

Version No. 033
Gas Safety Act 1997
No. 99 of 1997

Version incorporating amendments as at 1 July 2009

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Purpose	1
2 Commencement	1
3 Definitions	1
4 Declaration of gaseous fuel	10
5 Declaration of gas company	10
6 Declaration of pipeline to be a transmission line	11
7 Exemptions	11
8 Crown to be bound	12
PART 2—ENERGY SAFE VICTORIA	13
9 Objectives of Energy Safe Victoria	13
10 Functions of Energy Safe Victoria	14
11 Funding	15
12–31 <i>Repealed</i>	15
PART 3—GAS SAFETY	16
Division 1—General duties of gas companies	16
32 General duties of gas companies	16
33 Gas quality	16
34 Offence to supply or sell gas for unsafe gas installation	17
35 Offence to supply or sell gas where emergency plumbing order applies	18
36 Mandatory reporting of gas incidents	18
Division 2—Safety case for facility	19
37 Safety case	19
38 Validation of safety case for a facility	20
39 Additional information	21
40 Acceptance of safety case	21

<i>Section</i>	<i>Page</i>	
41	Provisional acceptance of safety case	21
42	Non-acceptance of safety case	22
43	Energy Safe Victoria may determine safety case	23
44	Compliance with safety case	24
45	Revision of safety case—change	25
46	Revision of safety case—each 5 years	26
47	Energy Safe Victoria may request submission of revised safety case	26
48	Offence to fail to submit revised safety case on request	27
49	Application of provision to revised safety case	28
50	Compliance with safety case is defence	28
Division 3—Safety case for gas installation		28
51	Definitions	28
52	Safety case for complex gas installation in manufacturing or industrial premises	29
53	Safety case for supply and installation of Type B appliances in manufacturing or industrial premises	29
54	Safety case for manufacture of complex gas installations	30
55	Exemption from regulations	31
56	Compliance with safety case	32
57	Revision of safety case—each 5 years	32
58	Energy Safe Victoria may request submission of revised safety case	33
59	Compliance with request	34
60	Lapsing of safety case	34
61	Duty of operator of complex gas installation	35
62	Duty of manufacturer of Type B appliances	35
63	Duty of manufacturer of complex gas installations	36
64	Compliance with safety case is a defence	36
Division 4—Approval or authorisation to undertake certain gas work		36
65	Approval of persons to carry out upstream gas work	36
66	Offence to carry out upstream gas work without approval or authorisation	37
67	Standard of gas work	37
Division 5—Appliances and gas installations		38
68	Authorisation of acceptance scheme	38
69	Acceptance of appliance by Energy Safe Victoria	38
69A	Declaration of non-acceptance of appliance	40
70	Offence to install certain Type A appliances	41
71	Offence to supply or sell unaccepted appliances	42
71A	Offence to sell unsafe appliances	43
71B	False labelling in relation to Type A appliances	44

<i>Section</i>	<i>Page</i>
71C Unsafe modifications to Type A appliances	44
72 Compliance with prescribed standards and requirements for work on gas installation	45
73 Acceptance of gas installation	47
74 Offence to use Type B appliance	49
75 Offence to supply or sell certain appliances without giving required information	49
76 Prohibition of supply or sale of gas installations, appliances and components	49
77 Offence to disobey prohibition	51
78 Recall of gas installations, appliances or components	52
79 Offence to fail to comply with requirement	54
Division 6—Further offences relating to gas safety	54
79A Supply or sale of certain types of liquefied petroleum gas	54
79B Interference with gas company pipelines	55
79C Interference with transmission pipelines	55
79D Interference with pipeline, gas installation or meter assembly	56
PART 3A—ENERGY EFFICIENCY	57
79E Proclaimed gas equipment	57
79F Proclaimed gas equipment not to be supplied unless registered and labelled	57
PART 4—RIGHTS OF REVIEW	58
80 Applications to review	58
81–85 <i>Repealed</i>	60
PART 5—INSPECTION	61
Division 1—Appointment of inspectors	61
86 Inspectors	61
Division 2—Powers of entry—general	62
87 Powers of entry—safety cases and gas incidents	62
88 Occupier to be given copy of consent	65
89 Emergency access	65
90 Powers on entry	66
91 Return of things seized	67
92 Magistrates' Court may extend period	67
93 Entry to be reported to the Director	68

<i>Section</i>	<i>Page</i>
Division 3—Powers of entry—enforcement	69
94 Powers of entry—enforcement	69
95 Occupier to be given copy of consent	69
96 Search warrant	69
97 Announcement before entry	71
98 Copy of warrant to be given to occupier	71
Division 4—General	72
99 Power of inspector to require information or documents	72
100 Offence to give false information to inspector	73
101 Copying of documents	73
102 Protection against self-incrimination	74
103 Offence to obstruct inspector	74
104 Police to assist inspectors	74
105 Impersonation of inspector	74
PART 6—ENFORCEMENT	75
Division 1—Directions	75
106 Director may give directions	75
107 Additional powers in emergencies	76
107A Power of Minister	77
107B Delegation by Director	77
108 Defence to certain offences if complying with Director's directions	77
109 Protection from liability	78
109A Protection of persons executing directions	78
Division 2—Improvement and prohibition notices	79
110 Director or inspector may issue improvement notice	79
111 Offence not to comply with improvement notice	80
112 Director or inspector may issue prohibition notice	80
113 Offence not to comply with prohibition notice	81
114 Notices may include directions	82
Division 3—Other matters	82
115 Offences by bodies corporate	82
116 Offences by partnerships or unincorporated associations	83
117 False or misleading information	83
117AA Period within which proceedings for offences may be brought	84

<i>Section</i>	<i>Page</i>
PART 6A—INFRINGEMENT NOTICES	85
117AB Definitions	85
117AC Power to serve a notice	85
117AD <i>Repealed</i>	86
117AE Infringement penalties	86
117AF–117AK <i>Repealed</i>	86
PART 7—GENERAL	87
117A Supreme Court—limitation of jurisdiction	87
118 Regulations	87
PART 8—REPEALS, CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS	95
Division 1—<i>Repealed</i>	95
119–122 <i>Repealed</i>	95
Division 2—Transitional provisions	95
123 <i>Repealed</i>	95
124 Transitional provisions—gas installations	95
125 Transitional provisions—existing gas installation work	95
126 Transitional provision—appliances	96
127 Transitional provisions—abolition of the Gas Appeals Board	97
<hr/>	
SCHEDULE 1—Transitional Provisions	98
1 Definitions	98
2 Abolition of the Gas Appeals Board	98
3 Pending proceedings	99
4 Determinations or orders made by Board	100
5 Power to resolve transitional difficulties	101
6 Transfer of registers	101
<hr/> <hr/>	
ENDNOTES	102
1. General Information	102
2. Table of Amendments	103
3. Explanatory Details	105

Version No. 033
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The Parliament of Victoria therefore enacts as follows:

PART 1—PRELIMINARY

1 Purpose

The main purpose of this Act is to make provision for the safe conveyance, sale, supply, measurement, control and use of gas and to generally regulate gas safety.

2 Commencement

- (1) Part 1 of this Act comes into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation before 31 December 1999, it comes into operation on that day.

3 Definitions

- (1) In this Act—

acceptance scheme includes any approval, certification or endorsement scheme, however described;

accepted safety case means—

- (a) a safety case or provisional safety case accepted under Division 2 or 3 of Part 3; or

S. 3
amended by
No. 91/2000
s. 16 (ILA
s. 39B(1)).

(b) if a revised safety case has been accepted or provisionally accepted under Division 2 or 3 of Part 3, that revised safety case—

but does not include a safety case that has lapsed under Division 3 of Part 3;

S. 3(1) def. of *AEMO* inserted by No. 23/2009 s. 37(1).

AEMO means Australian Energy Market Operator Limited (ACN 072 010 327);

S. 3(1) def. of *apparatus and works* amended by No. 32/2001 s. 34(1)(a).

apparatus and works has the same meaning as it has in the **Gas Industry Act 2001**;

appliance means a device which uses gas to produce flame, heat, light, power or special atmosphere;

S. 3(1) def. of *business day* inserted by No. 24/2002 s. 12.

business day means a day other than a Saturday or Sunday or a public holiday appointed under the **Public Holidays Act 1993**;

S. 3(1) def. of *complex gas installation* inserted by No. 91/1998 s. 26(3).

complex gas installation means a gas installation which is not a standard gas installation;

component means a component of an appliance or gas installation;

S. 3(1) def. of *construction* amended by No. 32/2001 s. 34(1)(b).

construction has the same meaning as it has in the **Gas Industry Act 2001**;

convey, in relation to gas, means to transmit, distribute or otherwise convey by pipeline;

decision for the purposes of Part 4 includes refusal, declaration, condition, prohibition or requirement;

S. 3(1) def. of *decision* inserted by No. 24/2002 s. 12.

Director means the Director of Energy Safety appointed under the **Energy Safe Victoria Act 2005**;

S. 3(1) def. of *Director* substituted by No. 39/2005 s. 49(2).

distribute has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of *distribute* amended by No. 32/2001 s. 34(1)(c).

distribution pipeline has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of *distribution pipeline* amended by No. 32/2001 s. 34(1)(d).

Energy Safe Victoria means Energy Safe Victoria established under the **Energy Safe Victoria Act 2005**;

S. 3(1) def. of *Energy Safe Victoria* inserted by No. 39/2005 s. 49(1).

facility means—

- (a) a pipeline; or
- (b) a facility or service for the control of the conveyance of gas; or
- (c) a facility for the measurement of gas where the facility is connected to a transmission pipeline; or
- (d) a service for the sale by retail of gas (other than liquefied petroleum gas used or intended to be used for automotive purposes); or

- (e) a service which controls the quality of liquefied petroleum gas provided for supply or sale (other than liquefied petroleum gas used or intended to be used for automotive purposes); or
- (f) a tempered liquefied petroleum gas plant;

gas means any gaseous fuel but does not include any gaseous fuel that is declared under section 4 not to be gas for the purposes of this Act or any provision of this Act;

gaseous fuel includes petrochemical feed stock;

gasfitting work means work carried out in connection with the installation, renewal, commissioning, replacement, modification, relocation, repair or maintenance of any gas installation or any part of any gas installation;

gas company means—

- (a) a gas transmission company within the meaning of the **Gas Industry Act 2001**; or
- (ab) AEMO; or
- (b) a gas distribution company within the meaning of the **Gas Industry Act 2001**; or
- (c) a gas retailer within the meaning of the **Gas Industry Act 2001**; or
- (d) a person who is an owner or operator of a facility or service for the control of the conveyance of gas, being a person declared under section 5 to be a gas company for the purposes of this Act; or

S. 3(1) def. of *gas company* amended by Nos 91/1998 s. 26(1), 32/2001 s. 34(1)(e), 23/2009 s. 37(2).

-
- (e) a person who is an owner or operator of a facility for the measurement of gas connected to a transmission pipeline; or
 - (f) a person who is an owner or operator of a pipeline, being a person declared under section 5 to be a gas company for the purposes of this Act; or
 - (g) a person who is an owner or operator of a service for the sale by retail of gas (other than liquefied petroleum gas used or intended to be used for automotive purposes), being a person declared under section 5 to be a gas company for the purposes of this Act;
 - (h) a person who is an owner or operator of a service for the supply of liquefied petroleum gas (other than liquefied petroleum gas used or intended to be used for automotive purposes), being a person declared under section 5 to be a gas company for the purposes of this Act;

gas incident means any incident or event relating to the conveyance, supply or use of gas which causes or has the potential to cause—

- (a) the death of or injury to a person; or
- (b) significant damage to property; or
- (c) an explosion;

gas installation means, in respect of the use or intended use of gas, a combination of—

- (a) any pipe or system of pipes for or incidental to the conveyance of gas and components or fittings associated with the pipe or pipes which are downstream of the gas supply point; and

-
- (b) any one or more of the following—
- (i) any liquefied petroleum gas storage vessels with an aggregate capacity not exceeding 500 litres;
 - (ii) any appliance and associated components or fittings which are downstream of the gas supply point;
 - (iii) any meter which is downstream of the gas supply point;
 - (iv) any means of ventilation or system for the removal of combustion products which is downstream of the gas supply point;

gas supply point means—

- (a) the outlet of a gas company's meter assembly; or
- (b) the outlet of the primary shut-off valve of a liquefied petroleum gas storage vessel; or
- (c) if paragraph (a) or (b) does not apply, the point of supply of gas;

gas work means gasfitting work and upstream gas work;

inspector means a person appointed as an inspector under Part 5;

meter means an instrument that measures the quantity of gas passing through it;

meter assembly means a system that includes a meter and any associated pipes, fittings, components, equipment or instruments;

