



New South Wales

Gas and Electricity (Consumer Safety) Amendment (Medical Gas) Regulation 2021

under the

Gas and Electricity (Consumer Safety) Act 2017

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gas and Electricity (Consumer Safety) Act 2017*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to amend the *Gas and Electricity (Consumer Safety) Regulation 2018* as follows—

- (a) to specify the qualified persons by whom a safety and compliance test (a *test*) on certain work relating to medical gas must be carried out,
- (b) to provide that failure to conduct a test is an offence with a maximum penalty of 25 penalty units,
- (c) to update record-keeping requirements in relation to tests,
- (d) to provide for a transitional period in which tests may be conducted by unqualified persons,
- (e) to set out requirements for notifying the results of the commissioning of a medical gas installation,
- (f) to update and clarify references to Australian Standards,
- (g) to make consequential and related amendments.

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1 Name of Regulation

This Regulation is the *Gas and Electricity (Consumer Safety) Amendment (Medical Gas) Regulation 2021*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Gas and Electricity (Consumer Safety) Regulation 2018

[1] **Clause 37 Notification of results of safety and compliance tests**

Omit “or occupier of the installation” from clause 37(3)(c)(ii).

Insert instead “of the installation or the occupier of the place in which the installation is located”.

[2] **Clause 69AA**

Insert before clause 69A—

69AA Meaning of “work provider”

- (1) In this Part, *work provider* means a person engaged by the owner or occupier of a medical facility, whether or not for fee or reward, to provide, or arrange for the provision of medical gasfitting work, medical gas technician work or mechanical services and medical gas work, and includes the following, as applicable—
 - (a) for work carried out by a subcontractor—the head contractor,
 - (b) for work carried out by an employee—the employer.
- (2) However, a person who carries out medical gasfitting work, medical gas technician work or mechanical services and medical gas work is not a work provider for the purposes of this Part.

[3] **Clause 69A, heading**

Omit “standards”. Insert instead “Australian Standards”.

[4] **Clause 69A**

Omit “standards, as in force from time to time,”.

Insert instead “Australian Standards”.

[5] **Clause 69A(a)**

Omit “—2011”. Insert instead “:2021”.

[6] **Clause 69A(b)**

Omit “AS”. Insert instead “AS/NZS”.

[7] **Clause 69B Conduct of safety and compliance tests**

Omit clause 69B(2). Insert instead—

- (2) A responsible person must conduct a safety and compliance test on work to which this clause applies, immediately after the completion of the work, in accordance with the requirements of the following Australian Standards—
 - (a) AS 2896:2021, *Medical gas systems—Installation and testing of non-flammable medical gas pipeline systems*,
 - (b) AS/NZS 4774.2:2019, *Work in compressed air and hyperbaric facilities—Hyperbaric oxygen facilities*.
- (3) A person who fails to comply with a requirement under subclause (2) is guilty of an offence.
Maximum penalty—25 penalty units.

- (4) In this clause—
responsible person means—
- (a) the qualified person who carried out the work, or
 - (b) if a qualified person did not carry out the work—the qualified person under whose supervision the work was carried out.

[8] Clause 69C Notification of results of safety and compliance tests

Omit “any person engaged by the owner or occupier of the medical gas installation (whether or not for fee or reward) to provide, or arrange for the provision of, the work concerned (the **work provider**)” from clause 69C(3)(c)(ii).

Insert instead “the work provider”.

[9] Clause 69C(4) and (5)

Omit “40 penalty units (for a corporation) and 20 penalty units (for an individual)” wherever occurring.

Insert instead “100 penalty units for a corporation and 25 penalty units for an individual”.

[10] Clause 69C(5)

Insert “and, if applicable, the work provider” after “The tester”.

[11] Clause 69C(5)(b)

Insert “, as soon as is reasonably practicable but no later than 48 hours after receiving the written demand,” after “must produce”.

[12] Clauses 69F and 69G

Omit clause 69F. Insert instead—

69F Temporary provision for conducting of tests by unqualified persons

- (1) Despite clauses 69B(3) and 69D, a person who is not a qualified person (an **unqualified person**) may, until the end of 1 May 2022, conduct a safety and compliance test required by clause 69B(2) on work carried out by the unqualified person.
- (2) Clause 69C does not apply to the test.
- (3) However, the unqualified person must make a record of the results of the test as soon as is reasonably practicable, but no later than 7 days, after completing the test.
- (4) The record is to be signed by the unqualified person and, if applicable, the work provider.
- (5) The unqualified person and, if applicable, the work provider must—
 - (a) keep a copy of the results of the test for at least 5 years after the notification was given, and
 - (b) produce, as soon as is reasonably practicable but no later than 48 hours after receiving the written demand, a copy of the results to an authorised officer on written demand made by the officer at any time during the 5-year period.

Maximum penalty—100 penalty units for a corporation and 25 penalty units for an individual.

69G Notification of results of commissioning of medical gas installation

- (1) This clause applies to the commissioning of a medical gas installation.
Note. The Act, section 4 defines *medical gasfitting work* to include the commissioning of a medical gas installation.
- (2) As soon as is reasonably practicable, but no later than 7 days, after the commissioning of the installation, the person carrying out the commissioning must give written notice of the results of the commissioning to the following—
 - (a) the person for whom the commissioning is carried out,
 - (b) the Secretary.
- (3) If the person for whom the commissioning is carried out is not the owner of the medical gas installation or the owner's agent, the person must, as soon as is reasonably practicable, but no later than 7 days after receiving the written notice, give a copy of the results to the owner or the owner's agent.
- (4) The notice must—
 - (a) be in the form approved by the Secretary, and
 - (b) describe the work done and identify the medical gas installation concerned, and
 - (c) certify the commissioning complied with the Act, section 38A(1), and
 - (d) if applicable, specify the name and authority number of the work provider, and
 - (e) specify the name and authority number of the person carrying out the commissioning and the date on which the commissioning was carried out, and
 - (f) be signed by the person carrying out the commissioning.
- (5) If the results of the commissioning are not notified in accordance with this clause, the person carrying out the commissioning is guilty of an offence.
Maximum penalty—25 penalty units.
- (6) The person carrying out the commissioning and, if applicable, the work provider—
 - (a) must keep a copy of the notice for at least 5 years from when the notice was given, and
 - (b) must produce, as soon as is reasonably practicable but no later than 48 hours after receiving the written demand, a copy of the notice to the following persons on written demand made by the person at any time during the 5-year period—
 - (i) the Secretary,
 - (ii) an authorised officer.

Maximum penalty—100 penalty units for a corporation and 25 penalty units for an individual.

[13] Clause 72A Rectification of defective electrical, gas or medical gas installation work

Omit “or 69C” from clause 72A(3)(g). Insert instead “, 69C, 69F or 69G”.

[14] Schedule 3 Penalty notice offences

Omit “\$1,100 (for a corporation) or \$550 (for an individual)” from the matter relating to Clause 69C(4) or (5).

Insert instead “\$2,750 for a corporation or \$687.50 for an individual”.

[15] Schedule 3 Penalty notice offences

Insert in appropriate order—

Clause 69B(3)	\$687.50
Clause 69F(5)	\$2,750 for a corporation or \$687.50 for an individual
Clause 69G(5)	\$687.50
Clause 69G(6)	\$2,750 for a corporation or \$687.50 for an individual