



Gas (Levy of Industry Participants) Regulations 2006

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 26th day of June 2006

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 43ZZE and 54 of the Gas Act 1992, Her Excellency the Administrator of the Government, 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 2006.
- 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 2006/07 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,—
2006/07 financial year means the year beginning on 1 July 2006 and ending with 30 June 2007
Act means the Gas Act 1992
gas producer has the same meaning as in section 43D(1) of the Act but, in respect of Maui gas, means the Crown
gas retailer has the same meaning as in section 2(1) of the Act
GIC means the Gas Industry Company Limited, as approved as the industry body for the purposes of Part 4A of the Act by the Gas (Approval of Industry Body) Order 2004

- ICP** means the point where the gas measurement system is connected to the incoming gas supply and where gas is able to flow into a retail customer's installation
quarter means a period of 3 consecutive months that ends with the last day of March, June, September, or December
retail customer, in relation to a gas retailer and a particular month, means any person with whom the gas retailer had a contract or arrangement to supply gas as at the last day of the previous month
retail gas levy means the levy imposed under regulation 8
wholesale gas levy means the levy imposed under regulation 5.
- (2) An example used in these regulations is only illustrative of the provision to which it relates. It does not limit the provision.
 (3) If an example and the provision to which it relates are inconsistent, the provision prevails.

Wholesale gas levy

- 5 Liability to pay wholesale gas levy arises quarterly**
 (1) Every person who is an industry participant on the first day of a quarter during the 2006/07 financial year must pay to GIC a wholesale gas levy for that quarter.
 (2) The levy rate is 1.78 cents for each complete gigajoule of gas that was purchased by the industry participant directly from gas producers during the quarter before the last completed quarter.
- Example**
 Industry participant A purchases 100 000 gigajoules of gas from producer B and 200 000 gigajoules of gas from producer C during the 3 months ending with September 2006. Industry participant A becomes liable on 1 January 2007 to pay a gas wholesale levy of \$5,340 (1.78 cents × 300 000 gigajoules).
- (3) The Crown is exempt from paying the wholesale gas levy.
- 6 When wholesale gas levy is due**
 (1) The wholesale gas levy for a quarter is due and payable in 3 equal instalments on the 20th day of each month during the quarter.

- (2) However, the wholesale gas levy for the first quarter of the 2006/07 financial year is due and payable—
- (a) as to the first 2 instalments, on 20 August 2006; and
 - (b) as to the 3rd instalment, on 20 September 2006.

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 quarter must supply to GIC a return no later than the due date for payment of the first instalment of the levy for that quarter.
- (2) The return must state—
 - (a) the total number of gigajoules of gas that the industry participant purchased directly from gas producers during the quarter before the last completed quarter; and
 - (b) how many gigajoules of gas were purchased from each gas producer during that quarter.

Retail gas levy

8 Liability to pay retail gas levy

- (1) Every gas retailer who is an industry participant on the last day of each month in the period of June 2006 to May 2007 must pay to GIC a retail gas levy for the month that begins on the first day of the next month.
- (2) The levy rate is 52.50 cents per month for each ICP for each retail customer.

Example
 Gas retailer A has contracts or arrangements for the supply of gas to 15 000 ICPs on 31 July 2006. Gas retailer A is liable to pay a monthly retail gas levy for August 2006 of \$7,875 (52.50 cents × 15 000 ICPs).

9 When retail gas levy is due

- (1) The retail gas levy for a month is due and payable on the 20th day of the month.
- (2) However, the retail gas levy for the months of July 2006 and August 2006 are due and payable on 20 August 2006 (instead of being due and payable on 20 July 2006 and 20 August 2006).

- 10 Information to be supplied with retail gas levy payment**
- (1) Every industry participant who is liable to pay a retail gas levy for a month must supply to GIC a return no later than the tenth day of that month, unless otherwise agreed by GIC.
 - (2) The return must state the total number of the industry participant's retail customers' ICPs.

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 any of 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) The information must be supplied within any reasonable period that GIC may specify.

12 Obligation to certify that information and returns are correct

- (1) An industry participant must ensure that all information and returns that it supplies under these regulations are supplied in writing, and are certified as correct by a director or principal officer of the industry participant who supplies the information or return.
- (2) In this regulation,—

director has the same meaning as in section 2(1) of the Securities Act 1978

principal officer means a person whose functions include ensuring that the industry participant pays the levies prescribed in these regulations.

13 Late payment

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

(2) That additional levy becomes due and payable on the tenth day after the date on which GIC notifies the industry participant that an 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.

15 GST
The levies are exclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

16 Revocation
The Gas (Levy of Industry Participants) Regulations 2005 (SR 2005/209) are consequentially revoked.

Rebecca Kitteridge,
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 performing the Gas Industry Company Limited's functions, powers, and duties under the Gas Act 1992 and of collecting the levy money, as specified in section 43ZZC of that Act.

- Basically, the 2006/07 levies payable are—
 - a wholesale gas levy of 1.78 cents for every gigajoule of gas purchased directly from gas producers, calculated quarterly on the quarter before last's figures, and payable in monthly instalments;
 - a retail gas levy of 52.50 cents per month (being the annual levy rate of \$6.30 per year divided by 12) for each installation control point for each retail customer with whom the retailer

had a contract or arrangement to supply gas on the last day of the previous month, payable monthly.

- The levies are similar to the 2005/06 levies. The principal differences are—
 - the levy rate for the wholesale levy is increased from 1.50 cents per gigajoule to 1.78 cents per gigajoule;
 - the retail gas levy is calculated on a different basis.
- The first levy instalments will be due and payable on 20 August 2006.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 29 June 2006.
These regulations are administered by the Ministry of Economic Development.