



In Executive Council

His Excellency the Governor-General is recommended to

sign the attached Order in Council making the

GAS (LEVY OF INDUSTRY PARTICIPANTS) REGULATIONS 2009

[Handwritten signature]
for Minister of Energy and Resources

Approved in Council

[Handwritten signature]

Rebecca Kittendge

Clerk of the Executive Council

Gas (Levy of Industry Participants) Regulations 2009



Governor-General

Order in Council

At Wellington this 2nd day of June 2009

His Excellency The Governor General

Present:
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 2009.
- 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 2009/10 financial year.
 - (2) These regulations provide for a levy to meet the estimated costs referred to in section 43ZZC of the Act and add under-recoveries in respect of the 2008/09 financial year to that levy.
- 4 Interpretation**
In these regulations, unless the context otherwise requires,—

2008/09 financial year means the year beginning on 1 July 2008 and ending with 30 June 2009

2009/10 financial year means the year beginning on 1 July 2009 and ending with 30 June 2010

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

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 has the meaning set out in rule 5.2 of the Gas (Switching Arrangements) Rules 2008

registry has the meaning set out in rule 5.2 of the Gas (Switching Arrangements) Rules 2008.

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 2009/10 financial year must pay to GIC a wholesale gas levy for that month.
- (2) The levy rate is 1.67 cents for each complete gigajoule of gas that was purchased by the industry participant directly from gas producers during the previous month.
- (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 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 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 any month in the period of June 2009 to May 2010 (inclusive) 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 53.33 cents per month for each ICP for which the registry, as at the last day of the previous month, shows—
 - (a) the gas retailer as the responsible retailer; and
 - (b) the ICP status as 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 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 ICPs for which the registry, as at the last day of the previous month, shows—
 - (a) the industry participant as the responsible retailer; and
 - (b) the ICP status as ACTIVE-CONTRACTED.

Levy for under-recoveries for 2008/09 financial year

11 Liability to pay levy for under-recoveries for 2008/09 financial year

- (1) Every gas retailer who is an industry participant on 1 July 2009 must pay to GIC a levy for the amount under-recovered for the 2008/09 financial year.

- (2) The levy rate is 8.4 cents for each complete gigajoule of gas that was allocated to the industry participant in the initial allocations under rule 48 of the Gas (Downstream Reconciliation) Rules 2008 for the 6 consumption periods in the period of October 2008 to March 2009.

12 When levy for under-recoveries for 2008/09 financial year is due

The levy for the amount under-recovered in the 2008/09 financial year is due and payable on 20 August 2009.

General provisions

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

14 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 that 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.

15 Late payment

- (1) An industry participant that 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.

16 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 the person who supplied the information or return consents otherwise.

17 Levies exclusive of GST

The levies are exclusive of any goods and services tax.

18 Revocation

The Gas (Levy of Industry Participants) Regulations 2008 (SR 2008/139) 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 the Gas Industry Company Limited performing functions and duties, and exercising powers, under the Gas Act 1992 and the costs of collecting the levy money.

**Gas (Levy of Industry Participants)
Regulations 2009**

The 2009/10 levies are—

- a wholesale gas levy of 1.67 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. This levy rate is decreased from 1.79 cents per gigajoule for the 2008/09 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 decreased from 61.83 cents per ICP per month for the 2008/09 financial year:
- a one-off levy of 8.4 cents for every gigajoule of gas allocated to a gas retailer in the initial allocations under the Gas (Downstream Reconciliation) Rules 2008 for October 2008 to March 2009. This addition to the 2009/10 levy is to recover the shortfall for the 2008/09 financial year arising from the cost of implementing the Gas (Downstream Reconciliation) Rules 2008 (in total, \$1,052,500). The one-off levy is payable on 20 August 2009.

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.
