

**Reprint
as at 1 December 2014**



Gas (Statistics) Regulations 1997
(SR 1997/128)

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 7th day of July 1997

Present:

His Excellency the Governor-General in Council

Pursuant to section 54 of the Gas Act 1992, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title and commencement	2
2 Interpretation	2
3 Prescribed business relationship	4
4 Persons to whom these regulations apply	6
5 Secretary may obtain information required for statistical purposes	6

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

6	Information regarding activities and persons in prescribed business relationship	7
7	Separate returns for LPG and other gas	7
8	Separate returns for each transmission and distribution system	7
9	Major components	8
10	Verification of statistical returns	8
11	Reasonable estimates where information unavailable	8
12	Statistical information involving monetary amounts	9
13	Offences	9

Regulations

1 Title and commencement

- (1) These regulations may be cited as the Gas (Statistics) Regulations 1997.
- (2) These regulations come into force on 1 September 1997.

2 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
 - the Act** means the Gas Act 1992
 - equity security** has the same meaning as in section 8 of the Financial Markets Conduct Act 2013
 - gas distribution activity**, in relation to a distribution system, means any 1 or more of the following activities:
 - (a) the conveyance of gas:
 - (b) the supply of line function services:
 - (c) the ownership of the system, where the system is used for the conveyance of gas or the supply of line function services, or both
 - gas processing facility** means a facility for treating gas for the purpose of making it suitable for domestic consumption
 - gas producer** means any person who collects, gathers, or draws upon any gas produced by any means and confines it in any pipe or container; and **gas production** has a corresponding meaning

gas retail activity means—

- (a) the supply of gas to a consumer, except by a gas refueller; or
- (b) the supply of gas to a gas refueller

gas transmission activity, in relation to a transmission system, means any 1 or more of the following activities:

- (a) the conveyance of gas;
- (b) the supply of line function services;
- (c) the ownership of the system, where the system is used for the conveyance of gas or the supply of line function services, or both

gas wholesale activity means the supply of gas to any other person or persons, other than a gas refueller, for the purpose of resupply by the other person or persons (whether or not the person who so supplies the gas is also a gas retailer)

LPG means liquefied petroleum gas

prescribed business relationship has the meaning given to it in regulation 3

specified activity means any of the following activities:

- (a) gas production;
- (b) a gas transmission activity;
- (c) a gas distribution activity;
- (d) a gas wholesale activity;
- (e) a gas retail activity

statistical period means a period of 3 consecutive months, comprising—

- (a) January to March; or
- (b) April to June; or
- (c) July to September; or
- (d) October to December

statistical return means a return containing information required, by a notice sent pursuant to regulation 5, to be supplied to the Secretary

transmission system means that part of a system that conveys gas from the point where the gas exits from a gas processing facility to—

- (a) the boundary of the gas works or gate station outlet flange supplying gas for distribution; or

- (b) a consumer, where the gas does not enter a distribution system.
- (2) For the purposes of these regulations, a gas distribution activity is a gas distribution activity of a pipeline owner, and a gas transmission activity is a gas transmission activity of a pipeline owner, where,—
 - (a) in the case of an activity that consists of the conveyance of gas or the supply of line function services, the activity is carried on, by that pipeline owner or any other person, by means of assets owned by that pipeline owner; and
 - (b) in the case of an activity that consists of the ownership of a distribution system or a transmission system, the activity is carried on by that pipeline owner.
- (3) In these regulations, unless the context otherwise requires, terms and expressions have the same meaning as in the Act.

