



New South Wales

# Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007

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*.

IAN MACDONALD, M.L.C.,  
Minister for Energy

## Explanatory note

The objects of this Regulation are:

- (a) to require all suppliers of gas (instead of just standard suppliers) to operate a payment plan in respect of small retail customers who own or occupy residential premises (a payment plan makes provision for customers facing financial difficulty) and to require suppliers of gas to offer payment plans to customers facing financial difficulty prior to discontinuance of supply, and
- (b) to make further provision with respect to the procedure for entering into and terminating gas supply contracts, including:
  - (i) by allowing an election to be supplied with gas under a standard form customer supply contract to be made in writing, by telephone or by any means acceptable to the supplier, and
  - (ii) by requiring further information about gas supply contracts to be provided to small retail customers, and
  - (iii) by making further provision for the right of a customer to terminate a negotiated customer supply contract during a cooling off period.

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

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# **Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007**

under the

Gas Supply Act 1996

### **1 Name of Regulation**

This Regulation is the *Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007*.

### **2 Commencement**

This Regulation commences on 1 July 2007.

### **3 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.

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## Schedule 1 Amendments

(Clause 3)

**[1] Clause 6 Endorsement condition relating to payment plans**

Omit the clause.

**[2] Clause 11 Notice procedures where small retail customers change supplier or status**

Omit clause 11 (1) (b).

**[3] Clause 11 (2) (b)**

Omit “the name and contact details of that supplier”.

Insert instead “the contact details of the Tribunal”.

**[4] Clause 12**

Omit the clause. Insert instead:

**12 Election to be supplied under standard form customer supply contract**

- (1) An election to be supplied with gas by a standard supplier under a standard form customer supply contract may be made in writing, by telephone or by any means acceptable to the supplier.
- (2) As soon as practicable after the election is made, the supplier is to issue a written notice to the customer containing the following particulars:
  - (a) the name of the customer,
  - (b) the premises to be supplied with gas,
  - (c) the customer’s Delivery Point Identifier,
  - (d) the date that supply of gas commenced or is expected to commence.
- (3) The notice is to include the document required to be provided under clause 13.

**[5] Clause 13 Information given to persons who elect standard form contracts**

Omit “receiving an application from” from clause 13 (1).

Insert instead “an election is made by”.

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**[6] Clause 13 (1) (f)**

Omit the paragraph.

**[7] Clause 13A**

Insert after clause 13:

**13A Condition of authorisation relating to payment plans and discontinuance of supply**

- (1) It is a condition of a supplier's authorisation who supplies gas to small retail customers that the supplier operate a payment plan:
  - (a) applying to those small retail customers who own or occupy residential premises and who are, in the supplier's opinion, experiencing financial difficulty, and
  - (b) that complies with subclause (2) and is approved by the Minister for the purposes of this clause.
- (2) The payment plan must:
  - (a) enable customers to make payments by instalments, in advance or arrears, and
  - (b) provide for the customer to be informed of the following matters:
    - (i) the period, or periods, of the payment plan,
    - (ii) the amount of each instalment and the frequency of instalments,
    - (iii) if the customer is in arrears, the number of instalments required to pay the arrears,
    - (iv) if the customer is to pay in advance, the basis on which instalments are calculated, and
  - (c) provide for instalments to be calculated having regard to a customer's consumption needs, a customer's capacity to pay and the amount of any arrears a customer is required to pay, and
  - (d) provide procedures that are fair and reasonable for dealing with the financial difficulty faced by a customer who is obtaining the benefit of the scheme.
- (3) It is a condition of a supplier's authorisation who supplies gas to small retail customers who own or occupy residential premises that the supplier does not discontinue the supply of gas to those premises on the grounds that the customer has failed to provide a required security or pay an amount due with respect of the supply of gas unless:

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- (a) the supplier provides written notice of the supplier's intention to do so to the customer, indicating that, if the customer is experiencing financial difficulty, the customer may apply for assistance under the payment plan operated by the supplier, and
  - (b) the customer fails to apply for assistance under the payment plan by the date indicated in the notice as the date by which the customer must make such an application, or having made such an application, is assessed by the supplier to be ineligible for assistance under the payment plan.
- (4) Subclause (3) does not apply to any discontinuance of supply on the grounds of failure to make due payment of money in accordance with a payment plan.
- (5) The Minister's approval of a payment plan:
- (a) has effect for the period of time specified in the approval, and
  - (b) is subject to such conditions (such as a condition requiring the supplier to submit the payment plan for review when requested by the Minister) as the Minister may specify in the approval.

