



Regulatory Impact Statement

Gas and Electricity (Consumer Safety) Regulation 2018

Published by

Better Regulation Division
Department of Finance, Services and Innovation
McKell Building
2-24 Rawson Place, Sydney NSW 2000
www.finance.nsw.gov.au

Disclaimer

This publication avoids the use of legal language, with information about the law summarised or expressed in general statements. The information in this document should not be relied upon as a substitute for professional legal advice.

For access to legislation in force in NSW go to the official NSW Government website for online publication of legislation at www.legislation.nsw.gov.au.

Copyright Information

© State of New South Wales through Department of Finance, Services and Innovation, 2018

Creative Commons Attribution 4.0 licence. For information: finance.nsw.gov.au/copyright
This publication must not be relied on as legal advice.

For more information about this topic, refer to the appropriate legislation.

Table of Contents

TABLE OF CONTENTS	2
EXECUTIVE SUMMARY	4
CONSULTATION PROCESS	5
Making a submission	5
Identified stakeholders	6
Evaluation of submissions	6
Commencement of the Regulation	6
NEED FOR GOVERNMENT ACTION	7
OBJECTIVE AND RATIONALE OF THE PROPOSED REGULATION	8
Objective	8
Rationale	9
OPTIONS FOR ACHIEVING OBJECTIVES	10
Option 1 – Maintain the status quo	10
Option 2 – Make the proposed Regulation	10
Option 3 – Take no action	10
Criteria used to assess the regulatory options	10
IMPACT ASSESSMENT OF OPTIONS	11
Assessment of Option 1	11
Option 1 – Costs	11
Option 1 – Benefits	11
Option 1 – Conclusion	12
Assessment of Option 2	13
Option 2 - Costs	13
Option 2 - Benefits	13
Option 2 – Conclusion	14
Assessment of Option 3	15
Option 3 - Costs	15
Option 3 – Benefits	15
Option 3 - Conclusion	16
Summary of costs and benefits for each option	16
Preferred option	16

REGULATION-MAKING POWERS	17
DISCUSSION OF THE PROPOSED REGULATION	23
Clause 2 - Commencement	23
Clause 28 - Change to particulars	23
Clauses 31, 32 and 33 – Restrictions on sale or disposal of electrical articles or gas appliances	24
Clause 40 - Gas fitting work to comply with certain standards	24
Clause 41 - Auto-gas work to comply with certain standards	25
Clause 72 – Interference with site of serious electrical or gas accident	26
Clause 74 - Seizure and forfeiture of electrical articles and gas appliances	27
Clause 77 – Exemptions	27
Schedule 2 - Fees	27
Schedule 3 – Penalty notice offences	30
PROPOSED MATTERS TO BE INCLUDED IN THE PROPOSED REGULATION	33
Provision for gas meters	33
APPENDIX 1	34
Summary of proposed changes	34
Other changes	43
APPENDIX 2	46
List of stakeholders	46
APPENDIX 3	47
Penalty notice offences	47

Executive summary

The Gas and Electricity (Consumer Safety) Regulation 2018 (**proposed Regulation**) is proposed by the Hon Matthew Kean, Minister for Innovation and Better Regulation.

On 3 May 2017, a new *Gas and Electricity (Consumer Safety) Act 2017* (**the Act**) was passed by Parliament. The Act will repeal the *Electricity (Consumer Safety) Act 2004*, the Gas Supply (Consumer Safety) Regulation 2012 (**Gas Regulation**) and incorporate section 83A of the *Gas Supply Act 1996* into one piece of legislation. The Act will provide for minimum consumer safety standards and requirements for both energy sources and a consistent compliance and enforcement regime for gas and electricity consumer safety.

The proposed Regulation will repeal the Electricity (Consumer Safety) Regulation 2015 (**Electricity Regulation**) and merge the remaining provisions of the Gas Regulation into the proposed Regulation. The main purpose of the proposed Regulation will be to provide the legislative support for the operation of the Act.

The benefit of consolidation includes consistent administration and regulation of consumer safety matters relating to electrical and gas equipment and installations, efficiencies for Fair Trading operational staff dealing with a consolidated regulation and providing consistent enforcement powers for both energy sources. A clear, consistent and consolidated regulation will reduce compliance burdens for industry; particularly, having only one source of regulation dealing with certification of appliances and their retail sale will assist retailers who deal in both gas and electrical appliances.

The Regulatory Impact Statement (**RIS**) sets out the rationale and objectives of the proposed Regulation and the various options for achieving the objectives.

The RIS also provides a discussion on important aspects of the proposed Regulation and seeks feedback from stakeholders and the community. Submissions are invited on any of the matters raised in the discussion or anything else contained in the proposed Regulation. All submissions will be considered and evaluated and any necessary changes will be made to address the issues identified before the proposed Regulation is finalised.

There will be a 4-week public consultation period on the proposed Regulation. The process for submitting comments on the proposed Regulation is explained in the following section.

This RIS should be read in conjunction with the proposed Regulation.

Consultation process

Making a submission

Interested organisations and individuals are invited to provide a submission on any matter relevant to the proposed Regulation, whether or not it is addressed in this RIS. Matters covered by the principal Act are not the subject of this consultation process.

We would prefer to receive submissions by email and request that any documents provided to us are produced in an 'accessible' format. Accessibility is about making documents more easily available to those members of the public who have some form of impairment (visual, physical, cognitive). Further information on how you can make your submission accessible is contained at <http://webaim.org/techniques/word/>.

Please provide submissions by:

Email to:

GasElectricityRegulation@finance.nsw.gov.au (preferred)

Mail to:

Gas and Electricity (Consumer Safety) Regulation 2018
Department of Finance, Services and Innovation
Donna Harris
Regulatory Policy Branch
Locked Bag 2906
LISAROW NSW 2252

The closing date for submissions is Wednesday 4 July 2018.

We invite you to read this paper and provide comments. You can download the RIS and the proposed Regulation from www.fairtrading.nsw.gov.au. Printed copies can be requested from NSW Fair Trading on (02) 9895 0791.

Important note: release of submissions

All submissions will be made publicly available on the NSW Fair Trading website. If you do not want your personal details or any part of your submission published, please indicate this clearly in your submission together with reasons. Automatically generated confidentiality statements in emails are not sufficient. You should also be aware that, even if you state that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*).

It is also a statutory requirement that all submissions are provided to the Legislation Review Committee of Parliament.

Identified stakeholders

The RIS has been provided directly to some key stakeholders and organisations. A list of these stakeholders is provided at **Appendix 2**.

Evaluation of submissions

All submissions will be considered and assessed. The proposed Regulation will be amended, if necessary, to address issues identified in the consultation process. If further information is required, targeted consultation will be held before the proposed Regulation is finalised.

The Minister for Innovation and Better Regulation will then decide on the content of the final Regulation.

Commencement of the Regulation

After the Minister for Innovation and Better Regulation has finalised the Regulation, it will be submitted to the Governor for approval.

Once approved by the Governor, the Regulation will be published on the official NSW Government website for online publication of legislation at www.legislation.nsw.gov.au and in the NSW Government Gazette. Information on how to access the Gazette is available on the [NSW Parliamentary Counsel's website](#).

It is proposed the Act and Regulation will commence on **1 September 2018**.

Need for government action

The Act was passed by Parliament on 3 May 2017 and received assent from the Governor on 9 May 2017. Government action is deemed necessary at this point-in-time, to give effect to the consolidation of the gas and electrical consumer safety laws into a single Act. This will provide a more streamlined and consistent approach in the regulation of both energy sources. In addition, the Gas Regulation is due for automatic repeal on 1 September 2018.

The proposed Regulation is a necessary and detailed component of the gas and electricity regulatory framework in NSW, and forms a critical link between the Act and monitoring compliance. The Act cannot function as intended without the supporting proposed Regulation.

Objective and rationale of the proposed Regulation

Objective

The Act received assent from the Governor on 9 May 2017 and consolidates the gas and electrical consumer safety laws into a single Act. The merger and restructure of the legislation will provide one source of regulation for gas and electricity consumer safety that is clear and consistent, easier to read and up-to-date.

Key reforms in the Act include:

- strengthening the gas consumer safety provisions for consistency with electricity consumer safety provisions;
- allowing for the regulation of declared high risk battery articles; and
- permitting authorised officers to investigate and prohibit the unsafe use of gas appliances and electrical articles.

The Act has not yet commenced. It is proposed that the Act will commence when there is an appropriate regulation to support its operation.

The primary objective of the proposed Regulation is to provide the legislative support and administrative detail for the operation of the Act.

The proposed Regulation will provide for:

- the specifications and requirements for the sale of electrical articles and gas appliances, including disposal;
- the process for model approvals for electrical articles;
- the declaration of recognised external approval schemes and the certification of gas appliances;
- the standards and requirements for electrical installation work;
- the standards for gas fitting and auto-gas work;
- testing, inspection and compliance following electrical installation work and gas fitting or auto-gas work;
- offences relating to gas and auto-gas installations, including gas regulators;
- maintenance of electrical and gas installations;

- notifications of serious electrical and gas accidents and circumstances where interference with accident sites is permitted; and
- the forms, fees and penalty notice offences and penalty amounts for the purposes of the Act.

Rationale

The proposed Regulation is necessary as it will provide the legislative support and administrative detail necessary for the effective operation of the Act. Without the proposed Regulation, the Act could not be effectively administered or enforced.

It is necessary to make the proposed Regulation because:

- the Act will introduce a new legislative framework for the gas and electricity consumer safety regime which includes strengthening the gas regime. The current regulatory and administrative arrangements would need to be updated to ensure the Act is effectively supported; and
- on 1 September 2018, the Gas Regulation will be subject to automatic repeal under the provisions of the *Subordinate Legislation Act 1989*.

