



Gas Governance (Critical Contingency Management) Amendment Regulations 2021

Cindy Kiro, Governor-General

Order in Council

At Wellington this 15th day of November 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 43F, 43G, and 43TA of the Gas Act 1992—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Energy and Resources made in accordance with sections 43J to 43O of that Act.

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Regulations

1 Title

These regulations are the Gas Governance (Critical Contingency Management) Amendment Regulations 2021.

2 Commencement

These regulations come into force on 12 January 2022.

3 Principal regulations

These regulations amend the Gas Governance (Critical Contingency Management) Regulations 2008.

4 New regulations 82A to 82C inserted

After the Part 5 heading, insert:

82A Consumer must not provide false or misleading information

- (1) A consumer must not provide information to the industry body in an application for a designation under regulation 46E that the consumer knows is false or misleading in any material particular.
- (2) A consumer must not provide information to the critical contingency operator under regulation 40 that the consumer knows is false or misleading in any material particular.
- (3) This regulation does not apply to a domestic consumer.

82B Consumer must comply with directions

- (1) This regulation applies if—
 - (a) a consumer is given a direction under these regulations during a critical contingency; and
 - (b) a failure to comply with the direction would affect, or may affect, the operation of wholesale markets for gas (including security of supply).
- (2) The consumer must, as soon as possible, comply with the direction.
- (3) It is a defence to a proceeding under subpart 5 of Part 4A of the Act for a breach of subclause (2) if the defendant proves that—
 - (a) the failure to comply was necessary to prevent or lessen a serious and imminent threat to the health and safety of any person; and
 - (b) the threat could not reasonably have been foreseen and mitigated by the defendant so that the conduct that constituted the failure could have been avoided.
- (4) This regulation does not apply to a domestic consumer or an industry participant.

82C High Court may order certain consumers to pay pecuniary penalty for breach of regulation 82A or 82B(2)

- (1) Regulations 82A and 82B(2) are provisions for the purposes of subpart 5 of Part 4A of the Act (which allows the High Court to impose a pecuniary penalty on a consumer (other than a domestic consumer or an industry participant) for a breach of those provisions).
- (2) The maximum pecuniary penalty that may be imposed under subpart 5 of Part 4A of the Act for a breach of those provisions is \$200,000.
- (3) *See* section 43X of the Act, which gives the Rulings Panel certain powers in relation to an industry participant that breaches regulation 82A.

Rachel Hayward,
for 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 12 January 2022, amend the Gas Governance (Critical Contingency Management) Regulations 2008.

The amendments impose the following duties:

- a duty on consumers (other than domestic consumers) to not provide false or misleading information under certain provisions. The High Court may impose a pecuniary penalty for a breach of this duty by a consumer (other than a domestic consumer or an industry participant). The Rulings Panel may impose a pecuniary penalty for a breach of this duty by a consumer that is an industry participant:
- a duty on consumers (other than domestic consumers and industry participants) to comply with a direction given under the regulations during a critical contingency. The High Court may impose a pecuniary penalty for a breach of this duty by a consumer to which the duty applies.

These provisions replace substantially similar offences that will be repealed by the Gas (Information Disclosure and Penalties) Amendment Act 2021 before these amendments come into force. The main difference is that a breach of these duties may give rise to a liability to pay a pecuniary penalty of up to \$200,000.

**Gas Governance (Critical Contingency Management)
Amendment Regulations 2021**

2021/368

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 18 November 2021.

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

Wellington, New Zealand:

Published under the authority of the New Zealand Government—2021