

South Australia

## Gas Regulations 2012

under the *Gas Act 1997*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Gas Regulations 2012*.

### 2—Commencement

These regulations will come into operation on 1 September 2012.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

*Act* means the *Gas Act 1997*;

*AS/NZS 1596* means AS/NZS 1596—*The storage and handling of LP gas* published jointly by Standards Australia and Standards New Zealand, as in force from time to time (including any code or standard called up by AS/NZS 1596);

*AS 2885* means AS 2885—*Pipelines—Gas and liquid petroleum* published in part jointly by Standards Australia and Standards New Zealand and in other parts by Standards Australia alone, as in force from time to time (including any code or standard called up by AS 2885);

*AS 3645* means AS 3645—*Essential requirements for gas equipment* published by Standards Australia, as in force from time to time (including any code or standard called up by AS 3645);

*AS 3814* means AS 3814—*Industrial and Commercial Gas-fired Appliances* published by Standards Australia, as in force from time to time (including any code or standard called up by AS 3814);

**AS 4564** means AS 4564—*Specification for General Purpose Natural Gas* published by Standards Australia, as in force from time to time (including any code or standard called up by AS 4564);

**AS/NZS 4645** means AS/NZS 4645—*Gas distribution networks* published jointly by Standards Australia and Standards New Zealand, as in force from time to time (including any code or standard called up by AS/NZS 4645);

**AS 4670** means AS 4670—*Commercial propane and commercial butane for heating purposes* published by Standards Australia, as in force from time to time (including any code or standard called up by AS/NZS 4670);

**AS/NZS 5601** means AS/NZS 5601—*Gas Installations* published jointly by Standards Australia and Standards New Zealand, as in force from time to time (including any code or standard called up by AS/NZS 5601);

**business day** means a day other than a Saturday, Sunday or public holiday;

**distribution system operator** means a gas entity authorised by a licence to carry on the operation of a distribution system;

**flame speed factor** means the flame speed factor determined in accordance with the formula set out in Schedule 1;

**inset distribution system** means a distribution system that serves only a group of premises or parts of premises in the same ownership or subject to the same community plan or strata plan under the *Community Titles Act 1996* or *Strata Titles Act 1988*;

**liquefied petroleum gas** has the same meaning as **commercial propane** in AS 4670;

**natural gas** has the same meaning as in AS 4564;

**prescribed transmission pipeline** means a pipeline in respect of which any of the following licences has been granted under the *Petroleum and Geothermal Energy Act 2000*:

- (a) PL1
- (b) PL3
- (c) PL4
- (d) PL6
- (e) PL11
- (f) PL13;

**retail contract** means a contract between a gas entity and a customer for the sale and supply of gas;

**retailer** means a gas entity authorised by a licence to carry on the retailing of gas;

**sooting index** means the sooting index determined in accordance with the formula set out in Schedule 1;

**Type A appliance** means a gas appliance (other than a Type B appliance) of a kind specified by the Technical Regulator for the purposes of these regulations;

**Type B appliance** has the same meaning as in AS/NZS 5601;

**Wobbe Index** has the same meaning as in AS 4564.

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#### 4—Compliance with standards or codes that are varied or substituted

- (1) Despite a requirement of these regulations for work to be carried out in accordance with a standard or code as in force from time to time, where the code or standard is varied or substituted, work for the installation, commissioning or modification of gas infrastructure, a gas installation or a Type B appliance may be carried out in accordance with the old standard—
- (a) if—
- (i) design work for that installation, commissioning or modification commenced before (but not more than 1 month before) the publication of the new standard and the work is to be completed within 1 year after that publication; or
  - (ii) the work (disregarding design or other preparatory work) had commenced before the publication of the new standard and is to be completed within 1 year after that publication; or
  - (iii) the work commenced after the publication of the new standard and is to be completed within 6 months after that publication; or
  - (iv) the work is to be undertaken under a contract based on the old standard and entered into before the publication of the new standard and is to be completed within 1 year after that publication; or
  - (v) the work is connected with the construction of premises and construction work had commenced before the publication of the new standard and is to be completed within 1 year after that publication; or
- (b) in any other case—with the approval of the Technical Regulator, on terms and conditions the Technical Regulator considers appropriate.
- (2) If—
- (a) pursuant to subregulation (1) work is purportedly carried out in accordance with an old standard; and
  - (b) the work or the appliance to which the work relates complies with that old standard,
- an approval or certification that the work or the appliance to which the work relates (as the case requires) complies with the standard or code may be given for the purposes of these regulations.
- (3) In this regulation—
- (a) a standard or code as in force following the variation or substitution of the standard or code is referred to as the ***new standard***; and
  - (b) a standard or code as in force immediately prior to the variation or substitution of the standard or code is referred to as the ***old standard***; and
  - (c) a reference to ***work*** includes a reference to examinations and tests related to the work.

## 5—Interpretation of certain terms used in Act

- (1) For the purposes of the definition of *annual gas consumption level* in section 4 of the Act, the following provisions apply to the determination of a customer's annual gas consumption level:
- (a) the customer's annual gas consumption level is to be determined for each metered delivery point through which the customer has or seeks gas supply under a retail contract;
  - (b) if the customer has been entitled under a retail contract to gas supply through the delivery point for the 12 months immediately preceding the relevant day, the customer's annual gas consumption level for the delivery point is—
    - (i) the actual gas supply, expressed in terajoules, through the delivery point for that 12 month period as measured by the meter at the delivery point; or
    - (ii) if the measurement of the gas supply by the meter has been significantly affected by inaccuracies during that 12 month period—the estimated gas supply, expressed in terajoules, through the delivery point for the 12 months immediately following the relevant day;
  - (c) if the customer has not been entitled under a retail contract to gas supply through the delivery point for the 12 months immediately preceding the relevant day, the customer's annual gas consumption level for the delivery point is the estimated gas supply, expressed in terajoules, through the delivery point for the 12 months immediately following the relevant day;
  - (d) an estimate is to be made for the purposes of paragraph (b) or (c) taking into account relevant past gas consumption levels, the gas consumption level of plant and equipment to use gas delivered through the delivery point, the operations for which gas is required to be supplied through the delivery point and other relevant factors;
  - (e) the determination of the actual or estimated gas supply through the delivery point may be by agreement between the customer and the gas entity or, failing such agreement, will be a matter for the decision of the Commission on application to the Commission by the customer or the entity;
  - (f) a determination under this regulation of the customer's annual gas consumption level for the delivery point continues in operation from the relevant day until—
    - (i) the customer ceases to be entitled to gas supply through the delivery point under a retail contract with the gas entity; or
    - (ii) a subsequent determination is made under this regulation of the customer's annual gas consumption level for the delivery point,whichever first occurs;
  - (g) at least 12 months must elapse from the relevant day before a subsequent determination is made under this regulation of the customer's annual gas consumption level for the delivery point.

- (2) In subregulation (1)—
- the relevant day**, in relation to the determination of the customer's annual gas consumption level for the delivery point, means—
- (a) the day on which the determination is made; or
  - (b) if some earlier or later day is agreed to by the customer and the gas entity, or is decided on by the Commission, as the relevant day for the purposes of the determination—that day.
- (3) For the purposes of the definition of **distribution system** in section 4 of the Act, prescribed transmission pipelines are declared to form part of a distribution system.
- (4) For the purposes of the definition of the term in section 4 of the Act, **gas** does not include gas that has not been processed to make it suitable for general consumption.
- (5) For the purposes of the definition of **retailing** in section 4 of the Act, retailing does not include—
- (a) a customer charging for the supply of gas if the charge forms an unspecified part of rent or charges for the occupation or use of premises; or
  - (b) a customer charging for the supply of gas if—
    - (i) the charge is a specified amount for gas supplied by the customer to another person during a period through an inset distribution system; and
    - (ii) the charge does not exceed an amount determined as follows:
$$A = \frac{BC}{D}$$
where—

**A** is the amount to be determined;

**B** is the cost to the customer of the gas supplied to the inset distribution system during the period;

**C** is the quantity of gas drawn from the system by the other person during the period (or a reasonable estimate of the quantity);

**D** is the total quantity of gas drawn from the system during the period; and
    - (iii) the customer gives the other person, when charging the other for the supply of gas, written notice of—
      - (A) the cost to the customer of the gas supplied to the inset distribution system during the period; and
      - (B) the quantity of gas drawn from the system by the other person during the period (or if the quantity is estimated, the quantity estimated and the basis of the estimate).
- (6) For the purposes of the definition of **small customer** in section 4 of the Act, each customer whose annual gas consumption level for a delivery point is less than 1 terajoule is classified as a small customer in relation to gas supply to the customer through the delivery point.