* * * * *

S. 3(1) def. of *Office* repealed by No. 39/2005 s. 49(3).

operation has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of *operation* amended by No. 32/2001 s. 34(1)(f).

person includes an unincorporated body or association and a partnership;

pipeline has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of *pipeline* amended by No. 32/2001 s. 34(1)(g).

practicable in sections 32, 33, 61, 62 and 63, means practicable having regard to—

- (a) in sections 32, 61, 62 and 63 the severity of the hazard or risk in question; and
- (b) in section 33, the severity of the hazard or risk involved in not meeting a prescribed standard or requirement; and
- (c) the state of knowledge about the hazard or risk and any ways of removing or mitigating the hazard or risk; and
- (d) the availability and suitability of ways to remove or mitigate the hazard or risk; and
- (e) the cost of removing or mitigating the hazard or risk;

premises includes caravan, mobile home and vessel;

quality, in relation to gas, includes odourisation, purity, temperature, pressure and composition;

standard gas installation means—

S. 3(1) def. of *standard gas installation* inserted by No. 91/1998 s. 26(3), amended by No. 59/2008 s. 39.

- (a) a gas installation—
 - (i) which contains only Type A appliances; and
 - (ii) which is located in residential premises of a prescribed class or on land associated with such premises; or
- (b) a gas installation—
 - (i) which contains only Type A appliances; and
 - (ii) which is located in commercial premises of a prescribed class or on land associated with such premises; and
 - (iii) in which the total gas consumption of the appliances does not exceed the relevant prescribed amount per hour; and
 - (iv) which has a maximum metering pressure that is less than the prescribed maximum metering pressure or a maximum operating pressure that is less than the prescribed maximum operating pressure; and
 - (v) which has a number of gas supply points that is less than the prescribed number of gas supply points;

tempered liquefied petroleum gas means a mixture of vaporised liquefied petroleum gas and air;

transmission pipeline means—

- (a) a transmission pipeline within the meaning of the **Gas Industry Act 2001**; or
- (b) a pipeline that is declared under section 6 to be a transmission pipeline;

S. 3(1) def. of *transmission pipeline* amended by No. 32/2001 s. 34(1)(h).

transmit has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of *transmit* amended by No. 32/2001 s. 34(1)(i).

Tribunal means the Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**;

S. 3(1) def. of *Tribunal* inserted by No. 24/2002 s. 12.

Type A appliance means—

- (a) an appliance (including a second-hand appliance) for which an acceptance scheme has been authorised by Energy Safe Victoria in accordance with section 68; or
- (b) an appliance which has been accepted under section 69;

S. 3(1) def. of *Type A appliance* amended by No. 39/2005 s. 49(4).

* * * * *

S. 3(1) def. of *Type A gas installation* repealed by No. 91/1998 s. 26(2).

Type B appliance means an appliance (including a second-hand appliance) with a gas consumption in excess of 10 megajoules per hour including any components and fittings

of that appliance downstream of and including the appliance manual shut-off valve but does not include a Type A appliance;

S. 3(1) def. of *Type B gas installation* repealed by No. 91/1998 s. 26(2).

* * * * *

upstream gas work means work carried out between the outlet point of a gas processing plant and the outlet of a gas distribution company's meter assembly in connection with the construction, commissioning, renewal, operation, control, replacement, modification, repair, maintenance or testing of—

- (a) transmission and distribution systems and related apparatus and works; or
- (b) any other thing used for the conveyance, supply, control or measurement of gas.

S. 3(2) inserted by No. 91/2000 s. 16.

- (2) In the definition of *gas installation*, a reference to gas includes, in relation to liquefied petroleum gas, that gas in its liquid phase.

4 Declaration of gaseous fuel

The Governor in Council, by Order published in the Government Gazette, may declare any gaseous fuel not to be gas for the purposes of this Act or any provision of this Act.

5 Declaration of gas company

The Governor in Council, by Order published in the Government Gazette, may declare any of the following to be a gas company for the purposes of this Act—

-
- (a) a person who is an owner or operator of a pipeline;
 - (b) a person who is an owner or operator of a facility or service for the control of the conveyance of gas;
 - (c) a person who is an owner or operator of a service for the sale by retail of gas (other than liquefied petroleum gas which is used or intended to be used for automotive purposes).

6 Declaration of pipeline to be a transmission line

The Governor in Council, by Order published in the Government Gazette, may declare a pipeline or class of pipeline to be a transmission pipeline.

7 Exemptions

- (1) The Governor in Council, by Order published in the Government Gazette, and on the recommendation of Energy Safe Victoria, may declare that the provisions of this Act, or such of the provisions of this Act as are specified in the Order—
 - (a) do not have effect in relation to a specified person or class of persons or do not have effect to such extent as is specified; or
 - (b) do not have effect in relation to a specified facility or class of facilities or do not have effect to such extent as is specified; or
 - (c) do not have effect in relation to specified appliances or a class of appliances or do not have effect to such extent as is specified; or
 - (d) do not have effect in relation to specified gas installations or a class of gas installations or do not have effect to such extent as is specified; or

S. 7(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

-
- (e) do not have effect in relation to specified gas work or a class of gas work or do not have effect to such extent as is specified.
- (2) An Order under subsection (1)—
- (a) may specify the period during which the Order is to remain in force; and
- (b) may provide that its operation is subject to such terms and conditions as are specified in the Order.
- (3) A person to whom an Order under this section applies must comply with the terms and conditions (if any) to which the operation of the Order is subject.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

8 Crown to be bound

This Act binds the Crown, not only in right of Victoria but also, as far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—ENERGY SAFE VICTORIA

Pt 2
(Headings
and
ss 9–31)
amended by
Nos 46/1998
s. 7(Sch. 1),
91/2000
ss 17–21,
108/2004
s. 117(1)
(Sch. 3
item 88),
substituted as
Pt 2
(Heading and
ss 9–11) by
No. 39/2005
s. 50.

9 Objectives of Energy Safe Victoria

S. 9
substituted by
No. 39/2005
s. 50.

The objectives of Energy Safe Victoria under this Act are—

- (a) to ensure the safety of the conveyance, sale, supply, measurement, control and use of gas; and
- (b) to control the safety standards of gas work; and
- (c) to maintain public and industry awareness of gas safety requirements; and
- (d) to promote awareness of energy efficiency through energy efficiency labelling of gas installations, appliances and components and energy efficiency regulation of gas installations, appliances and components.

S. 10
substituted by
No. 39/2005
s. 50.

10 Functions of Energy Safe Victoria

The functions of Energy Safe Victoria under this Act are—

- (a) to issue guidelines specifying minimum safety standards for appliances, gas equipment, gas components, gas installations, gas related services and the conveyance, sale, supply, measurement, control and use of gas;
- (b) to issue guidelines in relation to the preparation of safety cases;
- (c) to monitor compliance of appliances, gas equipment, gas components, gas installations, gas related services and the conveyance, sale, supply, measurement, control and use of gas with the specified safety standards;
- (d) to monitor compliance of gas companies with accepted safety cases;
- (e) to audit accepted safety cases to determine the adequacy and effectiveness of those safety cases;
- (f) to administer the prescribed minimum standards for energy efficiency of gas installations, appliances and components;
- (g) to inspect and test gas installations, appliances and components for compliance with the specified minimum standards for energy efficiency;
- (h) to investigate events or incidents which have implications for gas safety;
- (i) to provide advisory and consultative services in relation to gas safety;

- (j) to consult with and advise industry and the community in relation to gas safety;
- (k) such other functions as are conferred on Energy Safe Victoria by or under this Act or the regulations under this Act.

11 Funding

A gas company must pay to Energy Safe Victoria at such time or times as the Minister determines such annual amount (if any) as the Minister determines to be payable by that gas company in respect of the remuneration and reasonable costs and expenses of Energy Safe Victoria.

* * * * *

S. 11
substituted by
No. 39/2005
s. 50.

Ss 12–31
repealed by
No. 39/2005
s. 50.

PART 3—GAS SAFETY

Division 1—General duties of gas companies

32 General duties of gas companies

A gas company must manage and operate each of its facilities to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public and customers arising from gas; and
- (b) the hazards and risks of damage to property of the public and customers arising from gas; and
- (c) the hazards and risks to the safety of the public and customers arising from—
 - (i) interruptions to the conveyance or supply of gas; and
 - (ii) the reinstatement of an interrupted gas supply.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

33 Gas quality

- (1) A gas company must ensure that, as far as practicable, the gas which it conveys—
 - (a) meets the prescribed standards of quality; and
 - (b) complies with any other prescribed requirements.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

-
- (2) A gas company which supplies or sells gas to a customer for use in a gas installation must ensure that, as far as practicable, the gas supplied or sold—
- (a) meets the prescribed standards of quality; and
 - (b) complies with any other prescribed requirements.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

34 Offence to supply or sell gas for unsafe gas installation

- (1) A gas company must not knowingly supply or sell gas for use in a gas installation which is unsafe.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A gas company must not knowingly supply or sell gas for use in a gas installation which does not comply with this Act or the regulations except in the prescribed circumstances.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

35 Offence to supply or sell gas where emergency plumbing order applies

A gas company must not knowingly supply or sell gas for use in a gas installation to which an emergency plumbing order under section 221ZZF of the **Building Act 1993** applies.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

36 Mandatory reporting of gas incidents

S. 36(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (1) A gas company must report to Energy Safe Victoria in accordance with the regulations any gas incident which occurs in relation to a facility of that gas company.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

S. 36(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (2) A gas company must report to Energy Safe Victoria in accordance with the regulations any gas incident of which it is aware and which occurs in relation to a gas installation to which it supplies or sells gas.

Penalty: In the case of a natural person,
2 penalty units;

In the case of a body corporate,
10 penalty units.

S. 36(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (3) The Chief Officer of the Metropolitan Fire and Emergency Services and the Chief Officer under the **Country Fire Authority Act 1958** must report to Energy Safe Victoria any fire or explosion in which he or she suspects gas was a cause or contributing factor.

Division 2—Safety case for facility

37 Safety case

- (1) A gas company must submit a safety case to Energy Safe Victoria for each of its facilities in accordance with this section.

S. 37(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A safety case for a facility must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed by the gas company—
 - (i) to comply with the gas company's duties under Division 1; and
 - (ii) in relation to any other matters relating to the safe conveyance, supply, sale, measurement or control of gas that are prescribed.
- (3) The safety case for a facility which is in operation immediately before the commencement of this section must be submitted within 6 months after that commencement.
- (4) The safety case for any other facility must be submitted to Energy Safe Victoria before the facility commences operation.
- (5) A safety case may be submitted in stages.
- (6) A safety case may apply to more than one facility.

S. 37(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (7) A gas company which has submitted a safety case for a facility under section 138 of the **Gas Industry Act 1994** before the commencement of this section is deemed to have complied with this section in relation to that facility.
- (8) The safety case for a facility submitted by VENCorp to Energy Safe Victoria in October 2008 and in force immediately before the commencement of section 37 of the **Energy Legislation Amendment (Australian Energy Market Operator) Act 2009** is to be taken to continue in force under this section as if the safety case were submitted by AEMO.

S. 37(8)
inserted by
No. 23/2009
s. 37(3).

38 Validation of safety case for a facility

- (1) If a safety case has been submitted for a facility, Energy Safe Victoria may require the gas company to obtain an independent validation of that safety case or any part of that safety case.
- (2) Energy Safe Victoria may require the validation to assess the design, construction, commissioning or operation of the facility or the required part of the facility or all or any of those matters to determine if the facility or part will be fit for the purpose.
- (3) The gas company must establish to the satisfaction of Energy Safe Victoria that each person undertaking the validation of a matter has the necessary competence and ability and access to information on the matter to arrive at an independent opinion on the matter.
- (4) If Energy Safe Victoria requires a gas company to provide an independent validation of a safety case or part of a safety case, the costs of that validation must be borne by the gas company.

S. 38(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 38(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

S. 38(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 38(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (5) Energy Safe Victoria is not required to proceed with the consideration of a safety case until the independent validation is provided.

S. 38(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

39 Additional information

- (1) Energy Safe Victoria may require a gas company to provide any additional information that Energy Safe Victoria thinks fit in relation to a safety case submitted by the gas company under this Division.

S. 39(1)
amended by
No. 39/2005
s. 52(Sch. 2
items 1, 2).

- (2) Energy Safe Victoria is not required to proceed with the consideration of a safety case until the additional information is provided.

S. 39(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

40 Acceptance of safety case

- (1) Energy Safe Victoria must consider a safety case submitted under this Division with as much expedition as the requirements of this Act and the regulations and the proper consideration of the safety case permit.

