



Queensland

Gas Supply Regulation 2007

Subordinate Legislation 2007 No. 123

made under the

Gas Supply Act 2003

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Gas Supply Regulation 2007*.

2 Commencement

The following provisions commence on the FRC day—

- part 2, division 2
- parts 3, 4 and 5
- sections 55 and 56.

3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

Part 2 Provisions prescribing particular customer types

Division 1 Small customers

Subdivision 1 Preliminary

4 Operation of div 1

This division prescribes, for section 17(1) of the Act, as in force from the FRC day, customers who are small customers for a premises.

Subdivision 2 Initial classification

5 Contestable customers immediately before FRC day are not small customers

If, under the Act as in force immediately before the FRC day, a customer is a contestable customer for a premises, the customer is not a small customer for the premises.

6 Classification of non-contestable customers

- (1) This section applies to a customer for a premises if, during any part of the period from the commencement of this section to the FRC day, the customer is a non-contestable customer for the premises under the Act as in force before the FRC day.
- (2) However, this section ceases to apply and any decision made under this section ceases to have effect if, under the Act as in force immediately before the FRC day, the customer becomes a contestable customer for the premises.
- (3) The relevant retailer for the premises must decide whether the customer is a small customer for the premises.
- (4) Subdivision 5 applies to the making of the decision.

7 New customer or supply point

- (1) This section applies if, on or after the FRC day—
 - (a) a customer enters into, or is taken to have entered into, a retail contract in relation to a premises; or
 - (b) a customer becomes a customer for a new supply point for a premises.
- (2) The relevant retailer for the premises must decide whether the customer is a small customer for the premises.
- (3) Subdivision 5 applies to the making of the decision.

8 Initial classification subject to reclassification

This subdivision is subject to subdivisions 3 and 4.

Subdivision 3 **Retailer-initiated reclassification**

9 **Power to redecide classification**

- (1) The relevant retailer for a premises may, of its own initiative, decide whether a customer is a small customer for the premises.
- (2) The decision may be made at any time and whether the customer is currently a small customer or large customer for the premises.
- (3) Subdivision 5 applies to the making of the decision.

10 **Information notice for particular reclassifications**

- (1) This section applies to a decision under section 9(1) by the relevant retailer for a premises if the decision is to change a customer's classification for the premises.
- (2) The retailer must give the customer an information notice about the decision.

11 **Deferral of particular reclassifications until appeal expiration day**

- (1) If, under section 10, an information notice must be given about a decision, the decision takes effect on the appeal expiration day for the decision.
- (2) In this section—
appeal expiration day, for the decision, means—
 - (a) if a review application for the decision is not made within the 20 business days mentioned in section 272(1) of the Act (as applied under section 54) or within any extended period under section 272(2) of the Act—the day the 20 business days or extended period ends; or
 - (b) if a review application is made—the day all proceedings under chapter 6 part 1 of the Act (as applied under section 54) in relation to the decision, and any appeals from those proceedings, end.

Subdivision 4 Reclassification by application

12 Who may apply

- (1) Subject to section 13, a customer for a premises may apply to the relevant retailer for the premises to decide whether the customer is a small customer for the premises (a *reclassification application*).
- (2) A reclassification application may be made even if the customer claims to be a large customer, or no longer to be a small customer, for the premises.

13 Restriction on reapplying

- (1) If the relevant retailer for a premises has, for a customer, already decided a reclassification application for the premises, another reclassification application can not be made for the premises for the same customer within 12 months after the making of the decision.
- (2) To remove any doubt, it is declared that subsection (1) does not limit or otherwise affect the retailer's power under section 9 to decide the customer's classification for the premises.

14 Making and deciding of application

- (1) A reclassification application for a premises must be made in the way reasonably decided by the relevant retailer for the premises the subject of the application.
- (2) Subdivision 5 applies to the deciding of the application.

15 Notice of decision

- (1) On deciding a reclassification application for a premises the relevant retailer must give the applicant notice of the decision.
- (2) If the effect of the decision on the customer's classification was not requested or agreed to by the customer, the notice must be an information notice.

16 When decision takes effect

A decision about a reclassification application takes effect on the giving of the notice required under section 15.

Subdivision 5 Provisions for deciding classification**17 Application of sdiv 5**

This subdivision applies if, under this division, the relevant retailer for a premises may or must decide whether a customer is a small customer for the premises.

18 Consumption threshold for small customer classification

The retailer may decide the customer is a small customer for the premises only if, under sections 19 to 23, the retailer considers the customer's annual consumption at the supply point for the premises is, or will be, less than 1TJ.

