Version
as at 6 June 2026

Gas Act 1992

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Commencement	see section 1

Contents

		Page
	Title *[Repealed]*	7
1	Short Title and commencement	7
1A	Purposes	7
	Part 1 **Preliminary provisions**	
2	Interpretation	7
3	Application	15
3A	Transitional, savings, and related provisions	16
4	Act to bind the Crown	16
	Part 2 **General**	
	Gas operators	
5	Declaration of person as gas operator	16
	Functions and powers of WorkSafe and Secretary	
6	Functions of WorkSafe	17
6A	Functions of Secretary	17

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Business, Innovation, and Employment.

6B WorkSafe and Secretary must share information 18
7 Inspection of distribution systems, etc 18
8 Report to be compiled 19
9 Special powers of WorkSafe 20
10 Objections to WorkSafe's requirements 21
11 Effect of notice or requirement pending hearing 22
12 Procedure on hearing of objection 22
13 Appeal on question of law 22
14 WorkSafe may require immediate compliance 23
15 Appeal against decision on application for injunction 24
16 Assessors 24
17 Notification of accidents 25
17A Transfer of accident information 26
18 Interference with scene of accident 26
19 Inquiries into accidents 27
20 Assistance to WorkSafe 27
21 Obstructing WorkSafe 28
22 Privilege against self-incrimination 29

Part 3
Powers and duties of gas operators and other owners of gas fittings

23 Protection of existing fittings 29
24 Rights of entry in respect of existing fittings 29
25 Construction or maintenance of fittings on roads 30
25A Criteria for setting reasonable conditions 30
26 Notice to be given before work undertaken 31
27 Offence 32
28 Appeals in relation to conditions imposed 32
29 Determination of appeals 33
30 Appeal on question of law 33
31 Charging for access to road reserve 33
32 Rights of entry in respect of level crossings 33
33 Local authority, etc, may require fittings to be moved 34
34 Cost of work required under section 33 35
35 Government Roading Powers Act 1989 not to apply 37
36 Owners and occupiers of private land and buildings may move fittings 37

Part 4
Gas codes of practice

37 Issue of gas code of practice 37
38 Code may incorporate official standards by reference 38
39 Code to be approved by Minister 39
40 Availability of codes 40

41 Emergency amendment of code 40
42 Citation of code 41
43 Proof of code 41

Part 4A
Governance of gas industry

Subpart 1—General and regulation-making powers

Preliminary provisions

43A Purpose 42
43B Outline of Part 42
43C Outline of regulation-making powers 43
43D Interpretation 43

Dispute resolution

43E Access to dispute resolution scheme 45
43EAA Indemnity disputes 45
43EA Membership of dispute resolution scheme 46
43EB Compliance with rules and binding settlements 47
43EC Offence to fail to comply with District Court order 48

Gas industry regulation-making powers

43F Gas governance regulations for wholesale market, processing facilities, transmission, distribution of gas, security of supply, and disclosure 48
43G Other gas governance regulations 50
43H Low fixed charge tariff option for domestic consumers 52

Process for making recommendations for gas governance regulations

43I Which gas governance regulations can be made if there is no industry body or Commission 54
43J Which gas governance regulations can be made if there is industry body but no Commission 55
43K Which gas governance regulations can be made if there is Commission 55
43L Consultation before making recommendation for gas governance regulations 56
43M Other process for making recommendations for gas governance regulations 56
43N Assessment of proposed gas governance regulations 57
43O Process after making recommendation for gas governance regulation 57
43P Urgent regulations 58

Gas governance rules

43Q Gas governance rules 58

43R Method of making gas governance rules *[Repealed]* 59

Supplementary provisions

43S Supplementary provision relating to regulations and rules 60
43TA Regulations may provide for pecuniary penalties for consumers (other than domestic consumers) 61
43T Supplementary empowering provision for regulations *[Repealed]* 62

Provisions that apply if gas governance regulations or rules are in force

43U Party must co-operate with investigations 62
43V Privileges protected 63
43W Limits on investigation powers 63
43X Rulings Panel may make certain orders 64
43Y Restriction of remedies 65
43YA Offence to breach compliance orders 65
43Z Limit on tort claims against service providers 65

Appeals

43ZA Appeals on ground of lack of jurisdiction 66
43ZB Judicial review not precluded 66
43ZC Appeals on question of law in relation to decisions by industry body, Commission, or Rulings Panel 66
43ZD Right of appeal against suspension or termination orders 66
43ZE Persons entitled to appeal 66
43ZF Determination of appeals 67
43ZG High Court may refer appeals back to industry body, Commission, or Rulings Panel for reconsideration 67
43ZH Provisions pending determination of appeal 67
43ZI High Court may order proceedings be heard in private 68
43ZJ Appeal to Court of Appeal in certain cases 68

Subpart 2—Co-regulation of gas industry

43ZK Purpose of subpart 68

Approval of industry body

43ZL Approval of industry body 69
43ZM Revocation of approval of industry body 70

Objectives of industry body in relation to recommendations for gas governance regulations

43ZN Objectives of industry body in recommending regulations for wholesale market, processing facilities, transmission, and distribution of gas 70

GPS objectives and outcomes

43ZO Setting of GPS objectives and outcomes 71

43ZP What Minister can do with industry body recommendations about wholesale market, processing facilities, transmission, distribution of gas, security of supply, and disclosure 71

Industry body statement of intent

43ZQ Industry body statement of intent 72
43ZR Extra information required in statement of intent for first financial year 73
43ZS Application and term of statement of intent 73
43ZT Process for providing statement of intent to Minister 74
43ZU Amendments by industry body 74
43ZV Statement of intent must be publicised 75

Industry body annual report

43ZW Annual report 75
43ZX Disclosure of payments in respect of industry body board members and employees 76
43ZY Annual report must be presented to House of Representatives 77

Miscellaneous provisions

43ZZ Publication of industry body documents 77
43ZZA Auditors 77

Levy to fund industry body

43ZZB Industry body recommendation for levy regulations 78
43ZZC Costs that may be met from levy 78
43ZZD Minister must accept recommendations if certain conditions met 79
43ZZE Levy regulations that may be made 79
43ZZF Expiry of subpart 80

Subpart 4—Exemptions from restrictive trade practice provisions of Commerce Act 1986

43ZZR Authorisations for purposes of Commerce Act 1986 81

Subpart 5—High Court may impose pecuniary penalty on certain consumers for breach of gas industry regulations or rules

43ZZS When High Court may order certain consumers to pay pecuniary penalty 81
43ZZT Considerations for High Court in deciding on amount of pecuniary penalty 82
43ZZU Rules of civil procedure and civil standard of proof apply 82
43ZZV Only 1 pecuniary penalty order may be made for same conduct 83

Part 5
Miscellaneous provisions

General

44 Gas suppliers 83

45 Standards for gas supply 83
46 Safety requirements for distribution systems, etc 83
46A Owners or operators of gas supply systems must have safety management system 84
46B Offence to breach requirement to have safety management system 84
47 Testing and inspection of gasfitting work 84
48 Power of entry 85
49 Power to require information *[Repealed]* 85
50 Conditions relating to power to enter land or premises 85
51 Compensation for damage 86
52 Penalty for obstructing officers 87
53 Notices in relation to Maori land 87

Regulations—General

54 Regulations 87
54A Regulations that prescribe requirements for safety management systems 94
54B Miscellaneous provisions relating to regulations that prescribe requirements for safety management systems 95

Regulations—Information disclosure

55 Regulations relating to information disclosure 96
56 Information to be supplied to Secretary 99
56A Reasonable charge may be imposed for providing copies of statements 100

Regulations—Disclosure of market information to industry body or Secretary

56AA Regulations relating to disclosure of market information to industry body or Secretary 100
56AAB Industry body or Secretary may publish information 102

Gas safety instruments

56AB Minister may approve gas safety instruments 102
56AC Legal effect of gas safety instruments 103
56AD Minister may delegate approval of gas safety instruments to WorkSafe 103

Miscellaneous provisions

56B Offences for actions or omissions likely to cause serious harm or significant property damage 104
57 Other offences 105
57A Time for filing charging document 106
57B Infringement offences 106
57C Infringement notices 106
57D Procedural requirements for infringement notices 107
57E Payment of infringement fee 108

57F Effect of infringement notice 108
58 Repeals, revocations, and consequential amendments 108
59 Savings 109

Amendment to Gas Act 1982

60 Power to execute works on private land 109

Schedule 1AA 110
Transitional, savings, and related provisions

Schedule 1 112
Enactments repealed

Schedule 2 114
Enactments amended

Schedule 3 115
Regulations revoked

Title *[Repealed]*

Title: repealed, on 4 May 2010, by section 4 of the Gas Amendment Act 2006 (2006 No 71).

1 Short Title and commencement

(1) This Act may be cited as the Gas Act 1992.

(2) Except as provided in subsection (3), this Act shall come into force on 1 April 1993.

(3) Part 1, Part 4, and sections 54, 55, and 60 shall come into force on the day after the date on which this Act receives the Royal assent.

1A Purposes

The purposes of this Act are—

(a) to provide for the regulation, supply, and use of gas in New Zealand; and

(b) to provide for the regulation of the gas industry in New Zealand; and

(c) to protect the health and safety of members of the public in connection with the supply and use of gas in New Zealand; and

(d) to promote the prevention of damage to property in connection with the supply and use of gas in New Zealand.

Section 1A: inserted, on 4 May 2010, by section 5 of the Gas Amendment Act 2006 (2006 No 71).