S. 40(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (2) Energy Safe Victoria must accept a safety case submitted under this Division if it is satisfied that the safety case is appropriate for the facility to which it applies and complies with this Act and the regulations.

S. 40(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (3) Energy Safe Victoria must notify the gas company in writing of its decision to accept a safety case.

S. 40(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

41 Provisional acceptance of safety case

- (1) Energy Safe Victoria may provisionally accept a safety case if it is satisfied that it will provide for the safe operation of the facility.

S. 41(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

s. 42

S. 41(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (2) Energy Safe Victoria must notify the gas company in writing of its decision to provisionally accept a safety case.
- (3) The notice of acceptance must state—
 - (a) the period that the provisional acceptance will be in force; and
 - (b) the extent to which the safety case has been accepted; and
 - (c) any limitations or conditions which will apply in respect of the use or operation of the facility while the provisional acceptance is in force.

42 Non-acceptance of safety case

S. 42(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (1) If Energy Safe Victoria does not accept or provisionally accept a safety case it must—
 - (a) notify the gas company in writing of the non-acceptance; and
 - (b) give the gas company an opportunity to modify and re-submit the safety case.

S. 42(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (2) A modified safety case must be submitted to Energy Safe Victoria within 28 days after the notice is given under subsection (1).

S. 42(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 3(a)(b)).

- (3) If, after considering any modified safety case submitted under this section, Energy Safe Victoria decides not to accept a safety case it must give notice in writing of that decision to the gas company.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

43 Energy Safe Victoria may determine safety case

S. 43
(Heading)
inserted by
No. 39/2005
s. 52(Sch. 2
item 4).

(1) Energy Safe Victoria may determine the safety case which is to apply in respect of a facility which is in operation at the time of the determination if—

S. 43(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

(a) the gas company fails to submit a safety case for the facility in accordance with this Division; or

(b) Energy Safe Victoria has decided not to accept a safety case for the facility.

S. 43(1)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(2) If Energy Safe Victoria determines the safety case to apply to a facility under this section, Energy Safe Victoria must give notice in writing to the gas company of that determination.

S. 43(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(3) On notice being given to the gas company under subsection (2), the safety case determined by Energy Safe Victoria is deemed for the purposes of this Act to be the accepted safety case for the facility to which it applies.

S. 43(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(4) Nothing in subsection (3) prevents a gas company from submitting a safety case or a revised safety case for a facility to Energy Safe Victoria for acceptance under this Division.

S. 43(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

44 Compliance with safety case

- (1) A gas company must not commission or commence to operate a facility of the gas company unless a safety case for that facility has been accepted or provisionally accepted under this Division.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

- (2) A gas company must comply with the accepted safety case for a facility in relation to the management and operation of the facility.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

- (3) A gas company must comply with the accepted safety case for a facility in relation to the removal, dismantling or decommissioning of the facility.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

- (4) A gas company must not—

- (a) undertake or permit a modification of a facility that has the potential to significantly increase the overall levels of risk in relation to a facility; or
- (b) undertake or permit a modification that has the potential to significantly influence the level of a specific risk or the ranking of risk contributing factors; or

S. 44(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (c) make or permit a significant change to the safety management system in relation to the facility—

unless Energy Safe Victoria has accepted a revision of the safety case in relation to that matter for that facility.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

45 Revision of safety case—change

A gas company must submit a revised safety case to Energy Safe Victoria if—

- (a) developments in technical knowledge or the assessment of hazards relevant to the facility make it appropriate to revise the safety case; or
- (b) proposed modifications of the facility will result in a significant increase in the overall levels of risk in relation to the facility; or
- (c) a proposed modification of the facility may significantly influence the level of a specific risk or the ranking of risk contributing factors; or
- (d) the gas company proposes to make a significant change to the safety management system in relation to the facility; or
- (e) the gas company proposes to dismantle, decommission or remove the facility or part of the facility in a different manner from the procedures set out in the safety case for the facility.

S. 45
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

s. 46

S. 46
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

46 Revision of safety case—each 5 years

A gas company must submit a revised safety case to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

- (a) the date when the safety case is first accepted; or
- (b) the date of the most recent acceptance of a revision of the safety case submitted under this section.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

S. 47
(Heading)
inserted by
No. 39/2005
s. 52(Sch. 2
item 5).

47 Energy Safe Victoria may request submission of revised safety case

S. 47(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (1) Energy Safe Victoria may at any time request a gas company to submit a revised safety case for a facility of the gas company.
- (2) The request must—
 - (a) be in writing; and
 - (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and
 - (iii) the grounds for the request.

-
- (3) The gas company to whom the request is given may make a submission to Energy Safe Victoria on all or any of the following grounds—
- (a) that the revision should not occur;
 - (b) that the revision should be in different terms from the proposed terms;
 - (c) that the revision should take effect on a later date than the proposed date of effect.
- (4) The submission must—
- (a) be in writing; and
 - (b) state the gas company's reasons for the submission; and
 - (c) be made within 21 days, or such later period as Energy Safe Victoria in writing allows, after the request is received.
- (5) If a gas company makes a submission under this section, Energy Safe Victoria must decide—
- (a) to accept the submission or part of the submission and vary or withdraw the request accordingly; or
 - (b) to reject the submission.
- (6) Energy Safe Victoria give the gas company notice in writing of its decision on the submission and the reasons for that decision.
- 48 Offence to fail to submit revised safety case on request**
- If Energy Safe Victoria requests the revision of a safety case in accordance with section 47, the gas company must submit a revised safety case for a facility to Energy Safe Victoria—

S. 47(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 47(4)(c)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 47(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 47(6)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

S. 48
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 48(a)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 48(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (a) if the gas company does not make a submission under that section, within the time (being not less than 60 days) specified by Energy Safe Victoria in the request; or
- (b) if the gas company has made a submission under that section and Energy Safe Victoria has not withdrawn the request, within the time (being not less than 60 days) specified by Energy Safe Victoria in the decision on the submission.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

49 Application of provision to revised safety case

Sections 38 to 43 apply to the revision of a safety case in the same manner as they apply to a safety case.

50 Compliance with safety case is defence

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in Division 1 if the person has complied with the accepted safety case in relation to that duty or obligation.

Division 3—Safety case for gas installation

51 Definitions

In this Division—

manufacturer in relation to a class of appliances or gas installations, means a person who manufactures that class of appliances or installations;

operator in relation to a gas installation or proposed gas installation, means the person who owns or operates or is to own or operate the gas installation.

52 Safety case for complex gas installation in manufacturing or industrial premises

(1) Energy Safe Victoria may permit the operator of a complex gas installation or proposed complex gas installation which is or is to be located in manufacturing or industrial premises to submit a safety case for that gas installation.

S. 52(1)
amended by
Nos 91/1998
s. 27(1),
39/2005
s. 52(Sch. 2
item 1).

(2) A safety case submitted under this section must—

- (a) be in writing; and
- (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safe installation and operation of the gas installation.

(3) Sections 38 to 42 apply to a safety case under this section as if—

- (a) any reference to a facility were a reference to the complex gas installation; and
- (b) any reference to a gas company were a reference to the operator of the complex gas installation.

S. 52(3)(a)
amended by
No. 91/1998
s. 27(1).

S. 52(3)(b)
amended by
No. 91/1998
s. 27(1).

53 Safety case for supply and installation of Type B appliances in manufacturing or industrial premises

(1) Energy Safe Victoria may permit a manufacturer of a class of Type B appliances intended for use in manufacturing or industrial premises to submit a safety case in relation to the supply and installation of those appliances.

S. 53(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

-
- (2) A safety case submitted under this section must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safe supply and installation of the class of Type B appliances.
- (3) Sections 38 to 42 apply to a safety case under this section as if—
- (a) any reference to a facility were a reference to the supply and installation of the Type B appliances; and
 - (b) any reference to a gas company were a reference to the manufacturer of the Type B appliances.

54 Safety case for manufacture of complex gas installations

S. 54(1)
amended by
Nos 91/1998
s. 27(2),
39/2005
s. 52(Sch. 2
item 1).

- (1) Energy Safe Victoria may permit a manufacturer of a class of complex gas installations to submit a safety case for the manufacture of that class of gas installations.

- (2) A safety case submitted under this section must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safety of the class of gas installations.

- (3) Sections 38 to 42 apply to a safety case under this section as if—

S. 54(3)(a)
amended by
No. 91/1998
s. 27(2).

- (a) any reference to a facility were a reference to the manufacture of the complex gas installations; and

(b) any reference to a gas company were a reference to the manufacturer of the complex gas installations.

S. 54(3)(b)
amended by
No. 91/1998
s. 27(2).

(4) This section does not apply to the manufacture of a gas installation at the site at which it is intended to be used.

55 Exemption from regulations

(1) If Energy Safe Victoria accepts a safety case submitted under section 52, it may exempt the operator of the complex gas installation from compliance with any of the regulations relating to the installation and operation of gas installations.

S. 55(1)
amended by
Nos 91/1998
s. 27(1),
39/2005
s. 52(Sch. 2
item 6(a)(b)).

(2) If Energy Safe Victoria accepts a safety case submitted under section 53, it may exempt the manufacturer of the Type B appliances from compliance with any of the regulations relating to the installation of appliances.

S. 55(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 6(a)(b)).

(3) If Energy Safe Victoria accepts a safety case submitted under section 54, it may exempt the manufacturer of the complex gas installations from compliance with any of the regulations relating to the installation of gas installations.

S. 55(3)
amended by
Nos 91/1998
s. 27(2),
39/2005
s. 52(Sch. 2
item 6(a)(b)).

(4) If Energy Safe Victoria accepts a safety case submitted under this Division, it may exempt any person authorised under the safety case to carry out a class or type of gasfitting work from compliance with any of the regulations relating to the carrying out of that class or type of gasfitting work.

S. 55(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 6(a)(b)).

(5) Energy Safe Victoria must not grant an exemption under this section from compliance with a regulation unless it is satisfied that the level of safety to be provided if the exemption is given is not less than the level of safety which would be required to be provided under the regulation.

S. 55(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 7(a)(b)).

56 Compliance with safety case

S. 56(1)
amended by
No. 91/1998
s. 27(1).

- (1) An operator of a complex gas installation for which there is an accepted safety case under this Division must comply with that safety case in respect of that gas installation.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

- (2) A manufacturer of a class of Type B appliances for which there is an accepted safety case under this Division must comply with that safety case in respect of the supply and installation of those appliances.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

S. 56(3)
amended by
No. 91/1998
s. 27(2).

- (3) A manufacturer of a class of complex gas installations for which there is an accepted safety case under this Division must comply with that safety case in respect of the manufacture of those gas installations.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

S. 57
amended by
Nos 91/1998
s. 27(1)(2),
39/2005
s. 52(Sch. 2
item 2).

57 Revision of safety case—each 5 years

An operator of a complex gas installation or a manufacturer of a class of Type B appliances or of a class of complex gas installations in respect of which an accepted safety case applies under this Division must submit a revised safety case to Energy Safe Victoria at the end of each period of 5 years commencing on the later of—

-
- (a) the date when the relevant safety case is first accepted; or
 - (b) the date of the most recent acceptance of a revision of the safety case submitted under this section.

Penalty: In the case of a natural person,
50 penalty units;
In the case of a body corporate,
250 penalty units.

58 Energy Safe Victoria may request submission of revised safety case

S. 58
(Heading)
inserted by
No. 39/2005
s. 52(Sch. 2
item 8).

(1) Energy Safe Victoria may at any time request—

S. 58(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (a) an operator of a complex gas installation to which an accepted safety case applies to submit a revised safety case for that installation; or
- (b) a manufacturer of a class of Type B appliances to which an accepted safety case applies to submit a revised safety case for that class of appliances; or
- (c) a manufacturer of a class of complex gas installations to which an accepted safety case applies to submit a revised safety case for that class of gas installations.

S. 58(1)(a)
amended by
No. 91/1998
s. 27(1).

S. 58(1)(c)
amended by
No. 91/1998
s. 27(2).

- (2) The request must—
- (a) be in writing; and
 - (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and
 - (iii) the grounds for the request.

S. 59
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

59 Compliance with request

An operator or manufacturer must comply with a request under section 58 within the time (being not less than 60 days) specified by Energy Safe Victoria in the request.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

60 Lapsing of safety case

S. 60(1)
amended by
Nos 91/1998
s. 27(1)(2),
39/2005
s. 52(Sch. 2
item 2).

- (1) If an operator of a complex gas installation or manufacturer of a class of Type B appliances or a class of complex gas installations fails to comply with section 57 or 58, Energy Safe Victoria, by notice in writing to the operator or manufacturer, may determine that the accepted safety case applying to that gas installation or class of appliances or class of gas installations has lapsed.

