

Gas Safety (Safety Installation) Regulations 2018

Statement Of Reasons (May 2018)



Purpose

The 2016 Victorian Guide to Regulation: A handbook for policy-makers in Victoria requires the preparation of a 'statement of reasons' explaining how the general issues raised in the public comments/submissions have been addressed in response to the proposed draft regulations and regulatory impact statement (RIS). The statement is published on the same website used to consult during the remaking process.

No RIS was prepared because the impact of the proposed regulations was below the threshold requiring a RIS. Energy Safe Victoria has nonetheless, prepared this statement to assist stakeholders.

Background

On 31 March 2017 ESV invited recipients of EnergySafe Magazine, emailed to plumbing industry participants, to 'Have a say on regulatory changes' about the upcoming remake of the Gas Safety (Gas Installation) Regulations 2008. No substantive feedback was received. On 23 June 2017, 108 stakeholders were invited to provide general comment on the operation of the Gas Safety (Gas Installation) Regulations. Limited feedback was received with the main commentary about the scope of the remaking process, and one industry body calling for greater regulation of caravans.

On 19 September 2017, ESV issued a discussion paper to 117 stakeholders on the remaking of the Gas Safety (Gas Installation) Regulations for comment by 6 October 2017. The paper invited responses to questions on regulations and their administration.

In general terms, the questions covered:

1. Acceptance of second-hand appliances; and
2. The introduction of fees for higher risk gas installation work and exemption applications.

The responses generally addressed the questions raised. Other responses received related to matters, which were outside the scope of the regulations such as the possible use of hydrogen within gas distribution networks, the review of Type A appliance standards and the timing of inspections by ESV.

A stakeholder forum attended by industry participants and representative groups held on 17 November 2017 provided a more detailed description of changes proposed by ESV. Discussions covered each proposed regulatory change, and identified further relatively minor issues, which warranted clarification.

Changes from the exposure draft

An exposure draft of the proposed regulations and an explanatory discussion paper were released on 26 February 2018. They were made available via ESV's website, promoted in two major daily newspapers. The final date for submissions was 27 March 2018.

Six submissions were received on the remaking of the Gas Safety (Gas Installation) Regulations.

Correction to discussion paper

Due to a transcription error, the discussion paper for the Gas Safety (Gas Installation) Regulations stated the impact was \$0.34m in one section. In later sections the total impact was estimated to be \$1.457m. The paper was corrected after release.

Two changes to Exposure Draft

Following review of the submissions two changes were made to the exposure draft of the regulations.

Change 1 - Transition period for changes in standards

Draft regulation 15 contained new provisions which sought to provide a transition period of six months following changes to standards applying to gasfitters carrying out gasfitting work. This was intended to provide clarity and certainty for gasfitters after quoting for work and any final inspection of that work.

The Victorian Building Authority (VBA) raised concerns on how this could be evidenced, and the impact this could have on its inspection program. In discussion with the VBA, it became apparent that the issues facing the regulation of standard gas installations, which are regulated by the VBA, and complex gas installations, which are regulated by ESV, are different and involve different timeframes.

As most of the issues involving changes to standards are likely to be for complex gas installations which span longer timeframes (such as high-rise developments), ESV formed the view that it could continue to work with projects affected by changes to standards through existing administrative mechanisms, as currently occurs.

While ESV does not control when standards are updated or published, ESV is often engaged with the relevant committee and ESV has proactive communication programs to assist industry participants to be aware of changes as they arise.

For the above reasons ESV has decided to omit the transition provision.

Change 2 – Update to reference to Australian Standard 4670

Since draft regulations were released, the above standard has been updated.

The Table of ‘Applied, Adopted or Incorporated Matter’ at the back of the regulations has been updated to reflect this. The definition of AS4670 requires no change and includes reference to published amendments which may be made from time to time.

Other matters raised

Comments also raised matters which fall outside the scope of regulations and many of which are part of ESV’s broader regulatory program.

These matters are summarised below:

	Stakeholder comment	ESV response
1.	Change proposed to composition of LP Gas due to decreasing demand for butane.	This is a commercial rather than safety issue. ESV considers that any change to the composition of LPG is best addressed through the relevant committees for developing Australian Standards, including AS4670.
2.	Gas distributors should be notified when complex installations and Type B appliances receive ESV acceptance	Acceptance is organised by gasfitters on behalf of their customers that in turn have the primary relationship with the gas network / LP gas suppliers through retailers. Therefore, the retailers have, and can provide the information required to gas distributors. ESV will continue discussions of the issue through its quarterly consultative committee meetings with industry.

3.	Some LP Gas customers are consuming gas intended for commissioning purposes prior to acceptance.	It is an offence to use Type B appliances unless the installation has been accepted by ESV or installed in accordance with an accepted safety case. The penalty for breaching this is currently approximately \$32k. Suspected breaches should be referred to ESV for investigation.
4.	Further restriction on other gas installation and appliances such as flue terminals outside customer allotments similar to Regulation 17.	The reason for the current restriction relates to the risks with gas leaks and pipeline strikes which could lead to fire or explosion. ESV will refer this matter to Standards Australia for consideration applicable to AS 5601.
5.	Ability of ESV to waive or rebate fees should refer to the Gas Safety Act, not the regulations.	The current wording relates to the authority of ESV to impose fees under the Regulations for applications under the Act. This provision was prepared in consultation with the Office of the Chief Parliamentary Counsel.
6.	A more robust process for the issuing of VBA Compliance Certificates.	Concerns about regulatory processes are best addressed by the relevant regulator. In the case of Compliance Certificates this is the Victorian Building Authority.
7.	"Carrying out gasfitting work' is unclear. It is also unclear if non-gasfitters should be required to report gas incidents.	<p>Gasfitting work is defined in the Gas Safety Act (s3). It does not include ancillary activities such as preparing designs and acquiring supplies. These are activities that can be undertaken by a person who is not a gasfitter.</p> <p>If a gasfitter becomes aware of a dangerous gas situation they are required to make a gas installation safe and notify the owner and to notify ESV if they are unable to make safe.</p>