

South Australia

## Gas Variation Regulations 2003

under the *Gas Act 1997*

---

### Contents

#### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

#### Part 2—Variation of Gas Regulations 1997

- 4 Variation of regulation 4—Interpretation
  - 5 Variation of regulation 5—Interpretation of certain terms used in Act
  - 6 Revocation of regulation 6
  - 7 Variation of regulation 6A—Exemption from requirement to hold licence
  - 8 Variation of regulation 8—Licence fees and returns
  - 9 Redesignation of regulation 8A
  - 10 Insertion of regulations 8A, 8B and 8C
    - 8A Ombudsman scheme
    - 8B Ombudsman scheme and retailing—annual gas consumption level
    - 8C Prescribed class of customers for section 34
  - 11 Variation of regulation 12—Quality of gas supplied through distribution systems
  - 12 Variation of regulation 14—Installing or commissioning Type B appliances
  - 13 Insertion of Part 4 Division 5
    - Division 5—Safety, reliability, maintenance and technical management plans and reports
      - 15A Application of Division
      - 15B Safety, reliability, maintenance and technical management plans
      - 15C Safety, reliability, maintenance and technical management reports
  - 14 Variation of regulation 16—Measurement of consumption of gas
  - 15 Variation of regulation 17—Restriction on disconnection of gas supply
- 

### Part 1—Preliminary

#### 1—Short title

These regulations may be cited as the *Gas Variation Regulations 2003*.

#### 2—Commencement

These regulations will come into operation on 1 November 2003.

#### 3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

---

## Part 2—Variation of Gas Regulations 1997

### 4—Variation of regulation 4—Interpretation

Regulation 4—after the definition of *liquefied petroleum gas* insert:

*retail contract* means a contract between a gas entity and a customer for the sale and supply of gas;

### 5—Variation of regulation 5—Interpretation of certain terms used in Act

(1) Regulation 5—before subregulation (1) insert:

- (a1) For the purposes of the definition of *annual gas consumption level* in section 4 of the Act, the following provisions apply to the determination of a customer's annual gas consumption level:
- (a) the customer's annual gas consumption level is to be determined for each metered delivery point through which the customer has or seeks gas supply under a retail contract;
  - (b) if the customer has been entitled under a retail contract to gas supply through the delivery point for the 12 months immediately preceding the relevant day, the customer's annual gas consumption level for the delivery point is—
    - (i) the actual gas supply, expressed in terajoules, through the delivery point for that 12 months period as measured by the meter at the delivery point; or
    - (ii) if the measurement of the gas supply by the meter has been significantly affected by inaccuracies during that 12 months period—the estimated gas supply, expressed in terajoules, through the delivery point for the 12 months immediately following the relevant day;
  - (c) if the customer has not been entitled under a retail contract to gas supply through the delivery point for the 12 months immediately preceding the relevant day, the customer's annual gas consumption level for the delivery point is the estimated gas supply, expressed in terajoules, through the delivery point for the 12 months immediately following the relevant day;
  - (d) an estimate is to be made for the purposes of paragraph (b) or (c) taking into account relevant past gas consumption levels, the gas consumption level of plant and equipment to use gas delivered through the delivery point, the operations for which gas is required to be supplied through the delivery point and other relevant factors;

- (e) the determination of the actual or estimated gas supply through the delivery point may be by agreement between the customer and the gas entity or, failing such agreement, will be a matter for the decision of the Commission on application to the Commission by the customer or the entity;
  - (f) a determination under this regulation of the customer's annual gas consumption level for the delivery point continues in operation from the relevant day until—
    - (i) the customer ceases to be entitled to gas supply through the delivery point under a retail contract with the gas entity; or
    - (ii) a subsequent determination is made under this regulation of the customer's annual gas consumption level for the delivery point, whichever first occurs;
  - (g) at least 12 months must elapse from the relevant day before a subsequent determination is made under this regulation of the customer's annual gas consumption level for the delivery point.
- (b1) In subregulation (a1)—
- the relevant day*, in relation to the determination of the customer's annual gas consumption level for the delivery point, means—
- (a) the day on which the determination is made; or
  - (b) if some earlier or later day is agreed to by the customer and the gas entity, or is decided on by the Commission, as the relevant day for the purposes of the determination—that day.
- (2) Regulation 5(3) to (5)—delete subregulations (3), (4) and (5) and substitute:
- (3) For the purposes of the definition of *retailing* in section 4 of the Act, retailing does not include a customer charging for the supply of gas if the charge forms an unspecified part of rent or charges for the occupation or use of premises.
  - (4) For the purposes of the definition of *small customer* in section 4 of the Act, each customer whose annual gas consumption level for a delivery point is less than one terajoule is classified as a small customer in relation to gas supply to the customer through the delivery point.

