

CLAUSE NOTES

Gas Safety Bill 2018

PART I - PRELIMINARY

Clause 1: Short title

Sets out the name of the proposed Act.

Clause 2: Commencement

The Act is to commence on proclamation, to enable administrative processes to be developed to support the combining the safety and technical provisions of the Gas Act 2000 and Gas Pipelines Act 2000, implementation of this Act and for other related legislation that is part of the Government's Gas Framework Review package.

Clause 3: Interpretation

Sets out the terms used in the Act and their meanings.

Clause 4: Regulated activities

Describes the activities and functions in respect to gas infrastructure that constitutes a regulated activity for the purposes of the Act.

Clause 5: Application of Act

The functions and powers of this Act do not apply to a gas installation used or installed before 17 December 2001 unless that gas installation is modified after that day.

Clause 6: Act binds Crown

Requires the Crown to comply in the same way as everybody else in the community.

Clause 7: Act does not derogate from certain Acts

This Act is in addition to, and does not detract from the Gas Industry Act 2018, the Work Health and Safety Act 2012 or the Dangerous Goods (Road and Rail Transport) Act 2010.

PART 2 – ADMINISTRATION

Division 1 – Director of Gas Safety

Clause 8: Director of Gas Safety

Describes the terms of appointment for the Director of Gas Safety.

Clause 9: Functions of Director

Describes the functions of the Director of Gas Safety including monitoring and regulating safety and technical standards with respect to gas infrastructure, gas installations, gas storage systems, gas appliances and associated works

Clause 10: Delegation

Describes the manner in which the Director's powers can be delegated to competent and suitable people; other than the power of delegation.

Clause 11: Director may require information to be provided

Sets out the process for the Director of Gas Safety to require reasonable information for administration of the Act, and obligations for the person on whom such a request is made.

Clause 12: Obligation to preserve confidentiality

Sets out the responsibilities of the Director of Gas Safety for the confidentiality of information gained in the course of administering the Act.

Clause 13: Report by Director

Sets out the circumstances, timing and processes for the production of a report on the Director of Gas Safety's operations.

Clause 14: Advisory committees

Sets out the establishment of advisory committees to advise the Minister or Director of Gas Safety.

Clause 15: Mediation of Disputes

Describes the process in the event the Director of Gas Safety is requested to mediate a dispute between a licensee and another party including terms of settlement.

Division 2 – Annual fee

Clause 16: Annual fee

Sets out the process by which the Director of Gas Safety may recover costs from gas suppliers for the reasonable contribution towards the costs of the administration of the Act.

PART 3 – SAFETY OF INFRASTRUCTURE, INSTALLATIONS AND APPLIANCES

Division 1 – General Requirements for Safe Operation

Clause 17: General requirements for safe operation

Outlines the requirements for owners and operators with respect to ensuring the safe operation and maintenance of gas infrastructure, gas installations, automotive gas fuel systems and gas storage systems.

Clause 18: Regulated activities to be carried out with due care

Describes the matters to be considered by a licensee when undertaking regulated activities including health and safety of persons, compliance with standards and good industry practice.

Clause 19: Gas quality

Describes the minimum quality of gas to be supplied to a gas installation by a licensee.

Clause 20: Offence to supply or sell gas to unsafe gas installation

Creates an offence for any person to knowingly supply or sell gas to an unsafe gas installation or a gas installation that does not comply with the Act. A person may rely on a 'certificate of compliance' or a 'statement of compliance' issued by a gas fitter to ensure compliance with this clause.

Clause 21: Mandatory reporting of gas incidents

Sets out the reporting requirements of a licensee, gas suppliers, gas installation owner and operators, and the Chief Officer of the Tasmanian Fire Service in respect to incidents involving gas. Incident site is not to be interfered with in such a way that may hinder investigation of that incident.

