Tribunal

Employment Guarantees section

Electricity — Reporting Manual
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1 Purpose of this document

IPART regulates the electricity network operators including under the *Electricity Network Assets (Authorised Transactions) Act 2015* (the Act).¹ This document refers to Schedule 4 (the Schedule) of the Act, Employment Guarantees, and therefore currently only applies to TransGrid, Ausgrid and Endeavour Energy (network operators).²

This document has been prepared to assist the network operators in meeting their legislative requirements under the Schedule, and in reporting on compliance with the Employment Guarantees to IPART. The network operators should also refer to the Schedule.

We are developing a full Reporting Manual to guide all licensees in their reporting obligations, due for publication by April 2016. However, the network operators are required to comply with the requirements of the Employment Guarantees from 1 July 2015 and under their licence conditions, report to IPART in accordance with this Reporting Manual.

The following sections of this Reporting Manual describe the data to be reported to IPART, and provide guidance on how IPART defines some terms in the Schedule. We require network operators to report on each quarter of the financial year, and to submit that report to IPART within one month of the final day of the quarter.

The structure of this chapter may be changed in order to be consistent with the full Reporting Manual. Further, the Reporting Manual, including this chapter, may be amended by IPART from time to time.

2 Employment Guarantees

The Schedule provides a five year Employment Guarantee period lasting from 1 July 2015 to 30 June 2020. It sets out provisions relating to minimum employee numbers and some conditions of employment such as restrictions on changes to workplace locations and, for continuing employees³, protections for current employment conditions.

¹ The Act (except schedule 6) commenced on 4 June 2015.

² *Network operator* is defined in cl 23 of the *Electricity Network Assets (Authorised Transactions) Act 2015*, Schedule 4 (the Schedule).

³ *Continuing employee* is defined in cl 23 of the Schedule.

2.1 Minimum number of employees

The Schedule includes an ‘appropriate staffing level’ for each network operator, measured as a minimum number of full time equivalent employees during the Employment Guarantee period.

These are:⁴

- ▼ 3,570 full time equivalent employees for Ausgrid
- ▼ 2,100 full time equivalent employees for Endeavour Energy, and
- ▼ 1,000 full time equivalent employees for TransGrid.

Further, the Schedule allocates a ‘guaranteed apprenticeship intake’ to each network operator, of:⁵

- ▼ 25 apprentices for Ausgrid
- ▼ 10 apprentices for Endeavour Energy, and
- ▼ 5 apprentices for TransGrid.

These apprenticeship intakes are required during a financial year, when, in the final quarter of the previous financial year, the number of full time equivalent employees is less than or equal to 110% of the appropriate staffing level of the operator.⁶

Table 2.1 outlines the reporting obligations related to clauses 3 and 15 of the Schedule. See section 2.1.1 for definitions of some terms used in the Schedule.

⁴ The Schedule, cl 3(2).

⁵ The Schedule, cl 15(2).

⁶ The Schedule, cl 15(1).

Table 2.1 Quarterly data reporting requirements for full time equivalent employees

Code	Name	Description
EG1	Full time equivalent employees ^a	The number of full time equivalent employees is calculated as $F+A/B$
EG2	F - the average number of <i>full time employees of the network operator</i> during the relevant period ^b	The average number of <i>full time employees</i> in the relevant 3-month period. Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG3	A - the total number of hours worked during the relevant period by all <i>part time employees of the network operator</i>	The total number of hours worked during the relevant 3-month period, by all <i>part time employees</i> . Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG4	B - the average number of hours worked during the relevant period by all <i>full time employees of the network operator</i>	The average number of hours worked during the relevant 3-month period, excluding overtime hours, by all <i>full time employees</i> . Provide data under the following headings: <ul style="list-style-type: none"> ▼ employed by the network operator ▼ employed by an <i>associated entity</i> of the network operator, and ▼ employed by an entity that provides the services of the person exclusively to the network operator on an <i>ongoing basis</i>.
EG5	New apprentices employed	The number of apprentices taken on during the current financial year as new employees of the network operator, and the total number of apprentices employed as at the end of the financial year (when reporting for the 4th quarter).

^a See additional notes below in section 2.1.1

^b The 'relevant period' is defined in cl 23 of the Schedule, and is the relevant 3-month period commencing on 1 July, 1 October, 1 January or 1 April in each year.

Note: We may request more information from a network operator against any of these data.

