



Gas (Levy of Industry Participants) Regulations 2010

Anand Satyanand, Governor-General

Order in Council

At Wellington this 21st day of June 2010

Present:

His Excellency the Governor-General in Council

Pursuant to sections 43ZZE and 43S of the Gas Act 1992, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Energy (made in accordance with section 43ZZD of that Act), makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Gas (Levy of Industry Participants) Regulations 2010.
- 2 Commencement**
These regulations come into force on the 28th day after the date of their notification in the *Gazette*.
- 3 Application**
- (1) These regulations apply to the 2010/11 financial year.
 - (2) These regulations provide for a levy to meet the estimated costs referred to in section 43ZZC of the Act.
- 4 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—

2010/11 financial year means the year beginning on 1 July 2010 and ending with 30 June 2011

Act means the Gas Act 1992

gas storage facility—

 - (a) means any facility (including a pipe, container, or natural structure) used for the principal purpose of storing gas (whether in gaseous or liquid phase); but

- (b) does not include any container for supply of gas to a consumer

GIC means Gas Industry Company Limited, being the body that is approved as the industry body for the purposes of Part 4A of the Act by the Gas (Approval of Industry Body) Order 2004

GST means goods and services tax within the meaning of the Goods and Services Tax Act 1985

ICP has the same meaning as in rule 5.2 of the Rules

principal officer, in relation to an industry participant, has the same meaning as in section 2 of the Securities Act 1978

registry has the same meaning as in rule 5.2 of the Rules

related company means a related company within the meaning of the Companies Act 1993

Rules means the Gas (Switching Arrangements) Rules 2008 made under section 43Q of the Act

specified gas storage facility means a gas storage facility to which regulation 5(4) applies.

- (2) Terms not defined in subclause (1) but defined in section 2(1) or 43D of the Act have the same meanings in these regulations.

Wholesale gas levy

5 Liability to pay wholesale gas levy

- (1) Every person who is an industry participant on the first day of any month during the 2010/11 financial year must pay to GIC a wholesale gas levy for that month calculated in accordance with subclause (2).
- (2) The levy rate is 1.84 cents per gigajoule of gas purchased by the industry participant during the previous month—
- (a) directly from gas producers; or
- (b) from any related company that is a gas producer.
- (3) Subclause (2)(b) is for the avoidance of doubt.
- (4) However, an industry participant (**A**) is not liable to pay a wholesale gas levy on any gas purchased directly by A and supplied from a gas storage facility operated by a gas producer (**B**) if B purchased that gas directly from 1 or more other gas producers or related companies that are gas producers.

6 When wholesale gas levy is due

The wholesale gas levy for a month is due and payable on the 20th day of that month.

7 Information to be supplied with wholesale gas levy payment

- (1) Every industry participant who is liable to pay a wholesale gas levy for a month must supply to GIC a return stating—
 - (a) the total number of gigajoules of gas that the industry participant purchased during the previous month—
 - (i) directly from gas producers (including any related company); and
 - (ii) directly from specified gas storage facilities; and
 - (b) how many gigajoules of gas that the industry participant purchased during that month—
 - (i) directly from each gas producer (including from any related company); and
 - (ii) directly from each specified gas storage facility.
- (2) The industry participant must supply the return no later than the due date for payment of the levy for that month or on any later date agreed by GIC.

*Retail gas levy***8 Liability to pay retail gas levy**

- (1) Every gas retailer who is an industry participant on the last day of any month in the period June 2010 to May 2011 (inclusive) (**date A**), must pay to GIC a retail gas levy for the month that begins on the first day of the following month, calculated in accordance with subclause (2).
- (2) The levy rate is 53.33 cents per month for each ICP for which the registry, as at date A, shows—
 - (a) the gas retailer is the responsible retailer; and
 - (b) the status ACTIVE-CONTRACTED.

9 When retail gas levy is due

The retail gas levy for a month is due and payable on the 20th day of that month.

10 Information to be supplied relating to retail gas levy payment

- (1) Every gas retailer who is liable to pay a retail gas levy for a month must supply to GIC a return stating the total number of ICPs for which the registry, as at the last day of the previous month, shows—
 - (a) the gas retailer is the responsible retailer; and
 - (b) the status ACTIVE-CONTRACTED.
- (2) The gas retailer must supply the return no later than the tenth day of the month to which the levy relates or on any later date agreed by GIC.

*General provisions***11 GIC may seek additional information**

- (1) GIC may, by notice in writing to an industry participant, require that industry participant to supply the following information to GIC:
 - (a) whether the industry participant has an obligation to pay a levy under these regulations;
 - (b) the amount of any obligation to pay a levy under these regulations.
- (2) An industry participant to whom a notice is given under sub-clause (1) must supply the information within any reasonable period specified in the notice.

12 Obligation to certify that information and returns are correct

An industry participant must ensure that all information and returns it supplies under these regulations are supplied in writing, and are certified as correct by a principal officer of the industry participant.

13 Late payment

- (1) An industry participant that fails to pay any amount of any levy under these regulations on or before the date on which it falls due is liable to pay an additional levy of 10% of the amount remaining unpaid on the close of that date.

- (2) An additional levy under subclause (1) becomes due and payable on the tenth working day after the date on which GIC notifies the industry participant that the additional levy is payable.

14 Confidentiality

GIC must ensure that all information and returns that are supplied under these regulations are used only for the purposes of collecting the levies prescribed by these regulations, except to the extent that—

- (a) the person who supplied the information or return consents otherwise; or
- (b) GIC is required by or under law to disclose the information.

15 Levies exclusive of GST

- (1) The levies are exclusive of any GST.
- (2) If any GST is payable on the amount of any levy, the industry participant liable to pay the levy must pay the amount of GST to GIC together with its payment of the levy amount.

16 Revocation

The Gas (Levy of Industry Participants) Regulations 2009 (SR 2009/158) are consequentially revoked.

Michael Webster,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the 28th day after the date of their notification in the *Gazette*, impose levies on gas industry participants for the costs of Gas Industry Company Limited, as the approved industry body under the Gas Act 1992, performing func-

tions and duties and exercising powers, including the cost of collecting the levies.

The 2010/11 levies are—

- a wholesale gas levy of 1.84 cents for every gigajoule of gas purchased directly from gas producers (including from related companies that are gas producers) calculated monthly on the basis of the buyer's purchases in the previous month and payable monthly. The levy is not payable on gas purchased from gas storage facilities operated by gas producers if those producers themselves purchased the gas from other gas producers. This levy rate is increased from 1.67 cents per gigajoule for the 2009/10 financial year:
- a retail gas levy of 53.33 cents per month (which is the annual levy rate of \$6.40 divided by 12) for each installation control point (**ICP**) to which the retailer has a contract to supply gas (as recorded on the registry under the Gas (Switching Arrangements) Rules 2008) as at the last day of the previous month, payable monthly. This levy rate is the same as it was for the 2009/10 financial year.

The levies are exclusive of goods and services tax.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 24 June 2010.

These regulations are administered by the Ministry of Economic Development.