Regulation 2(1) **equity security**: replaced, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

3 Prescribed business relationship

- (1) For the purposes of these regulations,—
 - (a) any 2 persons are in a prescribed business relationship if—
 - (i) one of them has an interest in more than 50% of the assets or profits of the other person; or
 - (ii) one of them has a controlling interest in the other person; or
 - (iii) one other person holds a controlling interest in each of those 2 persons, or has an interest in more than 50% of the assets or profits of each of those 2 persons; or
 - (iv) one other person holds a controlling interest in one of those persons, and has an interest in more than 50% of the assets or profits of the other person:
 - (b) a pipeline owner and another person (being a gas producer, or a gas wholesaler, or a gas retailer (other than a gas refueller)), are in a prescribed business relationship in any case where—
 - (i) that pipeline owner—

- (A) has an interest in 50% or more of the assets or profits of that other person; or
 - (B) holds a controlling interest in that other person; or
 - (ii) interests in the assets or profits of that other person are held by that pipeline owner and any 1 or more other pipeline owners, and those interests amount, in the aggregate, to an interest in 50% or more of those assets or profits; or
 - (iii) equity securities in that other person are held by that pipeline owner and any 1 or more other pipeline owners, and, by virtue of those equity securities, those pipeline owners hold, in the aggregate, a controlling interest in that other person:
 - (c) where any person carries on 2 or more specified activities, those activities are in a prescribed relationship.
- (2) For the purposes of subclause (1)(a), to hold a controlling interest in another person means to hold (whether directly or indirectly) equity securities in that other person that carry in the aggregate more than 50% of the voting rights at any general meeting of the other person.
- (3) For the purposes of subclause (1)(b), to hold a controlling interest in another person means to hold (whether directly or indirectly) equity securities in that other person that carry in the aggregate 50% or more of the voting rights at any general meeting of the other person.
- (4) For the purposes of subclauses (2) and (3), a person holds equity securities in another person if the first-mentioned person is beneficially entitled to, or is beneficially entitled to an interest in, any equity securities in the other person (whether or not the whole or any part of the legal ownership of the equity securities is vested in the first-mentioned person).
- (5) For the purposes of subclause (1), a person has an interest in the assets or profits of another person if the first-mentioned person owns (whether directly or indirectly), or has a beneficial interest (whether directly or indirectly) in, those assets or profits.

4 Persons to whom these regulations apply

These regulations apply to the following persons:

- (a) gas producers:
- (b) gas wholesalers:
- (c) gas distributors:
- (d) gas retailers other than gas refuellers.

5 Secretary may obtain information required for statistical purposes

- (1) The Secretary may from time to time send to any person to whom these regulations apply a notice requiring that person to supply to the Secretary, in respect of any statistical period, such information concerning the production, transmission, distribution, sale, supply, consumption, and use of gas as the Secretary requires for statistical purposes.
- (2) A notice may be sent pursuant to subclause (1) at any time, but the following provisions apply with respect to the time allowed for supplying a statistical return in accordance with the notice:
 - (a) where a notice is sent before the expiry of the statistical period in respect of which a statistical return is required, the notice must require the statistical return to be supplied to the Secretary by a specified date that is not earlier than the 15th day of the second month after the expiry of the statistical period:
 - (b) where a notice is sent after the expiry of the statistical period in respect of which a statistical return is required, the notice must require the statistical return to be supplied to the Secretary by a specified date that is not earlier than 6 weeks after the date on which the notice is sent.
- (3) Every notice sent pursuant to this regulation must be in such form as the Secretary from time to time prescribes or approves.
- (4) Any notice sent pursuant to this regulation may require that any statistical return supplied in accordance with the notice be in such form as is specified in the notice.
- (5) Every notice sent pursuant to this regulation requiring any person to supply a statistical return must specify the information to be included in that statistical return in such detail as will

clearly inform that person of that person's obligations pursuant to the notice.

- (6) A notice sent pursuant to this regulation may relate to a statistical period that has commenced or expired before the commencement of these regulations.

6 Information regarding activities and persons in prescribed business relationship

Any notice sent pursuant to regulation 5 may require, in respect of a statistical return,—

- (a) the consolidation of information relating to activities that are in a prescribed business relationship:
(b) the consolidation of information relating to persons that are in a prescribed business relationship.

