

South Australia

Gas (Energy Efficiency Shortfalls) Variation Regulations 2009

under the *Gas Act 1997*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Gas (Energy Efficiency Shortfalls) Variation Regulations 2009*.

2—Commencement

These regulations will come into operation on the day on which section 5 of the *Statutes Amendment (Energy Efficiency Shortfalls) Act 2009* comes into operation.

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 8DF—Administration

- (1) Regulation 8DF(2)(a)—after "section 25(2) of the Act" insert:

(so that a failure to comply with this Part will constitute a contravention of a condition of the licence)

(2) Regulation 8DF(2)(b)—after "section 29(1) of the Act" insert:

(so that a failure to comply with this Part will constitute a contravention of a condition of the licence)

5—Variation of regulation 8DI—Energy efficiency activities

Regulation 8DI—after subregulation (5) insert:

(5a) If—

- (a) a retailer fails to achieve its GGRT with respect to any year;
and
- (b) the retailer—
 - (i) pays a shortfall penalty in accordance with the requirements of section 91A of the Act with respect to that failure; or
 - (ii) is subject to a penalty on account of a prosecution in respect of that failure,

the greenhouse gas reduction shortfall to which the shortfall penalty or prosecution relates will no longer apply to the retailer.

6—Variation of regulation 8DJ—Energy efficiency activities for priority group households

Regulation 8DJ—after subregulation (4) insert:

(4a) If—

- (a) a retailer fails to achieve its PGGRT with respect to any year; and
- (b) the retailer—
 - (i) pays a shortfall penalty in accordance with the requirements of section 91A of the Act with respect to that failure; or
 - (ii) is subject to a penalty on account of a prosecution in respect of that failure,

the greenhouse gas reduction shortfall for priority group households to which the shortfall penalty or prosecution relates will no longer apply to the retailer.

7—Insertion of regulation 8DMA

After regulation 8DM insert:

8DMA—Energy efficiency shortfalls

- (1) For the purposes of section 91A of the Act, a *relevant gas retailer* is a retailer who is subject to the application of this Part (including on account of regulation 8DH(4), 8DI(5) or 8DJ(4)).

- (2) For the purposes of section 91A(13)(a) of the Act, the requirements imposed under this Part on a retailer—
- (a) to undertake energy audits under regulation 8DH; and
 - (b) to undertake energy efficiency activities under regulation 8DI; and
 - (c) to undertake energy efficiency activities for priority group households under regulation 8DJ,
- constitute the activities relating to energy efficiency in which a relevant gas retailer must engage, and for the purposes of that section the retailer must engage in those activities to the extent necessary to achieve compliance with regulation 8DH(2), 8DI(2) or 8DJ(2) (as the case requires).
- (3) For the purposes of section 91A(13)(b) of the Act, the extent of an energy efficiency shortfall with respect to a particular year—
- (a) will be determined in relation to each of the activities referred to in each of the paragraphs in subregulation (2); and
 - (b) will be as follows:
 - (i) in relation to energy audits under regulation 8DH—an amount equal to the energy audit shortfall that applies to the retailer for that year;
 - (ii) in relation to energy efficiency activities under regulation 8DI—an amount equal to the greenhouse gas reduction shortfall that applies to the retailer for that year;
 - (iii) in relation to energy efficiency activities for priority group households under regulation 8DJ—an amount equal to the greenhouse gas reduction shortfall for priority group households that applies to the retailer for that year.
- (4) For the purposes of section 91A(2)(a) of the Act, the prescribed base penalty is \$10 000 for each category of shortfall identified under subregulation (3).
- (5) For the purposes of subsection (2)(b) of section 91A of the Act, the amount payable under that subsection will be—
- (a) in the case of a REES shortfall under subregulation (3)(b)(i)—the number of energy audits constituting the energy audit shortfall multiplied by \$500;
 - (b) in the case of a REES shortfall under subregulation (3)(b)(ii)—the number of tonnes of carbon dioxide equivalent constituting the greenhouse gas reduction shortfall multiplied by \$70;

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- (c) in the case of a REES shortfall under subregulation (3)(b)(iii)—the number of tonnes of carbon dioxide equivalent constituting the greenhouse gas reduction shortfall for priority group households multiplied by \$70.

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 3 September 2009

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