S. 60(2)
amended by
Nos 91/1998
s. 27(1)(2),
39/2005
s. 52(Sch. 2
item 2).

- (2) An operator of a complex gas installation or a manufacturer of a class of Type B appliances or a class of complex gas installations may, by notice in writing to Energy Safe Victoria, withdraw an accepted safety case applying to that gas installation or class of appliances or class of gas installations.

- (3) If an accepted safety case has lapsed or been withdrawn, any exemption granted under section 55 in respect of that safety case lapses.

61 Duty of operator of complex gas installation

S. 61
amended by
No. 91/1998
s. 27(1).

The operator of a complex gas installation to which an accepted safety case applies must manage and operate that gas installation to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the use of the gas installation; and
- (b) the hazards and risks to property arising from the use of the gas installation.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

62 Duty of manufacturer of Type B appliances

A manufacturer of a class of Type B appliances in respect of which an accepted safety case applies must ensure that those appliances are manufactured and installed in such a manner to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the gas installation; and
- (b) the hazards and risks to property arising from the gas installation.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

S. 63
amended by
No. 91/1998
s. 27(2).

63 Duty of manufacturer of complex gas installations

A manufacturer of a class of complex gas installations to which an accepted safety case applies must ensure that those gas installations are manufactured in such a manner to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the gas installations; and
- (b) the hazards and risks to property arising from the gas installations.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

64 Compliance with safety case is a defence

It is a defence to a prosecution of a person for an offence relating to a breach of a duty set out in section 61, 62 or 63 if the person has complied with the accepted safety case in relation to that duty.

Division 4—Approval or authorisation to undertake certain gas work

65 Approval of persons to carry out upstream gas work

S. 65(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (1) Any person may apply to Energy Safe Victoria for approval to carry out upstream gas work in relation to a particular facility or class of facility.
- (2) An application under subsection (1) must—
 - (a) be in writing; and
 - (b) contain the prescribed information; and
 - (c) be accompanied by the relevant prescribed fee.

- (3) Energy Safe Victoria may grant an approval under this section to a person to undertake upstream gas work or a particular class of upstream gas work in relation to a particular facility or class of facility if Energy Safe Victoria is satisfied that the applicant has the appropriate qualifications and experience to undertake that work.
- (4) An approval under this section is granted subject to—
- (a) any terms, conditions or limitations specified in the approval; and
 - (b) any terms, conditions or limitations which are prescribed.
- (5) Energy Safe Victoria may at any time suspend or cancel an approval given under this section.

S. 65(3)
amended by
No. 39/2005
s. 52(Sch. 2
items 1, 2).

S. 65(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

66 Offence to carry out upstream gas work without approval or authorisation

A person must not carry out upstream gas work in relation to any facility unless the person—

- (a) is approved under section 65 to carry out that work; or
- (b) is authorised under an accepted safety case to carry out that work.

Penalty: In the case of a natural person,
50 penalty units;

In the case of a body corporate,
250 penalty units.

67 Standard of gas work

A person who carries out gas work in relation to a facility must carry out that work competently and with due regard to safety.

Division 5—Appliances and gas installations

68 Authorisation of acceptance scheme

S. 68
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

Energy Safe Victoria, by notice published in the Government Gazette, may declare any acceptance scheme for appliances or any part of the scheme specified in the notice to be authorised for the purposes of this Act.

69 Acceptance of appliance by Energy Safe Victoria

S. 69
(Heading)
inserted by
No. 39/2005
s. 52(Sch. 2
item 9).

- (1) Energy Safe Victoria, on the application of any person, may accept an appliance or class of appliances for the purposes of this Act.
- (2) An application must—
 - (a) be in writing; and
 - (b) contain or be accompanied by the prescribed information; and
 - (c) be made in accordance with the regulations; and
 - (d) be accompanied by the relevant prescribed fee.
- (3) Energy Safe Victoria must notify the applicant in writing of its decision—
 - (a) to accept an appliance or class of appliances; or
 - (b) to accept an appliance or class of appliances subject to the conditions specified by Energy Safe Victoria; or

S. 69(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

S. 69(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

S. 69(3)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

-
- (c) not to accept an appliance or class of appliances.
- (4) The conditions specified by Energy Safe Victoria in respect of an appliance or class of appliances may include—
- (a) requirements for the testing of the appliance or appliances in accordance with the regulations by a person or body approved by Energy Safe Victoria; and
- (b) requirements for modifications to be made to the appliance or appliances; and
- (c) requirements for the affixing of compliance plates to the appliance or appliances in accordance with the regulations.
- (5) Without limiting subsection (3), Energy Safe Victoria may decide not to accept an application under this section if an acceptance scheme authorised under this Division exists for the appliance.
- (6) If Energy Safe Victoria decides not to accept an appliance or class of appliance under this section it must notify the applicant in writing of the reasons for the decision.
- (7) If Energy Safe Victoria accepts an appliance or class of appliance subject to conditions, the acceptance takes effect in respect of an appliance when the conditions are complied with.
- S. 69(4) amended by No. 39/2005 s. 52(Sch. 2 item 2).
- S. 69(4)(a) amended by No. 39/2005 s. 52(Sch. 2 item 2).
- S. 69(5) amended by No. 39/2005 s. 52(Sch. 2 item 2).
- S. 69(6) amended by No. 39/2005 s. 52(Sch. 2 item 2).
- S. 69(7) amended by No. 39/2005 s. 52(Sch. 2 item 2).

s. 69A

69A Declaration of non-acceptance of appliance

S. 69A
inserted by
No. 91/2000
s. 22.

S. 69A(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

(1) Energy Safe Victoria may, by notice published in the Government Gazette, declare that an appliance or class of appliances is no longer accepted for the purposes of this Act.

S. 69A(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(2) If a notice under this section relates to a class of appliances, Energy Safe Victoria must also publish that notice in a newspaper circulating generally in the State.

S. 69A(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(3) If a notice under this section relates to a particular appliance, Energy Safe Victoria must also notify, in writing, the owner of the appliance or the occupier of the premises in which that appliance is installed of that notice.

S. 69A(4)
amended by
No. 39/2005
s. 52(Sch. 2
items 1, 2).

(4) Energy Safe Victoria may make a declaration under this section only if it appears to Energy Safe Victoria that the appliance or class of appliances is, or is likely to be, unsafe to use.

(5) On publication of the notice in the Government Gazette, the appliance or class of appliances is, while the notice is in force, deemed as the case requires—

S. 69A(5)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(a) not to be accepted under an acceptance scheme authorised under this Division; or

(b) not to be accepted by Energy Safe Victoria under this Division.

70 Offence to install certain Type A appliances

- (1) A person must not knowingly install a Type A appliance unless the appliance has been—
- (a) accepted under an acceptance scheme authorised under this Division; or
 - (b) accepted by Energy Safe Victoria under this Division.

S. 70
amended by
No. 91/2000
s. 23 (ILA
s. 39B(1)).

S. 70(1)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) Subsection (1) does not apply to a person who installs a Type A appliance of a prescribed class after an application is made for acceptance of the appliance—
- (a) under an acceptance scheme authorised under this Division; or
 - (b) by Energy Safe Victoria under this Division.
- (3) A person must not commission for use a Type A appliance that is installed in accordance with subsection (2) unless the appliance has been accepted—
- (a) under an acceptance scheme authorised under this Division; or

S. 70(2)
inserted by
No. 91/2000
s. 23.

S. 70(2)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 70(3)
inserted by
No. 91/2000
s. 23.

s. 71

S. 70(3)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(b) by Energy Safe Victoria under this Division.

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

S. 71
amended by
No. 91/2000
s. 24 (LA
s. 39B(1)).

71 Offence to supply or sell unaccepted appliances

(1) A person must not supply or offer to supply or sell
or offer to sell a Type A appliance unless the
appliance has been—

(a) accepted under an acceptance scheme
authorised under this Division; or

(b) accepted by Energy Safe Victoria under this
Division.

S. 71(1)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

S. 71(2)
inserted by
No. 91/2000
s. 24.

(2) Subsection (1) does not apply to a person who
supplies or offers to supply or sells or offers to
sell a Type A appliance of a class prescribed for
the purposes of section 70(2) if an application for
acceptance—

(a) under an acceptance scheme authorised
under this Division; or

(b) by Energy Safe Victoria under this Division—

S. 71(2)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

has been made for that appliance before that appliance is supplied or sold or offered for supply or sale.

- (3) If subsection (2) applies to an appliance, a person must not supply or offer to supply or sell or offer to sell that appliance unless the person first informs the person to whom the supply or sale or offer is to be made of the requirements of sections 70 and 72.

S. 71(3)
inserted by
No. 91/2000
s. 24.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

71A Offence to sell unsafe appliances

S. 71A
inserted by
No. 91/2000
s. 25.

- (1) A person must not knowingly, recklessly or negligently supply or offer to supply or sell or offer to sell an appliance that is unsafe.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) Subsection (1) does not apply to a person who—

- (a) supplies or offers to supply or sells or offers to sell the appliance to an appliance refurbisher and repairer; and
(b) the person informs the appliance refurbisher and repairer, before the appliance is supplied or sold or offered for supply or sale, that the appliance is unsafe.

(3) In this section—

appliance refurbisher and repairer means a person who carries on the business of repairing, rebuilding or refurbishing appliances.

S. 71B
inserted by
No. 91/2000
s. 25,
amended by
No. 31/2006
s. 6.

71B False labelling in relation to Type A appliances

A person must not, in connection with the supply or possible supply or sale of a Type A appliance, affix or cause to be affixed a label or compliance plate to the appliance that falsely represents that the appliance has been, and continues to be—

- (a) accepted under an acceptance scheme authorised under this Division; or
- (b) accepted by Energy Safe Victoria under this Division.

S. 71B(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

S. 71C
inserted by
No. 91/2000
s. 25.

71C Unsafe modifications to Type A appliances

- (1) A person must not knowingly, recklessly or negligently make a modification to a Type A appliance that would make the appliance unsafe to use if the appliance were used for its intended purpose.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

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- (2) This section does not apply to a temporary modification made by a person in the course of—
- (a) a process of manufacture or assembly of an appliance; or
 - (b) carrying out repair or maintenance work on an appliance; or
 - (c) rebuilding or refurbishing an appliance—
provided the appliance is safe to use for its intended purpose at the end of the process of manufacture or assembly, the carrying out of the repair or maintenance work or the rebuilding or refurbishment of the appliance (as the case requires).

72 Compliance with prescribed standards and requirements for work on gas installation

- (1) A person carrying out gasfitting work must ensure that that work complies with—
- (a) the prescribed standards and requirements in relation to that work; or
 - (b) the standards determined by Energy Safe Victoria under the regulations in relation to that work.

S. 72(1)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

- (2) A person carrying out gasfitting work on an appliance or gas installation must ensure that the appliance or gas installation complies with—
- (a) the prescribed standards and requirements in relation to that appliance or gas installation;
or

S. 72(2)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (b) the standards determined by Energy Safe Victoria under the regulations in relation to that work.

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

S. 72(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (3) A person may apply to Energy Safe Victoria in accordance with the regulations for an exemption from all or any of the standards or requirements referred to in this section.

S. 72(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 10(a)(b)).

- (4) Energy Safe Victoria may grant the exemption if it is satisfied that—
- (a) compliance with the standard or requirement does not warrant the cost of compliance; and
 - (b) the degree of safety attained by other means is acceptable.
- (5) An exemption may be granted on such conditions as are specified in the exemption.
- (6) A person to whom an exemption applies must comply with any conditions specified in the exemption.

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

73 Acceptance of gas installation

- (1) A person who carries out work on a complex gas installation or on a standard gas installation of a prescribed class must apply to Energy Safe Victoria for acceptance of the gas installation before the gas installation is commissioned.

S. 73(1) substituted by No. 91/1998 s. 28(1), amended by No. 39/2005 s. 52(Sch. 2 item 2).

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

- (2) An application must—
- (a) be in writing; and
 - (b) contain or be accompanied by the prescribed information; and
 - (c) contain or be accompanied by a statement of compliance in the prescribed form made and signed by a prescribed person or a person in a prescribed class of persons; and
 - (d) be made in accordance with the regulations; and
 - (e) be accompanied by the relevant prescribed fee.
- (3) Energy Safe Victoria must notify the applicant in writing of its decision—
- (a) to accept the gas installation; or
 - (b) to accept the gas installation subject to the conditions specified by Energy Safe Victoria; or
 - (c) not to accept the gas installation.

