



PARLIAMENT OF WESTERN AUSTRALIA

**JOINT STANDING COMMITTEE
ON
DELEGATED LEGISLATION**

FORTY-FIFTH REPORT:

*Gas Standards (Gasfitting and Consumer Gas Installations) Regulations
1999*

Presented by the Hon R L Wiese MLA (Chairman)

November 1999

Joint Standing Committee on Delegated Legislation

Members

Hon Bob Wiese MLA (Chairman)
Hon Nick Griffiths MLC (Deputy Chairman) (until September 8 1999)
Hon Tom Helm MLC (Deputy Chairman)
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Mr Bill Thomas MLA
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Terms of Reference

It is the function of the Committee to consider and report on any regulation that:

- (a) appears not to be within power or not to be in accord with the objects of the Act pursuant to which it purports to be made;*
- (b) unduly trespasses on established rights, freedoms or liberties;*
- (c) contains matter which ought properly to be dealt with by an Act of Parliament; or*
- (d) unduly makes rights dependent upon administrative, and not judicial, decisions.*

If the Committee is of the opinion that any other matter relating to any regulation should be brought to the notice of the House, it may report that opinion and matter to the House.

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**Report of the Joint Standing Committee
on Delegated Legislation**

in relation to

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999

1 EXECUTIVE SUMMARY

1.1 The Committee recognises that the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999* ("Regulations") are within power and has resolved not to recommend disallowance after:

- (a) obtaining information from officers of the Office of Energy - Mr Albert Koenig Director of Energy Safety ("Director") and Mr Mel Stokes, Principal Engineer, Gas Installations ;
- (b) hearing oral evidence from:
 - manufacturers of Type B appliances - Mr Peter Stewart, Director, Combustion Air Pty Ltd, that company's legal advisor, Mr Chris Shanahan, and Mr David Ballard, Director of Gas Control Pty Ltd;
 - representatives from gas suppliers - Ms Jillian Reynolds, Regional Operational Manager (WA), Boral Energy WA Pty Ltd and Mr Rodney Jones, Technical Services Manager, Wesfarmers Kleenheat Gas; and
 - Mr Anthony Cooke, Secretary, Trades and Labour Council of Western Australia.
- (c) reviewing two written submissions provided by Combustion Air Pty Ltd dated May 31 1999 and September 10 1999;
- (d) reviewing two written submissions provided by the Office of Energy dated June 28 1999 and October 6 1999;

- (e) reviewing a written submission provided by Pyrotherm Pty Ltd dated July 7 1999;
- (f) reviewing a letter from the Department of Minerals and Energy dated September 22 1999 in relation to the application of the National Standard for the Control of Major Hazard Facilities; and
- (g) reviewing a written submission provided by the WorkSafe Western Australia Commission dated October 7 1999.

1.2 The Committee identified five issues of importance after reviewing the evidence. The five issues are as follows:

- (a) the ambiguity arising from the definitions of “appliance” under the Regulations and “gas appliance” under the *Gas Standards Act 1972* (“Act”);
- (b) the potential for section 13D of the Act to cause hardship to manufacturers of Type B appliances some of which may not be capable of approval prior to advertising;
- (c) the apparent conflict between the procedure for supplying “commissioning” gas for inspection and testing under regulation 22 and the prohibition on the supply of gas to a consumer’s gas installation other than with the exemption of the Director contained in regulation 35;
- (d) the apparent shift of liability from gas suppliers and inspectors to gasfitters in regulation 28; and
- (e) the failure to publish inspection plans and policies of gas suppliers granted exemptions under section 13(2) of the Act.

1.3 As a result of its concerns in 1.2 above the Committee recommends that the Minister for Energy should take steps to:

- (a) amend the definition of “gas appliance” in section 4 of the Act so that it is consistent with the definition of “appliance” in the Regulations, thereby removing any doubt that a Type B appliance is a “gas appliance” for the purposes of section 13D of the Act;

- (b) amend section 13D of the Act to provide for conditions on the advertising of Type B appliances which have not yet been approved by the Director;
- (c) amend regulation 35 so as to remove the need for the Director to exercise his discretion in sub-regulation (3) for the provision of “commissioning” gas;
- (d) amend regulation 28(4) so that it places an obligation on gasfitters which is similar to (but no greater than) the obligation placed on inspectors in regulation 22(2); and
- (e) consider amending section 13 of the Act to provide for the publication of current inspection plans and policies of gas suppliers and pipeline licensees granted exemptions under section 13(2).

1.4 The Committee is of the view that gas safety will not be compromised by the discretion granted to the Director of Energy Safety in regulation 22(4)(b). This regulation allows for the inspection and approval for permanent connection of a Type B appliance at a place other than where the appliance is to be permanently installed.

1.5 The Committee accepts that an inspectorate which is largely comprised of inspectors directly employed by gas suppliers is an appropriate and practical way in which to provide the inspection services at a realistic cost. The Committee has examined the argument that the independence of the inspectorate is compromised by the direct employment of gas inspectors by gas suppliers and acknowledges that such a system was in place during the period in which gas was supplied by the State Energy Commission of Western Australia (“SECWA”). At that time, gas inspection services were largely performed by inspectors employed by SECWA.

1.6 The Committee is of the view that the employment of inspectors, largely by the suppliers of gas, raises the need for the Office of Energy to continually evaluate and examine the level of training and experience of inspectors and the quality of their work. This will ensure that inspectors are and continue to be of the highest calibre so as to maintain the continuing safety of the industry.

1.7 To dispel concerns regarding potential conflicts of interest, the pool of independent inspectors for Type B appliances should not be permitted to be engaged in any aspect of Type B appliance commercial activity. By adopting and maintaining such a policy, the Office of Energy would guarantee the true independence and integrity of the independent

inspectorate and remove concerns held by some Type B manufacturers regarding the protection of their intellectual property during the inspection process.

2 INTRODUCTION

- 2.1 In the exercise of its scrutiny function the Committee reviewed the Regulations created pursuant to the *Gas Standards Act 1972* (“Act”). A copy of the Regulations is attached to this report and marked “Annexure A”.
- 2.2 Under the Committee’s Joint Rules, if the Committee is of the opinion that a matter relating to any regulation should be brought to the notice of the House, it may report that opinion and matter to the House. It is also the function of the Committee to consider and report on any regulation that appears not to be within power.
- 2.3 The regulations were first considered in detail by the Committee on Monday June 21 1999 in the form of the *Gas Standards (Gasfitting and Consumers’ Gas Installations) Regulations 1999*. These regulations were published in the *Government Gazette* on April 27 and tabled in the Parliament on May 4 1999.
- 2.4 As a result of a letter written by the Committee’s Advisory/Research Officer dated May 17 1999, the Committee received a written submission from Combustion Air Pty Ltd dated May 31 1999.
- 2.5 A motion for disallowance of the regulations was moved in the Legislative Council on June 22 1999, notice of the motion having been given by Hon Tom Stephens MLC. Hon Tom Stephens MLC is not a member of the Committee.
- 2.6 Parliament was prorogued on August 6 1999. Prior to this on July 30 1999, the Office of Energy gazetted new regulations in substantially the same form as the regulations the subject of the disallowance motion. The new regulations repealed the former regulations. The only other change brought about by the new regulations was a minor alteration to the title of the regulations which were now gazetted as the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999*. These regulations are the subject of this report. The new regulations were tabled in the Parliament on August 11 1999
- 2.7 The repeal of the former regulations, the subject of the disallowance motion, was to prevent the prorogation of Parliament resulting in the former regulations being disallowed

“automatically” by the effluxion of time by reason of the operation of standing order 153(c) of the Standing Orders of the Legislative Council.¹

2.8 Due to the operative provisions of the new regulations being unchanged from the former regulations gazetted on April 27 1999, the Committee has decided to include in this report where relevant, the evidence provided to the Committee in relation to its inquiry into the former regulations. A reference in this report to the “Regulations” will include the former regulations unless otherwise specified.

2.9 According to the Office of Energy’s explanatory memorandum² in support of the former regulations, the purpose of the Regulations is to regulate the minimum standards of gasfitting work to be carried out within consumers’ premises so as to provide for the safety of consumers, primarily by:

- establishing and maintaining a system of licensing gasfitters; and
- prescribing the technical standards with which gas and gas installations must comply,

in a manner consistent with the regulatory regimes of other jurisdictions in Australia.

2.10 The former regulations gazetted on April 27 1999 replaced and repealed the former regulatory scheme under the *Gas Standards Regulations 1983* and came into operation on May 1 1999. The new regulations gazetted on July 30 1999 which repealed the former regulations came into effect on the date of gazettal to ensure the continuing operation of the regulatory scheme.

2.11 The Regulations are administered by the Office of Energy’s Director of Energy Safety (“Director”), a statutory position created by section 5 of the *Energy Coordination Act 1994*. Pursuant to section 7 of the *Energy Coordination Act 1994*, the functions of the Director include those vested in the Director by or under the *Gas Standards Act 1972* or any other written law.

¹ SO 153(c) provides that upon prorogation of Parliament, if the motion for disallowance remains unresolved, then “the regulations shall thereupon be disallowed and the question deemed to be resolved in the affirmative.”

² Letter from the Office of Energy to the Committee dated May 25 1999 (“Explanatory Memorandum”), p. 1.

- 2.12 The Regulations have been made under sections 15 and 13A of the Act. Section 15, in part states:

“15. (1) The Governor may make regulations prescribing all matters necessary or convenient to be prescribed for the purposes of the administration of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made

--

...

(e) prescribing the standards of construction, installation, maintenance, operation and testing of consumers' gas installations;

...

(3) Any regulation under this Act may be made so as to require a matter affected by it to be in accordance with a specified standard or specified requirement; or as approved by, or to the satisfaction of, a specified person or body; or so as to delegate to or confer upon a specified person or body a discretionary authority.”

- 2.13 Section 13A provides for the regulation of gasfitting work and workers and in part states:

“13A. [(1)repealed]

(2) ...

(3) Regulations made under this Act may make provision --

(a) for the administration of a scheme to control and supervise the practice of gasfitting;

(b) for the grant of certificates of competency, permits, or authorizations by or on behalf of the Director which, subject to any restriction, limitation, condition or extension endorsed thereon pursuant to the regulations, shall authorize the holder to engage in such operations, or carry out such work or processes, of the nature of gasfitting as are by those regulations specified as being matters that can be engaged in or carried out by the holder of a certificate, permit or authorization of that grade or kind or as are specifically referred to therein;

(c) ...

(d) ...

(e) ...

(f) for the establishment of systems of inspection, inquiry, and supervision, including the appointment of persons as inspectors and specifying their duties and powers, and as to the hearing of inquiries, disciplinary proceedings, and appeal procedures;

(g) creating offences, and providing for the payment, enforcement and recovery of penalties, fees and charges;

(h) ...

(i) ...

(i) ...

(j) ...

(k)...

(l) as to any other matter that the Governor thinks necessary for safeguarding persons and the public interest in relation to gasfitting,
..."

2.14 The Committee acknowledges that Sections 15 and 13A of the Act provide broad powers to regulate the installation of consumer gas appliances and gasfitting generally.

2.15 At its meeting on June 21 1999, the Committee resolved to hear evidence from representatives from Combustion Air Pty Ltd ("Combustion Air") and the Office of Energy ("OOE"). On June 28 1999, Mr Peter Stewart, Director, Combustion Air and that company's legal advisor, Mr Chris Shanahan, appeared before the Committee. Officers from the OOE, Mr Albert Koenig, Director of Energy Safety, and Mr Mel Stokes; Principal Engineer, Gas Installations and Appliances, provided information to assist the Committee in its deliberations.

2.16 When the former regulations were repealed the Committee first considered the new Regulations at its meeting on August 23 1999 and resolved to hear evidence from representatives from gas suppliers, manufacturers of Type B appliances and other interested parties. At the hearing on Monday September 13 1999 evidence was given by Mr David Ballard, Director, Gas Control Pty Ltd; Ms Jillian Reynolds, Regional Operational Manager (WA), Boral Energy WA Pty Ltd and Mr Rodney Jones, Technical Services Manager, Wesfarmers Kleenheat Gas. Mr Anthony Cooke, Secretary, Trades and Labour Council of Western Australia also gave evidence.

- 2.17 Due to the concerns raised by witnesses at the Committee's hearing on June 28 1999, the Committee resolved to move a "protective" motion for disallowance of the new regulations gazetted on July 30 1999. The motion was moved to provide the Committee with sufficient time to consider all of the evidence in detail. The motion for disallowance was moved in the Legislative Council on Wednesday October 13 1999.
- 2.18 At the Committee's first hearing on June 28 1999 in relation to the former regulations, the representatives of Combustion Air raised several concerns.

3 THE CONCERNS OF COMBUSTION AIR

- 3.1 Combustion Air is a company which designs, manufactures, sells and services industrial thermal processing equipment, including large industrial gas fired appliances.
- 3.2 Under regulation 3 of the Regulations "appliance" is defined as meaning an appliance that consumes gas for any purpose. The Act does not contain an equivalent definition but under section 4 defines a "gas appliance" as being any appliance which consumes gas as fuel.
- 3.3 Under the Regulations, appliances are divided into two types which are defined in regulation 4. "Type A" appliances are of a type or class as specified in Schedule 1 and are generally in the nature of mass produced domestic appliances such as heaters and cookers or small commercial appliances. "Type B" appliances are defined according to their input rate being greater than 10 megajoules but not being a Type A appliance or a mobile engine. These are in the nature of industrial or larger commercial appliances.
- 3.4 The megajoule rating for Type B appliances is low. Many Type A appliances will have an input rate above the minimum input rate which applies to Type B appliances. For example many mass produced domestic gas heaters have a 25 megajoule rating which is significantly above the minimum rating for a Type B appliance.
- 3.5 The principal concerns of Combustion Air as provided in the evidence of its representatives Mr Stewart and Mr Shanahan and its written submission to the Committee dated May 31 1999 can be summarised as follows:

Displacement of SECWA system by Regulation 22

- 3.5.1 Regulation 22 replaces the previous system of approval for Type B appliances developed by the SECWA. The SECWA system involved the inspection, approval and certification

of large industrial gas fired appliances by SECWA inspectors as a mandatory requirement immediately prior to their permanent connection to a gas supply. Under this system, inspection and approval necessarily occurred at the place where the appliance was to be permanently connected to gas.

- 3.5.2 Regulation 22(4) alters the previous SECWA system by providing that Type B appliances be inspected by an inspector designated under the *Energy Coordination Act 1994* either at one of two points:

- (a) at the place where the appliance is installed and commissioned; or
- (b) if the Director so approves, at any other place.