## Part 2—Administration

### 6—Functions and powers of Commission

Pursuant to section 6A of the Act, the Commission has (in addition to the Commission's functions and powers under the Act and the *Essential Services Commission Act 2002*) the function of determining, in accordance with a process specified by the Minister by notice in the Gazette, and at the expense of 1 or more of the entities, any matter in dispute between 2 or more gas entities that falls within a range of matters specified by the Minister by notice in the Gazette.

## Part 3—Licensing of gas entities

### 7—Exemption from requirement to hold licence

- (1) A person who carries on the operation of a distribution system is not required to be licensed under the Act if the system consists only of an inset distribution system.
- (2) A person who carries on the operation of a distribution system is not required to be licensed under the Act if the system consists only of a prescribed transmission pipeline.
- (3) A person who carries on the retailing of gas is not required to be licensed under the Act if the sale of gas is only for the operation of an electricity generating plant by a person who holds or is required to hold a licence under the *Electricity Act 1996* to carry on the operation of the plant.
- (4) Subject to these regulations, an exemption under this regulation is subject to the condition that the person comply with any requirement imposed by or under the Act, these regulations or a code made by the Commission under the *Essential Services Commission Act 2002* as if the person were a gas entity authorised by a licence to carry on the operations to which the exemption relates.
- (5) The appropriate regulator may grant an exemption from subregulation (4), or from specified requirements referred to in that subregulation, on terms and conditions the appropriate regulator considers appropriate.

- (6) In subregulation (5)—

*appropriate regulator* means—

- (a) in relation to Part 5 of the Act or Part 9 of these regulations or any safety requirement—the Technical Regulator; or
- (b) in any other case—the Commission.

### 8—Licence fees—transitional provision—licensed supplier of reticulated gas under repealed Act

Pursuant to clause 2(2) of Schedule 1 of the Act, the following provisions apply with respect to the payment of licence fees and the initial licence period:

- (a) a person to whom a licence is issued under clause 2(1) of Schedule 1 authorising the retailing of gas must pay—

- (i) not later than the first day of the licence period, by way of annual licence fee, an amount equal to one-quarter of the amount calculated or fixed under section 24(3)(a) of the Act; and
  - (ii) thereafter, instalments of the annual licence fee as for a licence issued on 1 October 1997;
- (b) a person to whom a licence is issued under clause 2(1) of Schedule 1 authorising the operation of a distribution system must pay—
- (i) not later than the first day of the licence period, by way of annual licence fee, an amount equal to 1 quarter of the amount calculated or fixed under section 24(3)(b) of the Act; and
  - (ii) thereafter, instalments of the annual licence fee as for a licence issued on 1 October 1997.

### **9—Licence fees and returns**

- (1) For the purposes of section 24(2) of the Act, the licence fee, or the first instalment of the licence fee, (as the case may require) must—
  - (a) in the case of a licence referred to in regulation 8 (after the initial payments under that regulation), be paid before 1 October in each year; or
  - (b) in any other case, be paid before the anniversary in each year of the day on which the licence was issued.
- (2) For the purposes of section 24(2) of the Act, an annual return must be lodged before 31 August in each year.
- (3) For the purposes of section 24(7) of the Act, the penalty for default—
  - (a) for failing to pay a licence fee, or an instalment of a licence fee, is 10% per annum of the outstanding amount calculated daily on a cumulative basis;
  - (b) for failing to lodge an annual return is \$500.
- (4) For the purposes of paragraph (d) of the definition of *administrative costs* in section 24(9) of the Act, the costs of administration of the Australian Energy Market Commission relating to the gas supply industry in South Australia in the financial year to which the licence relates is a prescribed cost.

### **10—Licence condition requiring retailers to match available gas to customers' estimated aggregate demand**

The Commission must make a licence authorising the retailing of gas subject to a condition requiring the gas entity to ensure that at all times the quantity of gas available to it for delivery to its customers from a distribution system is sufficient to meet reasonable forecasts of its customers' aggregate demand for gas from the distribution system.

### **11—Ombudsman scheme**

For the purposes of sections 26(1)(d) and 26A(2)(i) of the Act, the electricity supply industry is prescribed.

## 12—Licence condition requiring pricing information for small customers

For the purposes of section 26A(2)(d) of the Act, 1 January 2005 is the prescribed date.

## 13—Prescribed information in small customer accounts for purposes of section 26A(2)(da) of Act

For the purposes of section 26A(2)(da) of the Act, the following provisions apply:

- (a) the gas entity must include in each account for charges sent to a small customer for gas supply through a particular metered delivery point the following information:
  - (i) the customer's average daily consumption level, expressed in megajoules, of gas supplied through the delivery point for the period to which the account relates;
  - (ii) the customer's average daily consumption level, expressed in megajoules, of gas supplied through the delivery point for each period during the preceding 12 months in respect of which the customer was sent by the entity an account for gas supply through the delivery point;
  - (iii) the average daily cost to the customer of gas supplied to the customer through the delivery point during the period to which the account relates;
  - (iv) the amount of greenhouse gas emissions associated with the customer's consumption of gas supplied through the delivery point for the period to which the account relates;
  - (v) the amount of greenhouse gas emissions associated with the customer's consumption of gas supplied through the delivery point for each period during the preceding 12 months in respect of which the customer was sent by the entity an account for gas supply through the delivery point;
- (b) the information referred to in paragraphs (a)(ii) and (a)(v) must be presented in graphical form;
- (c) the amounts of the greenhouse gas emissions referred to in paragraphs (a)(iv) and (a)(v) must be calculated, in a manner approved by the Commission, by reference to material about emissions coefficients published by the Clean Energy Regulator established under the *Clean Energy Regulator Act 2011* of the Commonwealth;
- (d) the information referred to in paragraph (a) must be accompanied by explanatory material of a kind approved by the Commission;
- (e) the information and explanatory material referred to in paragraphs (a) and (d) must be presented in a print size and format approved by the Commission;
- (f) the gas entity must also include in each account for gas charges sent to a small customer the following statement:

For more information about energy efficiency and to compare energy retail prices, visit *www.escosa.sa.gov.au* or call .....  
[telephone number as specified by the Commission by written notice to the entity];

- (g) the statement referred to in paragraph (f) must be presented in the first page of each account in 9 point bold font.

#### **14—Ombudsman scheme and retailing—annual gas consumption level**

For the purposes of section 26A(2)(i) of the Act, an annual gas consumption level of 10 terajoules is prescribed.

#### **15—Content of register of licences**

For the purposes of section 32(2) of the Act, the register of licences must include (in addition to the terms and conditions of each licence)—

- (a) details of each application for the issue, renewal or variation of a licence; and  
(b) on any such application being refused or withdrawn, a statement to that effect.

### **Part 4—Residential Energy Efficiency Scheme**

#### **16—Application**

- (1) This Part applies to a gas entity that holds a licence authorising the retailing of gas within the State.
- (2) However, this Part will not apply in a particular calendar year to a gas entity that sells gas as a retailer to fewer than the threshold number of residential customers within South Australia as at 30 June in the preceding year.
- (3) For the purposes of subregulation (2), the Minister must, by notice in the Gazette, set the threshold number for a 3-year period at the time of setting the annual greenhouse gas reduction targets and the annual energy audit targets for the purposes of this Part.
- (4) This regulation applies subject to the operation of regulations 23(4), 24(5) and 25(4).