S. 73(3) amended by No. 39/2005 s. 52(Sch. 2 item 1).

S. 73(3)(b) amended by No. 39/2005 s. 52(Sch. 2 item 2).

s. 73

S. 73(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(4) The conditions specified by Energy Safe Victoria in respect of a gas installation may include—

S. 73(4)(a)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(a) requirements for the testing of the gas installation in accordance with the regulations by a person or body approved by Energy Safe Victoria; and

(b) requirements for modifications to be made to the gas installation; and

S. 73(4)(c)
amended by
No. 91/1998
s. 28(2).

(c) requirements for the affixing of compliance plates to the gas installation or to any appliance forming part of the gas installation in accordance with the regulations.

S. 73(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(5) If Energy Safe Victoria decides not to accept a gas installation under this section it must notify the applicant in writing of the reasons for the decision.

S. 73(6)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(6) If Energy Safe Victoria accepts a gas installation subject to certain conditions, the acceptance takes effect when the conditions are complied with.

(7) This section does not apply to a gas installation if an accepted safety case applies in relation to the gas installation.

(8) This section does not apply to repair or maintenance work on a gas installation.

S. 73(9)
inserted by
No. 91/1998
s. 28(3).

(9) In this section *gas installation* includes part of a gas installation.

74 Offence to use Type B appliance

Except in the prescribed circumstances, a person must not use a Type B appliance unless the gas installation of which that appliance forms part—

- (a) has been accepted by Energy Safe Victoria in accordance with this Division; or
- (b) has been installed in accordance with an accepted safety case.

S. 74(a)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

75 Offence to supply or sell certain appliances without giving required information

If section 74 applies to a Type B appliance, a person must not supply or offer to supply or sell or offer to sell a Type B appliance unless the person first informs the person to whom the supply or sale or offer is to be made of the requirements of section 74.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

76 Prohibition of supply or sale of gas installations, appliances and components

S. 76
substituted by
No. 91/2000
s. 26.

- (1) Energy Safe Victoria, by notice published in the Government Gazette and in a newspaper circulating generally in the State, may prohibit the supply or sale of—

S. 76(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

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- (a) a gas installation or gas installations of a specified class; or
 - (b) an appliance or appliances of a specified class; or
 - (c) a component or components of a specified class.
- (2) A prohibition under subsection (1) operates from the date of publication of the notice in the Government Gazette or from such later date as is specified in that notice.
- (3) Energy Safe Victoria, by notice in writing given to a person, may prohibit that person from supplying or selling—
- (a) a gas installation or gas installations of a specified class; or
 - (b) an appliance or appliances of a specified class; or
 - (c) a component or components of a specified class.
- (4) A notice given under subsection (3) operates from the date of the notice or such later date as is specified in that notice.
- (5) Energy Safe Victoria may exercise a power of prohibition under this section only if it appears to Energy Safe Victoria that—
- (a) the gas installation, appliance or component, or a gas installation, appliance or component of that class is, or is likely to become, by reason of its design or construction, unsafe to use; and
 - (b) prohibition of the supply or sale of the gas installation, appliance or component, or of all gas installations, appliances or components of that class, is warranted

S. 76(3)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

S. 76(5)
amended by
No. 39/2005
s. 52(Sch. 2
items 1, 2).

because of the risk of death or injury to any person or damage to any property arising out of the use of that gas installation, appliance or component or gas installations, appliances or components of that class.

- (6) Energy Safe Victoria may withdraw a prohibition made under subsection (1) by notice published in the Government Gazette and in a newspaper circulating generally in the State. **S. 76(6) amended by No. 39/2005 s. 52(Sch. 2 item 1).**
- (7) Energy Safe Victoria may withdraw a prohibition made under subsection (3) by notice given to the person to whom the prohibition was given. **S. 76(7) amended by No. 39/2005 s. 52(Sch. 2 item 1).**
- (8) This section applies whether or not the gas installation, appliance or component, or class of gas installations, appliances or components was accepted by Energy Safe Victoria or accepted under an acceptance scheme authorised under this Division. **S. 76(8) amended by No. 39/2005 s. 52(Sch. 2 item 2).**

77 Offence to disobey prohibition

- (1) A person must not, while a prohibition under section 76(1) remains in force, do anything prohibited by that prohibition.

Penalty: In the case of a natural person,
200 penalty units;

In the case of a body corporate,
1000 penalty units.

- (2) A person must not, while a prohibition under section 76(3) remains in force, do anything prohibited by that prohibition.

Penalty: In the case of a natural person,
200 penalty units or 2 years
imprisonment or both;

In the case of a body corporate,
1000 penalty units.

**S. 77(2)
amended by
No. 91/2000
s. 27.**

s. 78

78 Recall of gas installations, appliances or components

S. 78
substituted by
No. 91/2000
s. 28.

S. 78(1)
amended by
No. 39/2005
s. 52(Sch. 2
items 1, 2).

- (1) Energy Safe Victoria may make a requirement under this section only if it appears to Energy Safe Victoria that—
 - (a) a gas installation, appliance or component is, or is likely to become, by reason of its design or construction, unsafe to use; or
 - (b) specific action is necessary—
 - (i) to make the gas installation, appliance or component, or gas installations, appliances or components of that class safe to use; or
 - (ii) to render safe the use of the gas installation, appliance or component, or gas installations, appliances or components of that class.
- (2) Energy Safe Victoria, by notice in writing served on a person whose business is or includes the supply or sale of gas installations, appliances or components and who has supplied or sold the gas installation, appliance or component, or other gas installations, appliances or components of the same class, may require the person to take, within the period specified in the notice, the action specified in the notice.
- (3) The action specified in the notice may consist of or include—
 - (a) sending a written request to the person to whom the gas installation, appliance or component, or a gas installation, appliance or component of the same class, was supplied or sold—

S. 78(2)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

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- (i) to return the gas installation, appliance or component to the place at which it was supplied or sold; or
 - (ii) if it is not practicable to return the gas installation, appliance or component, to contact the person who supplied or sold the gas installation, appliance or component;
 - (b) placing an advertisement requesting all persons to whom a gas installation, appliance or component of that class was supplied or sold—
 - (i) to return the gas installation appliance or component to the place at which it was supplied or sold; or
 - (ii) if it is not practicable to return the gas installation, appliance or component, to contact the person who supplied or sold the gas installation, appliance or component;
 - (c) making the gas installation, appliance or component, or gas installations, appliances or components of that class safe to use or rendering safe the use of that gas installation, appliance or component in the manner specified in the notice.
- (3A) An advertisement referred to in subsection (3)(b) must be—
- (a) in a form approved by Energy Safe Victoria; and
 - (b) placed in a newspaper or newspapers—
 - (i) specified by Energy Safe Victoria; and
 - (ii) for a period or periods specified by Energy Safe Victoria.

S. 78(3)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 11).

S. 78(3A)
inserted by
No. 39/2005
s. 52(Sch. 2
item 12).

s. 79

S. 78(4)
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (4) Energy Safe Victoria may alter or revoke a requirement under this section by notice given to the person of whom the requirement was made.

S. 78(5)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (5) This section applies whether or not the gas installation, appliance or component or class of gas installations, appliances or components was accepted by Energy Safe Victoria or accepted under an acceptance scheme authorised under this Division.

79 Offence to fail to comply with requirement

A person of whom a requirement is made under section 78 must comply with that requirement.

Penalty: In the case of a natural person,
200 penalty units or 2 years
imprisonment or both;

In the case of a body corporate,
1000 penalty units.

Pt 3 Div. 6
(Heading)
inserted by
No. 91/2000
s. 29.

Division 6—Further offences relating to gas safety

S. 79A
inserted by
No. 91/1998
s. 29,
substituted by
No. 91/2000
s. 29.

79A Supply or sale of certain types of liquefied petroleum gas

- (1) A person, other than a gas company, must not knowingly supply or offer to supply or sell or offer to sell any type of liquefied petroleum gas for use in an appliance unless—
- (a) that gas meets the prescribed standards of quality; and
 - (b) the appliance is designed to be operated on that type of gas; and

(c) the person complies with the prescribed requirements in relation to the supply or sale of that gas.

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

(2) This section does not apply to a prescribed appliance or class of appliances.

79B Interference with gas company pipelines

A person must not carry out any excavation or boring or open any ground so as to uncover or expose any pipeline owned or operated by a gas company unless—

(a) the person has the authority of that gas company to do so; or

(b) if notice of the person's intention to do so is required to be given to that gas company under the regulations, the person gives that notice.

Penalty: In the case of a natural person,
20 penalty units;

In the case of a body corporate,
100 penalty units.

79C Interference with transmission pipelines

(1) A person must not carry out any excavation or boring or open any ground within 3 metres of a transmission pipeline unless—

(a) the person has the authority of the gas company which owns or operates the transmission pipeline to do so; or

S. 79B
inserted by
No. 91/2000
s. 29.

S. 79C
inserted by
No. 91/2000
s. 29.

s. 79D

(b) if notice of the person's intention to do so is required to be given to that gas company under the regulations, the person gives that notice.

Penalty: In the case of a natural person,
20 penalty units;

In the case of a body corporate,
100 penalty units.

(2) This section does not apply to—

(a) an owner or occupier of any land on or under which the transmission pipeline is situated or passes if the owner or occupier excavates or bores or opens ground to a depth of not more than 300 millimetres in that land; or

(b) a person who, on behalf of an owner or occupier of any land on or under which the transmission pipeline is situated or passes, excavates or bores or opens ground to a depth of not more than 300 millimetres in that land.

S. 79D
inserted by
No. 91/2000
s. 29.

79D Interference with pipeline, gas installation or meter assembly

(1) A person must not knowingly, recklessly or negligently break, injure, open or tamper with any pipeline, gas installation or meter assembly.

Penalty: In the case of a natural person,
40 penalty units;

In the case of a body corporate,
200 penalty units.

(2) This section does not apply to any person lawfully carrying out gas work in respect of the pipeline, gas installation or meter assembly.

PART 3A—ENERGY EFFICIENCY

Pt 3A
(Heading and
ss 79E, 79F)
inserted by
No. 91/2000
s. 30.

79E Proclaimed gas equipment

The Governor in Council, by Order published in the Government Gazette, may declare that any class, description or type of gas installation, appliance or component is, from a date specified in the Order, proclaimed gas equipment for the purposes of this Part.

S. 79E
inserted by
No. 91/2000
s. 30.

79F Proclaimed gas equipment not to be supplied unless registered and labelled

A person must not, after the date specified in the Order, supply or offer to supply proclaimed gas equipment unless the equipment is registered and labelled in accordance with the regulations relating to energy efficiency.

S. 79F
inserted by
No. 91/2000
s. 30.

Penalty: 50 penalty units.

Pt 4 (Heading and ss 80–85) amended by No. 91/2000 s. 31(a)(b), substituted as Pt 4 (Heading and s. 80) by No. 24/2002 s. 13.

S. 80 substituted by No. 24/2002 s. 13.

S. 80(1) amended by No. 39/2005 s. 52(Sch. 2 item 2).

PART 4—RIGHTS OF REVIEW

80 Applications to review

- (1) A person who is aggrieved by a decision of Energy Safe Victoria set out in subsection (2) may apply to the Tribunal for review of the decision.
- (2) An application for review may be made to the Tribunal in relation to the following—
 - (a) a decision under section 65 not to approve a person to carry out upstream gas work;
 - (b) a decision under section 65 to cancel or suspend an approval given under that section;
 - (c) a refusal under section 69 to accept an appliance;
 - (d) a declaration under section 69A that an appliance or class of appliances is no longer accepted;
 - (e) a refusal under section 73 to accept a gas installation;
 - (f) a condition on an acceptance under section 69 or 73;

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- (g) a prohibition under section 76;
 - (h) a requirement under section 78.
- (3) A person to whom an improvement notice or prohibition notice is issued under Part 6 may apply to the Tribunal for review of either or both of the following—
- (a) the decision to issue the notice;
 - (b) any requirement contained in the notice.
- (4) An application for review under subsection (3) must be made within 7 days after the later of—
- (a) the day on which the improvement notice or the prohibition notice (as the case requires) is received by the person making the application; or
 - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed, under section 46(5) of that Act that a statement of reasons will not be given.
- (5) Any other application for review under this section must be made within 28 days after the later of—
- (a) the day on which notice of the decision is received by the person; or
 - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed, under section 46(5) of that Act that a statement of reasons will not be given.
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Gas Safety Act 1997
No. 99 of 1997
Part 4—Rights of Review

s. 81

**Ss 81–85
repealed by
No. 24/2002
s. 13.**

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PART 5—INSPECTION

Division 1—Appointment of inspectors

86 Inspectors

- (1) The Director may appoint an officer or employee of Energy Safe Victoria or an agent or contractor of Energy Safe Victoria to be an inspector for the purposes of this Act and the **Gas Industry Act 2001**.
- S. 86(1) substituted by No. 39/1999 s. 32(1), amended by Nos 32/2001 s. 34(2), 39/2005 s. 52(Sch. 2 item 2).
- (2) The Director must give an identity card to each person who is appointed an inspector.
- S. 86(2) amended by No. 39/1999 s. 32(2)(a).
- (3) The identity card—
- (a) must be signed by the Director; and
- (b) bear a photograph and the signature of the inspector.
- S. 86(3)(b) amended by No. 39/1999 s. 32(2)(b).
- (4) An inspector must produce his or her identity card for inspection—
- S. 86(4) amended by No. 39/1999 s. 32(2)(c), substituted by No. 91/2000 s. 32.
- (a) before performing a function under this Act or the **Gas Industry Act 2001**; and
- S. 86(4)(a) amended by No. 32/2001 s. 34(3).
- (b) at any time during the performance of a function under this Act or the **Gas Industry Act 2001**, if asked to do so.
- S. 86(4)(b) amended by No. 32/2001 s. 34(3).

