



COVERSHEET

Minister	Hon Dr Megan Woods	Portfolio	Energy and Resources
Title of Cabinet paper	Gas Act 1992: Report back on emerging technologies, gas market information disclosure, and penalties	Date of release	28 May 2020

List of documents that have been proactively released

Date	Title	Author
23 October 2019	<i>Gas Act 1992: Report back on emerging technologies, gas market information disclosure, and penalties</i>	<i>Office of the Minister of Energy and Resources</i>
23 October 2019	<i>Cabinet Environment, Energy and Climate Committee Minute of Decision (ENV-19-MIN-0055)</i>	<i>Cabinet Office</i>
18 February 2020	<i>Gas (Information Disclosure and Penalties) Amendment Bill: Approval for Introduction</i>	<i>Office of the Minister of Energy and Resources</i>
18 February 2020	<i>Cabinet Legislation Committee Minute of Decision (LEG-20-MIN-0016)</i>	<i>Cabinet Office</i>

Information redacted

YES /-NO

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the following reasons:

- confidential advice to Government.



Cabinet Environment, Energy and Climate Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Gas Act 1992: Emerging Technologies, Gas Market Information Disclosure, and Penalties

Portfolio Energy and Resources

On 23 October 2019, the Cabinet Environment, Energy and Climate Committee:

- 1 **noted** that on 1 May 2019, the Cabinet Economic Development Committee agreed to release a discussion document entitled *Options for amending the Gas Act 1992* which sought stakeholders views on the following:
 - 1.1 potential regulatory barriers that the Gas Act 1992 may present to the adoption of emerging technologies and alternative fuels;
 - 1.2 the addition of a new power to the Act to enable broad information disclosure regulations to be made; and
 - 1.3 the design of the penalties regime provided for by the Act and potential ways to make this fit-for-purpose for ensuring compliance with regulations;
- [DEV-19-MIN-0096]
- 2 **noted** that advice from officials and consultation with stakeholders suggests that there are no issues in the Act that need to be addressed immediately in order to facilitate the adoption of emerging technology and alternative fuels;
 - 3 **noted** that consultation revealed a few minor changes that may need to be made to regulations under the Gas Act at a later date to support the uptake of emerging technology and alternative fuels;

Information disclosure

- 4 **noted** that identified issues with information disclosure in the gas market include information such as planned and unplanned outages, volume and price information, average wholesale and aggregated trading volumes, and production forecasting;
- 5 **noted** that public consultation has confirmed the need to amend the Gas Act to provide a clear regulatory backing for enhanced information disclosure requirements to be able to be placed on the gas market, should the Gas Industry Company (GIC) recommend that these are made;

- 6 **agreed** to amend the Gas Act to enable the Minister of Energy and Resources to recommend that regulations for a broad regime for the disclosure of information that may have significant downstream impact, or may contribute to the risk of critical contingency events, be made;
- 7 **noted** that this new empowering provision for information disclosure will be subject to the same process and requirements as other gas governance arrangements under the Gas Act;
- 8 **noted** that the Minister of Energy and Resources considers these amendments are consistent with the objectives of Part 4A of the Gas Act, and the government's policy objectives for the sector as stated in the Government Policy Statement on Gas Governance 2008;
- 9 **noted** that the co-regulatory model requires the GIC to follow the process set out in the Gas Act, including consultation with affected stakeholders and cost benefit analysis before making a recommendation;

Penalties regime

- 10 **noted** that the penalty regime provided for by the Gas Act does not provide confidence that there are appropriate compliance incentives in place for the management of high-impact, low likelihood events, such as critical gas shortages;
- 11 **agreed** to increase the maximum penalty available to the Gas Rulings Panel from \$20,000 to \$200,000 to ensure sufficient incentives are in place for industry participants and enable the Gas Rulings Panel to apply pecuniary penalties proportional to the extent of harm;
- 12 **noted** that the current penalty regime is inequitable because it may criminalise a breach by a non-industry participant for conduct that is subject to the civil proceedings of the Gas Rulings Panel for an industry participant;
- 13 **agreed** to repeal the current criminal penalty provided under section 43T of the Gas Act as it creates an inequity in the penalties regime for gas consumers who are non-industry participants and industry participants;
- 14 **agreed** to add a new civil pecuniary penalty to the Gas Act with a maximum limit of \$200,000 to be determined by the High Court in situations where the Gas Rulings Panel does not have jurisdiction;

Minor changes

- 15 **agreed** to make a range of minor changes to the Gas Act including:
- 15.1 repealing the redundant definition of "corporation" in the Act;
 - 15.2 aligning the self-incrimination privilege with modern practice; and
 - 15.3 clarifying that gas governance arrangements for the management of critical gas shortages can be applied to the whole gas market;
- 16 **authorised** the Minister of Energy and Resources to make other minor changes if they are identified through the drafting process;

Implementation

- 17 **authorised** the Minister of Energy and Resources to make further decisions on minor and technical matters in line with policy decisions outlined in the paper under ENV-19-SUB-0055;

18 **invited** the Minister of Energy and Resources to issue drafting instructions to the Parliamentary Council Office to give effect to the above paragraphs.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Kelvin Davis
Hon Phil Twyford
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Stuart Nash
Hon Damien O'Connor
Hon James Shaw
Hon Eugenie Sage

Officials present from:

Officials Committee for ENV

Hard-copy distribution:

Minister of Energy and Resources

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