



New South Wales

Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010

under the

Gas Supply Act 1996

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

PAUL LYNCH, MP
Minister for Energy

Explanatory note

The object of this Regulation is to amend the *Gas Supply (Safety and Network Management) Regulation 2008* to prescribe elements of the “Dial Before You Dig” scheme. The Regulation:

- (a) requires the designated information provider for the scheme to be contacted for information about the location and type of underground gas pipelines (***gas pipelines information***) if proposed excavation work requires consent or approval under the *Environmental Planning and Assessment Act 1979*, involves excavation by or on behalf of a public authority or involves excavation relating to the construction, repair or maintenance of underground utility services, and
- (b) limits that requirement to work carried out within the distribution district of a distribution network service provider, and
- (c) exempts from that requirement specified excavation work, including minor excavations, excavations conducted under authorities granted under the *Mining Act 1992*, excavation in an emergency, excavation (without machinery or power tools) by or on behalf of owners of utility services and urgent excavation to stop water main breaks and leaks, and
- (d) requires the relevant network operator to be notified of the proposed excavation work before the work is commenced or authorised to commence, if the gas pipelines information provided to the person carrying out the work contains a requirement to so notify, and

2010 No 332

Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection)
Regulation 2010

Explanatory note

- (e) requires a person who carries out the proposed work to have requested information about the location and type of underground gas pipelines in the vicinity of the work within 30 days of commencing work and to have regard to any such information when carrying out the work, and
- (f) requires a network operator who is notified of excavation work to provide to the person who notifies the work, or the person carrying out the work, information about (and a copy on request of) the WorkCover Authority's *Work Near Underground Assets Guideline*, and
- (g) sets out the manner in which a network operator must be notified of damage to underground gas pipelines caused by excavation work, and
- (h) limits the amount of civil monetary liability of the designated information provider, or a person who is an employee or officer of or who is acting for the designated information provider, to a maximum of \$10 million for an act or omission relating to the provision of information under the scheme.

This Regulation is made under the *Gas Supply Act 1996*, including sections 64B, 64C, 64D (2), 64F (3) and 83 (the general regulation-making power).

Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010

under the

Gas Supply Act 1996

1 Name of Regulation

This Regulation is the *Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010*.

2 Commencement

This Regulation commences on 1 July 2010 and is required to be published on the NSW legislation website.

2010 No 332

Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010

Schedule 1 Amendment of Gas Supply (Safety and Network Management) Regulation 2008

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Part 5A

Insert after Part 5:

Part 5A Infrastructure protection

34A Definitions

(1) In this Part:

development consent means:

- (a) a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*, or
- (b) an approval under Part 3A of that Act.

gas pipelines information means information provided by the designated information provider or a network operator in response to a request by a person under section 64C (1) of the Act.

notifiable excavation work means excavation work to which section 64C of the Act applies (as set out in clause 34B).

utility service means a water, gas, electricity, sewerage, drainage or telecommunications service.

(2) Words and expressions used in this Part have the same meaning as they have in Part 4A of the Act.

34B Excavation work requiring contact with designated information provider

(1) Work of the following kind, that is carried out within the distribution network of a distribution network service provider, is excavation work to which section 64C of the Act applies:

- (a) excavation for which development consent is required or that is carried out under a development consent,
- (b) excavation that is, or is carried out in connection with, an activity within the meaning of Part 5 of the *Environmental Planning and Assessment Act 1979*,
- (c) excavation of any land conducted by or on behalf of a public authority,
- (d) excavation of any land on which an underground utility service is located, or proposed to be located, by or on behalf of the owner or proposed owner of the service,

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- (e) excavation of any land on which an underground utility service is located for the purpose of the repair or maintenance of works connected with the utility service.
- (2) Despite subclause (1), work of the following kind is not excavation work to which section 64C of the Act applies:
- (a) excavation conducted with the use of machinery or powered tools to a depth of less than 150 mm,
 - (b) excavation for the purposes of ploughing, to a depth of less than 250 mm, on land within a rural zone or a rural-residential zone under an environmental planning instrument,
 - (c) excavation conducted without the use of machinery or powered tools to a depth of less than 300 mm,
 - (d) excavation conducted under a lease, licence or mineral claim under the *Mining Act 1992*,
 - (e) excavation conducted in an emergency, including (but not limited to) work to prevent or mitigate injury or death or to prevent or mitigate serious damage to property or the environment,
 - (f) excavation conducted without the use of machinery or powered tools by, or on behalf of, the owner of a utility service for the purpose of ascertaining the location of the service or testing the integrity of the service,
 - (g) excavation conducted by, or on behalf of, the owner of a utility service to stop loss of water, if urgently required in response to water main leaks and breaks.

34C Requirements for carrying out excavation work: s64C (4) of Act

(1) **Notification of network operator**

Subclauses (2) and (3) apply if gas pipelines information provided to a person contains a requirement that notice of proposed notifiable excavation work must be given to the network operator that owns underground gas pipelines in the vicinity of the proposed work before the work is commenced.

- (2) A person must not commence to carry out, or authorise the commencement of, the notifiable excavation work unless the person has first given notice of the proposed work to the network operator.
- (3) The person must also provide to the network operator any information about the proposed work that is requested by the network operator.

2010 No 332

Gas Supply (Safety and Network Management) Amendment (Infrastructure Protection) Regulation 2010

Schedule 1

Amendment of Gas Supply (Safety and Network Management) Regulation 2008

(4) Recent request for information

A person who carries out notifiable excavation work must have made a request for information under section 64C of the Act not earlier than 30 days before the work is commenced, unless a request has been made by another person in relation to that work within that period.

(5) Regard to be had to information

A person who carries out notifiable excavation work must, in carrying out that work, have regard to the following:

- (a) any information, provided by the designated information provider or a network operator, as to the location and type of any underground gas pipeline in the vicinity of the work,
- (b) any other information provided to the person by a network operator or the designated information provider in respect of underground gas pipelines.

Note. A person who undertakes excavation work is subject to duties and responsibilities under the *Occupational Health and Safety Act 2000*. The WorkCover Authority has prepared the Work Near Underground Assets Guideline, which contains practical advice for working near underground utility services and guidance as to how to meet the requirements of the *Occupational Health and Safety Act 2000* when carrying out excavation work.

34D Provision of information by network operator

- (1) A network operator that is notified of proposed notifiable excavation work in the vicinity of underground gas pipelines owned by the network operator must ensure that the person who notifies the work, or the person proposing to carry out the work, is informed of the existence of the Work Near Underground Assets Guideline published in 2007 by the WorkCover Authority.
- (2) The network operator must provide a copy of the Guideline if requested to do so by the person who notifies the work or who is proposing to carry out the work.

34E Notification of damage to underground gas pipelines

A person who is required to notify a network operator under section 64D (1) of the Act of damage to an underground gas pipeline must notify the network operator:

- (a) by telephoning the contact telephone number provided to the person by the designated information provider for that purpose, or

- (b) if no such contact telephone number is provided, by telephoning the emergency contact telephone number for the network operator that is listed in a telephone or internet directory.

34F Maximum amount of civil monetary liability

The maximum amount of civil monetary liability of a designated information provider, any officer or employee of a designated information provider or any person acting on behalf of a designated information provider for an act or omission of a kind referred to in section 64F (2) of the Act done or made through negligence is \$10 million.