The choice in this matter is left to the Director of Energy Safety. Combustion Air's view is that the "other place" in (b) is most likely to be the place of manufacture of the Type B appliance.

- 3.5.3 Combustion Air argues that due to the Director's discretion in regulation 22(4)(b), at least some large industrial gas fired Type B appliances will be connected to a gas supply without an inspection immediately prior to permanent connection and that consequently "no one will be able to guarantee they have been approved or meet the prescribed requirements, that is no-one will be able to warrant gas safety."³

Approval of Type B appliances under Section 13D of the Act

- 3.5.4 Combustion Air submits that it is inevitable that the Director will require most if not all large industrial gas fired (Type B) appliances to be inspected at the point of manufacture under the discretion provided in regulation 22 (b) rather than immediately prior to permanent connection as was the case under the SECWA System because:

- 3.5.4.1 The OOE insists that a Type B "appliance" requires approval under section 13D of the Act as a "gas appliance" and of the two inspection points only an inspection at the point of manufacture can satisfy this requirement;
- 3.5.4.2 The OOE have already tried administratively to implement a system which relies on "type approvals" for Type B appliances by approving their design at the point of manufacture; and

³

Submission from Combustion Air Pty Ltd dated May 31 1999, p.3.

- 3.5.4.3 If the Act remains unamended it is arguable that a system of approval which does not contain a section 13D approval for large industrial gas fired Type B appliances is inconsistent with the Act and hence the option of inspection, approval and certification post sale and at the point of permanent connection as specified in the Regulations will be invalid.
- 3.5.5 Combustion Air submits that Type B appliances are not capable of being “type approved” such is the case with Type A appliances due to the fact that they are generally large gas fired appliances which are pre-fabricated and assembled on site. They are often purchased by consumers on the basis that the manufacturer will design a Type B appliance or modify an existing design to meet a particular industrial need or use.
- 3.5.6 According to Combustion Air, the nature of Type B appliances; because they are pre-fabricated and tailored to particular industrial needs and uses, means that unlike Type A appliances, they are not susceptible to regulation as identical mass produced consumer items, nor to a pre-sale approval system as provided in section 13D of the Act.
- 3.5.7 Combustion Air submits that a requirement of pre-sale approval from the Director of Type B appliances places it in an impossible commercial position if “appliance” as defined under the Regulations is equivalent to “gas appliance” as defined under the Act, because section 13D(1) of the Act prohibits the sale, hire or advertisement of *any* gas appliance as follows:
- “13D. (1)A person shall not on or after the appointed day sell or hire any gas appliance or advertise any gas appliance for sale or hire unless the gas appliance --
- (a) is a gas appliance that is approved by the Director or is of a class or type of gas appliance that is approved by the Director; and
- (b) is marked, stamped or labelled in the manner approved by the Director.
- Penalty:\$2 000 or imprisonment for 6 months or both.
- (2) The Director may by instrument in writing delegate to an inspector the power conferred on the Director by subsection (1)(a).
- (3) In subsection (1) “appointed day” means the day fixed by the Minister by notice published in the *Government Gazette* as the appointed day for the purposes of this section.”

Regulation 35 and the supply of “commissioning” gas

- 3.5.8 Combustion Air submits that regulation 35 places too much administrative discretion in the Director in relation to the supply of “commissioning” gas. This is gas required by a gasfitter to test the appliance and complete a notice of completion of work. This is a necessary requirement before a gas appliance is permanently connected to a gas supply.
- 3.5.9 Regulation 35(1) provides that if gasfitting work is done on a consumer’s gas installation that is not supplied with gas, a gas supplier must not supply gas to the installation unless the gas supplier has received a notice of completion of the work. However, the only way a gasfitter can complete a notice of completion of work is if “commissioning” gas is supplied. This is prohibited by sub-regulation (1), leaving the gasfitter in a “catch 22” position.
- 3.5.10 This difficulty can be remedied under sub-regulation (3) which provides that the Director may, in a particular case or class of case, exempt a gas supplier from sub-regulation (1). The concern of Combustion Air is that this means that in every case the Director must give an exemption and has ultimate control of the supply of gas.

Shift of liability to gasfitters and manufacturers

- 3.5.11 Combustion Air argues that regulation 28(4) attempts to inappropriately shift liability to gasfitters and manufacturers. Combustion Air submits that a gasfitter is made responsible for gas safety and that a Type B appliance meets prescribed requirements which, given existing training levels, is unworkable.
- 3.6 The concerns of Combustion Air in relation to the new inspection procedure introduced by regulation 22(4) which allows for inspection at any other place approved by the Director (rather than mandatory inspection at point of commissioning as provided under the SECWA scheme) and its apparent conflict with section 13D of the Act is best illustrated by the following exchange between Combustion Air’s Director, Mr Stewart, its Counsel, Mr Shanahan, and members of the Committee:

“ Mr SHANAHAN: New regulation 22(4) provides for two points of inspection: One at connection and another at a point designated by the director. We suggest that the point of connection is the prime opportunity to inspect anything, because it is only at that stage one can see the appliance.

Mr MacLEAN: That is when it is commissioned.

The CHAIRMAN: The committee will endeavour to clarify whether it is an either-or situation. It seems that these are predominantly one-off pieces of equipment.

Mr STEWART: They are type-B appliances. We spoke before about the bakery and the processing plant situation. It may help to ballpark the size of appliance that we are talking about. A common, domestic type-A appliance such as room heater may have a rating of 25 megajoules. The Australian Gas Association allows for an approved system for domestic appliances or type-A appliances up to a capacity of 500 megajoules and that is 20 times larger than the average room heater. Type-B appliances are generally larger than 500 megajoules and can go substantially higher, even hundreds of times higher. By definition in the regulations, type-B appliances are large.

The CHAIRMAN: Can you give us a bottom-end and top-end example of type-B appliances to help the committee know what it is talking about?

Mr STEWART: The top-end appliance would be similar to the processor operated by BHP in its HBI plant at Port Hedland. The bottom-end appliance could be a new type of appliance of a small capacity that has not been allowed for in the AGA approval scheme, the regulations or the schedules. It may be the bakery we referred to. However, it would suit the manufacturer's marketing of such an appliance to apply within the approval scheme of the Australian Gas Association for a type-A approval for that type of appliance.

Mr SHANAHAN: I will explain why Combustion Air Pty Ltd would say that it is an either-or situation. Firstly, the word "or" is used in the relevant new regulation. The reason that Combustion Air says that must result in inspections at the point of manufacture is that if "appliance" and "gas appliance" mean the same thing - which is what the Office of Energy argues - each type-B appliance must obtain pre-sale and pre-advertising approval. The only inspection that could give rise to that would be option B; that is, "if the inspector so approves at any other place" and that was at the point of manufacture. If we do not want two systems of approval - one under the Act and one under the new regulations - the only place at which the appliance can be inspected and approved is before it is sold or advertised.

The CHAIRMAN: What are the implications of that for the one-off type manufacturer?

Mr SHANAHAN: They are crippling. It is illogical.

Mr MacLEAN: They are pre-sold. You sell them on tender and then you build them.

Mr SHANAHAN: That is the point I am leading to. It cannot work for these types of appliances.

Mr THOMAS: The regulations do not envisage this type of situation, and they should.”⁴

- 3.7 The concern of Combustion Air with regulation 35 and the need for “commissioning “ gas prior to the issuing of a notice of completion of the work on a consumer’s gas installation is illustrated by the following evidence:

“Mr SHANAHAN: ...Another issue which is equally important is the new regulation 35. Basically subparagraph (1) of that regulation says that except as provided in this regulation, if gas fitting work is done on a consumer's gas installation - that is, defined to include individual appliances, so we could be talking about an appliance and not necessarily more than one appliance - a gas supplier must not supply gas to the installation unless the gas supplier has received a notice of completion of the work. The difficulty is that before the gas supplier gives gas, the gasfitter must complete the notice of completion. However, they cannot do that without gas. They need gas to do all of those things to test the appliance. Under regulation 35(3), the director has power to exempt a gas supplier from that requirement. That means that in every case, in relation to every appliance, the director must give an exemption. That gives the director ultimate control of the supply of gas. Once the director has granted the exemption, the gas supplier has power, in relation to that appliance, to negotiate the requirements for connection.

The CHAIRMAN: Has there been a case in which the exemption has not been given?

Mr SHANAHAN: It is a new regulation.

⁴

Corrected transcript of evidence taken at Perth, Monday, June 28 1999, pp. 14-15.

Mr STEWART: From a practical point of view, we suggest that every installation of appliance must be via new regulation 35(3) because a gasfitter is unable to complete his obligations under the new regulations unless he has gas supplied.

Mr SHANAHAN: We do not know of any instance in which commissioning gas has been refused. The point we are trying to make is why should it be negotiation, surely if we have a regulation it should work, so that everyone knows their rights. The gasfitter should have the right to call for gas to commission an appliance otherwise he cannot do his job.”⁵

4 THE OFFICE OF ENERGY’S POSITION

- 4.1 The view of the OOE in relation to the change from the SECWA system to the regime under regulation 22(4) is that the new regulation improves the previous system by providing “a discretion for the Director to allow typically mass produced, simple Type B gas appliances, to be inspected and approved other than at the place of installation - a change that is sensible, given the difficulties of attending some distant sites and that these appliances are not materially different to Type A appliances, which are also left to the gasfitter to install, commission and certify.”⁶
- 4.2 According to the OOE, some Type B appliances may be mass produced and therefore can be treated like Type A appliances and type tested for safety compliance by authorities assessed by the Director as competent. They can then be marked to show their compliance with safety standards and then offered for sale. Because Type B appliances may or may not be mass produced and capable of “type approval” the inspection and certification process allows for either scenario.
- 4.3 The procedure for certification of Type B appliances under the Regulations is in two stages - approval for installation, then approval of the appliance as installed and commissioned.

⁵ Corrected transcript of evidence taken at Perth, Monday, June 28 1999, pp. 16-17.

⁶ Submission from Mr Albert Koenig, Director of Energy Safety, Office of Energy to the Committee dated June 28 1999, p. 2.

Approval for installation

- 4.4 Approval for installation of Type B appliances is provided for in Item 501(2) of Schedule 6 to the Regulations which states:

501(2) A Type B appliance must not be installed in a consumer's gas installation unless -

- (a) it is the same as an appliance that is currently approved for such installation by the Director; or
- (b) it is individually approved in writing for such installation by an inspector.

- 4.5 Paragraph (a) provides for mass produced Type B appliances which can be "type approved" for installation generally without the need for each to be inspected at the point of connection to a gas supply. Paragraph (b) covers the more complex Type B appliances which are not capable of being "type approved" as are mass produced Type A appliances. The requirement in (b) for the installation to be approved in writing by an inspector requires the Type B gas appliance manufacturer/installer to provide to the inspector a design submission for desktop evaluation and clearance. This avoids *fait accompli* on site constructions being offered for installation approval.⁷

Approval of the installed appliance

- 4.6 Regulation 22 requires that an inspector issue a certificate of compliance for the Type B appliance before it can be permanently connected to a gas supply. The approval requires the inspector to assess the appliance for conformity with an Australian Standard - AS3814 and the Code for industrial and gas fired appliances. This industry standard is incorporated into the Regulations via Schedule 7.
- 4.7 The view of the OOE is that it is often impractical to require the on-site inspection in cases of mass produced or relatively simple Type B gas appliances. This is the situation where the discretion referred to in Regulation 22(4)(b) is exercised, allowing inspection of the appliance (not a sample, but the specific unit) at a place other than where the appliance is

⁷ Submission from Mr Albert Koenig, Director of Energy Safety, Office of Energy to the Committee dated June 28 1999, p. 7.

to be installed, most commonly at the point of manufacture. The appliance can then be transported to site for simple installation by a gasfitter.⁸

- 4.8 The OOE rejects the notion that Type B appliances are incapable of being “type approved” as are Type A appliances or that there are two approval regimes, one under the Act and one under the Regulations. The following information provided by Mr Koenig and Mr Stokes illustrates the attitude of the regulator:

“Hon J.A. SCOTT: One issue that has been pointed out to us is that there is a system for the notice of compliance under the regulations. However, under the Act, there is a requirement for pre-sale approval. There seems to be some conflict between the Act and the regulations.

Mr KOENIG: Provision 13D in the Act refers generally to gas appliances. It does not differentiate between the type-A and the type-B appliances. Type-A is the domestic appliances that must be type tested and pre-approved so they can be sold in Kmart and Retravisson. That system is uniform across Australia and works quite well. We have a scheme whereby a central certification service is provided by the Australian Gas Association. I recognise that scheme through a declaration in the *Government Gazette*. The approvals that are provided through that scheme are applicable in Western Australia, as they are in other States. It provides a much simpler system.

Hon J.A. SCOTT: I asked that because I understand that it is almost an impossibility for large-scale industrial type-B appliances; that is, in a lot of cases they are sold before they are designed. You cannot have approval of something which has not yet been designed.

Mr KOENIG: I do not agree with that view. I know that is the view of a particular person. I will ask Mr Stokes to comment further on that point because that is an important issue. A considerable amount of pre-sale approval can be done for type-B appliances. In that regard I am referring to the approval for the installation phase. Not every type-B installation is so uniquely custom built for every consumer that it is totally designed from the ground up when the consumer places an order. I do not believe that.

Hon J.A. SCOTT: Some are.

⁸ Ibid, p. 7.

Mr KOENIG: Some are, but many appliances are effectively built from components which constitute gas appliances or which collectively will form a gas appliance. A great deal of work can be done to get type approval so that does not need to be repeated every time a component goes into a consumer installation. A great deal of type approval can be done.

The CHAIRMAN: For instance, if a part has been approved in a previous installation, that then becomes approved in subsequent installations, even though the design or purpose may be listed differently.

Mr KOENIG: That is fundamentally the principle. I will ask Mr Stokes to enlarge on that.

Mr STOKES: I agree with Mr Koenig. The requirement for approval is basically to protect consumers, whether they be industry consumers or domestic consumers. I have never seen any objection to having in principle or type approval of anything that is sold if it will burn gas and has potential hazards. The mechanisms may not be exact for every gas appliance, and that is what we are saying with the regulations, but there are always potentials for having prior approval. There will be problems; for example, imported appliances which may not be sold in this State. The control of sale may not be the appropriate mechanism in that case.”⁹

- 4.9 The move to “type” approval and pre-sale approval is seen by the OOE as a further factor supporting a safety regime based upon inspection and certification of Type B appliances. The following information from Mr Stokes illustrates this point:

“Mr STOKES: ...One of the problems in the old regulations, certainly on mine sites, was that appliances used to arrive on site. Someone would ring a gasfitter and say, "Can you come and connect this for me?" The gasfitter would connect it. Therefore, one could forget about approval for sale and approval for installation; none of it ever happened. It was connected, and the user just turned it on and used it.