2.1.1 Definitions

The definition of *employee of a network operator* contained in clause 20(1) and clauses 16, 17 and 18 of the Schedule applies for the purposes of reporting under this manual. The definition of *full time employee* and *part time employee* are contained in clause 21(3) of the Schedule and also apply. The relevant clauses are provided in Appendix A.

Note: Hours taken as leave without pay (LWOP) should not be included in the calculation of full time equivalent staff. This applies to the calculation of 'F', 'A' and 'B'. For instance, if a staff member normally employed as a full time employee worked or was on paid leave for 70% of the period as a full time employee, and was on leave without pay for the remaining 30%:

- ▼ *in the calculation of 'F', they would be counted as 0.7 full time employees, and*
- ▼ *in the calculation of 'A', there is no inclusion of their hours since the employee is not considered a part time employee, and*
- ▼ *in the calculation of 'B', the hours they worked are included in the numerator and 0.7 would be included in the denominator.*

When a person is engaged to replace an employee on LWOP, they may be included in the full time equivalent employee calculation, as consistent with clauses 20 and 21.

Below, guidance is provided on how IPART proposes to apply certain expressions that appear in clause 20(1). For reporting purposes, IPART considers that:

- ▼ ***associated entity*** is defined in clause 20(2) *Interpretation – employees of network operator* in the Schedule. It states an entity is an associated entity of a network operator if:
 - a) the network operator has an ownership interest in the entity or the entity has an ownership interest in the network operator, or
 - b) another entity has an ownership interest in both the entity and the network operator.

Note: For reporting purposes, IPART considers that an entity will be an associated entity of a network operator if:

1. *the network operator owns a share, option, or other legal right by which it owns a part of the entity*
2. *the entity owns a share, option, or other legal right by which it owns a part of the network operator*
3. *a third entity owns shares, options, or other legal rights by which it owns a part of both:*
 - a) *the network operator, and*
 - b) *the entity.*

- ▼ the expression *on an ongoing basis* means the services were provided or can reasonably be expected to be provided on a regular and systematic basis for a sequence of periods during a period of at least 12 months; and
- ▼ the expression *primarily in connection with the business* means that, of the total hours the person in question spent working for the employer referred to in clause 20, greater than 50% were in connection with the business of the network operator. This should be calculated at the end of each relevant period for the time worked in that period.

2.2 Existing locations

The Schedule requires that, for the duration for the Employment Guarantee period, the network operator must maintain an administrative office, depot or other administrative centre within the vicinity of an administrative location existing at the commencement of the Act, which is in the area of operations of its network.⁷

Table 2.2 outlines the reporting obligations related to clause 9 of the Schedule. See section 2.2.1 for definitions of some terms used in the Schedule.

Table 2.2 Quarterly data reporting requirements for location of administrative centres

Code	Name	Description
EG6	Changes to location of administrative office, depot or other administrative centre of the network operator	<ol style="list-style-type: none"> 1. The address of any existing administrative location^a which was closed in the relevant 3-month period. 2. The address of any administrative office, depot, or other administrative centre <i>within the vicinity of</i> any existing administrative location reported or required to be reported under item 1 above. 3. An estimate of the average travel time between the location referred to in item 1 above and the location referred to in item 2 above at the times that employees would normally travel between home and work.^b 4. Detailed explanations of how the estimates referred to in item 3 above were calculated. 5. The length in metres of the most practical and reasonable route between the location referred to in item 1 above and the location referred to in item 2 above. 6. A statement setting out the business or other reasons why any existing administrative office, depot or other administrative centre was closed in the relevant 3-month period.

^a Existing administrative location has the meaning given by clause 9(2) of the Schedule.

^b See note in section 2.2.1.

Note: We may request more information from an authorised network operator against any of these data.

⁷ The Schedule, cl 9.

2.2.1 Definitions

For reporting purposes, IPART considers that *in the vicinity of* means 'within the area of'. IPART would consider all relevant matters, including travel time and distance, for the purposes of determining whether the other administrative office, depot or centre is within the vicinity of the *existing administrative location*.

As a guide, an administrative office, depot or centre which is within 45 minutes travel time from the *existing administrative location* would tend to be considered within the vicinity of the *existing administrative location*. However, where travel time is greater than 45 minutes, other considerations may also be relevant when applying the expression *in the vicinity*.

Note: travel time would be measured as the time of travel from the closed location to the nearest remaining open location at the times that employees would reasonably be expected to travel to work from home, and vice versa at the times that employees would reasonably be expected to travel from work to home. In the first instance this would be driving time, but another transport mode, such as public transport, may also be considered where there is reasonable access to such transport between the two locations.

