



Gas Supply (Natural Gas Retail Competition) Amendment (Retailer of Last Resort) Regulation 2004

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*.

FRANK ERNEST SARTOR, M.P.,
Minister for Energy and Utilities

Explanatory note

The object of this Regulation is to amend the *Gas Supply (Natural Gas Retail Competition) Regulation 2001 (the Regulation)* in relation to **last resort supply arrangements** (within the meaning of the Regulation). Generally, those arrangements (which are provided for in Part 7 of the Regulation) are intended to protect small retail gas customers if their gas supplier is unable to continue supply. Clauses 3 and 66 of the Regulation define the **terms** used below.

Specifically, the amendments made by this Regulation provide that:

- (a) a gas supplier in respect of whom a **last resort supply event** has occurred (an **affected supplier**) must not supply gas to small retail customers once last resort supply arrangements have taken effect, and
- (b) such an affected supplier must provide reasonable assistance to the Minister for Energy and Utilities, the **retailer of last resort** and the administrator of any **retail market business scheme** of which the affected supplier is a member in order to enable those persons to carry out and give effect to last resort supply arrangements, and
- (c) the Minister for Energy and Utilities may, on the application of an affected supplier, permit the affected supplier to recommence supplying gas to small retail customers, and

2004 No 275

Gas Supply (Natural Gas Retail Competition) Amendment (Retailer of Last Resort) Regulation 2004

Explanatory note

- (d) *market operation rules* may be made for or with respect to the circumstances in which an affected supplier may recommence supplying gas to small retail customers and with respect to the rights and obligations of the supplier once that supply has recommenced, and
- (e) standard form customer supply contracts and negotiated customer supply contracts between a supplier and a small retail customer must provide that information concerning the customer may be given to another supplier, the Minister for Energy and Utilities or the administrator of any retail market business scheme of which the supplier under the contract or the retailer of last resort concerned is a member, for the purpose of implementing last resort supply arrangements.

The Regulation also makes a law revision amendment.

This Regulation is made under the *Gas Supply Act 1996*, including section 83 (the general regulation-making power).

Gas Supply (Natural Gas Retail Competition) Amendment (Retailer of Last Resort) Regulation 2004

under the

Gas Supply Act 1996

1 Name of Regulation

This Regulation is the *Gas Supply (Natural Gas Retail Competition) Amendment (Retailer of Last Resort) Regulation 2004*.

2 Amendment of Gas Supply (Natural Gas Retail Competition) Regulation 2001

The *Gas Supply (Natural Gas Retail Competition) Regulation 2001* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Clause 66 Definitions

Insert in appropriate order:

affected supplier means a supplier in respect of whom a last resort supply event has occurred.

[2] Clause 69 Commencement of last resort supply arrangements

Insert “(which may be the date of the notice or a later date)” after “take effect” in clause 69 (2) (a).

[3] Clause 69 (6)–(11)

Omit clause 69 (6). Insert instead:

- (6) On last resort supply arrangements taking effect:
 - (a) the retailer of last resort must implement the last resort supply arrangements applicable to the small retail customers subject to the arrangements, and
 - (b) the affected supplier concerned must not supply gas to any small retail customer, and
 - (c) the affected supplier concerned must provide reasonable assistance to the Minister, the retailer of last resort and the administrator of any retail market business scheme of which the affected supplier is a member in order to enable those persons to carry out their functions under this Part. Such assistance may include assistance in the transfer of customers and the provision of information.
- (7) It is a condition of the authorisation of an affected supplier that the supplier comply with subclause (6) (b).
- (8) Despite subclause (6) (b), the Minister, on the application of an affected supplier whose authorisation has not been cancelled, may, by order, permit the supplier to recommence supplying gas to small retail customers. On the making of such an order, subclauses (6) (b) and (7) cease to apply to the affected supplier.

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- (9) An application under subclause (8) may be refused on the following grounds:
- (a) the applicant fails to satisfy such technical or prudential criteria as have been adopted by the Minister to determine whether the applicant is able to operate a viable business as an authorised supplier,
 - (b) the Minister is of the opinion that the applicant is not a fit and proper person to recommence supplying gas to small retail customers (having regard to the applicant's ability to avoid a recurrence of a last resort supply event and the standing of the directors and officers and their actions in relation to the original last resort supply event).
- (10) In determining an application under subclause (8), the Minister may consider the following:
- (a) the circumstances that gave rise to the last resort supply event,
 - (b) the actions of the applicant in response to the original last resort supply event,
 - (c) the circumstances that enabled the applicant to continue supplying gas to persons other than small retail customers,
 - (d) the history of the applicant's compliance with the conditions of its authorisation,
 - (e) any other matter that the Minister considers relevant.
- (11) Without limiting sections 11 and 12 of the Act, the Minister may, at the time of making an order under subclause (8), impose or vary conditions in relation to the affected supplier's authorisation so as to require the affected supplier to provide additional information to the Minister on an ongoing basis, including:
- (a) information relating to the affected supplier's technical and prudential ability to supply gas, and
 - (b) information relating to plans or policies the affected supplier is to put in place to prevent the occurrence of a further last resort supply event.

2004 No 275

Gas Supply (Natural Gas Retail Competition) Amendment (Retailer of Last Resort) Regulation 2004

Schedule 1 Amendments

[4] Clause 74 Market operations rules

Insert at the end of clause 74 (f):

- (g) the circumstances in which an affected supplier may recommence supplying gas to small retail customers and the rights and obligations of the supplier once that supply has recommenced.

[5] Schedule 1 Requirements applicable to customer supply contracts

Insert “, the Minister or the administrator of any retail market business scheme of which the supplier under the contract or the retailer of last resort concerned is a member,” after “another supplier” in clause 11 (3).

BY AUTHORITY