## **6—Revocation of regulation 6**

Regulation 6—delete the regulation

## **7—Variation of regulation 6A—Exemption from requirement to hold licence**

Regulation 6A(2)—delete subregulation (2) and substitute:

- (2) A person who carries on the operation of a distribution system is not required to be licensed under the Act if the system consists only of a pipeline referred to in regulation 5(1)(a).
- (3) A person who carries on the retailing of gas is not required to be licensed under the Act if the sale of gas is only for the operation of an electricity generating plant by a person who holds or is required to hold a licence under the *Electricity Act 1996* to carry on the operation of the plant.
- (4) An exemption under this regulation is subject to the condition that the person comply with any requirement imposed by or under the Act, these regulations or a code made by the Commission under the *Essential Services Commission Act 2002* as if the person were a gas entity authorised by a licence to carry on the operations to which the exemption relates.
- (5) The appropriate regulator may grant an exemption from subregulation (4), or from specified requirements referred to in that subregulation, on terms and conditions the appropriate regulator considers appropriate.
- (6) In subregulation (5)—  
*appropriate regulator* means—
  - (a) in relation to Part 5 of the Act or Part 4 of these regulations or any safety requirement—the Technical Regulator; or
  - (b) in any other case—the Commission.

## **8—Variation of regulation 8—Licence fees and returns**

Regulation 8(2)—delete subregulation (2) and substitute:

- (2) For the purposes of section 24(2) of the Act, an annual return must be lodged before 31 August in each year.

## **9—Redesignation of regulation 8A**

Regulation 8A—redesignate the regulation as regulation 8D

## **10—Insertion of regulations 8A, 8B and 8C**

Before regulation 8D (as redesignated by these regulations) insert:

### **8A—Ombudsman scheme**

For the purposes of sections 26(1)(d) and 26A(2)(i) of the Act, the electricity supply industry is prescribed.

### **8B—Ombudsman scheme and retailing—annual gas consumption level**

For the purposes of section 26A(2)(i) of the Act, an annual gas consumption level of 10 terajoules is prescribed.

### **8C—Prescribed class of customers for section 34**

For the purposes of section 34(1) of the Act—

- (a) each customer whose annual gas consumption level for a metered delivery point equals or exceeds 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point;
- (b) each customer whose annual gas consumption level for a metered delivery point equals or exceeds one terajoule but is less than 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point;
- (c) each customer whose annual gas consumption level for a metered delivery point is less than one terajoule is a customer of a prescribed class in relation to gas supply to the customer through the delivery point.

### **11—Variation of regulation 12—Quality of gas supplied through distribution systems**

- (1) Regulation 12—delete "consumer" wherever occurring and substitute in each case:  
customer
- (2) Regulation 12(6)—delete "consumer's" and substitute:  
customer's
- (3) Regulation 12(7)—delete "consumers" and substitute:  
customers

### **12—Variation of regulation 14—Installing or commissioning Type B appliances**

- (1) Regulation 14(4)—delete "the Authority" and substitute:  
a regulatory body
- (2) Regulation 14(8)—delete "Technical Regulator" and substitute:  
Commission

### **13—Insertion of Part 4 Division 5**

After regulation 15 insert:

#### **Division 5—Safety, reliability, maintenance and technical management plans and reports**

##### **15A—Application of Division**

- (1) This Division applies to a licensee holding a licence authorising the operation of a distribution system or a person exempted from the requirement to hold such a licence.

- (2) However, the Technical Regulator may grant an exemption from this Division, or specified provisions of this Division, on terms and conditions the Technical Regulator considers appropriate.