2.3 Disputes

The Schedule covers other areas of workplace relations, including salary, redundancies, leave entitlements, recognition of service, existing apprentices, relocation policies, enterprise agreements, superannuation, and disputes.⁸ These employment guarantees apply to *continuing employees*, and are enforceable by an affected employee or a person authorised to act on behalf of an affected employee or a majority of affected employees.⁹

IPART's role is to monitor compliance with the obligations of the network operators under the Schedule, and to enforce the obligations where a network operator has failed to comply.¹⁰

A dispute in relation to the subject matter of an employment guarantee (excluding clauses 3, 9 and 15) may be resolved in accordance with the *Fair Work Act 2009* of the Commonwealth or any dispute resolution process applicable to the employee.¹¹ We encourage use of the dispute resolution processes available at the Fair Work Commission, where it falls within the Commission's jurisdiction. When agreement is not reached by the parties through the conciliation and mediation processes offered, the Fair Work Commission may be required to arbitrate. IPART, however, remains the responsible body for compliance with the Employment Guarantees, and whilst we may consider the

⁸ The Schedule, cls 2, 4-7, 10, 12 and 14.

⁹ The Schedule, cl 8(2).

¹⁰ The Schedule, cl 8.

¹¹ The Schedule, cl 13.

Fair Work Commission’s deliberations, we will independently monitor and enforce the obligations of the Employment Guarantees.

Table 2.3 shows the reporting obligations related to other areas of workplace relations covered by the Schedule.

Table 2.3 Quarterly data reporting requirements for workplace relations disputes

Code	Name	Description
EG7	New workplace disputes over the relevant period	<p>Report on the number of new disputes taken to the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator ▼ superannuation disputes involving an alleged breach of clause 12 of the Schedule, connected with the business of the network operator, and ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator.
EG8	Workplace disputes resolved over the relevant period	<p>Report on the number of disputes resolved at the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator

Code	Name	Description
		<ul style="list-style-type: none"> ▼ superannuation disputes involving an alleged breach of clause 12 of the Schedule, connected with the business of the network operator, and ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator.
EG9	Workplace disputes ongoing at end of period	<p>Report on the number of disputes ongoing at the Fair Work Ombudsman or the Fair Work Commission in the relevant 3-month period. Provide data under each of the following categories:</p> <ul style="list-style-type: none"> ▼ salary disputes involving an alleged breach of clause 2 of the Schedule, connected with the business of the network operator ▼ redundancy disputes involving an alleged breach of clause 4 and/or clause 5 of the Schedule, connected with the business of the network operator ▼ leave entitlement disputes involving an alleged breach of clause 6 of the Schedule, connected with the business of the network operator ▼ recognition of service disputes involving an alleged breach of clause 7 of the Schedule, connected with the business of the network operator ▼ existing apprentice disputes involving an alleged breach of clause 14 of the Schedule, connected with the business of the network operator ▼ relocation policy disputes involving an alleged breach of clause 10 of the Schedule, connected with the business of the network operator, and ▼ superannuation disputes involving an alleged breach of clause 12 of the Schedule, connected with the business of the network operator.

Note: We may request more information from a network operator against any of these data.



Appendices

A Employee of a network operator

Schedule 4 of the *Electricity Network Assets (Authorised Transactions) Act 2015* describes an employee in clauses 16, 17 and 18 as follows:

16 Cadets, trainees and graduate engineers

A person employed as a cadet, trainee or graduate engineer is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).

17 Fixed term employees

- (1) A fixed term employee is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).
- (2) In this clause, *fixed term employee* means an employee whose terms and conditions of employment are provided by an individual contract that provides for a fixed term of employment and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

18 Contract employees

- (1) A contract employee is an employee for the purposes of this Schedule (including for the purposes of employee guarantees under this Schedule).
- (2) In this clause, *contract employee* means an employee whose terms and conditions of employment are provided by an individual contract and not by an award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

An employee of a network operator is further described in clause 20, as follows:

20 Interpretation—employees of network operator

- (1) A person is an employee of a network operator for the purposes of this Schedule if the person carries out work solely or primarily in connection with the business of the network operator and is employed by:
 - (a) the network operator, or
 - (b) an associated entity of the network operator, or
 - (c) an entity that provides the services of the person exclusively to the network operator on an ongoing basis.