Clause 22: Director to provide gas infrastructure certificate to Regulator

Describes the interaction between the Director of Gas Safety (Gas Safety Bill 2018) and the Regulator (Gas Industry Bill 2018) when issuing infrastructure

licences including the setting out of infrastructure and licensee safety and integrity system overviews to be provided to the Director of Gas Safety.

Division 2 – Licensee Safety Case

Clause 23: Safety case

Sets out the duties of a licensee in regards to development and implementation of a safety case. A safety case describes the way that a licensee manages gas infrastructure to ensure it does not pose a public risk and must be submitted to the Director of Gas Safety for acceptance.

The submitted safety case must contain independent certification showing it complies with relevant standards and determinations.

Clause 24: Additional safety plan

Outlines that an additional safety plan may be required if the Director of Gas Safety believes the safety case submitted in accordance with clause 23 does not adequately cover the safe construction of gas infrastructure.

Clause 25: Auditing of safety case

The implementation of a licensee's safety cases must be audited as required by the Director of Gas Safety and a copy of reports provided.

Clause 26: Additional information

The Director of Gas Safety may believe additional information is required to determine the adequacy of a submitted gas infrastructure management safety case.

The Director of Gas Safety is not expected to consider a safety case until the requested information is provided.

Clause 27: Certification of safety case for pipeline facility

Requires a safety case that covers the design, construction, commissioning and operation of a pipeline facility to be assessed and certified by a person that is acceptable to the Director of Gas Safety. This is additional to expectations prescribed for pipelines (Clause 22) due to the inherent risk of pipeline facilities.

The Director of Gas Safety is not expected to consider a safety case until the certification is provided.

Clause 28: Acceptance of safety case

Sets out the Director of Gas Safety's responsibilities in respect to acceptance of a safety case submitted by a licensee.

Clause 29: Provisional acceptance of safety case

Allows the Director of Gas Safety to provisionally accept a safety case submitted by a licensee if the safety case has been prepared incorrectly in a minor way, or a way that does not affect the safe operation of the gas infrastructure.

Any provisional acceptance must outline any restrictions that will apply.

Clause 30: Non-acceptance of safety case

Sets out the Director of Gas Safety's responsibilities in respect to non-acceptance of an unsuitable safety case submitted by a licensee including providing reason for the non-acceptance and the opportunity for the licensee to resubmit a revised safety case.

Clause 31: Director may determine safety case

Allows the Director of Gas Safety to choose the safety case that will apply to any gas infrastructures in the event a licensee does not submit a safety case or the Director of Gas Safety decides not to accept a submitted safety case.

A licensee must be notified of the Director of Gas Safety's decision in this instance and there is no impediment for a licensee to submit a preferred safety case for consideration by the Director of Gas Safety.

Clause 32: Compliance with safety case

Sets out the penalty if gas infrastructure is not managed in accordance with the safety case accepted by the Director of Gas Safety.

Gas infrastructure and management systems for that gas infrastructure must not be modified, in a way that would cause an increase in risk, without the Director of Gas Safety's acceptance of that modification.

Clause 33: Revision of safety case

Sets out the circumstances when a licensee must submit a revised safety case to the Director of Gas Safety including technical improvement, increased risk and decommissioning.

Clause 34: Director may require submission of revised safety case

Describes the actions to be taken by the Director of Gas Safety in the event it is determined that a revised safety case is required including subsequent rights and obligations of the licensee.

Clause 35: Offence to fail to submit revised safety case when required

Creates an offence if a licensee does not submit a revised safety case when requested.

Clause 36: Application of provisions to revised safety case

Requirements applicable to new safety cases also apply to revised safety cases.

Division 3 – Gas infrastructure, gas installation, automotive gas fuel system, gas storage systems and gas fitting work

Clause 37: Carrying out of certain gas fitting work

Sets out the responsibilities when working on any gas installation, automotive gas fuel system, and gas storage system including compliance with regulations.

