



Electricity and Gas Complaints Commissioner Scheme

Proposed amendments to the Scheme document

LPG in cylinders

Consultation document

SUBMISSIONS DUE 25 July 2014

Contents

1. Background to proposed changes for LPG in cylinders	2
2. Regulations gazetted.....	2
3. Proposed amendments	2
4. Proposed amendments meet the requirements of clause E.63	3
5. Process and proposed timetable	4
6. Closing date for submissions	4
7. Making submissions	4
Appendix 1 Summary of, and rationale for, proposed changes	6
Appendix 2 Preferred form for submissions	9

1. Background to proposed changes for LPG in cylinders

The EGCC Board is seeking submissions on its proposals to amend the Scheme document to confirm and clarify the Commissioner's jurisdiction to consider complaints about LPG in cylinders.

In November 2013, the Board consulted on proposed changes to the Scheme document for non-reticulated LPG. The Board decided to defer making changes until the Ministry of Business Innovation and Employment (MBIE) finalised its work on exemptions from the requirement to be a Scheme Member. In making this decision, the Board accepted the recommendation of the working group that it was better to wait until it was clear whether, and if so to what extent, retailers of non-reticulated LPG would be covered by any class exemption. The working group also believed this would allow the Scheme to use terminology consistent with the wording of any regulations.

2. Regulations gazetted

On 10 July 2014, the Gas (Dispute Resolution Scheme Membership) Class Exemption Regulations 2014 were gazetted. These regulations exempt gas refuellers who supply LPG in cylinders in quantities less than 15 kg. The regulations take effect on 7 August 2014.

The [regulations](#) are available on www.legislation.govt.nz.

3. Proposed amendments

The Board proposes to amend the Scheme document to:

- Amend the definition of gas so it includes gas in cylinders (other than covered by the class exemption)
- Create an effective date for the changes

- Remove “Consumer” from “Consumer ICPs” in the levy and voting clauses (Parts D and E) to ensure the calculations of ICPs are applied consistently

Appendix 1 contains a summary of the proposed changes to the Scheme, with an explanation of the rationale for the changes.

A full copy of the proposed amended Scheme document is available on the [current consultation](#) page of www.egcomplaints.co.nz

4. Proposed amendments meet the requirements of clause E.63

The Board has agreed the proposed amendments meet the requirements of clause E.63 of the Scheme document.

Clause E.63 of the Scheme document requires the Board to be satisfied proposed amendments are consistent with any policy statements on gas governance; with the requirements of schedule 4 of the Electricity industry Act 2010; and with the purpose of the Scheme and its founding principles.

There are no government policy statements relevant to the proposed changes.

The Board believes the proposed changes in general enhance the Scheme’s compliance with the principles in clause 5(2) of schedule 4. In particular the proposed changes will enhance accessibility of the Scheme by ensuring consumers of LPG in cylinders with capacity of more than 15 kg will be able to access the Scheme. These changes will also ensure the Scheme complies with the scope required by section 43E of the Gas Act 1992.

The Board also believes the proposed changes are necessary for the Scheme to maintain compliance with the requirements of clause 13. Clause 13 requires the Scheme to have rules that provide for any consumer (other than members) to make complaints to the Scheme for resolution.

5. Process and proposed timetable

Table 1 outlines the process and timetable for making the changes to the Scheme for LPG in cylinders.

Table 1 – Outline process and timetable

Week	Activity
7 – 11 July	Board considers and approves consultation document and process for appointing working group (11 July)
14 – 18 July	Consultation (2 weeks)
21 – 25 July	Consultation closes on 25 July
28 July – 1 August	Working group meets (if required), considers submissions, makes recommendations to the Board
4 – 8 August	Board votes on proposed changes
11 – 15 August	Notice of proposed changes given to Minister of Consumer Affairs and to members (14 August)
29 September – 3 October	Time for Minister to object expires 29 September (45 days)
29 September – 3 October	Scheme document amended (1 October)

Once the Board approves the final version of the amended Scheme document, the Board will notify the Minister of the proposed changes in accordance with E.65 and E.66 of the Scheme document.

