



## Gas (Levy of Industry Participants) Regulations 2017

Rt Hon Dame Sian Elias, Administrator of the Government

### Order in Council

At Wellington this 15th day of May 2017

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under section 43ZZE of the Gas Act 1992 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).

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## Regulations

### 1 Title

These regulations are the Gas (Levy of Industry Participants) Regulations 2017.

### 2 Commencement

These regulations come into force on 1 July 2017.

### 3 Application

- (1) These regulations apply to the 2017/18 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,—

**2017/18 financial year** means the year beginning on 1 July 2017 and ending with 30 June 2018

**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

**receipt point** means a point on a gas pipeline where gas is received into the pipeline.

- (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 that section.

### *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 2017/18 financial year must pay to GIC a wholesale gas levy for that month calculated in accordance with subclause (2).

- (2) The levy rate is 1.236 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 Obligation to supply and keep information relating to wholesale gas levy payment**

- (1) In order to ensure that the amount of levy paid is correct, the following obligations to supply information apply:
  - (a) 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—
    - (i) all gas producers; and
    - (ii) those gas producers, as described in regulation 5(3), who have purchased the gas from other gas producers:
  - (b) in relation to the Maui pipeline, the pipeline owner must supply to GIC a written return stating the total number of gigajoules of gas that each industry participant purchased at each receipt point on the pipeline during the previous month:
  - (c) in relation to every other gas transmission pipeline, every gas producer who has supplied gas at a receipt point on a pipeline must supply to GIC a written return stating the total number of gigajoules of gas supplied by that gas producer to each of its customers at the receipt point on the pipeline during the previous month.
- (2) An industry participant—
  - (a) required to make a return under subclause (1)(a) 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:
  - (b) required to make a return under subclause (1)(b) or (c) must supply the return no later than the end of the month in which the levy is due or a later date agreed by GIC.
- (3) An industry participant must keep until 30 June 2019 all of the information that is necessary for the purpose of establishing the correct amount of the levy payable.
- (4) An industry participant must supply to GIC any information—

- (a) that it is required to keep under subclause (3); and
- (b) that GIC requests it to supply on or before 30 June 2019.

### *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 2017 to May 2018 (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 51.50 cents per month for each ICP for which the registry, as at date A, shows—
  - (a) that 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 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 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 Confidentiality**

GIC must ensure that any returns, statements, or other information supplied under these regulations (or any other regulations made under section 43ZZE of the Act) is 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.

### **13 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.

### **14 Revocation**

The Gas (Levy of Industry Participants) Regulations 2015 (LI 2015/85) are revoked.

Michael Webster,  
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 1 July 2017, impose levies on gas industry participants for the 2017/18 financial year. The levies fund the costs of the Gas Industry Company Limited (**GIC**) in performing functions and duties and exercising powers, including the cost of collecting the levies. GIC is the approved industry body under the Gas Act 1992.

The 2017/18 levies are—

- a wholesale gas levy of 1.236 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 an increase from the rate of 1.15 cents per gigajoule that applied in the 2016/17 financial year:
- a retail gas levy of 51.50 cents per month (which is the annual levy rate of \$6.18 divided by 12) for each installation control point 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. This year's levy rate is a decrease from the rate of 57.67 cents per month that applied in the 2016/17 financial year.

The levies are exclusive of goods and services tax.

The regulations require various industry participants to supply specified information to GIC each month. This includes a new obligation requiring industry participants that are not liable to pay a levy to supply information.

The regulations also require industry participants to keep until 30 June 2019 all of the information that is necessary for the purpose of establishing the correct amount of the wholesale levy payable, and to supply that information to GIC on request.

### **Regulatory impact statement**

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 27 April 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/publications-research/publications/energy>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 18 May 2017.

These regulations are administered by the Ministry of Business, Innovation, and Employment.