In some instances standards do not keep up with technology so application may be made to the Director of Gas Safety for an exemption from such requirements.

The Director of Gas Safety may only issue an exemption if safety is not compromised.

Clause 38: Power to require rectification, &c., in respect of certain works

Sets out the actions available to the Director of Gas Safety in respect to non-compliant and unsafe gas infrastructure, gas storage system, automotive gas fuel system or gas installation including requiring rectification and disconnection of gas.

Division 4 – Gas appliances and components

Clause 39: Interpretation of Division

Provides a definition of 'external authority' for the purposes of this Division.

Clause 40: Gas appliances and components to which this Division applies

Defines the gas appliances and components to which this Division applies, including appliances and components that are specified in relevant standards and as determined by the Director of Gas Safety.

Clause 41: Relevant standard

Outlines the establishment of relevant compliance and performance standards for type A gas appliances and components for which this Division applies.

Clause 42: Approval of gas appliances and components

Establishes the requirements for approval of type A gas appliances and components. Appliances and components are approved by the Director of Gas Safety or an External Authority approved by the Director of Gas Safety.

Appliances and components are approved to verify compliance with standards and ensure they are safe for use.

Clause 43: Labelling of gas appliances and components

Sets out the requirements for labelling approved type A gas appliances and components and makes it an offence to label type A gas appliances and components that are not approved.

Clause 44: Application for approval of gas appliances by the Director

Sets out the requirements for submission of an application to approve a type A gas appliance or component by the Director of Gas Safety including required test reports and samples.

Clause 45: Approval of appliances by Director

Sets out the process and terms in which the Director of Gas Safety may approve type A gas appliances and components.

Clause 46: Offence to install Type A appliance or component unless approved

Creates an offence for a person to knowingly install a type A gas appliance or component unless it is approved.

Clause 47: Sale of gas appliances and components

Creates an offence for a person to sell a type A gas appliance or component unless it is approved, labelled and complies with the relevant standard for the appliance or component.

This does not apply to the sale of gas appliances or components that have had approval suspended or cancelled within the previous six months, second hand appliances and type B appliances, provided the appliance or component is safe, complies with relevant standards and is not subject to prohibition on its sale.

Clause 48: Offence to use Type B appliances

Creates an offence for a person to operate a type B gas appliance unless the gas installation in which it is installed has been accepted by the Director of Gas Safety or as determined by the Director of Gas Safety.

Clause 49: Offence to alter approved or accepted gas appliance and component

Creates an offence for a person to alter an approved or accepted gas appliance or component without prior approval by the Director of Gas Safety.

Clause 50: Prohibition of supply of appliances or components

Defines the powers of the Director to prohibit the sale of gas appliances and components if it appears the gas appliance or component are not approved, do not comply with the relevant standard, are unsafe, are likely to become unsafe or pose a risk to persons or property through their use.

Clause 51: Offence to disobey prohibition

Creates an offence for not complying with a prohibition on the sale of gas appliances and components issued by the Director of Gas Safety under clause 50.

Clause 52: Recall of appliances or components

Defines the actions the Director may take if it appears a gas appliance or component is unsafe or likely to become unsafe because of its design or construction, including requiring a recall, or actions to make the gas appliance or component safe.

Clause 53: Failure to comply with recall notice

Creates an offence for not complying with a gas appliance or component recall issued by the Director of Gas Safety under clause 52.

Division 5 – Acceptance of gas installations

Clause 54: Acceptance of gas installations

Sets out the process for applying for acceptance of high risk stationary engines, complex gas installations, gas storage systems and type B appliances including obligations of the Director of Gas Safety in respect of installation design reviews.

These requirements do not apply to any repair or maintenance work.

Clause 55: Completion of accepted gas installations

Sets out the conditions under which an acceptance will expire, to ensure that work is completed within a reasonable time frame to ensure compliance with current standards.

The duration of an acceptance may be extended if a person submits an application acceptable to the Director of Gas Safety.