The Commissioner's office will make the amended Scheme document available on its website.

The Board may re-convene the working group of stakeholder representatives to review submissions received and make recommendations to the Board.

6. Closing date for submissions

The closing time and date for submissions is **5 pm on Friday 25 July 2014**.

Please note late submissions are unlikely to be considered.

7. Making submissions

Please send submissions in Microsoft Word format to:

Email submissions@egcomplaints.co.nz.

Post PO Box 5875, Lambton Quay, Wellington 6145

In making submissions, please use the template in appendix 2. Submitters should indicate any documents attached in support of the submission in a covering letter.

A word version of the form (with expandable boxes) called the *Preferred form for submissions* is available on the current consultation page of the website.

The Board may make submissions available on the Commissioner's website. If submitters provide any information on a confidential basis, please clearly show this in a cover letter.

If you have any **questions** during the consultation process, please contact James Blake-Palmer either by email j.blake-palmer@egcomplaints.co.nz or phone 04 9144 537.

All submissions will be acknowledged. If you do not receive an acknowledgement within two working days, please contact Christy Waller 04 9144 542 or c.waller@egcomplaints.co.nz

A handwritten signature in black ink that reads "Heather Roy". The signature is written in a cursive style with a large, looped 'R'.

Hon Heather Roy
Independent Chair
Electricity and Gas Complaints Commissioner Scheme

14 July 2014

Appendix 1 Summary of, and rationale for, proposed changes

Clause	Proposed amendment
Definitions	<p>Amend definition of 'Gas' to remove reference to '<i>gas supplied through a distribution system</i>' and remove the unnecessary words '<i>to avoid doubt</i>':</p> <p><i>Natural gas, which meets the New Zealand Specification for Reticulated Natural Gas NZS5442:1990 (as amended or replaced from time to time), or liquefied petroleum gas, that is supplied to a Consumer through a Distribution System but excludes, to avoid doubt:</i></p> <p>(a) <i>LPG for transportation purposes; and</i></p> <p>(b) <i>LPG in cylinders for which gas retailers are exempted from the requirement to be a Scheme Member by regulations under the Gas Act 1992.</i></p> <p>(c) <i>CNG for transportation purposes.</i></p>
Commissioner's Terms of Reference	<p>Amend clause B.6.4 to provide a starting date for consideration of complaints relating to LPG in cylinders. The starting date is the date the class exemption regulations come into force. This ensures the Scheme complies with the requirements of section 43E of the Gas Act 1992 as soon as possible:</p> <p><i>B.6.4 The act or failure to act that gives rise to the Complaint first occurred:</i></p> <p>...</p> <p>(b) <i>In the case of a Gas-related or a combined electricity and Gas-related Complaint, other than a complaint related to LPG in cylinders, on or after 1 April 2005; or</i></p> <p>...</p> <p>(d) In the case of a Complaint related to LPG in cylinders, on or after 7 August 2014</p>
Levies	<p>Amend clause D.9 to remove the reference to '<i>Consumer</i>' in relation to ICPs. This is because '<i>Consumer</i>' is defined in the Scheme document to include a '<i>potential Consumer</i>'. To avoid an unintended consequence of levies factoring in <i>potential</i> ICPs, this unnecessary part of the definition can be removed.</p> <p>The definition of '<i>Consumer</i>' in both the electricity and gas legislation excludes generators, distributors and retailers, except where they are the end user. This change means such a member is not disadvantaged because an ICP for a property where a retailer supplies its own premises can be included in that members total ICP's for the purposes of calculating levies and (as set out further below) voting.</p> <p>The definition of ICP in the Scheme document covers LPG in cylinders by referring to an ICP as the point at which gas may</p>

flow between the distribution system and the consumer's premises. A distribution system means all fittings, whether above or below ground, used to distribute gas from—

- (i) the boundary of the gasworks or gate station outlet flange supplying gas for distribution to the point of supply of the place at which the gas is supplied to a consumer or gas refueller; or
- (ii) the outlet of the container in which gas for distribution is stored to the point of supply of the place at which the gas is supplied to a consumer or gas refueller

Currently ICPs for LPG in cylinders are not entered on the gas registry. Clause D.9.5 already provides for the Board to obtain information from Scheme Members where ICPs are not on an industry registry.

