



Gas (Levy of Industry Participants) Regulations 2005

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 18th day of July 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 43ZZE and 54 of the Gas Act 1992, Her 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 2005.

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 2005/06 financial year.
- (2) These regulations require payment of a levy for the whole of that financial year, despite the fact that the regulations are made after that financial year has commenced.
- (3) 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,—
2003/04 gas year means the year beginning on 1 October 2003 and ending with 30 September 2004

2005/06 financial year means the year beginning on 1 July 2005 and ending with 30 June 2006

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 means an installation control point at which gas is supplied to a retail customer

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, means any person who was supplied with less than 10 terajoules of gas by the gas retailer during the 2003/04 gas year

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 2005/06 financial year must pay to GIC a wholesale gas levy for that quarter.
- (2) The levy rate is 1.5 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 2005. A becomes liable on 1 January 2006 to pay a gas wholesale levy of \$4,500 ($1.5 \text{ cents} \times 300\,000 \text{ gigajoules}$).

- (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 2005/06 financial year is all due and payable in 1 instalment on 20 September 2005.

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

Every gas retailer who is an industry participant at the start of the 2005/06 financial year must pay to GIC a retail gas levy for that year of—

- (a) 6 cents for each complete gigajoule of gas supplied by the gas retailer to retail customers during the 2003/04 gas year; plus
- (b) \$4 for each ICP for each retail customer with whom the gas retailer had a contract to supply gas as at 30 September 2004.

Example

Gas retailer A supplied 1 000 000 gigajoules to retail customers between 1 October 2003 and 30 September 2004. Retail customers as at 30 September 2004 had 15 000 ICPs. Retailer A is liable to pay an annual retail gas levy for the 2005/06 financial year of—

$$\begin{array}{r} \$60,000 \text{ (6 cents} \times 1\,000\,000 \text{ gigajoules)} \\ + \quad \$60,000 \text{ (\$4} \times 15\,000 \text{ ICPs)} \\ \hline \$120,000 \end{array}$$

9 When retail gas levy is due

- (1) The retail gas levy is due and payable in 12 equal instalments on the 20th day of each month during the 2005/06 financial year.
- (2) However, the first 3 instalments of the retail gas levy in respect of the 2005/06 financial year are due and payable on 20 September 2005 (instead of the first 2 instalments being due and payable on 20 July and 20 August 2005).

10 Information to be supplied with retail gas levy payment

- (1) Every industry participant who is liable to pay the retail gas levy must supply to GIC a return no later than the due date for payment of the first instalment of the levy.
- (2) The return must state—
 - (a) the total number of gigajoules of gas that the gas retailer supplied to retail customers during the 2003/04 gas year; and
 - (b) the total number of ICPs for retail customers with whom the gas retailer had a contract to supply gas as at 30 September 2004.

*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 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 10th 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.

Diane Morcom,
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 2005/06 levies payable are—

- a wholesale gas levy of 1.5 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 6 cents for every gigajoule of gas supplied, plus \$4 for every retail customer ICP, calculated on 2003/04 figures, and payable in monthly instalments.

The first levy instalments will be due and payable on 20 September 2005.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 21 July 2005.

These regulations are administered in the Ministry of Economic Development.
