



New South Wales

Gas Supply (General) Regulation 1997

under the
Gas Supply Act 1996

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas Supply Act 1996*.

MICHAEL EGAN, MLC.,
Minister for Energy

Explanatory note

The objects of this Regulation are as follows:

- (a) the carrying out of gasfitting work (Part 2),
- (b) the arbitration of disputes (Part 3),
- (c) the review of decisions made by the Independent Pricing and Regulatory Tribunal (Part 4),
- (d) other matters of a minor, consequential or ancillary nature (Parts 1 and 5).

This Regulation refers to the following codes or schemes in connection with the specification of requirements for carrying out gasfitting work:

- (a) the codes published by the Australian Gas Association and the Australian Liquefied Petroleum Gas Association under the titles:
 - (i) *AG 501: Code for Industrial and Commercial Gas Appliances*,
and
 - (ii) *AG 601: Gas Installation Code*,
- (b) the code published by Standards Australia under the title *AS 1596-1989: LP Gas Storage and Handling*,

1997 No 435

Gas Supply (General) Regulation 1997

Explanatory note

- (c) a scheme conducted by the Australian Gas Association or the Australian Liquefied Petroleum Gas Association for the certification of appliances.

This Regulation is made under the *Gas Supply Act 1996*, including section 83 (the general regulation-making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

Contents

	Page
Part 1 Preliminary	
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
4 Notes	5
Part 2 Gasfitting work	
5 Application of Part	6
6 Gasfitting work to be carried out by, or under the supervision of, suitably qualified gasfitters	6
7 Gasfitting work to comply with certain standards	7
8 Testing for defects	8
9 Certificates of compliance	8
Part 3 Arbitration of disputes	
10 Object of Part	10
11 Appearance of legal practitioners before arbitrators	10
12 Private hearing of disputes	10
13 Costs of arbitration	10

Gas Supply (General) Regulation 1997

Contents

	Page
Part 4 Review of Tribunal decisions	
14 Applications for review: sections 26 and 28	11
15 Qualifications of members of review panels: section 29	11
16 Appointment of deputies of members of review panels	11
17 Allowances for members of review panels	12
18 General procedure of review panels	12
19 Quorum	12
20 Presiding member	12
21 Voting	13
22 Determination and payment of costs	13

Part 5 Miscellaneous	
23 Refusal or discontinuance of supply	14
24 Reporting of accidents	14
25 Delegations	15
26 Definition of "tariff customer": Dictionary	15
27 Definition of "distribution system": Dictionary	15
28 Definition of "system user": Dictionary	16

1997 No 435

Clause 1 Gas Supply (General) Regulation 1997

Part 1 Preliminary

Gas Supply (General) Regulation 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Gas Supply (General) Regulation 1997*.

2 Commencement

This Regulation commences on 31 August 1997.

3 Definitions

In this Regulation:

Director-General means the Director-General of the Department of Energy.

Gas Installation Code means the code published by the Australian Gas Association and the Australian Liquefied Petroleum Gas Association under the title *AG 601: Gas Installation Code*, as in force from time to time.

gasfitting rules, in relation to gasfitting work carried out in connection with a distribution system, means rules established by the safety and operating plan for the distribution system.

Industrial and Commercial Gas Appliances Code means the code published by the Australian Gas Association and the Australian Liquefied Petroleum Gas Association under the title *AG 501: Code for Industrial and Commercial Gas Appliances*, as in force from time to time.

LP Gas Storage and Handling Code means the code published by Standards Australia under the title *AS 15961989: LP Gas Storage and Handling*, as in force from time to time.

person responsible, in relation to the carrying out of gasfitting work, means the person who carries out the gasfitting work, or who supervises the carrying out of the gasfitting work, under the authority of an appropriate supervisor certificate referred to in clause 6 (1).

review panel means a review panel established under section 29 of the Act.

safety and operating plan, in relation to a distribution system, means a safety and operating plan that is required by the regulations under the Act to be prepared and implemented for the distribution system.

the Act means the *Gas Supply Act 1996*.

4 Notes

The explanatory note, table of contents and notes in this Regulation do not form part of this Regulation.

