



## COVERSHEET

<b>Minister</b>	Hon Simeon Brown	<b>Portfolio</b>	Energy
<b>Title of Cabinet paper</b>	Gas (Levy of Industry Participants) Regulations 2024	<b>Date to be published</b>	14 June 2024

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
May 2024	<i>Gas (Levy of Industry Participants) Regulations 2024</i>	Office of the Minister for Energy
9 May 2024	<i>LEG-24-MIN-0080 Minute</i>	Cabinet Office
15 April 2024	<i>Stage 2 Cost Recovery Impact Statement: Setting the Gas (Levy of Industry Participants) Regulations 2024</i>	MBIE

### **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.

## In Confidence

Office of the Minister for Energy

Chair, Cabinet Legislation Committee

## Gas (Levy of Industry Participants) Regulations 2024

### Proposal

- 1 That the *Gas (Levy of Industry Participants) Regulations 2024* be approved for submission to the Executive Council to enable Gas Industry Company to recover its costs for the 2024/25 financial year (other sources of funding for GIC include market fees and equity reserves).
- 2 A Stage 2 Cost Recovery Impact Statement is attached at **Appendix One**.

### Executive Summary

- 3 Gas Industry Company (**GIC**) co-regulates the gas industry with the Government. GIC's primary objective to ensure that gas is delivered to existing and new customers in a safe, efficient, fair, reliable, and environmentally sustainable manner.
- 4 Since 2005, a levy on gas industry participants has funded the majority of GIC's costs. As levy regulations may only apply to the year they are made, new levy regulations are made every year.
- 5 In March 2024, I received a recommendation from GIC to make levy regulations that would recover costs of \$4.42 million for the 2024/25 financial year (a 0.74 per cent decrease from the 2023/24 financial year). This represents approximately 72 per cent of GIC's estimated total work programme costs. These costs are intended to be covered through two levy rates:
  - 5.1 A retail levy on gas retailers of \$6.53 for each customer to which the retailer has a contract to supply gas, and
  - 5.2 A wholesale levy of 1.5952 cents per gigajoule of gas that participants purchase from gas producers.
- 6 This amount is aligned with the estimated costs to deliver a work programme that aligns with the Government's objectives and outcomes for the gas sector.
- 7 The costs imposed on end users are relatively small, approximately 57.75 cents per month for a residential gas consumer, which represents approximately 0.69 per cent of their annual gas bill. Large industrial users, who consume the most gas, will pay the majority of the levy.

- 8 I have determined that the criteria in the *Gas Act* for accepting this levy recommendation from GIC are met. I have therefore accepted the levy recommendation, as I am required to do under the *Gas Act*.
- 9 This paper seeks approval to submit the attached *Gas (Levy of Industry Participants) Regulations 2024*, which would set the levy for the 2024/25 financial year, to the Executive Council.

### Explaining the policy

*Each financial year Gas Industry Company makes a recommendation on levy regulations to recover its costs*

- 10 Gas Industry Company (**GIC**) was established in 2004 as the approved industry body for the co-regulation of the gas industry, under the *Gas Act 1992* (the **Gas Act**).<sup>1</sup> Its principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner. The *Gas Act* and the Government Policy Statement on Gas Governance 2008 (the **GPS**) further articulate the Government's objectives and outcomes for GIC, including fairness and environmental sustainability.
- 11 As an industry owned co-regulator, GIC's role and structure differs from Crown Entity regulators and other levy-funded organisations. GIC uses regulatory and non-regulatory mechanisms to ensure effective oversight of wholesale and retail gas markets, processing facilities, and gas distribution for an estimated 300,000 customers, including major industrial users.
- 12 The costs of delivering its work programme are primarily recovered through a levy on gas industry participants. The remainder of costs are recovered from market fees<sup>2</sup> revenue and equity reserves<sup>3</sup>.
- 13 GIC can make a recommendation to the Minister for Energy that regulations are made to require gas industry participants to pay a levy.<sup>4</sup> These levy regulations can only apply to the financial year in which they are made. New levy regulations must therefore be made every year.<sup>5</sup>
- 14 The current levy rates have applied from 1 July 2023 and will cease to apply on 30 June 2024.

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<sup>1</sup> Gas (Approval of Industry Body) Order 2004

<sup>2</sup> Market fees are payable in accordance with certain gas governance rules and regulations to recover actual expenses directly required to administer service provider arrangements and any other expected direct costs related to the monitoring of those arrangements.