Division 6 – Determinations

Clause 56: Issue of determinations

Determinations issued by the Minister or the Director of Gas Safety may provide for matters relating to the safety of gas infrastructure, gas installations, gas appliances automotive gas fuel systems or gas storage systems.

Determinations must be consistent with the Act.

Clause 57: Determinations to be published and made available

Sets out the responsibilities of the Minister and Director of Gas Safety in respect to publishing determinations in the Gazette and making copies available to the public.

Clause 58: Review, amendment and replacement of determinations

Sets out responsibilities for the review of determinations and conditions under which amendments can be made.

Clause 59: Certification of prescribed work

Creates an offence for not complying with a determination.

Division 7 – Other

Clause 60: Alteration, extension or re-routing of gas infrastructure

Sets out allowable gas infrastructure alterations that do not require approval by the Director of Gas Safety including repairs, maintenance or any other work required to protect the public or property in an emergency.

Clause 61: Records to be kept by a licensee

Describes requirements regarding keeping and managing information relating to this Act, and the release of that information by a licensee.

Clause 62: Information to be provided by licensee

Describes the powers that can be exercised by the Director of Gas Safety in respect to requiring the production of records from a licensee.

PART 4 – GAS ENTITIES' POWERS AND DUTIES

Division 1 – Gas Safety Officers

Clause 63: Interpretation of Part

Defines terms used in this Part.

Clause 64: Appointment of gas safety officers

Sets out the process and conditions for licensees to appoint gas safety officers.

Clause 65: Gas safety officers' identity cards

A gas safety officer must be provided with an identification card. A gas safety officer must show this identity card when acting in accordance with this part and return the card within 21 days after the appointment as a safety officer finishes.

Clause 66: Gas safety officers may enter land for certain purposes related to gas infrastructure

Defines the powers of a gas safety officer to enter land in respect to gas infrastructure including requirements in the event that entry is hindered and emergency situations.

A gas safety officer must ensure any work undertaken causes as little damage as possible and a licensee must repair any damage that is caused or pay compensation.

Clause 67: Obstruction, &c. of authorised entry

Presents an offence for obstructing, hindering, delaying, threatening or assaulting a gas safety officer.

Division 2 – Powers relating to gas installations

Clause 68: Entry to inspect gas installations

Defines the powers of a gas safety officer to enter land in respect to gas installations including emergency situations and suspected theft of gas.

Clause 69: Entry to disconnect supply

Further sets out the powers of gas safety officers entering land to disconnect a supply of gas.

Division 3 – Powers and duties in emergencies

Clause 70: Licensee may cut off gas supply to avert danger

Defines the powers of a licensee to cut off the supply of gas to prevent dangerous situation. A licensee may in such situations cut off the supply of gas to a region or place without incurring any liability.

Clause 71: Emergency legislation not affected

Confirms that notwithstanding the requirements of the Act a licensee must comply with any law relating to emergency management including the Emergency Management Act 2006 or any other law relating to emergencies.

PART 5 – ENFORCEMENT

Division 1 – Appointment of authorised officers

Clause 72: Appointment of authorised officers

Sets out the process and conditions for the Director of Gas Safety to appoint authorised officers for enforcement of the Act.

Clause 73: When person ceases to be authorised officer

An authorised officer may resign or an authority may be revoked by the Director of Gas Safety.

Clause 74: Authorised officer's identity card

An authorised officer must be provided with an identification card that contains a photograph and signature of that officer. A gas safety officer must show this identity card when asked and must return the card if he or she stops being an authorised officer.

Division 2 – Powers of authorised officers

Clause 75: Authorised investigations

Any investigation undertaken by an authorised officer for the purpose of this Act is defined as an authorised investigation.

Clause 76: Powers of entry

Defines the powers of an authorised officer to enter land to conduct an authorised investigation including offences in the event that entry is hindered or the authorised officer is threatened.