**[8] Clause 50 Information to be provided to small retail customers about contracts**

Omit "with a copy of the contract at the time that the contract is entered into" from clause 50 (2).

Insert instead " , within 2 business days of the contract being entered into, with a copy of the contract and a disclosure notice".

**[9] Clause 50 (2A)**

Insert after clause 50 (2):

- (2A) For the purposes of this clause, a *disclosure notice* is a document containing the following information in relation to the contract:
  - (a) the name and contact details of the supplier,
  - (b) the name and contact details of a person responsible for arranging connection on behalf of the customer (if any),
  - (c) the premises to be supplied with gas,
  - (d) the commencement date and term of the contract,

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- (e) the extent to which the price offered is inclusive of all costs, and if the price offered is not inclusive of all costs, the particulars of the costs not included,
- (f) the customer's right to enter into any applicable standard form customer contract, and how the terms of the contract differ from that standard form customer contract,
- (g) a statement of the customer's rights under this Regulation in relation to the cooling-off period,
- (h) any requirement for a deposit to be paid by the customer and when that deposit is payable,
- (i) any penalties or charges imposed on the customer for any change including, but not limited to, any variation in consumption of gas or early termination,
- (j) a statement of the customer's rights in relation to disputes and resolution of disputes with the supplier, including the procedures for referring complaints and disputes to the gas industry ombudsman.

#### [10] **Clause 87 Payment plans**

Omit the clause.

#### [11] **Clause 89**

Insert after clause 88:

##### **89 Payment plans for all suppliers**

- (1) Suppliers are required to comply with clause 13A on and from the date that is 3 months after the commencement of the *Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007* or on and from a later date determined by the Minister and notified to suppliers.
- (2) The amendments made to clause 15 of Schedule 1 by the *Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007*, so far as they relate to payment plans, do not apply in respect of suppliers until suppliers are required to comply with clause 13A.
- (3) However the provisions of this Regulation relating to payment plans, as in force immediately before the commencement of the *Gas Supply (Natural Gas Retail Competition) Amendment Regulation 2007*, continue to apply to standard suppliers until the date that suppliers are required to comply with clause 13A.

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**Note.** Clause 13A requires all suppliers to operate a payment plan. Standard suppliers were already required to operate a payment plan under clause 6 of this Regulation before its repeal and replacement by clause 13A and will continue to be required to operate those payment plans until all suppliers are required to comply with new clause 13A. It will also be necessary for those standard suppliers to re-submit their payment plans to the Minister for approval in order to comply with new clause 13A.

**[12] Schedule 1 Requirements applicable to customer supply contracts**

Omit clause 12 (1). Insert instead:

- (1) A negotiated customer supply contract must confer on the customer a right to terminate the contract (orally or in writing) within 10 days after the date that the contract is entered into, or the date that a copy of the contract is received by the customer, whichever is the later.
- (1A) If a customer exercises any such right to terminate a negotiated customer supply contract, the contract must require the supplier to provide the customer with a record of that termination.

**[13] Schedule 1, clause 15 (3) (d) (ii)**

Omit the sub-paragraph. Insert instead:

- (ii) of any payment plan operated by the supplier that is available to the customer if the customer is experiencing financial difficulty, and
- (iii) if the customer has applied for assistance under the payment plan by the date indicated by the supplier as the date by which the customer must make an application, of the outcome of such application on or before the second written notice given under subclause (2) (a).

**[14] Schedule 1, clause 15 (4)**

Omit the subclause. Insert instead:

- (4) The contract must require the supplier, if attempts to deal with the customer under subclause (2) (b) are unsuccessful because of a failure to make contact with the customer, to use its best endeavours to make contact with the customer outside business hours for the purpose of dealing with the customer as required by that subclause.

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**[15] Schedule 1, clause 15 (7) and (7A)**

Omit clause 15 (7). Insert instead:

- (7) The contract must require that the supplier not discontinue gas supply for a failure to provide a required security or pay an amount due with respect to the supply of gas if the customer applies before the date specified in accordance with subclause (3) (b) for assistance under the payment plan operated by the supplier.
- (7A) Subclause (7) does not prevent a supplier from discontinuing gas supply if a customer fails to make due payment of money in accordance with the payment plan operated by the supplier or is assessed by the supplier to be ineligible for assistance under the payment plan.

BY AUTHORITY

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