Part 1
Preliminary provisions

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

authorised means authorised by the Secretary

biogas means the mixture of gases that is produced by anaerobic microbial decomposition of organic matter and that principally comprises methane and carbon dioxide together with lesser amounts of hydrogen sulphide, water vapour, or other gases

Board means the Plumbers, Gasfitters, and Drainlayers Board continued under the Plumbers, Gasfitters, and Drainlayers Act 2006

consumer—

(a) means any person who is supplied, or who applies to be supplied, with gas; but

(b) does not include any gas producer or any gas distributor or gas retailer, except where the gas producer or, as the case may be, the gas distributor or gas retailer is supplied, or applies to be supplied, with gas for its own consumption and not for the purposes of resupply to any other person

container does not include a pipe

distribution system—

(a) 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; and

(b) includes, for the purposes of any regulations made under section 54 relating to odorisation or the measurement of calorific value, a gas transmission system

document has the same meaning as in section 2(1) of the Official Information Act 1982

dwellinghouse means any building or part of a building occupied as a separate dwelling; but does not include a meter box or gas measurement system located on the exterior of the building or the part of the building

electric works means any works within the meaning of the Electricity Act 1992

existing fittings means any fittings installed before 1 January 1993; and includes any fittings that were partly installed, or work on the installation of which commenced, before 1 January 1993

fittings means everything used, or designed or intended for use, in or in connection with the supply, distribution, compression, or use of gas

gas means any fuel that is supplied through pipes or in containers and is a gas at a temperature of 15°C and an absolute pressure of 101.325 kilopascals; and includes—

(a) biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and tempered liquefied petroleum gas:

(b) any gaseous substance that the Governor-General declares by Order in Council to be a gas for the purposes of this Act (*see* subsection (4)):

(c) any mixture of gases

gas appliance means any appliance that uses, or is designed or intended to use, gas, whether or not it also uses, or is designed or intended to use, any other form of energy

gas code of practice or **code** means a gas code of practice issued pursuant to section 37

gas distributor—

(a) means any person who supplies line function services, whether by means of a distribution system or by other means, to any gas retailer or to any other person or persons; and

(b) includes a gas distributor who is also a gas retailer providing line function services to itself

gas installation means an installation, including a gas appliance (other than a portable gas appliance that is designed to have within it, or attached to it, its own source of gas), that is connected or intended to be connected with any source (including any container) from which gas is supplied; and includes any associated fittings; but does not include any part of a distribution system

gas measurement system means a system for measuring the quantity of any gas or the energy content of any gas, whether by actual measurement or by estimation; and includes any equipment that forms part of, or is ancillary to, any such system

gas operator means—

(a) any person that, immediately before 1 April 1993, was the holder, or was deemed to be the holder, of a franchise granted under Part 2 of the Gas Act 1982; and

(b) any person declared under section 5 to be a gas operator for the purposes of this Act or any provision or provisions of this Act

gas producer means a person who supplies gas that is transmitted through gas transmission or distribution pipelines

gas refueller means a gas retailer that supplies gas in containers, or directly into containers

gas retailer means any person who supplies gas to another person or other persons for any purpose other than for resupply by the other person or persons

gas transmission means the supply of line function services by means of high pressure gas pipelines operated at a gauge pressure exceeding 2 000 kilopascals

gas wholesaler—

(a) means any person who supplies gas to any other person or persons for the purpose of resupply by the other person or persons (whether or not the person who so supplies the gas is also a gas retailer); and

(b) includes any person any subsidiary of which is a gas wholesaler

gasfitting has the same meaning as in section 4 of the Plumbers, Gasfitters, and Drainlayers Act 2006

infringement fee, in relation to an infringement offence, means the amount prescribed by regulations made under section 54 as the infringement fee for the offence

infringement notice means a notice given under section 57C

infringement offence means—

(a) an offence against section 21(d) or section 27:

(b) a breach of any regulation made under this Act that is prescribed as an infringement offence

level crossing has the same meaning as in section 4(1) of the Railways Act 2005

line function services means—

(a) the provision and maintenance of pipelines for the conveyance of gas:

(b) the operation of such pipelines, including the assumption of responsibility for losses of gas

local authority means a territorial authority within the meaning of the Local Government Act 2002

maintain includes to repair; and **maintenance** has a corresponding meaning

metal working means the working of any metal by any process of flame cutting, welding, brazing, or silver soldering, involving the use of any gas

Minister means, subject to any enactment, the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Ministry means, subject to any enactment, the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

official standard, in relation to a gas code of practice, means—

(a) a New Zealand Standard within the meaning of the Standards and Accreditation Act 2015; and

(b) a standard specification prescribed by any standards organisation within the meaning of that Act

pipe includes tubes, hoses, and associated fittings

pipeline owner means a person that owns pipelines for the conveyance of gas

place means—

(a) the whole or any part of any land, house, shop, factory, premises, or building:

(b) any vessel within any harbour or inland waters:

(c) any aircraft, hovercraft, or vehicle

pleasure vessel has the same meaning as in section 2(1) of the Shipping and Seamen Act 1952

point of supply, in relation to any place, means the point of supply of that place as prescribed by regulations made under section 54

price includes valuable consideration in any form, whether direct or indirect; and also includes any consideration that in effect relates to the acquisition of goods or services or the acquisition or disposition of any interest in land, although ostensibly relating to any other matter or thing

reasonably practicable, in relation to a duty to ensure health and safety or to protect property, means that which is, or was, at a particular time, reasonably able to be done in relation to ensuring health and safety or protecting property, taking into account and weighing up all relevant matters, including—

(a) the likelihood of the hazard or the risk concerned occurring; and

(b) the degree of harm or damage that might result from the hazard or risk; and

(c) what the person concerned knows, or ought reasonably to know, about—

  (i) the hazard or risk; and

  (ii) ways of eliminating or minimising the risk; and

(d) the availability and suitability of ways to eliminate or minimise the risk; and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk

relocatable building means any structure designed or adapted for human occupation that is designed to be relocatable; but does not include any tent

road has the same meaning as in section 315 of the Local Government Act 1974; and includes a road under the jurisdiction of any local authority; and also includes a public footpath; and also includes a State highway within the meaning of section 2(1) of the Government Roading Powers Act 1989; but does not include—

(a) a private road within the meaning of section 315 of the Local Government Act 1974; or

(b) a motorway within the meaning of the Government Roading Powers Act 1989; or

(c) any roadway laid out by order of the Maori Land Court under sections 315 to 327 of Te Ture Whenua Maori Act 1993 or under any former Act, except where that order has been cancelled, or where the roadway has been declared under section 320 of that Act to be a road; or

(d) any level crossing

roading structure means any bridge, underpass, overpass, culvert, or tunnel

Secretary means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

serious harm means—

(a) death; or

(b) harm that incapacitates, or is likely to incapacitate, the person suffering harm for 48 hours or more; or

(c) harm that incapacitates, or is likely to incapacitate, the person suffering harm due to the inhalation of carbon monoxide; or

(d) a notifiable injury or illness as defined in section 23 of the Health and Safety at Work Act 2015

telecommunications line means any line within the meaning of the Telecommunications Act 2001

worker means any person who is employed or engaged (whether under a contract of service or a contract for services) to do any work for hire or reward

working day means any day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year

WorkSafe means WorkSafe New Zealand established by section 5 of the WorkSafe New Zealand Act 2013.

(2) *[Repealed]*

(3) Any notice required or authorised by this Act to be served on any person shall be delivered to that person, and may be delivered either personally or by posting it to that person at the person's last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the letter would in the ordinary course of post be delivered.

(4) An order under paragraph (b) of the definition of gas in subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 27 s 2

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1) **all practicable steps**: repealed, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(1) **Board**: amended, on 1 April 2010, by section 185 of the Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74).

Section 2(1) **consumer** paragraph (b): amended, on 14 October 2008, by section 31(2)(a) of the Commerce Amendment Act 2008 (2008 No 70).

Section 2(1) **consumer** paragraph (b): amended, on 14 October 2008, by section 31(2)(b) of the Commerce Amendment Act 2008 (2008 No 70).

Section 2(1) **Corporation**: repealed, on 13 July 2021, by section 4(1) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 2(1) **distribution system**: substituted, on 4 May 2010, by section 6(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **distribution system** paragraph (a): amended, on 12 December 2012, by section 4(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 2(1) **fire brigade**: repealed, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 2(1) **gas** paragraph (b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 2(1) **gas distributor**: replaced, on 31 March 2017, by section 142 of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 2(1) **gas inspector**: repealed, on 4 May 2010, by section 6(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **gas operator** paragraph (b): amended, on 22 October 2003, by section 3 of the Gas Amendment Act 2003 (2003 No 74).

Section 2(1) **gas producer**: inserted, on 12 December 2012, by section 4(3) of the Gas Amendment Act 2012 (2012 No 103).

Section 2(1) **gas wholesaler** paragraph (a): replaced, on 13 July 2021, by section 4(2) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 2(1) **gasfitting**: substituted, on 1 April 2010, by section 185 of the Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74).

Section 2(1) **infringement fee**: inserted, on 4 May 2010, by section 6(5) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **infringement notice**: inserted, on 4 May 2010, by section 6(5) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **infringement offence**: inserted, on 4 May 2010, by section 6(5) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **level crossing**: substituted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **local authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **official standard** paragraph (a): amended, on 1 March 2016, by section 45(1) of the Standards and Accreditation Act 2015 (2015 No 91).

Section 2(1) **place** paragraph (a): substituted, on 4 May 2010, by section 6(4) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **point of supply**: inserted, on 4 May 2010, by section 6(5) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **reasonably practicable**: inserted, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(1) **road**: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **road**: amended, on 28 July 1997, by section 2(1) of the Gas Amendment Act 1997 (1997 No 46).

Section 2(1) **road** paragraph (a): substituted, on 28 July 1997, by section 2(2) of the Gas Amendment Act 1997 (1997 No 46).

Section 2(1) **road** paragraph (b): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 2(1) **road** paragraph (c): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 2(1) **Secretary**: replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 2(1) **serious harm**: inserted, on 5 December 2006, by section 6(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 2(1) **serious harm** paragraph (d): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 2(1) **subsidiary**: repealed, on 28 September 1993, by section 2(1) of the Gas Amendment Act 1993 (1993 No 144).

Section 2(1) **telecommunications line**: amended, on 20 December 2001, by section 158 of the Telecommunications Act 2001 (2001 No 103).

Section 2(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **WorkSafe**: inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 2(2): repealed, on 28 September 1993, by section 2(2) of the Gas Amendment Act 1993 (1993 No 144).

Section 2(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Application

(1) Subject to subsection (2), and except as expressly provided elsewhere in this Act, or in any other Act, this Act shall apply to every gas distributor, every gas retailer, and every consumer.

