

**Reprint
as at 22 July 2010**



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

(SR 2009/158)

Gas (Levy of Industry Participants) Regulations 2009: revoked, on 22 July 2010, by regulation 16 of the Gas (Levy of Industry Participants) Regulations 2010 (SR 2010/170).

Anand Satyanand, Governor-General

Order in Council

At Wellington this 2nd day of June 2009

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

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Economic Development.

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.

Rebecca Kitteridge,
Clerk of the Executive Council.

Reprinted as at
22 July 2010

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

Date of notification in *Gazette*: 4 June 2009.

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Notes**1 General**

This is a reprint of the Gas (Levy of Industry Participants) Regulations 2009. The reprint incorporates all the amendments to the regulations as at 22 July 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Gas (Levy of Industry Participants) Regulations 2010 (SR 2010/170): regulation 16