**15B—Safety, reliability, maintenance and technical management plans**

- (1) A person to whom this Division applies who is exempted from the requirement to hold a licence must, if so required by the Technical Regulator by notice in writing—
- (a) prepare and periodically revise a safety, reliability, maintenance and technical management plan dealing with matters prescribed by subregulation (2);
  - (b) obtain the approval of the Technical Regulator to the plan and any revision;
  - (c) comply with the plan as approved from time to time;
  - (d) audit from time to time the person's compliance with the plan and report the results of those audits to the Technical Regulator.
- (2) For the purposes of section 26(1)(b) of the Act and subregulation (1), the following are matters that must be dealt with by a safety, reliability, maintenance and technical management plan:
- (a) the safe design, installation, commissioning, operation, maintenance and decommissioning of gas infrastructure owned or operated by the person;
  - (b) the maintenance of a supply of gas of the quality required to be maintained by or under the Act, these regulations, the person's licence or the conditions of any exemption granted to the person;
  - (c) ensuring adequacy of the distribution system at all times of high demand on the system;
  - (d) ensuring that gas supply is suitable for each gas installation situated in a place that will be connected or re-connected to the distribution system;
  - (e) ensuring that an appropriate level of examination and testing of installations (including appliances) is carried out on the new connection of gas supply to a place to provide assurance of the safety of gas installations;
  - (f) ensuring compliance with code provisions under the *Essential Services Commission Act 2002* relating to metering of gas supply at delivery points; and
  - (g) monitoring compliance with code provisions under the *Essential Services Commission Act 2002* relating to metering of gas supply at delivery points;

- (h) the implementation and conduct of safety measures and training programs for the purpose of—
    - (i) reducing the risk of death or injury, or damage to property, arising out of the operation of gas infrastructure owned or operated by the person;
    - (ii) ensuring that employees performing work in respect of gas infrastructure owned or operated by the person are competent and properly trained, perform their work safely and are provided with a safe system of work;
  - (i) ensuring that contractors performing work in respect of gas infrastructure owned or operated by the person have processes and procedures for ensuring that the persons personally performing the work are competent and properly trained, perform their work safely and are provided with a safe system of work;
  - (j) the manner in which accidents and unsafe situations are to be dealt with, reported and investigated;
  - (k) monitoring compliance with safety and technical requirements imposed by or under the Act, these regulations, the person's licence or the conditions of any exemption granted to the person;
  - (l) monitoring gas infrastructure owned or operated by the person for the purposes of identifying infrastructure that is unsafe or at risk of failing or malfunctioning;
  - (m) the establishment of indicators and the collection and recording of information to measure the person's performance in respect of matters referred to in the preceding paragraphs.
- (3) A person to whom this Division applies must, at the request of the Technical Regulator, provide the Technical Regulator with such information and access to such officers, employees and contractors as the Technical Regulator reasonably requires for the purposes of determining whether a safety, reliability, maintenance and technical management plan prepared by the person is operating effectively and whether that person is complying with the plan.

### **15C—Safety, reliability, maintenance and technical management reports**

- (1) A person to whom this Division applies must, within 21 working days after the end of each quarter, lodge with the Technical Regulator a report stating in relation to each unplanned interruption to the supply of gas during that quarter that affected the supply of gas to 5 or more but less than 100 customers the following:
  - (a) the date, time and cause of the interruption;

- (b) the number of customers affected by the interruption;
  - (c) the time taken to restore supply to all of the customers affected;
  - (d) the time taken to restore supply to the majority of the customers affected.
- (2) A person to whom this Division applies must, within 2 working days after an unplanned interruption to the supply of gas that affected the supply of gas to 100 or more customers, lodge with the Technical Regulator a report stating in relation to that interruption the information referred to in the paragraphs of subregulation (1).
- (3) Subregulations (1) and (2) do not apply in relation to—
- (a) an interruption to the supply of gas to a customer if the interruption was in accordance with an interruptible or curtailable supply contract with the customer; or
  - (b) an interruption to the supply of gas to a customer that occurred at the request of the customer or that was caused by the customer.
- (4) A person to whom this Division applies must, on or before 31 August in each year, lodge with the Technical Regulator a report relating to the previous financial year containing the following information:
- (a) a general description of the circumstances in which gas infrastructure owned or operated by the person has failed or malfunctioned or been found to be unsafe and of the action taken to rectify, or to prevent or minimise the risk or recurrence of, the failure, malfunction or unsafe situation;
  - (b) whether the person has been able to comply with all aspects of the person's safety, reliability, maintenance and technical management plan and whether the person considers the plan to have been operating effectively.
- (5) In this regulation—
- quarter* means a period of 3 months commencing 1 January, 1 April, 1 July or 1 October.

#### **14—Variation of regulation 16—Measurement of consumption of gas**

- (1) Regulation 16—delete "consumer" wherever occurring and substitute in each case:  
customer
- (2) Regulation 16—delete "consumer's" wherever occurring and substitute in each case:  
customer's

#### **15—Variation of regulation 17—Restriction on disconnection of gas supply**

- Regulation 17—delete "consumer" wherever occurring and substitute in each case:  
customer



**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 30 October 2003

No 215 of 2003

MEN03/012CS