



Energy (Petrol, Engine Fuel, and Gas) Levy 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 sections 33(1) and 35(1)(faa) and (fa) of the Energy (Fuels, Levies, and References) Act 1989—

- (a) on the advice and with the consent of the Executive Council; and
- (b) for regulations made under section 33(1) of that Act, on the recommendation of the Minister of Energy and Resources made in accordance with section 33(3) of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Interpretation	2
4 Transitional, savings, and related provisions	3

Part 1

Petroleum or engine fuel monitoring levy

5 Calculation of PEFM levy rate	3
6 PEFM levy variable EECA cost	3
7 Notification of PEFM levy rate and calculation	4
8 Prescribed types of petroleum or engine fuel	5

Part 2		
Gas safety, monitoring, and energy efficiency levy		
9	Calculation of GSMEE levy rate	5
10	GSMEE levy variable EECA cost	5
11	Notification of GSMEE levy rate and calculation	7
12	GSMEE levy: prescribed types and purposes	7
Part 3		
Consequential revocation		
13	Consequential revocation	7
Schedule 1		
Transitional, savings, and related provisions		

Regulations

- 1 Title**

These regulations are the Energy (Petrol, Engine Fuel, and Gas) Levy Regulations 2017.
- 2 Commencement**

These regulations come into force on 1 July 2017.
- 3 Interpretation**

In these regulations, unless the context otherwise requires,—

Act means the Energy (Fuels, Levies, and References) Act 1989

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

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

gas safety, monitoring, and energy efficiency levy or **GSMEE levy** means the levy payable under section 23 of the Act

levy period means the period starting on 1 July in a year and ending on the close of 30 June in the following year

petroleum or engine fuel monitoring levy or **PEFM levy** means the levy payable under section 24 of the Act

return means the return required to be supplied to the Secretary under section 23 of the Act

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

table means the Excise and Excise-equivalent Duties Table referred to in the definition of engine fuel in section 1B of the Act.

4 Transitional, savings, and related provisions

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

Part 1

Petroleum or engine fuel monitoring levy

5 Calculation of PEFM levy rate

The Secretary must, before the start of a levy period, calculate the PEFM levy rate for the levy period in accordance with the following formula:

$$a + b = c$$

where—

- a is 0.2 cents
- b is the variable EECA cost (in cents) calculated in accordance with regulation 6
- c is the PEFM levy rate payable (in cents).

6 PEFM levy variable EECA cost

- (1) The variable EECA cost is calculated in accordance with the following formula:

$$(a + b + c) \div d$$

where—

- a is the estimated costs for the levy period (in cents)
- b is the supplementary estimates amount (if any) for the levy period (in cents)
- c is the adjustment amount for the levy period (in cents)
- d is the number of complete litres of prescribed petroleum or engine fuel that the Secretary estimates will be subject to the PEFM levy during the levy period.

- (2) In this regulation,—

actual costs, for a levy period, means the amount—

- (a) identified in the audited financial statements of the EECA for the levy period as the portion of costs, exclusive of any goods and services tax, to be met out of the PEFM levy under section 14(2A) of the Act; and
- (b) that does not exceed the total amount appropriated for that period in respect of the costs referred to in paragraph (a); and

- (c) that does not exceed the portion of costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the PEFM levy under section 14(2A) of the Act for the levy period

actual revenue, for a levy period, means the amount—

- (a) identified in the audited financial statements of the Ministry for the levy period as the amount of the PEFM levy recovered for that levy period; and
- (b) that is attributable to the portion of costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the PEFM levy under section 14(2A) of the Act for the levy period

adjustment amount, for a levy period, means the difference between the actual costs and the actual revenue in the levy period immediately before the previous levy period 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

estimated costs, for a levy period, means an amount that—

- (a) is an estimation of the portion of costs of the EECA to be met out of the PEFM levy under section 14(2A) of the Act for the levy period, exclusive of any goods and services tax; and
- (b) does not exceed the appropriations for the levy period in respect of those costs, exclusive of any goods and services tax, where appropriation includes the following amounts at the time of the calculation:
 - (i) any existing appropriation or other authority by or under an Act; and
 - (ii) any appropriation sought in an Appropriation Bill and set out in the Estimates

supplementary estimates amount, for a levy period, means any supplementary appropriations sought during the previous levy period—