7 Separate returns for LPG and other gas

Where a notice sent pursuant to regulation 5 requires any person to supply information concerning a gas distribution activity, a gas wholesale activity, or a gas retail activity, and that person distributes, supplies, or sells both LPG and other gas, the notice may require that person to supply separate statistical returns in respect of the LPG and the other gas distributed, supplied, or sold.

8 Separate returns for each transmission and distribution system

- (1) For the purposes of this regulation,—
(a) a transmission system is separate from another transmission system if it does not share any fittings in common with that other transmission system:
(b) a distribution system is separate from another distribution system if it does not share any fittings in common with that other distribution system.
- (2) Where a notice sent pursuant to regulation 5 requires any person to supply information concerning a gas transmission activity or a gas distribution activity, and that person undertakes such activities in respect of 2 or more separate transmission systems or 2 or more separate distribution systems, as the case

may be, the notice may require that person to supply a statistical return for each separate system.

9 Major components

Where, in respect of any item of information that is required to be included in a statistical return, a notice sent pursuant to regulation 5 specifies that major components must be specified, there must be included in that return a breakdown of that information listing each component of that item that constitutes, by value or quantity as the case may be, 10% or more of that item.

10 Verification of statistical returns

- (1) Every statistical return supplied to the Secretary pursuant to these regulations by any person must be verified by an authorised principal of that person.
- (2) The verification must be in the form of a declaration, which must be—
 - (a) in such form as the Secretary from time to time prescribes or approves; and
 - (b) signed and dated by the person making the declaration; and
 - (c) endorsed on, or accompany, the statistical return to which it relates.

11 Reasonable estimates where information unavailable

- (1) Where any information required to be included in a statistical return, or any information from which such information is derived (in whole or in part), is unavailable, reasonable estimates based on any available data (whether factual or historical, as the case requires) may be included in the return or, as the case requires, used as a basis for deriving the information so required to be included.
- (2) Where, in accordance with subclause (1), reasonable estimates are included in a statistical return or used as a basis for deriving such information, the statistical return must—
 - (a) include a statement to that effect; and

- (b) identify the estimated information or, as the case may be, the information that has been derived from estimated information.
- (3) Without limiting subclause (1), this regulation applies in respect of a statistical return required pursuant to a notice to which regulation 5(2)(b) applies.

12 Statistical information involving monetary amounts

Where any person is required to state, in any statistical return, any monetary amount, then, unless the notice pursuant to which that statistical return is required otherwise requires, the monetary amount must be—

- (a) stated to the nearest dollar; and
- (b) exclusive of goods and services tax; and
- (c) inclusive of all other duties, taxes, and levies.

13 Offences

- (1) Every person commits an offence against this regulation who, being a person who is required by a notice sent pursuant to regulation 5 to supply a statistical return to the Secretary,—
 - (a) fails, without reasonable excuse, to supply that statistical return to the Secretary by the date specified in the notice; or
 - (b) supplies to the Secretary a statistical return that does not comply with a requirement imposed by or pursuant to regulation 5(4) or regulation 6 or regulation 9 or regulation 10 or regulation 11(2) or regulation 12; or
 - (c) fails, without reasonable excuse, to comply with a requirement imposed by or pursuant to regulation 7 or regulation 8; or
 - (d) makes a false declaration when supplying any statistical return pursuant to these regulations.
- (2) Every person who commits an offence against subclause (1) is liable on conviction to a fine not exceeding \$10,000.
- (3) Without limiting the matters that may or may not constitute a reasonable excuse for the purposes of subclause (1)(a), the fact that some or all of a person's assets (being assets that are used for a specified activity) are under the control or management of another person (whether pursuant to a lease or otherwise)

does not constitute a reasonable excuse, for the purposes of subclause (1)(a), to fail to supply a statistical return.

Regulation 13(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 10 July 1997.

Reprints notes

1 *General*

This is a reprint of the Gas (Statistics) Regulations 1997 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Criminal Procedure Act 2011 (2011 No 81): section 413