<sup>3</sup> Equity reserve is money set aside made up of industry advance reserves and retained earnings (i.e., shareholder fees).

<sup>4</sup> Section 43ZZB of the Act.

<sup>5</sup> Section 43ZZE(3) of the Act.

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*The recommended 2024/25 levy regulations are routine and do not require new policy decisions*

- 15 On 2 April 2024 I authorised the drafting of regulations without reference to Cabinet as the levy regulations are routine and do not require new policy decisions. I did this in accordance with paragraph 7.95(d) of the Cabinet Manual and with past practice.

*The recommended 2024/25 levy regulations provide for a slightly lower levy funding requirement than the previous financial year.*

- 16 GIC has recommended levy regulations to recover \$4.42 million of its total work programme costs for 2024/25, a 0.74 per cent decrease in levy funding requirements year on year, reflecting a small reduction in work programme costs funded by the levy.
- 17 These costs are to be recovered through an annual retail levy on gas retailers of \$6.53 per customer, estimated by the number of Installation Control Points (ICP),<sup>6</sup> and a wholesale levy of 1.5952 cents per gigajoule (GJ) that participants purchase from gas producers (note that these are GST exclusive).
- 18 Table One provides a comparison of retail and wholesale levy rates between the 2023/24 and 2024/25 financial years.

**Table One: Comparison of retail and wholesale levy rates 2023/24 and 2024/25 (figures excluding GST)**

	<b>2023/24</b>	<b>2024/25 (proposed)</b>	<b>Percentage change</b>
<b>Retail Levy</b> (per ICP)	\$6.54	\$6.53	-0.15%
<b>Wholesale Levy</b> (cents per GJ)	1.4326	1.5952	+11.35%
<b>Total levy funding requirement</b>	<b>\$4,455,703</b>	<b>\$4,422,758</b>	<b>-0.74%</b>

- 19 While there is a decrease in the levy funding requirement overall, there is an increase in the wholesale levy rate. This does not reflect an increase in levy funding costs; it reflects lower forecasted gas production in the coming year. This means that the costs are shared across lower volumes of gas, increasing the amount of levy per GJ of gas.
- 20 The impact of the levy is estimated at 57.75 cents for a residential gas consumer, which represents approximately 0.69 per cent of their annual gas

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<sup>6</sup> An ICP is a consumer's physical point of connection. Note that a consumer may have more than one ICP. The retail levy rate equates to around 54.42 cents per month for each ACTIVE-CONTRACTED ICP.

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bill. Large industrial users, who consume the most gas will pay the majority of the wholesale levy.

- 21 Should GIC's forecasts that underpin the levy rates be underestimates, there is a potential for over-collection. A process is in place for managing any over-collection of levies at the end of each financial year, with any overpayments usually being returned to gas industry participants as part of a 'wash-up' process.

*The levy recommendation enables the delivery of a work programme aligned with the Government's objectives and outcomes for the gas industry*

- 22 GIC has an annual review process for its levy rates and work programme ahead of making a recommendation for levy rates for the next financial year. The work programme is distributed between workstreams funded by the retail levy and wholesale levy.

- 23 Further information on GIC's proposed work programme for 2024/25 is attached at **Appendix Two**.

- 24 Further details on how levies will be allocated across workstreams is provided in the Cost Recovery Impact Statement (**CRIS**) attached at **Appendix One**.

*The recommended 2024/25 levy regulations meet the assessment criteria set out in the Act*

- 25 Section 43ZZD(2) of the Act requires me to accept GIC's recommendation if I am satisfied that:

- 25.1 the levy rate is reasonable, having regard to GIC's statement of intent (**SOI**), annual report, and any GPS objectives and outcomes
- 25.2 GIC has consulted with industry participants on the levy rate or amount, and
- 25.3 the requirements of sections 43ZZB to 43ZZE of the Act (which prescribe the costs that may be funded from the levy and various legal aspects of making the regulations) are met.

- 26 I am satisfied GIC's recommendation satisfies the above criteria. An assessment against each requirement is set out below.

*The levy rates are reasonable, having regard to GIC's SOI, annual report, and GPS objectives and outcomes.*

- 27 I am satisfied that GIC's proposed levy rates are reasonable. GIC has developed a work programme that aligns with the Government's objectives and outcomes for the gas sector. This is evident in GIC's draft SOI. The recommended levy rates have been set based on the estimated costs of delivering that work programme.