Penalty: 10 penalty units.

S. 86(5)
substituted by
No. 39/1999
s. 32(3),
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(5) The Director must not appoint an agent or contractor of Energy Safe Victoria to be an inspector unless satisfied that the agent or contractor—

(a) is competent to exercise the functions of an inspector; and

(b) is of good repute, having regard to character, honesty and integrity; and

(c) agrees in writing to carry out the functions of an inspector in accordance with such criteria as are established from time to time by Energy Safe Victoria.

S. 86(5)(c)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Division 2—Powers of entry—general

87 Powers of entry—safety cases and gas incidents

(1) An inspector may exercise powers under this section only to the extent that is reasonably necessary to do so for the purpose of—

(a) investigating a gas incident; or

(b) determining compliance with a safety case;
or

(c) monitoring the safety of gas installations; or

(d) determining compliance with this Act or the regulations.

S. 87(1)(b)
amended by
No. 91/2000
s. 33(1).

S. 87(1)(c)
inserted by
No. 91/2000
s. 33(1).

S. 87(1)(d)
inserted by
No. 91/2000
s. 33(1).

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- (1A) An inspector must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for a purpose set out in subsection (1)(c) or (d). **S. 87(1A) inserted by No. 91/2000 s. 33(2), amended by No. 39/2005 s. 52(Sch. 2 item 2).**
- (2) Subject to subsection (2A), an inspector may enter any residence or the land on which a residence is situated if— **S. 87(2) amended by No. 91/2000 s. 33(3).**
- (a) the inspector gives the occupier not less than 24 hours notice, or such other notice as may be agreed with the occupier, before the inspector enters the land or residence; and
 - (b) the occupier consents in writing to that entry; and
 - (c) the entry occurs only between 8 a.m. and 6 p.m., unless the occupier consents in writing to entry outside those hours.
- (2A) An inspector may not, for a purpose set out in subsection (1)(c) or (d), enter— **S. 87(2A) inserted by No. 91/2000 s. 33(4).**
- (a) a residence; or
 - (b) land (other than land that is used for a commercial or industrial purpose) on which a residence is situated.
- (3) An inspector may enter any other land or premises during normal business hours.
- (4) In carrying out an inspection under this section, an inspector must—
- (a) cause as little harm and inconvenience or damage as possible; and
 - (b) not remain on the land or premises any longer than is reasonably necessary; and
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S. 87(6)
inserted by
No. 91/2000
s. 33(5).

S. 87(6)(a)(v)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

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- (c) leave the land or premises as nearly as possible in the same condition as it was found prior to the inspection being carried out.
- (5) An inspector may not exercise any powers under this section if the inspector fails to produce, on request, his or her identity card for inspection by the occupier of the land or premises.
- (6) If an inspector exercises a power of entry under this section, without the owner or occupier being present, the inspector must—
- (a) on leaving the land or premises, leave a notice setting out—
 - (i) the time of entry; and
 - (ii) the purpose of entry; and
 - (iii) a description of all things done while on the land or premises; and
 - (iv) the time of departure; and
 - (v) the procedure for contacting Energy Safe Victoria for further details of the entry; and
 - (b) post a copy of that notice—
 - (i) to the owner of the land or premises, if the identity and address of that owner are known to the inspector; and
 - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the inspector.
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88 Occupier to be given copy of consent

- (1) An occupier who consents in writing to entry of his or her residence or the land on which the residence is situated under section 87 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry under section 87.

89 Emergency access

- (1) An inspector may enter any land or premises at any time in an emergency if there is a threat to the safety of persons or property arising from a situation relating to gas.
- (2) If an inspector exercises a power of entry under this section, without the owner or occupier being present, the inspector must, on leaving the land or premises, leave a notice setting out—
 - (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of all things done while on the land or premises; and
 - (d) the time of departure; and
 - (e) the procedure for contacting Energy Safe Victoria for further details of the entry.

S. 89(2)(e)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

90 Powers on entry

- (1) On exercising a power of entry under this Division, an inspector may for the purpose for which the power of entry was exercised—
 - (a) search the land or premises and anything found at the land or premises;
 - (b) inspect and take photographs (including video recordings), or make sketches, of the land or premises or anything on the land or at the premises;
 - (c) inspect, and make copies of, or take extracts from, any document kept on the land or at the premises;
 - (d) seize anything on the land or at the premises the inspector believes on reasonable grounds that it is necessary to seize in order to prevent its concealment, loss or destruction;
 - (e) examine, test and, if necessary, disconnect, seize and remove or otherwise make safe any appliance, gas installation, gas pipe, gas fitting, apparatus or equipment that the inspector considers unsafe or does not comply with this Act or the regulations or was involved in a gas incident.
- (2) If an inspector is unable to ascertain the identity of the owner or custodian of anything seized, the inspector must—
 - (a) leave a receipt with, or post it to, the owner of the land or premises from which the thing was seized; and
 - (b) if a document is seized, leave a copy of the document, if practicable, with, or post it to, the owner of the land or premises from which the document was seized.

91 Return of things seized

- (1) If an inspector seizes a thing under section 90, the inspector must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned within 14 days after it is seized, the inspector must take reasonable steps to return it unless—
 - (a) proceedings have commenced and those proceedings (including any appeal) have not been completed; or
 - (b) a court makes an order under section 92 extending the period of 14 days.

92 Magistrates' Court may extend period

- (1) An inspector may apply to the Magistrates' Court before the expiration of the period referred to in section 90 or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.

S. 93
substituted by
No. 24/2002
s. 14.

93 Entry to be reported to the Director

- (1) If an inspector exercises a power of entry under this Division, the inspector must report the exercise of the power to the Director within 3 business days after the exercise of the power of entry.
- (2) The report must be in writing and include all relevant details of the entry including the following—
 - (a) the full name of the inspector; and
 - (b) the time of the entry; and
 - (c) the address of the land or premises entered; and
 - (d) the purpose of the entry; and
 - (e) a description of all things done while on the land or premises, including photographs or video recordings taken, and details of items inspected, examined or tested, and details of items seized or removed, copies made and extracts taken; and
 - (f) the time of departure from the land or premises.
- (3) The Director must keep a register containing the particulars of all matters reported to the Director under this section.
- (4) The Director must keep, as part of that register, the register sent to it under clause 6(1)(a) of Schedule 1.

Division 3—Powers of entry—enforcement

94 Powers of entry—enforcement

- (1) If an inspector has reasonable grounds for suspecting that there is on any land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations, the inspector may—
 - (a) enter the land or premises; and
 - (b) search for the thing.
- (2) An inspector must not enter land or premises under this Division except—
 - (a) with the written consent of the occupier of the land or premises; or
 - (b) under the authority of a search warrant.

95 Occupier to be given copy of consent

- (1) An occupier who consents in writing to entry of his or her land or premises under section 94 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

96 Search warrant

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to particular land or premises if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.

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- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
 - (3) The search warrant may authorise an inspector named in the warrant and any assistants the inspector considers necessary—
 - (a) to enter the land or premises, or part of the land or premises, named or described in the warrant; and
 - (b) to search for the thing named or described in the warrant.
 - (4) In addition to any other requirement, a search warrant issued under this section must state—
 - (a) the offence suspected; and
 - (b) the land or premises to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
 - (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
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- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

97 Announcement before entry

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector named in the warrant must—
- (a) announce that he or she is authorised by the warrant to enter the land or premises; and
 - (b) give any person at the land or premises an opportunity to allow entry to the land or premises.
- (2) The inspector or a person assisting the inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the land or premises is required to ensure—
- (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated.

98 Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the land or premises when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

Division 4—General

99 Power of inspector to require information or documents

- (1) An inspector may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of—
- (a) investigating a gas incident; or
 - (b) investigating an emergency where there is a threat to the safety of persons or property arising from a situation relating to gas; or
 - (c) determining compliance with a safety case; or
 - (d) determining compliance with this Act or the regulations.

S. 99(1)(c)
amended by
No. 31/2006
s. 7(1).

S. 99(1)(d)
inserted by
No. 31/2006
s. 7(2).

S. 99(1A)
inserted by
No. 31/2006
s. 7(3).

- (1A) An inspector must obtain the prior written consent of Energy Safe Victoria before each exercise of a power under this section for the purpose of determining compliance with this Act or the regulations.
- (2) An inspector may require a person to give information to the inspector, to produce documents to the inspector and to give reasonable assistance to the inspector.
- (3) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (2) for a purpose set out in subsection (1)(a), (1)(b) or (1)(c).

S. 99(3)
amended by
No. 31/2006
s. 7(4).

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

- (4) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under subsection (2) for the purpose of determining compliance with this Act or the regulations.

S. 99(4)
inserted by
No. 31/2006
s. 7(5).

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

100 Offence to give false information to inspector

A person must not—

- (a) give information to an inspector under this Part that the person knows to be false or misleading in a material particular; or
- (b) produce a document to an inspector under this Part that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

101 Copying of documents

If a person produces a document to an inspector in accordance with a requirement under section 99, the inspector may make copies of, or take extracts from, the document.

102 Protection against self-incrimination

A natural person may refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Part if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.

S. 103
amended by
Nos 39/1999
s. 32(4),
32/2001
s. 34(4).

103 Offence to obstruct inspector

A person must not without reasonable excuse obstruct or hinder an inspector exercising functions under this Act or the **Gas Industry Act 2001**.

Penalty: In the case of a natural person,
300 penalty units or 3 years
imprisonment or both;

In the case of a body corporate,
1500 penalty units.

S. 104
amended by
Nos 39/1999
s. 32(5),
32/2001
s. 34(5).

104 Police to assist inspectors

An inspector may request the assistance of a member of the police force and a member of the police force may assist an inspector to take any action authorised by this Part or the **Gas Industry Act 2001**.

105 Impersonation of inspector

A person must not impersonate an inspector.

Penalty: 100 penalty units.

PART 6—ENFORCEMENT

Division 1—Directions

106 Director may give directions

- (1) The Director may, in writing, direct any person—
- (a) to cease the supply of gas to a facility, gas installation or appliance; or
 - (b) to make adjustments to the gas flow or to pressure in a pipeline; or
 - (c) to disconnect a gas installation from the gas supply—

if the Director considers that it is necessary to do so for safety reasons.

- (2) The Director may, in writing, direct a person—
- (a) to cease to use a particular facility, gas installation or appliance; or
 - (b) to make safe a facility, gas installation or appliance; or
 - (c) to do any other thing necessary to make an unsafe gas situation safe—

if the Director considers that it is necessary to do so for safety reasons.

- (3) A person must comply with a direction under this section that applies to the person.

Penalty: In the case of a natural person,
300 penalty units or 3 years
imprisonment or both;

In the case of a body corporate,
1500 penalty units.

107 Additional powers in emergencies

S. 107(1A)
inserted by
No. 39/1999
s. 33(1).

- (1) In addition to the powers under section 106, the Director may do anything or give any direction that the Director considers necessary to make a gas emergency situation safe.
- (1A) In addition to the powers under section 106 and subsection (1), the Director may in a gas emergency situation give any directions the Director considers necessary—
- (a) to regulate the use of the available supply of gas having regard to the needs of the community; or
 - (b) to facilitate the reliability of the supply of gas; or
 - (c) to facilitate the security of the systems for the transmission or distribution of gas.

S. 107(2)
amended by
No. 39/1999
s. 33(2).

- (2) A person must comply with a direction under this section that applies to the person.