1997 No 435

Clause 5 Gas Supply (General) Regulation 1997

Pari 2 Gasfitting work

Part 2 Gasfitting work

5 Application of Part

- (1) This Part:
- (a) applies to gasfitting work carried out:
 - (i) on a gas installation to which gas is supplied from a distribution system, or
 - (ii) for the purpose of connecting a gas appliance to, or disconnecting a gas appliance from, such a gas installation, and
 - (b) does not apply to gasfitting work carried out:
 - (i) on a gas installation to which gas is supplied otherwise than from a distribution system, or
 - (ii) for the purpose of connecting a gas appliance to, or disconnecting a gas appliance from, such a gas installation.
- (2) This Part does not apply to gasfitting work involving the installation, alteration, extension, repair, connection or disconnection of such part of a gas installation as conveys or controls the conveyance of gas from a distribution system, from the boundary of the premises in which the gas installation is situated to the gas meter outlet, where the work is carried out by or on behalf of the relevant network operator.

6 Gasfitting work to be carried out by, or under the supervision of, suitably qualified gasfitters

- (1) A person must not carry out any kind of gasfitting work, or employ any other person to carry out any kind of gasfitting work, unless the person by whom the work is carried out does so:
- (a) under the authority of an appropriate supervisor certificate, or
 - (b) under the authority of an appropriate registration certificate and under the general supervision of the holder of an appropriate supervisor certificate, or

- (c) under the immediate supervision of the holder of an appropriate supervisor certificate.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

- (2) In this clause:

registration certificate, in relation to a particular kind of gasfitting work, means a certificate of registration in force under the *Home Building Act 1989* authorising the holder to carry out that kind of work under general supervision.

supervisor certificate, in relation to a particular kind of gasfitting work, means a supervisor certificate in force under the *Home Building Act 1989* authorising the holder to carry out, and to supervise, that kind of work, and includes a licence endorsed under that Act to show that it is the equivalent of such a certificate.

7 Gasfitting work to comply with certain standards

- (1) A person must not carry out gasfitting work otherwise than in accordance with any relevant gasfitting rules or (if no gasfitting rules apply to the work) in accordance with:
- (a) in the case of all gasfitting work, the *Gas Installation Code*, and
 - (b) in the case of gasfitting work involving installations or systems that convey liquefied petroleum gas, the *LP Gas Storage and Handling Code*.

Maximum penalty: 20 penalty units.

- (2) Without affecting the generality of subclause (1), a person must not connect a gas appliance to a gas installation or modify a gas appliance connected to a gas installation unless the appliance (or the appliance as modified):
- (a) is certified under a scheme conducted by the Australian Gas Association or the Australian Liquefied Petroleum Gas Association for the certification of appliances, or

1997 No 435

Clause 7 Gas Supply (General) Regulation 1997

Part 2 Gasfitting work

- (b) if no such scheme exists or if the appliance (being of a rare or unusual type or design) is not covered by such a scheme, is approved by the relevant network operator or a person authorised by the Director-General to approve appliances of that type.

Maximum penalty: 20 penalty units.

- (3) A network operator must include in its safety and operating plan procedures for approving appliances for the purposes of subclause (2) (b), being procedures no less stringent than the procedures set out in:
 - (a) the *Industrial and Commercial Gas Appliances Code*, or
 - (b) if that code is not applicable to the appliances, such other code or standard as the Director-General determines to be appropriate in the circumstances.
- (4) A network operator or authorised person may charge a reasonable fee for giving an approval under subclause (2) (b).

8 Testing for defects

- (1) Immediately after completing gasfitting work on a gas installation, the person responsible for the carrying out of the gasfitting work:
 - (a) must test the installation for defects, and
 - (b) must inspect all gas appliances connected to the installation.

Maximum penalty: 20 penalty units.

- (2) This clause does not apply to gasfitting work involving:
 - (a) the disconnection of a gas installation from a distribution system, or
 - (b) the disconnection of a gas appliance from a gas installation.

9 Certificates of compliance

- (1) Immediately after testing a gas installation following the completion of gasfitting work, the person responsible for the

carrying out of the gasfitting work must issue a certificate of compliance with respect to that work:

- (a) to the owner of the installation, or
- (b) to a person having the control or management of the installation.

Maximum penalty: 20 penalty units.

- (2) The person responsible for the carrying out of the gasfitting work must, within 7 days after completing the gasfitting work, send a copy of the certificate of compliance to the relevant network operator.

