

Petroleum and Gas (Safety) Amendment Regulation (No. 2) 2020

Explanatory notes for SL 2020 No. 206

made under the

Petroleum and Gas (Production and Safety Act) 2004

General Outline

Short title

Petroleum and Gas (Safety) Amendment Regulation (No. 2) 2020

Authorising law

Section 859 of the *Petroleum and Gas (Production and Safety) Act 2004* (PG Act)

Policy objectives and the reasons for them

The objectives of the *Petroleum and Gas (Safety) Amendment Regulation (No. 2) 2020* (Amendment Regulation) are to:

- operationalise the gas device approval authority (GDAA) framework established by amendments in the *Land, Explosives and Other Legislation Amendment Act 2019* (LEOLA Act); and
- correct technical errors in the *Petroleum and Gas (Safety) Regulation 2018* (PG Safety Regulation).

The LEOLA Act amends the PG Act to introduce a statutory framework to appoint and condition GDAA holders. A statutory framework will ensure contemporary, transparent and accountable processes are used to appoint and condition persons to approve gas devices in Queensland. Operation of the statutory framework requires application requirements and conditions for holding a GDAA to be specified in a regulation.

The approval of gas devices is a standard requirement of Australian and international gas safety regulators. In Queensland, the PG Act requires gas devices to be approved by the chief inspector or a GDAA holder before supplied, installed or used. Approval or certification of gas devices helps achieve the safety outcome to control risks associated with flammable, explosive and toxic gas during the operation of devices so they do not cause harm to workers or consumers.

Gas safety regulators commonly appoint appropriately skilled and qualified persons (including corporations) to assess and approve gas devices before their supply, installation or use. Prior to the LEOLA Act amendments, the PG Act provided for the chief inspector to approve an authority but did not include any statutory provisions to support the appointment or operation of authority holders. Reliance on administrative arrangements has resulted in unclear expectations and uncertainty. A transparent and accountable process to appoint and condition approving authorities achieves the safety outcome in the most efficient way as it provides clarity and certainty for gas industry businesses including certification bodies, approval authorities, manufacturers, suppliers and users of gas devices and regulators.

Achievement of policy objectives

The objective of the Amendment Regulation is achieved by making amendments to the PG Safety Regulation that:

- support the operation of a statutory framework by prescribing application requirements and conditions for GDAA holders; and
- correct minor technical errors related to the referencing of standards in schedule 2 and qualification requirements for gas work licence applicants.

The Amendment Regulation prescribes application requirements and conditions for GDAA holders that detail:

- qualifications and minimum experience requirements and additional suitable person considerations for GDAA applicants, with further requirements and supporting information to be included in the *Gas Device Approval Authorities – Requirements document* (Requirements document); and
- general conditions for holding a GDAA including an obligation to comply with conduct and technical requirements in the *Queensland Code of Practice – gas device approval authority holders* (code of practice).

The Amendment Regulation adds two provisions to the suitable person considerations established in the PG Act through the LEOLA Act amendments. Firstly, a consideration related to the cancellation or refusal of equivalent authorities for the applicant by other Australian and New Zealand jurisdictions. Secondly, a provision to consider a disability or medical condition that would prevent an applicant from complying with technical requirements.

Schedule 5A sets out qualifications and minimum experience requirements and references the Requirements document. This document provides further information about how an applicant's experience will be assessed and relied on by the chief inspector to condition the scope of work the holder is authorised to undertake.

The GDAA framework will provide that where an application is refused or a condition is imposed on a holder that they do not agree to, applicants will receive an information notice from the chief inspector. Information notices provide applicants with access to internal and external review processes, with an ultimate option to have their matter heard by the Queensland Civil and Administrative Tribunal.

Conditions for holding a GDAA included in the Amendment Regulation comprise:

- record keeping requirements for gas device approvals and the processes used by the GDAA holder to assess and approve gas devices;
- notifying the chief inspector of changed circumstances that relate to suitable person considerations;
- an obligation to meet safety outcomes when approving a gas device;
- for GDAA holders that hold accreditation by the Joint Accreditation System of Australia and New Zealand to operate a product certification scheme, an obligation to comply with the *Rules for Gas Appliance and Component Certification for Australia*;
- for all other GDAA holders:
 - an obligation to comply with conduct and technical requirements in the code of practice;
 - notification requirements for unsafe and unapproved gas devices, unqualified installation of gas devices; and
 - a requirement for the chief inspector to authorise installation work by a GDAA holder.

The Amendment Regulation corrects technical errors in the PG Safety Regulation by:

- changes to schedule 2 so references to all Australian Standards called up as safety requirements are consistent; and
- changes to clarify, for gas work licence applicants, that some part of the qualification requirements for a gas work licence is to have been completed within the 12 months prior to the application being made.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

There is no inconsistency with policy objectives of other legislation.

Benefits and costs of implementation

Minimal costs are anticipated and primarily relate to publishing of web content and other communications to stakeholders. No additional costs are anticipated for authority holders as the application requirements and conditions being prescribed reflect current practice and existing authority holders will be transitioned to be GDAA holders for 12 months.

A transparent and accountable process to appoint and condition approving authorities provides increased certainty for gas industry businesses including certification bodies, approval authorities, manufacturers, suppliers and users of gas devices and regulators.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

Consultation with all active authority holders has been ongoing since 2017 with the development of the LEOLA Act amendments. Consultation in 2020 included four workshops in March, a separate workshop for each type of approval authority. Authority holders also were provided an opportunity to provide feedback, over a four-week period, on the consultation package that comprised proposed regulation amendments and draft provisions of the Requirements document and the code of practice.

Feedback to the March 2020 workshops and in the submissions supported the framework and was used to refine regulation amendments, the code of practice and the requirements document.

In accordance with the *Queensland Government Guide to Better Regulation* (the guidelines), the Queensland Productivity Commission was consulted about the need to undertake further regulatory impact analysis. The Queensland Productivity Commission advised that the proposal is unlikely to result in significant adverse impacts and unlikely to add to the regulatory burden and is therefore excluded from further regulatory impact analysis under the guidelines.

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