

South Australia

Gas Variation Regulations 2008

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 Insertion of Part 2AA

Part 2AA—Residential Energy Efficiency Scheme

- 8DA Application
 - 8DB Interpretation
 - 8DC Minister to set greenhouse gas reduction targets
 - 8DD Minister to determine percentage of greenhouse gas reduction target to be delivered to priority group households
 - 8DE Minister to set energy audit targets
 - 8DF Administration
 - 8DG Notification and adjustment of targets
 - 8DH Energy audits
 - 8DI Energy efficiency activities
 - 8DJ Energy efficiency activities for priority group households
 - 8DK Determination of energy efficiency activities
 - 8DL Retailers may enter into arrangements
 - 8DM Compliance and reporting
 - 8DN Review
 - 8DO Expiry
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Gas Variation Regulations 2008*.

2—Commencement

These regulations come into operation on the day on which they 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 Part 2AA

After Part 2 insert:

Part 2AA—Residential Energy Efficiency Scheme

8DA—Application

- (1) This Part applies to any gas entity that holds a licence authorising the retailing of gas within the State.
- (2) However, this Part will not apply in a particular calendar year to a gas entity that retails gas as a retailer to fewer than the threshold number of residential customers within South Australia as at 30 June in the preceding year.
- (3) For the purposes of subregulation (2), the Minister must, by notice in the Gazette, set the threshold number for a 3-year period at the time of setting the annual greenhouse gas reduction targets and the annual energy audit targets for the purposes of this Part.
- (4) This regulation applies subject to the operation of regulations 8DH(4), 8DI(5) and 8DJ(4).

8DB—Interpretation

- (1) In this Part, unless the contrary intention appears—
energy audit means an audit of a priority group household undertaken by a retailer in accordance with the minimum specification published by the Minister by notice in the Gazette;
energy credit means the following (if the relevant differences are positive):
 - (a) in relation to energy audits, the difference (expressed as an amount of energy audits) between the number of energy audits actually undertaken by a retailer in a year and the GLEAT that applies to the retailer for that year;
 - (b) in relation to energy efficiency activities, the difference (expressed in tonnes of carbon dioxide equivalent) between the actual tonnes of carbon dioxide equivalent taken to have been saved by a retailer in a year through the conduct of energy efficiency activities and the GGRT that applies to the retailer for that year;

- (c) in relation to energy efficiency activities for priority group households, the difference (expressed in tonnes of carbon dioxide equivalent) between the actual tonnes of carbon dioxide equivalent taken to have been saved by a retailer in a year through the conduct of energy efficiency activities for priority group households and a PGGRT that applies to the retailer for that year;

energy efficiency activity means an activity relating to residential premises determined by the Minister or the Commission pursuant to regulation 8DK to be an energy efficiency activity;

GGRT—means a gas licence greenhouse gas reduction target calculated in accordance with subregulation (2);

GLEAT—means a gas licence energy audit target calculated in accordance with subregulation (3);

PGGRT—see regulation 8DD;

priority group household means residential premises in which a person resides who—

- (a) is the holder of a current pensioner concession card issued by the Commonwealth Government; or
- (b) is the holder of a current TPI Gold Repatriation Health Card issued by the Commonwealth Government; or
- (c) is the holder of a current War Widows Gold Repatriation Health Card issued by the Commonwealth Government; or
- (d) is the holder of a current Gold Repatriation Health Card (EDA) issued by the Commonwealth Government; or
- (e) is the holder of a current Health Care Card (including a Low Income Health Care Card) issued by the Commonwealth Government; or
- (f) is a recipient of the *South Australian Government Energy Concession*; or
- (g) falls within a class of persons who are experiencing hardship determined or approved by the Commission for the purposes of these regulations;

relevant electricity retailer means the holder of a licence under the *Electricity Act 1996* authorising the retailing of electricity to which Part 2AA of the *Electricity (General) Regulations 1997* applies;

relevant gas retailer means a gas entity to which this Part applies;

residential customer means a small customer—

- (a) who acquires gas primarily for domestic use; and
- (b) who satisfies other criteria (if any) determined by the Commission for the purposes of this definition;

retailer means a relevant electricity retailer or a relevant gas retailer;

threshold number—see regulation 8DA(3).