Options for achieving objectives

There are numerous options available for achieving the primary objectives of the proposed Regulation in providing the operational and administrative detail to support the operation of the Act on commencement. The main three options are detailed below:

Option 1 – Maintain the status quo

Do not make the proposed Regulation, and instead remake the current Gas Regulation to be identical to the existing regulation. Maintaining the status quo would also result in the Act not commencing, meaning that the benefits of a streamlined and consistent approach to the regulation of both energy sources would not be realised.

Option 2 – Make the proposed Regulation

The provisions of the proposed Regulation will provide updated legislative support and administrative detail for the Act allowing for its commencement. Compliance mechanisms will assist in enforcing consumer safety standards in the gas industry and powers for investigators to address situations which pose a real risk of harm.

Option 3 – Take no action

No action will allow the existing Gas Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and a replacement regulation would not be remade. This option would place the onus on the industry to self-regulate issues addressed in the Gas Regulation. No action will also result in the Act not commencing and the existing *Gas Supply Act 1996* to remain in force.

Criteria used to assess the regulatory options

The following criteria, which relate to the regulatory objectives, are used in the evaluation of the three options:

- the extent to which the option supports the objectives of the Act;
- the cost effectiveness of each option, in terms of costs and benefits to consumers, industry and government; and
- the extent to which the option contributes to the overall efficiency of the regulatory system.

Impact assessment of options

Assessment of Option 1

Maintain the status quo – do not commence the Act, do not make the proposed Regulation and instead remake the Gas Regulation to be in its current form.

Option 1 – Costs

The Act and proposed Regulation will enable an investigator to seize and remove potentially unsafe gas appliances from retail sale and prevent retailers from returning potentially unsafe gas appliances to shelves. Key compliance mechanisms, such as penalty infringement notices, will be introduced for gas related offences. This is not covered under the current gas consumer safety legislation. The cost to consumers will be high if the Act and proposed Regulation do not commence with the increased risk of unsafe gas appliances being available from retail outlets and no enforcement powers for consumer protection.

The new legislative regime will reduce compliance burdens for the industry, and particularly for appliance retailers who deal in both gas and electricity appliances. By not adopting the Act and proposed Regulation the cost on industry would be high by missing the opportunity to streamline the gas and electricity regime.

The Act and proposed Regulation will provide the opportunity for and provide consistent compliance and enforcement provisions. This will enable Fair Trading to utilise the full range of compliance mechanisms now available for electricity safety, to enforce safety standards in the gas industry.

The prospect of providing further protection in the use of gas appliances and installations and enhanced consumer safety would be wasted without enacting the Act and proposed Regulation. The consistent regulation of both energy sources would not be realised for Government under this option.

Therefore, the lost opportunity for increased consumer protection and the savings that would arise from reducing compliance burdens to government, consumers and industry if this option was proceeded with has been assessed as high.

Option 1 – Benefits

The proposed Regulation will provide the opportunity to update references and relevant Australian Standards to ensure the new legislation is current and effective. By adopting the new standards, it will bring NSW into line with other Australian jurisdictions and therefore harmonise gas fitting requirements across Australia. Selecting this option and not taking the opportunity to embrace the new legislative regime for gas and electricity, would see the continuation of an out-dated regulatory framework.

The Act contains powers for Fair Trading investigators to address situations in which gas or electrical installations or articles are being misused or used in a way which poses a real risk of harm.

The benefits that would not be realised if this option was adopted, would be the increased consumer protection of a more stringent regulation of the gas industry. Fair Trading investigators will not have the power to remove uncertified gas appliances from sale or issue penalties for gas related offences.

While consumers would continue to benefit from the consumer protection mechanisms of the existing Gas Regulation, penalties for gas offences are low. Fair Trading investigators are currently unable to issue penalty infringement notices for gas related offences. Penalty notices are an effective compliance tool which send a clear and immediate signal about the importance of consumer safety requirements. Fair Trading's ability to efficiently and cost effectively administer the gas consumer safety provisions would be significantly enhanced by the ability to issue penalty notices. The alternative to penalty notices is to initiate court action, which can be disproportionately costly and time consuming for less serious offences. The enhanced protection provided in the Act and proposed Regulation would not be achieved and retailers would not be prevented from continuing to display uncertified items. The overall benefits to consumers has been assessed as low.

Under this option, industry will not obtain the benefits from consistency between the gas and electricity regulatory regimes that would arise from the Act and the proposed Regulation. Renewing the existing Gas Regulation in its current form would continue to achieve the same objectives and maintain the existing framework for gas. Accordingly, the overall benefits for industry of this option has been assessed as low.

Government benefits would be focused on the administrative savings that could be achieved through the continuation of the status quo without the need to update guidance and advice material or publicising any legislative changes. However, by not implementing the Act and proposed Regulation the opportunity would be missed to consolidate the gas and electrical consumer safety laws to provide a more streamlined and consistent approach to the regulation of both energy sources and the reduced enforcement powers would not be available. For this reason, the overall benefit to government has been assessed as low.

Option 1 – Conclusion

Option 1 would still allow the objectives of the *Electricity (Consumer Safety) Act 2004* to be achieved, however, this would be at the expense of not commencing the consolidated Act. This would mean that the regulation of consumer safety in the gas and electricity industry would not be the most effective and beneficial given the potential for improvements. Remaking the current Gas Regulation in its current form would not impose any new costs on industry or consumers, but it would not result in any significant benefits or improvements in the sector. The impact would be high to consumer safety with defective gas appliances not being effectively removed from retail outlets. Enhancements provided in the Act and the

proposed Regulation would not be achieved and the opportunity wasted with this option, impacting industry, consumers and government alike. For these reasons, **option 1 is not the preferred option.**

Assessment of Option 2

Make the proposed Regulation – the Act will commence and the provisions of the proposed Regulation will provide updated legislative support and administrative detail for the Act.

Option 2 - Costs

The consumer would be unlikely to incur any direct costs as a result of this option.

The cost to the industry for this option would be varied. The costs would depend on individual business practices, business structure and the resources available to implement necessary changes arising from the proposed Regulation. The industry will need to invest time to familiarise themselves with the new requirements in the proposed Regulation which may require implementing or adjusting work processes.

Some direct costs may be imposed on industry associated with complying with updated standards. The cost of purchasing a new standard for example, in a set including all types of gas fitting work, ranges from \$375 to \$710.

New penalty notice offences for the gas industry have been included in the Act and proposed Regulation to ensure unsafe gas articles are disposed of correctly and serious gas accidents are properly managed. Non-compliant operators could be subject to new penalty notice offences for the gas industry.

Fees amounts have increased to allow for Consumer Price Index (CPI). The fees have increased to cover CPI increased for the financial year of 2017/18 and before commencement will be adjusted for the financial year of 2018/2019.

The Government would continue to incur similar ongoing administrative costs of this option. There may be some additional up-front costs resulting from the need to inform the industry about the changes in the proposed Regulation.

In comparison to the existing regulations, there is no substantial increase in costs for industry or the government and direct costs to consumer will be unchanged. Costs for this option are considered to be medium.

Option 2 - Benefits

Commencing the Act will be consistent with achieving the Government's objective of consolidating the gas and electrical consumer safety laws into a single Act. This will provide one source in the regulation of gas and electricity consumer safety that is clear and consistent, easier to read and up-to-date. Several deficiencies in the gas consumer safety provisions will be addressed and a consistent approach can be taken for compliance in both energy sources.

Making the proposed Regulation achieves the objectives of the Act and will provide additional benefits to make the Act more effective and efficient. The results will be a range of improvements for industry, consumers and government.

The proposed Regulation will provide the following benefits:

- reduced compliance burdens for industry, particularly for appliance retailers who deal in both types of appliances.
- provide consistent and comprehensive enforcement provisions that will enable Fair Trading investigators to more effectively carry out compliance and enforcement in the gas appliance retail industry, including issuing penalty notices for gas offences.
- support the powers to immediately address such situations and help prevent an unsafe or dangerous situation from becoming a potentially lethal one. This may include removal or disconnection of an appliance or article, attaching a defect notice or issuing a penalty notice. This will assist Fair Trading investigators in taking immediate corrective action in circumstances where there is a risk of harm.
- provide the opportunity to update references and relevant Australian Standards to ensure that the proposed Regulation is current and effective.
- the benefits of consolidation will include consistent administration and regulation of consumer safety matters relating to electrical and gas equipment and installations as well as efficiencies for Fair Trading operational staff.

The key benefit of this option is the provision of a regulatory framework that ensures electrical and gas appliances and installations are safe for consumers. The benefits for this option are considered as high.

Option 2 – Conclusion

The proposed Regulation meets the regulatory objectives of the Act and will provide a more streamlined and consistent approach to regulation of the consumer safety aspects of both energy sources. It will also address several weaknesses in current gas consumer safety regulation and will provide the greatest benefit to the industry, community and government outweighing any new costs. The cost impacts of the proposed Regulation will not impact all operators in the industry and will be partly offset by the red tape reduction measures in reducing compliance burdens on industry and retailers dealing in both gas and electrical appliances. **For these reasons, option 2 is the preferred option.**

Assessment of Option 3

No action – Allow the existing Gas Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989*, do not commence the Act and do not make the proposed Regulation. The *Gas Supply Act 1996* (**Gas Act**) would remain in force.

Option 3 - Costs

The Gas Act requires that a range of matters be prescribed by regulation. Not prescribing these matters will result in the absence of regulatory provisions required to support the objectives and operation of the Gas Act.

Under this option, the Gas Regulation will lapse and consumers will not be given the protection afforded by a statutory regulatory framework. Safeguards would be removed that prevent dangerous and unstable gas appliances from being used and sold without the powers provided for investigators in the Gas Regulation to identify unsafe gas appliances and prohibit the sale or supply of unsafe appliances. Consumers will suffer a decrease in safety standards without the Gas Regulation providing the requirements for the certification and labelling of gas appliances and work not being carried out by qualified tradespersons or compliance to an approved standard. The cost to the consumer based on the increased safety risk would be high.