Clause 77: General investigative powers of authorised officers

Sets out actions that can be undertaken by an authorised officer when conducting an authorised investigation including inspecting gas fitting work and regulated activities, examining and copying documents, taking photographs and gathering evidence.

An authorised officer must provide a receipt for any object physically taken and that object must be returned to its owner if proceedings are not taken within 12 months or are finished.

A court may take away any object that an authorised officer has seized.

Clause 78: Disconnection of gas supply

Defines the powers of an authorised officer in respect to disconnecting a supply of gas if it is being consumed in violation of this Act including notifications to be provided.

Provides for an offence to reconnect gas in this instance without approval by an authorised officer.

Clause 79: Power to make gas infrastructure or gas installation safe

Defines the powers of an authorised officer in respect to actions to make un-safe gas infrastructure, automotive fuel system, gas installation safe including directions.

Provides for an offence for not complying with a direction.

Clause 80: Power to require information

Sets out the powers available to an authorised officer in seeking information for an authorised investigation and administration of the Act.

Clause 81: Publication of result of investigation

Sets out the powers of the Director of Gas Safety when publishing results of authorised investigations.

Division 3 – Infringement notices

Clause 82: Infringement notices

Sets out the requirements related to infringement notices issued by authorised officers for non-compliances specified in the Regulations.

Division 4 – Legal proceedings

Clause 83: Limitation period for prosecutions

Sets out the time limits for commencing proceedings under the Act, specifically two years after the Director of Gas Safety becomes aware of an offence, one year after a report by a coroner and six months after a notice of defect has been issued.

PART 6 – APPEALS AND ADMINISTRATIVE REVIEW OF DECISIONS

Division 1 – Administrative review of decisions

Clause 84: Interpretation of Division

Defines terms used in this Division.

Clause 85: Application for reasons for decision

Sets out the process, for anyone affected by a decision of the Director of Gas Safety or an authorised officer, to apply for an explanation of that decision.

Clause 86: Application for administrative review

Sets out the process for applying to the Director of Gas Safety for an administrative review of a decision referred to in clause 84.

Clause 87: Stay of operation of decision

Sets out Director of Gas Safety responsibilities in respect to postponing the enforcement of any decision referred to in clause 84 during the administrative review process, provided that a safety risk is not created.

Clause 88: Reference of application for mediation

Describes the process in the event the Director of Gas Safety refers an administrative review to a mediator.

Clause 89: Decision on application for review of administrative decision

Sets out Director of Gas Safety's responsibilities for deciding an application in respect to an administrative review of a decision including confirming, amending or substituting the original decision.

Clause 90: Reference of application for review for mediation or advice

The Director of Gas Safety may delegate his or her power to review a decision to a panel or mediator.

Division 2 – Appeals

Clause 91: Appeal against decision made in respect of administrative review

Sets out the process, for anyone who disagrees with an administrative review decision of the Director of Gas Safety, to appeal against that decision to the Minister.

Clause 92: Stay of operation of decision

Sets out the Minister's responsibilities in respect to postponing the enforcement of any decision referred to in clause 90 provided that a safety risk is not created.

Clause 93: Powers of Minister on appeal

Sets out the Minister's responsibilities when deciding an appeal against an administrative review including confirming, amending or substituting the original decision. This decision by the Minister is not subject to appeal.

Clause 94: Reference of decision to Tribunal

Describes the process in the event the Minister refers a technical or complex appeal to a Tribunal.

Clause 95: Constitution of Tribunal

Sets out requirements for the composition of a tribunal that is hearing and deciding on an appeal referred to it by the Minister under clause 90.

PART 7 – OFFENCES

Clause 96: Unlawful interference with gas infrastructure or gas installation

Establishes an offence for any person to interfere with or damage gas infrastructure or gas installation without authority of the owner of that infrastructure or installation including attaching or disconnecting a gas connection.