The proposed wording is:

*D.9.2 Of the percentage to be raised from or distributed to Retailer Joint Class Scheme Members, each Retailer Scheme Member's proportion will be determined by its market share of the retail sector based on energised **Consumer** ICPs mapped to each Retailer, compared with the total number of energised **Consumer** ICPs mapped to all Retailer Scheme Members.*

*D.9.3 Of the percentage to be raised from or distributed to Lines Company Joint Class Scheme Members excluding Transpower and any Gas Lines Company that only operates Gas Transmission Pipelines, each Lines Company Scheme Member's proportion will be determined by its market share based on the number of energised **Consumer** ICPs on its network or Distribution System, compared with the total number of energised **Consumer** ICPs mapped to all Lines Company Scheme Members.*

*D.9.5 Numbers of energised **Consumer** ICPs will be calculated by the Board based on information available to the Board. Scheme Members authorise the Board or any person authorised by the Board to obtain the relevant information from the Electricity Registry or Gas Registry, or from Scheme Members' records, for this purpose.*

Scheme Member Participation - voting	<p>As with the proposed changes to D.9 regarding levies, the same amendments (removal of the word 'Consumer') are proposed to clause F.15 and F.17 to cover allocations for voting:</p> <p><i>The number of votes that each Scheme member may exercise is determined as follows:</i></p> <p>F.15.1 Retailer Joint Class:</p> <p><i>Each Retailer Scheme Member has one vote for each 0.01% of its market share of all energised Consumer ICPs mapped to each Retailer, compared with the total number of energised Consumer ICPs mapped to all Retailer Scheme Members.</i></p> <p>F.15.1 Lines Company Joint Class:</p> <p>(a) <i>Each Lines Company other than Transpower New Zealand Limited and Lines Company Scheme Members that only operate Gas Transmission Pipelines has one vote for each 0.01% of its market share of energised Consumer ICPs on its network or Distribution System, comparative to the total number of energised Consumer ICPs mapped to all Lines Company Scheme Members. The calculation of each Lines Company Scheme Member's market share shall take into account Transpower's deemed market share calculated under clause F.15.2(b)(ii) and the deemed Gas Transmission Pipeline market share of any Scheme Member that is operating Gas Transmission Pipelines under clause F.15.2(c). The voting rights of any Scheme Member as determined under this clause will be in addition to its voting rights calculated under clause F.15.2(c).</i></p>
Scheme Member Participation - voting	<p>F.17 <i>The number of energised Consumer ICPs must be calculated at the date the notice of a general meeting of the Scheme Members is given under clause F.9 based on information available to the Board. Each Scheme Member authorises the Board or any person authorised by the Board to access the Electricity Registry and the Gas Registry and Scheme Members' records for this purpose. Scheme Members will provide all information sought within 5 working days of such request.</i></p>

Appendix 2 Preferred form for submissions

Questions for submitters	Yes/No	Comment
1. Do you agree with the Board's proposal that the Commissioner have jurisdiction to consider complaints about LPG in cylinders?		
2. Do you agree with the proposed changes to the definition of gas in the interpretation section?		
3. Do you agree with the proposed effective date for considering complaints about LPG in cylinders (clause B.6.4)?		
4. Do you agree with the removal of "Consumer" from clauses D.9, F.15 and F.17?		
5. Do you have any other comments you would like the Board to consider about the proposed changes for LPG in cylinders?		