Hon J.A. SCOTT: Was it not supposed to be inspected before the gas was allowed to be turned on?

⁹ Information provided by the OOE at Perth, Monday, June 28 1999, pp. 28-29.

Mr STOKES: If that was possible, but of course a lot of this applies to existing gas installations. It may have been an extension to an existing gas installation.

Hon J.A. SCOTT: Was there not a responsibility on the supplier of the gas not to provide gas until that had been inspected?

Mr STOKES: No, the commencement of the gas supply to a consumer's installation is the initial act. However, if there is an existing gas installation at a mine site, which already has some appliances, and the mine site wants to extend its process and therefore it buys another appliance, obviously there is no commencement of the gas supply; it has already commenced. Therefore, the gas supplier has no knowledge necessarily that that installation will go ahead, unless everybody does the right thing with the notices. Even with a liquefied petroleum gas tank, it sits there, and it may be connected to a few appliances. If somebody adds another appliance, unless the necessary notices are put in, that gas supplier will never know until the tank -

The CHAIRMAN: The gas supplier would not even be aware it was there.

Mr STOKES: That is right.”¹⁰

- 4.10 In relation to the issue of “commissioning” gas, the OOE is of the view that regulation 22(8) and (9) provides the mechanism by which “commissioning” gas is supplied for testing and commissioning purposes. The procedure was explained to the Chairman by Mr Koenig and Mr Stokes as follows:

“The CHAIRMAN: The next concern we must deal with is the testing when the appliance is in situ. The point was made that there must be a gas supply to conduct the final installations and the final testing. The special approval of the director was required to enable a gas supply to be made available for commissioning. Can you comment on that?

Mr KOENIG: The process can take advantage of the particular provision in the regulations that allows a temporary gas supply to be applied for a period, and that can be extended at the discretion of my office. However, I am not sure what other aspect of this raises a concern.

¹⁰

Information provided by the OOE at Perth, Monday, June 28 1999, p. 32.

Mr STOKES: I will just flesh out or paraphrase the requirements. The Gas Standards Act requires that a gas supplier commence gas supply only to installations which comply with prescribed requirements. That is basically schedule 6, regulation 32. The prescribed requirement for commencement of gas supply for a type-B gas appliance is basically that the appliance is approved for such installation. Therefore, we have this desktop approval. The gas supplier knows that that is a process which has been gone through. In real terms, the appliance need not necessarily be installed there, but generally one would expect it to be on site. The gas supplier commences gas supply, and then the person who is responsible for commissioning that appliance and getting it inspected will go through that process. There will be a gas supply; the appliance will be commissioned; all the safety interlocks on a complex installation will be checked; and the gas inspector will be invited back to inspect it to make sure it is the one he originally approved. That is a simple view of the process. It grew in the SECWA days and probably still is used. Colloquially, it is called commissioning gas. The gas supplier provides commissioning gas for the commissioning of the type-B appliance prior to its final inspection.

Mr KOENIG: That commissioning gas is made available by request to the gas supplier once the installing gasfitter believes that the appliance is ready for serious commissioning and inspection. It is the final phase; in other words, when all the preliminary checks and so on have been carried out. That requires some time, and therefore that is why the regulations provide for a period of time, plus an extension mechanism. Sometimes difficulties are experienced and the device must be shut down. Maybe some alterations will be made, something will be explored, and then some further work will be done and so on. Hence, there has been a discretionary extension mechanism built in so that it is possible to deal with difficulties if the need arises. However, that would always be under the general supervision of an inspector, and the inspector must make a special application to my office for that purpose.

The CHAIRMAN: The point was made - I think regulation 35(3) was referred to - that the gas supplier must not supply gas until the fitter gives a certificate of completion.

Mr KOENIG: Yes.

The CHAIRMAN: One then has the situation of how can a certificate of completion be given until one has actually got the appliance there and gas is

running through it. Therefore, that process is still able to be done with the inspector seeking an exemption from the director.

Mr KOENIG: Yes. That is only if an extended temporary gas supply is required. We fundamentally accept that there is a need in the first instance for the gas supplier to be assured - that is why the regulations reflect that - that the consumer's gas installation is fundamentally ready and safe to take a gas supply - even an initial gas supply. There must be some evidence provided to the gas supplier that the installation is ready, and the notice of completion is evidence of that. There is an obligation on the gas supplier to carry out some audit. It is one thing to receive notices of completion. One cannot simply treat them all at face value and pretend that is the end of it. There must be some kind of audit program, and indeed gas suppliers have those sorts of obligations. Once gas can be supplied to a type-B gas appliance, then the commissioning process can commence to take it through to the very final phase.”¹¹

- 4.11 The Committee notes that Mr Koenig’s answer to the Chairman indicates that the primary mechanism by which commissioning gas is supplied to a consumer’s gas installation for commissioning and testing purposes is via Regulation 22(8) and (9). Regulation 35 appears only to be used when a gas supplier requires an exemption from the prohibition on the permanent supply of gas to a consumer’s gas installation when it has not received a notice of completion of the work.

Does Regulation 22(4) compromise gas safety?

- 4.12 The Committee is satisfied that the approval and certification procedures in the Regulations, including the requirement of approval for installation under item 501(2) in Schedule 6 and the requirement that an inspector assess the appliance for conformity to an Australian Standard before it is permanently connected to a gas supply, provide an appropriate safety regime.
- 4.13 The information provided by the OOE regarding the discretion granted to the Director in Regulation 22(4)(b), which allows for inspection and certification of a Type B appliance at the place of manufacture (or any other place) rather than the place where the appliance is to be permanently installed, will not risk public safety. This is because the intention of the discretion is that it only apply to Type B appliances which are capable of being fully assembled and temporarily connected to a gas supply, usually at the point of manufacture,

¹¹ Information provided by the OOE at Perth, Monday, June 28 1999, pp. 30-31.

for the purpose of testing and an inspector ascertaining compliance with the Regulations. Those Type B appliances which are too large to be assembled and tested at the place of manufacture, or other place, will be inspected and tested at the place where they are to be installed as was the case prior to the discretion being introduced.

- 4.14 The Committee's view is that safety will not be compromised by the discretion granted to the Director in regulation 22(4)(b) as a Type B appliance will undergo the same approval, inspection and certification procedures whether this is done at the place of manufacture or the place of permanent installation.
- 4.15 Despite the Committee's finding that safety will not be compromised by the Regulations, the information and evidence provided to the Committee raises a number of concerns regarding the Regulations and the Act.

5 THE COMMITTEE'S CONCERNS

5.1 The Committee's concerns are summarised as follows:

- (a) the apparent ambiguity between the definitions of "appliance" under the Regulations and "gas appliance" under the Act;
- (b) the potential for section 13D of the Act to cause hardship to manufacturers of Type B appliances some of which may not be capable of approval prior to advertising;
- (c) the apparent conflict between the procedure for supplying "commissioning" gas for inspection and testing under regulation 22 and the prohibition on the supply of gas to a consumer's gas installation other than with the exemption of the Director contained in regulation 35;
- (d) the apparent shift of responsibility for the safety of an appliance from gas suppliers, and inspectors to gasfitters in regulation 28; and
- (e) the failure to publish inspection plans and policies of gas suppliers granted exemptions under section 13(2) of the Act.

Ambiguity between definition of “appliance” and “gas appliance”

- 5.2 Under regulation 3 of the Regulations “appliance” is defined as meaning “an appliance that consumes gas for any purpose”. Section 4 of the Act defines a “gas appliance” as being “any appliance which consumes gas as fuel”. A Type B appliance is defined as “an appliance that has a maximum hourly input rate exceeding 10 megajoules but is neither a Type A appliance nor a mobile engine”.
- 5.3 The Committee notes that the same definition of “appliance” was contained in the repealed *Gas Standards Regulations 1983* (“Old Regulations”). The Old Regulations also contained a definition of a Type A appliance and a Type B appliance which do not materially differ from the definitions contained in the current Regulations. The term “gas appliance” was introduced into the Act by amendments in 1985¹² which also introduced sections 13D - 13H. Section 13D of the Act contains the prohibition on the sale, hire and advertising of a “gas appliance” which has not been approved by the Director and marked, stamped or labelled in an approved manner.
- 5.4 The different definitions in 5.2 above and the fact that the approval scheme for Type B appliances under the SECWA System pre-dated the 1985 amendments to the Act are the basis for the argument put forward by Combustion Air that it was not intended that sections 13D - 13H apply to a Type B “appliance”. Sections 13D - 13H refer to a “gas appliance” as defined in the Act and not an “appliance” as defined in the Regulations.
- 5.5 Under the definitions, although it would appear that the definition of “appliance” under the Regulations is broader than the definition of “gas appliance” under the Act, it is clear that any Type B “appliance” which consumes gas as a fuel will come within the definition of a “gas appliance” under the Act.
- 5.6 The Committee is of the opinion that a Type B appliance which consumes gas as a fuel clearly falls within the definition of “gas appliance” under the Act and is therefore subject to the provisions of Sections 13D - 13H inclusive.
- 5.7 Any perceived ambiguity could be corrected by amending either the Act or Regulations to provide for a consistent definition. The Committee’s preferred option would be to amend the Act so that it reflects the same definition of appliance that is contained in the Regulations. This would remove any doubt that the provisions of the Act apply to the

¹² Inserted by No 63 of 1985 (Section 4).

potentially broader set of appliances which consume gas for any purpose which will include those appliances which consume gas as a fuel.

Section 13D and the prohibition on the sale, hire or advertising on Type B appliances

- 5.8 The Committee accepts that “type approval” of mass produced Type B appliances in a manner similar to Type A appliances is both possible and acceptable if adequate controls in manufacturing and inspection are put in place. The Committee acknowledges that there will be some Type B appliances which are not amenable to type approval or approval by way of the issue of a certificate of compliance prior to the seller contracting with a purchaser for the design, manufacture and supply of a “tailor made” Type B appliance.
- 5.9 Section 13D(1) of the Act prohibits the sale, hire or advertising of *any* gas appliance that does not comply with the dual requirement of section 13D. This requires the gas appliance to be approved by the Director *and* marked, stamped or labelled in the manner approved by the Director prior to sale. A breach of this provision exposes a person to a penalty under subsection (2) of \$2 000 or imprisonment for 6 months or both.
- 5.10 The Committee accepts that the definition of “gas appliance” in the Act does not distinguish between Type A and Type B appliances and will encompass any appliance which consumes gas as a fuel. Any Type B appliance which consumes gas as a fuel will be included within the scope of section 13D. The sale, hire or advertising of a Type B appliance will therefore be prohibited unless the Type B appliance is approved by the Director or is of a class or type of gas appliance that is approved by the Director and is marked, stamped or labelled in the manner approved by the Director.
- 5.11 The Committee is of the opinion that prior to the hire of any gas appliance it should be approved in the manner set out in section 13D, whether it be a Type A or Type B appliance. The provision for approval before hire is a legitimate and sensible means for protecting consumers. The Committee acknowledges that it would be unusual for a Type B appliance to be hired.
- 5.12 The question whether the prohibition on the sale of Type B appliances prior to approval under section 13D will be breached by the act of contracting for the design, manufacture and supply of a Type B appliance, which is not capable of type approval, will depend upon the meaning of “sell” and “sale” under the Act and the choice of contractual mechanism by which the title to a Type B appliance is transferred to the purchaser.

- 5.13 There is no definition of sell or sale under the Act. A definition of a contract of sale of goods is contained in Section 1 of the *Sale of Goods Act 1895* which provides:

“1. (1) A contract of sale of goods is a contract whereby the seller transfers, or agrees to transfer, the property in goods to the buyer for a money consideration, called the price. There may be a contract of sale between one part owner and another.”

The transfer of property or title in the goods is essential for a “sale” to be effected.

- 5.14 The act of contracting for manufacture or supply will not amount to a “sale” of a Type B appliance under the Act until the title to the Type B appliance passes to the consumer. Section 13D of the Act will not be breached in circumstances where the contract specifies that title in the appliance does not pass to the consumer until the appliance has obtained final approval by the Director and the full purchase price is paid. This type of transaction is a conditional contract known at law as an “agreement to sell” which only ripens into a sale when the precondition is fulfilled. This should be distinguished from a “sale” which is the unconditional transfer of property here and now on payment of a certain price in money.¹³ The distinction is reflected in sub-sections (2),(3) and (4) of Section 1 of the *Sale of Goods Act 1895* which state:

“(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time, or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.”

- 5.15 The evidence presented to the Committee indicates that the commercial reality is that contracts for the design, manufacture and supply of a Type B appliance can and invariably will specify that title to the appliance will only pass to a purchaser after a certificate of compliance has been issued and full payment has been made.¹⁴ A purchaser of a Type B

¹³ Mischeff v Springett (1942) 2K.B. 331.

¹⁴ Submission from Pyrotherm Pty Ltd dated July 7 1999, p. 2.

appliance will only make final payment for the appliance when it has been inspected and a certificate of compliance has been issued.

5.16 Under a conditional contract, a manufacturer such as Combustion Air would not be in breach of the section 13D prohibition on the sale of a Type B appliance prior to approval by the Director as title to the appliance will only pass to the purchaser after final approval has been granted by way of the issue of a certificate of compliance. It is only at this stage that the “agreement to sell” will ripen into a sale. This will also mean that there would not be a conflict between the approval requirement in section 13D of the Act and an approval at the point of permanent connection provided for in regulation 22.

5.17 Although the prohibition on the sale of a Type B appliance does not cause the Committee concern, the blanket prohibition on the advertising of Type B appliances prior to approval is, in the Committee’s opinion, an unnecessary fetter on the legitimate business operations of manufacturers such as Combustion Air and is likely to cause hardship to it and other manufacturers. The Committee is of the view that section 13D of the Act should be amended to provide a mechanism by which Type B appliances which are not capable of approval prior to advertising can be advertised without first complying with the dual requirements of section 13D(1).

5.18 One possible method of achieving this end would be to include in section 13D of the Act a provision placing conditions on the advertising of Type B appliances by which the manufacturer is required to notify the consumer in the advertisement that any use of the device as a gas appliance is subject to inspection, approval and certification under the Act and Regulations.

“Commissioning” gas and regulations 22 and 35

5.19 The relevant provisions of regulation 22 are as follows:

“22 (1) A gas fitter must not leave a Type B appliance permanently connected in a consumer’s gas installation unless an inspector has issued a certificate of compliance for the appliance.

(2) The inspector may issue a certificate of compliance for the appliance if the inspector has inspected the appliance and ascertained, so far as is practicable, that it complies with the requirements referred to in regulation 32.

...