#### **17—Interpretation**

- (1) In this Part, unless the contrary intention appears—

**energy audit** means an audit of a priority group household undertaken by a retailer in accordance with the minimum specification published by the Minister by notice in the Gazette;

**energy credit** means the following (if the relevant differences are positive):

- (a) in relation to energy audits, the difference (expressed as an amount of energy audits) between the number of energy audits actually undertaken by a retailer in a year and the GLEAT that applies to the retailer for that year;
- (b) in relation to energy efficiency activities, the difference (expressed in tonnes of carbon dioxide equivalent) between the actual tonnes of carbon dioxide equivalent taken to have been saved by a retailer in a year through the conduct of energy efficiency activities and the GGRT that applies to the retailer for that year;

- (c) in relation to energy efficiency activities for priority group households, the difference (expressed in tonnes of carbon dioxide equivalent) between the actual tonnes of carbon dioxide equivalent taken to have been saved by a retailer in a year through the conduct of energy efficiency activities for priority group households and a PGGGRT that applies to the retailer for that year;

**energy efficiency activity** means an activity relating to residential premises determined by the Minister or the Commission pursuant to regulation 26 to be an energy efficiency activity;

**GGRT**—means a gas licence greenhouse gas reduction target calculated in accordance with subregulation (2);

**GLEAT**—means a gas licence energy audit target calculated in accordance with subregulation (3);

**PGGGRT**—see regulation 19;

**priority group household** means residential premises in which a person resides who—

- (a) is the holder of a current pensioner concession card issued by the Commonwealth Government; or
- (b) is the holder of a current TPI Gold Repatriation Health Card issued by the Commonwealth Government; or
- (c) is the holder of a current War Widows Gold Repatriation Health Card issued by the Commonwealth Government; or
- (d) is the holder of a current Gold Repatriation Health Card (EDA) issued by the Commonwealth Government; or
- (e) is the holder of a current Health Care Card (including a Low Income Health Care Card) issued by the Commonwealth Government; or
- (f) is a recipient of the *South Australian Government Energy Concession*; or
- (g) falls within a class of persons who are experiencing hardship determined or approved by the Commission for the purposes of these regulations;

**relevant electricity retailer** means the holder of a licence under the *Electricity Act 1996* authorising the retailing of electricity to which Part 4 of the *Electricity (General) Regulations 2012* applies;

**relevant gas retailer** means a gas entity to which this Part applies;

**residential customer** means a small customer—

- (a) who acquires gas primarily for domestic use; and
- (b) who satisfies other criteria (if any) determined by the Commission for the purposes of this definition;

**retailer** means a relevant electricity retailer or a relevant gas retailer;

**threshold number**—see regulation 16(3).

- (2) The GGRT for a relevant gas retailer in any calendar year is calculated in accordance with the following formula:

$$GGRT_t = \frac{GS_{f_{y-1}} \times F_{g_t}}{\sum_{i=1}^M \left( (ES_{i_{f_{y-1}}} - GP_{i_{f_{y-1}}}) \times F_{e_t} \right) + \sum_{j=1}^N \left( GS_{j_{f_{y-1}}} \times F_{g_t} \right)} \times GRT_t$$

where—

- $GGRT_t$  is the annual greenhouse gas reduction target for calendar year t that applies to this retailer expressed in tonnes of carbon dioxide equivalent (tCO<sub>2</sub>e)
- $ES_{i_{f_{y-1}}}$  is total electricity sales to residential customers within South Australia during the financial year preceding calendar year t by relevant electricity retailer i under the *Electricity Act 1996*, expressed in gigajoules (GJ)
- $F_{e_t}$  is the current full fuel cycle emission factor for end users of purchased electricity in South Australia as specified in the *National Greenhouse Accounts (NGA) Factors*, published by the Commonwealth, expressed in tonnes of carbon dioxide equivalent per gigajoule (tCO<sub>2</sub>e/GJ)
- $F_{g_t}$  is the current full fuel cycle emission factor for small users of natural gas in South Australia as specified in the *National Greenhouse Accounts (NGA) Factors*, published by the Commonwealth, expressed in tonnes of carbon dioxide equivalent per gigajoule (tCO<sub>2</sub>e/GJ)
- $GP_{i_{f_{y-1}}}$  is the total GreenPower electricity sales to residential customers within South Australia, accredited under the National GreenPower Accreditation Program, during the financial year preceding calendar year t by relevant electricity retailer i under the *Electricity Act 1996*, expressed in gigajoules (GJ)
- $GRT_t$  is the annual greenhouse gas reduction target fixed by the Minister under regulation 18 for calendar year t, expressed in tonnes of carbon dioxide equivalent (tCO<sub>2</sub>e)
- $GS_{f_{y-1}}$  is the total gas sales for this retailer to residential customers within South Australia during the financial year preceding calendar year t, expressed in gigajoules (GJ)
- $GS_{j_{f_{y-1}}}$  is the total gas sales to residential customers within South Australia during the financial year preceding calendar year t by relevant gas retailer j, expressed in gigajoules (GJ)
- $M$  is the total number of relevant electricity retailers for year t
- $N$  is the total number of relevant gas retailers for year t.

- (3) The GLEAT for a relevant gas retailer in any calendar year is calculated in accordance with the following formula:

$$GLEAT_t = \frac{GC_{f_{y-1}}}{\sum_{i=1}^M EC_{i_{f_{y-1}}} + \sum_{j=1}^N GC_{j_{f_{y-1}}}} \times EAT_t$$

where—

- $GLEAT_t$  is the annual energy audit target for calendar year t that applies to this retailer expressed as the number of energy audits to be delivered
- $EAT_t$  is the annual energy audit target fixed by the Minister under regulation 20 for calendar year t, expressed as the number of energy audits to be delivered

$EC_{i_{fy-1}}$	is the total number of residential customers within South Australia to whom relevant electricity retailer i sold electricity under the <i>Electricity Act 1996</i> as at the final day of the financial year preceding calendar year t
$GC_{fy-1}$	is the total number of residential customers within South Australia to whom this retailer sold gas as at the final day of the financial year preceding calendar year t
$GC_{j_{fy-1}}$	is the total number of residential customers within South Australia to whom relevant gas retailer j sold gas as at the final day of the financial year preceding calendar year t
$M$	is the total number of relevant electricity retailers for year t
$N$	is the total number of relevant gas retailers for year t.

### 18—Minister to set greenhouse gas reduction targets

- (1) The Minister must, by notice in the Gazette, fix the annual greenhouse gas reduction targets for the purposes of this Part.
- (2) The targets are to be expressed as the annual amount of greenhouse gas savings (in terms of tonnes of carbon dioxide equivalent) that must be achieved by retailers through the carrying out of energy efficiency activities in accordance with this Part and Part 4 of the *Electricity (General) Regulations 2012*.
- (3) The Minister must, for the purposes of subregulation (1)—
  - (a) fix annual greenhouse gas reduction targets for 2009, 2010 and 2011 before 1 January 2009; and
  - (b) fix annual greenhouse gas reduction targets for 2012, 2013 and 2014 before 1 January 2012.

### 19—Minister to determine percentage of greenhouse gas reduction target to be delivered to priority group households

- (1) The Minister must, by notice in the Gazette, determine that a percentage of an annual greenhouse gas reduction target is to be achieved by the provision of energy efficiency activities to priority group households.
- (2) The priority group greenhouse gas reduction target (*PGGGRT*) for a retailer is determined by multiplying the GGRT for that retailer by the percentage fixed by the Minister under subregulation (1).
- (3) In addition, the Minister may, by notice in the Gazette, determine that certain percentages of the PGGGRT are to be achieved by the provision of energy efficiency activities to particular classes of priority group households and each determination will constitute a separate PGGGRT for the purposes of this Part.

### 20—Minister to set energy audit targets

- (1) The Minister must, by notice in the Gazette, fix the annual energy audit targets for the purposes of this Part.
- (2) The targets are to be expressed as the annual number of energy audits required to be undertaken by retailers in accordance with this Part and Part 4 of the *Electricity (General) Regulations 2012*.
- (3) Energy audits will relate to priority group households.

- (4) The Minister must, for the purposes of subregulation (1)—
  - (a) fix annual energy audit targets for 2009, 2010 and 2011 before 1 January 2009; and
  - (b) fix annual energy audit targets for 2012, 2013 and 2014 before 1 January 2012.

## **21—Administration**

- (1) The Commission has such functions and powers as are necessary or expedient to give effect to the residential energy efficiency scheme including the following functions:
  - (a) to administer the scheme;
  - (b) to ensure that retailers comply with the requirements of this Part;
  - (c) to report to the Minister—
    - (i) at the end of each year as to the administration of the scheme and the progress of retailers in achieving the targets set by this Part; and
    - (ii) from time to time on any other matter relating to this Part as required by the Minister.
- (2) The Commission—
  - (a) is required to impose a condition on the licence of a retailer under the Act that the retailer comply with this Part, pursuant to section 25(2) of the Act (so that a failure to comply with this Part will constitute a contravention of a condition of the licence); and
  - (b) is to vary conditions of the licence of a retailer under the Act to ensure that the retailer complies with this Part as required from time to time, pursuant to section 29(1) of the Act (so that a failure to comply with this Part will constitute a contravention of a condition of the licence).