There would be significant cost savings to the industry without the Gas Regulation. There would be reduced number of penalties for gas related offences that would not be recognised in the Gas Regulation. Without regulation of the gas regime through the Gas Regulation, gas fitting and auto-gas work would be able to be carried out by unqualified persons and would not need to comply with certain standards. This would result in reduced cost to the industry although pose a much higher risk to consumers. Cost to industry would be rated as low.

The Government's regulatory responsibilities would continue under the principal Gas Act but this role would be made virtually impossible by the lack of administrative detail in the Gas Act. There would be reduced community confidence in the industry without the ability for the Government to provide the protection and compliance framework placing public health and safety at risk. The cost to Government would be low.

The costs of this option are considered to be medium, based on the low cost to industry and Government but the high cost to consumer safety.

Option 3 – Benefits

The Gas Act has limited ability to govern consumer safety for gas as all the legislative requirements are captured in the Gas Regulation. This option provides little to no benefit to consumers, industry and the Government. The only benefit associated with this option would be the removal of the regulatory burdens imposed on the industry which would only be experienced by retailers and suppliers of gas appliances

and businesses that carry out gas installation and auto-gas work. The benefits to Government would also be very minor and primarily relate to the savings achieved in time and resources in not having to remake the proposed Regulation.

The benefits of this option are considered to be low, as community confidence in the industry would likely be eroded and public health and safety may be put at risk.

Option 3 - Conclusion

Taking no action would result in the existing Gas Regulation lapsing on 1 September 2018, with no replacement regulation being made. The focus of the Gas Act is primarily on the development of a competitive market in gas, regulating gas reticulation and gas supply and promoting the efficient and safe operation of gas distribution pipelines. The objective of the Gas Regulation provides the focus on consumer safety and without the existence of the Gas Regulation there would be no consumer protection against unsafe gas appliances and installation.

Further action by the Government would be required, such as amending the Gas Act, to capture the requirements of the Gas Regulation. Enshrining the proposed requirements of the Gas Regulation in the Gas Act would reduce the capacity to amend the requirements quickly to respond to problems which may arise for consumers or to address changes in industry practices. For these reasons, **option 3 is not the preferred option.**

Summary of costs and benefits for each option

Option	Likely costs	Likely benefits	Overall benefit
Option 1	High	Low	Negative
Option 2	Medium	High	Positive
Option 3	Medium	Low	Negative

Figure 1.0: Summary of costs and benefits for each option

Preferred option

After analysing the costs and benefits to consumers, industry and government of each option, the option that supports the objectives of the Act and contributes to the overall efficiency of the regulatory system is **Option 2 - making the proposed Regulation.** The proposed Regulation will facilitate the operation of the Act and provide the most benefit to the community, industry and the Government.

Regulation-Making Powers

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
Part 1 Preliminary			
4(1)	Definition of electrical installation Prescribe any electrical equipment (other than a meter) or class of electrical equipment that is not included in the meaning of electrical installation	Nil	None prescribed
4(1)	Definition of gas component Prescribe any other item as a gas component	Nil	None prescribed
4(1)	Definition of relevant authority Prescribe a relevant authority for another state or territory	4	Prescribes the following <ul style="list-style-type: none"> The Electrical Safety Office, the Office of Industrial Relations in relation to Queensland Energy Safe Victoria in relation to Victoria The Office of the Technical Regulator, Department of the Premier and Cabinet in relation to South Australia Consumer Building and Occupational Services, Department of Justice in relation to Tasmania Energy Safety, Department of Mines, Industry Regulation and Safety in relation to Western Australia NT Worksafe, Department of Attorney-General and Justice in relation to Northern Territory Technical regulator of utilities, Environment, Planning and Sustainable Development Directorate in relation to the ACT
4(4)	Provide for when electrical equipment (or any part of electrical equipment) is taken to form part of an electrical installation at a place	Nil	None prescribed
Part 2 Electrical articles			
8 (2)(a)	Prescribe the requirements for marking electrical articles for sale	7	Prescribes the requirements for marking declared electrical articles
8 (2)(b)(iii)/ 9 (2)(b)(ii)	Prescribe any other specifications that an electrical article must comply with for sale	8	Prescribes AS/NZS 3820:2009 for an electrical article that is not a declared electrical article
8 (2)(b)(iv)/	Prescribe any other requirements (including standards) that an electrical article must comply with for sale	Nil	None prescribed

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
9 (2)(b)(iii)			
9 (2)(f)	Prescribe any other requirements for a guarantee to be an acquisition guarantee	Nil	None prescribed
16 (1)(a)	Provide for the making of an application for the approval of a model of electrical article	9	Provides for the form of the application and the particulars that must accompany an application
16 (4)(a)	Prescribe the particulars to be in the Secretary's written notice of approval	10	Prescribes the particulars that are to be in the Secretary's written notice of approval
17 (1)	Provide for the extension or renewal of a model approval	11, 12, 13, 14	Prescribes the processes for extending or renewing model approvals
18 (2)(d)	Prescribe any other ground that the Secretary may suspend or cancel a model approval	Nil	None prescribed
18 (3)(a)	Prescribe the matters that must be set out in a written notice suspending or cancelling a model approval	21	Prescribes the particulars that must be set out in a written notice suspending or cancelling a model approval
20 (2)	Provide for matters with respect to the declaration of recognised external approval schemes	22, 23, 24, 25	Provides for the application, approval, and reporting requirements for recognised external approval schemes
Part 3 Gas appliances			
21 (1)(b)	Provide the requirements for labelling a gas appliance or type of gas appliance	26	Provides the requirements for a compliance label for a gas appliance or type of gas appliance
23 (1)	Provide for the application for an authority to certify a gas appliance or type of gas appliances	27	Provides for the form of the application and the particulars that must accompany an application
24 (1)(a)	Prescribe any conditions that a certification authority is subject to	29 (1)	Prescribes conditions that a certification authority holder must comply with
24 (1)(b) 24 (2)	Provide for imposing and varying or revoking of any other condition imposed by the Secretary	29 (3) 29 (4)	Provides that conditions can be imposed, varied or revoked by order in writing and a certification authority holder must be provided with written notice of the intention to impose or vary conditions, and be given the opportunity to make a submission concerning the imposition or variation
Part 4 Unsafe electrical articles and gas appliances			
28 (5)	Prescribe the newspapers for the purposes of publishing notices prohibiting the sale of an electrical article or has appliance	34	Prescribes the newspapers for the purposes of publishing notices
Part 5 Installations – electrical, gas and auto-gas			
34 (a)	Prescribe the standards or requirements for electrical installation work	35	Prescribes the standards and requirements for electrical installation work
34 (b)	Prescribe the standards or requirements for gas fitting work	40	Prescribes the standards for gas fitting work

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
34 (c)	Prescribe the standards or requirements for auto-gas work on an auto-gas installation	41	Prescribes the standards for auto-gas work on an auto-gas installation
35 (1)	Prescribe the parts of the electrical or gas installation, and how they should be maintained while the installation remains connected to the source of the supply of electricity or gas	70	Prescribes all parts of an electrical or gas installation and the requirements that apply to the maintenance of all parts
38 (a)	Provide for matters relating to the testing, inspection and compliance requirements that must be carried out on completion of electrical installation work, gas fitting work or auto-gas work	37, 38, 39	Provides for the conduct of safety and compliance tests on electrical installation work and the notification of the results of these tests
		42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56	Provides for the testing, inspection and compliance following gas fitting or auto-gas work
38 (b)	Provide for matters relating to the sale of electrical installations or gas installations, or gas cylinders for auto-gas installations	58, 64, 68	Provides the requirements for the sale of gas installations, gas cylinders and gas regulators
38 (c)	Provide for matters relating to the use of electrical, gas or auto-gas installations	59, 65	Provides the requirements for the use of gas installations and auto-gas installations
38 (d)	Provide for matters relating to the supply of gas for use in gas or auto-gas installations	60, 66	Provides the requirements for the supply of gas for use in gas and auto-gas installations
38 (e)	Provide for matters relating to the connection of electrical articles to electrical installations, of gas containers, gas regulators or gas appliances to gas installations, or of gas cylinders to auto-gas installations	61, 62, 63, 67, 69	Provides the requirements for connecting <ul style="list-style-type: none"> • gas containers, gas regulators or gas appliances to gas installations • gas cylinders to auto-gas installations • gas regulators to gas containers
Part 6 Accident reporting and investigations			
40 (1)	Prescribe any other person who must notify the Secretary of a serious electrical and gas accident	71 (1)	Prescribes a number of people who are responsible for notifying the Secretary
40 (1)(b)	Prescribe the manner for a notification by an occupier, or any other person, for serious electrical and gas accidents	71 (2)	Prescribes that notification must be given within 7 days after the accident and by written notice, electronic communication, or by telephone.
40 (2)	Prescribe a person, or a class of persons, as exempt from the requirement to notify the Secretary of a serious electrical or gas accident	71 (3)	Provides that a person is exempt if notice has already been given within 7 days in accordance with other legislative schemes.
42 (c)	Provide circumstances where the interference with a site of a serious electrical or gas accident is permitted	72	Provides circumstances where a person may disturb or interfere with the site of a serious electrical or gas accident