- (8) For the purposes of this regulation an appliance is not to be regarded as permanently connected if it is connected for a period approved in writing by an inspector pending inspection of the appliance by that inspector.
- (9) For the purposes of sub-regulation (8), an inspector may approve any period of no more than -
 - (a) 21 days; or
 - (b) If in a particular case a longer period is required and the inspector gives written notice to the Director of the approval - 90 days.”

5.20 Regulation 35 states:

“35. Supplying gas to a newly installed consumer’s gas installation:

- (1) except as provided in this regulation, if gasfitting work is done on a consumer’s gas installation that is not supplied with gas, a gas supplier must not supply gas to the installation unless the gas supplier has received a notice of completion of the work.
- (2) Subregulation (1) does not apply to gasfitting work done on a consumer’s gas installation associated with a caravan, marine craft or mobile engine.
- (3) The Director may, in a particular case or class of case, exempt a gas supplier from subregulation (1).”

5.21 The Act defines “gas installation” as “... any appliance, pipes, fittings or other apparatus installed or to be installed for or for purposes incidental to the conveyance, control, supply or use of gas.” The definition will include an “appliance” as defined by the Regulations.

5.22 The Committee’s view is that it is by no means clear from a reading of regulation 22 that without the exemption being provided under regulation 35(3), “commissioning” gas can be supplied by a gas supplier to a newly installed consumer’s gas installation without the gas supplier breaching the prohibition in regulation 35. This is because a notice of completion of the work can only be completed after gas has been supplied for testing and inspection purposes.

5.23 The anomaly could be cured by amending regulation 35(1) so that it reads:

“35(1) Except as provided in this regulation, if gasfitting work is done on a consumer’s gas installation that is not supplied with gas, a gas supplier must not *permanently* supply gas to the installation unless the gas supplier has received a notice of completion of the work *and certificate of compliance.*”

- 5.24 This amendment would be consistent with the mechanism in regulation 22(8) which speaks of a connection of an appliance (to a consumer’s gas installation, i.e. to gas) for the purposes of inspection as not being regarded as “permanently connected” and as such would not attract the prohibition contained in regulation 22(1) or 35(1).

Section 28(4): Apparent shift of responsibility for the safety of an appliance from gas suppliers, and inspectors to gasfitters

- 5.25 The Committee is concerned with the extent of the obligations on gasfitters and their potential legal liability due to the very broad wording of regulation 28(4), particularly when this wording is compared with the obligations placed on inspectors under regulation 22(2).

- 5.26 Under regulation 28(4) a gasfitter who must complete a notice of completion:

“...must certify that every part of the gas installation on which the gasfitting work was done *or that is affected by the work* complies with the requirements referred to in regulation 32, is safe to use and is completed to a trade finish.”[emphasis added].

Under regulation 22(2) an inspector may issue a certificate of compliance for a Type B appliance:

“...if the inspector has inspected the appliance and ascertained, *so far as is practicable*, that it complies with the requirements referred to in regulation 32.”[emphasis added].

- 5.27 The evidence presented to the Committee indicates that due to the current level of expertise and training of gasfitters, it may be difficult, if not impossible for a gasfitter to sign a notice of completion in which he or she can genuinely certify that every part of the appliance which is affected by the work complies with the requirements of regulation 32. This is particularly the case with more complex Type B appliances.

- 5.28 The evidence of Mr Ballard, a manufacturer of Type B appliances and a former technical officer with Wesfarmers Kleenheat illustrates this problem:

“Mr BALLARD: ... When the term "gasfitter" is used, therefore, one must take it in the context of the type of appliance I was talking about in the country that requires commissioning on site. There are thousands of installers in the country but they would be lucky if they know the end on which to connect the gas. However, it is my view that we must convince the Office of Energy as most people in the industry agree that it needs to upgrade the standing. The big point about education - and I say this very strongly - is that it is the only thing that matters as regards gas safety. The report on the disaster at the Longford plant in Victoria, for example, is very thick. I looked through it to see what it could tell me. I could condense the whole of that report to one thing: The bloke running the plant did not know what the bloody hell he was doing! That is the simple, fundamental fact. I have spent my life on industrial plants and all industrial safety boils down to the same thing: Does the man who is now there doing that job know what he is doing? If he does not, we cannot enact enough legislation or write enough regulations or procedures to make the situation safe. If he knows what he is doing, we probably do not need half of the laws, regulations and procedures. With the Office of Energy there is a question of thrust; it is going the same way that WorkSafe and other agencies have gone previously - How can we write up enough legislation to ensure that, no matter what happens, we can sue somebody and make ourselves fireproof.

Mr MARLBOROUGH: And we have a job.

Mr BALLARD: That is right. It is particularly true in this business, and that is why I am particularly keen. At a higher level there is a difference between gas fitting and designing industrial plant. That appropriately requires tertiary education. In other parts of the world, universities offer industrial courses apart from mechanical engineering.

Hon J.A. SCOTT: What about the inspectors' qualifications?

Mr BALLARD: The current inspectors say that they have gained their qualifications over time. The recent independent gas inspectors have just been deemed "proper people". That is a small list.

The CHAIRMAN: So, they have gained their qualifications by virtue of experience in the industry.

Mr BALLARD: The current inspectors in the Office of Energy and Alinta Gas have good backgrounds in the gas industry. However, there is no specific qualification. Again, it is determined as the director thinks fit. Some of the locals who have been designated are very controversial.

Mr THOMAS: There was a trade of plumber and gasfitter. What is the relationship between gasfitters and plumbers? Can all plumbers become gasfitters?

Mr BALLARD: In the past that was true. I refer back to the original Wesfarmers course and so on. It was typically a plumber who had the skill to run some copper pipe. The Office of Energy feels as I do that linking gas fitting to plumbing is very dangerous. Plumbers are very respected tradesmen who do everything from fixing gutters, roofing, septic systems, hot water systems and so on. Gas fitting - the proper adjustment of domestic appliances and understanding combustion - and plumbing do not go together. The installation of industrial gas appliances requires as much electrical knowledge as plumbing knowledge. It was an English tradition that the plumber and gasfitter did the same things because they were both involved in pipe work, but that was the only connection.

Hon J.A. SCOTT: A plumber might hook up a new appliance, but a gasfitter would be able to pull it to bits and fix it.

Mr BALLARD: That is right. Tagging that work onto plumbing has an enormous range of possibilities.

Mr THOMAS: The plumber had to be licensed.

Mr BALLARD: Yes.

Mr THOMAS: The plumber's licence includes a notional certification of skills to work with gas as well.

Mr BALLARD: Yes. Typically, the Wesfarmers course taught how to adjust appliances, clean and so on. Students were taught how the simple gas

components worked. That is irrelevant if someone wants to move on to industrial gas appliances. One would be better off taking an electrician, training him down the other way rather than trying to train a plumber up.”¹⁵

- 5.29 The Committee acknowledges that the Regulations create a new class of gasfitters licence (I class) which will be required for the installation of Type B gas appliances. However, the Committee remains concerned that the requirement in regulation 28(4) appears unrealistic and is probably not achievable in at least some cases, particularly with complex Type B gas appliances. The regulation also appears to unfairly shift responsibility to gasfitters for ensuring that an appliance is safe to use. The Committee’s view is that although all participants must take an active role to ensure the safety of an appliance, including the gasfitter who does work on an appliance, the primary responsibility should rest with the manufacturer, inspector and gas supplier.
- 5.30 The Committee is concerned that the reality of the inspection process is recognised in regulation 22(2) by requiring an inspector to only ascertain *so far as is practicable*, that an appliance complies with the requirements of regulation 32, whereas the same recognition is not extended to gasfitters who are in many cases, by reason of their training and experience, not in a position to determine the absolute safety of every part of an appliance which is affected by the work.
- 5.31 The Committee is of the view that Regulation 28(4) should be amended so that it places an obligation on gasfitters which is similar to (but no greater than) the obligation placed on inspectors in regulation 22(2). This is to ensure that the primary responsibility for the safety of an appliance remains with the manufacturer, inspector and gas supplier whilst still ensuring that gasfitters warrant the safety of their work and that it is completed to trade standard.

Section 13 Exemptions: Approved Inspection Plans and Policy Statements

- 5.32 The Committee also received evidence in relation to the responsibility of gas suppliers to check the safety of a consumer gas installation to which gas is supplied.¹⁶ This is a requirement under section 13 of the Act.

¹⁵ Corrected transcript of evidence taken at Perth, Monday, September 13 1999, pp. 5-6.

¹⁶ Submission of Combustion Air dated September 10 1999, pp. 32-40; and
Submission of WorkSafe Western Australia Commission dated October 7 1999, p. 3.

- 5.33 Section 13(1) of the Act provides that a gas supplier shall not commence to supply gas to a consumer's gas installation unless the installation meets the requirements prescribed for that installation. The requirements are set out in regulation 32 and may be varied by the Director. Section 13(1) requires a gas supplier to inspect 100% of the gas installations to which it supplies gas. However, under sub-section (2), the Minister is provided with a discretion to exempt a gas supplier from the duty to carry out an inspection of all gas installations for the purposes of sub-section (1). The exemption can be granted by the Minister "on such terms and conditions, and subject to compliance with such arrangements, as the Minister thinks fit."
- 5.34 Combustion Air argues that the removal of the statutory obligation for a 100% inspection contributes to the shift of responsibility for gas safety from gas suppliers to the gasfitter (regulation 28) and consumers (regulation 36).¹⁷
- 5.35 The OOE has advised that Alinta Gas, Boral Energy, Kleenheat Gas and BOC Gases have been granted an exemption under section 13(2). The exemptions have been granted on the condition that the suppliers each have in place an inspection plan and policy statement approved by the Director. The inspection plans are subject to regular audits by the OOE to check that the actual inspection practices of gas suppliers comply with their inspection plan and policy statement.¹⁸
- 5.36 The approved plans and policy statements of exempted gas suppliers are not gazetted or published. The reasons given for confidentiality of the inspection plans and policy statements are twofold:
- (a) the disclosure of such information is prohibited under section 24 of the *Energy Co-ordination Act 1994*¹⁹; and
 - (b) there may be a competitive advantage in the methods chosen by a gas supplier to achieve safety outcomes.²⁰

¹⁷ Submission of Combustion Air dated September 10 1999, p. 34.

¹⁸ Submission of OOE dated October 6 1999, pp. 7-8.

¹⁹ Ibid, p. 9.

²⁰ Answer by Hon Norman Moore MLC representing the Minister for Energy to question on notice by Hon Mark Neville MLC, Hansard, June 30 1999, p. 9773.

- 5.37 The Committee is of the view that in order to support the safety regime set up by the Regulations, consideration should be given to amending the Act to provide for the publication in the *Government Gazette* of the approved inspection plan and policy statement of all entities granted a section 13(2) exemption. Publication will result in the documents being exposed to public scrutiny and independent assessment, ensure that there is transparency of the Minister's action in granting an exemption and improve public confidence in the safety practices of gas suppliers.

6 THE INDEPENDENCE OF GAS INSPECTORS

- 6.1 The Committee recognises that the ability of an inspector to carry out his or her duties under the Regulations in a proper, efficient and unbiased manner is crucial to achieving satisfactory safety outcomes. Evidence before the Committee placed a question over the independence of gas inspectors appointed by the Director under section 12 of the *Energy Co-ordination Act 1994* to inspect Type B appliances. Mr Ballard explained the problem this way:

“Mr BALLARD: ... I have headed the main problem area as the use of private inspectors in order to cut down government numbers instead of it being traditionally policed by government inspectors. People in private industry are being designated as inspectors of type-B gas appliances. It does not take much thought to realise that the only people in this State with the capacity to inspect in that field are the people employed in the industry. Further in the regulations, it is the job of the final employer to employ the inspector. That means that if I put an industrial plant into a factory, the owner could pick my worst opposition as the man to inspect it and I could be forced to hand over all my plans and designs to a competitor. No other industry would stand for that and I can think of no other industry in which people would be forced to do that. That was pointed out to the Office of Energy in writing at least two years ago as soon as the silly idea was thought of, as did many other industry stakeholders. No official reply was made; however, we were told verbally that the Office of Energy could see no problem with it. None of its members had worked in the industry for many years and these are the kinds of things it comes up with. Private inspectors therefore are definitely a problem.

The use of private inspectors is also a big safety issue. If we must have an inspector, he or she must be completely fair and unbiased. In my previous employment with Kleenheat Gas, I was a SECWA-appointed gas inspector for

many years with a fuel supply company. The problem with that was there was always a point being taken that if we created a lot of trouble for that good client who had come to buy a load of gas, we could be out on our ear; we could not possibly be unbiased. It is the same with the so-called independent inspector who wants to make a living out of inspections. If he looks at my appliance and gives me a pretty hard time, I will mentally record in one of my black books, "Don't hire him again." It is ridiculous. The only way to get a fair and unbiased inspector is to employ a government inspector."²¹

- 6.2 The issue of the independence of Type B gas inspectors was one of the matters raised with the OOE in a letter from the Chairman dated September 30 1999. In his response, Mr Koenig, the Director of Energy Safety, advised the Committee as follows:

"The only complaint I have very recently been made aware of is that some independent inspectors may have (in some instances) a potential conflict of interest due to other business activities, as they are part time inspectors only. I have already given instruction for each such inspector to be made aware that this is unacceptable and that they may not be engaged as an inspector of this kind and at the same time be linked to some aspect of Type B appliance related commercial activity."²²

- 6.3 The Committee accepts that an inspectorate which is largely comprised of inspectors directly employed by gas suppliers is an appropriate and practical way in which to provide the inspection services at a realistic cost. The Committee has examined the argument that the independence of the inspectorate is compromised by the direct employment of gas inspectors by gas suppliers and acknowledges that such a system was in place during the period in which gas was supplied by the State Energy Commission of Western Australia. At that time, gas inspection services were largely performed by inspectors employed by SECWA.
- 6.4 The Committee is of the view that the employment of inspectors, largely by the suppliers of gas, raises the need for the Office of Energy to continually evaluate and examine the level of training and experience of inspectors and the quality of their work. This will

²¹ Corrected transcript of evidence taken at Perth, Monday, September 13 1999, p. 2.

²² Submission from Mr Albert Koenig, Director of Energy Safety, Office of Energy to the Committee dated October 6 1999, p. 5.

ensure that inspectors are and continue to be of the highest calibre so as to maintain the continuing safety of the industry.

- 6.5 To dispel concerns regarding potential conflicts of interest, the pool of independent inspectors for Type B appliances should not be permitted to be engaged in any aspect of Type B appliance commercial activity. By adopting and maintaining such a policy, the OOE would guarantee the true independence and integrity of the independent inspectorate and remove concerns held by some Type B manufacturers regarding the protection of their intellectual property during the inspection process.