Penalty: In the case of a natural person,
500 penalty units or 5 years
imprisonment or both;

In the case of a body corporate,
10 000 penalty units.

S. 107(3)
inserted by
No. 39/1999
s. 33(3).

- (3) An offence under subsection (2) is an indictable offence.

S. 107(4)
inserted by
No. 39/1999
s. 33(3),
amended by
No. 39/2005
s. 52(Sch. 2
item 1).

- (4) Energy Safe Victoria must include in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, a statement setting out details of each direction given by the Director under this section during that financial year.

107A Power of Minister

- (1) The Minister, at the request of the Director, may, at any time, make a direction in writing amending a direction made, or purportedly made, by the Director under section 106 or 107 for the purpose of correcting a defect, mistake or omission in such a direction.
- (2) If a direction of the Minister under subsection (1) amending a direction of the Director—
 - (a) includes a statement that the direction of the Director is deemed to have been made as so amended; and
 - (b) is made not later than 3 months after the direction of the Director was made—

the direction of the Director is deemed to have been made as so amended.

107B Delegation by Director

The Director may, with the consent of the Minister, by instrument, delegate any function or power of the Director under section 106 or 107 to an employee of Energy Safe Victoria.

108 Defence to certain offences if complying with Director's directions

It is a defence to a prosecution for a breach of an accepted safety case if the person who breached the safety case acted in accordance with the direction of the Director under this Division.

S. 107A
inserted by
No. 91/1998
s. 30.

S. 107B
inserted by
No. 91/1998
s. 30,
substituted by
No. 39/2005
s. 52(Sch. 2
item 13).

s. 109

S. 109
substituted by
No. 91/1998
s. 31,
amended by
No. 39/1999
s. 34(1)(a)(2)
(ILA s. 39B(1)).

109 Protection from liability

(1) A person to whom this section applies is not liable to any action, claim or demand on account of any damage, loss or injury sustained or alleged to be sustained because of anything done or omitted to be done in good faith—

S. 109(a)
amended by
No. 39/1999
s. 34(1)(b).

(a) in or in connection with or incidental to the exercise of a power under, or purportedly under, section 107; or

(b) in the reasonable belief that the act or omission was in or in connection with or incidental to the exercise of such a power.

S. 109(2)
inserted by
No. 39/1999
s. 34(2),
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

(2) This section applies to the Director, Energy Safe Victoria and the servants of Energy Safe Victoria.

S. 109A
inserted by
No. 91/1998
s. 31.

109A Protection of persons executing directions

A person is not liable to any action, claim or demand on account of any damage, loss or injury sustained or alleged to be sustained because of anything done or omitted to be done in good faith—

S. 109A(a)
amended by
No. 39/1999
s. 34(3).

(a) in the execution of any direction under, or purportedly under, section 107; or

(b) in the reasonable belief that the act or omission was in the execution of such a direction.

Division 2—Improvement and prohibition notices

110 Director or inspector may issue improvement notice

- (1) The Director or an inspector may issue an improvement notice to a person if the Director or inspector is of the opinion that the person—
 - (a) is contravening any provision of this Act or the regulations; or
 - (b) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated.
- (2) The improvement notice may require the person to whom it is issued to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.
- (3) An improvement notice must—
 - (a) state that the Director or inspector is of the opinion that the person—
 - (i) is contravening a provision of this Act or the regulations; or
 - (ii) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated; and
 - (b) state the reasons for that opinion; and
 - (c) specify the provision of this Act or the regulations in respect of which that opinion is held; and

- (d) specify the day (being a day more than 7 days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

111 Offence not to comply with improvement notice

- (1) A person to whom an improvement notice is issued must comply with the improvement notice.

Penalty: In the case of a natural person,
80 penalty units;

In the case of a body corporate,
400 penalty units.

- (2) Subsection (1) does not apply during any period that the operation of the improvement notice is stayed by the Tribunal.

S. 111(2)
amended by
No. 24/2002
s. 15.

112 Director or inspector may issue prohibition notice

- (1) If the Director or an inspector is of the opinion that at any place there is occurring or may occur any activity which involves or will involve immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas, the Director or inspector may issue a prohibition notice to the person who has or may be reasonably presumed to have control over the activity.
- (2) The prohibition notice may prohibit the carrying on of the activity until the Director or an inspector certifies in writing that the matters which give or will give rise to the risk are remedied.

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- (3) A prohibition notice must—
- (a) state that the Director or inspector is of the opinion that at the place there is occurring or may occur any activity which involves or will involve immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas; and
 - (b) state the reasons for that opinion; and
 - (c) specify the activity which in the Director's or the inspector's opinion involves or will involve an immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas; and
 - (d) if in the Director's or the inspector's opinion the activity involves a contravention or likely contravention of any provision of this Act or the regulations, specify that provision and state the reasons for that opinion.

113 Offence not to comply with prohibition notice

- (1) A person to whom a prohibition notice is issued must comply with the prohibition notice.

Penalty: In the case of a natural person,
500 penalty units or 5 years
imprisonment or both;

In the case of a body corporate,
2500 penalty units.

- (2) Subsection (1) does not apply during any period that the operation of the prohibition notice is stayed by the Tribunal.

S. 113(2)
amended by
No. 24/2002
s. 16.

114 Notices may include directions

- (1) The Director or an inspector may include in an improvement notice or a prohibition notice directions as to the measures to be taken to remedy any contravention, likely contravention, risk, matters or activities to which the notice relates.
- (2) A direction under subsection (1) may offer the person to whom it is issued a choice of ways in which to remedy the contravention, likely contravention, risk, matters or activities.

Division 3—Other matters

115 Offences by bodies corporate

- (1) If a body corporate commits an offence against this Act or the regulations, any officer of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.
- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act or the regulations.
- (4) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.

- (5) In subsection (1), *officer*, in relation to a body corporate, means—
- (a) a director, secretary or executive officer of the body corporate; or
 - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
 - (c) a person concerned in the management of the body corporate.

116 Offences by partnerships or unincorporated associations

If this Act or a regulation made under this Act provides that a person is guilty of an offence, that reference to a person must—

- (a) in the case of a partnership, be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated body or association, be read as a reference to each member of the committee of management of the body or association.

117 False or misleading information

- (1) A person must not give information that is false or misleading in a material particular to Energy Safe Victoria or to an officer or employee of Energy Safe Victoria in connection with an application, notice or submission under this Act or the regulations.

S. 117(1)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

Penalty: In the case of a natural person,
100 penalty units;

In the case of a body corporate,
500 penalty units.

s. 117AA

- (2) In a proceeding for an offence against subsection (1), it is a defence for the accused to prove that the accused believed on reasonable grounds—
- (a) in the case of false information, that the information was true; and
 - (b) in the case of misleading information, that the information was not misleading.

S. 117AA
inserted by
No. 91/2000
s. 34.

117AA Period within which proceedings for offences may be brought

Despite anything to the contrary in any Act, proceedings for an offence against this Act or the regulations may be commenced within the period of 3 years after the commission of the alleged offence.

PART 6A—INFRINGEMENT NOTICES

Pt 6A
(Heading and
ss 117AB–
117AK)
inserted by
No. 91/2000
s. 35.

117AB Definitions

S. 117AB
(Heading)
inserted by
No. 31/2006
s. 8(1).

In this Part—

S. 117AB
inserted by
No. 91/2000
s. 35.

inspector, in relation to an offence against section 72(1) or 72(2), includes—

S. 117AB
def. of
inspector
inserted by
No. 31/2006
s. 8(2).

- (a) the Plumbing Industry Commissioner appointed under Part 12A of the **Building Act 1993**; and
- (b) a plumbing inspector appointed under Part 12A of the **Building Act 1993**;

prescribed offence means an offence against section 71(1), 71(3), 71B, 72(1), 72(2), 79B or 79C(1).

117AC Power to serve a notice

S. 117AC
inserted by
No. 91/2000
s. 35.

- (1) An inspector may serve an infringement notice on any person that he or she has reason to believe has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 117AC(2)
substituted by
No. 32/2006
s. 94(Sch.
item 24(1)).

Gas Safety Act 1997
No. 99 of 1997
Part 6A—Infringement Notices

s. 117AE

S. 117AD
inserted by
No. 91/2000
s. 35,
repealed by
No. 32/2006
s. 94(Sch.
item 24(2)).

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S. 117AE
inserted by
No. 91/2000
s. 35.

117AE Infringement penalties

The infringement penalty for an offence against a provision of this Act is one-tenth of the maximum monetary penalty fixed by that provision.

Ss 117AF–
117AK
inserted by
No. 91/2000
s. 35,
repealed by
No. 32/2006
s. 94(Sch.
item 24(2)).

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PART 7—GENERAL

117A Supreme Court—limitation of jurisdiction

(1) It is the intention of sections 109 and 109A to alter or vary section 85 of the **Constitution Act 1975**.

S. 117A
inserted by
No. 91/1998
s. 32,
amended by
No. 39/1999
s. 35 (ILA
s. 39B(1)).

(2) It is the intention of section 109, as amended by the **Gas Industry Acts (Further Amendment) Act 1999**, to alter or vary section 85 of the **Constitution Act 1975**.

S. 117A(2)
inserted by
No. 39/1999
s. 35.

118 Regulations

(1) The Governor in Council may make regulations for or with respect to—

- (a) the safe conveyance, sale, supply, measurement, control and use of gas;
- (b) prescribing the standards of quality of gas to be conveyed, supplied or sold and empowering Energy Safe Victoria to exempt a gas company from those standards in prescribed circumstances;
- (c) requiring the keeping of records of factors affecting gas quality;
- (d) tempered liquefied petroleum gas plants;
- (e) the safe storage of gas in vessels which have an aggregate capacity not exceeding 500 litres and which are connected to a gas installation;
- (f) specifying the requirements and standards with which a safety case must comply;
- (g) specifying procedures for acceptance and revision of safety cases;

S. 118(1)(b)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

s. 118

S. 118(1)(k)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 118(1)(l)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

S. 118(1)(p)
amended by
No. 39/2005
s. 52(Sch. 2
item 2).

- (h) requiring a safety case to nominate the persons who are to carry out gas work or a class of gas work in any part of the facility or in relation to a gas installation to which the safety case applies;
- (i) requiring a safety case to nominate an independent auditor to monitor compliance with a safety case;
- (j) providing for the keeping of records in relation to safety cases;
- (k) empowering Energy Safe Victoria to exempt a safety case from all or any of the requirements of the regulations made in relation to safety cases;
- (l) the safety and acceptance of gas installations and appliances and the standards and requirements to apply to them, including standards determined by Energy Safe Victoria;
- (m) prescribing or approving standards or requirements for the quality and design of materials, fittings and apparatus to be used in or in connection with gas installations and the methods to be followed in carrying out gas installations;
- (n) requiring gas installations to be kept in proper repair;
- (o) the safety and acceptance of gas installations, appliances and components;
- (p) regulating and requiring tests to be carried out on appliances and gas installations before acceptance by Energy Safe Victoria;

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- (q) the information to be included in or to accompany an application for acceptance of an appliance or gas installation, including details of tests;
- (r) regulating and requiring the fixing of compliance plates issued by Energy Safe Victoria on gas installations, appliances and components; **S. 118(1)(r) amended by No. 39/2005 s. 52(Sch. 2 item 2).**
- (ra) requiring the keeping of records in relation to the service, maintenance, repair or modification of a complex gas installation or a Type B appliance; **S. 118(1)(ra) inserted by No. 59/2008 s. 40(1).**
- (s) empowering an inspector to disconnect or order the disconnection of an appliance or gas installation from a gas supply;
- (t) the supply or sale or offer of supply or sale of appliances and components;
- (u) prescribing the qualifications and experience required for persons engaged in upstream gas work and gasfitting work on complex gas installations; **S. 118(1)(u) amended by No. 91/1998 s. 27(2).**
- (v) notices to be given by persons proposing to carry out gas work and carrying out or completing the carrying out of any gas work;
- (w) the testing of gas by Energy Safe Victoria or an authorised officer of a gas company or any other person to ensure compliance with the prescribed standards and requirements, including— **S. 118(1)(w) amended by Nos 91/1998 s. 33, 39/2005 s. 52(Sch. 2 item 2).**
- (i) prescribing the apparatus with which and the methods by which tests are to be made for testing the quality of gas and the methods of recording those tests;
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s. 118

