



## Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 28th day of June 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 128 of the Electricity Industry Act 2010 on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Energy and Resources.

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	<b>New Schedule 1 inserted</b>	

## Regulations

### 1 Title

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

### 2 Commencement

These regulations come into force on 1 July 2017.

### 3 Principal regulations

These regulations amend the Electricity Industry (Levy of Industry Participants) Regulations 2010 (the **principal regulations**).

### 4 Regulation 4 amended (Interpretation)

- (1) In regulation 4(1), revoke the definition of **electricity efficiency operations**.
- (2) In regulation 4(1), definition of **Estimates**, delete “(within the meaning of that section)”.
- (3) In regulation 4(1), insert in their appropriate alphabetical order:

**actual costs**, for a financial year, means (other than in regulation 11) the amount—

- (a) identified in the audited financial statements of the EECA for the financial year as the portion of costs, exclusive of any goods and services tax, to be met out of the levy under section 128(3)(c) of the Act; and
- (b) that does not exceed the total amount appropriated for that financial year in respect of the costs referred to in paragraph (a); and
- (c) that does not exceed the portion of the costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the levy under section 128(3)(c) of the Act for the financial year

**actual revenue**, for a financial year, means the amount—

- (a) identified in the audited financial statements of the Ministry for the financial year as the amount of the levy recovered for that financial year; and
- (b) that is attributable to the portion of the costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the levy under section 128(3)(c) of the Act for the financial year

**EECA** means the Energy Efficiency and Conservation Authority established under section 20 of the Energy Efficiency and Conservation Act 2000

**EECA adjustment amount**, for a financial year, means the difference between the actual costs and the actual revenue in the financial year immediately before the previous financial year and,—

- (a) if the actual costs are higher than the actual revenue, the adjustment amount is positive; and
- (b) if the actual costs are lower than the actual revenue, the adjustment amount is negative

**EECA operations** means the functions, powers, and duties of the EECA that give rise to the costs that are within the portion of total costs that is determined by the Minister to be the portion to be met by levies under section 128(3)(c) of the Act

**EECA supplementary estimates amount**, for a financial year, means any supplementary appropriations sought during the previous financial year—

- (a) in a supplementary Appropriation Bill and set out in the Supplementary Estimates; and
- (b) in respect of the portion of costs of the EECA to be met by levies under section 128(3)(c) of the Act during the previous financial year, exclusive of goods and services tax

**Supplementary Estimates** has the meaning set out in section 2(1) of the Public Finance Act 1989

## 5 **New regulation 4A inserted (Transitional, savings, and related provisions)**

After regulation 4, insert:

### 4A **Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

## 6 **Regulation 5 amended (Overview of these regulations)**

In regulation 5(2)(a), after “estimated costs”, insert “and, in the case of EECA operations, the EECA supplementary estimates amount (if any) and the EECA adjustment amount for the financial year”.

## 7 **Regulation 7 amended (Calculation of annual levy rates)**

- (1) In regulation 7(2), table 1, column 1, replace “Electricity efficiency operations” with “EECA operations”.
- (2) After regulation 7(2), insert:
  - (2A) In addition, the EECA supplementary estimates amount (if any) and the EECA adjustment amount for the financial year must be allocated to the costs of EECA operations in column 1 of table 1.

- (3) In regulation 7(4), table 2, first column, replace “Electricity efficiency operations” with “EECA operations”.

**8 Regulation 9 amended (Calculation of each participant’s monthly instalment)**

In regulation 9(2), table 3, first column, replace “Electricity efficiency operations” with “EECA operations”.

**9 Regulation 11 amended (Reconciliation of levy after end of financial year)**

- (1) After regulation 11(1), insert:

(1A) However, subclause (1) does not apply to the part of the levy payable by purchasers in respect of costs allocated to EECA operations and no reconciliation is to be carried out for this part of the levy.

- (2) In regulation 11(2), definition of **actual costs**, revoke paragraph (c).

- (3) In regulation 11(2), definition of **audited financial statements**, revoke paragraph (b).

**10 Regulations 16, 17, and 19 revoked**

Revoke regulations 16, 17, and 19.