7 CONCLUSION

- 7.1 The Committee recognises that the Regulations are within power and has resolved not to recommend disallowance.

- 7.2 As a result of the information obtained from officers of the OOE outlined above, the Committee is generally satisfied with the approval process for installing and commissioning Type B gas appliances. However, the Committee has identified five concerns which are:

- (a) the ambiguity arising from the definitions of “appliance” under the Regulations and “gas appliance” under the Act;
- (b) the potential for Section 13D of the Act to cause hardship to manufacturers of Type B appliances some of which may not be capable of approval prior to advertising;
- (c) the apparent conflict between the procedure for supplying “commissioning” gas for inspection and testing under Regulation 22 and the prohibition on the supply of gas to a consumer’s gas installation other than with the exemption of the Director contained in Regulation 35;
- (d) the apparent shift of liability from gas suppliers and inspectors to gasfitters; and
- (e) the failure to publish inspection plans and policies of gas suppliers granted exemptions under section 13(2) of the Act.

7.3 On this basis, the Committee recommends that the Minister for Energy should take steps to:

- (a) amend the definition of “gas appliance” in section 4 of the Act so that it is consistent with the definition of “appliance” in the Regulations, thereby removing any doubt that a Type B appliance is a “gas appliance” for the purposes of section 13D of the Act;
- (b) amend section 13D of the Act to provide for conditions on the advertising of Type B appliances which have not been approved by the Director;
- (c) amend regulation 35 of the Regulations so as to remove the need for the Director to exercise his discretion in sub-regulation (3) for the provision of “commissioning” gas;
- (d) amend regulation 28(4) of the Regulations so that it places an obligation on gasfitters which is similar to (but no greater than) the obligation placed on inspectors in regulation 22(2); and
- (e) consider amending section 13 of the Act to provide for the publication of current inspection plans and policies of gas suppliers and pipeline licensees granted exemptions under section 13(2).

.....
Hon R L Wiese MLA
Chairman

November 9, 1999

ANNEXURE A

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GAS STANDARDS ACT 1972

**GAS STANDARDS
(GASFITTING AND
CONSUMER GAS
INSTALLATIONS)
REGULATIONS 1999**

30 July 1999]

GOVERNMENT GAZETTE, WA

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Western Australia

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999

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Gas Standards Act 1972

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999*.

2. Commencement

These regulations come into operation on the day on which they are published in the *Gazette*.

3. Interpretation

- (1) In these regulations, unless the contrary intention appears —

“**AG**” followed by a designation consisting of a number and a reference to a year, refers to the text, as from time to time amended and for the time being in force, of the document so designated, published by the Australian Gas Association;

“**apparatus**” means any measuring device, pressure raising device, regulator, valve, instrument, or other device used to measure, control, or regulate gas supply to any appliance or gas fitting;

“**appliance**” means an appliance that consumes gas for any purpose;

“**approved**” means approved by the Director;

“**AS**” followed by a designation consisting of a number and a reference to a year, refers to the text, as from time to time amended and for the time being in force, of the document so designated, published by Standards Australia;

“**AS/NZS**” followed by a designation consisting of a number and a reference to a year, refers to the text, as from time to time amended and for the time being in force, of the document so designated, jointly published by Standards Australia and Standards New Zealand;

“**authorization**” means an authorization issued under regulation 12 or continued in force under regulation 43;

“**caravan**” means a vehicle that is a caravan for the purposes of the *Road Traffic Act 1974*;

“certificate of competency” means a certificate of competency continued in force under regulation 43;

“fitting” means a device used —

- (a) to join pipes or flues;
- (b) to change the direction or diameter of a pipe or flue;
- (c) to provide a branch in a pipe or flue; or
- (d) to terminate a pipe or flue;

“fitting line” means —

- (a) if gas is supplied through a cylinder, any pipe, fitting, or any part of a pipe or fitting, beyond the cylinder; or
- (b) if gas is supplied from a reticulated system, any pipe or fitting, or any part of a pipe or fitting, beyond the point of supply that is used or intended to be used to convey gas;

“flue” means the duct, conduit or passage through which products of combustion are or are intended to be conveyed to a flue terminal;

“flue gas” means the products of combustion produced by an appliance that is designed to discharge products of combustion through a flue;

“flue terminal” means the point at which flue gas discharges from the flue;

“gas fitter” means —

- (a) a registered gas fitter; or
- (b) a supervised gas fitter;

“gas supplier” means —

- (a) an undertaker;
- (b) a pipeline licensee;
- (c) an operator of a reticulated gas supply system; or
- (d) a person who supplies gas through a pressurized container;

“LPG” means a mixture of hydrocarbons in liquid or vapour form, consisting mainly of butane, butene, propane, or propene, or any mixture of those substances;

“master meter” means a meter used to measure the amount of gas supplied to the point at which delivery of the gas is made to the consumer;

“maximum hourly input rate”, in relation to an appliance, is the energy usage of the appliance in one hour when it is operating at its maximum level of gas consumption under normal operating conditions;

“meter” means a device used to measure the amount of gas passing through the device;

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“mobile engine” means a gas-fuelled engine that —

- (a) is mounted in or on any vehicle, craft or portable appliance; and
- (b) is supplied by fuel from a cylinder or tank mounted on or in the vehicle, craft or portable appliance;

“natural gas” means a hydrocarbon gas, in liquefied or vapour form, consisting mainly of methane;

“notice of completion” means a notice of completion under regulation (3);

“permit” means a permit issued under regulation 12 or continued in force under regulation 43;

“pressure raising device”, in relation to a consumer’s gas installation means —

- (a) a fan, blower or other device to enable the pressure of the gas in the installation, or any part of it, to be raised; or
- (b) any device that may reduce the pressure at the inlet to the master meter;

“registered gas fitter”, in relation to doing or supervising gasfitting work, means a person who is registered as the holder of a certificate of competency, a permit or an authorization to do or supervise the work;

“regulator” means a device that automatically controls the pressure or volume of gas available beyond the point at which the device is installed;

“servicing”, in relation to a consumer’s gas installation, means —

- (a) maintenance involving the adjustment and cleaning of any appliance or apparatus in the installation in accordance with the recommendations of the manufacturer; or
- (b) repair involving the exchange of components but not requiring modification of the installation;

“supervised gas fitter”, in relation to gasfitting work, means a person who does the work in a prescribed capacity under regulation 6;

“supervising gas fitter”, in relation to —

- (a) a supervised gas fitter; and
- (b) gasfitting work,

means a person who holds an authorization to supervise that gas fitter while the gas fitter is doing that work;

“Type A appliance” means an appliance of a class or type specified in Schedule 1;

“Type B appliance” means an appliance that has a maximum hourly input rate exceeding 10 megajoules but is neither a Type A appliance nor a mobile engine;

“valve” means a device for controlling or shutting off the flow of gas.

- (2) In these regulations, unless the contrary intention appears, the numerical values prescribed are subject to tolerances according to normal trade practice.
- (3) Unless the contrary intention appears a reference in these regulations to the volume of a room or space is to be read as a reference to the volume that may be enclosed and includes the volume of any adjoining room or space that is not able to be separated by a door or other means of enclosure.

4. Gasfitting work — meaning

A reference in these regulations to gasfitting work is to be read as a reference to an operation, work or process in connection with the installation, removal, demolition, replacement, alteration, maintenance, or repair of a gas installation except —

- (a) the replacement of LPG cylinders;
- (b) any operation, work or process in relation to a mobile engine that does not involve or affect any fitting line or apparatus;
- (c) an adjustment of the air-fuel ratio of a mobile engine that does not involve the disconnection or dismantling of any fitting line or apparatus; or
- (d) an operation, work or process carried out in connection with a reticulated supply system for the gas supplier.

5. Things of the nature of gasfitting

For the purposes of section 13A(2) of the Act, doing or supervising any gasfitting work is of the nature of gasfitting.

6. Supervised gas fitters

For the purposes of section 13A(2) of the Act, a person who does not hold a certificate of competency, a permit or an authorization does gasfitting work in a prescribed capacity if —

- (a) the work is of a kind approved in a particular case or class of case; and
- (b) the person does the work under the supervision of a supervising gas fitter.

Part 2 — Administration

7. Particulars in register of gas fitters under section 13A(4)

For the purposes of section 13A(4) of the Act, the register must contain the following particulars for each registered person —

- (a) the name and residential address of the person;

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- (b) the identifying number and the grade or kind of the certificate of competency, permit or authorization, as the case may be;
- (c) the date on which the certificate, permit, or authorization was issued and, if applicable, the date on which it will expire.

8. Change of address

A registered gas fitter who changes address from the address registered under regulation 7 must notify the Director in writing of the new address within 14 days of the change.

9. Inquiries under section 13A

- (1) For the purposes of section 13A(3)(e) of the Act, the Director is authorized to delegate his or her power to conduct an inquiry under section 13A(11) of the Act to a person or body of persons appointed by the Director, and the exercise of that power by that person or persons is authorized.
- (2) For the purposes of section 13A(12)(c) of the Act, a summons requiring the attendance of a person to show cause at an inquiry must be in the form of Form 1 in Schedule 2.
- (3) For the purposes of section 13A(12)(c) of the Act, a summons requiring the attendance of a person to give evidence or produce documents at an inquiry must be in the form of Form 2 in Schedule 2.
- (4) A person who attends at an inquiry under section 13A of the Act is entitled to receive a fee or allowance in accordance with Schedule 3.

10. Notice of Appeal under section 13B

Notice of an appeal under section 13B of the Act must be in the form of Form 3 in Schedule 2.

Part 3 — Permits and authorizations

11. Applications for permits and authorizations

For the purposes of section 13A(6) of the Act, a person may apply for a permit or an authorization to carry out gasfitting by sending to the Director an application in an approved form, accompanied by the appropriate application fee set out in Schedule 4.

12. Issue of permits and authorization

- (1) The Director may issue a permit or an authorization to an applicant to carry out the gasfitting specified in the permit or authorization if the Director is satisfied that the applicant —
 - (a) has adequate theoretical and practical knowledge and adequate skills, to carry out the gasfitting;

- (b) has an adequate knowledge of the Act and these regulations; and
 - (c) is otherwise a fit and proper person to carry out the gasfitting.
- (2) If the applicant has not applied for a particular permit or a particular authorization, or has applied for a permit or an authorization that the Director thinks is not appropriate having regard to the qualifications and experience of the applicant and the nature of the gasfitting, the Director may issue a permit or an authorization that the Director thinks is appropriate in the circumstances.
- (3) A permit or an authorization has effect only for the period specified in the permit or the authorization.

13. Grades of permit or authorization

- (1) A permit or an authorization issued under regulation 12 is to be of a grade designated by reference to the class or classes of gasfitting work referred to in subregulation (2) that the permit or authorization authorizes the holder to do or to supervise.
- (2) For the purposes of these regulations gasfitting work is to be regarded as of one of the classes set out in Schedule 5.

14. Restrictions, limitations, conditions or extensions on permits or authorizations

The Director may endorse on any permit or authorization any restriction, limitation, condition or extension as to the authority conferred in the permit or authorization.

15. Gasfitting authorized by permits

- (1) A permit authorizes the holder to do the gasfitting work specified in the permit.
- (2) The permit authorizes the holder to supervise the gasfitting work if it is being done by a person who has a permit to do the work in the course of training.

16. Gasfitting authorized by authorizations

- (1) An authorization authorizes the holder to do the specified gasfitting work for the specified employer.
- (2) The authorization authorizes the holder to supervise the specified gasfitting work for the specified employer if the work is being done by no more than the specified number of gas fitters.
- (3) In this regulation —
“**employer**”, in relation to the holder of an authorization, includes a person who has engaged the holder under a contract for services;
“**specified**” means specified in the authorization.

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Part 4 — Performance of gasfitting

17. Interpretation

In this Part —

“commission”, in relation to a gas installation, means connect the installation so that it is available for use;

“notice of defects” means a notice of defects under regulation 29.

18. Performance of gasfitting work

A gas fitter who does gasfitting work on the whole or any part of a gas installation must ensure that —

- (a) the work is done in a safe manner; and
- (b) after the work is done every part of the gas installation on which the work was done or that is affected by the work complies with the requirements referred to in regulation 32, is safe to use and is completed to a trade finish.

19. Obligations of a supervising gas fitter

A supervising gas fitter must ensure that —

- (a) the supervised gas fitter complies with these regulations; and
- (b) the work is within the scope of the supervising gas fitter’s authorization.

20. Installation of an appliance, apparatus or part

- (1) When a gas fitter installs in a gas installation an appliance or apparatus, part of an appliance or apparatus or a part of the installation the gas fitter must install the appliance, apparatus or part —
 - (a) in a suitable place; and
 - (b) in accordance with any instructions or recommendations of the manufacturer or designer relating to the installation of that appliance, apparatus or part.
- (2) A gas fitter must not install a used appliance, whether or not it has been repaired or reconditioned, in a consumer’s gas installation unless the gas fitter has checked the appliance and ascertained that it operates safely.
- (3) When a gas fitter installs a used appliance the gas fitter must endorse on the notice of completion a note to the effect that the gas fitter ascertained that it was operating safely.
- (4) A gas fitter must not install an appliance that has been modified in any way unless the modification has been specifically approved for the individual appliance by the Director or an inspector.

- (5) A gas fitter must not install in a consumer's gas installation an appliance that uses, in addition to the gas supplied from a reticulated system, any gas that is under pressure unless —
 - (a) the gas supplier has approved the installation of the appliance;
 - (b) the appliance is fitted with a device approved by the gas supplier to prevent the entry into the reticulated supply system of the gas; and
 - (c) the gas fitter has notified the consumer of the consumer's obligation under regulation 36(4) to permit the gas supplier to inspect and test the appliance.
- (6) A gas fitter must not install a pressure raising device in a consumer's gas installation unless —
 - (a) the gas supplier has approved the installation;
 - (b) any safety device required by the gas supplier is fitted to the satisfaction of the gas supplier; and
 - (c) the gas fitter has notified the consumer of the consumer's obligation under regulation 36(5) to permit the gas supplier to inspect and test the pressure raising device and any safety device required under paragraph (b).

21. Commissioning of appliances generally

When a gas fitter commissions an appliance the gas fitter must —

- (a) adjust it for safe and correct operation;
- (b) if the consumer is present, demonstrate to the consumer the correct method of operating the appliance; and
- (c) attach to the appliance in a conspicuous position all instructions issued by the manufacturer as to the correct method of operating the appliance.