- (a) in a supplementary Appropriation Bill and set out in the Supplementary Estimates; and
- (b) in respect of the costs of the EECA to be met out of the PEFM levy under section 14(2A) of the Act during the previous levy period, exclusive of any goods and services tax.

7 Notification of PEFM levy rate and calculation

The Secretary must, as soon as practicable after calculating the PEFM levy rate for a levy period under regulation 5, give notice of the levy rate and the calculation by—

- (a) publishing a notice in the *Gazette* that sets out the levy rate and the calculation; and
- (b) maintaining a list of the levy rates and calculations on the Ministry's Internet site at all reasonable times.

8 Prescribed types of petroleum or engine fuel

The PEFM levy is payable for petroleum or engine fuel that is specified in the table as a type of—

- (a) motor spirit:
- (b) diesel:
- (c) biodiesel:
- (d) ethyl alcohol under the heading Fuels in Part A or B of the table.

Part 2

Gas safety, monitoring, and energy efficiency levy

9 Calculation of GSMEE levy rate

The Secretary must, before the start of a levy period, calculate the GSMEE levy rate for the levy period in accordance with the following formula:

$$a + b = c$$

where—

- a is 2 cents
- b is the variable EECA cost (in cents) calculated in accordance with regulation 10
- c is the GSMEE levy rate payable (in cents).

10 GSMEE levy variable EECA cost

- (1) The variable EECA cost is calculated in accordance with the following formula:

$$(a + b + c) \div d$$

where—

- a is the estimated costs for the levy period (in cents)
- b is the supplementary estimates amount (if any) for the levy period (in cents)
- c is the adjustment amount for the levy period (in cents)
- d is the number of complete gigajoules of piped gas that the Secretary estimates will be subject to the GSMEE levy during the levy period.

- (2) In this regulation,—

actual costs, for a levy period, means the amount—

- (a) identified in the audited financial statements of the EECA for the levy period as the portion of costs, exclusive of any goods and services tax, to be met out of the GSMEE levy under section 14(2A) of the Act; and
- (b) that does not exceed the total amount appropriated for that period in respect of the costs referred to in paragraph (a); and
- (c) that does not exceed the portion of costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the GSMEE levy under section 14(2A) of the Act for the levy period

actual revenue, for a levy period, means the amount—

- (a) identified in the audited financial statements of the Ministry for the levy period as the amount of the GSMEE levy recovered for that levy period; and
- (b) that is attributable to the portion of costs of the EECA, exclusive of any goods and services tax, determined by the Minister to be met out of the GSMEE levy under section 14(2A) of the Act for the levy period

adjustment amount, for a levy period, means the difference between the actual costs and the actual revenue in the levy period immediately before the previous levy period 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

estimated costs, for a levy period, means an amount that—

- (a) is an estimation of the portion of costs of the EECA to be met out of the GSMEE levy under section 14(2A) of the Act for the levy period, exclusive of any goods and services tax; and
- (b) does not exceed the appropriations for the levy period in respect of those costs, exclusive of any goods and services tax, where appropriation includes the following amounts at the time of the calculation:
 - (i) any existing appropriation or other authority by or under an Act; and
 - (ii) any appropriation sought in an Appropriation Bill and set out in the Estimates

supplementary estimates amount, for a levy period, means any supplementary appropriations sought during the previous levy period—

- (a) in a supplementary Appropriation Bill and set out in the Supplementary Estimates; and
- (b) in respect of the costs of the EECA to be met out of the GSMEE levy under section 14(2A) of the Act during the previous levy period, exclusive of any goods and services tax.