(2) Nothing in this Act (other than sections 54(1)(n)(ii), 55, 56AA, and 56AAB) applies to—

(a) any gas in circumstances in which any of the following enactments, or any regulations made under any of those enactments, apply:

(i) the Crown Minerals Act 1991:

(ii) the Shipping and Seamen Act 1952:

(iii) the Land Transport Act 1998:

(b) any gas installation or class of gas installation that the Governor-General declares by Order in Council to be a gas installation or, as the case requires, a class of gas installation to which this Act does not apply:

(c) any gas appliance or class of gas appliance that the Governor-General declares by Order in Council to be a gas appliance or, as the case requires, a class of gas appliance to which this Act does not apply:

(d) any gas used as a feedstock, excluding any gas being reformed for use as a gaseous fuel:

(e) any gas appliance used in metal working and fuelled exclusively by acetylene or any prescribed gas:

(f) any gas appliance designed to be fuelled exclusively from a container not exceeding 120 millilitres in capacity:

(g) any container used, or designed or intended to be used, for the storage of gas:

(h) any liquefied petroleum gas that is in a liquid form and is in a pipe.

(3) Despite subsection (2)(d), that paragraph does not apply in relation to Part 4A and, accordingly, Part 4A applies to any gas used as a feedstock.

(4) An order under subsection (2)(b) or (c) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 27 s 3

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 3(2): amended, on 6 June 2026, by section 4 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 3(2): amended, on 27 September 2001, by section 3 of the Gas Amendment Act 2001 (2001 No 67).

Section 3(2)(a)(i): amended, on 24 May 2013, by section 65 of the Crown Minerals Amendment Act 2013 (2013 No 14).

Section 3(2)(a)(iii): amended, on 10 May 2011, by section 100(3) of the Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13).

Section 3(2)(a)(iii): amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Section 3(3): added, on 20 April 2010, by section 4 of the Gas Amendment Act 2010 (2010 No 17).

Section 3(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 3A: inserted, on 13 July 2021, by section 5 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

4 Act to bind the Crown

This Act binds the Crown.

Part 2
General

Gas operators

5 Declaration of person as gas operator

(1) The Minister may, by notice in the *Gazette*, declare a person to be a gas operator for the purposes of this Act or any provision or provisions of this Act if the Minister is satisfied that a declaration is necessary to enable the person to start or carry on a business as a gas distributor.

(2) The Minister must, as soon as reasonably practicable, by notice in the *Gazette*, declare that a person ceases to be a gas operator on a date stated in the notice if the Minister is satisfied that the person no longer carries on a business as a gas distributor.

Section 5: substituted, on 22 October 2003, by section 4 of the Gas Amendment Act 2003 (2003 No 74).

Functions and powers of WorkSafe and Secretary

Heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

6 Functions of WorkSafe

(1) The functions of WorkSafe under this Act are—

(a) to carry out such inquiries, tests, audits, or investigations as may be necessary to determine whether a person is complying with this Act:

(b) to take all such lawful steps as may be necessary to ensure the safe supply and use of gas:

(ba) to develop gas safety instruments:

(c) to perform such other functions as are provided for under this Act.

(2) This section is subject to section 6A.

Section 6: replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 6(1)(ba): inserted, on 30 March 2025, by section 13 of the Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10).

6A Functions of Secretary

(1) The Secretary—

(a) must carry out the functions conferred on the Secretary under this Act or regulations made under this Act; and

(b) may carry out a function conferred on WorkSafe under a specified provision of this Act or regulations made under this Act in relation to a specified matter.

(2) The Prime Minister may, by notice in the *Gazette*, specify—

(a) 1 or more matters in relation to which the Secretary may carry out functions conferred on WorkSafe under this Act; and

(b) 1 or more provisions of this Act or regulations made under this Act that confer functions on WorkSafe and under which the Secretary may exercise functions in relation to the specified matter.

(3) If the Secretary carries out a function in relation to a specified matter, every reference to WorkSafe in the relevant specified provision must be read as if it were a reference to the Secretary.

(4) Without limiting subsection (3), the Secretary has the powers necessary to carry out the functions in a specified provision in relation to a specified matter in accordance with this Act.

(5) WorkSafe and the Secretary must work co-operatively to ensure that their functions under this Act and any regulations made under this Act are carried out in an effective and efficient manner.

(6) In this section,—

specified matter means a matter that is specified in a *Gazette* notice under subsection (2)(a)

specified provision means a provision that is specified in a *Gazette* notice under subsection (2)(b).

Section 6A: inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

6B WorkSafe and Secretary must share information

(1) WorkSafe must provide information to the Secretary if the information is necessary or desirable for the Secretary to carry out his or her functions under this Act.

(2) The Secretary must provide information to WorkSafe if the information is necessary or desirable for WorkSafe to carry out its functions under this Act.

Section 6B: inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

7 Inspection of distribution systems, etc

(1) For the purposes of performing any of WorkSafe's functions under this Act, WorkSafe may at any reasonable time inspect the whole or any part of any distribution system, gas installation, or gas appliance.

(2) For the purposes of carrying out an inspection under this section, WorkSafe may enter and re-enter any place.

(3) Before carrying out any inspection under this section, WorkSafe shall give to the person who has control of or who is using the distribution system, gas installation, or gas appliance, and to the occupier of the land affected, reasonable notice of WorkSafe's intention to carry out the inspection.

(4) Where WorkSafe has entered any place under subsection (2), WorkSafe may—

(a) inspect any fittings or gas appliance:

(b) test any substance that WorkSafe reasonably believes to be gas; test any gas measurement system; and carry out any other test that the person reasonably considers necessary or desirable for the purposes of this Act:

(c) without limiting paragraph (b), take (without payment) samples of any substance that WorkSafe reasonably believes to be gas, for the purposes of examination and testing:

(d) for the purposes of examination and testing,—

(i) remove any fittings, unless the removal of those fittings would unreasonably interfere with the operation of any distribution system:

(ii) remove any gas appliance:

(e) by notice in writing require any person whom WorkSafe reasonably believes to be for the time being in charge of any place, or of any

fittings or gas appliance in the place, to take any specified action in respect of that place or those fittings or that gas appliance that WorkSafe reasonably believes is necessary to render that place or those fittings safe:

(f) require any person who has control of or who uses the distribution system, gas installation, or gas appliance to produce any document required by this Act or any regulations made under section 54 or section 55 to be kept by that person, and may examine and make copies of, or take extracts from, any such document.

(5) This section shall apply notwithstanding anything to the contrary in section 52 of the Government Roading Powers Act 1989.

Compare: 1982 No 27 s 8

Section 7(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(4): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(4)(b): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(4)(c): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(4)(e): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 7(5): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

8 Report to be compiled

(1) Where any test is carried out under section 7, the person who carries out the test shall—

(a) compile a written report of the results of the test; and

(b) give a copy of the report to—

(i) the person whom the person reasonably believed to be in charge of the place in which the test was carried out or from which any substance or fittings or gas appliance was taken for testing; and

(ii) the owner or occupier of that place (where that person is not the person referred to in subparagraph (i)); and

(iii) the person who had control of or, as the case may be, who was using that substance or those fittings or that gas appliance (where that person is not the person referred to in subparagraph (i) or subparagraph (ii)).

(2) Where any inspection is carried out under section 7, the person who carries out the inspection shall—

(a) compile a written report of the results of the inspection; and

(b) give a copy of the report to any person who is entitled to receive it and who requests such a copy.

(3) Without limiting any other enactment, the following persons are entitled, on request, to be given a copy of a report compiled in respect of an inspection carried out under section 7 in any place:

(a) the owner of that place:

(b) the occupier of that place:

(c) the gas distributor, gas retailer, or consumer concerned (where that person is not the owner or occupier of that place).

Compare: 1982 No 27 s 9

9 Special powers of WorkSafe

(1) WorkSafe may at any time, by notice in writing, require any person who has control of or who uses any distribution system, gas installation, or gas appliance to take apart or dismantle any fittings to facilitate or assist an inspection for the purposes of this Act.

(2) WorkSafe may at any time, by notice in writing, require any gas wholesaler, gas distributor, gas retailer, or consumer—

(a) to replace any gas measurement system, or any part of any gas measurement system, that is owned by that gas wholesaler, gas distributor, gas retailer, or consumer and that is part of a distribution system or a gas installation; and

(b) to deliver the replaced gas measurement system or part for inspection and testing.

(3) Where WorkSafe believes on reasonable grounds—

(a) that there is a danger or potential danger to the safety of any persons or property arising directly or indirectly from the presence or escape of any gas; or

(b) that, because of anything done or omitted to be done, or intended to be done or not to be done, by any person, there would be a danger or potential danger to any persons or property should any gas be present or escape,—

WorkSafe may do all such things, and require any person to do or refrain from doing all such things, as WorkSafe considers necessary to remove or minimise the danger or potential danger.

(3A) WorkSafe's power to require a person to do a thing under subsection (3) includes the power to require, by notice in writing, that the person—

(a) produce for inspection, within any reasonable period that WorkSafe may specify, any document or class of document in the possession or under the control of the person that WorkSafe considers would assist WorkSafe to remove or minimise a danger or potential danger:

(b) supply, within any reasonable period that WorkSafe may specify, any information or class of information that WorkSafe considers would assist WorkSafe to remove or minimise a danger or potential danger.

(3B) Every person who is required to produce documents or supply information under this section has the same privileges in relation to the production of the documents or the supply of the information as witnesses have in any court.

(4) This section shall apply notwithstanding anything to the contrary in section 52 of the Government Roading Powers Act 1989.

Compare: 1982 No 27 s 10

Section 9 heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(3): amended, on 4 May 2010, by section 7(1)(a) of the Gas Amendment Act 2006 (2006 No 71).

Section 9(3): amended, on 4 May 2010, by section 7(1)(b) of the Gas Amendment Act 2006 (2006 No 71).

Section 9(3A): inserted, on 4 May 2010, by section 7(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 9(3A): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(3A)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(3A)(b): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 9(3B): inserted, on 4 May 2010, by section 7(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 9(4): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

10 Objections to WorkSafe's requirements

(1) Every person who is affected by any notice given under section 7(4)(e) or section 9(1) or section 9(2), or any requirement made under section 9(3), may, within 15 working days after receiving the notice or being made subject to the requirement, object to that notice or requirement.