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
Part 7 Enforcement			
54 (3)	Provide for, or matters relating to the issue by authorised officers of directions or notices to rectify electrical installation work or gas fitting work that is found on inspection to be non-compliant, including enforcement	Nil	None prescribed
55 (3)	Prescribe a fee for or in connection with the inspection by an authorised officer of an electrical installation that includes the installation of an electricity meter	73	Prescribes fees payable for the inspection of an electrical installation that include the installation of an electricity meter
57 (5)	Provide for compensation to be provided by the Secretary for seized electrical articles and gas appliances	74 (1) 74 (2)	Provides that the compensation payable is the actual amount paid for a seized electrical article or gas appliance and how this can be determined
58 (2)	Prescribe the manner for an application by the Secretary to the Local Court for the forfeiture of an electrical article or a gas appliance	Schedule 1	Prescribes the form to be used for an application for order for forfeiture of electrical or gas appliance
66 (2)	Prescribe an offence against the Act or the proposed Regulations as a penalty notice offence	Schedule 3	Prescribes each offence for which a penalty notice may be issued and the amount payable under any such penalty notice
Part 8 Miscellaneous			
69 (2)	Prescribe the form in which a register of model approvals or a register of person granted a certification authority is to be kept and the particulars that are to be recorded in those registers	76	Prescribes the particulars required for the register of model approvals and register of certification authorities
72 (1)(f)	Authorise any other method for the service of documents authorised or required by the Act or the proposed Regulations to be served on any person	Nil	None authorised
74 (4)(c)	Prescribe a class of person for the definition of authorised person	79	Provides for any person to whom electricity network assets have been transferred
75 (1)	Make regulations, not inconsistent with the Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the Act	15, 16	Provides for the modification of a model approval
75 (2)(a)	Provide for or with respect to the matter of the provision of reports, information, particulars, returns and statistics and the time and mode of providing and the manner of verification	Nil	None prescribed
75 (2)(b)	Provide for or with respect to the matter of the constitution, functions and procedures of a committee to advise the Secretary in relation to any matters	Nil	None prescribed

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
	relating to the approval or sale of electrical articles or gas appliances that may be referred to it by the Secretary		
75 (2)(c)	Provide for or with respect to the matter of the making of applications for the purposes of the Act	Nil	None prescribed
75 (2)(d)	Provide for or with respect to the matter of fees or charges (including the waiver, reduction, postponement or refund of fees or charges)	6 Schedule 2	Provides the fees to be paid in connection with the administration of Part of the Act, including fees for the lodgement of any documents under Part 2
75 (2)(e)	Provide for or with respect to the matter of standards for electrical articles or gas appliances and for the materials used in their manufacture	Nil	None prescribed
75 (2)(f)	Provide for or with respect to the matter of the design and construction of electrical articles or gas appliances	Nil	None prescribed
75 (2)(g)	Provide for or with respect to the matter of the testing and inspection of electrical articles or gas appliances	Nil	None prescribed
75 (2)(h)	Provide for or with respect to the matter of the approval, and the withholding and withdrawal of approval of electrical articles or gas appliances (including models or types) and the renewal of an approval	18, 19, 20	Provides for the following: <ul style="list-style-type: none"> • Form of a model approval certificate • Duplicate model approval certificates • Particulars concerning model approvals • Notice suspending or cancelling a model approval
75 (2)(i)	Provide for or with respect to the matter of the marking or labelling of electrical articles or gas appliances and the improper use of marks or labels	Nil	None prescribed
75 (2)(j)	Provide for or with respect to the matter of guarantees to be given with respect to electrical articles or gas appliances	Nil	None prescribed
75 (2)(k)	Provide for or with respect to the matter of the connection, alteration, maintenance, repair, replacement and operation of electrical articles or gas appliances	31	Allows the Secretary to specify warnings for the safe use of electrical articles or gas appliances
75 (2)(l)	Provide for or with respect to the matter of the disposal, (by sale or otherwise, of electrical articles or gas appliances (including the imposition of conditions on their sale to ensure their safe use) and the display of electrical articles or gas appliances in connection with their disposal	Nil	None prescribed
75 (2)(m)	Provide for or with respect to the matter of electrical installations, gas	Nil	None prescribed

Section in the Act	Regulation-making power under the Act	Clause in Regulation	Scope of the proposed Regulation
	installations or auto-gas installations, or associated fittings or equipment		
75 (2)(n)	Provide for or with respect to the matter of the carrying out of electrical installation work, gas fitting work or auto-gas work	Nil	None prescribed
75 (3)	Exempt or provide for the exemption, unconditionally or subject to conditions, of persons or things or classes of persons or things from any or all of the provisions of the Act	36	Provides that Parts 8 and 9 of the proposed Regulation do not apply to or in respect of electrical installation work if it is carried out by a law enforcement officer in accordance with the <i>Surveillance Devices Act 2007</i>
75 (4)	Create offences punishable by a penalty not exceeding 500 penalty units in the case of a corporation and 250 penalty units in the case of an individual	17 30 32 33	Creates an offence for a model approval holder failing to give notice of changes in particulars Creates offences relating to compliance labels Prescribing offences for disposing of electrical articles or gas appliances
75 (5)	Apply, adopt or incorporate (with or without modification) any publications as in force at a particular time or from time to time.	Nil	None applied, adopted or incorporated
75 (6)	Provide for an application to be made to the Civil and Administrative Tribunal by a person for an administrative review under the Administrative Decisions Review Act 1997 of a decision, of a class prescribed by the proposed Regulations	Nil	None provided or prescribed

Discussion of the proposed Regulation

Submissions are welcome on any aspect of the proposed Regulation, whether or not raised in this RIS. However, the following discussion points provide greater context for some provisions in the proposed Regulation and explore some regulatory options for these provisions.

A comparison of the existing Electricity and Gas Regulations and the provisions of the proposed Regulation is provided in **Appendix 1**.

Clause 2 - Commencement

The Act commences on a day to be appointed by proclamation, which is to be 1 September 2018. It is also proposed to commence the proposed Regulation on 1 September 2018. This commencement date has been based on the automatic repeal date of the existing Gas Regulation.

1. Is the commencement date for the proposed Regulation and the Act appropriate? If not, why?

Clause 5 – Definition of ‘Specification’

Section 75 (e) of the Act provides for standards of electrical articles or gas appliances to be prescribed by the regulation. A new definition of ‘*specification*’ has been included in the proposed Regulation. The definition captures international standards published by the International Electrotechnical Commission, European standards published by the European Committee for Electrotechnical Standardisation and standards published by Underwriters Laboratories Inc.

In some fields such as batteries, the international standards are well ahead of the Australian standards. The international standards can be purchased on-line from the relevant international bodies and the price of each standard varies. Relevant standards from international bodies will be published in the NSW gazette as a class specification.

Clause 28 - Change to particulars

Clause 28 of the proposed Regulation requires a holder of a certification authority to notify the Secretary in writing of any changes to their name or address within 21 business days after the change. The penalty for failing to notify within the required timeframe is 100 penalty units for a corporation and 25 penalty units in any other case.

This clause has been based on existing requirements for model approval holders to notify changes in the Electricity Regulation. In comparison, the existing Gas Regulation did not specify the form of the notification (i.e. in writing), provided a 14-business day timeframe and a penalty of 20 penalty units for non-compliance.

The changes made to the proposed Regulation have been made to ensure consistency with the electricity regime and, specifically, ensure that the penalty for failing to comply more appropriately reflects the seriousness of the offence.

2. Are the changes to the requirements for notification of a change of particulars appropriate?

Clauses 31, 32 and 33 – Restrictions on sale or disposal of electrical articles or gas appliances

Clauses 31, 32 and 33 in the proposed Regulation have been reproduced using the existing clauses 24, 25 and 27 from the Electricity Regulation with changes in the wording to include gas appliances. The new requirements applicable to gas appliances under clause 31 will enable the Secretary to specify directions or warnings as to the safe use of gas appliances as specified in the notice and for a notice to be served on manufacturers, importers, wholesalers, retailers or any other person. It will be an offence under clause 32 for a person that has been served a notice to dispose of a gas appliance unless all directions specified in the notice have been adhered to. It is also an offence under clause 33 for disposing of a non-conforming gas appliance through other means such as offering it as a prize or reward. Both offences have a maximum penalty of 40 penalty units.

The changes made to the proposed Regulation have been made to ensure consistency with the electricity regime, treating both energy sources the same and ensuring consumer safety with gas appliances.

3. Are the changes made to the proposed Regulation for capturing gas appliances appropriate?

Clause 40 - Gas fitting work to comply with certain standards

Australian Standards AS5601 – 2004 Gas Installations, as defined in the existing Gas Regulation, has been superseded by AS5601 – 2013. Clause 40 (a) of the proposed Regulation reflects this change and will require a person carrying out gas fitting work to do so in accordance with Australian Standard AS5601 – 2013 Gas Installations.

The major changes and additions that have been made to the 2013 edition from the 2010 edition are:

- exclusion of 1st family gases such as tempered liquefied petroleum;
- temperature limitations for press fit end connectors;
- new means of compliance for ventilation of flued appliances, including new normative appendix for combustion products spillage testing;

- revised pipe sizing in relation to increased flow capacities where supply and equipment pressure permits;
- revised method in calculating breather vent orifice sizes;
- new informative appendixes for gas appliance commissioning, symbols used in gas controls; and
- system diagrams, gas installation checklist and spillage testing of combustion products.

In addition to the above changes, the following major changes were made to the 2010 edition from the 2004 edition:

- revision of the appendix on pipe sizing;
- inclusion of a new appendix 'Gas in high rise buildings';
- inclusion of a new appendix 'Diagrammatical representation of outdoor areas'; and
- additional requirements in relation to the use of proprietary multilayer piping systems.

The 2010 edition of the Australian Standards was not adopted in NSW partly due to industry concerns about the possible associated costs of upgrading to the different pipe size. Since the 2010 Standard was produced, the industry has seen the introduction of cheaper materials which means the cost impact of upgrading will be lessened. All other Australian jurisdictions have adopted this new Standard in their equivalent legislation and adopting the Standard AS 5601-2013 would therefore harmonise gas fitting requirements across Australia.

Australian Standards AS1596 – 2008, for the storage and handling of Liquid Petroleum (LP) gas, as defined in the existing Gas Regulation, has been superseded by AS1596 – 2014. Clause 40 (c) of the proposed Regulation reflects this change and will require a person carrying out gas fitting work to do so in accordance with Australian Standard AS1596 – 2014.

The Standard has been revised in terms of safety and technical matters and the major changes and additions that have been made to the 2014 edition from the 2008 edition are:

- inclusion of new information on the transport of portable LP gas cylinders for trade use;
- modifications made for assessing the requirements for the protection of tanks and cylinders from impact;
- review of the emergency planning aspects of the standard to bring it in line with current emergency services terminology and practice; and
- introduction of new information on odour management to provide guidance for the management of odour in LP gas through the supply chain to reduce the risk of odour fade.