22. Leaving Type B appliances permanently connected

- (1) A gas fitter must not leave a Type B appliance permanently connected in a consumer's gas installation unless an inspector has issued a certificate of compliance for the appliance.
- (2) The inspector may issue a certificate of compliance for the appliance if the inspector has inspected the appliance and ascertained, so far as is practicable, that it complies with the requirements referred to in regulation 32.
- (3) The certificate of compliance is issued by —
 - (a) giving the certificate in an approved form to the Director;
 - (b) giving copies of the certificate to the relevant persons under subregulation (5) or (6); and

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- (c) attaching an approved badge or label to the appliance in a conspicuous position.
 - (4) The appliance may be inspected —
 - (a) at the place where the appliance is installed and commissioned; or
 - (b) if the Director so approves, at any other place.
 - (5) When the inspection is carried out at the place where the appliance is installed and commissioned, a copy of the certificate of compliance is to be given to each of the following persons —
 - (a) the gas fitter who commissioned the appliance;
 - (b) the consumer for whom the appliance was installed and commissioned;
 - (c) the gas supplier.
 - (6) When the inspection is carried out at any other place under subregulation (4)(b), 3 copies of the certificate of compliance are to be given to the manufacturer.
 - (7) When the manufacturer of the appliance receives 3 copies of a certificate of compliance under subregulation (6) and the appliance is subsequently installed and commissioned in a consumer's gas installation, the manufacturer must give a copy of the certificate to each of the following persons —
 - (a) the gas fitter who commissioned the appliance;
 - (b) the consumer for whom the appliance was installed and commissioned; and
 - (c) the gas supplier.
 - (8) For the purposes of this regulation an appliance is not to be regarded as permanently connected if it is connected for a period approved in writing by an inspector pending inspection of the appliance by that inspector.
 - (9) For the purposes of subregulation (8), an inspector may approve any period of no more than —
 - (a) 21 days; or
 - (b) if in a particular case a longer period is required and the inspector gives written notice to the Director of the approval — 90 days.
- 23. Servicing of a consumer's gas installation**
- (1) When a gas fitter services a consumer's gas installation the gas fitter must record the service information.
 - (2) The service information must be —
 - (a) clearly and legibly displayed in permanent form on a badge or label attached to the consumer's gas installation; or

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- (b) recorded in accordance with an approval under subregulation (3).
- (3) The Director may, in a particular case or class of case, approve in writing another means of recording service information for a consumer's gas installation.
- (4) In this regulation —
“**service information**”, in relation to the servicing of a consumer's gas installation means —
 - (a) the date that the servicing took place; and
 - (b) the identification number endorsed on the certificate of competency, permit or authorization held by the registered gas fitter who did or supervised the servicing.

24. Inaccessible underground fitting lines

If a fitting line is in a location where it will not be readily accessible when in use, the gas fitter must ensure that before the fitting line becomes inaccessible —

- (a) all joints are welded or brazed; and
- (b) the line is pressure tested in accordance with these regulations.

25. Fitting lines to be clean

- (1) A gas fitter must ensure that a fitting line is thoroughly clean inside before it is installed.
- (2) At the end of each day's work on a consumer's gas installation the gas fitter must ensure that —
 - (a) any open end of any fitting line is temporarily sealed against the entry of foreign matter; and
 - (b) such other precautions are taken as are necessary to prevent the entry of foreign matter into the fitting line.

26. Pressure testing

- (1) If a gas fitter installs or does any work on a consumer's gas installation, the gas fitter must ensure that, before the installation is commissioned —
 - (a) the requirements of these regulations as to pressure testing are satisfied and the system is made gas-tight; and
 - (b) if the gas supply is available for connection, the system is purged of all air or other gas except the gas on which the system is to operate.
- (2) The gas fitter must not use a medium except one of the following for pressure testing or for locating a leak in a consumer's gas installation —
 - (a) air;

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- (b) carbon dioxide;
 - (c) nitrogen;
 - (d) the gas proposed to be used in the consumer's gas installation;
 - (e) such other medium as is approved in writing by the Director or an authority recognized by the Director as a competent authority for that purpose.
- (3) If the use of water is approved under subregulation (2)(e), the person testing the consumer's gas installation must ensure that the water is thoroughly removed from the installation before it is commissioned.

27. Preliminary notice

- (1) This regulation applies to a registered gas fitter who intends to do or supervise any gasfitting work except —
- (a) servicing a consumer's gas installation;
 - (b) gasfitting work on an LPG installation except a consumer's gas installation supplied from a reticulated system;
 - (c) gasfitting work on a mobile engine;
 - (d) gasfitting work necessarily performed in effecting emergency repairs; or
 - (e) gasfitting work pursuant to a notice of defects.
- (2) The registered gas fitter must give a preliminary notice of the proposed work to the gas supplier before the work commences.
- (3) The preliminary notice is to be in an approved form.

28. Obligations on completion of gasfitting work

- (1) This regulation applies to a registered gas fitter who does or supervises particular gasfitting work or a particular part of gasfitting work to be done on the whole or part of a gas installation except —
- (a) servicing a consumer's gas installation; or
 - (b) gasfitting work to rectify a defect specified in a notice of defects.
- (2) When the particular gasfitting work is completed the registered gas fitter must attach an approved badge or label in an approved place relative to the part of the gas installation on which the work was done or that is affected by the work.
- (3) Within 48 hours of the completion of the particular gasfitting work, the registered gas fitter must give a notice of completion to each of the following —
- (a) if the work was done on a mobile gas installation, or the gas supplier cannot be identified — the Director;

- (b) if the gas supplier can be identified and the work was not done on a mobile gas installation — the gas supplier;
 - (c) the person for whom the gasfitting work was done.
- (4) In the notice of completion, the registered gas fitter must certify that every part of the gas installation on which the gasfitting work was done or that is affected by the work complies with the requirements referred to in regulation 32, is safe to use and is completed to a trade finish.
- (5) The notice of completion is to be in an approved form.
- (6) The Director may, in a particular case or class of case, exempt a registered gas fitter from subregulation (2) or (3).

29. Notice of defects

- (1) If gasfitting work does not comply with these regulations, an inspector may give a notice of defects to the registered gas fitter who did or supervised the work.
- (2) The notice of defects is to be in an approved form.

30. Notice of rectification

- (1) Unless the registered gas fitter appeals under regulation 31 against a notice of defects, the registered gas fitter must within 7 days —
 - (a) ensure that the gasfitting work is made to comply with these regulations; and
 - (b) give a notice of rectification to the inspector that the work has been made to so comply.
- (2) The notice of rectification is to be in an approved form.

31. Appeal against a notice of defects

- (1) A registered gas fitter may, within 48 hours of receiving a notice of defects, appeal in writing to the Director against the notice.
- (2) On an appeal under subregulation (1), the Director may confirm, vary or cancel the notice of defects and the Director's decision is final.
- (3) The person must comply with the final decision within 7 days.

Part 5 — Requirements for consumers' gas installations

32. Requirements for a consumer's gas installation

- (1) For the purposes of section 13 of the Act, the requirements that a consumer's gas installation is required to meet are set out in —
 - (a) Schedule 6; and

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- (b) a code or standard set out in Schedule 7 relating to that installation.
- (2) To the extent that Schedule 6 modifies, replaces or is inconsistent with the code or standard, Schedule 6 prevails.
- (3) The Director may, in relation to a consumer's gas installation or type of consumer's gas installation —
 - (a) vary a requirement prescribed under subregulation (1);
 - (b) specify that a requirement prescribed under subregulation (1) does not apply; or
 - (c) specify a requirement in addition to the requirements prescribed under subregulation (1).

33. Interpretation of codes and standards

- (1) If a term is defined both in these regulations and in a code or standard specified in regulation 32(1)(b) the definition in these regulations prevails.
- (2) A reference in a code or standard to an "Authority" is to be read as a reference to —
 - (a) the Director; or
 - (b) if the Director so approves, an inspector.
- (3) In AG 601 — 1998 —
 - (a) a reference to a "consumer billing meter" is to be read as a reference to a master meter; and
 - (b) a reference to a "sub-meter" is to be read as a reference to a meter used to measure the amount of gas supplied to a point beyond the master meter.

Part 6 — Miscellaneous

34. Employer to keep records in relation to each gas fitter employed

- (1) An employer must keep a record in relation to each gas fitter employed to do gasfitting work.
- (2) A record must contain —
 - (a) the name and address of the gas fitter; and
 - (b) the identifying number and grade of the gas fitter's certificate of competency, permit or authorization and any restrictions, limitations, conditions or restrictions on the certificate, permit or authorization.
- (3) The employer must keep a record for at least 2 years after the gas fitter stops being an employee.
- (4) The employer must make a record available for inspection by an inspector during normal office hours.

35. Supplying gas to a newly installed consumer's gas installation

- (1) Except as provided in this regulation, if gasfitting work is done on a consumer's gas installation that is not supplied with gas, a gas supplier must not supply gas to the installation unless the gas supplier has received a notice of completion of the work.
- (2) Subregulation (1) does not apply to gasfitting work done on a consumer's gas installation associated with a caravan, marine craft or mobile engine.
- (3) The Director may, in a particular case or class of case, exempt a gas supplier from subregulation (1).

36. Consumers' obligations

- (1) The consumer for whom a Type B appliance is installed must ensure that the appliance is not used until an inspector has issued a certificate of compliance in relation to the appliance under regulation 22.
- (2) If a consumer's gas installation includes a pressure raising device or an over-pressure protection device in accordance with clause 406 of Schedule 6, the consumer must ensure that the gas installation is serviced by a registered gas fitter —
 - (a) within 2 years after the device or fitting line regulator is installed; and
 - (b) thereafter within 2 years after it was last serviced in accordance with paragraph (a).
- (3) If a consumer's gas installation is a mobile engine that uses LPG or natural gas as fuel, the consumer must ensure that the apparatus in the installation is maintained and serviced by a registered gas fitter in accordance with —
 - (a) in the case of a mobile engine that uses LPG, AS/NZS 1425:1999; or
 - (b) in the case of a mobile engine that uses natural gas, AS 2739 — 1992.
- (4) If a consumer's gas installation includes an appliance referred to in regulation 20(5), the consumer must permit the gas supplier to inspect and test the appliance, and the device fitted to it under regulation 20(5)(b), at such times, and as often as, the gas supplier reasonably requests.
- (5) If a consumer's gas installation includes a pressure raising device the consumer must permit the gas supplier to inspect and test the pressure raising device, and any safety device required under regulation 20(6)(b), at such times, and as often as, the gas supplier reasonably requests.

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- (6) A consumer required by subregulation (2) or (3) to ensure that the consumer's gas installation is serviced must make and maintain a record of —
 - (a) the date on which each service was carried out; and
 - (b) the registered gas fitter by whom each service was carried out.
- (7) A consumer must make a record under subregulation (6) available for inspection by an inspector upon reasonable request.
- (8) A record is not required by subregulation (6) to be kept of a service carried out more than 2 years previously.

37. Service apparatus

- (1) A person, whether or not the holder of a certificate of competency, a permit, or an authorization, must not install, remove, demolish, replace, alter, maintain, repair, or otherwise interfere with any service apparatus unless the person is authorized in that behalf by the person having the property in that service apparatus.
- (2) In subregulation (1) —
“service apparatus” means any apparatus, works or system, any part of it or any equipment or plant used in conjunction with it that is, is capable of being, or is intended to be used for conveying, measuring, or controlling gas supplied from any distribution works to the position on any premises at which delivery of gas is, is capable of being, or is intended to be, made to a consumer.

38. Misleading statements

- (1) A person who is not the holder of a certificate of competency, a permit or an authorization to do gasfitting work or a particular class of gasfitting work must not advertise or otherwise represent that the person is the holder of that certificate of competency, permit or authorization.
- (2) A gas fitter must not state or otherwise represent to an inspector or any other person that an appliance, apparatus, fitting, design or other thing that is required by these regulations —
 - (a) to be approved by any person or body; or
 - (b) to be of a type that is approved by any person or body,is in fact so approved unless the gas fitter has made reasonable inquiry into the matter and believes that statement or representation to be true.
- (3) A gas fitter must not state or otherwise represent that a gas installation complies with the requirements referred to in regulation 32 or is safe to use unless the gas fitter believes on reasonable grounds that statement or representation to be true.

39. Improper use of marks signifying the Director's approval

A person must not mark, stamp or label a gas appliance in a manner that implies or states that the gas appliance is approved, or is of a class or type that is approved, by the Director under section 13D of the Act, or by a body or authority the approval of which the Director has adopted under section 13F of the Act, unless the gas appliance is so approved, or is of a class or type that is so approved.

40. Operating precautions

A person who operates any appliance, apparatus, or other part of a consumer's gas installation must take such precautions as are reasonable having regard to any instructions or recommendations of the manufacturer.

41. Unattended marine craft

Before a petrol-powered marine craft is left unattended for a period exceeding 24 hours, the person who is in charge of the craft must ensure that gas supply to an appliance installed in the marine craft is shut off if the appliance is designed to have a continuously burning flame.

42. Incidents to be reported

- (1) If an incident that causes or is likely to cause injury to a person or damage to property occurs, a person who is aware of the incident must immediately report it —
 - (a) to the relevant gas supplier and the Director; or
 - (b) to the Director, if —
 - (i) the gas installation is a mobile engine or is on or in a caravan or marine craft; or
 - (ii) the relevant gas supplier is not identifiable.
- (2) Subregulation (1) does not apply —
 - (a) to a person who believes, on reasonable grounds, that the incident has already been, or is likely to have already been, reported in accordance with subregulation (1); or
 - (b) to a supervised gas fitter —
 - (i) who becomes aware of the incident while doing gasfitting work; and
 - (ii) who reports the incident to the supervising gas fitter.
- (3) In this regulation —

“incident” means an incident that involves the sudden discharge of gas or that otherwise relates to gas.

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Part 7 — Saving and repeal**43. Saving**

- (1) A certificate of competency, permit or authorization that was in force under the repealed regulations continues in force according to its tenor as if regulations 13, 14 and 15 of the repealed regulations had not been repealed.
- (2) In subregulation (1) —
“**repealed regulations**” means the regulations repealed by regulation 44.

44. Repeal

The Gas Standards (Gasfitting and Consumers' Gas Installations Regulations) 1999 are repealed.

Schedule 1 — Type A appliances

[r. 3(1)]

1. Interpretation

- (1) In this Schedule —
“**commercial**” means designed and manufactured for commercial use, whether or not it is in fact so used;
“**domestic**” means designed and manufactured for domestic use, whether or not it is in fact so used.
- (2) Unless otherwise specified, a reference to an appliance in the Table to clause 2 in this Schedule is a reference to an appliance having a maximum hourly input rate of 500 megajoules.

2. List of Type A appliances

Type A appliances are listed in the Table to this clause.

