

South Australia

Gas Variation Regulations 2004

under the *Gas Act 1997*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Gas Variation Regulations 2004*.

2—Commencement

These regulations will come into operation on the day after these regulations are made.

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—Insertion of regulation 22

After regulation 21 insert:

22—Sale of gas where supply affected by gas rationing direction under section 37 of Act

- (1) Subject to this regulation, if—
 - (a) a retailer to which a rationing direction applies on a gas day (an *affected retailer*) has a quantity of gas available for supply to an affected customer on that day that exceeds the allocated quantity for the customer for that day; and
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- (b) the affected retailer has made an offer to supply an additional quantity of gas to the affected customer on that day in accordance with approved terms that has been accepted by the customer,

then—

- (c) the affected retailer must, on that day—
 - (i) supply the affected customer with the allocated quantity for that day in accordance with the pre-existing terms; and
 - (ii) supply the affected customer with the additional quantity of gas in accordance with the approved terms; and
 - (d) the affected retailer will be taken to incur no contractual liability by reason of the fact that the retailer has supplied only the allocated quantity for that day to the affected customer under the pre-existing terms.
- (2) The Minister may, by written notice to a retailer, exclude the retailer from the application of this regulation from a day specified in the notice.
 - (3) The Minister may, by written notice to a retailer, vary or revoke a previous notice to the retailer under this regulation.
 - (4) In this regulation—

additional quantity of gas, in relation to an affected customer and a gas day, means a quantity of gas in addition to the allocated quantity for the customer for that day;

affected customer means a customer whose entitlement to the supply of gas is affected by a rationing direction;

allocated quantity for an affected customer for a gas day, means the quantity of gas to which the customer is entitled for that day under the rationing direction;

approved terms, in relation to the supply by an affected retailer of an additional quantity of gas to an affected customer on a gas day, means contractual terms governing that supply that—

- (a) fix as the unit price (exclusive of GST) for the additional quantity on that day—
 - (i) if the Minister has, by written notice to the retailer, approved a unit price for that quantity on that day— a price not more than the price approved by the Minister; or

- (ii) in any other case—a price not more than the unit price for the supply of gas on that day under the pre-existing terms increased by the amount (if any) by which the average unit price for the purchase by the retailer of all additional gas for supply to affected customers on that day exceeds the average unit price for the purchase by the retailer of all gas for supply to affected customers on that day under pre-existing terms; and
- (b) require the retailer to use its best endeavours to supply additional quantities of gas to the customer but allow the retailer to interrupt or withhold supply of an additional quantity as necessary in circumstances where the retailer experiences a shortfall in the additional quantities of gas available to the retailer for its affected customers and apportions the shortfall amongst those customers in a manner approved by the Minister by written notice to the retailer; and
- (c) are in other respects no more favourable to the retailer than the pre-existing terms;

gas day means a period of 24 hours commencing at 6.00 a.m.;

pre-existing terms, in relation to the supply of gas by a retailer to an affected customer on a gas day, means the contractual terms that would have applied to that supply of gas if the rationing direction had not been given and this regulation had not been made;

rationing direction means a direction given by the Minister to a retailer under section 37 of the Act governing the supply of gas by the retailer to customers of the retailer.

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's Deputy

with the advice and consent of the Executive Council
on 15 January 2004

No 4 of 2004

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