Clause 41 - Auto-gas work to comply with certain standards

Australian Standard AS/NZS 1425 – 2007 LP gas fuel systems for vehicle engines, as defined in the existing Gas Regulation, has been superseded by AS/NZS 1425 2013. Clause 41 of the proposed

Regulation reflects this change and requires a person carrying out auto-gas work for a LP gas installation to do so in accordance with Australian Standard entitled AS/NZS 1425 – 2013.

The following changes and additions have been made to the 2013 edition:

- introduction of clauses related to the protection against container ‘hot bursting’ in a vehicle fire situation, including an appendix which details real fire test procedures where the Standard does not address that specific type of installation.
- minor changes made to exhaust emission standards which now include vehicles manufactured to comply with ADR 80/02 and ADR 80/03.
- inclusion of an interim arrangements for vehicles manufactured to comply with ADR 79/03.
- the terms ‘normative’ and ‘informative’ has been used in the Standard to define the application of the appendix to which they apply. A ‘normative’ appendix is an integral part of a Standard, whereas an ‘informative’ appendix is only for information and guidance.

The Standard, developed in consultation with experts, industry associations and government advisors, reflects modern installation practices and materials. Fair Trading considers the new Standard represents a considered view of best-practice design and that it is appropriate for NSW to adopt.

4. Is the update to the current version of Australian Standards AS 5601, AS 1596 and AS 1425 appropriate? In your answer please explain your reasons.

Clause 72 – Interference with site of serious electrical or gas accident

Section 42 (c) of the Act enables exemptions to be provided by the proposed Regulation for persons that may disturb or interfere with the site of a serious electrical or gas accident.

Clause 72 of the proposed Regulation has included the exemptions for:

- the person with permission of an inspector under the *Work Health and Safety Act 2011*;
- the person with permission of an inspector under the *Electricity Supply Act 1995*; or
- for a person taking action to help or remove trapped or injured person or body, to avoid injury to a person or damage to property or for the purpose of police investigation or coronial inquiry.

Although this exemption was applicable for serious electrical accidents in the existing Electricity Regulation, it was not included in the existing Gas Regulation. For consistency, it will be applicable to serious accident involving both energy sources.

5. Should any other persons be identified in the proposed Regulation in relation to serious electrical or gas accidents? Please detail who and why?

Clause 74 - Seizure and forfeiture of electrical articles and gas appliances

Section 49 (d) of the Act allows an authorised officer to seize, detain or remove, for the purpose of examination or testing, any electrical article or gas appliance. This can only be done if there is a belief that the item is unsafe, or that an offence has been committed in relation to the item. This power has always existed in the electricity regime, but has been extended to the gas regime by the Act.

Section 57 (3) of the Act provides that the Secretary must provide compensation for a seized item if the Secretary determines that the item is not unsafe, or proceedings for an offence have not been brought in relation to the item.

Clause 74 of the proposed Regulation provides how compensation for a seized item is to be determined (replicating the existing method for electrical articles under the Electricity Regulation (clause 29)). The compensation payable is the amount actually paid for the item by the person from whom the item was seized. The Secretary may require the person to provide evidence of this payment.

6. Is the method prescribed for determining the amount of compensation payable appropriate for the gas regime?

Clause 77 – Exemptions

Section 42 of the *Interpretation Act 1987* provide the proposed regulation-making powers to enable clause 77 to be included in the proposed Regulation. This clause enables the Secretary to provide exemptions from any or all of the provisions in the proposed Regulation for persons or a class of person or any gas, auto-gas or electrical installation or class. This power has always existed in the gas regime but has been extended to cover electrical installation or class of electrical installation.

7. Is this power appropriate to be applied to the electricity regime?

Schedule 2 - Fees

Section 75 (2) (d) of the Act enables the proposed Regulation to make provision for fees or charges for the purposes of the Act. The proposed Regulation has replicated the fees from the existing Gas and Electricity Regulations with increases made for Consumer Price Index (CPI) adjustment for the 2017/18 financial year. Before commencement of the proposed Regulation, fees will be adjusted for CPI the 2018/19 financial year.

The following fees are included in Schedule 2 of the proposed Regulation:

- For model approvals related to electrical articles;
 - application fees

- extension of a model approval;
- renewal of a model approval;
- modification of a model approval; and
- lodgement fees for a change of particulars of a model approval holder.
- Recognised external accreditation schemes
 - recognised external approval schemes for electrical articles
 - certified assessment bodies for gas appliances
- Inspection fees for an electrical installation that includes the installation of an electricity meter.

Model approvals

The application fee for a model approval is dependent on the category of the product. Category 2 articles are more complex items that could potentially present a higher risk such as refrigerators, room heaters and dishwashers. The higher application fee is based on the requirements for extensive assessment and more complicated test reports that are required compared to the category 1 articles which are simpler electrical components or apparatus which present a lower risk such as plugs, wall switches and socket outlets.

When reviewing an extension or renewal of a model approval, Fair Trading is required to take similar steps to process the application although the focus is on the changes that have occurred to the Standards since the original application was approved. The fee for the modification of a model approval is lower than for an extension or renewal as the testing is only carried out on the area that differs from the original product which has already undergone a full assessment and approval. The fees cover the costs of processing the application and testing and are reflect of the administrative costs to Fair Trading.

Fair Trading charges a lodgement fee for a notice of change of particulars of model approvals. This fee has been set to cover the administration costs of amending the register and providing the model approval holder with a written notice in accordance with clause 17 (3) of the proposed Regulation.

Recognised external accreditation schemes

Fair Trading charges an initial application fee and a renewal application fee for the accreditation of recognised external approval schemes. An additional fee is charged for these applications, calculated at an hourly rate, to cover the cost to Fair Trading of further assessing the scheme, which may include an inspection of the premises and examination of documentation in relation to the schemes approval processes. A number of recognised external approval schemes are located interstate and onsite visits are conducted. In addition, Fair Trading often sends two officers to conduct the inspection, which makes the process quicker. The current fee structure allows for reimbursement to Fair Trading of the actual costs expended in conducting the assessment and for the occasions when more than one officer attends. The fee's associated with changing particulars of model approvals reflects NSW Fair Trading

administration costs of amending the register, and providing the model approval holder with a written notice in accordance with clause 17 (3).

Inspection Fees

Section 55 (3) of the Act makes provision for a prescribed fee for, or in connection with, the inspection by an authorised officer of an electrical installation that includes the installation of an electricity meter. On the 1 July 2016, the *Electricity Supply Amendment (Advance Meters) Act 2016* commenced which changed the responsibility for electricity meter installation, safety and inspection to NSW Fair Trading.

To support the implementation of this legislation a prescribed fee of \$15.00 for initial inspection fee and subsequent inspection fee of \$75.00 came into force with the Electricity (Consumer Safety) Amendment (Meter Inspection Fee) Regulation 2016. The fee is to ensure the electrical meter complies with consumer safety standards and requirements and is payable by the meter provider. The reinspection fee relates to an inspection after a defect has been discovered and for the inspector to ensure the rectification work has been completed.

Consumer Price Index (CPI) adjustments have not been made to the fees for 2016/17 and 2017/18 periods. The inspection fee will now be included in Schedule 2 for transparency and to enable automatic adjustment each year in line with the CPI.

Change to how fees are expressed

The NSW Government is introducing a new approach that will enable fees prescribed in regulations to be automatically adjusted each year in line with the CPI.

The fees in Part 1 of Schedule 2 of the proposed Regulation are expressed as a number of 'fee units' instead of dollar amounts, as they are in the existing Gas and Electricity Regulations. This approach is a similar concept to the penalty unit system used in NSW to describe the amount payable for a fine. For example, the application fee for a model approval of a category 2 article is 9.49 units. As the fee unit for the 2017-18 financial year is worth \$100, this fee is \$949 (9.49 x \$100). This is explained in Schedule 2 Part 2.

The fees will be automatically adjusted from 1 July 2019 onwards. The fee unit will change on an annual basis as it is indexed annually for inflation. The introduction of a fee unit scheme will reduce the administrative burden and cost to Government as it will not have to amend the proposed Regulations each year to adjust fees for inflation.

All the fees factor in a CPI increase for the financial year of 2017/18, as it was not applied at the time due to the existing Gas and Electricity Regulations being subject to review. The fees will be adjusted in the proposed Regulation before commencement to factor in a CPI increase for the financial year of 2018/19, as the proposed Regulation will commence on 1 September 2018, and therefore will miss the automatic process in 2018.

8. Are the proposed fees appropriate? If not, why?

Schedule 3 – Penalty notice offences

Schedule 3 prescribes offences under the legislation for which penalty notices may be issued. Fair Trading investigators are currently unable to issue penalty infringement notices for gas related offences. Penalty notices are an effective compliance tool which send a clear and immediate signal about the importance of consumer safety requirements. Fair Trading's ability to efficiently and cost effectively administer the gas consumer safety provisions would be significantly enhanced by the ability to issue penalty notices. The alternative to penalty notices is to initiate court action, which can be disproportionately costly and time consuming for less serious offences. Generally, the penalties reflect the severity of the offence.

The following additional new penalty notices have been included in the proposed Regulation.

Section 21(1) of the Act – Offence for selling gas appliances unless certified or labelled in accordance with regulations. The maximum penalty in the Act is 500 penalty units for individual (first offence) and 750 penalty units (subsequent offence) and 5,000 penalty units for corporation and 7,500 penalty units (subsequent offence).

The penalty notice offence has been proposed at \$1,000. This is the same penalty that currently exists for electrical articles under section 8 (1) of the Act.

Section 22 of the Act - Offence for unauthorised person certifying a gas appliance or type. The maximum penalty of 500 penalty units for a corporation or 250 penalty units for an individual.