19 Primary reference to consumption data

- (1) The retailer must have regard to the consumption data available to it from any source for the supply point during the last 12 months.

Example of consumption data—

a bill for consumption at the supply point

Examples of a source of consumption data—

- the retailer's own historical consumption data for consumption at the supply point
 - the customer
 - another retailer who has consumption data for consumption at the supply point
- (2) However, if more than 1 source is available to the retailer and consumption data from the sources conflicts, the retailer may have regard to the consumption data from the source that the retailer considers is the most reliable.

20 Discretion to use estimate if consumption data inaccurate

- (1) This section applies if—
 - (a) consumption data mentioned in section 19(1) is available to the retailer; but
 - (b) the retailer reasonably considers that the data does not accurately reflect the likely consumption at the supply point during the next 12 months.
- (2) Despite section 19, the consumption at the supply point may be decided by using an estimate of the likely annual consumption at the supply point for the next 12 months.

21 Provisions for decision if no consumption data available

- (1) This section applies if no consumption data for the supply point is available to the retailer during the last 12 months.
- (2) The retailer may decide the consumption at the supply point by estimating the likely annual consumption at the supply point for the next 12 months.

22 Permitted bases for estimates

- (1) An estimate under this subdivision may be based on all or any of the following sources—
 - (a) an engineering report;
 - (b) consumption data about the processed natural gas loads of similar customers;
 - (c) information from the customer about the use or intended use of processed natural gas consumed or to be consumed.
- (2) If more than 1 source mentioned in subsection (1) is available to the retailer and information from the sources conflicts, the retailer may base the estimate on the source that the retailer considers is the most reliable.

23 Supply points can not be totalled

To remove any doubt, it is declared that a number of supply points can not be totalled to decide that a customer is not a small customer for 1 or more premises.

Division 2 Excluded customers**24 Excluded customers—Act, s 17(4)**

- (1) For section 17(4) of the Act, each customer for a premises in the Dalby distribution area or Roma distribution area is prescribed to be an excluded customer.
- (2) In this section—

Dalby distribution area means the distribution area for the distribution authority held by the Dalby Town Council, described in that authority.

Roma distribution area means the distribution area for the distribution authority held by the Roma Town Council, described in that authority.

Part 3 Industry code provisions**Division 1 Proposals to amend****25 Proposal to amend**

- (1) Any person (the *proponent*) may ask QCA to amend an industry code in a stated way (the *proposal*).
- (2) However, the proposal may be made only in the way QCA reasonably requires.
- (3) Also, QCA may require the proponent to, in making the proposal, justify how it meets the QCA code objective.

26 QCA response to proposal

- (1) This section applies only when any requirements under section 25 relating to the proposal have been complied with.
- (2) QCA must, within 2 months, decide whether or not it will submit the proposal for consultation under division 2.
- (3) If QCA decides to submit the proposal, QCA may submit it in any form it considers appropriate, with or without change.

27 Notice of decision not to submit for consultation

If QCA decides not to submit the proposal for consultation under division 2, it must, as soon as practicable after making the decision, give the proponent a notice stating the decision and its reasons for the decision.

28 QCA-initiated amendments not affected

To remove any doubt, it is declared that this division does not prevent QCA from amending the industry code on its own initiative.

Division 2 Required consultation for QCA making or amending industry code**Subdivision 1 Preliminary****29 Prescribed consultation—Act, ss 270G(2) and 270OA(1)**

- (1) For sections 270G(2) and 270OA(1) of the Act, the consultation required to be engaged in before QCA may make or amend an industry code is any steps as required under subdivisions 2 and 3.
- (2) For subsection (1), the consultation is taken to have been engaged in if the required steps have been substantially carried out or complied with.

30 Application of div 2 for amendments

- (1) If QCA proposes to amend an industry code, this division applies—
 - (a) as if a reference to a proposed industry code were a reference to the proposed amendment; and
 - (b) as if a reference to a draft or final version of a proposed code were a reference to the proposed amendment.
- (2) However, QCA may comply with a requirement to publish the proposed amendment by publishing the full industry code as amended by the proposed amendment.

Subdivision 2 Interim steps**31 Application of sdiv 2**

This subdivision does not apply if—

- (a) QCA decides the issues for the proposed industry code are minor; or
- (b) QCA reasonably considers that it is unnecessary or inappropriate to carry out the steps provided for under this subdivision.

