



New South Wales

# Gas Supply (Miscellaneous Amendments) Regulation 2001

under the

Gas Supply Act 1996

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas Supply Act 1996*.

KIM YEADON, M.P.,  
Minister for Energy

## Explanatory note

The object of this Regulation is to make provision in connection with the amendment of the *Gas Supply Act 1996* (the **principal Act**) by the *Gas Supply Amendment (Retail Competition) Act 2001* (the **amending Act**):

- (a) by amending the *Gas Supply (General) Regulation 1997* so as:
- (i) to prescribe a rate of natural gas consumption for the purposes of the definition of **small retail customer** in section 33R of the principal Act, as inserted by the amending Act, and
  - (ii) to prescribe certain kinds of dispute for which a gas industry ombudsman scheme must make provision under section 33G of the principal Act, as inserted by the amending Act, and
  - (iii) to require a gas marketer to comply with decisions of a gas industry ombudsman, and
  - (iv) to allow the Independent Pricing and Regulatory Tribunal a discretion as to whether or not to hold a hearing in connection with its investigations in relation to an interim gas pricing order, and

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- (b) by amending the *Gas Supply (Savings and Transitional) Regulation 1991* so as:
- (i) to ensure that a customer who enters into a contract for the supply of natural gas between 1 July 2001 and 1 January 2002 does not have to pay a termination fee if the contract is terminated before 1 July 2002, and
  - (ii) to provide for the construction of certain references.

This Regulation is made under the *Gas Supply Act 1996*, including section 83 (the general power to make regulations) and clause 1 of Schedule 2 (the power to make regulations of a savings or transitional nature).

## **Gas Supply (Miscellaneous Amendments) Regulation 2001**

### **1 Name of Regulation**

This Regulation is the *Gas Supply (Miscellaneous Amendments) Regulation 2001*.

### **2 Commencement**

This Regulation commences on 1 July 2001.

### **3 Amendment of Gas Supply (General) Regulation 1997**

The *Gas Supply (General) Regulation 1997* is amended as set out in Schedule 1.

### **4 Amendment of Gas Supply (Savings and Transitional) Regulation 1991**

The *Gas Supply (Savings and Transitional) Regulation 1991* is amended as set out in Schedule 2.

### **5 Notes**

The explanatory note does not form part of this Regulation.

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Schedule 1

Amendment of Gas Supply (General) Regulation 1997

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**Schedule 1 Amendment of Gas Supply (General)  
Regulation 1997**

(Clause 3)

**[1] Clause 3 Definitions**

Insert in alphabetical order:

*gas marketer* has the same meaning as it has in Division 5 of Part 2A of the Act.

*Marketing Code of Conduct* has the same meaning as it has in Division 5 of Part 2A of the Act.

**[2] Part 3**

Insert after Part 2:

**Part 3 Operation of natural gas retail market**

**10 Definition of “small retail customer”: section 33R**

- (1) For the purposes of the definition of *small retail customer* in section 33R of the Act, the prescribed rate referred to in subsection (7) of that section is 1,000 gigajoules per year.
- (2) The rate at which a person consumes or is expected to consume natural gas at any premises is to be calculated by determining:
  - (a) the quantity of natural gas supplied to those premises in the immediately preceding period of 12 months, and
  - (b) the quantity of natural gas contracted to be supplied to those premises during the immediately following period of 12 months,

so that the person is taken to consume or be expected to consume natural gas at those premises only if the quantity of natural gas determined under paragraph (a) and the quantity of natural gas determined under paragraph (b) are each less than 1,000 gigajoules.

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**11 Additional disputes and complaints that may be dealt with under a gas industry ombudsman scheme**

- (1) The following disputes and complaints are prescribed as disputes and complaints for which a gas industry ombudsman scheme must make provision, as referred to in section 33G (1) of the Act:
- (a) any dispute between a person and a supplier as to whether the person is, or on becoming a customer would be, a small retail customer,
  - (b) any dispute between a small retail customer and a supplier as to whether premises owned or occupied by the customer are connected to a distribution system,
  - (c) any complaint by a small retail customer that alleges that a gas marketer has contravened the Marketing Code of Conduct.
- (2) A customer referred to in subclause (1) (a) is prescribed as a customer to which a gas industry ombudsman scheme:
- (a) will be accessible, as referred to in section 33G (2) (d) of the Act, and
  - (b) will operate expeditiously and without cost, as referred to in section 33G (2) (g) of the Act.
- (3) A complaint referred to in subclause (1) (c) is exempt from the restriction imposed by section 33F (2) of the Act, and is consequently reviewable under a gas industry ombudsman scheme without the need for internal review under section 33E.

**12 Gas marketer to comply with decision of gas industry ombudsman**

A gas marketer must not fail to comply with a decision of a gas industry ombudsman under an approved gas industry ombudsman scheme as to a dispute between the marketer and a small retail customer.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

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**[3] Clause 22A**

Insert before clause 23:

**22A Investigations by Tribunal**

- (1) This clause applies to any investigation conducted by the Tribunal under section 32 of the Act in relation to an interim gas pricing order referred to in clause 19 of Schedule 2 to the Act.
- (2) For the purposes of any such investigation, the Tribunal may, but is not required to, hold a hearing under section 21 of the *Independent Pricing and Regulatory Tribunal Act 1992*.

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## **Schedule 2 Amendment of Gas Supply (Savings and Transitional) Regulation 1991**

(Clause 4)

### **Part 11**

Insert after Part 10:

### **Part 11 Transitional provisions consequent on the enactment of the Gas Supply Amendment (Retail Competition) Act 2001**

#### **57 Negotiated contracts entered into before 1 January 2002**

- (1) This clause applies to any contract (other than a standard form contract referred to in section 83 (3) (a) of the Act) that is entered into between a supplier and a small retail customer on or after 1 July 2001 and before 1 January 2002.
- (2) A contract to which this clause applies may not contain a provision requiring the customer to pay a termination fee in the event that the contract is terminated before 1 July 2002.
- (3) Before entering into such a contract, the supplier must notify the small retail customer in writing that the customer will not be required to pay any termination fee in the event that the contract is terminated before 1 July 2002.
- (4) Compliance with the requirements of this clause is taken to be a condition of the supplier's authorisation.

#### **58 Construction of references**

In any regulation under the Act:

- (a) a reference to a tariff customer is to be construed as including a reference to a small retail customer, and
- (b) a reference to a small customer is to be construed as a reference to a protected LPG customer.

BY AUTHORITY