Clause 97: Impersonation, obstruction of officials

Defines offences for acting as an authorised or gas safety officer when not entitled to do so, and hindering and intimidating an authorised or gas safety officers in their administration the Act.

Clause 98: Giving of false or misleading information

Creates an offence for knowingly providing false or misleading statement or any other information required under the Act.

Clause 99: Confidentiality

Establishes requirements relating to the disclosure of information obtained during administration the Act and creates an offence for non-compliance with those requirements.

Clause 100: Verification of information

The Director of Gas Safety may require any information provided under the Act to be verified by a signed declaration. It is an offence to provide a declaration if that information is false or misleading.

Clause 101: Offences by bodies corporate

Sets out that offences committed by body corporates are to be treated the same as those committed by a natural person including any applicable defence.

Clause 102: Continuing offence

Confirms that liability continues while an offence against the Act remains, and sets out applicable penalties for the duration that the offence continues.

Clause 103: Statutory declarations

The Director of Gas Safety may require any information provided to him or her to be verified by a statutory declaration. If the Director of Gas Safety requires but does not receive a statutory declaration the information is not deemed to be provided.

Clause 104: General defence

Describes that it is a defence in proceedings for an offence under the Act if it can be proven that the offence was committed to safeguard people and property.

PART 8 – MISCELLANEOUS

Clause 105: Exemptions

Sets out process for the Governor to declare that certain obligations are exempt from compliance with the Act including persons, infrastructure, gas appliances, gas installations and gas fitting work. It is an offence not to comply with any conditions that form part of the Governor's exemption.

Clause 106: Application and issue of warrants generally

Sets out the general process for an authorised officer and gas safety officer to apply and obtain a warrant to enter a place.

Clause 107: Urgent situations

Sets out the process, if circumstances require a quick response to a serious matter, for electronic lodgement of an application to a Justice of the Peace for a warrant to enter a place.

Clause 108: Extension of time limits

Describes the Director's role and responsibilities in relation to extending time limits that are prescribed in the Act.

Clause 109: Notice of work that may affect gas infrastructure

Defines the offence for carry out, or instructing another person, to carry out boring or excavation within one metre of buried gas infrastructure without permission from the operator of the gas infrastructure.

It is a defence if the work was conducted in an emergency.

Such work must be conducted in accordance with instructions prescribed in the regulations and any reasonable requirement of the gas infrastructure operator.

Clause 110: Undertaking work near pipelines subject to an easement

Defines an offence for working in ground that is subject to an easement under the Gas Industry Act 2018 without permission from the operator of the pipeline.

Hand excavation, ploughing or cultivation down to a depth prescribed in the regulation is exempt from this clause.

Clause 111: Obligation not to interfere with regulated activities

Defines the offence of interfering with regulated activities being carried out by a licensee.

Clause 112: Immunity from personal liability

Confirms that any employee of the Crown, including the Director of Gas Safety, Delegates of the Director of Gas Safety and authorised officers, are not personally liable for actions undertaken while performing duties of this Act provided they were undertaken in good faith.

Clause 113: Evidence

Sets out that certain evidence can be used in legal proceedings under this Act.

Clause 114: Service of notices

Sets out the circumstances where a notice or any other document has been deemed to be served.

Clause 115: Notices not statutory rules

Describes that any notice given by the Director of Gas Safety under the Act is not deemed a statutory rule within the meaning of the Rules Publication Act 1953.

Clause 116: Regulations

Regulations may be made for the purposes of the Act.

Clause 117: Savings and transitional provisions

A safety and operating plan or safety case approved, or appliance and installation acceptance issued by the Director of Gas Safety under the Gas Act 2000 or Gas Pipelines Act 2000 is deemed to be still approved under this Gas Safety Act when in force.

Clause 118: Administration of Act

Administration of the Act is assigned to the Minister for Building and Construction, and Department of Justice until changed in accordance with the Administrative Arrangements Act 1990