32 Interim consultation notice

- (1) QCA must—
 - (a) prepare a notice (the *interim consultation notice*) about the proposed industry code; and
 - (b) publish the interim consultation notice on its website; and
 - (c) give the interim consultation notice to anyone it reasonably believes will be interested in the proposed industry code.
- (2) The interim consultation notice must state—
 - (a) where a document (the *issues document*) discussing interim issues for the proposed industry code may be inspected; and

- (b) a period (the *interim consultation period*) during which anyone may make written submissions to QCA about the issues.
- (3) The issues document may, but need not be, a draft of the proposed industry code.
- (4) The interim consultation period must be a period that is reasonable, having regard to the complexity of the interim issues.

33 Submissions

Anyone may, within the interim consultation period, make a written submission to QCA about the issues mentioned in the issues document.

34 Considering submissions

QCA must, as soon as practicable after the interim consultation period ends, consider all written submissions made under section 33 within that period.

35 Release of draft report and draft proposed code

- (1) QCA must, after complying with section 34, publish on its website—
 - (a) a draft report about the material issues for the proposed industry code and
 - (b) a draft of the proposed industry code.
- (2) The draft of the proposed industry code may be a first draft or a revision of any draft of the proposed industry code that formed the issues document.

Subdivision 3 **Final steps**

36 Final consultation notice

- (1) This section applies if subdivision 2 did not apply or if any steps required under the subdivision have been carried out or complied with.
- (2) If subdivision 2 did not apply, QCA must first publish on its website—
 - (a) a draft report about the material issues for the proposed industry code; and
 - (b) a draft of the proposed industry code.
- (3) QCA must—
 - (a) prepare a notice (the *final consultation notice*) about the proposed industry code; and
 - (b) publish the final consultation notice on its website; and
 - (c) give the final consultation notice to anyone it reasonably believes will be interested in the proposed industry code.
- (4) The final consultation notice must state—
 - (a) that QCA has made a draft report about the material issues for the proposed industry code and a draft of the proposed industry code; and
 - (b) where the drafts may be inspected; and
 - (c) a period (the *final consultation period*) during which anyone may make written submissions to QCA about the drafts.
- (5) The final consultation period must be a period that is reasonable, having regard to the complexity of the drafts.

37 Submissions

Anyone may, within the final consultation period, make a written submission to QCA about the drafts published under section 36(2).

38 Considering submissions

QCA must, as soon as practicable after the final consultation period ends, consider all written submissions made under section 37 within that period.

39 Release of final report and final proposed code

QCA must, after complying with section 38, publish on its website—

- (a) a final report about the material issues for the proposed industry code; and
- (b) a final version of the proposed industry code.

Part 4 Disconnection and reconnection**Division 1 Preliminary****40 Operation of pt 4**

- (1) Division 2 imposes conditions on a distributor, under section 51(1) of the Act.
- (2) Division 3 imposes conditions on a retailer, under section 175(1) of the Act.

41 Relevant disconnection requirements under industry code apply

Any right under this part to disconnect is subject to any relevant limitations or restrictions on, or conditions for the exercise of, disconnection rights under any relevant industry code.

Division 2 Distributors

42 When distributor may disconnect

- (1) A distributor may disconnect the premises of a customer of the distributor on a ground mentioned in section 43.
- (2) The disconnection may be to the extent and for the period that the distributor reasonably believes is appropriate in the circumstances.

43 Grounds for disconnection by distributor

For section 42(1), the ground is any of the following—

- (a) because of an emergency or for a health or safety reason;
- (b) the disconnection has been directed under a dangerous situation direction under the Petroleum and Gas (Production and Safety) Act;
- (c) to carry out work that needs to be carried out without delay to prevent an emergency or a health or safety incident;
- (d) to carry out work to the distributor's distribution system if—
 - (i) the work is reasonably required and is done at a reasonable time; and
 - (ii) the person is given reasonable notice of the disconnection;
- (e) a ground for disconnection under a relevant connection or retail contract;
- (f) customer connection services to the premises are denied or limited under an insufficiency of supply direction;
- (g) the customer has not provided safe access to the premises, as required under section 130 of the Act;
- (h) the customer has unlawfully taken processed natural gas in contravention of section 289 of the Act or of the

Petroleum and Gas (Production and Safety) Act, section 809.

44 Request by retailer to disconnect

- (1) The retailer for a customer to whose premises a distributor provides customer connection services may, by notice (a *disconnection request*), ask the distributor to disconnect the premises—
 - (a) because of a ground mentioned in section 43; or
 - (b) if a ground mentioned in section 45 exists and the retailer has given the customer at least 2 notices (*disconnection warnings*) of the retailer's intention to ask the distributor to disconnect the premises; or
 - (c) if the customer asks the retailer to arrange for the disconnection.
- (2) The disconnection warnings must—
 - (a) be given at an interval of at least 1 week; and
 - (b) state each of the following—
 - (i) the grounds on which the retailer proposes to give the disconnection request;
 - (ii) the day on which the retailer proposes to give the disconnection request or the day on which the customer will be disconnected;
 - (iii) that, if the customer is a small customer and the customer disputes that the retailer is entitled to ask for the disconnection, the customer may refer the dispute to the energy ombudsman.
- (3) The stated day must be at least 10 business days after the initial disconnection warning is given.