A new penalty notice offence has been proposed at \$5,000 for an individual and \$10,000 for a corporation due to the serious nature of the offence and to act as a deterrent of this occurring. Certified assessment bodies are only authorised by Fair Trading as the regulator and are continually audited to ensure they are approving gas appliances that are safe and compliant. If an unauthorised entity did so, this would cause a significant safety risk for the community.

Section 33 of the Act – Offence for gas fitting or auto-gas work carried out by an unqualified person. The maximum penalty in the Act is 1,000 penalty units for a corporation or 200 penalty units in the case of an individual.

The penalty notice offence of \$1,000 has been proposed as a new penalty and where the offence is deemed to be minor or medium risk, the penalty notice offence is to act as a deterrent against re-offending. This penalty is consistent with other similar offences.

Section 34 of the Act – Offence for electrical installation, gas fitting or auto-gas work not complying with standards or requirements. The maximum penalty in the Act is 500 penalty units

for individual (first offence) and 750 penalty units (subsequent offence) and 5,000 penalty units for corporation and 7,500 penalty units (subsequent offence).

The penalty notice offence of \$1,000 for an individual and \$5,000 for a corporation has been proposed as a new penalty and will be applicable to both gas, auto-gas and electrical installations. This is a common offence whereby installation work is non-compliant to the applicable standard and can have serious effects to the whole installation, the network and consumer safety. Non-compliances vary and some may be minor or medium risk and a penalty notice offences will suffice and provide a deterrent against re-offending. If the non-compliance is serious and poses a safety risk then Fair Trading would seek protestation action and seek maximum penalty.

Clause 43 of the proposed Regulation – Offence for failing to test a gas installation for defects, inspect all gas appliances or issuing and retaining copies of certificates of compliance. The maximum penalty of 100 penalty units for a corporation or 25 penalty units in any other case has been replicated from the Gas Regulation.

A new penalty notice offence is proposed of \$250 for an individual and \$1,000 for a corporation. These are common offences and where the offence is deemed to be minor or medium risk, the penalty notice offence is to act as a deterrent against re-offending.

Clause 62 of the proposed Regulation – Offence for connecting a gas regulator to gas installation where it is unsafe or of a type that has not been authorised. The maximum penalty of 100 penalty units for a corporation or 25 penalty units in any other case has been replicated from the Gas Regulation.

A new penalty notice offence has been proposed at \$250 for an individual offence and \$1,000 for a corporation. There are serious consequences when connecting non-approved or incorrect regulators to an installation. Introducing a penalty notice offence will reduce the burden of having to undertake prosecution action and act as a deterrent for re-offending.

9. Are the proposed new penalty notices appropriate? If not, why?

Offences under the Act have been allocated penalty notices in the proposed Regulation reflective of those that currently exist in the Electricity Regulation. With the consolidation the gas and electrical consumer safety laws into a single Act, penalties for gas related offences have been raised to match equivalent electricity related offences. Similar penalty amounts for gas and electricity related offences imply that gas and electricity safety is equally important.

The following penalty notices will now apply to gas appliances and accidents in addition to electrical articles and accidents.

Section 31 (1) (2) (3) of the Act – Offence for a person selling prohibited electrical articles or gas appliances. The maximum penalty in the Act is 500 penalty units for individual (first offence) and 750 penalty units (subsequent offence) and 5,000 penalty units for a corporation and 7,500 penalty units (subsequent offence).

The penalty notice offence of \$10,000 which applied to selling prohibited electrical articles will also apply to gas appliances.

Section 40 (1) of the Act – Offence for failure to notify of a serious electrical or gas accident. The maximum penalty in the Act is 5 penalty units for an accident at a residential property and 100 penalty units in any other case.

The penalty notice offence of \$100 for a residential property and \$1,000 for any other case is the same penalty that was replicated from the Electricity Regulation but under the Act this penalty will also apply for failure to notify of a gas accident.

Section 42 of the Act – Offence for interfering with the site of a serious electrical or gas accident. The maximum penalty in the Act is 250 penalty units for individual and 500 penalty units for a corporation.

The penalty notice offence of \$10,000 which applied to interfering with a serious electrical accident will also apply to serious gas accidents.

10. Are the proposed new penalty notices appropriate for the gas regime? If not, why?

Proposed matters to be included in the proposed Regulation

Provision for gas meters

The current Gas Supply (Consumer Safety) Regulation 2012 contains provisions relating to the metering of gas supplied by means of a gas network and the testing of gas meters and gas meter testing equipment.

Schedule 1 of the Gas Regulation requires the metering of gas supply to customers and making provision for the accuracy of gas meters by:

- requiring meters to be tested and sealed, thus verifying accuracy, before supply or installation;
- authorising persons and setting conditions for testing of gas meters and gas meter testing equipment, ensuring the efficiency of individuals and organisations conducting the testing;
- requiring in-service testing of meters by the owner of the gas meter (network operators), thus ensuring on-going accuracy of meters;
- allowing interested parties to require meter owners to test meters on demand;
- allowing the Secretary to conduct independent in-service testing of meters, with the permission of the occupant of the premises where the meter is located; and
- setting penalties for offences and administration fees for activities undertaken.

In the development of the Act, it was anticipated that gas meters would be dealt with by the National Measurement Institute (NMI) by removing the exemption that existed in the *National Trade Measurement Regulations 2009*. Subsequently, references to gas meters were not included in the Act.

We have now confirmed that the Commonwealth is not currently working on any proposal to lift the exemption for gas meters. However, a comprehensive review of the national measurement legislation has commenced which will consider the regulation of measuring instruments including gas meters. Options for reform are expected to be presented to the Australian Government in 2020. Until this takes place, state legislation will be required to continue regulating gas meters.

The proposed Regulation has not been updated to capture the requirements related to gas meters as section 75 (2) of the Act will need to be amended. This section of the Act will provide a regulation-making power for the examination and testing of gas meters. It is proposed that the current requirements that exist in the Gas Regulation will be incorporated into the proposed Regulation.

11. Are any amendments required to Schedule 1 of the Gas Regulation before being included in the proposed Regulation?

Appendix 1

Summary of proposed changes

New Clause	Description	Change to clause
3	Definitions	<p>The definitions have been replicated from the existing Electricity and Gas Regulations (clauses 3) with the following amendments:</p> <ul style="list-style-type: none"> • The terms certification authority, certified gas appliance, Director-General, investigator, supervisor certificate, trade certificate, and tradesperson certificate have been removed as these terms are now defined in the Act. • 'AS/NZS 1425' has been updated to refer to the 2013 version. • New definitions for the terms register of certification authorities, register of model approvals and relevant fee have been included. • The term 'relevant fee' has been updated in all relevant clauses.
4	Definition of 'relevant authority'	<p>The definition of 'relevant authority' has been reproduced from the existing clause 18 of the Electricity Regulation with the following changes:</p> <ul style="list-style-type: none"> • The Electrical Safety Office, Office of Industrial Relations in relation to Queensland • The Office of the Technical Regulator, Department of the Premier and Cabinet in relation to South Australia • Consumer Building and Occupational Services, Department of Justice in relation to Tasmania • Energy Safety, Department of Mines, Industry Regulation and Safety in relation to Western Australia • NT Worksafe, Department of Attorney-General and Justice in relation to Northern Territory • Construction Environment and Workplace Protection Division, Access Canberra in relation to the Australian Capital Territory
5	Definition of 'specification'	<p>The definition of 'specification' is new and prescribes</p> <ol style="list-style-type: none"> a) international standards published by the International Electrotechnical Commission; b) European standards published by the European Committee for Electrotechnical Standardisation; and c) standards published by UL (Underwriters Laboratories Inc).

New Clause	Description	Change to clause
6	Clarification of category 1 and 2 electrical articles for lodgement of fees	Reproduced from the existing clause 4 of the Electricity Regulation with the inclusion of the fee unit reference
8	Prescribed requirements for electrical articles that are not declared electrical articles	The clause has been reproduced from the existing clause 23 of the Electricity Regulation with changes made to 7(1)(c) where the requirements for which an electrical article is not a declared electrical article is set out in clause 4.5 AS/NZS 3820:2009 where the time reference of 3 April 2007 has been removed.
10	Particulars of approval	The particulars required for a model approval holder have been consolidated using the requirements from section 11(4) of the <i>Electricity (Consumer Safety) Act 2004</i> as 12(a) to (f) in the proposed Regulation and clause 6 from the Electricity Regulation for 12(g) and (h) in the proposed Regulation.
17	Notice of changes in other particulars	A model approval holder is to provide notice on any change to details using the form approved by the Secretary. The wording has been reproduced from the existing clause 13 of the Electricity Regulation with 'time to time' removed from 13(2).
20	Particulars concerning model approvals	Any person may obtain particulars of a model approval from the Secretary. The clause has been reproduced from the existing clause 16 of the Electricity Regulation with 'time to time' removed in the proposed Regulation.
21	Notice suspending or cancelling a model approval	Particular prescribed on the notice suspending or cancelling a model approval have been reproduced from the existing section 13(3) (a) to (g) of the <i>Electricity (Consumer Safety) Act 2004</i> with no changes to the wording.
23	Applications for declaration of scheme	The clause for the particulars prescribed for the approval of a recognised external approval scheme has been reproduced from the existing clause 20 of the Electricity Regulation with the removal of 'time to time' from 20(2)(a).
26	Labelling of gas appliances	Clause 26(1) is new to the proposed Regulation and requires the compliance label to be in a form and attached in a manner approved by the Secretary. The requirements for labelling gas appliances in clause 26(2) and (3) of the proposed Regulation have been reproduced without wording changes from the existing clause 5 of the Gas Regulation. The penalty was included in section 21 of the Act.

