

[Application for an Access Direction under Section 38 of the Gas Act](#)

[Overview](#)

Any person ('Applicant') who is unable to negotiate access to a gas facility such as a gas pipeline, a gas processing or production facility, an onshore receiving facility or LNG terminal ('Relevant Facility') may apply to the Energy Market Authority ('EMA') under Section 38 of the Gas Act for directions to secure access rights.

EMA has the power to issue directions to the owner of the relevant facility ('Owner') specifying the terms on which the Owner should enter into access agreement with the Applicant. EMA may also give directions to the Applicant specifying the sums or the method of determining the sums which should be paid by the Applicant for the access right.

[Notice of Intention](#)

Before making an application to EMA, the Applicant must first serve on the Owner not less than 28 days' written notice ('Notice of Intention') that it intends to make an application to EMA for an access direction under Section 38 of the Gas Act. The Notice of Intention must be served by personal delivery or by registered mail on the Owner.

[Information to be provided by Applicant to EMA](#)

An application for access directions may be made by the Applicant to EMA using the **Section 38 Application Form**. The Section 38 Application Form can be downloaded from the EMA website.

EMA would require the Applicant to furnish the following supporting documents together with the Section 38 Application Form:

- evidence that the Applicant had tried to negotiate access to the Relevant Facility in good faith and had taken all reasonable steps to reach an access agreement with the Owner;
- evidence that the Applicant had given the Owner a Notice of Intention;
- draft of the access terms which the Applicant considers to be reasonable and sufficiently comprehensive to allow it to secure access to the Relevant Facility; and
- any other relevant information and supporting documents.

[Submission of Section 38 Application to EMA](#)

The Section 38 Application Form and the supporting information and documents must be sent by personal delivery or by registered mail to EMA at the following address:

Energy Market Authority of Singapore
111 Somerset Road
#15-05 Singapore 238164
Attn: Mr Yeo Yek Seng

(Please mark "Section 38 Application" clearly on the top left hand corner of the envelope)

Actions by EMA after receiving an application

Where an application has been made, EMA will take the following actions:

- decide whether the application should be adjourned to enable further negotiations to take place;
- decide whether the application should be considered further;
- decide whether the application should be rejected.

EMA will keep the Applicant, the Owner and/or any interested party informed of EMA's actions or decisions.

Indicative procedures involved in EMA's consideration of a Section 38 application

The following chart sets out the indicative procedures involved in EMA's consideration of a Section 38 application. The procedures and timelines in the chart may vary from case to case, depending on the complexity of the application.

Stage	Responsible party	Responsibilities	Estimated timeline
Service of Notice of Intention	Applicant	Applicant gives the Owner not less than 28 days' written notice ('Notice of Intention') that it intends to make an application to EMA for an access direction under Section 38 of the Gas Act	28 days (minimum)
Submission of Section 38 application to EMA	Applicant	<p>Applicant submits the following documents to EMA:</p> <ul style="list-style-type: none"> ▪ Section 38 Application Form; ▪ evidence that the Applicant had tried to negotiate access to the Relevant Facility in good faith and had taken all reasonable steps to reach an access agreement with the Owner; ▪ evidence that the Applicant had given the Owner a 28 days' Notice of Intention; ▪ draft of the access terms which the Applicant considers to be reasonable and sufficiently comprehensive to allow it to secure access to the Relevant Facility; and ▪ any other relevant information and supporting documents. 	-
Initial review of application by EMA	EMA	On receipt of an application, EMA will undertake an initial review of the information furnished by the Applicant.	7 days from receipt of application.
Notification to Owner	EMA	<p>If adequate information has been furnished by the Applicant, EMA will:</p> <ul style="list-style-type: none"> ▪ inform Owner that EMA has received a Section 38 application seeking access to the Owner's facility; and ▪ provide copies of the information furnished by Applicant to the Owner. 	7 days after receipt of application.
Response from Owner	Owner	<p>The Owner responds to EMA with:</p> <ul style="list-style-type: none"> ▪ terms on which it will be prepared to allow access, ▪ charges it will levy on the Applicant, ▪ changes in charges that it deems necessary for any other user of the 	28 days after receipt of notice and documents from EMA.

		<p>Relevant Facility,</p> <ul style="list-style-type: none"> ▪ if appropriate, a detailed explanation as to why access should not be provided to the Applicant; and ▪ details of the terms on which other existing users have access to the Relevant Facility. 	
Response from Applicant and interested parties (if any)	Applicant and interested parties (if any)	<p>EMA will provide copies of the Owner's responses to the Applicant, and ask for the Applicant's comments. If EMA considers that there are other parties which has an interest in the access application, EMA may also provide copies of the Owner's responses to such interested parties, and ask for such interested parties to comment on the Owner's responses.</p> <p>The Applicant and interested parties must respond to EMA with their comments on the Owner's responses within the period specified by EMA.</p>	28 days after receipt of Owner's responses from EMA.
Decision by EMA	EMA	<p>EMA would consider all the information and responses provided by the Owner, the Applicant and other interested parties.</p> <p>EMA will inform the Owner, the Applicant and other interested parties of the outcome of the Section 38 application. EMA may adjourn the application, reject the application, or approve the application and issue a draft direction.</p>	28 days from receipt of responses from Owner, Applicant and interested parties.
If the Section 38 application is successful			
Stage	Responsible party	Actions / Responsibilities	Estimated timeline
Issue of draft access direction by	EMA	<p>EMA will issue a draft access direction to the Owner specifying:</p> <ul style="list-style-type: none"> ▪ the draft terms on which access 	28 days after receipt of responses

EMA		<p>should be allowed to the Applicant; and</p> <ul style="list-style-type: none"> ▪ proposed charges payable by the Applicant to the Owner for the access right. <p>The Applicant will be given a copy of the draft access direction.</p> <p>The draft access direction may be subject to modifications to take into account issues raised.</p>	from Owner, Applicant and interested parties.
Response to EMA's draft direction	Owner and Applicant	<p>The Owner and the Applicant must raise any issues they have on the draft access direction. Such issues have to be communicated to EMA in writing.</p> <p>Any responses to the draft access direction must be provided to EMA within the period specified by EMA</p>	21 days after issue of draft access direction.
Final review of access direction by EMA	EMA	EMA would undertake a final review of the draft access direction	21 days from receipt of all responses to the draft access direction.
Issue of final access direction by EMA	EMA	<p>EMA issues final access direction, specifying or confirming:</p> <ul style="list-style-type: none"> ▪ terms on which access should be allowed to the Applicant; and ▪ charges payable by the Applicant to the Owner for the access right. 	21 days after receipt of all responses to the draft access direction.