45 Additional grounds for retailer to request disconnection

For section 44(1)(b), the grounds are that—

- (a) the retailer has asked the customer for information the retailer reasonably requires to allow the retailer to provide the customer retail services and the customer

has not complied with the request within a reasonable period; or

- (b) the retailer has asked the customer to provide or maintain access, equipment, facilities, space or anything else the retailer reasonably needs to provide the customer retail services and the customer has not complied with the request within a reasonable period.

46 When distributor must disconnect

If the distributor receives a disconnection request, the distributor must, within 5 business days, comply with the request unless the distributor reasonably believes it would be unsafe or impractical to comply.

47 Reconnection

- (1) This section applies if—
 - (a) under section 46, the distributor has disconnected a customer's premises; and
 - (b) a retailer gives the distributor a notice asking for the premises to be reconnected.
- (2) If the relevant processed natural gas installation and meters comply with all requirements under the Petroleum and Gas (Production and Safety) Act and any other Act, the distributor must reconnect the premises within 5 business days.
- (3) The obligation to reconnect is subject to the limits on the distributor's obligation to provide customer connection services, under section 109 of the Act.
- (4) If the customer is a large customer and no connection contract applies to the reconnected services, they must be provided on fair and reasonable terms.

48 Compensation for failure to disconnect or reconnect

- (1) This section applies if a distributor contravenes section 46 or 47 and a person as follows (the *claimant*) suffers a cost, damage or loss because of the contravention—

- (a) a person who wants reconnection of the supply of processed natural gas to the relevant premises;
 - (b) for section 46—the retailer that made the disconnection request;
 - (c) for section 47—the retailer that gave the notice asking for the relevant premises to be reconnected.
- (2) Compensation for the cost, damage or loss is payable by the distributor to the claimant.
 - (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.

Division 3 Retailers

49 Notice requirements for disconnection

A retailer must not give, or purport to give, a distributor a disconnection request on a ground mentioned in section 45 unless the retailer has given the disconnection warnings as required under section 44(1)(b).

50 Obligation to give reconnection notice in particular circumstances

- (1) This section applies if, under section 46, a distributor has disconnected a customer's premises.
- (2) The retailer for the customer must give the distributor a notice asking for the premises to be reconnected if the customer has, within 10 business days after the disconnection—
 - (a) asked the retailer to give the notice; and
 - (b) if the disconnection was other than at the customer's request—remedied the ground on which the disconnection was based; and
 - (c) paid the retailer any reasonable fee the retailer requires for the reconnection.

Part 5

Fees

Division 1

Annual fees

51 Annual distribution fee—Act, s 40

- (1) This section prescribes, under section 40(b) of the Act, an amount (the *annual distribution fee*) payable by the holder of each distribution authority for each financial year during which the authority is in force.
- (2) If the total length of pipelines operated or maintained under the authority immediately before a financial year starts is less than 100km, the annual distribution fee for the financial year is \$529.
- (3) Otherwise, the annual distribution fee for a financial year is the amount worked out using the formula—

$$DF = 44000 \times P/TP$$

where—

DF is the annual distribution fee, in dollars.

P is the length in kilometres of pipelines operated or maintained under the authority immediately before the financial year started.

TP is the total length in kilometres of all pipelines operated or maintained under any distribution authority immediately before the financial year started.

- (4) Subsection (5) applies, despite subsections (2) and (3), if the authority takes effect after a financial year starts.
- (5) The amount for the financial year as worked out under subsection (2) or (3) must be rateably reduced to reflect the period from the start of the year to when the authority took effect as if a reference in the subsection to the start of the year were a reference to the taking of effect of the authority.
- (6) The annual distribution fee for a financial year is payable on the day the regulator fixes by a notice to the holder.
- (7) The day may be any day, including a day in the financial year.

- (8) However, the day can not be a day that is before the giving of the notice.