Maximum penalty: 20 penalty units.

- (3) A certificate of compliance:
 - (a) must be in a form approved by the Director-General, and
 - (b) must indicate the nature of the gasfitting work that has been carried out, and
 - (c) must state that the gasfitting work has been carried out in accordance with any relevant gasfitting rules, the *Gas Installation Code* or the *LP Gas Storage and Handling Code*, whichever is appropriate, and
 - (d) must indicate whether or not the gas installation is in safe working order.

- (4) A person who issues a certificate of compliance must retain a copy of the certificate for 5 years from the date on which it was issued.

Maximum penalty: 20 penalty units.

- (5) This clause does not apply to gasfitting work involving:
 - (a) the disconnection of a gas installation from a distribution system, or
 - (b) the disconnection of a gas appliance from a gas installation.

1997 No 435

Clause 10 Gas Supply (General) Regulation 1997

Part 3 Arbitration of disputes

Part 3 Arbitration of disputes

10 Object of Part

The object of this Part is, in accordance with section 23 (2) of the Act, to modify the application of the *Commercial Arbitration Act 1984* to the arbitration of a dispute between an authorised reticulator and a system user.

11 Appearance of legal practitioners before arbitrators

- (1) A party to a dispute may be represented in proceedings before an arbitrator by a legal practitioner only by leave granted by the arbitrator.
- (2) An arbitrator may grant leave only if the arbitrator is of the opinion:
 - (a) that representation of the party by a legal practitioner is likely to shorten the hearing of the dispute or to reduce the costs of the dispute, or
 - (b) that the party would be unfairly disadvantaged if the party was not represented by a legal practitioner.
- (3) This clause has effect instead of section 20 (1) of the *Commercial Arbitration Act 1984*.

12 Private hearing of disputes

A dispute is to be heard in private, unless the arbitrator otherwise directs.

13 Costs of arbitration

For the purposes of section 34 (1) of the *Commercial Arbitration Act 1984*, and without limiting the fees and expenses of the arbitrator as referred to in that subsection, the fees and expenses of the arbitrator are taken to include all costs incurred by the arbitrator and by the Independent Pricing and Regulatory Tribunal in relation to the arbitration of a dispute, including administrative costs, costs incurred in engaging consultants and expert witnesses, and witnesses' expenses.

Part 4 Review of Tribunal decisions

14 Applications for review: sections 26 and 28

- (1) An application to the Minister for a review of a decision or a gas pricing order of the Independent Pricing and Regulatory Tribunal:
 - (a) must be in writing, and
 - (b) must state the basis of the application, and
 - (c) must be accompanied by a fee determined by the Minister.
- (2) The Minister must give notice of the application, and of the proposed review:
 - (a) in a daily newspaper circulating throughout New South Wales, or
 - (b) in such other manner as the Minister considers appropriate.

15 Qualifications of members of review panels: section 29

- (1) A person is not to be appointed to be a member or a deputy of a member of a review panel unless, in the opinion of the Minister, the person has appropriate qualifications or experience having regard to the matter to be investigated by the panel.
- (2) A person is not to be appointed to a review panel if the person:
 - (a) is an employee or an associate of the holder of the authorisation with which the review panel's investigation will be concerned, or
 - (b) has a direct or indirect pecuniary interest in a matter with which the review panel's investigation will be concerned, other than such an interest that the person has merely as a result of being a gas user.

16 Appointment of deputies of members of review panels

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member of a review panel.

1997 No 435

Clause 16 Gas Supply (General) Regulation 1997

Part 4 Review of Tribunal decisions

- (2) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be taken to be a member.
- (3) The deputy of the member who is chairperson of the review panel has the functions of the chairperson while acting in the place of the chairperson.
- (4) No act, determination or proceeding of a review panel is invalid merely because at the time of the act, determination or proceeding there is a vacancy in the office of a member of the panel.

17 Allowances for members of review panels

A member or deputy of a member of a review panel is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member or deputy.

18 General procedure of review panels

The procedure for:

- (a) the calling of and the conduct of business at meetings of a review panel, and
- (b) the conduct of investigations by a review panel,

is, subject to the Act and this Regulation, to be as determined by the panel.

19 Quorum

The quorum for a meeting of a review panel is 2 members.