## **22—Notification and adjustment of targets**

- (1) The Commission must, in relation to each calendar year in which the residential energy efficiency scheme is to apply, notify in writing each retailer to which this Part applies of any annual—
  - (a) GLEAT; and
  - (b) GGRT; and
  - (c) PGGRT,that applies to the retailer for that year.
- (2) The Commission may adjust a target that would otherwise apply to a retailer after taking into account any—
  - (a) energy audit shortfall; and
  - (b) energy efficiency shortfall; and
  - (c) energy efficiency shortfall for priority group households,from a previous year that must be added to the target in accordance with regulation 23, 24 or 25, respectively.

- (3) If the customers of 1 retailer (in this regulation referred to as the *first retailer*) are transferred during a year to another retailer (in this regulation referred to as the *acquiring retailer*) by the sale, transmission or assignment of the whole or part of the business or undertaking of the first retailer, the Commission may adjust the targets of both the first retailer and the acquiring retailer for that year on a pro rata basis taking into account the date on which the customers were transferred.
- (4) If—
- (a) this Part and Part 4 of the *Electricity (General) Regulations 2012* did not apply to the acquiring retailer before the transfer of customers to the acquiring retailer because the acquiring retailer did not have the threshold number of customers for the purposes of regulation 16; and
  - (b) as a result of the transfer of customers the acquiring retailer has at least the threshold number of customers,
- this Part and Part 4 of the *Electricity (General) Regulations 2012* apply with immediate effect to the acquiring retailer and the Commission must—
- (c) in accordance with subregulation (1), notify the acquiring retailer of its targets under this Part; and
  - (d) adjust the targets that apply to both the first retailer and the acquiring retailer for that year on a pro rata basis taking into account the date on which the transfer of customers occurred.
- (5) If a retailer accrues an energy credit in a year and does not transfer the credit under regulation 27(1), the Commission must, on application by the relevant retailer, take the credit into account in determining whether the retailer has met a target that applies to the retailer in any subsequent year.

## 23—Energy audits

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake the annual number of energy audits in accordance with the GLEAT that applies to the retailer for that year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes in a year at least 90% of the energy audits required to be undertaken in that year in accordance with the GLEAT that applies to the retailer for that year.
- (3) Despite subregulation (2), if a retailer fails to achieve its GLEAT in a year, the energy audit shortfall must be added to a GLEAT that applies to the retailer in a subsequent year.
- (4) If—
- (a) a retailer undertakes energy audits in a year sufficient to achieve at least 90% of its GLEAT for that year but does not achieve its GLEAT; and
  - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 16(3),

the retailer must undertake energy audits in the subsequent year to account for its energy audit shortfall for priority group households from the previous year.

(5) In this regulation—

**energy audit shortfall** means the difference (expressed as an amount of energy audits) between the GLEAT that applies to the retailer for a year and the number of energy audits actually provided by that retailer in that year.

## 24—Energy efficiency activities

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake energy efficiency activities sufficient to achieve the GGRT that applies to the retailer for that year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of the GGRT that applies to the retailer for that year.
- (3) Despite subregulation (2), where a retailer fails to achieve its GGRT in a year, the greenhouse gas reduction shortfall must be added to a GGRT that applies to the retailer in a subsequent year.
- (4) An energy efficiency activity undertaken by a retailer for the purposes of achieving a PGGRT under regulation 25 is taken to be included as an energy efficiency activity undertaken by a retailer for the purpose of achieving its GGRT under this regulation.
- (5) If—
  - (a) a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of its GGRT for that year but does not achieve its GGRT; and
  - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 16(3),

the retailer must undertake energy efficiency activities in the subsequent year to account for its greenhouse gas reduction shortfall from the previous year.

- (6) If—
  - (a) a retailer fails to achieve its GGRT with respect to any year; and
  - (b) the retailer—
    - (i) pays a shortfall penalty in accordance with the requirements of section 91A of the Act with respect to that failure; or
    - (ii) is subject to a penalty on account of a prosecution in respect of that failure,

the greenhouse gas reduction shortfall to which the shortfall penalty or prosecution relates will no longer apply to the retailer.

(7) In this regulation—

**greenhouse gas reduction shortfall** means the difference (expressed in tonnes of carbon dioxide equivalent) between the GGRT that applies to the retailer for a year and the actual tonnes of carbon dioxide equivalent taken to have been saved by that retailer in that year through the conduct of energy efficiency activities.

## 25—Energy efficiency activities for priority group households

- (1) A retailer to which this Part applies must, subject to subregulation (2), undertake energy efficiency activities sufficient to achieve any PGGGRT that applies to the retailer for a year (as adjusted to take into account any shortfall added under subregulation (3)).
- (2) It is not a breach of subregulation (1) if a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of a PGGGRT that applies to the retailer for that year.
- (3) Despite subregulation (2), where a retailer fails to achieve a PGGGRT in a year the greenhouse gas reduction shortfall for priority group households must be added to a PGGGRT that applies to the retailer in a subsequent year.
- (4) If—
  - (a) a retailer undertakes energy efficiency activities in a year sufficient to achieve at least 90% of a PGGGRT for that year but does not achieve the PGGGRT; and
  - (b) in the subsequent calendar year this Part no longer applies to the retailer because the retailer retails gas to fewer than the threshold number of residential customers set by the Minister under regulation 16(3),

the retailer must undertake energy efficiency activities in the subsequent year to account for its greenhouse gas reduction shortfall for priority group households from the previous year.

- (5) If—
  - (a) a retailer fails to achieve its PGGGRT with respect to any year; and
  - (b) the retailer—
    - (i) pays a shortfall penalty in accordance with the requirements of section 91A of the Act with respect to that failure; or
    - (ii) is subject to a penalty on account of a prosecution in respect of that failure,

the greenhouse gas reduction shortfall for priority group households to which the shortfall penalty or prosecution relates will no longer apply to the retailer.

- (6) In this regulation—

***greenhouse gas reduction shortfall for priority group households*** means the difference (expressed in tonnes of carbon dioxide equivalent) between a PGGGRT that applies to the retailer for a year and the actual tonnes of carbon dioxide equivalent taken to have been saved by that retailer in that year through the conduct of energy efficiency activities for priority group households.

## 26—Determination of energy efficiency activities

- (1) Before 1 January 2009, the Minister must, by notice in the Gazette, determine 1 or more activities to be energy efficiency activities for the purposes of this Part.
- (2) On or after 1 January 2009, the Commission may, by notice in the Gazette, on its own initiative or by application, determine, in accordance with any requirements set by the Minister, that an activity is an energy efficiency activity.

- (3) An application under subregulation (2) must be made in a manner and form determined by the Commission.
- (4) A determination may be of general application or limited (according to criteria determined by the Commission) in its application to a particular retailer or particular retailers.
- (5) A notice published under this regulation must—
  - (a) describe the energy efficiency activity; and
  - (b) set out the minimum specification in accordance with which the activity must be performed; and
  - (c) specify the amount of greenhouse gases (expressed in tonnes of carbon dioxide equivalent) taken to be saved if the activity is undertaken; and
  - (d) set out the fact that the amount of greenhouse gases deemed to be saved for the purpose of meeting a target under these regulations is the amount specified under paragraph (c) at the time at which the energy efficiency activity was undertaken; and
  - (e) specify such other matters (whether similar or dissimilar to those referred to above) as the Minister or the Commission considers relevant.
- (6) The Commission may, by notice in the Gazette, vary or revoke a determination made under this regulation after taking into account any requirements set by the Minister.

## **27—Retailers may enter into arrangements**

- (1) If a retailer accrues an energy credit, the retailer may, at any time, transfer the credit to another retailer.
- (2) A retailer may enter into an arrangement with another person (including another retailer) for that person to undertake on its behalf either or both of the following:
  - (a) energy audits;
  - (b) energy efficiency activities.
- (3) Despite any arrangement entered into under subregulation (2), a retailer remains liable for any offence or penalty arising from a failure to meet its GLEAT, GGRT or a PGGRT under this Part.