**11 Regulation 20 amended (Levy for year ending 30 June 2016)**

In regulation 20, delete “and subsequent years”.

**12 New Schedule 1 inserted**

Insert the Schedule 1 set out in the Schedule of these regulations as the first schedule to appear after the last regulation of the principal regulations.

## Schedule New Schedule 1 inserted

r 12

### Schedule 1 Transitional, savings, and related provisions

r 4A

#### Part 1 Provisions relating to Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017

##### 1 Levy for year ending 30 June 2017

The levy for the 2016/17 financial year is payable in accordance with these regulations as they were immediately before the Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017 came into force.

##### 2 Reconciliation of levy for year ending 30 June 2017

Reconciliations for the 2016/17 financial year must be done under these regulations as they were immediately before the Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017 came into force.

##### 3 Levy for year ending 30 June 2018 and subsequent years

- (1) The levy for the 2017/18 financial year and subsequent years is payable in accordance with these regulations as amended by the Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017.
- (2) However, the levy rate for the 2017/18 financial year must be calculated by the Authority under these regulations as they were immediately before the Electricity Industry (Levy of Industry Participants) Amendment Regulations 2017 came into force.

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, amend the Electricity Industry (Levy of Industry Participants) Regulations 2010 (the **principal regulations**) and are related to the Energy Innovation (Electric Vehicles and Other Matters)

Amendment Act 2017 and the Energy (Petrol, Engine Fuel, and Gas) Levy Regulations 2017.

The main purpose of these regulations is to amend the process for calculating the part of the levy payable by purchasers in respect of costs allocated to Energy Efficiency and Conservation Authority (EECA) operations by—

- providing that the existing reconciliation process no longer applies to that part of the levy; and
- including the EECA supplementary estimates amount and the EECA adjustment amount in the costs allocated to EECA operations.

The effect of this amended process is that any shortfall in recovering, or over-recovery of, the levy in respect of costs allocated to EECA operations in a particular financial year (**year X**) is reflected in the levy rate for future years, rather than through a reconciliation of the levy rate for year X.

*Regulation 4* amends regulation 4 of the principal regulations to—

- replace the definition of electricity efficiency operations with a definition of EECA operations; and
- insert definitions of actual costs, actual revenue, EECA, EECA adjustment amount, EECA supplementary estimates amount, and Supplementary Estimates.

*Regulation 6* consequentially amends regulation 5 of the principal regulations to refer to the EECA supplementary estimates amount and the EECA adjustment amount forming part of the process for calculating the levy rate.

*Regulation 7* amends regulation 7 of the principal regulations to insert the EECA adjustment amount and the EECA supplementary estimates amount into the process for calculating the levy payable by purchasers in respect of costs allocated to EECA operations.

*Regulation 8* consequentially amends regulation 9 of the principal regulations to refer to EECA operations rather than electricity efficiency operations.

*Regulation 9* amends regulation 11 of the principal regulations to provide that the reconciliation process does not apply to the part of the levy payable by purchasers in respect of costs allocated to EECA operations.

*Regulation 10* revokes 3 transitional provisions that are now spent.

*Regulation 11* amends regulation 20 of the principal regulations to limit the application of the provision to the 2015/16 financial year.

*Regulations 5 and 12* insert transitional provisions into the principal regulations as follows:

- *new clause 1 of Schedule 1* provides that the levy for the 2016/17 financial year is payable in accordance with the principal regulations as they were immediately before these regulations came into force:

- *new clause 2 of Schedule 1* provides that the reconciliations for the 2016/17 financial year must be done under the principal regulations as they were immediately before these regulations came into force:
- *new clause 3 of Schedule 1* provides that the levy for the 2017/18 financial year is payable in accordance with the principal regulations as amended by these regulations, but that the levy rate for the 2017/18 financial year must be calculated under the principal regulations as they were immediately before these regulations came into force.

### Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement to help inform the decisions taken by the Government relating to the contents of the Energy Innovation (Electric Vehicles and Other Matters) Amendment Bill and this instrument.

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

- [http:// www.mbie.govt.nz/publications-research/publications/energy](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*: 29 June 2017.

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