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- 28 The recommended levy rates for 2024/25 (assuming the full cost is passed on through both the retail and the wholesale levies) are estimated to cost:<sup>7</sup>
- 28.1 Residential consumers around \$6.93 per year (0.69 per cent of an average residential gas bill)<sup>8</sup>, a 0.42 per cent increase from last year
  - 28.2 Commercial customers around \$22.48 per year (0.09 per cent of an average commercial bill), a 7.72 per cent increase from last year, and
  - 28.3 Industrial customers around \$804.13 per year (0.16 per cent of an average industrial gas bill), a 11.25 per cent increase from last year.
- 29 While the wholesale levy has increased (due to lower forecast gas production), the retail levy has decreased (due to more consumers). The levies make up a very small proportion of overall gas costs for consumers.

*GIC has consulted with industry participants on the recommended levy rates*

- 30 GIC's consultation commenced with the annual co-regulatory forum in November 2023. The co-regulatory forum gives stakeholders, including major users and industry participants, an opportunity to provide GIC with feedback on the 2024/25 financial year work programme.
- 31 In December 2023, GIC released a consultation paper setting out GIC's strategic role, work programme and proposed levy rates. Consultation closed in February 2024.
- 32 Ten submissions were received. Submitters generally supported GIC's FY2025 work programme, and some called on the government to clarify the direction of work stemming from the Gas Transition Plan consultation which make up a significant portion of the programme.
- 33 All submissions supported the process for developing the FY2025 work programme and budget as being a well-established and fit-for-purpose process. Submitters found the levy rate to be reasonable.
- 34 I am satisfied that GIC has undertaken sufficient consultation on the levy proposal, and that industry is supportive of it.

*The level requirements of sections 43ZZB to 43ZZE of the Act are met.*

- 35 These sections prescribe the costs that may be met from the levy and various legal requirements that the levy regulations must meet. I am satisfied that the

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<sup>7</sup> There is no "typical" commercial or industrial customer. To provide some indication of the impact on users, a typical annual gas usage of 25 GJ for residential consumers, 1,000 GJ for commercial consumers and 50,000 GJ for industrial consumers has been assumed. Gas prices are also assumed from 2023 nominal average prices, of \$40.33/GJ for residential consumers, \$25/GJ for commercial consumers and \$10.36/GJ for industrial consumers (these numbers have been rounded).

<sup>8</sup> Note that the gas levies will have a greater impact on lower income households because, on average, fuel expenses take up a greater proportion of their household income. However, the overall impact on consumers is likely to be very small.

levy regulations GIC has proposed meet the requirements of sections 43ZZB to 43ZZE of the Act. This is further outlined in the CRIS.

### Financial Implications

- 36 There are no financial implications for government. GIC's operations are fully funded through the levy on gas industry participants, shareholder and market fees, and equity reserves.

### Timing and 28-day rule

- 37 The *Gas (Levy of Industry Participants) Regulations 2024* are proposed to come into force on 1 July 2024. No waiver of the 28-day rule is sought.

### Compliance

- 38 The draft regulations comply with:
- 38.1 principles of the Treaty of Waitangi
  - 38.2 rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 38.3 the principles and guidelines set out in the Privacy Act 2020
  - 38.4 relevant international standards and obligations, and
  - 38.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 39 I am satisfied that the requirements in section 43ZZD(2) of the Act have been met. See the policy section of this paper for more information.

### Regulations Review Committee

- 40 There are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House under Standing Order 327.

### Certification by Parliamentary Counsel

- 41 The Parliamentary Counsel Office (**PCO**) has certified the regulations as being in order for submission to Cabinet provided that they have been recommended by the Minister for Energy in accordance with section 43ZZD of the Act.

### Impact Analysis

- 42 A CRIS has been prepared and is attached to this paper as **Appendix One**.
- 43 The Ministry of Business, Innovation and Employment's QA panel has reviewed the Cost Recovery Impact Statement and assessors consider that the information and analysis summarised in the statement meets the Quality Assurance criteria.

## Climate Implications of Policy Assessment

- 44 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that CIPA requirements do not apply to this proposal as it not expected to result in any significant, direct emissions impacts.

## Publicity

- 45 The levy regulations will be notified in the *New Zealand Gazette* (the *Gazette*) no later than 30 May 2024 and published on the New Zealand Legislation website. The CRIS will be published on MBIE's website.