52 Annual retail fee—Act, s 166

- (1) This section prescribes, under section 166(a) of the Act, an amount (the *annual retail fee*) payable by the holder of each retail authority for each financial year during which the authority is in force.
- (2) If the total number of customers to whom the retailer provided customer retail services immediately before a financial year started is less than 3000, the annual retail fee for the financial year is \$1058.
- (3) Otherwise, the annual retail fee for a financial year is the amount worked out using the formula—

$$RF = 79000 \times C/TC$$

where—

RF is the annual retail fee, in dollars.

C is the total number of customers to whom the retailer provided customer retail services immediately before the financial year started.

TC is the total number of customers to whom all retailers provided customer retail services immediately before the financial year started.

- (4) Subsection (5) applies, despite subsections (2) and (3), if the authority takes effect after a financial year starts.
- (5) The amount for the financial year as worked out under subsection (2) or (3) must be rateably reduced to reflect the period from the start of the year to when the authority took effect as if a reference in the subsection to the start of the year were a reference to the taking of effect of the authority.
- (6) The annual retail fee for a financial year is payable on the day the regulator fixes by a notice to the holder.
- (7) The day may be any day, including a day in the financial year.
- (8) However, the day can not be a day that is before the giving of the notice.

Division 2**Other fees****53 Other fees**

Other fees payable under the Act are stated in schedule 1.

Part 6**Miscellaneous provisions****54 Review and appeal rights**

- (1) If a person who has been given, or is entitled to be given, an information notice about a decision under this regulation, the person may apply to QCA for a review of the decision.
- (2) If a retailer for a premises makes a decision under section 6 or 7 in relation to the premises, the customer for the premises may apply to QCA for a review of the decision.
- (3) Chapter 6, part 1, of the Act applies for a review under subsection (1) or (2) as if—
 - (a) the decision were a decision mentioned in schedule 1 of the Act; and
 - (b) a reference in the part to the reviewer were a reference to QCA.

55 Prescribed consultation for pricing investigation report—Act, s 227F

- (1) For section 227F of the Act, the consultation prescribed for a report on a pricing investigation is the consultation prescribed under part 3, division 2.
- (2) For subsection (1), part 3, division 2 applies as if—
 - (a) a reference to the making of the industry code were a reference to the giving of the report to the Minister; and
 - (b) a reference to issues for the proposed industry code were a reference to issues for the report; and

- (c) a reference to the proposed industry code were a reference to the proposed report.
- (3) However, part 3, division 2, subdivision 2 applies despite section 31.

Part 7

Repeal and transitional provisions

56 Repeal

The Gas Supply Regulation 2003 SL No. 122 is repealed.

57 Transitional provision about small customers

For section 326 of the Act, part 2, division 1 (other than section 4), applies for deciding who is a small customer as if a reference in that division to the FRC day were a reference to the day this regulation was notified in the gazette.

Schedule 1 Fees other than annual fees

section 53

Part 1 Distribution authorities

	\$
1 Application for distribution authority (Act, s 28)	264.70
2 Application to amend distribution authority, other than an amendment correcting a clerical or formal error (Act, s 55)	79.40
3 Application to renew distribution authority (Act, s 64)	nil
4 Application to transfer distribution authority (Act, s 68)	264.70
5 Application for approval of surrender of distribution authority (Act, s 73)	nil

Part 2 Retail authorities

	\$
1 Application for retail authority (Act, s 149)	264.70
2 Application to amend retail authority, other than an amendment correcting a clerical or formal error (Act, s 179)	79.40
3 Application to renew retail authority (Act, s 188)	nil
4 Application to transfer retail authority (Act, s 192) . .	264.70
5 Application for approval of surrender of retail authority (Act, s 197)	nil

Schedule 1 (continued)

Part 3

Other fees

	\$
1 Late payment fee for an annual fee payable under part 5, division 1, paid after the day on which payment is required under that division (Act, s 323)	79.40

Schedule 2 Dictionary

section 3

classification, in relation to a customer for a premises, means the customer's classification under section 17 of the Act as a small or large customer for the premises.

consumption means consumption of processed natural gas.

disconnection request see section 44(1).

final consultation period see section 36(4)(c).

FRC day means the FRC day under section 324 of the Act.

interim consultation period see section 32(2)(b).

issues document see section 32(2)(a).

proponent, for a proposed amendment of an industry code, see section 25(1).

proposal, for an industry code amendment, see section 25(1).

reclassification application see section 12(1).

relevant retailer, for a premises, means the retailer who, under a retail contract, supplies or has agreed to supply processed natural gas to the premises.

supply point, for a premises, means the point on a distribution system at which processed natural gas is withdrawn from the system and delivered to the customer for the premises.

ENDNOTES

- 1 Made by the Governor in Council on 14 June 2007.
- 2 Notified in the gazette on 15 June 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Mines and Energy.

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