11 Notification of GSMEE levy rate and calculation

The Secretary must, as soon as practicable after calculating the GSMEE levy rate for a levy period under regulation 9, give notice of the levy rate and the calculation by—

- (a) publishing a notice in the *Gazette* that sets out the levy rate and the calculation; and
- (b) maintaining a list of the levy rates and calculations on the Ministry's Internet site at all reasonable times.

12 GSMEE levy: prescribed types and purposes

The GSMEE levy is not payable on, and a return is not required to include, the following:

- (a) liquefied petroleum gas;
- (b) piped gas sold for—
 - (i) use as a feedstock; or
 - (ii) the generation of electricity.

Part 3

Consequential revocation

13 Consequential revocation

The Energy (Petroleum or Engine Fuel Monitoring Levy) Regulations 2015 (LI 2015/304) are revoked.

Schedule 1

Transitional, savings, and related provisions

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Part 1

Provisions relating to these regulations as made

PEFM levy

1 Application

- (1) These regulations apply in respect of the PEFM levy for the levy period starting on 1 July 2017 and for subsequent levy periods.
- (2) The Energy (Petroleum or Engine Fuel Monitoring Levy) Regulations 2015 apply until the close of 30 June 2017.

2 PEFM levy rate for levy period starting on 1 July 2017

- (1) Despite clause 1, regulations 5 to 7 do not apply in respect of the PEFM levy for the levy period starting on 1 July 2017.
- (2) The PEFM levy rate for the levy period starting on 1 July 2017 is 0.3 cents.

GSMEE levy

3 Application

- (1) These regulations apply in respect of the GSMEE levy for the levy period starting on 1 July 2017 and for subsequent levy periods.
- (2) The levy rate specified in section 23(5) of the Act (as it was immediately before the Energy Innovation (Electric Vehicles and Other Matters) Amendment Act 2017 came into force) applies until the close of 30 June 2017.

4 GSMEE levy rate for levy period starting on 1 July 2017

- (1) Despite clause 3, regulations 9 to 11 do not apply in respect of the GSMEE levy for the levy period starting on 1 July 2017.
- (2) The GSMEE levy rate for the levy period starting on 1 July 2017 is 3.6 cents.

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, prescribe the following:

- the formula for calculating the rate of the petroleum or engine fuel monitoring levy (the **PEFM levy**) (*regulations 5 and 6*):
- the types of petroleum or engine fuels for which the PEFM levy is payable (*regulation 8*):
- the formula for calculating the rate of the gas safety, monitoring, and energy efficiency levy (the **GSMEE levy**) (*regulations 9 and 10*):
- the types of piped gas that the GSMEE levy is not payable on (*regulation 12*):
- the purposes that piped gas may be sold for without the GSMEE levy being payable on the piped gas (*regulation 12*).

The formula for calculating the rate of the PEFM levy, in *regulation 5*, is based on the existing rate of the PEFM levy (0.2 cents).

The formula for calculating the rate of the GSMEE levy, in *regulation 9*, is based on the existing rate of the GSMEE levy (2 cents).

Regulations 7 and 11 require the chief executive of the Ministry of Business, Innovation, and Employment (the **Ministry**) to publish the levy rate and calculation for the PEFM levy and the GSMEE levy, for each levy period, in the *Gazette* and on the Ministry's Internet site.

Regulation 13 consequentially revokes the Energy (Petroleum or Engine Fuel Monitoring Levy) Regulations 2015.

Part 1 of Schedule 1 sets out the transitional provisions that apply for the levy period starting on 1 July 2017. For this levy period, the rate of the PEFM levy is increased to 0.3 cents and the rate of the GSMEE levy is increased to 3.6 cents.

These regulations are a confirmable instrument under section 47B of the Legislation Act 2012. They are revoked at the close of 30 June 2018, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(a) of that Act.

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.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.