

Reprint
as at 27 June 2019



**Energy (Petrol, Engine Fuel, and Gas) Levy Regulations
2017**
(LI 2017/147)

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

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.

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	5
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.
Regulations: confirmed, on 5 December 2017, by section 10 of the Subordinate Legislation Confirmation Act 2017 (2017 No 47).
- 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 0.5 cents

b is the variable EECA cost (in cents) calculated in accordance with regulation 6

c is the PEFM levy rate payable (in cents).

Regulation 5 formula item a: amended, on 27 June 2019, by regulation 4 of the Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019 (LI 2019/139).

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.

Part 2
**Provision relating to Energy (Petrol, Engine Fuel, and Gas) Levy
Amendment Regulations 2019**

Schedule 1 Part 2: inserted, on 27 June 2019, by regulation 5 of the Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019 (LI 2019/139).

5 Application

- (1) The Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019 apply in respect of the PEFM levy for the levy period starting on 1 July 2019 and for subsequent levy periods.
- (2) Regulation 5, as in force immediately before the commencement of the Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019, continues to apply in respect of the PEFM levy for the levy period ending on the close of 30 June 2019.

Schedule 1 clause 5: inserted, on 27 June 2019, by regulation 5 of the Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019 (LI 2019/139).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 29 June 2017.

Reprints notes

1 *General*

This is a reprint of the Energy (Petrol, Engine Fuel, and Gas) Levy Regulations 2017 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*

Energy (Petrol, Engine Fuel, and Gas) Levy Amendment Regulations 2019 (LI 2019/139)
Subordinate Legislation Confirmation Act 2017 (2017 No 47): section 10