

Gas Supply Amendment Regulation 2024

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Mick de Brenni MP, Minister for Energy and Clean Economy Jobs provide this human rights certificate with respect to the Gas Supply Amendment Regulation 2024 made under the *Gas Supply Act 2003*.

In my opinion, the Gas Supply Amendment Regulation 2024, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Gas Supply Regulation 2007 (GS Regulation) is made under the *Gas Supply Act 2003* (GS Act) to facilitate the regulated supply and sale of reticulated natural gas.

The GS Regulation supports the GS Act by clearly setting roles and responsibilities for interactions of certain gas distributors with consumers, including in relation to disconnection and reconnection to a distributor's network.

Once commenced, the *Gas Supply (Hydrogen Industry Development) and Other Legislation Amendment Act 2023* will broaden the application of the GS Act from 'processed natural gas' to enable hydrogen and other covered gases to be transported in pipelines.

The Gas Supply Amendment Regulation 2024 (Amendment Regulation) makes minor consequential amendments to the GS Regulation to ensure relevant provisions relating to disconnection and reconnection of consumers apply to hydrogen and other covered gases.

This will ensure the relevant consumer protection provisions of the GS Regulation give effect to, and are consistent with, the amended GS Act and that the Act is implemented as intended.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights relevant to the Amendment Regulation are:

- Recognition and equality before the law (section 15 of the HR Act)
- Privacy and reputation (section 25 of the HR Act)

In my opinion the Amendment Regulation promotes the human right to recognition and equality before the law at section 15 of the HR Act (rather than limit it) by extending existing consumer protections for processed natural gas customers to hydrogen and other covered gas customers.

Similarly, the human right to privacy and reputation in section 25 of the HR Act includes a person not having their home arbitrarily interfered with. The Amendment Regulation promotes this right by ensuring existing consumer protection provisions relating to disconnection and reconnection are extended to hydrogen and other covered gases.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

I consider that any limitation on the right to recognition and equality before the law (section 15 of the HR Act) is reasonable and demonstrably justifiable as set out below.

The Amendment Regulation amends section 43(h) of the GS Regulation. This section provides for the grounds for disconnection where the customer has unlawfully taken covered gas.

(a) the nature of the right

Section 15 (right to recognition and equality before the law) of the HR Act reflects that every person holds the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group. This right encompasses the right to recognition as a person before the law and the right to enjoy human rights without discrimination.

This right may be limited to the extent that the Amendment Regulation enables the customer's disconnection from the covered gas supply where the customer has unlawfully taken covered gas. The unlawful taking of covered gas is in contravention of section 289 of the GS Act and under the Act a penalty of up to 500 penalty units can be imposed. The action of disconnecting covered gas supply for such behaviour may adversely and disproportionately impact sections of the community such as persons of lower socio-economic status who may have more difficulty paying for their energy usage.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The offences and offence proceedings are well established and provided for in the GS Act. The purpose of the Regulation Amendment is to ensure consistency with primary legislation. In this specific instance it merely extends the scope of section 43(h) from 'processed natural gas' to hydrogen and other covered gases.

Though not directly enacted by this Regulation Amendment, the purpose of the offence provisions and the GS Act more broadly are to promote efficient and economical supply of covered gases and ensure the interests of customers are protected by regulating the distribution services for covered gases.

Enabling the disconnection of covered gas supply where unlawfully taken is a proportionate response to this offence. This is consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

There is a direct relationship between a distributor disconnecting the customer where a customer has unlawfully taken covered gas and the purpose to promote efficient and economical supply of covered gases and ensure the interests of customers are protected by regulating the distribution services for covered gases.

In addition to the financial penalties which may be imposed under section 289 of the GS Act, disconnection is proportionate and encourages compliance.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

The Amendment Regulation is a consequential amendment to give effect to, and ensure consistency with, the amended GS Act. There is no less restrictive and reasonably available way to achieve the purpose.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

On balance, taking into account the nature and extent of the limitations and having regard to the information and analysis detailed above, I consider that the importance of consistency with primary legislation and supporting the purpose of the GS Act to promote efficient and economical supply of covered gases and ensure the interests of customers are protected by regulating the distribution services for covered gases, outweighs any limitations on the human rights identified in this human rights certificate.

Conclusion

I consider that the Gas Supply Amendment Regulation 2024 is compatible with the *Human Rights Act 2019* because it limits relevant human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

MICK DE BRENNI MP
MINISTER FOR ENERGY AND CLEAN ECONOMY JOBS

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