New Clause	Description	Change to clause
27	Application for authority to certify gas appliances	<p>Requirements for an authority to certify a gas appliance or type of gas appliance have been reproduced from the clauses 8(2) and (3) of the existing Gas Regulation with Director-General changed to Secretary.</p> <p>Note: clause 8(1), (4) and (5) were included in section 23 of the Act</p>
28	Change of particulars	<p>The clause in the proposed Regulation was based on clause 20 of the existing Gas Regulation with the clarification for changing details of a holder of a certification authority to be in writing. The notification period has been extended from 14 to 21 business days. The maximum penalty has been reduced to 20 penalty units for consistency with electrical articles.</p>
29	Conditions of certification authority	<p>Clause 29 for the prescribed conditions for a certification authority has been reproduced from the existing clause 9(1) to (4) of the Gas Regulation with minor wording changes made to the proposed Regulation:</p> <ul style="list-style-type: none"> • 29 (1) added 'prescribed' before conditions • 29 (1)(a) added 'certification' before authority • 29 (3)(b) the word 'approval' was changed to 'authority' and • Director-General was changed to Secretary throughout the clause. <p>Note: clause 9(5) was included in section 24 of the Act</p>
30	Offences relating to compliance labels	<p>Existing clause 13 of the Gas Regulation was used to reproduce this clause with changes to the wording including 'approved by the Secretary' at the end of 30(e) for attaching a compliance label to a gas appliance that is not in the form approved by the Secretary.</p>
31	Warnings to accompany certain articles and appliances	<p>Reproduced from the existing clause 24 of the Electricity Regulation and expanded to include gas appliances enabling the Secretary to specify directions and warnings on the safe use of articles and appliances.</p> <p>This is a new requirement for gas appliances and did not exist in the Gas Regulation.</p>
32	Offences of disposing of articles or appliances that do not carry warnings	<p>Reproduced from the existing clause 25 of the Electricity Regulation for offences related to disposing of an article without carrying a warning and expanded to include gas appliances.</p> <p>This is a new requirement for gas appliances and did not exist in the Gas Regulation.</p>

New Clause	Description	Change to clause
33	Offences of disposing of non-conforming article or appliance	<p>Reproduced from the existing clause 27 of the Electricity Regulation offences for disposal of non-conforming articles by other means and expanded to include gas appliances.</p> <p>This is a new requirement for gas appliances and did not exist in the Gas Regulation.</p>
34	Publicising prohibition of sale of unsafe electrical articles and gas appliances	<p>The existing clause 26 of the Electricity Regulation for the requirements to publicising unsafe electrical articles was used as the basis of this clause with the wording changed to include gas appliances.</p> <p>This is a new requirement for gas appliances and did not exist in the Gas Regulation.</p>
35	Standards and requirements for electrical installation work	<p>The wording in this clause has been reproduced from the existing clause 32 of the Electricity Regulation with no changes.</p> <p>The definition for 'energise' has been added at 35(6) as it relates to this clause only. The definition remains unchanged from clause 3 of the Electricity Regulation.</p>
38	Notification of results of safety and compliance tests	<p>This clause for notices related to network connected electrical installation has been reproduced from the existing clause 34 of the Electricity Regulation with 'time to time' removed from 38(3)(a) in the proposed Regulation.</p>
40	Gas fitting work to comply with certain standards	<p>The wording in this clause has been reproduced from the existing clause 22 of the Gas Regulation with changes made to the year from 2004 to 2013 for the Australian Standard titled AS5601 – 2013 Gas Installations.</p> <p>The penalty was included in section 34 of the Act.</p>
41	Auto-gas work to comply with certain standards	<p>The standards for auto-gas work have been reproduced from the existing clause 24 of the Gas Regulation.</p> <p>The penalty was included in section 34 of the Act.</p>
42	Application of Division	<p>This clause has been reproduced from the existing clause 25 of the Gas Regulation providing the parameters for Division 1 of the proposed Regulation. A minor change from 'part' to 'division' has been made as it relates to the proposed Regulation.</p>
43	Testing for defects and certificates of compliance	<p>Existing clause 26 of the Gas Regulation was used to reproduce this clause with changes to the wording including 'approved by the Secretary' at the end of 43(4)(a) for the requirements of a certificate of compliance.</p>

New Clause	Description	Change to clause
44	Division does not apply to certain gas fitting work	This clause has been reproduced from the existing clause 27 of the Gas Regulation providing the parameters for Division 2 of the proposed Regulation. A minor change from 'part' to 'division' has been made as it relates to the proposed Regulation.
45	Testing for apparent defects	This clause has been reproduced from the existing clause 28 of the Gas Regulation with the word 'patent' being replaced by 'apparent' throughout the clause.
46	Certificates of inspection	The wording in this clause for the requirements for the certificates of inspections has been reproduced from the existing clause 29 of the Gas Regulation. No changes were made to 46(1)(b) but Director-General was changed to Secretary and 'approved by Secretary' was included at the end of 46(3)(a) for the certificate of inspection form. The word 'patent' has been replaced by 'apparent' throughout the clause.
47	Compliance plates	This clause has been reproduced from the existing clause 30 of the Gas Regulation with the word 'patently' being replaced by 'apparently' defective in the clause.
48	Defect notices	Existing clause 31 of the Gas Regulation was used to reproduce this clause with changes to the wording by including 'approved by the Secretary' at the end of 48(2)(d) for the defect notice form. The word 'patent' has been replaced by 'apparent' throughout the clause.
49	Testing for apparent defects	This clause has been reproduced from the existing clause 38 of the Gas Regulation with the word 'patent' being replaced by 'apparent' throughout the clause.
50	Certificates of inspection	This clause has been reproduced from the existing clause 39 of the Gas Regulation with Director-General replaced with Secretary in 50(1)(b) for issuing a certificate of inspection and 'approved by Secretary' included at the end of 50(2)(a) for the certificate of inspection form. The word 'patent' has been replaced by 'apparent' throughout the clause.
51	Compliance plates	This clause has been reproduced from the existing clause 40 of the Gas Regulation with the word 'patent' replaced by 'apparent' in the clause.
52	Identification labels	Existing clause 41 from the Gas Regulation was used for the wording of this clause.
53	Unauthorised removal of defect notices	This clause has been reproduced from the existing clause 49 of the Gas Regulation with the word 'patent' being replaced by 'apparent' in the clause.

New Clause	Description	Change to clause
56	Requirements for compliance plates	<p>This clause which relates to the form and material used for the compliance plates to be approved by the Secretary has been reproduced from the existing clause 46 of the Gas Regulation with 'approved by the Secretary' included in 56(1)(a) and (b).</p> <p>Definitions of 'contractor's licence', 'repairer' and 'repairer's licence' have been added as a subclause 56(3) as they relate to this clause only. The definitions have been reproduced from the clause 3 of the Gas Regulation with the reference updated to the <i>Motor Dealers and Repairers Act 2013</i>.</p>
57	Division does not apply to certain gas fitting work	<p>This clause has been reproduced from the existing clause 27 of the Gas Regulation providing the parameters for Division 1 of the proposed Regulation. A minor change from 'part' to 'division' has been made as it relates to the proposed Regulation.</p>
61	Connection of gas containers to gas installations	<p>Existing clause 35 of the Gas Regulation has been used to replicate this clause with WorkCover replaced by SafeWork NSW in 61(1)(c) for a gas container or type to be approved by SafeWork NSW.</p>
62	Connection of gas regulators to gas installations	<p>This clause has been reproduced from the existing clause 36 of the Gas Regulation with the inclusion of the wording 'by the Secretary' at the end of 62(1)(b) for the type of regulator approved by the Secretary.</p>
64	Sale of gas cylinders	<p>Existing clause 42 of the Gas Regulation has been used to replicate this clause with WorkCover replaced by SafeWork NSW in 64(b) for a type of gas cylinder approved by SafeWork NSW.</p>
68	Sale of gas regulators	<p>This clause has been reproduced from the existing clause 51 of the Gas Regulation with the inclusion of the wording 'by the Secretary' at the end of 68(1)(b) for the type of regulator approved by the Secretary.</p>
69	Connection of gas regulators to gas containers	<p>This clause has been reproduced from the existing clause 52 of the Gas Regulation with the inclusion of the wording 'by the Secretary' at the end of 69(b) for the type of regulator approved by the Secretary.</p>
70	Maintenance of electrical and gas installations	<p>This clause has merged the existing clause 37 of the Electricity Regulation and clause 50 of the Gas Regulation with the inclusion of all parts of a gas installation being prescribed.</p>
71	Notification of serious electrical or gas accident	<p>This clause has merged the existing clause 39 of the Electricity Regulation and clause 53 of the Gas Regulation with minor changes.</p>

New Clause	Description	Change to clause
		<p>A minor change has been made to 71(3)(b) with the wording changed to be '<i>in accordance with section 63R of the Electricity Supply Act</i>' for consistency with 71(3)(a).</p> <p>Clause 71(1)(b) has been modified to enable notification of a serious gas accident to the relevant distributor. This previously applied to serious electrical accidents and for consistency will now apply to serious gas accidents.</p> <p>Definitions of 'serious gas accident' and 'serious electrical accident' added to section 39 of the Act.</p> <p>The penalty from the Gas Regulation has been added to section 40 of the Act.</p>
72	Interference with site of serious electrical or gas accident	<p>Existing clause 40 of the Electricity Regulation has been used to replicate this clause with modifications made for interference to a site of a serious gas accidents.</p> <p>This does not currently exist in the Gas Regulation and has been added for consistency.</p>
73	Inspection of installation of electricity meters	<p>This clause was reproduced from the existing clause 38A of the Electricity Regulation with the fees removed from the clause and wording changed to specify that the fees are in Part 1 of Schedule 2.</p>
74	Return of seized electrical articles and gas appliances and compensation	<p>Existing clause 29 of the Electricity Regulation has been used to replicate this clause with modifications made to include the return of seized gas appliances.</p> <p>This does not currently exist in the Gas Regulation and has been added for consistency with electrical articles.</p>
75	Application for forfeiture of electrical articles or gas appliances	<p>Existing clause 30 of the Electricity Regulation has been used to replicate this clause with modifications made to include the requirements for forfeiting a gas appliance.</p> <p>This does not currently exist in the Gas Regulation and has been added for consistency with electrical articles.</p>
76	Registers	<p>Clause 76 has been reproduced using existing clause 19 of the Gas Regulation and clause 17 of the Electricity Regulation with the omission of 17(1) which have been added to section 69(1) of the Act.</p>
77	Exemptions	<p>This clause has been reproduced from the existing clause 54 of the Gas Regulation with 'Director-General' changed to 'Secretary'.</p> <p>This does not currently exist in the Electricity Regulation and will enable the Secretary to exempt any electrical installation or class of electrical installation from any or all provisions of the proposed Regulation.</p>