## **28—Compliance and reporting**

- (1) A retailer must, as required from time to time by the Commission, submit to the Commission a compliance plan for the purposes of this Part in accordance with a code published by the Commission under Part 4 of the *Essential Services Commission Act 2002*.
- (2) A retailer must, as required from time to time by the Commission, report on compliance with this Part in accordance with a code published by the Commission under Part 4 of the *Essential Services Commission Act 2002*.
- (3) A code published under this regulation must comply with any requirements set by the Minister.

## 29—Energy efficiency shortfalls

- (1) For the purposes of section 91A of the Act, a *relevant gas retailer* is a retailer who is subject to the application of this Part (including on account of regulation 23(4), 24(5) or 25(4)).
- (2) For the purposes of section 91A(13)(a) of the Act, the requirements imposed under this Part on a retailer—
  - (a) to undertake energy audits under regulation 23; and
  - (b) to undertake energy efficiency activities under regulation 24; and
  - (c) to undertake energy efficiency activities for priority group households under regulation 25,

constitute the activities relating to energy efficiency in which a relevant gas retailer must engage, and for the purposes of that section the retailer must engage in those activities to the extent necessary to achieve compliance with regulation 23(2), 24(2) or 25(2) (as the case requires).

- (3) For the purposes of section 91A(13)(b) of the Act, the extent of an energy efficiency shortfall with respect to a particular year—
  - (a) will be determined in relation to each of the activities referred to in each of the paragraphs in subregulation (2); and
  - (b) will be as follows:
    - (i) in relation to energy audits under regulation 23—an amount equal to the energy audit shortfall that applies to the retailer for that year;
    - (ii) in relation to energy efficiency activities under regulation 24—an amount equal to the greenhouse gas reduction shortfall that applies to the retailer for that year;
    - (iii) in relation to energy efficiency activities for priority group households under regulation 25—an amount equal to the greenhouse gas reduction shortfall for priority group households that applies to the retailer for that year.
- (4) For the purposes of section 91A(2)(a) of the Act, the prescribed base penalty is \$10 000 for each category of shortfall identified under subregulation (3).
- (5) For the purposes of subsection (2)(b) of section 91A of the Act, the amount payable under that subsection will be—
  - (a) in the case of a REES shortfall under subregulation (3)(b)(i)—the number of energy audits constituting the energy audit shortfall multiplied by \$500;
  - (b) in the case of a REES shortfall under subregulation (3)(b)(ii)—the number of tonnes of carbon dioxide equivalent constituting the greenhouse gas reduction shortfall multiplied by \$70;
  - (c) in the case of a REES shortfall under subregulation (3)(b)(iii)—the number of tonnes of carbon dioxide equivalent constituting the greenhouse gas reduction shortfall for priority group households multiplied by \$70.

### 30—Review

- (1) The Minister must cause a review of the operation of this Part to be conducted and a report on the results of the review to be submitted to the Minister before 31 December 2013.
- (2) The review must consider whether the scheme should continue and any other matter the Minister considers should be considered in the review.
- (3) The Minister must, within 12 sitting days after receiving the report, cause copies of the report to be laid before both Houses of Parliament.

### 31—Expiry

This Part will expire on 31 December 2014.

## Part 5—Price regulation

### 32—Price regulation—prescribed class of customers

For the purposes of section 33(1)(a) of the Act, each customer whose annual gas consumption level for a metered delivery point equals or exceeds 1 terajoule but is less than 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point.

## Part 6—Standard terms and conditions

### 33—Standard terms and conditions—prescribed class of customers

For the purposes of section 34(1) of the Act—

- (a) each customer whose annual gas consumption level for a metered delivery point equals or exceeds 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point;
- (b) each customer whose annual gas consumption level for a metered delivery point equals or exceeds 1 terajoule but is less than 10 terajoules is a customer of a prescribed class in relation to gas supply to the customer through the delivery point.

## Part 7—Default contracts

### 34—Interpretation

In this Part—

*default contract* means a retail contract under which a gas entity to which section 34B of the Act applies sells gas at the entity's default contract price and subject to the entity's default contract terms and conditions;

*default contract price* and *default contract terms and conditions* have the same respective meanings as in section 34B of the Act;

*excluded area* means an area that is for the time being determined by the Minister to be an excluded area;

**market contract** means a retail contract other than a standing contract or default contract;

**standing contract** means a retail contract under which a gas entity to which section 34A of the Act applies sells gas at the entity's standing contract price and subject to the entity's standing contract terms and conditions;

**standing contract price** and **standing contract terms and conditions** have the same respective meanings as in section 34A of the Act.

### 35—Provisions relating to default contracts

- (1) If a person receives gas supply through a metered delivery point otherwise than under a retail contract—
  - (a) that person; and
  - (b) the gas entity that was last a party to a retail contract in relation to that delivery point,become parties to a default contract in relation to that delivery point for the purposes of section 34B(2) of the Act.
- (2) Subregulation (1) does not apply in relation to a metered delivery point situated within an excluded area.
- (3) The default contract continues until—
  - (a) the customer becomes a party to a market contract or standing contract (whether with the same entity or some other gas entity) in relation to the delivery point; or
  - (b) some other person becomes a party to a retail contract in relation to the delivery point; or
  - (c) the occurrence of an event of a kind determined by the Commission.
- (4) On the gas entity becoming aware that it has become a party to the default contract, the entity must, within 5 business days, give the customer a written notice setting out the terms and conditions of the default contract and describing, in general terms, the other contractual options that may be available to the customer for the purchase of gas.
- (5) The gas entity must, in giving notice under subregulation (4), comply with any requirements imposed by a code made by the Commission under the *Essential Services Commission Act 2002*, relating to the contents of the notice or the manner in which the notice is to be given.
- (6) For the purposes of paragraph (b) of the definition of **default contract price** in section 34B(3) of the Act, the prescribed period is—
  - (a) if the price fixed as the default contract price by the entity by the notice referred to in that paragraph is the same as the price that will be in force as the standing contract price (whether or not for the same entity) 14 days from the date of publication of that notice—14 days; or
  - (b) in any other case—28 days.

## **Part 8—Gas entities' powers and duties**

### **36—Carrying out certain work on public land**

- (1) For the purposes of section 47(5) of the Act, prior notice and agreement are not required under section 47(3) of the Act for—
  - (a) work in an emergency; or
  - (b) maintenance, repairs or minor extensions of existing gas infrastructure, including any necessary excavation or removal of obstructions.
- (2) For the purposes of section 47(6) of the Act, agreement is not required under section 47(3) of the Act for—
  - (a) installation or relocation of gas infrastructure as a part of road reconstruction; or
  - (b) alterations or additions to existing gas infrastructure not involving any significant enlargement of the area of public land occupied by the infrastructure or any significant change in appearance.

## **Part 9—Safety and technical issues**

### **Division 1—Safety and technical requirements**

#### **37—General requirements for gas infrastructure or installation**

- (1) For the purposes of section 55 of the Act—
  - (a) gas infrastructure must be designed, installed, operated and maintained to be safe for the gas service conditions and the physical environment in which it will operate and so as to comply with any applicable requirements of AS/NZS 4645, AS/NZS 1596 and AS 2885 or achieve, to the satisfaction of the Technical Regulator, the same or better safety and technical outcomes; and
  - (b) a gas installation must be designed, installed, operated and maintained to be safe for the gas service conditions and the physical environment in which it will operate and so as to comply with any applicable requirements of—
    - (i) in the case of a liquefied petroleum gas installation—AS/NZS 5601 and AS/NZS 1596
    - (ii) in any other case—AS/NZS 5601.
- (2) A certificate of compliance issued for the purposes of section 55(2) of the Act may only be relied upon if the certificate of compliance—
  - (a) certifies that the gas installation to which the certificate relates complies with any applicable requirements set out in subregulation (1)(b); and
  - (b) is issued by a registered gas fitting worker.

- (3) The following requirements apply to a certificate of compliance issued under this regulation:
- (a) despite regulation 45(1)(b), a copy of the certificate of compliance must be provided within 30 days after the issue of the certificate to the person who requested the certificate;
  - (b) if the worker signing the certificate was employed or engaged to carry out the work or examinations and tests related to the issue of the certificate (whether or not together with other work or examinations and tests on the installation) by a licensed gas fitting contractor or licensed building work contractor, that contractor, or a person who has or had a supervisory role in relation to the worker and who is acting as a duly authorised agent of the contractor, must, being satisfied that the gas installation to which the certificate relates complies with any requirements referred to in subregulation (2), also complete and sign the certificate in accordance with the directions contained in it.