(2) Every objection under subsection (1) shall be made by lodging a written notice of objection with the Registrar of the office of the District Court nearest to the

place where the notice was given or the requirement made, or, with the consent of WorkSafe, with the Registrar of any other office of the District Court.

(3) Every notice of objection shall specify the grounds of the objection.

(4) The objector shall cause a copy of the notice of objection to be served on WorkSafe, either before or immediately after it is lodged with the Registrar.

(5) The Registrar of the court shall give notice of the time and place fixed for the hearing of the objection to the objector and WorkSafe.

Compare: 1982 No 27 s 11(2)–(4)

Section 10 heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 10(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 10(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 10(4): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 10(5): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

11 Effect of notice or requirement pending hearing

Subject to section 14, where a notice of objection is lodged under section 10, the notice or requirement to which the notice of objection relates shall be suspended until an order is made by the District Court under section 12(2), or until the withdrawal of the objection or the withdrawal of the notice or requirement, whichever occurs first.

Compare: 1982 No 27 s 11(7)

Section 11: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

12 Procedure on hearing of objection

(1) On the hearing of an objection under section 10, both the objector and WorkSafe, either personally or by their counsel, shall be entitled to be present and be heard.

(2) On hearing the objection, the court may by order confirm, reverse, or modify the notice or requirement.

(3) Subject to section 13, every order made under subsection (2) of this section shall be final.

Compare: 1982 No 27 s 11(5), (6)

Section 12(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

13 Appeal on question of law

(1) Where any party to an objection under section 10 is dissatisfied with the decision of the District Court on that objection as being erroneous in point of law, that party may appeal to the High Court on the question of law only.

(2) Subject to subsection (3), every appeal under this section shall be heard and determined in accordance with rules of court.

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

(4) Subject to section 14, where a notice of appeal is filed pursuant to this section, the notice or requirement to which the notice of appeal relates shall be suspended until the appeal has been determined or abandoned.

Section 13(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 13(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 13(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 13(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

14 WorkSafe may require immediate compliance

(1) Notwithstanding sections 11 and 13(4), where a notice of objection is lodged under section 10 by any person in respect of any notice or requirement, WorkSafe may advise the objector that WorkSafe considers the situation to be one involving immediate danger to life or property, and on being so advised the objector shall immediately take active steps to comply with that notice or requirement.

(2) Every person commits an offence who fails to comply immediately with any notice or requirement to which subsection (1) applies, and every such person shall be liable on conviction to a fine not exceeding $1,000 for every day or part of a day that such failure continues.

(3) Without limiting the liability of any person to be convicted of an offence against subsection (2), both the High Court and the District Court shall each have jurisdiction to restrain any contravention or threatened contravention of subsection (1) by injunction on the application of WorkSafe, and to make such order in the matter as to costs and otherwise as it thinks fit.

(4) No person shall be precluded by any contract or agreement from doing or refraining from doing any such acts as may be necessary to comply with the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing or refraining from doing any such act.

Compare: 1982 No 27 s 11(8)–(11)

Section 14 heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 14(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 14(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 14(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

15 Appeal against decision on application for injunction

(1) A party to proceedings under this Act on an application under section 14(3) may appeal to the High Court against any decision of the District Court.

(1A) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

(2) On the *ex parte* application of the appellant, the District Court may order that the appellant must not be required under section 126(1) of the District Court Act 2016 to give the Registrar of the High Court security for costs.

(2A) Subsection (2) overrides subsection (1A).

(3) A party to any appeal under subsection (1) may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in an appeal under that subsection.

(4) On an appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceeding as the High Court had.

(5) The decision of the Court of Appeal on an appeal to that court under this section, and on an application to it under this section for leave to appeal, shall be final.

(6) Subject to subsections (3) to (5), the decision of the High Court on an appeal to that court under this section shall be final.

Section 15(1): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 15(1A): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 15(2): substituted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

Section 15(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 15(2A): inserted, on 24 November 2003, by section 4 of the District Courts Amendment Act 2002 (2002 No 63).

16 Assessors

(1) Where any objection has been lodged under section 10, WorkSafe or the objector may ask for the objection to be heard with the assistance of 2 assessors, one to be appointed by WorkSafe and the other by the objector.

(2) No person shall be appointed to act as an assessor unless he or she has special skill or knowledge relevant to the particular matter to be considered by the court.

(3) There shall be paid, out of public money appropriated by Parliament for the purpose, to any assessors appointed under this section remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the assessors were members of a statutory board within the meaning of that Act.

Compare: 1982 No 27 s 12; 1989 No 44 s 86(1)

Section 16(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

17 Notification of accidents

(1) This section applies to every accident—

(a) that involves the production, conversion, supply, distribution, or use of gas; and

(b) that results in—

(i) serious harm to any person; or

(ii) significant property damage.

(2) *[Repealed]*

(3) Where any accident to which this section applies occurs in any place, the appropriate person shall notify WorkSafe of the particulars of the accident forthwith on becoming aware of the accident.

(4) For the purposes of subsection (3), the appropriate person is as follows:

(a) in the case of an accident involving gas supplied by a gas distributor or gas retailer, that gas distributor or gas retailer:

(b) if the accident is discovered by any person who is authorised to do gasfitting under Part 2 of the Plumbers, Gasfitters, and Drainlayers Act 2006, that person:

(c) in all other cases, the occupier of the place where the accident occurred.

(5) Every notice under this section shall be in the prescribed form (if any) and shall contain such particulars as are prescribed (if any).

(6) Notification of an accident in accordance with either or both of the following provisions is compliance with subsection (3):

(a) section 16(3) of the Electricity Act 1992:

(b) section 56 of the Health and Safety at Work Act 2015.

Compare: 1982 No 27 s 14

Section 17 heading: amended, on 5 December 2006, by section 8(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 17(1): substituted, on 5 December 2006, by section 8(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 17(2): repealed, on 5 December 2006, by section 8(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 17(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 17(4)(b): substituted, on 1 April 2010, by section 185 of the Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74).

Section 17(6): added, on 5 December 2006, by section 8(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 17(6)(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

17A Transfer of accident information

(1) In this section, **specified matter** means a matter that is specified in a *Gazette* notice under section 6A(2).

(2) If WorkSafe is notified of an accident under section 17 and the accident relates to a specified matter, WorkSafe must provide the notice and any particulars that WorkSafe has received to the Secretary.

(3) If an accident relates to a specified matter, a person required to provide notification of any accident under section 17 may notify the Secretary in accordance with that section instead of WorkSafe.

Section 17A: replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

18 Interference with scene of accident

(1) No person shall interfere in any way with the scene of any accident to which section 17 applies without the permission of WorkSafe, or if WorkSafe is not present, a constable or an employee, volunteer, or contractor of Fire and Emergency New Zealand carrying out designated services, except to the extent that the person believes is necessary to avoid or minimise further injury or damage or to restore the safe supply of gas.

(2) Where any person does interfere in any way with the scene of any accident to which section 17 applies, the person shall as soon as practicable notify WorkSafe of the action the person has taken.

(3) Nothing in subsection (1) applies in respect of any person who is investigating the accident pursuant to the Health and Safety at Work Act 2015.

(4) In subsection (1), **designated services** has the same meaning as in section 6 of the Fire and Emergency New Zealand Act 2017.

Compare: 1982 No 27 s 14(4), (5)

Section 18(1): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 18(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 18(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 18(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 18(3): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 18(4): inserted, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

19 Inquiries into accidents

(1) WorkSafe may conduct an inquiry into any accident to which section 17 applies to establish the cause of the accident.

(2) Where WorkSafe believes, on reasonable grounds, that any occurrence may be an accident to which section 17 applies, WorkSafe may conduct a preliminary inquiry in order to establish whether or not the occurrence is such an accident.

(3) Subject to section 22, WorkSafe may, for the purpose of any inquiry or preliminary inquiry under this section, require any person to supply to WorkSafe all such information as that person may have of relevance to the inquiry or preliminary inquiry.

(4) Where WorkSafe conducts an inquiry under this section, WorkSafe shall prepare a written report of the findings of the inquiry, and shall make copies of that report available on request to interested parties.

Compare: 1982 No 27 s 14(6), (7)

Section 19(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 19(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 19(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 19(4): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

20 Assistance to WorkSafe

Where WorkSafe is performing any duty or exercising any power in respect of any place, or any fittings or gas appliance in any place, the owner or occupier of the place, and any other person who is for the time being in charge of the place or the fittings or the gas appliance, shall provide all such facilities and assistance as WorkSafe may reasonably require.

Compare: 1982 No 27 s 15

Section 20 heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 20: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

21 Obstructing WorkSafe

Every person commits an offence and is liable on conviction to a fine not exceeding $50,000 in the case of an individual, or $250,000 in the case of a body corporate, who—

(a) intentionally obstructs WorkSafe when WorkSafe is lawfully carrying out duties under this Act:

(b) refuses or fails without reasonable excuse—

(i) to produce any document when required to do so by WorkSafe for the purposes of this Act; or

(ii) to allow WorkSafe to examine or make copies of or take extracts from any such document; or

(iii) to supply any information required of the person by WorkSafe under this Act; or

(iv) to comply with any other lawful order or requisition given or made by WorkSafe:

(c) intentionally damages or interferes with any property used by, or supplied for the use or in the possession of, WorkSafe for the purposes of this Act:

(d) fails without reasonable excuse to notify any accident to which section 17 applies when required to do so by subsection (3) of that section, or interferes in any way with the scene of any such accident otherwise than in accordance with section 18(1), or, having interfered in any such scene in accordance with section 18(1), fails without reasonable excuse to notify WorkSafe of the steps he or she has taken as required by section 18(2).

Compare: 1982 No 27 s 16

Section 21 heading: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 21: amended, on 4 May 2010, by section 10(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 21(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(b)(i): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(b)(ii): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(b)(iii): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(b)(iv): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(c): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(d): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 21(d): amended, on 4 May 2010, by section 10(2) of the Gas Amendment Act 2006 (2006 No 71).