## Proactive Release

- 46 I intend to proactively release this paper within 30 business days from the date that Cabinet considers this paper.

## Consultation

- 47 As stated, I am satisfied that GIC has undertaken sufficient consultation on the levy proposal, and that the gas industry is supportive of it.
- 48 GIC and the Treasury have been consulted on this paper. The Department of the Prime Minister and Cabinet has been informed.

## Recommendations

The Minister for Energy recommends that the Cabinet Legislation Committee:

- 1 **Note** that most of the costs of Gas Industry Company (**GIC**), the co-regulator for the gas industry, have been funded by an annual levy on gas industry participants since 2005 (the remainder of costs are recovered from market fees revenue and equity reserves).
- 2 **Note** that:
  - 2.1 the *Gas Act 1992* provides for GIC to make a recommendation to the Minister for Energy regarding levy regulations, including on levy rates, and
  - 2.2 levy regulations must be made each year as they can only apply to the financial year they are made in.
- 3 **Note** that I have brought these regulations directly to the Cabinet Legislation Committee under paragraph 7.95(d) of the Cabinet Manual on the basis that the regulations are routine and do not require new policy decisions.
- 4 **Note** that I have received the GIC's levy recommendation for the 2024/25 financial year, which would enable it to recover up to \$4.42 million through:



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- 4.1 an annual retail levy on gas retailers of \$6.53 (excluding GST) per customer/Installation Control Points, and
  - 4.2 a wholesale levy on participants that purchase gas from producers of 1.5952 cents (excluding GST) per gigajoule purchased.
- 5 **Note** that section 43ZZD(2) of the *Gas Act* requires the Minister for Energy to accept the GIC's recommendation to make levy regulations if the Minister is satisfied that:
- 5.1 the levy rate or amount is reasonable, having regard to the industry body statement of intent, the latest industry body annual report, and any Government Policy Statement objectives and outcomes, and
  - 5.2 the industry body has consulted with industry participants on the levy rate or amount, and
  - 5.3 the requirements of sections 43ZZB to 43ZZE have been met.
- 6 **Note** that I have accepted the GIC's recommendation as I am satisfied that the requirements in section 43ZZD(2) of the *Gas Act* have been met.
- 7 **Note** that the *Gas (Levy of Industry Participants) Regulations 2024* will give effect to a retail levy and a wholesale levy for the financial year from 1 July 2024, to recover up to \$4.42 million.
- 8 **Note** these regulations will also revoke the *Gas (Levy of Industry Participants) Regulations 2022* as they are now spent.
- 9 **Authorise** the submission to the Executive Council of the *Gas (Levy of Industry Participants) Regulations 2024*.
- 10 **Note** that the *Gas (Levy of Industry Participants) Regulations 2024* will come into force on 1 July 2024.
- 11 **Note** that these regulations will be published in the *Gazette* no later than 30 May 2024 to comply with the 28-day rule.

Authorised for lodgement

Hon Simeon Brown

Minister for Energy

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**Appendix One: Gas (Levy of Industry Participants) Regulations 2024 Stage 2  
Cost Recovery Impact Statement**

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## Appendix Two: GIC's proposed work programme for 2024/25

The proposed work programme for 2024/25 consists of multi-year workstreams, which includes meeting statutory requirements, such as administration of existing gas governance regulations, and seeks to address Government and industry priorities through the completion of key project deliverables. Key work includes:

- **Gas Transition Plan:** continuing to support MBIE with further work stemming from the Gas Transition Plan Issues Paper consultation from August to November 2023. This may include measures to bring renewable gases to the market, new regulatory arrangements for carbon capture, utilisation and storage, or measures to support and strengthen gas security of supply including security for industrial use and electricity.
- **Energy Transition:** dedicating resources to transition issues including investment confidence, measures to ensure gas is available, and consideration of whether additional or changed mechanisms are needed to ensure security of supply.
- **Review of the Existing Levy Methodology:** the current levy funding method may not be fit for purpose with the forecast declining wholesale gas volume. GIC will explore any viable alternatives and consult with industry.
- **Critical Contingency Management (CCM):** progressing some amendments to the CCM Regulations to improve efficiency and effectiveness.
- **Advanced Gas Metering:** in December 2023, GIC released a Statement of Proposal on amendments to gas governance arrangements to support the roll-out of advanced gas meters. GIC expect to make a recommendation to the Minister to amend the rules in the final quarter of FY2024.