

Reprint
as at 1 July 2016



Gas (Levy of Industry Participants) Regulations 2014 (LI 2014/204)

Gas (Levy of Industry Participants) Regulations 2014: revoked, on 1 July 2016, by regulation 14 of the Gas (Levy of Industry Participants) Regulations 2016 (LI 2016/91).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 23rd day of June 2014

Present:

The Right Hon John Key presiding in Council

Pursuant to section 43ZZE 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 Minister of Energy and Resources (made in accordance with section 43ZZD of that Act), makes the following regulations.

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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.

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Regulations

1 Title

These regulations are the Gas (Levy of Industry Participants) Regulations 2014.

2 Commencement

These regulations come into force on 1 July 2014.

3 Application

- (1) These regulations apply to the 2014/15 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,—
 - 2014/15 financial year** means the year beginning on 1 July 2014 and ending with 30 June 2015
 - 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.
- (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 2014/15 financial year must pay to GIC a wholesale gas levy for that month calculated in accordance with subclause (2).
- (2) The levy rate is 1.30 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, 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—
 - (a) all gas producers; and
 - (b) those gas producers, as described in regulation 5(3), who have purchased the gas from other gas producers.
- (2) The industry participant 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.
- (3) The industry participant must keep until 30 June 2016 all of the information that is necessary for the purpose of establishing the correct amount of the levy payable.
- (4) The 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 2016.

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 2014 to May 2015 (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 45.67 cents per month for each ICP for which the registry, as at date A, shows—
 - (a) 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 or not 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 that 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 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.

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 2014, impose levies on gas industry participants for the 2014/15 financial year. The levies fund the costs of the Gas Industry Company Limited in performing functions and duties and exercising powers, including the cost of collecting the levies. The Gas Industry Company Limited is the approved industry body under the Gas Act 1992.

The 2014/15 levies are—

- a wholesale gas levy of 1.30 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 a decrease from the rate of 1.63 cents per gigajoule that applied in the 2013/14 financial year:
- a retail gas levy of 45.67 cents per month (which is the annual levy rate of \$5.48 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 49.17 cents per month that applied in the 2013/14 financial year.

The levies are exclusive of goods and services tax.

The regulations also require industry participants to keep until 30 June 2016 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 9 June 2014 to help inform the decisions taken by the Government relating to the contents of this legislative instrument.

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

- <http://www.med.govt.nz/sectors-industries/energy/gas-market/governance-of-the-gas-market>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 26 June 2014.

Reprints notes

1 *General*

This is a reprint of the Gas (Levy of Industry Participants) Regulations 2014 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*

Gas (Levy of Industry Participants) Regulations 2016 (LI 2016/91): regulation 14