22 Privilege against self-incrimination

No person shall be required, pursuant to any provision of this Part, to reply to any question if the answer might tend to incriminate him or her.

Part 3
Powers and duties of gas operators and other owners of gas fittings

23 Protection of existing fittings

Any existing fittings, lawfully fixed to or lawfully installed over or under any land that is not owned by the person that owns the fittings, shall continue to be fixed or installed until the owner of the fittings otherwise decides, and no person other than the owner of the fittings shall have any interest in any such fittings by reason only of having an interest in the land.

Compare: 1987 No 116 s 20; 1988 No 164 s 17

24 Rights of entry in respect of existing fittings

(1) Any person that owns any existing fittings may enter upon land for the purpose of gaining access to those fittings and may perform any act or operation necessary for the purpose of—

(a) inspecting, maintaining, or operating the fittings:

(b) in the case of fittings the construction, erection, or laying of which had not been completed before 1 January 1993, completing the fittings.

(2) A certificate under the seal of the owner of any existing fittings containing a statement that a specified fitting was installed (in whole or in part) before 1 January 1993 under the authority of the Petroleum Act 1937 or the Gas Act 1982 (or any Act repealed by either of those Acts) or the Electric Power Boards Act 1925 or the Local Government Act 1974 or the Public Works Act 1981 or any local or private Act shall be admissible in evidence in any proceedings and shall, in the absence of proof to the contrary, constitute proof of that statement.

Compare: 1987 No 116 s 12; 1988 No 164 s 14

25 Construction or maintenance of fittings on roads

(1) Except as provided in subsection (2), a gas operator may from time to time construct, place, and maintain fittings in, on, along, over, across, or under any road, and for any of these purposes may—

(a) open or break up any road:

(b) alter the position of—

(i) any pipe for the supply of gas; or

(ii) any pipe (not being a main) for the supply of water; or

(iii) any telecommunications line; or

(iv) any electric works—

that are laid or placed in, on, along, over, across, or under that road:

(c) alter, repair, or remove any fittings so constructed, placed, or maintained, or any part of any such fittings.

(2) No gas operator may exercise the powers contained in subsection (1) otherwise than in accordance with such reasonable conditions as may be prescribed by the local authority or other body or person having jurisdiction over the road.

(3) Without limiting the generality of subsection (2), a local authority or other body or person having jurisdiction over a road may impose under that subsection, in relation to any work undertaken by any gas operator, a condition requiring the gas operator to meet the reasonable costs and expenses of that local authority or other body or person—

(a) in processing any notice given under section 26(1) by the gas operator in relation to the work:

(b) in supervising the carrying out of the work, where such supervision is necessary in the circumstances of the case.

(4) Nothing in subsection (1) applies in respect of the construction of fittings for the purposes of gas transmission.

Compare: 1987 No 116 s 15; 1988 No 164 s 16

Section 25(2): substituted, on 6 August 2010, by section 18 of the Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99).

25A Criteria for setting reasonable conditions

(1) In setting, varying, or revoking reasonable conditions under section 25(2), the local authority or other body or person having jurisdiction over the road concerned may consider all or any of the following matters:

(a) the safe and efficient flow of traffic (whether pedestrian or vehicular):

(b) the health and safety of any person who is, or class of persons who are, likely to be directly affected by the work on the road:

(c) the need to lessen the damage that is likely to be caused to property (including structural integrity of the roads) as a result of work on the road:

(d) the compensation that may be payable under section 51 for property that is likely to be damaged as a result of work on the road:

(e) the need to lessen disruption to the local community (including businesses):

(f) the co-ordination of installation of other networks:

(g) the co-ordination with road construction work by the local authority or other body or person who has jurisdiction over that road:

(h) the need of the gas operator to establish a gas network in a timely manner.

(2) Nothing in subsection (1) limits a local authority's or other body's or person's ability to impose reasonable conditions under section 25(2).

(3) However, a condition requiring a network operator to increase amenity values (rather than to merely maintain them) must not be imposed unless the work to be done is in an area identified in a district plan as an area in relation to which, under the district plan, there are particular considerations, or rules or requirements, relating to amenity values.

(4) If the cost to the gas operator of complying with a condition referred to in subsection (3) is higher than it would have been if there were not a requirement to increase amenity values, then the person imposing the condition must pay that increase in cost.

(5) In subsection (3), a reference to a district plan includes a reference to a development plan under the Urban Development Act 2020.

Compare: 2001 No 103 s 119

Section 25A: inserted, on 6 August 2010, by section 19 of the Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99).

Section 25A(3): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 25A(5): inserted, on 7 August 2020, by section 300 of the Urban Development Act 2020 (2020 No 42).

Section 25A(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

26 Notice to be given before work undertaken

(1) Except as provided in subsection (5), before a gas operator proceeds to undertake any work pursuant to the powers contained in section 25(1), the gas operator shall give notice of its intention to undertake the work to—

(a) the local authority or other body or person having jurisdiction over the road to which the work relates; and

(b) the owner of any pipe, telecommunications line, or electric works that are laid or placed in, on, along, over, across, or under that road and that will be affected, or are likely to be affected, by the work.

(2) Every such notice shall be in writing, and shall specify the location of the proposed work, the nature of the work to be undertaken, and the reasons for it.

(3) Within 15 working days after the receipt of the written notice of the intention to undertake work, the persons who are given a notice pursuant to subsection (1) shall notify the gas operator in writing of any conditions imposed pursuant to section 25(2).

(4) Where a person who is given a notice pursuant to subsection (1) fails to notify the gas operator of the conditions imposed pursuant to section 25(2) within the period referred to in subsection (3) of this section, no such conditions may be imposed, and the gas operator may commence work.

(5) Where any such work is rendered urgent and necessary by any defective equipment, or other emergency, the gas operator shall be excused from complying with the requirements of subsection (1) before commencing the work, but shall give the information required by subsection (2) as soon as practicable thereafter.

Compare: 1987 No 116 s 15A; 1988 No 164 s 16

27 Offence

(1) Every gas operator commits an offence and is liable on conviction to a fine not exceeding $10,000 who fails to comply with section 25 or section 26.

(2) In addition to any fine imposed pursuant to subsection (1), the court may make such order relating to compensation as it thinks fit.

Compare: 1987 No 116 s 15B; 1988 No 164 s 16

Section 27(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

28 Appeals in relation to conditions imposed

(1) A gas operator shall have a right of appeal to the District Court against all or any of the conditions imposed pursuant to section 25(2) by—

(a) the local authority or other body or person having jurisdiction over the road; or

(b) the owner of any pipe, telecommunications line, or electric works.

(2) Every such appeal shall be made by giving notice of appeal within 40 working days after the date of notification of the conditions imposed, or within such further period as the court may allow on application made to it for that purpose either before or after the expiration of those 40 working days.

Compare: 1987 No 116 s 15C; 1988 No 164 s 16

Section 28(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

29 Determination of appeals

(1) In its determination of any appeal under section 28, the District Court may confirm or modify or cancel any or all of the conditions imposed.

(2) Subject to section 30, the decision of the District Court in the determination of an appeal under section 28 shall be final.

Compare: 1987 No 116 s 15D; 1988 No 164 s 16

Section 29(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 29(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

30 Appeal on question of law

(1) Where any party to any appeal under section 28 is dissatisfied with the decision of the District Court as being erroneous in point of law, that party may appeal to the High Court on the question of law only.

(2) Subject to subsection (3), every appeal under this section shall be heard and determined in accordance with rules of court.

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 30(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 30(3): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

31 Charging for access to road reserve

(1) Notwithstanding anything in this Act or any other enactment, no local authority or other body or person having jurisdiction over any road shall require the payment, by or on behalf of any gas operator, of any amount of or in the nature of rent in respect of any fittings constructed or placed in, on, along, over, across, or under that road.

(2) Nothing in subsection (1) applies in respect of a rate assessed under the Local Government (Rating) Act 2002.

(3) In this section, the term **road** has the meaning given to it in section 2, but also includes a motorway within the meaning of the Government Roading Powers Act 1989.

Section 31(2): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 31(3): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

32 Rights of entry in respect of level crossings

(1) Where—

(a) a gas operator wishes to enter upon any level crossing for the purpose of constructing, placing, or maintaining any fittings in, on, along, over, across, or under that level crossing; and

(b) after taking all reasonable steps to do so, the gas operator has been unable to negotiate an agreement for entry,—

the gas operator may, upon giving the owner and occupier of the level crossing not less than 10 working days' notice of its intention to do so, apply to the District Court for an order under this section.

(2) On being satisfied that the construction, placing, or maintenance of any fittings is necessary for the purposes of distributing gas, and that the gas operator has taken all reasonable steps to negotiate an agreement for entry, and that, in relation to the construction or placing of any fittings, no practical alternative route or site exists, the court may make an order authorising the gas operator to—

(a) enter and re-enter the level crossing at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for the construction, placing, or maintenance of any fittings:

(b) perform such work as may be reasonably necessary to construct, place, or maintain any fittings.

(3) Every order under this section shall specify—

(a) how and when entry is to be made; and

(b) the specific powers intended to be exercised; and

(c) such other conditions (including conditions relating to the payment of compensation) as the court thinks fit to impose.

(4) Before exercising any powers authorised by an order made under this section, the gas operator shall serve the order on the owner and occupier of the level crossing to which the order relates.

(5) Every officer, employee, or agent of a gas operator acting in pursuance of an order made under this section shall have with him or her and shall produce on initial entry and, if requested, at any subsequent time, evidence of his or her authority and identity.

(6) Nothing in this section applies in respect of the construction, placing, or maintenance of fittings for the purposes of gas transmission.

Compare: 1987 No 116 s 11; 1988 No 164 s 13

Section 32(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

33 Local authority, etc, may require fittings to be moved

(1) Where any fittings (being fittings to which section 23 applies or fittings constructed or placed pursuant to section 25) are fixed to or installed over or under

any road, the local authority or other body or person having jurisdiction over that road may at any time, by notice in writing, require the owner of the fittings to raise, lower, or otherwise alter the position of those fittings.

(2) If the owner of the fittings refuses or fails within a reasonable time to do the work required under subsection (1), the person requiring the work to be done may, after giving the owner of the fittings written notice of that person's intention to do so, do the work or have the work done by some other person.