Table

1. Domestic cooking appliances
2. Domestic space heating appliances having a maximum hourly input rate of 150 megajoules
3. Domestic refrigerators
4. Domestic outdoor barbecue grillers
5. Water heaters
6. Swimming pool heaters
7. Commercial catering equipment — boiling tables, open and closed top
8. Catalytic spaceheaters having a maximum hourly input rate of 20 megajoules
9. Domestic decorative gas log fires having a maximum hourly input rate of 72 megajoules

10. Incinerating toilets
11. Cooking, lighting, or heating appliances that use LPG and are designed for outdoor use
12. Commercial catering equipment — salamanders and grillers
13. Commercial catering equipment — solid griller plates, griddles
14. Commercial catering equipment — barbecue grillers
15. Commercial catering equipment — ovens
16. Commercial catering equipment — boiling water units
17. Commercial catering equipment — stock pots
18. Commercial catering equipment — atmospheric steamers
19. Commercial catering equipment — fryers
20. Commercial catering equipment — food warmers, Bain-Marie
21. Commercial Catering Equipment — Convection Ovens
22. Laundry dryers
23. Overhead heaters
24. Industrial mobile air heaters
25. Indirect fired air heaters
26. Air conditioning units

Schedule 2 — Forms

[r. 9(2), 9(3) and 10]

*Gas Standards (Gasfitting and Consumer Gas Installations)
Regulations 1999, reg. 9(2)*

Form 1

Summons to attend an inquiry

Person summonsed	Name:
	Address:
	Postcode:
	Phone No. (h): (w):

**An inquiry is being held under section 13A(11) of the *Gas Standards Act 1972* in relation to your certificate of competency, permit or authorization.
You are required to attend the inquiry.**

Inquiry	Place:
	Address:
	Date: Time:

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Reason for inquiry	The inquiry is being held because:
Person issuing summons	Name: Office: Signature: _____ Date: _____

Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999, reg. 9(3)

Form 2

Summons to give evidence at an inquiry

Person summonsed	Name: Address: _____ Phone No. (h): _____ (w): _____
	Postcode: _____

An inquiry is being held under section 13A(11) of the *Gas Standards Act 1972* in relation to a person's certificate of competency, permit or authorization.
You are required to attend the inquiry to give evidence and to produce the documents listed below.

Inquiry	Place: Address: Date: _____ Time: _____
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Reason for inquiry	The person who is the subject of the inquiry is: The inquiry is being held because:
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Documents to be produced (if any)	
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Person issuing summons	Name: Office: Signature: _____ Date: _____
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Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999, reg. 10

Form 3

Notice of Appeal

Appellant	Name:	
	Address:	
	Postcode:	
	Phone No. (h):	(w):

Order appealed against	Order made by: _____
	Date order made: _____
	Order relates to my —
	<input type="checkbox"/> Certificate of competency no. _____
	<input type="checkbox"/> Permit no. _____
	<input type="checkbox"/> Authorization no. _____
	Effect of order:
	<input type="checkbox"/> cancellation of certificate, permit or authorization
	<input type="checkbox"/> suspension of certificate, permit or authorization
	<input type="checkbox"/> imposition of conditions on certificate, permit or authorization. Give details: _____

	<input type="checkbox"/> other. Give details: _____

Grounds for appeal (Attach extra pages if necessary)	I appeal against the order because:

Signature: _____ Date: _____

Schedule 3 — Witness fees and allowances

[r. 9(4)]

1. Daily allowance

- (1) A person carrying on a profession or business as a principal is entitled to a daily allowance not exceeding \$97.00.

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- (2) A person other than that referred to in subclause (1) is entitled to a daily allowance not exceeding \$78.00.
- (3) In fixing an allowance under subclause (2), the Director may have regard to the amount of salary or wages (if any) actually lost by the witness.

2. Expenses

A witness residing at a distance from the place of hearing is entitled to reasonable travelling expenses actually paid, and a reasonable amount for maintenance or sustenance.

3. Expert evidence

- (1) A party is entitled to such amount as has been reasonably and properly incurred and paid to a witness for qualifying to give expert evidence.
- (2) An expert witness is entitled to a reasonable fee for the witness' attendance even if it exceeds the daily allowance under clause 1.
- (3) An allowance is not to be made to an expert witness for the witness' attendance to assist or advise counsel or the solicitor for a party during a hearing.

Schedule 4 — Application fees for permits and authorizations

[r. 11]

<i>Application for</i>	<i>Fee</i>
Permit	\$16.00
Authorization	\$200.00

Schedule 5 — Classes of gasfitting work

[r. 13(2)]

<i>Class</i>	<i>Description</i>
Class G	All gasfitting work except gasfitting work classed as Class I, E or P.
Class I	Gasfitting work — <ul style="list-style-type: none"> (a) on a consumer's gas installation associated with a Type B appliance; or (b) on piping that has an operating pressure of more than 200 kPa, not being gasfitting work referred to in paragraph (a) or classified as Class E or P.
Class E	Gasfitting work associated with a mobile engine.
Class P	Gasfitting work on a gas installation associated with the storage and dispensing of gas for the refuelling of a motor vehicle as defined in section 5 of the <i>Road Traffic Act 1974</i> .

Schedule 6 — Certain requirements as to consumers' gas installations

[r. 32(1)(a)]

Division 1 — Interpretation**101. Definitions**

In this Schedule, unless the contrary intention appears —

“**approved**” means approved by —

- (a) the Director; or
- (b) a person recognized by the Director as a competent authority for that purpose;

“**bedroom**” means any room used or intended to be used as sleeping quarters;

“**flame safeguard system**” means a system designed to detect flame failure and shut off the flow of gas when flame failure is detected;

“**prescribed pressure**” means —

- (a) 0.75 kPa, in relation to a gas installation that uses or is to use tempered LPG (i.e. a mixture of LPG and air having a gross heating value of more than 23.5 MJ/m³ but not more than 27.3 MJ/m³);
- (b) 1.25 kPa, in relation to a gas installation that uses or is to use natural gas or simulated natural gas (i.e. a mixture of LPG and air having a gross heating value of more than 40 MJ/m³ but not more than 51 MJ/m³);
- (c) 2.75 kPa, in relation to a gas installation that uses or is to use LPG.

Division 2 — Master meters**201. Application**

This Division applies in addition to clause 4.14 of AG 601 — 1998.

202. Location of master meters

A master meter must be installed in a location approved by the gas supplier and must not be moved without the approval of the gas supplier.

203. Position of master meters generally

A master meter must be installed so that —

- (a) it is at all times clear of the ground and in a level position; and
- (b) it is at all times readily accessible for reading, servicing, adjustment or replacement.

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204. Prohibited positions

A master meter must not be installed —

- (a) in a bedroom;
- (b) in a position in which it is inadequately ventilated;
- (c) in such a position that it will be subjected to wide variations of temperature or to other conditions that are likely to affect its accuracy;
- (d) closer than one metre to any appliance combustion air inlet;
- (e) in a room primarily for housing electrical meters or switchgear;
- (f) closer than one metre to electrical equipment capable of providing a source of ignition of the gas metered or to an electric meter, unless the gas meter and the electrical equipment or electric meter, as the case may be, are installed in separate and adequately ventilated housings each of which is sealed from the other; or
- (g) beneath a liquid fuel storage tank, or closer than 500 mm measured laterally to any such tank.

205. Master meter boxes

A master meter, and any associated regulator, must be installed —

- (a) in a meter box or housing that has a supporting base and is provided specifically for that purpose; or
- (b) otherwise to the satisfaction of the gas supplier.

206. Master meter boxes in cavity walls

If a master meter is installed in a cavity wall, the meter box or housing containing the meter must be completely sealed with fireproof materials from any adjoining recess or cavity and must be ventilated to the outside atmosphere.

207. Prepayment meters

The outlet of a prepayment meter to which more than one appliance is connected must be fitted with —

- (a) an approved valve designed to automatically shut off the flow of gas when an unsafe condition is detected; and
- (b) an approved manual reset system,

unless every appliance connected to the prepayment meter is fitted with an approved flame safeguard system.

208. Identification of master meters

A master meter must be clearly identifiable with the consumer's gas installation to which it measures the supply of gas.

Division 3 — LPG cylinders and tanks**301. Location of cylinders, tanks and regulators**

- (1) The location of cylinders, tanks and regulators must comply with AS/NZS 1596: 1997.
- (2) This clause applies in addition to clause 6.3.1 of AG 601 — 1998.

302. Housings

- (1) Equipment other than a cylinder and its essential fittings must not be stored, placed, or allowed to remain, within a housing specifically provided for a cylinder.
- (2) This clause applies in addition to clause 6.3.10 of AG 601 — 1998.

303. Pressure relief valve outlets

- (1) The pressure relief valve outlet of a cylinder or tank must be positioned so that any gas discharged through the valve would be directed away from any building, structure, caravan, towing vehicle, marine craft or gas installation.
- (2) A pressure relief valve outlet must not be located in any building, structure, caravan, or marine craft (except as permitted by clause 301) unless it is located within a housing specifically provided for that purpose.
- (3) This clause applies in place of clause 6.4 of AG 601 — 1998.

304. Appliances not to be connected to gas supply for mobile engines

An appliance other than a mobile engine must not be connected to a storage container that provides the supply of gas to a mobile engine.

Division 4 — Fitting lines and fittings**401. Fitting lines and fittings**

- (1) A fitting line or fitting on a consumer's gas installation that is to operate at a pressure of 200 kPa or less must comply with AG 601 — 1998.
- (2) A fitting line or fitting on a consumer's gas installation that is to operate at a pressure exceeding 200 kPa must comply with AS 4041 — 1992.

402. PVC fitting lines

- (1) A PVC fitting line may only be used in such a position as to be readily accessible for the purposes of any repairs and maintenance that become necessary.
- (2) This clause applies in addition to Table 3.1 of AG 601 — 1998.

403. Outlet not in use to be sealed

An outlet provided for the connection of an appliance must be sealed gas-tight in an approved manner or with an approved fitting when an appliance is not connected to it or is not about to be connected to it.

404. Ventilating or air ducts

- (1) A fitting line must not be installed in or through any ventilating or other air duct.
- (2) This clause applies —
 - (a) in addition to clause 4.11.1 of AG 601 — 1998; and
 - (b) in place of clause 4.11.17 of AG 601 — 1998.

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405. Pressure holding capability of consumer's gas installations

A consumer's gas installation must not leak when subjected to an approved test.

406. Protection from excessive pressure

- (1) If the inlet pressure to a fitting line regulator exceeds 7 kPa, an over-pressure protection device must be incorporated in the regulator or installed in the fitting line before the regulator to prevent the pressure at the outlet of the regulator at any time exceeding the maximum pressure for which any fitting line or gas fitting supplied through the regulator has been found upon test to be suitable.
- (2) In subclause (1) —
 "fitting line regulator" means a regulator installed in a fitting line, other than a regulator that controls the gas pressure to one appliance only, whether or not it is an integral part of the appliance.
- (3) This clause applies in place of clause 4.6 of AG 601 — 1998.

Division 5 — Appliances generally**501. Approval of appliances**

- (1) A Type A appliance must not be installed in a consumer's gas installation unless —
 - (a) it is the same as an appliance that is currently approved for such installation by the Director; or
 - (b) it is individually approved for such installation by an inspector,and is marked with a badge or label to this effect.
- (2) A Type B appliance must not be installed in a consumer's gas installation unless —
 - (a) it is the same as an appliance that is currently approved for such installation by the Director; or
 - (b) it is individually approved in writing for such installation by an inspector.

502. Type of gas

- (1) An appliance installed in a consumer's gas installation must not be connected to a cylinder or reticulated supply system from which the gas supplied or to be supplied is not of a type approved for use by that appliance.
- (2) An appliance installed in a consumer's gas installation must not be modified after manufacture for the purpose of enabling it to use gas of a different type unless it is modified —
 - (a) in accordance with the manufacturer's instructions using a conversion kit specifically approved for that purpose; or
 - (b) with the written approval of an inspector.

503. Avoidance of hazards

- (1) An appliance, cylinder, flue, fitting line or other apparatus must not, by its construction, use or positioning, constitute a hazard.
- (2) Nothing in this Schedule limits the generality of subclause (1).

504. Restrictions as to certain rooms

- (1) There must not be installed in any bedroom, bathroom, toilet, shower room, shower cubicle or sauna —
 - (a) any appliance that is not fitted with a flue; or
 - (b) the outlet plug of any bayonet fitting for a portable appliance.
- (2) The outlet plug of a bayonet fitting can be installed in a room to which subclause (1) does not apply only if —
 - (a) the room is used as a kitchen; or
 - (b) the room has a volume of more than 30 cubic metres, and 2 permanent ventilation openings —
 - (i) one of which is situated near the top of the room and the other near the bottom of the room;
 - (ii) that are separated by a distance of not less than 1.5 metres measured vertically; and
 - (iii) each of which has an aggregate open area of not less than 25 000 mm²;or
 - (c) the installation is approved in each case by an inspector.
- (3) An appliance must not be installed or connected for use in a sauna unless the approval of an inspector has been given to such installation or use of that particular appliance.
- (4) In this clause —

“bathroom” means a bathroom in a private residence and does not include an ablution area serving a factory or a camping area, or any other ablution area serving a communal purpose;

“bayonet fitting” means a bayonet-style outlet plug and a mating socket such that gas is not able to pass from the outlet plug until the plug is inserted in, and locked into, the mating socket.

505. Safety devices

An appliance that is supplied or to be supplied from a reticulated supply system and is designed to use air, oxygen, or any other gas under pressure together with the gas from the supply system must be fitted with such safety devices, if any, as the gas supplier is satisfied will prevent the entry into the supply system of air, oxygen, or such other gas, as the case may be.

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506. Flues

- (1) Unless otherwise permitted by these regulations, the product of combustion from an appliance must be discharged to the outside atmosphere by means of a flue fitted to the appliance that complies with this clause.
- (2) A flue must be constructed of material that is —
 - (a) mechanically robust;
 - (b) resistant to internal and external corrosion;
 - (c) durable; and
 - (d) non-combustible.
- (3) In the case of a natural draught flue, the flue must be fitted with a flue cowl (i.e. a fitting placed at a flue terminal to ensure the proper discharge of flue gas) of an approved type unless the flue terminal is permitted by these regulations to be between the ceiling and the roof of a building.
- (4) If flue gases from 2 or more flue pipes are or may be discharged into a common flue, the flue must be constructed to the satisfaction of an inspector.
- (5) A flue terminal must not be located closer than one metre to —
 - (a) a gas meter;
 - (b) a liquid fuel or flammable liquid storage tank; or
 - (c) an LPG cylinder.
- (6) A flue must not be fitted to an appliance installed in a consumer's gas installation if the flue has been used as a flue on any other appliance or device that was not using fuel of the same kind.
- (7) Subclause (6) does not apply to a flue that is clear of obstructions and otherwise complies with the requirements of these regulations for flues.
- (8) This clause applies in addition to clause 5.13 and Appendix H of AG 601 — 1998.