20 Presiding member

- (1) The chairperson of a review panel (or, in the absence of the chairperson, another member elected to chair the meeting by the members present) is to preside at a meeting of the panel.
- (2) The person presiding at a meeting of a review panel has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

21 Voting

A decision supported by a majority of the votes cast at a meeting of a review panel at which a quorum is present is the decision of the panel.

22 Determination and payment of costs

- (1) The costs of and incidental to proceedings before a review panel are, subject to the Act and this Regulation, to be as determined by the panel.
- (2) The costs may include any allowances payable to the members of the panel.
- (3) The liability for the payment of the costs is to be as determined by the Minister on the recommendation of the panel.
- (4) The costs may be recovered by or on behalf of the Minister in a court of competent jurisdiction as a debt due to the Crown.

1997 No 435

Clause 23 Gas Supply (General) Regulation 1997

Part 5 Miscellaneous

Part 5 Miscellaneous

23 Refusal or discontinuance of supply

- (1) A network operator may refuse or discontinue the supply of gas to a person if, in the opinion of the operator:
 - (a) the supply or continued supply of gas is dangerous to life, health or property, or
 - (b) the person's gas installation, or any gas appliances connected to it, are not installed in accordance with any relevant gasfitting rules, the *Gas Installation Code* or the *LP Gas Storage and Handling Code*, whichever is appropriate.
- (2) A network operator may discontinue a supply of gas to a person:
 - (a) by disconnecting the person's gas installation from the network operator's distribution system, or
 - (b) by disconnecting any gas appliances from the person's gas installation, or
 - (c) by otherwise rendering the person's gas installation or any such gas appliances inoperable.
- (3) A network operator that refuses or discontinues the supply of gas to a person under this clause must cause written notice of the reasons for the refusal or discontinuance of supply to be given:
 - (a) to the person and any relevant supplier, and
 - (b) in the case of a discontinuance of supply of gas to premises, to the Director-General.

24 Reporting of accidents

- (1) A network operator must notify the Director-General of any accident that occurs in connection with its distribution system if the accident:
 - (a) involves the escape or explosion of gas, and
 - (b) results in death, serious personal injury or substantial property damage.

- (2) The notice:
- (a) must be given by telephone, facsimile or other means as soon as practicable after the time when network operator became aware of the accident, and
 - (b) must be given in writing within 14 days after that time.
- (3) The notice must indicate the nature of the accident and give details of any deaths, injuries or property damage.

Maximum penalty: 100 penalty units (in the case of a corporation) and 25 penalty units (in any other case).

25 Delegations

The Director-General may delegate to any person the exercise of all or any of the Director-General's functions under this Regulation or any other regulation under the Act.

26 Definition of "tariff customer": Dictionary

Any person who is supplied with natural gas, at a rate of less than 10 terajoules per year, by means of an authorised reticulator's distribution system is declared to be a tariff customer for the purposes of the definition of *tariff customer* in the Dictionary to the Act.

27 Definition of "distribution system": Dictionary

The following pipelines (each being a pipeline that, as at 30 August 1996, was the subject of a licence in force under the *Pipelines Act 1967*) are declared to form part of AGL Gas Networks Limited's distribution system for the purposes of paragraph (a) of the definition of *distribution system* in the Dictionary to the Act:

- (a) the pipeline from Wilton to Horsley Bark (Pipeline Licence No 1),
- (b) the pipeline from Wilton to Wollongong (Pipeline Licence No 2),
- (c) the pipeline from Horsley Park to Plumpton (Pipeline Licence No 3),

1997 No 435

Clause 27 Gas Supply (General) Regulation 1997

Part 5 Miscellaneous

- (d) the pipeline from Plumpton to Killingworth (Pipeline Licence No 7),
- (e) the pipeline from Killingworth to Koorangang Island (Pipeline Licence No 8).