(3) The notice required by subsection (2) shall be given at least 15 working days before the work commences.

Compare: 1982 No 27 s 48(1), (4)

34 Cost of work required under section 33

(1) Subject to subsection (2), the reasonable cost of all work required to be done under section 33(1) shall be paid by the person that requires the work to be done.

(2) Where any work is required to be done under section 33(1) by reason that the fittings to which the work relates—

(a) were laid or erected contrary to any provision of—

(i) this Act or any regulations made under section 54; or

(ii) the Gas Act 1982 (or any enactment repealed by that Act); or

(iii) the Electric Power Boards Act 1925; or

(iv) the Local Government Act 1974 or the Local Government Act 2002; or

(v) the Public Works Act 1981; or

(vi) any local or private Act; or

(vii) any regulations made under any enactment, or under any enactment of any of the classes of enactment, referred to in any of subparagraphs (ii) to (vi); or

(b) are in a dangerous or unsafe condition,—

the cost of the work shall be paid by the owner of the fittings.

(3) Where any person requires any work to be done under section 33(1), no claim by or against that person for betterment shall be allowed in respect of that work.

(4) Where a controlling authority (being the New Zealand Transport Agency or the agent of the Minister of Transport) requires any work to be done under section 33(1) in relation to any fittings, subsections (1) to (3) of this section shall apply subject to the following provisions:

(a) in all cases the cost of materials (being fittings) that are used in the carrying out of the required work (other than fittings used only during the course of construction) shall be paid by the owner of the fittings:

(b) where—

(i) as a consequence of the requirement, the owner of the fittings elects to fix fittings to, or install fittings over, under, or through, a roading structure that is being, or is to be, constructed or altered; and

(ii) the cost of that construction or those alterations is increased by reason that those fittings will be fixed to, or installed over, under, or through, that roading structure,—

an amount equal to the amount by which the cost, to the controlling authority, of that construction or those alterations, as the case requires, is so increased shall be paid to the controlling authority by the owner of the fittings:

(c) where, as a consequence of the requirement, the owner of the fittings relocates the fittings and reconstructs them to specifications different from those of the original fittings, the owner of the fittings shall pay the difference between—

(i) what it would have cost to relocate and reconstruct the fittings as near as reasonably practicable to their original specifications (excluding any costs to which paragraph (a) would have applied), taking into account—

(A) any restrictions or conditions imposed by or under any enactment in relation to the relocation and reconstruction; and

(B) the location of the original fittings and the alternatives reasonably available to the owner of the fittings; and

(ii) the actual cost of the relocation and reconstruction (excluding any costs to which paragraph (a) applies),—

where the amount calculated in accordance with subparagraph (i) is less than the amount calculated in accordance with subparagraph (ii).

(5) Subsections (1) to (4) shall apply subject to any agreement between the person requiring the work to be done and the owner of the fittings to which that requirement relates.

(6) The amount of any payment that is required to be made under this section shall be determined in each case—

(a) by agreement between the person liable for the payment and the person to whom it is payable; or

(b) failing such agreement, by arbitration under the Arbitration Act 1908, with 1 arbitrator to be appointed by each party and an umpire to be appointed by those arbitrators before entering upon their reference.

Compare: 1982 No 27 s 48(3), (5)

Section 34(2)(a)(iv): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 34(4): amended, on 6 August 2010, by section 20 of the Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99).

35 Government Roading Powers Act 1989 not to apply

Sections 33 and 34 shall apply notwithstanding anything to the contrary in section 54 of the Government Roading Powers Act 1989.

Section 35 heading: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 35: amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

36 Owners and occupiers of private land and buildings may move fittings

(1) Subject to subsection (2), the owner or occupier of any private land or buildings into, through, or against which fittings to which section 23 applies have been laid down or placed may, at that person's own expense, on giving written notice to the person that owns the fittings, move such fittings and re-lay or replace them, subject to the work being lawfully carried out and to such conditions as the person that owns the fittings may reasonably impose.

(2) No fittings may be moved, re-laid, or replaced under subsection (1) without the consent of the person that owns the fittings, but that consent shall not be unreasonably withheld.

(3) The notice required by subsection (1) shall be given at least 15 working days before work to move the fittings commences.

Compare: 1982 No 27 s 49

Part 4
Gas codes of practice

37 Issue of gas code of practice

(1) WorkSafe may from time to time issue any instrument (in this Act referred to as a gas code of practice) for the purposes of, or relating to,—

(a) the setting or endorsing of standards or specifications concerning the design, construction, installation, importation, or manufacture of distribution systems, gas installations, fittings, or gas appliances:

(b) the setting of standards in respect of gas that is to be supplied to or used by gas retailers and consumers:

(c) the operation or use of distribution systems, gas installations, fittings, or gas appliances:

(d) the inspection or maintenance of distribution systems, gas installations, fittings, or gas appliances:

(e) the safety of persons or property associated with or using distribution systems, gas installations, fittings, or gas appliances:

(f) the setting or endorsing of standards or requirements relating to—

(i) the training required for any specified class or classes of workers for the purposes of establishing and maintaining safety standards in relation to the manufacture, extraction, storage, processing, treatment, distribution, supply, and application of gas:

(ii) the levels of technical or other qualifications necessary for the carrying out of any specified class or classes of gas work:

(g) the setting or endorsing of standards, specifications, or requirements relating to or concerning the periodic examination of fittings and gas appliances installed in relocatable buildings or pleasure vessels, or both, and the issue of warrants of gas fitness in respect of such fittings and gas appliances:

(h) the setting or endorsing of standards, controls, or requirements for the whole or any part of any tree or vegetation to prevent the interruption of the gas supply system.

(2) WorkSafe may from time to time issue an amendment or revocation of any gas code of practice.

(3) Every gas code of practice and every amendment or revocation of a gas code of practice shall show the date on which it was issued.

(4) WorkSafe may issue any code of practice, issued in accordance with the Hazardous Substances and New Organisms Act 1996 or the Health and Safety at Work Act 2015, as a gas code of practice under this Act.

Compare: 1968 No 125 ss 24A, 24B(1), (2); 1983 No 123 s 6

Section 37(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 37(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 37(4): added, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 37(4): amended, on 1 December 2017, by section 55 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 37(4): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

38 Code may incorporate official standards by reference

(1) WorkSafe may include in any gas code of practice a reference to—

(a) an official standard or a specified part of an official standard; or

(b) an official standard or a specified part of an official standard with such additions or variations as are specified in the code—

if that official standard or, as the case may be, that part of that official standard relates to the subject matter of the code.

(2) On the inclusion, in a code, of a reference to an official standard or part of an official standard, that official standard or, as the case may be, that part of that official standard (as it existed on the date of the inclusion but with such additions or variations (if any) as are specified in the code) shall be deemed to form part of the code.

Section 38(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

39 Code to be approved by Minister

(1) Subject to subsection (5), a gas code of practice, an amendment to such a code, and a revocation of such a code, shall not have any force or effect until it has been approved by the Minister.

(2) Subject to subsection (3), the Minister shall not approve any code, or any amendment or revocation of a code, unless—

(a) not less than 1 month has elapsed since the publication in the *Gazette* of a notice of the intention of WorkSafe to apply for approval; and

(b) the Minister has consulted such persons as will be affected by the code or amendment or revocation, or representatives of those persons, and they have had the opportunity to consider its possible effects and to comment on those effects to the Minister; and

(c) the Minister has considered any comments made to the Minister concerning those effects.

(3) The Minister may approve a gas code of practice or any amendment or revocation of that code without complying with the requirements of subsection (2)(a) or (b) if the Minister is satisfied that sufficient consultation has already taken place in respect of the matters in the code or amendment or revocation.

(4) When the Minister approves a gas code of practice or an amendment or revocation of that code, the Minister shall—

(a) publish a notice of the approval in the *Gazette*; and

(b) show the date of the approval on the code, amendment, or revocation and promulgate it in such manner as the Minister thinks fit.

(5) The fact that the Minister has published in the *Gazette* a notice under subsection (4)(a) shall be conclusive proof that the requirements of this section have been complied with in respect of the approval specified in the notice.

Compare: 1968 No 125 s 24C; 1983 No 123 s 6

Section 39(2)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

40 Availability of codes

(1) WorkSafe shall ensure that copies of all gas codes of practice, and all amendments to such codes, that are for the time being in force are available—

(a) for inspection by members of the public free of charge; and

(b) for purchase by members of the public at a reasonable price.

(2) The notice of approval published in the *Gazette* pursuant to section 39(4)(a) shall show, in relation to the code, or the amendment to a code, to which it relates, a place at which copies of the code or, as the case requires, the amendment are available for inspection free of charge and for purchase.

Section 40(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

41 Emergency amendment of code

(1) If WorkSafe considers it essential in the interests of safety or ensuring the continuity of the supply or distribution of gas to amend any gas code of practice forthwith, WorkSafe may issue an emergency amendment to the code and promulgate it in such manner as WorkSafe thinks fit.

(2) Every amendment issued under subsection (1) shall be identified as an emergency amendment issued under this section, and show the date on which it was issued.

(3) Every such amendment shall remain in force for a period of 60 days after the date on which it was issued and may be continued in force by the Minister for such further period or periods as the Minister thinks fit, but the maximum period of time during which an emergency amendment may remain in force shall be 180 days.

(4) Subject to subsection (5), an emergency amendment issued under this section shall for all purposes, while it remains in force, be deemed to have been issued under section 37, and to have been approved, on the date of its issue, by the Minister under section 39.

(5) If any regulation made under section 54 requires compliance with any gas code of practice that has been amended under this section, that regulation shall, while the emergency amendment remains in force, be deemed to require compliance with the code as so amended notwithstanding the fact that the regulation was made before that amendment to the code came into force.

(6) Despite section 73 of the Crown Entities Act 2004, WorkSafe must not delegate to any person the power conferred by this section.

(7) Subsection (8) applies if, pursuant to section 6A(3) and (4), the Secretary may exercise the power conferred by this section in relation to a matter specified in a *Gazette* notice under section 6A(2).