- (2) The GGRT for a relevant gas retailer in any calendar year is calculated in accordance with the following formula:

$$GGRT_t = \frac{GS_{f_{y-1}} \times F_{g_t}}{\sum_{i=1}^M \left((ES_{i_{f_{y-1}}} - GP_{i_{f_{y-1}}}) \times F_{e_t} \right) + \sum_{j=1}^N \left(GS_{j_{f_{y-1}}} \times F_{g_t} \right)} \times GRT_t$$

where—

$GGRT_t$ is the annual greenhouse gas reduction target for calendar year t that applies to this retailer expressed in tonnes of carbon dioxide equivalent (tCO₂e)

$ES_{i_{f_{y-1}}}$ is total electricity sales to residential customers within South Australia during the financial year preceding calendar year t by relevant electricity retailer i under the *Electricity Act 1996*, expressed in gigajoules (GJ)

F_{e_t} is the current full fuel cycle emission factor for end users of purchased electricity in South Australia as specified in the *National Greenhouse Accounts (NGA) Factors*, published by the Commonwealth, expressed in tonnes of carbon dioxide equivalent per gigajoule (tCO₂e/GJ)

F_{g_t} is the current full fuel cycle emission factor for small users of natural gas in South Australia as specified in the *National Greenhouse Accounts (NGA) Factors*, published by the Commonwealth, expressed in tonnes of carbon dioxide equivalent per gigajoule (tCO₂e/GJ)

$GP_{i_{f_{y-1}}}$ is the total GreenPower electricity sales to residential customers within South Australia, accredited under the National GreenPower Accreditation Program, during the financial year preceding calendar year t by relevant electricity retailer i under the *Electricity Act 1996*, expressed in gigajoules (GJ)

GRT_t is the annual greenhouse gas reduction target fixed by the Minister under regulation 8DC for calendar year t, expressed in tonnes of carbon dioxide equivalent (tCO₂e)

$GS_{f_{y-1}}$ is the total gas sales for this retailer to residential customers within South Australia during the financial year preceding calendar year t, expressed in gigajoules (GJ)

$GS_{j_{f_{y-1}}}$ is the total gas sales to residential customers within South Australia during the financial year preceding calendar year t by relevant gas retailer j, expressed in gigajoules (GJ)

M is the total number of relevant electricity retailers for year t

N is the total number of relevant gas retailers for year t.

- (3) The GLEAT for a relevant gas retailer in any calendar year is calculated in accordance with the following formula:

$$GLEAT_t = \frac{GC_{fy-1}}{\sum_{i=1}^M EC_{i_{fy-1}} + \sum_{j=1}^N GC_{j_{fy-1}}} \times EAT_t$$

where—

$GLEAT_t$ is the annual energy audit target for calendar year t that applies to this retailer expressed as the number of energy audits to be delivered

EAT_t is the annual energy audit target fixed by the Minister under regulation 8DE for calendar year t, expressed as the number of energy audits to be delivered

$EC_{i_{fy-1}}$ is the total number of residential customers within South Australia to whom relevant electricity retailer i sold electricity under the *Electricity Act 1996* as at the final day of the financial year preceding calendar year t

GC_{fy-1} is the total number of residential customers within South Australia to whom this retailer sold gas as at the final day of the financial year preceding calendar year t

$GC_{j_{fy-1}}$ is the total number of residential customers within South Australia to whom relevant gas retailer j sold gas as at the final day of the financial year preceding calendar year t

M is the total number of relevant electricity retailers for year t

N is the total number of relevant gas retailers for year t.

8DC—Minister to set greenhouse gas reduction targets

- (1) The Minister must, by notice in the Gazette, fix the annual greenhouse gas reduction targets for the purposes of this Part.
- (2) The targets are to be expressed as the annual amount of greenhouse gas savings (in terms of tonnes of carbon dioxide equivalent) that must be achieved by retailers through the carrying out of energy efficiency activities in accordance with this Part and Part 2AA of the *Electricity (General) Regulations 1997*.
- (3) The Minister must, for the purposes of subregulation (1)—
 - (a) fix annual greenhouse gas reduction targets for 2009, 2010 and 2011 before 1 January 2009; and
 - (b) fix annual greenhouse gas reduction targets for 2012, 2013 and 2014 before 1 January 2012.

8DD—Minister to determine percentage of greenhouse gas reduction target to be delivered to priority group households

- (1) The Minister must, by notice in the Gazette, determine that a percentage of an annual greenhouse gas reduction target is to be achieved by the provision of energy efficiency activities to priority group households.
- (2) The priority group greenhouse gas reduction target (*PGGGRT*) for a retailer is determined by multiplying the GGRT for that retailer by the percentage fixed by the Minister under subregulation (1).
- (3) In addition, the Minister may, by notice in the Gazette, determine that certain percentages of the PGGGRT are to be achieved by the provision of energy efficiency activities to particular classes of priority group households and each determination will constitute a separate PGGGRT for the purposes of this Part.