28 Definition of “system user”: Dictionary

- (1) The following persons are declared to be system users for the purposes of the definition of *system user* in the Dictionary to the Act:
 - (a) any single person (or any single group of related corporations) to whom at least 100 terajoules of natural gas has been supplied for consumption by that person (or by the members of that group) during the period of 12 months ending on 1 July 1997, disregarding (in the case of a group of related corporations) any related corporation to which less than 10 terajoules of natural gas has been supplied during that period,
 - (b) any single person (or any single group of related corporations):
 - (i) to whom natural gas was being supplied for consumption by that person (or by the members of that group) at a rate of 100 terajoules or more per year immediately before 1 July 1997, and
 - (ii) to whom at least 100 terajoules of natural gas is contracted to be supplied for consumption by that person (or by the members of that group) over the period of 12 months beginning on 1 July 1997,
 - (iii) disregarding (in the case of a group of related corporations) any related corporation to which natural gas has been or is contracted to be supplied at a rate of less than 10 terajoules per year,
 - (c) any single person to whom any quantity of natural gas is supplied for consumption by that person, at a site to which the natural gas is supplied by means of gas works:
 - (i) that have been completed on or after 30 August 1996, and

(ii) that, in the opinion of the Tribunal, form a new distribution system or a significant extension to an existing distribution system,

but in respect only of the supply of natural gas to that site,

- (d) any authorised supplier to whom any quantity of natural gas is supplied, but in respect only of the resupply of the natural gas by that authorised supplier to other system users who are not themselves authorised suppliers,
- (e) any other person (including any authorised supplier) who was a system user immediately before the commencement of this Regulation.

(2) However:

- (a) in calculating the amount of natural gas supplied or contracted to be supplied to a person or group of related corporations:
- (i) for the purposes of subclause (1) (a), natural gas supplied to a site to which less than 10 terajoules of natural gas has been supplied during the period of 12 months ending on 1 July 1997, and
- (ii) for the purposes of subclause (1) (b) (i), natural gas supplied to a site to which natural gas was being supplied at a rate of less than 10 terajoules per year immediately before 1 July 1997, and
- (iii) for the purposes of subclause (1) (b) (ii), natural gas contracted to be supplied to a site to which less than 10 terajoules of natural gas is contracted to be supplied over the period of 12 months beginning on 1 July 1997, and
- (iv) in any case, natural gas supplied or contracted to be supplied to a site outside New South Wales,
- is not to be taken into account,
- (b) a person or group of related corporations that is declared to be a system user by operation of subclause (1) is declared to be a system user in respect only of natural gas supplied to a site to which at least 10 terajoules of natural gas is contracted to be supplied over the period of 12 months beginning on 1 July 1997.

1997 No 435

Clause 28 Gas Supply (General) Regulation 19971997

Part 5 Miscellaneous

- (3) On and from 1 July 1998, the following persons are declared to be system users for the purposes of the definition of *system user* in the Dictionary to the Act in addition to the persons referred to in subclause (1):
- (a) any single person to whom at least 10 terajoules of natural gas has been supplied for consumption by that person during the period of 12 months ending on 1 July 1998,
 - (b) any single person:
 - (i) to whom natural gas was being supplied for consumption by that person at a rate of 10 terajoules or more per year immediately before 1 July 1998, and
 - (ii) to whom at least 10 terajoules of natural gas is contracted to be supplied for consumption by that person over the period of 12 months beginning on 1 July 1998.
- (4) However:
- (a) in calculating the amount of natural gas supplied or contracted to be supplied to a person:
 - (i) for the purposes of subclause (3) (a), natural gas supplied to a site to which less than 10 terajoules of natural gas has been supplied during the period of 12 months ending on 1 July 1998, and
 - (ii) for the purposes of subclause (3) (b) (i), natural gas supplied to a site to which natural gas was being supplied at a rate of less than 10 terajoules per year immediately before 1 July 1998, and
 - (iii) for the purposes of subclause (3) (b) (ii), natural gas contracted to be supplied to a site to which less than 10 terajoules of natural gas is contracted to be supplied over the period of 12 months beginning on 1 July 1988, and
 - (iv) in any case, natural gas supplied or contracted to be supplied to a site outside New South Wales, is not to be taken into account.

- (b) a person that is declared to be a system user by operation of subclause (3) is declared to be a system user in respect only of natural gas supplied to a site to which at least 10 terajoules of natural gas is contracted to be supplied over the period of 12 months beginning on 1 July 1998.
- (5) On and from 1 July 1999, all persons to whom gas is supplied are declared to be system users for the purposes of the definition of *system user* in the Dictionary to the Act.
- (6) In this clause, *related corporation* has the same meaning as it has in the *Corporations Law*.