## **Division 2—Gas supply, quality etc**

### **38—Obligations of distribution system operator and other persons in relation to quality of gas**

- (1) A distribution system operator must ensure that the following requirements are complied with in relation to gas distributed by the system:
- (a) the gas must—
    - (i) be at a safe temperature and pressure and safe in all other respects for the purposes of the system; and
    - (ii) contain sufficient odorant that it has a distinctive smell to a person with a normal sense of smell at one-fifth of the lower explosive limit in air; and
    - (iii) comply with the relevant specifications set out in Schedule 2 (unless otherwise agreed between the Technical Regulator and the operator);
  - (b) before connection or reconnection of a gas supply to a place, steps must be taken to ensure that the gas supply is suitable for each gas installation situated in the place that will be connected to the gas supply;
  - (c) the gas must be supplied so that—
    - (i) the operating pressure of the gas at the outlet of each meter set for recording a customer's consumption of gas is 1 kPa or more but less than 3 kPa subject to any written requirement of the customer or agreement between the Technical Regulator and the operator for gas to be supplied at more than 3 kPa; and
    - (ii) the pressure of the gas at each such meter set is within the meter set manufacturer's designated pressure operating range.

- (2) After a gas installation referred to in subregulation (1)(b) has been connected (including for the first time), reconnected or a person has carried out work on such an installation, the person who performed the connection, reconnection or carried out the work must complete a certificate of compliance to the effect that the requirement in subregulation (1)(b) has been complied with.
- (3) The person must—
  - (a) provide a copy of the completed certificate of compliance to the person on whose behalf the work was carried out; and
  - (b) provide a copy of the completed certificate of compliance to the distribution system operator.
- (4) For the purposes of ensuring compliance with subregulation (1)(b), reliance may be placed on a certificate of compliance issued for the purposes of section 56 of the Act in relation to the gas installation.
- (5) Despite regulation 7(4), a person who operates a prescribed transmission pipeline is not bound to comply with subregulation (1)(a)(ii).
- (6) However, a person who receives a gas supply directly from a transmission pipeline (if the gas supplied does not already contain sufficient odorant for the purposes of that subregulation) must comply with subregulation (1)(a)(ii).

### **39—Obligations of retailer in relation to supply of gas**

A retailer must ensure that the following requirements are complied with in relation to gas supplied by the retailer to a customer:

- (a) before connection or reconnection of a gas supply to a place, steps must be taken to ensure that the gas supply is suitable for each gas installation situated in the place that will be connected to the gas supply;
- (b) the heating value of the gas must, when measured at each measuring point approved by the Technical Regulator for that purpose, be within a margin of plus or minus 1% of the claimed heating value used by the gas entity as the basis for its charges to the customer for the gas;
- (c) the measured heating value of the gas must not show systematic bias within that margin.

### **40—Quality of liquefied petroleum gas supplied in pressurised vessel**

A person must not sell liquefied petroleum gas knowing, or in circumstances in which the person ought reasonably to know, that it is likely to be supplied to gas appliances from a pressurised vessel unless it complies with the relevant specifications set out in Schedule 2.

## Division 3—Gas fitting work

### 41—General gas fitting work

- (1) For the purposes of section 56 of the Act, a person who carries out work on a gas installation or proposed gas installation (including work comprised of installing a Type A appliance, but not including work comprised of installing, commissioning or modifying a Type B appliance) must—
  - (a) ensure that the work is carried out, and examinations and tests are carried out, in accordance with AS/NZS 5601 and any requirements of the Technical Regulator; and
  - (b) if satisfied that the work has been carried out in accordance with AS/NZS 5601 and any requirements of the Technical Regulator, complete a certificate of compliance to that effect.
- (2) The person must—
  - (a) provide a copy of the completed certificate of compliance to the person on whose behalf the work was carried out; and
  - (b) if the work is associated with the making of a connection or reconnection to a distribution system, provide a copy of the completed certificate of compliance to the distribution system operator; and
  - (c) if the work is not associated with the making of such a connection or reconnection—
    - (i) provide a copy to the supplier of pressurised vessel gas for the installation, if known; or
    - (ii) if the supplier is not known, provide a further copy to the person on whose behalf the work was carried out.

### 42—Installing Type A appliances

For the purposes of section 56 of the Act, a person who installs a Type A appliance must ensure that the appliance complies with any requirements under the *Energy Products (Safety and Efficiency) Act 2000* relating to certification and labelling.

### 43—Installing or commissioning Type B appliances

- (1) For the purposes of section 56 of the Act—
  - (a) a person who installs, commissions or modifies a Type B appliance must ensure that the work is carried out, and examinations and tests are carried out, in accordance with AS 3814 and AS/NZS 5601; and
  - (b) a person who carries out work, or examinations or tests, related to moving a Type B appliance to a different location (whether on the same premises or otherwise) must ensure that the work is carried out, and examinations and tests are carried out, in accordance with AS 3814.
- (2) A person must not commence supplying gas for use in a Type B appliance following installation of the appliance unless the appliance has been approved as complying with the requirements of AS 3814.

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- (3) Subregulation (2) does not prevent a person from temporarily supplying gas for the purposes of the commissioning of a Type B appliance or the determination of whether the appliance complies with the requirements of AS 3814.
  - (4) For the purposes of this regulation, AS 3814 and AS/NZS 5601 are to be read as if any requirement for approval of a regulatory body were a requirement—
    - (a) if the appliance in question is, or is to be, connected to a distribution system, for approval of the distribution system operator whose system it is or an authorised officer;
    - (b) in any other case, for approval of an authorised officer.
  - (5) An approval under this regulation must be in a form approved by the Technical Regulator.
  - (6) The person approving a Type B appliance under this regulation must complete a certificate of compliance to the effect that the requirements for approval under this regulation have been complied with.
  - (7) The person—
    - (a) must provide a copy of the completed certificate of compliance to—
      - (i) the person on whose behalf the work was carried out; and
      - (ii) the Technical Regulator; and
    - (b) being an authorised officer, must—
      - (i) if the work is associated with the making of a connection or reconnection to a distribution system, provide a copy of the completed certificate of compliance to the distribution system operator; or
      - (ii) if the work is not associated with the making of a connection or reconnection to a distribution system—
        - (A) provide a copy to the supplier of pressurised vessel gas for the installation, if known; or
        - (B) if the supplier is not known, provide a further copy to the person on whose behalf the work was carried out.
  - (8) If the person on whose behalf work on a Type B appliance was carried out is not the owner of the appliance, that person must, within 30 days of completing the work, provide a copy of the certificate of compliance to the owner of the appliance.
  - (9) Despite regulation 45, the owner of a Type B appliance must—
    - (a) keep a copy of each certificate of compliance provided in relation to the appliance until the appliance is sold or otherwise disposed of; and
    - (b) on sale or transfer of the appliance, deliver copies of all certificates of compliance held in relation to the appliance to the new owner (who must keep any certificate in accordance with paragraph (a)).
  - (10) A fee determined on a basis approved by the Commission may be required by the distribution system operator or the authorised officer for determining whether to approve a Type B appliance under this regulation.

- (11) A fee required by a distribution system operator or an authorised officer who is not a Public Service employee may be retained by the operator or officer.

#### **44—Requirements relating to installation of certain heating appliances**

- (1) For the purposes of section 56 of the Act, a person who installs a flueless gas space heater in residential premises must ensure that the following requirements are complied with:
- (a) the maximum gas consumption level of the heater must not exceed 18 MJ/h;
  - (b) the heater must have been approved as complying with the requirements of the applicable Australian gas appliance standard listed in AS 3645;
  - (c) 2 permanent ventilation openings, 1 near the ceiling of the premises and the other near the floor, must be available to allow direct ventilation to an area outside the premises;
  - (d) each opening must have a minimum free area of 1 000 square millimetres per MJ/h (being the maximum gas consumption level of the heater expressed in MJ/h).
- (2) Despite subregulation (1)(a), a person may install a flueless gas space heater in residential premises where the maximum gas consumption level of the heater exceeds 18 MJ/h with the approval of the Technical Regulator.
- (3) The Technical Regulator may not grant an approval unless the Technical Regulator is satisfied that adequate safety features in relation to the heater are demonstrated by the manufacturer or supplier of the heater.

- (4) In this regulation—

*flueless gas space heater* means a heater designed to discharge flue gases produced by the heater directly into the space in which the heater is situated.