507. Hoods or canopies

- (1) If the use of a hood or canopy to discharge flue products to the outside atmosphere has been approved as part of an appliance approval, the hood or canopy —
 - (a) must have an opening that is not less than 4 times the area encompassed by the outer perimeter of the flue;
 - (b) must be positioned vertically above the centre of the appliance exhaust outlet opening; and
 - (c) must be positioned so that the lowest part is not more than 200 mm from the appliance exhaust outlet opening.
- (2) This clause applies in addition to clauses 5.12.17 and 5.13.9 of AG 601 — 1998.

508. Electrical

- (1) An appliance that is installed in a consumer's gas installation and incorporates electrical apparatus must comply with AS 3100 — 1997.

- (2) An appliance installed in a consumer's gas installation and connected to a supply of electricity must be provided with a means of isolation from the electricity supply that —
 - (a) does not need tools to effect the isolation; and
 - (b) is located adjacent to the appliance and in a readily accessible position.

Division 6 — Additional requirements for particular appliances

601. Cooking appliances

- (1) A cooking appliance installed in a consumer's gas installation must not be so located that any combustible material would be likely to be affected by heat from a burner of the appliance.
- (2) A fryer installed in a consumer's gas installation must not be located —
 - (a) within 500 mm of a barbecue griller, unless a baffle plate extending at least 500 mm above the hob of the fryer is provided between the fryer and the barbecue griller; or
 - (b) within 200 mm of a smooth plate, a griller other than a barbecue griller, or any other appliance that operates so as to expose any open flame or other source of ignition, unless a baffle plate extending to at least 200 mm above the hob of the fryer is provided between the fryer and the other appliance.
- (3) A cooking appliance installed in a consumer's gas installation not being a mobile installation must be so installed that any cooking surface or oven rack of the appliance is at all times maintained in a horizontal plane.
- (4) The oven of a cooking appliance installed in a consumer's gas installation must be fitted with an approved flame safeguard system.
- (5) This clause applies in addition to clause 5.12.4 of AG 601 — 1998.

602. Water heating appliances

- (1) Unless otherwise approved, if a gas water heater that does not have a storage facility for heated water is fixed to a wall in which there is any combustible material, the heater must be mounted on —
 - (a) suitable fire resistant material that extends at least 150 mm beyond the projection onto the wall of the heater; or
 - (b) spacers such that there is an air space of not less than 25 mm between the case of the heater and any combustible material.
- (2) The water outlet of a gas sink heater must not be fitted with any device that restricts the flow of water unless the appliance as manufactured and approved is fitted with such a device.
- (3) A gas water heater that is mounted externally to any building or other structure must be so located that the heater —
 - (a) is sufficiently clear of trees, shrubs, and other combustible material so as not to constitute a fire hazard; and
 - (b) has sufficient clearance for the necessary plumbing connections.

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- (4) This clause applies in addition to clauses 5.12.5.2 and 5.12.6 of AG 601 — 1998.

603. Space heating appliances

- (1) A gas space heating appliance that is not fitted with a flue must not be installed in a private dwelling unless the appliance is fitted with an approved carbon dioxide sensing device.
- (2) If the room or space in which there is installed —
- (a) an appliance referred to in subclause (1); or
 - (b) a bayonet point enabling the connection of such an appliance,
- is ventilated to another room or space, that other room or space and any further room or space to which it is in turn ventilated is to be subject to the ventilation requirements of these regulations as if it were part of the room or space in which the appliance or bayonet point is installed.
- (3) A gas space heating appliance that heats wholly or partly by means of high temperature radiants or surfaces and that is not fitted with a flue must not be installed in a consumer's gas installation so as to be located closer to any combustible material than 500 mm measured laterally.
- (4) This clause applies in addition to clause 5.12.8 and Appendix L of AG 601 — 1998.

604. Swimming pool heaters

- (1) A gas swimming pool heater must be fitted with a device to ensure that water is flowing through the heater before the main gas valve permits the flow of gas to the burners of the heater.
- (2) This clause applies in addition to clause 5.12.7 of AG 601 — 1998.

Division 7 — Caravans

701. Application

- (1) This Division applies to a consumer's gas installation that is on or in a caravan but not to any other consumer's gas installation.
- (2) This Division applies in addition to clause 6.6 of AG 601 — 1998.

702. Cylinders and associated equipment

If a gas cylinder, its valve and regulating equipment, or any part of a consumer's gas installation between the cylinder and the outlet of the primary pressure regulator is mounted in a compartment or recess, the compartment or recess must be —

- (a) lined with a fire resistant material; and
- (b) not accessible from the inside of the caravan.

703. Location of appliances

- (1) An appliance in a caravan must be so located that in the event of a fire, the appliance would not obstruct the exit of a person from any part of the caravan.

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- (2) If an appliance that requires gas to be supplied to it at more than the prescribed pressure is installed in a caravan in accordance with clause 704, the appliance must not be located in a cupboard or other enclosed compartment.
- (3) Equipment and appliances operating at above prescribed pressure must not be permanently installed in a caravan unless specifically approved.
- (4) A portable gas appliance in a caravan must be securely packed or fixed by temporary fastenings at all times that the caravan is in motion.

704. Pressure

- (1) The pressure to an appliance installed in a caravan and in a fitting line after the pressure regulator must not exceed the prescribed pressure.
- (2) Subclause (1) does not apply in respect of —
 - (a) a portable appliance that incorporates its own cylinder the installation of which is in accordance with clause 702; or
 - (b) an appliance that depends on a pressure exceeding the prescribed pressure for its proper operation, if —
 - (i) the appliance is installed in a mobile workshop that is not used for accommodation; and
 - (ii) the pressure is limited by a regulator mounted outside the caravan to not more than the minimum pressure required by the appliance for its proper operation, being a pressure of not more than 140 kPa.
- (3) If in accordance with subclause (2) gas is used at a pressure exceeding the prescribed pressure it must be carried in the vapour phase.

705. Warnings

- (1) The notice referred to in clause 6.6.8.3 of AG 601 — 1998 must be —
 - (a) legible and clear;
 - (b) in a permanent form measuring not less than 200 mm by 200 mm; and
 - (c) kept in a conspicuous position adjacent to an appliance, or if there is more than one appliance, adjacent to one of the appliances.
- (2) There must be kept in a conspicuous position adjacent to the fuel tank filler of a self-propelled caravan in which there is installed any appliance, a legible and clear warning in a permanent form setting out the following —

DANGER
Ensure all gas appliances are turned off before refuelling.

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Division 8 — Marine craft**801. Application**

- (1) This Division applies to a consumer's gas installation that uses or is to use LPG and that is on or in a marine craft but not to any other consumer's gas installation.
- (2) This Division applies in addition to clause 6.7 and Appendix K of AG 601 — 1998.

802. Accessibility

A cylinder, regulator, or fitting line that is part of a consumer's gas installation and all safety equipment pertaining to the consumer's gas installation must be so located that access to the cylinder and the cylinder valves is readily available and operation of the valves is not obstructed or hindered.

803. Cylinders and associated equipment

- (1) For the purposes of clause 6.7.3.3 of AG 601 — 1998, a cylinder compartment drain —
 - (a) must be connected directly to the outside of the marine craft; and
 - (b) must terminate above the water line.
- (2) A consumer's gas installation must be so designed that in order to disconnect the cylinder from the consumer's gas installation it is necessary to undo only the cylinder valve union.
- (3) This clause applies both to —
 - (a) a cylinder that is not connected to an appliance; and
 - (b) a cylinder that is connected to an appliance.

804. Restricted spaces

- (1) An appliance, fitting line, or other part of a consumer's gas installation must not be installed in any space that is not ventilated or that contains explosives, or highly-combustible material.
- (2) A fitting line must not be installed in any area intended primarily for sleeping.

805. Fitting lines

A fitting line must be located outside any false bottom in a position that is protected and ventilated, is sufficiently elevated to be free from the effects of bilge water, and is not within 50 mm of any electrical cable or electrical fitting.

806. Location of appliances

- (1) An appliance installed in a marine craft must be so located that in the event of a fire, the appliance would not obstruct the exit of a person from any part of the marine craft.
- (2) If an appliance that requires gas to be supplied to it at more than the prescribed pressure is installed in a marine craft in accordance with

clause 807, the appliance must not be located in a cupboard or other enclosed compartment.

- (3) Equipment and appliances operating at above prescribed pressure must not be permanently installed in a marine craft unless specifically approved.
- (4) An appliance must be so located that it is not likely to be exposed to air turbulence that would extinguish the flame.
- (5) An appliance must not be installed below the level of the main deck unless an approved device designed to detect the presence of flammable gas is installed.
- (6) The device for detecting flammable gas referred to in subclause (5) must be in operation —
 - (a) before any appliance is lit;
 - (b) while the marine craft is being refuelled; and
 - (c) while the marine craft is in use.

807. Pressure

- (1) The pressure to an appliance installed in a marine craft and in a fitting line after the pressure regulator must not exceed the prescribed pressure.
- (2) Subclause (1) does not apply in respect of —
 - (a) a portable appliance that incorporates its own cylinder the installation of which is in accordance with clause 803(2); or
 - (b) an appliance that depends on a pressure exceeding the prescribed pressure for its proper operation, if —
 - (i) the appliance is installed in a mobile workshop that is not used for accommodation; and
 - (ii) the pressure is limited by a regulator mounted outside the marine craft to not more than the minimum pressure required by the appliance for its proper operation, being a pressure of not more than 140 kPa.
- (3) If in accordance with subclause (2) gas is carried at a pressure exceeding the prescribed pressure it must be carried in the vapour phase.

808. Ventilation

- (1) If natural ventilation is not sufficient to provide for fresh air requirements and to adequately remove any leaked gas from an appliance, the natural ventilation must be supplemented by mechanical means.
- (2) If mechanical ventilation is provided in a space of which any cylinder or appliance is installed —
 - (a) the fan must be so designed and of such material as to eliminate the risk of sparks being caused by friction or impact of the impeller against the casing;
 - (b) any electric motor driving a fan must be located —
 - (i) outside the space ventilated;

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- (ii) within the space ventilated but clear of the ventilation trunking and outlets; or
- (iii) in such other position as is approved in each case by an inspector;
- (c) ventilation outlets are to be so located as to discharge into a place that is free from any source of ignition; and
- (d) exhaust ventilation trunking must extend to a position near to the bottom of the space and adjacent to any appliance by reason of which mechanical ventilation is required.

809. Flues

- (1) When an appliance is required by these regulations to be fitted with a flue, the flue must be of double-seamed copper or stainless steel having a thickness of —
 - (a) in the case of copper, not less than 0.6 mm; or
 - (b) in the case of stainless steel, not less than 0.45 mm.
- (2) A flue fitted to an appliance must be fitted with a protective sleeve of 6 mm of insulating material at the point at which it passes through the side or top of the space in which the appliance is installed and, if the side or top is of a combustible material, there must be a clearance of not less than 25 mm between the flue and the combustible material.
- (3) A flue fitted to an appliance —
 - (a) must not be fitted with a damper; and
 - (b) must have an approved flue terminal located not less than 50 mm away from the outside surface of the marine craft.

810. Water or room heaters

- (1) A gas water heater must not be installed in a marine craft except in the galley or such other place as is approved in each case by an inspector.
- (2) A gas water heater or a gas room heater —
 - (a) must not be located below the level of the main deck except as approved in each case by an inspector and subject to clause 806; and
 - (b) must be fitted with a flue and a flame safeguard system.

811. Cooking appliances

If a gas cooking appliance is mounted on gimbals —

- (a) the cooking appliance must be fitted with fiddle rails; and
- (b) the cooking appliance must be sufficiently clear of surrounding objects and structures to allow for gimbal movement.

812. Warnings

There must be kept in a conspicuous position adjacent to an appliance, or if there is more than one appliance, adjacent to one of the appliances, a legible and clear warning in a permanent form, setting out the following —

<p style="text-align: center;">Approval of an inspector is required before appliances may be altered.</p>
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**Schedule 7 — Codes and standards containing
requirements for consumers' gas installations**

[r. 32(1)(b)]

<i>Title</i>	<i>Code or Standard</i>
Gas Installation Code	AG 601 — 1998
Code for industrial and commercial gas-fired appliances	AS3814 — 1998/ AG 501 — 1998
Storage and handling of LP Gas	AS/NZS 1596:1997
LP Gas fuel systems for vehicle engines	AS/NZS 1425:1999
Natural gas fuel systems for vehicle engines	AS 2739 — 1992
Code of Practice for NGV Refuelling Stations	AG 901 — 1996
SAA Gas Pipeline Code	AS 1697 — 1981
Pipelines — Gas and liquid petroleum Part 1: Design and construction	AS 2885.1 — 1997
Pipelines — Gas and liquid petroleum Part 2: Welding	AS 2885.2 — 1995

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Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
It is not part of the regulations.]*

Defined Term	Provision(s)
AG	3(1)
apparatus.....	3(1)
appliance.....	3(1)
approved.....	3(1), 101 of Schedule 6
AS.....	3(1)
AS/NZS	3(1)
authorization.....	3(1)
bathroom.....	504(4) of Schedule 6
bayonet fitting.....	504(4) of Schedule 6
bedroom.....	101 of Schedule 6
caravan	3(1)
certificate of competency	3(1)
commercial	1(1) of Schedule 1
domestic	1(1) of Schedule 1
employer.....	16(3)
fitting line regulator.....	406(2) of Schedule 6
fitting line	3(1)
fitting	3(1)
flame safeguard system	101 of Schedule 6
flue gas	3(1)
flue terminal	3(1)
flue.....	3(1)
gas fitter.....	3(1)
gas supplier.....	3(1)
incident.....	42(3)
master meter	3(1)
maximum hourly input rate	3(1)
meter.....	3(1)
mobile engine	3(1)
natural gas	3(1)
notice of completion.....	3(1)
notice of defects.....	17
permit	3(1)
prescribed pressure	101 of Schedule 6
pressure raising device	3(1)
registered gas fitter	3(1)
regulator	3(1)
repealed regulations.....	43(2)
service apparatus	37(2)
service information.....	23(4)
servicing	3(1)
specified	16(3)
supervised gas fitter.....	3(1)
supervising gas fitter	3(1)
Type A appliance.....	3(1)
Type B appliance.....	3(1)
valve	3(1)

By Command of the Lieutenant-Governor and deputy of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

