



## In Executive Council

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*His Excellency the Governor-General is recommended to sign  
the attached Order in Council making the  
Gas (Levy of Industry Participants) Regulations 2011*

Handwritten signature of Hekia Parata in black ink.

Acting Minister of Energy and Resources

*Approved in Council*

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Handwritten signature of Simon Munn in black ink.

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Handwritten signature of M. J. W. Wells in black ink.

Clerk of the Executive Council

# Gas (Levy of Industry Participants) Regulations 2011



Governor-General

## Order in Council

At Wellington this 23<sup>rd</sup> day of May 2011

His Excellency The Governor General

Present:  
in Council

Pursuant to section 43ZZE 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 and Resources (made in accordance with section 43ZZD of that Act), makes the following regulations.

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**Gas (Levy of Industry Participants)  
Regulations 2011**

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**Regulations**

- 1 Title**  
These regulations are the Gas (Levy of Industry Participants) Regulations 2011.
- 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 2011/12 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,—  
**2011/12 financial year** means the year beginning on 1 July 2011 and ending with 30 June 2012  
**Act** means the Gas Act 1992  
**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.

- (2) Any term not defined in subclause (1) but defined in section 2(1) or 43D of the Act has the meaning set out in those sections.

*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 2011/12 financial year must pay to GIC a wholesale gas levy for that month calculated in accordance with subclause (2).
- (2) The levy rate is 1.66 cents per gigajoule of gas purchased during the previous month by the industry participant from gas producers.
- (3) However, an industry participant is not liable to pay a wholesale gas levy on any gas purchased by it from a gas producer who has purchased that gas from another gas producer.

**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) In order to ensure that the amount of levy paid is correct, every industry participant who is liable to pay a wholesale gas levy for a month must supply to GIC a written return stating the total number of gigajoules of gas that the industry participant purchased during the previous month from—
- (a) all gas producers; and
- (b) those gas producers, as described in regulation 5(3), who have purchased the gas from other gas producers.
- (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 2011 to May 2012 (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 48 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.
- (3) In this regulation, **ICP** and **registry** have the same meanings as in rule 5.2 of the Gas (Switching Arrangements) Rules 2008 (made under section 43Q of the Act).

**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.

*General provisions*

**10 Confirmation of whether industry participant liable to pay levy**

- (1) GIC may, by notice in writing, require any industry participant to state whether or not the industry participant is liable to pay a levy prescribed by these regulations.
- (2) The statement by the industry participant must be in writing and be certified as required by regulation 11.

**11 Obligation to certify that returns and statements correct**

An industry participant must ensure that any returns or statements supplied by it under these regulations are certified as correct by a director of the industry participant or by any other person who is authorised by the industry participant to certify the correctness of the returns or statements.

**12 Late payment**

- (1) An industry participant who 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 total 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.

**13 Confidentiality**

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

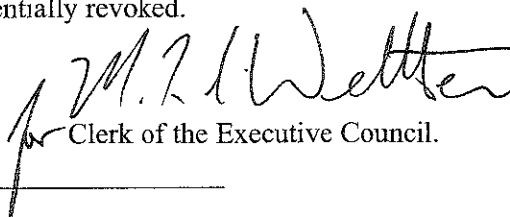
- (a) the person who supplied the returns, statements, or information consents otherwise; or
- (b) GIC is required by or under law to disclose the returns, statements, or information.

**14 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.

**15 Gas (Levy of Industry Participants) Regulations 2010  
revoked**

The Gas (Levy of Industry Participants) Regulations 2010 (SR 2010/170) 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 Gas Industry Company Limited, as the approved industry body under the Gas Act 1992, performing functions and duties and exercising powers, including the cost of collecting the levies.

The 2011/12 levies are—

- a wholesale gas levy of 1.66 cents for every gigajoule of gas purchased from 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 supplied from gas producers who have purchased the gas from other gas producers. This year's levy rate is a decrease from the rate of 1.84 cents per gigajoule that applied in the 2010/11 financial year:
- a retail gas levy of 48 cents per month (which is the annual levy rate of \$5.76 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 year's levy rate is a decrease from the rate of 53.33 cents per month that applied in the 2010/11 financial year.

The levies are exclusive of goods and services tax.

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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.

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