(8) Despite clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, the Secretary must not delegate to any person the power conferred by this section.

Compare: 1968 No 125 s 24D; 1983 No 123 s 6

Section 41(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 41(6): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 41(7): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 41(8): inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 41(8): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

42 Citation of code

In any regulations made under section 54, any gas code of practice or amendment of a gas code of practice may, without prejudice to any other method of citation, be cited by the title or reference given to it by WorkSafe and by its date of issue; and such citation shall be deemed, subject to section 41(5), to include and refer to the latest gas code of practice or amendment in force when the regulations were made.

Compare: 1968 No 125 s 24E; 1983 No 123 s 6

Section 42: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

43 Proof of code

(1) Without affecting any other method of proof, the production in any proceedings of a copy of any gas code of practice or amendment or revocation of a gas code of practice, purporting to have been issued by WorkSafe and to have been approved by the Minister shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of section 37 and approved by the Minister, on the date shown on it as the date of approval, under section 39.

(2) Without affecting any other method of proof, the production in any proceedings of—

(a) a copy of an emergency amendment of a gas code of practice purporting to have been issued by WorkSafe shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of section 41 on the date shown on it as the date of issue:

(b) a certificate under the hand of the Minister that the Minister has continued such an amendment in force until a date specified in the certificate shall, in the absence of proof to the contrary, be sufficient evidence that the amendment has been continued in force until that date under section 41(3).

(3) In any proceedings for an offence against this Act or against any regulations made under section 54,—

(a) any requirement or standard prescribed in any gas code of practice by reference to any official standard (not being a New Zealand Standard) may be proved by the production of a copy of such official standard certified to be correct by the chairperson of WorkSafe:

(b) judicial notice shall be taken of a signature purporting to be the signature of the chairperson of WorkSafe.

Compare: 1968 No 125 s 24F; 1983 No 123 s 6

Section 43(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 43(2)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 43(3)(a): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 43(3)(b): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 43(3)(b): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Part 4A
Governance of gas industry

Part 4A: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Subpart 1—General and regulation-making powers

Subpart 1: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Preliminary provisions

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43A Purpose

The purpose of this Part is to provide for the governance of the gas industry.

Section 43A: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43B Outline of Part

(1) Subpart 1 principally contains regulation-making powers that can be used for the governance of the gas industry.

(2) Subpart 2 enables co-regulation of the gas industry by the Government and an industry body.

(3) Subpart 3 enables regulation of the gas industry by the Government and a Crown entity called the Energy Commission.

(4) Subpart 2 expires if subpart 3 is brought into force by Order in Council.

(5) Subpart 4 contains exemptions from the restrictive trade practice provisions of the Commerce Act 1986.

(5A) Subpart 5 enables the High Court to impose pecuniary penalties on consumers (other than domestic consumers) for a breach of gas industry regulations or rules.

(6) This section is intended only as a guide to the general scheme and effect of this Part.

Section 43B: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43B(5A): inserted, on 12 January 2022, by section 6 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43C Outline of regulation-making powers

(1) In this subpart, the principal regulation-making powers are as follows:

Type of regulations	How they can be made
Regulations for terms and conditions of access to Maui pipeline Regulations on retail and consumer issues	They can be made at any time, (whether or not the industry body has been approved, or the Commission is established, or has made a recommendation).
Regulations on wholesale market Regulations on gas processing facilities Regulations on transmission, and distribution of gas (other than on terms and conditions of access to Maui pipeline) Regulations on arrangements relating to outages and other security of supply risks Regulations on information disclosure for the whole gas industry	They can be made only if— (a) an industry body is approved (and then only to implement the effect of a recommendation by that body); or (b) the Commission is established (and then only for transitional purposes or to implement the effect of a recommendation by the Commission).

(2) This section is intended only as a guide to the general scheme and effect of the principal regulation-making powers in this Part.

Section 43C: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43C(1): amended, on 13 July 2021, by section 7 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43D Interpretation

In this Part, unless the context otherwise requires,—

board, in relation to the industry body, means the directors, trustees, or other persons who constitute the governing board of the industry body

Commission means the Energy Commission to be established under section 43ZZH

constitution, in relation to the industry body, means its constitution or trust deed or other similar governing document

domestic consumer means any person who purchases gas in respect of any dwellinghouse

gas governance regulations means regulations made under sections 43F to 43TA

GPS objectives and outcomes means objectives and outcomes set under section 43ZO

industry body means the body approved by Order in Council under section 43ZL

industry participant means—

(a) a gas retailer:

(b) a gas distributor:

(c) a gas producer:

(d) a pipeline owner:

(e) a gas wholesaler:

(f) a person who purchases gas directly from a gas producer or gas wholesaler or on any wholesale gas market:

(g) a service provider appointed under any gas governance regulations:

(h) a gas metering equipment owner:

(i) a data administrator that provides data administration services to the gas industry,—

but does not include the industry body or the Commission (even to the extent that the industry body or the Commission may be acting as a service provider after an appointment under gas governance regulations)

member,—

(a) in relation to the board of the industry body, means a director or trustee or other person occupying a similar position by whatever name called; and

(b) in relation to the industry body itself, means a share-holder or beneficiary or other person occupying a similar position by whatever name called

publicise, in relation to a document, means,—

(a) to make the document available to the public, at no cost, on a website maintained by or on behalf of the industry body or the Commission, as the case may be, at all reasonable times; and

(b) to give notice of the document in the *Gazette*

recommending body, in relation to a recommendation for gas governance regulations or rules, means the industry body, the Commission, or the Minister who makes the recommendation

rules and **gas governance rules** mean rules made under section 43Q

Rulings Panel means any Rulings Panel established under gas governance regulations

small consumer means a consumer who is supplied with less than 10 terajoules of gas per year.

Section 43D: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43D **gas governance regulations**: amended, on 13 July 2021, by section 8 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43D **gas producer**: repealed, on 12 December 2012, by section 5 of the Gas Amendment Act 2012 (2012 No 103).

Dispute resolution

Heading: substituted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

43E Access to dispute resolution scheme

(1) Any person described in subsection (2) may make a complaint to the dispute resolution scheme concerning a gas distributor or a gas retailer.

(2) The persons who may make a complaint are any persons (including consumers, potential consumers, and owners and occupiers of land) except members of the dispute resolution scheme.

(3) The **dispute resolution scheme** is either—

(a) the approved scheme identified in clause 3 of Schedule 4 of the Electricity Industry Act 2010; or

(b) the regulated scheme provided for in regulations made under clause 18 of Schedule 4 of that Act.

(4) The procedures for making complaints to the dispute resolution scheme are as set out in the rules of the dispute resolution scheme.

Compare: 1992 No 122 s 158G

Section 43E: substituted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

43EAA Indemnity disputes

The dispute resolution scheme may resolve disputes between members of the dispute resolution scheme concerning the application of the indemnity in section 46A of the Consumer Guarantees Act 1993 (an **indemnity dispute**).

Section 43EAA: inserted, on 17 June 2014, by section 16 of the Consumer Guarantees Amendment Act 2013 (2013 No 144).

43EA Membership of dispute resolution scheme

(1) Every gas distributor and every gas retailer must be a member of the dispute resolution scheme, unless exempt under subsection (3).

(2) A person commits an offence and is liable on conviction to a fine not exceeding $100,000 if the person knowingly refuses or fails to become a member of the dispute resolution scheme.

(3) A person need not be a member of a dispute resolution scheme if—

(a) the person is a member of a class of industry participants identified in regulations made under subsection (3A) as a class that need not be a member; or

(b) the Minister of Consumer Affairs exempts the person by issuing an individual exemption notice in the *Gazette* that—

(i) identifies the person that is exempt from the obligation to be a member; and

(ii) gives reasons for the exemption.

(3A) The Governor-General may, on the recommendation of the Minister of Consumer Affairs made after consultation with the Minister of Energy and Resources, make regulations exempting, on any terms and conditions, any class of industry participants identified in regulations as a class that need not be a member of the dispute resolution scheme.

(4) The Minister of Consumer Affairs may grant an individual exemption to a person only if he or she is satisfied that membership of the dispute resolution scheme by the person is not necessary in order to meet the purpose of the dispute resolution scheme because complaints are unlikely to be made against the person or because complaints should be made in another forum, and the person is unlikely to be involved in indemnity disputes.

(5) The Minister of Consumer Affairs may amend or revoke an individual exemption, by issuing a notice in the *Gazette* that identifies the exempt participant and gives reasons for the amendment or revocation, but only if the Minister—

(a) has given notice of the proposed amendment or revocation to the exempt person (where possible) and given the person a reasonable opportunity to comment on the proposal; and

(b) is satisfied that the amendment or revocation is necessary or desirable in order to meet the purpose of the dispute resolution scheme.

(6) *[Repealed]*

(7) The Ministry must include on its Internet site a list of all current class and individual exemptions.

(8) Regulations under subsection (3A) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43EA: inserted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

Section 43EA(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43EA(3)(a): amended, on 30 May 2017, by section 143(1) of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 43EA(3A): inserted, on 30 May 2017, by section 143(2) of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 43EA(4): amended, on 17 June 2014, by section 16 of the Consumer Guarantees Amendment Act 2013 (2013 No 144).

Section 43EA(6): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43EA(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43EB Compliance with rules and binding settlements

(1) Members of the dispute resolution scheme must comply with the rules of the scheme.

(2) On the application of the person responsible for the dispute resolution scheme, the District Court may require a member of the scheme to do any of the following:

(a) comply with the rules of the scheme:

(b) comply with a binding settlement determined by the scheme in response to a complaint:

(c) comply with a binding settlement determined by the scheme in an indemnity dispute.

(3) If the District Court is satisfied that the terms of a binding settlement are manifestly unreasonable, the court's order under subsection (2)(b) may modify the terms of the binding settlement, provided that the modification results in a binding settlement that could have been made under the dispute resolution scheme.

(4) If an order requiring a member to comply with a binding settlement includes a requirement that the member pay an amount of money to a person, that order (or part of the order) may be enforced as if it were a judgment by the District Court for the payment of a sum of money.

(5) A reference in this section to a **member** includes a reference to a person who was a member of the dispute resolution scheme at the relevant time but is no longer a member at the time of the application or order.