### **Division 4—Certificates of compliance**

#### **45—Requirements relating to certificates of compliance**

- (1) The following requirements apply to a certificate of compliance provided under Division 1, Division 2 or Division 3:
- (a) the certificate of compliance must be completed using only an official form published or produced under the authority of the Technical Regulator;
  - (b) if the certificate of compliance must be provided to a person, the certificate must be so provided within 30 days of the performance of the work, examinations and tests, connection, reconnection or approval (as the case may be) to which the certificate relates;
  - (c) the person providing the certificate of compliance must keep a copy of the completed certificate of compliance for at least 5 years after the completion of the work, examinations and tests, connection, reconnection or approval (as the case may be) to which the certificate relates.

- (2) If a licensed gas fitting contractor, licensed building work contractor or registered gas fitting worker acquires a book of official forms that have been published or produced under the authority of the Technical Regulator for use by that person as certificates of compliance for the purposes of this Part, the contractor or worker must ensure that notice of the contractor's or worker's acquisition of the book of forms is given to the Technical Regulator in accordance with the directions of the Technical Regulator, as set out in the book of forms.

Maximum penalty: \$750.

Expiation fee: \$105.

- (3) If a gas installation is reconnected following disconnection as a result of a change of customer or on the basis of a failure to pay for the gas supplied to premises at which the installation is located, the person who performs the reconnection is exempt from any requirement under Division 1, Division 2 or Division 3 to issue a certificate of compliance in respect of the reconnection.
- (4) If, in respect of premises, a person installs or replaces a meter for recording consumption of gas (and no other work to which Division 1, Division 2 or Division 3 applies), the person is exempt from any requirement under Division 1, Division 2 or Division 3 to issue a certificate of compliance in respect of the installation or replacement of the meter.

## **Division 5—Reporting and investigation of accidents**

### **46—Reporting of accidents**

- (1) For the purposes of section 58 of the Act, a report must be made to the Technical Regulator of the details of the accident—
- (a) in the case of a death resulting from the accident—immediately by telephone;
  - (b) in the case of a person requiring medical assistance resulting from the accident—within 1 working day of the accident;
  - (c) in the case of property damage of more than \$5 000 resulting from the accident—within 10 working days of the accident;
  - (d) in the case of any injury to person or property or a dangerous situation involving a gas infrastructure pipeline operating above 1 050 kPa or involving the attendance of a fire brigade—within 1 month of the accident.
- (2) A gas entity or person who is required to report an accident in accordance with section 58 of the Act must provide the Technical Regulator with such further details of the accident as the Technical Regulator reasonably requires.

### **47—Investigation of accidents**

A gas entity that operates a distribution system must comply with any direction given by the Technical Regulator relating to the investigation of an accident to which section 58 of the Act relates, including a direction to conduct such examinations and tests as are required by the Technical Regulator.

## **Division 6—Safety, reliability, maintenance and technical management plans and reports**

### **48—Application of Division**

- (1) This Division applies to a licensee holding a licence authorising the operation of a distribution system or a person exempted from the requirement to hold such a licence.
- (2) However, the Technical Regulator may grant an exemption from this Division, or specified provisions of this Division, on terms and conditions the Technical Regulator considers appropriate.

### **49—Safety, reliability, maintenance and technical management plans**

- (1) A person to whom this Division applies who is exempted from the requirement to hold a licence must, if so required by the Technical Regulator by notice in writing—
  - (a) prepare, maintain and periodically revise a safety, reliability, maintenance and technical management plan dealing with matters prescribed by subregulation (2);
  - (b) obtain the approval of the Technical Regulator to the plan and any revision;
  - (c) comply with the plan as approved from time to time;
  - (d) audit from time to time the person's compliance with the plan and report the results of those audits to the Technical Regulator.
- (2) For the purposes of section 26(1)(b) of the Act, the following are matters that must be dealt with by a safety, reliability, maintenance and technical management plan:
  - (a) the safe design, installation, commissioning, operation, maintenance and decommissioning of gas infrastructure owned or operated by the person;
  - (b) the maintenance of a supply of gas of the quality required to be maintained by or under the Act, these regulations, the person's licence or the conditions of any exemption granted to the person;
  - (c) ensuring adequacy of the distribution system at all times of high demand on the system;
  - (d) ensuring that gas supply is suitable for each gas installation situated in a place that will be connected or reconnected to the distribution system;
  - (e) ensuring that an appropriate level of examination and testing of installations (including appliances) is carried out on the new connection of gas supply to a place to provide assurance of the safety of gas installations;
  - (f) ensuring compliance with code provisions under the *Essential Services Commission Act 2002* relating to metering of gas supply at delivery points;
  - (g) monitoring compliance with code provisions under the *Essential Services Commission Act 2002* relating to metering of gas supply at delivery points;
  - (h) the implementation and conduct of safety measures and training programs for the purpose of—

- (i) reducing the risk of death or injury, or damage to property, arising out of the operation of gas infrastructure owned or operated by the person;
  - (ii) ensuring that employees performing work in respect of gas infrastructure owned or operated by the person are competent and properly trained, perform their work safely and are provided with a safe system of work;
  - (i) ensuring that contractors performing work in respect of gas infrastructure owned or operated by the person have processes and procedures for ensuring that the persons personally performing the work are competent and properly trained, perform their work safely and are provided with a safe system of work;
  - (j) the manner in which accidents and unsafe situations are to be dealt with, reported and investigated;
  - (k) monitoring compliance with safety and technical requirements imposed by or under the Act, these regulations, the person's licence or the conditions of any exemption granted to the person;
  - (l) monitoring gas infrastructure owned or operated by the person for the purposes of identifying infrastructure that is unsafe or at risk of failing or malfunctioning;
  - (m) the establishment of indicators and the collection and recording of information to measure the person's performance in respect of matters referred to in the preceding paragraphs.
- (3) A person to whom this Division applies must, at the request of the Technical Regulator, provide the Technical Regulator with such information and access to such officers, employees and contractors as the Technical Regulator reasonably requires for the purposes of determining whether a safety, reliability, maintenance and technical management plan prepared by the person is operating effectively and whether that person is complying with the plan.

#### **50—Safety, reliability, maintenance and technical management reports**

- (1) A person to whom this Division applies must, within 24 hours after an unplanned interruption to the supply of gas that affected the supply of gas to 5 or more but less than 100 customers, lodge with the Technical Regulator a report stating in relation to that interruption the following:
- (a) the date, time and cause of the interruption;
  - (b) the number of customers affected by the interruption;
  - (c) the locations (for example, in the case of city customers, the suburbs) of all of the customers affected;
  - (d) the time taken to restore supply to all of the customers affected;
  - (e) the time taken to restore supply to the majority of the customers affected.

- (2) A person to whom this Division applies must, within 2 hours after an unplanned interruption to the supply of gas that affected the supply of gas to 100 or more customers, lodge with the Technical Regulator a report stating in relation to that interruption the information referred to in the paragraphs of subregulation (1) that is known to the person at the time of the report.
- (3) Subregulations (1) and (2) do not apply in relation to—
  - (a) an interruption to the supply of gas to a customer if the interruption was in accordance with an interruptible or curtailable supply contract with the customer; or
  - (b) an interruption to the supply of gas to a customer that occurred at the request of the customer or that was caused by the customer.
- (4) A person to whom this Division applies must, on or before 31 August in each year, lodge with the Technical Regulator a report relating to the previous financial year containing the following information:
  - (a) a general description of the circumstances in which gas infrastructure owned or operated by the person has failed or malfunctioned or been found to be unsafe and of the action taken to rectify, or to prevent or minimise the risk or recurrence of, the failure, malfunction or unsafe situation;
  - (b) whether the person has been able to comply with all aspects of the person's safety, reliability, maintenance and technical management plan and whether the person considers the plan to have been operating effectively.
- (5) In this regulation—

*quarter* means a period of 3 months commencing 1 January, 1 April, 1 July or 1 October.

## **Part 10—Miscellaneous**

### **51—Work near gas infrastructure**

For the purposes of section 83(3)(a) of the Act, a person who does work near gas infrastructure must comply with any applicable requirements of AS/NZS 4645, AS/NZS 1596 and AS 2885.

### **52—Technical Regulator may grant exemption from Part 9 or this Part**

- (1) The Technical Regulator may grant an exemption from a specified provision or provisions of Part 9 or this Part on terms and conditions the Technical Regulator considers appropriate.
- (2) An exemption under subregulation (1) may be varied or revoked by the Technical Regulator by notice in writing.