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- (ii) prescribing the method and frequency of checking the accuracy of that apparatus;
- (iii) prescribing the places and times at which tests must be made;
- (iv) requiring a gas company or an authorised officer of a gas company or any other person to certify that the tests have been carried out in accordance with the regulations;
- S. 118(1)(w)(iv) amended by No. 91/1998 s. 33.
- (wa) empowering Energy Safe Victoria to exempt a class or classes of persons from the requirement to undertake the testing of gas;
- (x) the methods of recording the measurement of gas;
- (y) requiring or regulating the reporting of gas incidents to Energy Safe Victoria or a gas company;
- S. 118(1)(ya) inserted by No. 31/2006 s. 9.
- (ya) the standards of energy efficiency and performance required for proclaimed gas equipment;
- (yb) prohibiting or regulating the supply or offer of supply of proclaimed gas equipment;
- S. 118(1)(yb) inserted by No. 91/2000 s. 36.
- (yc) the registration of proclaimed gas equipment, including—
- (i) applications for registration and the renewal, modification or transfer of registration and the information to accompany the applications (including details about tests);
- S. 118(1)(yc) inserted by No. 91/2000 s. 36.
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- (ii) the granting of registration;
 - (iii) conditions on registration;
 - (iv) the transfer of registration;
 - (v) variation of registration;
 - (vi) the refusal and cancellation of registration;
 - (vii) the renewal and duration of registration;
 - (viii) the keeping of registers of proclaimed gas equipment and registration holders;
 - (yd) the testing, marking and labelling of proclaimed gas equipment, including the provision of samples of that equipment and labels to Energy Safe Victoria for testing and the disposal of those samples; S. 118(1)(yd) inserted by No. 91/2000 s. 36, amended by No. 39/2005 s. 52(Sch. 2 item 2).
 - (ye) reasonable fees and charges to be charged for or for the recovery of reasonable costs for— S. 118(1)(ye) inserted by No. 91/2000 s. 36.
 - (i) the testing, examination, marking or labelling of proclaimed gas equipment;
 - (ii) the preparation of reports about proclaimed gas equipment;
 - (iii) the registration, renewal of registration, modification of registration or transfer of registration of proclaimed gas equipment;
 - (yf) authorising or requiring the giving of public notices in relation to proclaimed gas equipment and the recovery of costs associated with those notices; S. 118(1)(yf) inserted by No. 91/2000 s. 36.
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Gas Safety Act 1997
No. 99 of 1997
Part 7—General

s. 118

S. 118(1)(z) repealed by No. 24/2002 s. 17.	*		*		*		*		*
S. 118(1)(aa) amended by No. 39/2005 s. 52(Sch. 2 item 2).									
S. 118(1)(aa)(i) amended by No. 39/2005 s. 52(Sch. 2 item 2).									
S. 118 (1)(aa)(ii) amended by No. 39/2005 s. 52(Sch. 2 item 2).									
S. 118 (1)(aa)(iv) amended by No. 39/2005 s. 52(Sch. 2 item 2).									
S. 118(1)(bb) repealed by No. 24/2002 s. 17.	*		*		*		*		*
S. 118(1)(cc) amended by No. 39/2005 s. 52(Sch. 2 item 2).									

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- (ee) prescribing any matter or thing authorised or required to be prescribed or necessary or convenient to be prescribed for carrying this Act into effect.
- (2) Regulations made under this Act may be made—
- (a) so as to apply—
- (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State;
- (b) so as to require a matter affected by the regulations to be—
- (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or body;
- (c) so as to incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
- (i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or
 - (ii) as published or amended from time to time;
- (d) so as to confer a discretionary authority on or leave any matter to be determined by a specified person or body;

S. 118(2)(c)(ii)
amended by
No. 59/2008
s. 40(2).

- (e) so as to provide, in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to the extent specified.
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**PART 8—REPEALS, CONSEQUENTIAL AMENDMENTS
AND TRANSITIONAL PROVISIONS**

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Pt 8 Div. 1
(Heading and
ss 119–122)
repealed by
No. 91/2000
s. 37.

Division 2—Transitional provisions

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S. 123
amended by
No. 91/1998
s. 34,
repealed by
No. 39/2005
s. 51.

124 Transitional provisions—gas installations

- (1) Sections 34(2), 73 and 74 do not apply to a gas installation existing at the date of commencement of this section.
- (2) Subsection (1) ceases to apply to a gas installation if a modification is made to the gas installation on or after the commencement of this section, other than a modification associated with the repair or maintenance of the gas installation.
- (3) Subject to subsection (2), subsection (1) ceases to apply to a liquefied petroleum gas installation at the end of 5 years after the commencement of this section.

125 Transitional provisions—existing gas installation work

- (1) In this section *old regulations* means the Gas and Fuel Corporation (Gas Installation) Regulations 1992.

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- (2) On the commencement of this section—
- (a) a notice of compliance sent under regulation 19(2) of the old regulations before that commencement in respect of a gas installation but not accepted before that commencement is deemed to be an application for acceptance under section 73 in respect of that gas installation;
 - (b) an acceptance under the old regulations before that commencement of a notice of compliance in respect of a gas installation is deemed to be an acceptance of the gas installation under section 73;
 - (c) a submission sent under regulation 21 of the old regulations before that commencement in respect of a gas installation but not accepted before that commencement is deemed to be an application for acceptance made under section 73 in respect of that gas installation;
 - (d) an acceptance under regulation 21 of the old regulations before that commencement of a submission in respect of a gas installation is deemed to be an acceptance of the gas installation under section 73.

126 Transitional provision—appliances

An appliance which was approved under an approval scheme of the Australian Gas Association A.C.N. 004 206 044 before the commencement of this section and was still approved at that commencement is deemed on that commencement to be accepted under an acceptance scheme declared under section 68.

Gas Safety Act 1997
No. 99 of 1997

Part 8—Repeals, Consequential Amendments and Transitional Provisions

s. 127

**127 Transitional provisions—abolition of the Gas
Appeals Board**

Schedule 1 has effect.

S. 127
inserted by
No. 24/2002
s. 18.

Sch. 1
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
No. 24/2002
s. 19.

SCHEDULE 1

TRANSITIONAL PROVISIONS

1 Definitions

In this Schedule—

Board means Gas Appeals Board established under the **Gas Safety Act 1997** as in force prior to the commencement day;

commencement day means the day on which section 18 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002** comes into operation;

VCAT Act means the **Victorian Civil and Administrative Tribunal Act 1998**.

2 Abolition of the Gas Appeals Board

- (1) On the commencement day, the Gas Appeals Board is abolished and its members go out of office.
- (2) On and from the commencement day, a reference to the Board in any Act or subordinate instrument (other than this Schedule) or in any other document, so far as it relates to any period after that day and unless the context otherwise requires, must be construed as a reference to the Tribunal.
- (3) Subclause (1) does not affect any other provision of this Schedule—
 - (a) dealing with proceedings before the Gas Appeals Board; or
 - (b) providing for the Gas Appeals Board to continue for certain purposes.

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- (4) If under this Schedule the Gas Appeals Board continues for certain purposes, the provisions of the **Gas Safety Act 1997**, as in force immediately before the commencement day relating to membership and procedure, continue to apply for those purposes.

3 Pending proceedings

- (1) If, immediately before the commencement day, a proceeding was pending before the Board but the Board had not begun to hear the matter or had not been presented with any evidence on any material question of fact, the proceeding is to be heard and determined by the Tribunal and for that purpose—
- (a) the proceeding is to be taken to have been commenced in the Tribunal; and
 - (b) anything done in relation to the proceeding by the Board before the commencement day is deemed to have been done by the Tribunal; and
 - (c) the procedure that applies to the proceeding on and after the commencement day is the procedure set out in the VCAT Act and the rules made under it in relation to that class of proceedings; and
 - (d) anything done or omitted to be done in relation to the proceeding by a party or other person before the commencement day, under or in accordance with the procedure that applied before that day, must be taken, so far as possible, to have been done or omitted under or in accordance with the procedure applying on or after that day; and

- (e) the Tribunal has only the powers, functions and duties which the Board would have had in relation to the proceeding under this Act as in force immediately before the commencement day; and
 - (f) any order made by the Tribunal may only be appealed against in accordance with Part 5 of the VCAT Act.
- (2) If immediately before the commencement day a proceeding was pending before the Board and the Board had begun to hear the matter or had been presented with evidence on a material question of fact—
- (a) the proceeding is to be heard and determined by the Board in accordance with the provisions of the **Gas Safety Act 1997** as in force immediately before the commencement day; and
 - (b) the Board may make any determination or order in respect of the proceeding that it could have made immediately before the commencement day; and
 - (c) for the purpose of completing the proceeding and making a determination or order the Board will, despite clause 2(1), continue to exist; and
 - (d) the procedure that applies to the proceeding on and after the commencement day is the procedure that applied immediately before the commencement day.

4 Determinations or orders made by Board

A determination or order made by the Board in a proceeding finally determined by it before the commencement day may be enforced in accordance with this Act as in force immediately before that day.

5 Power to resolve transitional difficulties

If any difficulty arises because of the operation of this Schedule in relation to a proceeding (including a proceeding pending before the Board) to which clause 3 applies, the Tribunal may make any order that it considers appropriate to resolve the difficulty.

6 Transfer of registers

- (1) The Secretary to the Department of Natural Resources and Environment must ensure that—
 - (a) the register, required to be kept by the Gas Appeals Board under section 93(2) of the **Gas Safety Act 1997**, as in force immediately before the commencement of section 14 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, is sent to the Director; and
 - (b) the Register, required to be kept by the Registrar of the Board by clause 15 of Schedule 1 to the **Gas Safety Act 1997** as in force immediately before the commencement of section 18 of the **Energy Legislation (Further Miscellaneous Amendments) Act 2002**, and any other documents in the possession of the Board relating to proceedings before the Board, are sent to the principal registrar of the Tribunal.
 - (2) Despite subclause (1)(b), the Secretary is not required to send to the principal registrar documents relating to a proceeding to which clause 3(2) applies until the conclusion of that proceeding.
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 30 October 1997

Legislative Council: 19 November 1997

The long title for the Bill for this Act was "A Bill to provide for the safe conveyance, sale, supply, measurement, control and use of gas, to amend the **Gas Industry Act 1994** and other Acts and for other purposes."

The **Gas Safety Act 1997** was assented to on 16 December 1997 and came into operation as follows:

Part 1 (sections 1–8) on 16 December 1997: section 2(1); rest of Act on 1 February 1999: Government Gazette 21 January 1999 page 80.

2. Table of Amendments

This Version incorporates amendments made to the **Gas Safety Act 1997** by Acts and subordinate instruments.

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Amendment) Act 1998, No. 91/1998

Assent Date: 24.11.98
Commencement Date: S. 34 on 24.11.98: s. 2(1); ss 26(1), 28(2)(3), 29, 30, 33 on 1.12.98: s. 2(6); ss 31, 32 on 24.6.99: Government Gazette 24.6.99 p. 1465; ss 26(2)(3), 27, 28(1) on 1.9.99: Government Gazette 5.8.99 p. 1825
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Further Amendment) Act 1999, No. 39/1999

Assent Date: 8.6.99
Commencement Date: Ss 32, 33 on 8.6.99: s. 2(1); ss 34, 35 on 24.6.99: Government Gazette 24.6.99 p. 1465
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Amendment) Act 2000, No. 91/2000

Assent Date: 5.12.00
Commencement Date: Ss 16–22, 25–28, 30–37 on 12.4.01: Government Gazette 12.4.01 p. 643; ss 23, 24, 29 on 31.12.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 34 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Energy Legislation (Further Miscellaneous Amendments) Act 2002, No. 24/2002

Assent Date: 12.6.02
Commencement Date: Ss 12–19 on 29.7.02: Government Gazette 18.7.02 p. 1658
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Safety Act 1997
No. 99 of 1997

Endnotes

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 88) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Energy Safe Victoria Act 2005, No. 39/2005

Assent Date: 27.7.05
Commencement Date: Ss 49–52, Sch. 2 on 10.8.05: Special Gazette (No. 147) 9.8.05 p. 1
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Energy Legislation (Miscellaneous Amendments) Act 2006, No. 31/2006

Assent Date: 13.6.06
Commencement Date: Ss 6–9 on 14.6.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 24) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Energy Legislation Amendment (Retail Competition and Other Matters) Act 2008, No. 59/2008

Assent Date: 22.10.08
Commencement Date: S. 40 on 23.10.08: s. 2(1); s. 39 on 18.1.09: Government Gazette 18.12.08 p. 2998
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Energy Legislation Amendment (Australian Energy Market Operator) Act 2009, No. 23/2009

Assent Date: 17.6.09
Commencement Date: S. 37 on 1.7.09: Special Gazette (No. 222) 30.6.09 p. 1
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

3. Explanatory Details

No entries at date of publication.