8DE—Minister to set energy audit targets

- (1) The Minister must, by notice in the Gazette, fix the annual energy audit targets for the purposes of this Part.
- (2) The targets are to be expressed as the annual number of energy audits required to be undertaken by retailers in accordance with this Part and Part 2AA of the *Electricity (General) Regulations 1997*.
- (3) Energy audits will relate to priority group households.
- (4) The Minister must, for the purposes of subregulation (1)—
 - (a) fix annual energy audit targets for 2009, 2010 and 2011 before 1 January 2009; and
 - (b) fix annual energy audit targets for 2012, 2013 and 2014 before 1 January 2012.

8DF—Administration

- (1) The Commission has such functions and powers as are necessary or expedient to give effect to the residential energy efficiency scheme including the following functions:
 - (a) to administer the scheme;
 - (b) to ensure that retailers comply with the requirements of this Part;
 - (c) to report to the Minister—
 - (i) at the end of each year as to the administration of the scheme and the progress of retailers in achieving the targets set by this Part; and
 - (ii) from time to time on any other matter relating to this Part as required by the Minister.

- (2) The Commission—
 - (a) is required to impose a condition on the licence of a retailer under the Act that the retailer comply with this Part, pursuant to section 25(2) of the Act; and
 - (b) is to vary conditions of the licence of a retailer under the Act to ensure that the retailer complies with this Part as required from time to time, pursuant to section 29(1) of the Act.

8DG—Notification and adjustment of targets

- (1) The Commission must, in relation to each calendar year in which the residential energy efficiency scheme is to apply, notify in writing each retailer to which this Part applies of any annual—
 - (a) GLEAT; and
 - (b) GGRT; and
 - (c) PGGGRT,that applies to the retailer for that year.
- (2) The Commission may adjust a target that would otherwise apply to a retailer after taking into account any—
 - (a) energy audit shortfall; and
 - (b) energy efficiency shortfall; and
 - (c) energy efficiency shortfall for priority group households, from a previous year that must be added to the target in accordance with regulation 8DH, 8DI or 8DJ, respectively.
- (3) If the customers of 1 retailer (in this regulation referred to as the *first retailer*) are transferred during a year to another retailer (in this regulation referred to as the *acquiring retailer*) by the sale, transmission or assignment of the whole or part of the business or undertaking of the first retailer, the Commission may adjust the targets of both the first retailer and the acquiring retailer for that year on a pro rata basis taking into account the date on which the customers were transferred.
- (4) If—
 - (a) this Part and Part 2AA of the *Electricity (General) Regulations 1997* did not apply to the acquiring retailer before the transfer of customers to the acquiring retailer because the acquiring retailer did not have the threshold number of customers for the purposes of regulation 8DA; and
 - (b) as a result of the transfer of customers the acquiring retailer has at least the threshold number of customers,this Part and Part 2AA of the *Electricity (General) Regulations 1997* apply with immediate effect to the acquiring retailer and the Commission must—

- (c) in accordance with subregulation (1), notify the acquiring retailer of its targets under this Part; and
 - (d) adjust the targets that apply to both the first retailer and the acquiring retailer for that year on a pro rata basis taking into account the date on which the transfer of customers occurred.
- (5) If a retailer accrues an energy credit in a year and does not transfer the credit under regulation 8DL(1), the Commission must, on application by the relevant retailer, take the credit into account in determining whether the retailer has met a target that applies to the retailer in any subsequent year.

8DH—Energy audits

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake the annual number of energy audits in accordance with the GLEAT that applies to the retailer for that year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes in a year at least 90% of the energy audits required to be undertaken in that year in accordance with the GLEAT that applies to the retailer for that year.
- (3) Despite subregulation (2), if a retailer fails to achieve its GLEAT in a year, the energy audit shortfall must be added to a GLEAT that applies to the retailer in a subsequent year.
- (4) If—
 - (a) a retailer undertakes energy audits in a year sufficient to achieve at least 90% of its GLEAT for that year but does not achieve its GLEAT; and
 - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 8DA(3),

the retailer must undertake energy audits in the subsequent year to account for its energy audit shortfall for priority group households from the previous year.

- (5) In this regulation—

energy audit shortfall means the difference (expressed as an amount of energy audits) between the GLEAT that applies to the retailer for a year and the number of energy audits actually provided by that retailer in that year.