### **53—General penalty**

A person who contravenes or fails to comply with a provision of these regulations for which a specific penalty is not provided is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

#### 54—Fees for reinspection etc

- (1) A person to whom a direction has been given under section 57, 68 or 69 of the Act is liable to pay a fee of an amount equal to the reasonable costs of any reinspection or reattendance by an authorised officer for the purpose of ensuring compliance with the direction or approving reconnection of the gas supply.
- (2) The Technical Regulator may recover a fee payable under subregulation (1) as a debt by action in a court of competent jurisdiction.

#### 55—Sale of gas where supply affected by gas rationing direction under section 37 of Act

- (1) Subject to this regulation, if—
  - (a) an affected retailer has a quantity of gas available for supply to an affected customer on that day that exceeds the allocated quantity for the customer for that day; and
  - (b) the affected retailer has made an offer to supply an additional quantity of gas to the affected customer on that day in accordance with approved terms that has been accepted by the customer,then—
  - (c) the affected retailer must, on that day—
    - (i) supply the affected customer with the allocated quantity for that day in accordance with the pre-existing terms; and
    - (ii) supply the affected customer with the additional quantity of gas in accordance with the approved terms; and
  - (d) the affected retailer will be taken to incur no contractual liability by reason of the fact that the affected retailer has supplied only the allocated quantity for that day to the affected customer under the pre-existing terms.
- (2) The Minister may, by written notice to a gas entity, exclude the entity from the application of this regulation from a day specified in the notice.
- (3) The Minister may, by written notice to a gas entity, vary or revoke a previous notice to the entity under this regulation.
- (4) If an affected retailer has received payment from an affected customer for gas that included an additional quantity of gas and the payment was in excess of the amount payable by the customer in accordance with the terms referred to in subregulation (1)(c), the affected retailer must repay to the customer, or, with the consent of the customer, credit to the customer's account, the amount of the overpayment as soon as practicable after the commencement of this subregulation or after becoming aware of the overpayment, whichever occurs later.  
Maximum penalty: \$10 000.  
Expiation fee: \$315.
- (5) In this regulation—

**additional quantity** of gas, in relation to an affected customer and a gas day, means a quantity of gas in addition to the allocated quantity for the customer for that day;

**affected customer** means a customer whose entitlement to the supply of gas is affected by a rationing direction;

**affected retailer** means a gas entity authorised to sell gas by retail (whether or not the entity is required to hold a licence under the Act) to which a rationing direction applies on a gas day;

**allocated quantity** for an affected customer for a gas day, means the quantity of gas to which the customer is entitled for that day under the rationing direction;

**approved terms**, in relation to the supply by an affected retailer of an additional quantity of gas to an affected customer on a gas day, means contractual terms governing that supply that—

- (a) fix as the unit price (exclusive of GST) for the additional quantity on that day—
  - (i) if the Minister has, by written notice to the affected retailer, approved a unit price for that quantity on that day—a price not more than the price approved by the Minister; or
  - (ii) in any other case—a price not more than the unit price for the supply of gas on that day under the pre-existing terms increased by the amount (if any) by which the average unit price for the purchase by the affected retailer of all additional gas for supply to affected customers on that day exceeds the average unit price for the purchase by the affected retailer of all gas for supply to affected customers on that day under pre-existing terms; and
- (b) require the affected retailer to use its best endeavours to supply additional quantities of gas to the customer but allow the affected retailer to interrupt or withhold supply of an additional quantity as necessary in circumstances where the affected retailer experiences a shortfall in the additional quantities of gas available to the affected retailer for its affected customers and apportions the shortfall amongst those customers in a manner approved by the Minister by written notice to the affected retailer; and
- (c) are in other respects no more favourable to the affected retailer than the pre-existing terms;

**gas day** means a period of 24 hours commencing at 6 am;

**pre-existing terms**, in relation to the supply of gas by an affected retailer to an affected customer on a gas day, means the contractual terms that would have applied to that supply of gas if the rationing direction had not been given and this regulation had not been made;

**rationing direction** means a direction given by the Minister to an affected retailer under section 37 of the Act governing the supply of gas by the affected retailer to customers of the affected retailer.

## Schedule 1—Flame speed factor and sooting index

(Regulation 3)

### Part 1—Flame speed factor

\*The flame speed factor (**S**) of a gas is given by—

$$S = \frac{\sum mF_m}{\sum nA_n + 5Z - 18.8Q + 1}$$

where—

**F** = flame speed coefficient for each combustible component according to the table in Part 3

**m** = mole fraction of combustible component that has a flame speed coefficient  $F_m$

**A** = air requirement for each combustible gas component according to the table in Part 3

**n** = mole fraction of combustible component that has an Air requirement of  $A_n$  according to the table in Part 3

**Z** = the total mole fraction of inert gases (eg,  $\text{CO}_2$ ,  $\text{N}_2$ )

**Q** = the mole fraction of oxygen present.

**Note—**

- 1 Based on Gilbert, M.G. and Prigg, J.A., *Gas Council Research Communication GC35* (see *Transactions of the Institution of Gas Engineers 1956/57*).

### Part 2—Sooting index

\*The sooting index (**I**) of a gas is given by—

$$I = \frac{1 + 0.01H_2 + 0.01CO}{\sqrt{d}} \cdot \sum aB_a \cdot (1 - 0.03O_2)$$

where—

**B** = the sooting coefficient for each combustible component according to the table in Part 3

**a** = the volume per cent of component that has a sooting coefficient of  $B_a$

**H<sub>2</sub>** = the volume per cent of hydrogen in the gas

**CO** = the volume per cent of carbon monoxide in the gas

**O<sub>2</sub>** = the volume per cent of oxygen in the gas

**d** = the relative density of the gas.

**Note—**

- 1 Based on Schneck, H. and Delbourg, P., *Journal des Industries du Gaz*, December, 1962.

## Part 3—Table

Combustible Gas Component	Flame Speed Coefficient F	Air Requirement A	Sooting Coefficient B
carbon monoxide	61	2.39	—
hydrogen	339	2.39	—
methane	148	9.55	1.0
ethane	301	16.71	2.0
propane	398	23.87	3.6
butane	513	31.03	4.7
pentane	610	38.00	6.0
hexane	710	45.00	10
heptane	800	52.00	13
octane	880	59.00	17
ethylene	454	14.32	2.8
propylene	674	21.48	6.0
butylene	890	28.64	7.0

## Schedule 2—Gas specifications

(Regulations 38 and 40)

### 1—Specifications for natural gas

The specifications for natural gas are the limits set out in AS 4564 for general purpose natural gas (within the meaning of that Standard).

### 2—Specifications for liquefied petroleum gas

The specifications for liquefied petroleum gas are as follows:

- (a) it must contain less than 12 mg/m<sup>3</sup> of hydrogen sulphide;
- (b) its combustion characteristics must not be more than 10% above or 10% below the limits of—
  - (i) the Wobbe Index; and
  - (ii) the flame speed factor; and
  - (iii) the sooting index,

as derived from Test Gas X referred to in the Test Gas Table set out in the Australian gas appliance standards listed in AS 3645.

### 3—Specifications for other gas

The specifications for gas other than natural gas or liquefied petroleum gas are as follows:

- (a) it must contain less than 12 mg/m<sup>3</sup> of hydrogen sulphide;

(b) its combustion characteristics must not be more than 10% above or 10% below the limits of—

- (i) the Wobbe Index; and
- (ii) the flame speed factor; and
- (iii) the sooting index,

as derived from the test gases for the type of gas referred to in the Test Gas Table set out in the Australian gas appliance standards listed in AS 3645.

## **Schedule 3—Revocation and transitional provisions**

### **1—Revocation of *Gas Regulations 1997***

The *Gas Regulations 1997* are revoked.

### **2—Transitional provisions**

- (1) Despite regulation 4 of these regulations, regulation 4A of the revoked regulations as in force immediately before the commencement of this clause will continue to apply to work to be undertaken or underway (being work within the ambit of regulation 4A) until 1 March 2013.
- (2) In this clause—

*revoked regulations* means the *Gas Regulations 1997*.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2012	200	<i>Gazette 30.8.2012 p4055</i>	1.9.2012: r 2

### Provisions varied

New entries appear in bold.

Provision	How varied	Commencement
Pt 4	will expire: r 31	(31.12.2014)