New Clause	Description	Change to clause
80	Savings and transitional	This clause has been based on the existing clause 43 of the Electricity Regulation and clause 56 of the Gas Regulation with the relevant legislation updated.
Sch 1	Application for order for forfeiture of electrical article or gas appliance	The form template in Schedule 1 has been reproduced from the existing Schedule 1 of the Electricity Regulation with modifications made to include gas appliances as required by clause 74 of the proposed Regulation.
Sch 2	Fees	<p>Fees have been reproduced from existing Schedule 2 of the Electricity Regulation with adjustments made for the CPI increase for the financial year 2017/18.</p> <p>Fees have been included as they relate to clause 27 and 73.</p> <p>The fees set out in Part 1 Schedule 2 will be expressed as a number of 'fee units' instead of dollar amounts to enable automatic adjustment each year in line with the Consumer Price Index (CPI).</p> <p>Part 2 Schedule 2 has been included to explain the calculation of the fee unit structure and CPI adjustments.</p>
Sch 3	Penalty notice offences	<p>Schedule 3 has been reproduced from the Electricity Regulation for the offences for which a penalty notice may be issued.</p> <p>The existing Gas Regulation does not have any offences for which a penalty notice may be issued. However, sections 31 and 36 of the Act now apply to gas appliances, or gas or auto-gas installations. Sections 40 and 42 of the Act now apply to gas accidents. Accordingly, the ability to issue a penalty notice for these offences will be new in the gas regime.</p> <p>The following offences have been added to the table to allow a penalty notice to be issued:</p> <ul style="list-style-type: none"> • Section 21(1) of the Act – penalty of \$1,000 • Section 22 of the Act – penalty of \$10,000 for a corporation and \$5,000 for an individual • Section 33 of the Act – penalty of \$1,000 • Section 34 of the Act - penalty of \$1,000 • Clause 43 of the proposed Regulation - penalty of \$1,000 for a corporation and \$250 for an individual • Clause 62 of the proposed Regulation - penalty of \$1,000 for a corporation and \$250 for an individual

Provisions that have been replicated from the existing Electricity Regulation with no changes

New Clause	Description	Existing clause
7	Requirements for the marking of declared electrical articles	28
9	Requirements for the application of a model approval of an electrical article	5
11	Application for the extension of model approvals without application for renewal	7
12	Application for renewal of the model approval of an electrical article	8
13	A written notice must be given for renewal of a model approval	9
14	Conditions for the refusal of an application for renewal of a model approval	10
15	Requirements for lodging an application for modification of a model approval	11
16	Written notice to be provided for the approval or refusal of modification application of a model approval	12
18	Model approval certificates are to be in written form certified by the Secretary	14
19	The Secretary may issue duplicate model approval certificates	15
22	Conditions for the application and approval of recognised external approval schemes for electrical articles	19
24	Published notices required for schemes approved for certification of models of electrical articles for persons to make submissions	21
25	Reporting requirements for recognised external approval schemes	22
36	Requirements of Parts 8 & 9 of the proposed Regulation for electrical installation work do not apply if carried out by a law enforcement officer	36
37	Safety and compliance tests to be conducted by a qualified person	33
39	Offences for unqualified persons carrying out safety and compliance tests	35
79	Delegated functions	44

Provisions that have been replicated from the existing Gas Regulation with no changes

New Clause	Description	Existing clause
54	Offence for unauthorised attachment of compliance plates to a gas or auto-gas installation	47
55	Removal of compliance plates by investigator if the gas or auto-gas installation is not in safe working order	48
58	Offence for selling a gas installations without compliance plate attached	32
59	Offence for using a gas installation without a compliance plate or with a defect notice attached	33
60	Offence for supplying gas for use in gas installations without a compliance plate or with a defect notice attached	34
63	Offence for connecting a gas appliance to a gas installation where the appliance is not certified or suitable to use with the gas it was designed for	37
65	Offence for using a vehicle, vessel or machine fitted with an auto-gas installation without a compliance plate or identification label	43
66	Offence for supplying gas to a gas cylinder connected to an auto-gas installation without a compliance plate	44
67	Offence for connecting a gas cylinder to an auto-gas installation without a compliance plate	45
78	Provisions relating to gas meters	55 and Schedule 1

Other changes

The table below shows the relevant clauses that have not been transposed from the existing regulations into the proposed Regulation as detailed below.

Clause	Description	Reason
Electricity Regulation		
31	Requirements for the establishment and management of the Electrical Equipment Safety Advisory Committee	Not included in Regulation as Committee has been disbanded

38	Offence for a person carrying out work that affects the safety of an electrical installations knowing the installation had been adversely affected	Covered in section 36 of the Act
Gas Regulation		
4	Regulation does not apply to gas or auto-gas installation with a carrying capacity greater than 200 kilopascals or gas appliance with inlet pressure greater than 200 kilopascals	Covered in section 5 of the Act
Gas Regulation		
5(1)	A person must not sell or supply a gas appliance unless it is certified and a compliance label is attached	Covered in section 21 of the Act
6	A person must not connect or modify a gas appliance to a gas installation unless it is certified	Covered in section 37 of the Act
7	A person must not certify a gas appliance unless they are a holder of certification authority	Covered in section 22 of the Act
8 (1) (4) (5)	Application for a certified authority to certify gas appliances to be granted/refused by the Secretary	Covered in section 23 of the Act
9 (5)	The holder of a certification authority must comply with conditions imposed by Secretary	Covered in section 24 of the Act
10	A certification authority is to take effect on the day it is granted	Covered in section 25 of the Act
11	The Secretary may cancel a certification authority for any reason, by notice in writing	Covered in section 26 of the Act
12	The Secretary may suspend a certification authority and serve a show cause notice on the holder	Covered in section 26 of the Act
14	An investigator may attached a label to a gas appliance that is considered unsafe, prohibit the sale or serve a notice to prohibit the sale	Covered in section 29 of the Act
15	The Secretary may, by order, prohibit the sale or supply of a gas appliance or give direction for the recall or action to render the appliance safe	Covered in section 29 of the Act
16	The Secretary may make an order if the gas appliance is unsafe or the death, injury or damage to property may arise from use of the appliance	Covered in section 29 of the Act
17	The order must be in writing and be published in the Gazette	Covered in section 29 of the Act
18	Penalties that could be incurred if a person is found guilty for failure to comply with an order	Covered in section 31 of the Act

Gas Regulation		
19	Register to be maintained for persons or organisations granted a certification authority	<p>Clause 19(1) covered in section 69(1) of the Act.</p> <p>Clause 19(2) included in the proposed Regulation under clause 75.</p>
21	Gas fitting work to be carried out by qualified persons that holds a supervisor or trade certificate or under supervision of the holder of a supervisor certificate	Covered in section 33 of the Act
23	Auto-gas work to be carried out by qualified persons that hold a tradesperson certificate or under supervision of the holder of a trade certificate	Covered in section 33 of the Act

Appendix 2

List of stakeholders

The following key stakeholders have been provided with a copy of the proposed Regulation and this RIS.

- Ausgrid
- Australian Gas Association
- Australian Industry Group
- Caravan and Camping Industry Association NSW
- Electrical Trades Union
- Endeavour Energy
- Essential Energy
- Gas Appliance Manufacturers Association of Australia (GAMAA)
- Gas Energy Australia
- Global-Mark
- Housing Industry Association
- IAPMO R&T Oceana
- Institute of Automotive Mechanical Engineers
- Jemena Gas Networks
- Master Builders Association
- Master Electricians Australia
- Master Plumbers Association of NSW
- Motor Traders' Association of NSW
- National Electrical and Communications Association (NECA)
- Recognised external approval scheme board
- SAA Approvals Pty Ltd
- SAI Global
- Transgrid
- VIPAC Certification Services

Appendix 3

Penalty notice offences

Provision of penalties under Schedule 3 of the proposed Regulation

Offences under the Act	
Section 8 (1) or (2) (b)	\$1,000
Section 8 (2) (a)	\$500
Section 21 (1) (new)	\$1,000
Section 22 (new)	\$10,000 (in the case of a corporation) or \$5,000 (for an individual)
Section 31 (1), (2) or (3) (new for gas)	\$10,000
Section 33 (1) or (2) (new)	\$1,000
Section 34 (new)	\$5,000 (in the case of a corporation) or \$1,000 (for an individual)
Section 40 (1) (new for gas)	
(a) where the place at which the accident occurred is residential premises, or	\$100
(b) in any other case	\$1,000
Section 42 (new for gas)	\$10,000
Offences under this Regulation	
Clause 7 (4)	\$200
Clause 17 (1)	\$200
Clause 25 (2)	\$1,000 (in the case of a corporation) or \$500 (in any other case)
Clause 32 (1)	\$500
Clause 33 (1)	\$500
Clause 38 (4) or (5)	\$1,000 (in the case of a corporation) or \$500 (in any other case)
Clause 39 (1)	\$5,000
Clause 39 (2)	\$10,000 (in the case of a corporation) or \$5,000 (in any other case)
Clause 43 (1), (2), (3), (4) or (5) (new)	\$1,000 (in the case of a corporation) or \$250 (for an individual)
Clause 62 (1) (new)	\$1,000 (in the case of a corporation) or \$250 (for an individual)



NSW Fair Trading - a division of the
NSW Department of Finance, Services and Innovation

PO Box 972 Parramatta NSW 2124

Enquiries

13 32 20

TTY for hearing impaired

1300 723 404

www.fairtrading.nsw.gov.au