8DI—Energy efficiency activities

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake energy efficiency activities sufficient to achieve the GGRT that applies to the retailer for that year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of the GGRT that applies to the retailer for that year.
- (3) Despite subregulation (2), where a retailer fails to achieve its GGRT in a year, the greenhouse gas reduction shortfall must be added to a GGRT that applies to the retailer in a subsequent year.
- (4) An energy efficiency activity undertaken by a retailer for the purposes of achieving a PGGRT under regulation 8DJ is taken to be included as an energy efficiency activity undertaken by a retailer for the purpose of achieving its GGRT under this regulation.
- (5) If—
 - (a) a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of its GGRT for that year but does not achieve its GGRT; and
 - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 8DA(3),

the retailer must undertake energy efficiency activities in the subsequent year to account for its greenhouse gas reduction shortfall from the previous year.

- (6) In this regulation—

greenhouse gas reduction shortfall means the difference (expressed in tonnes of carbon dioxide equivalent) between the GGRT that applies to the retailer for a year and the actual tonnes of carbon dioxide equivalent taken to have been saved by that retailer in that year through the conduct of energy efficiency activities.

8DJ—Energy efficiency activities for priority group households

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake energy efficiency activities sufficient to achieve any PGGRT that applies to the retailer for a year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of a PGGRT that applies to the retailer for that year.

- (3) Despite subregulation (2), where a retailer fails to achieve a PGGGRT in a year the greenhouse gas reduction shortfall for priority group households must be added to a PGGGRT that applies to the retailer in a subsequent year.
- (4) If—
 - (a) a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of a PGGGRT for that year but does not achieve the PGGGRT; and
 - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 8DA(3),

the retailer must undertake energy efficiency activities in the subsequent year to account for its greenhouse gas reduction shortfall for priority group households from the previous year.

- (5) In this regulation—

greenhouse gas reduction shortfall for priority group households means the difference (expressed in tonnes of carbon dioxide equivalent) between a PGGGRT that applies to the retailer for a year and the actual tonnes of carbon dioxide equivalent taken to have been saved by that retailer in that year through the conduct of energy efficiency activities for priority group households.

8DK—Determination of energy efficiency activities

- (1) Before 1 January 2009, the Minister must, by notice in the Gazette, determine 1 or more activities to be energy efficiency activities for the purposes of this Part.
- (2) On or after 1 January 2009, the Commission may, by notice in the Gazette, on its own initiative or by application, determine, in accordance with any requirements set by the Minister, that an activity is an energy efficiency activity.
- (3) An application under subregulation (2) must be made in a manner and form determined by the Commission.
- (4) A determination may be of general application or limited (according to criteria determined by the Commission) in its application to a particular retailer or particular retailers.
- (5) A notice published under this regulation must—
 - (a) describe the energy efficiency activity; and
 - (b) set out the minimum specification in accordance with which the activity must be performed; and
 - (c) specify the amount of greenhouse gases (expressed in tonnes of carbon dioxide equivalent) taken to be saved if the activity is undertaken; and

- (d) set out the fact that the amount of greenhouse gases deemed to be saved for the purpose of meeting a target under these regulations is the amount specified under paragraph (c) at the time at which the energy efficiency activity was undertaken; and
 - (e) specify such other matters (whether similar or dissimilar to those referred to above) as the Minister or the Commission considers relevant.
- (6) The Commission may, by notice in the Gazette, vary or revoke a determination made under this regulation after taking into account any requirements set by the Minister.

8DL—Retailers may enter into arrangements

- (1) If a retailer accrues an energy credit, the retailer may, at any time, transfer the credit to another retailer.
- (2) A retailer may enter into an arrangement with another person (including another retailer) for that person to undertake on its behalf either or both of the following:
 - (a) energy audits;
 - (b) energy efficiency activities.
- (3) Despite any arrangement entered into under subregulation (2), a retailer remains liable for any offence or penalty arising from a failure to meet its GLEAT, GGRT or a PGGRT under this Part.

8DM—Compliance and reporting

- (1) A retailer must, as required from time to time by the Commission, submit to the Commission a compliance plan for the purposes of this Part in accordance with a code published by the Commission under Part 4 of the *Essential Services Commission Act 2002*.
- (2) A retailer must, as required from time to time by the Commission, report on compliance with this Part in accordance with a code published by the Commission under Part 4 of the *Essential Services Commission Act 2002*.
- (3) A code published under this regulation must comply with any requirements set by the Minister.

8DN—Review

- (1) The Commission must cause a review of the operation of this Part to be conducted and a report on the results of the review to be submitted to the Minister before 31 December 2013.
- (2) The review must consider whether the scheme should continue and any other matter the Commission considers should be considered in the review.

- (3) The Minister must, within 12 sitting days after receiving the report, cause copies of the report to be laid before both Houses of Parliament.

8DO—Expiry

This Part will expire on 31 December 2014.

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 21 August 2008

No 230 of 2008

MEN08/001CS