

Gas (Levy of Industry Participants) Regulations 2007



Governor-General

Order in Council

At Wellington this 29th day of May 2007

Present:

His Excellency The Governor General in Council

Pursuant to sections 43ZZE and 54 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 2007.
- 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 2007/08 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,—
2007/08 financial year means the year beginning on 1 July 2007 and ending with 30 June 2008
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

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

- (1) Every person who is an industry participant on the first day of each month during the 2007/08 financial year must pay to GIC a wholesale gas levy for that month.
- (2) The levy rate is 1.93 cents for each complete gigajoule of gas that was purchased by the industry participant directly from gas producers during the previous month.

Example

Industry participant A purchases 100 000 gigajoules of gas from producer B and 200 000 gigajoules of gas from producer C during the month ending 30 June 2007. Industry participant A becomes liable on 1 July 2007 to pay a gas wholesale levy of \$5,790 (1.93 cents x 300 000 gigajoules).

- (3) The Crown is exempt from paying the wholesale gas levy.

6 When wholesale gas levy is due

The wholesale gas levy for a month is due and payable on the 20th day of the 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 no later than the

due date for payment of the levy for that month, unless otherwise agreed by GIC.

- (2) The return must state—
 - (a) the total number of gigajoules of gas that the industry participant purchased directly from gas producers during the previous month; and
 - (b) how many gigajoules of gas were purchased from each gas producer during that month.

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 2007 to May 2008 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 68.17 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 30 June 2007. Gas retailer A is liable to pay a monthly retail gas levy for July 2007 of \$10,225.50 (68.17 cents x 15 000 ICPs).

9 When retail gas levy is due

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

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 working 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 2006 (SR 2006/167) are consequentially revoked.



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 2007/08 levies payable are—

- a wholesale gas levy of 1.93 cents for every gigajoule of gas purchased directly from gas producers, calculated monthly on the basis of the buyer's purchases in the previous month and payable monthly;
- a retail gas levy of 68.17 cents per month (being the annual levy rate of \$8.18 per year divided by 12) for each installation control point (ICP) 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 2006/07 levies. The principal differences are—

- the levy rate for the wholesale gas levy is increased from 1.78 cents per gigajoule to 1.93 cents per gigajoule. This levy is now calculated on the basis of total gas volumes purchased in the previous month instead of total gas volumes purchased in the quarter before the previous quarter;
- the levy rate for the retail gas levy is increased from 52.50 cents per ICP per month for each retail customer to 68.17 cents per ICP per month for each retail customer:

- the day on which the additional levy for late payment becomes due and payable is the tenth working day, instead of the tenth day, after the date on which the industry participant is notified that an additional levy is payable.
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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Economic Development.