Section 43EB: inserted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

Section 43EB(2): amended, on 17 June 2014, by section 16 of the Consumer Guarantees Amendment Act 2013 (2013 No 144).

Section 43EB(2)(c): inserted, on 17 June 2014, by section 16 of the Consumer Guarantees Amendment Act 2013 (2013 No 144).

Section 43EB(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 43EB(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 43EB(5): inserted, on 12 December 2012, by section 6 of the Gas Amendment Act 2012 (2012 No 103).

43EC Offence to fail to comply with District Court order

(1) A member or former member of the dispute resolution scheme who, knowing that the member or former member is subject to an order made under section 43EB, fails to comply with the order, or fails to comply with the order within the time or in the manner required by the order, commits an offence and is liable on conviction to a fine not exceeding $100,000.

(2) Nothing in this section applies to an order or part of an order of the District Court referred to in section 43EB(4).

Section 43EC: inserted, on 1 November 2010, by section 166 of the Electricity Industry Act 2010 (2010 No 116).

Section 43EC(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43EC(1): amended, on 12 December 2012, by section 7 of the Gas Amendment Act 2012 (2012 No 103).

Section 43EC(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Gas industry regulation-making powers

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43F Gas governance regulations for wholesale market, processing facilities, transmission, distribution of gas, security of supply, and disclosure

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister in accordance with sections 43I to 43P, make regulations for all or any of the purposes in subsection (2).

(2) The purposes are—

Wholesale gas market

(a) providing for the establishment and operation of wholesale markets for gas, including for—

(i) protocols and standards for reconciling and balancing gas:

(ii) clearing, settling, and reconciling market transactions:

(iii) the provision and disclosure of data and other market information:

(iv) minimum prudential standards of market participation:

(v) minimum standards of market conduct:

(vi) *[Repealed]*

Processing facilities

(b) setting reasonable terms and conditions for access to, and use of, gas processing facilities where—

(i) this is reasonably necessary to allow new fields to be developed; and

(ii) spare capacity is available or could be made available if the person accessing or using the facilities paid the reasonable costs (including the costs of capital) of providing the additional capacity:

Transmission and distribution of gas

(c) prescribing reasonable terms and conditions for access to and use of transmission or distribution pipelines:

(d) requiring expansions, upgrades, or service quality improvements to gas transmission pipelines including specifying how these will be paid for:

Arrangements relating to outages and other security of supply risks

(e) providing, in relation to wholesale or any other markets for gas, for arrangements relating to outages and other security of supply risks, including imposing requirements in connection with those matters on any industry participant or consumer (other than a domestic consumer):

Information disclosure for whole gas industry

(f) providing for the provision and disclosure of data and information by any industry participant or consumer (other than a domestic consumer).

(3) The data and information referred to in subsection (2)(f) may include, for example, any of the following to the extent that it relates to the gas industry:

(a) volume, price, or other market information:

(b) forecasts of supply or demand:

(c) information about actual or potential outages:

(d) information about risks to security of supply:

(e) information about an industry participant or a consumer (other than a domestic consumer) that has, or may have, a significant impact on other industry participants or consumers:

(f) information to help other industry participants or consumers (other than domestic consumers) to make informed decisions in connection with the gas industry.

(4) Nothing in subsection (2)(a) to (e) or section 43G, 55, or 56AA limits subsection (2)(f).

(5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43F: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43F heading: amended, on 13 July 2021, by section 9(1) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(2)(a)(vi): repealed, on 13 July 2021, by section 9(2) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(2)(c): amended, on 12 December 2012, by section 8 of the Gas Amendment Act 2012 (2012 No 103).

Section 43F(2)(e) heading: inserted, on 13 July 2021, by section 9(3) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(2)(e): inserted, on 13 July 2021, by section 9(3) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(2)(f) heading: inserted, on 13 July 2021, by section 9(3) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(2)(f): inserted, on 13 July 2021, by section 9(3) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(3): inserted, on 13 July 2021, by section 9(4) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(4): inserted, on 13 July 2021, by section 9(4) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43F(4): amended, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 43F(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43G Other gas governance regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister in accordance with sections 43I to 43P, make regulations for all or any of the purposes in subsection (2).

(2) The purposes are—

(a) *[Repealed]*

Prepayment meters

(b) requiring gas retailers to offer prepayment meters to domestic consumers at a reasonable cost, and prescribing conditions on which those meters must be offered, with the objective of ensuring that all domestic consumers who wish to pay for gas in advance have the option to do so at reasonable cost:

Ability of consumers to choose preferred gas retailer

(c) providing for arrangements to enable consumers to switch gas retailers:

Transition arrangements for insolvent gas retailers

(d) providing a system of transition arrangements for consumers in the event of a gas retailer becoming insolvent, and requiring industry participants to comply with that system, with the objective of protecting consumers or managing the liabilities of other gas retailers:

Disclosure of information

(e) providing for the disclosure of information by gas transmitters, distributors, and retailers on tariff and other charges:

Terms and conditions of access

(f) providing for terms and conditions of access to gas meters by gas retailers:

Information on customer accounts

(g) providing for information on customer accounts:

Consumer contracts

(h) providing for minimum terms and conditions in contracts between domestic consumers and gas distributors or gas retailers:

Dispute resolution procedures

(i) providing procedures for resolving disputes between industry participants, other than indemnity disputes (as defined in section 43EAA):

(j) providing for the operation and facilitation of those dispute resolution procedures by a person, and the powers and procedures of that person:

Enforcement of gas governance regulations

(k) providing for compliance with gas governance regulations and rules to be monitored and enforced by the industry body or the Commission or any other person or court, and the powers and procedures of that person or court:

Processes

(l) providing for processes for settling particular issues within the gas industry that may result in recommendations for gas governance regulations or rules, and requiring compliance by industry participants, the industry body, and the Commission with those processes, including

compliance with requirements to produce documents as part of those processes.

(2A) Nothing in section 43F, 55, or 56AA limits this section.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43G: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43G(2)(a): repealed, on 12 December 2012, by section 9(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 43G(2)(c): substituted, on 20 September 2007, by section 4 of the Gas Amendment Act 2007 (2007 No 60).

Section 43G(2)(i): amended, on 17 June 2014, by section 16 of the Consumer Guarantees Amendment Act 2013 (2013 No 144).

Section 43G(2)(k): amended, on 12 December 2012, by section 9(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43G(2A): inserted, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 43G(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43H Low fixed charge tariff option for domestic consumers

(1) The objective of this section is to enable the making of regulations to ensure that gas providers offer a low fixed charge tariff option or options for delivered gas to domestic consumers that will assist low-use consumers and encourage energy conservation.

(2) In this section,—

delivered gas includes components like gas supply, line function services, customer service, meter provision, and meter reading services

fixed charge means a charge levied for each customer connection in currency per time period (for example, cents per day)

gas provider means a gas retailer or other business that contracts with consumers to sell delivered gas or a component of delivered gas.

(3) The Governor-General may, by Order in Council made on the recommendation of the Minister in accordance with sections 43I to 43P, make regulations for all or any of the following purposes:

(a) requiring gas providers to make available to domestic consumers 1 or more tariff options that include a fixed charge for delivered gas to dwellinghouses at not more than a specified amount:

(b) regulating the variable (cents per kilowatt hour) charges in those required tariff options to ensure that low-use domestic consumers would pay a lower total charge on the required tariff option than on any similar alternative tariff option available from that gas provider:

(c) regulating other charges and other terms and conditions of the contracts to which the low fixed charge tariff options in paragraph (a) relate, to ensure that they are not, in the opinion of the Minister, unreasonably detrimental to the interests of low-use consumers:

(d) setting rules as to the offering, supply, advertisement, promotion, availability, and unbundling of regulated charging options:

(e) specifying criteria for the Minister to exempt gas providers, or gas providers in relation to particular areas, from the application of the regulations if, in the opinion of the Minister, the gas providers materially comply with the objective of this section.

(4) No gas provider that is a customer trust or a community trust may pay a domestic consumer who is on the required tariff option a different rebate only because the consumer is on the required tariff option.

(5) Each trustee of a gas provider that contravenes subsection (4) commits an offence, and is liable on conviction to a fine not exceeding $20,000.

(6) If the components that make up the delivered gas are unbundled, regulations may be made under subsection (3) for each component, or group of components, of delivered gas to ensure that the objective of this section is achieved for the aggregate of all the components.

(7) Subsection (6) applies regardless of whether different components of delivered gas are supplied by the same gas provider.

(8) Regulations made under subsection (3) may provide for the way in which the total charge of the low-use domestic consumer is to be assessed, which may be (without limitation) calculated with reference to national data or the data relating to any gas retailer or gas distributor.

(9) The Governor-General may, for the purpose of assisting retailers to deliver low fixed charge tariff options, by Order in Council made on the recommendation of the Minister in accordance with sections 43I to 43P, make regulations for all or any of the following purposes:

(a) regulating all or any charges charged by gas distributors to ensure that they are not, in the opinion of the Minister, unreasonably detrimental to the interests of low-use consumers:

(b) regulating the terms and conditions under which gas distributors supply their services in relation to domestic consumers to ensure that they

are not, in the opinion of the Minister, unreasonably detrimental to the interests of low-use consumers:

(c) setting rules as to the offering, availability, supply, and unbundling of gas distributors' services:

(d) regulating the charging, offering, supply, and availability of delivered gas by other gas providers.

(10) The Governor-General may, by Order in Council made on the recommendation of the Minister in accordance with sections 43I to 43P, make regulations providing for the supply and collection of information from gas providers and gas distributors—

(a) about contracts, offers, advertising, or promotion relating to the supply of delivered gas, or components of delivered gas, to domestic consumers; or

(b) information that is necessary for the purposes of calculating the total charge for the low-use domestic consumer.

(11) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43H: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43H(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43H(11): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Process for making recommendations for gas governance regulations

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43I Which gas governance regulations can be made if there is no industry body or Commission

If there is no industry body and no Commission, the Minister may recommend only—

(a) regulations prescribing terms and conditions for access to the Maui pipeline under section 43F(2)(c):

(b) regulations under section 43G, section 43H, section 43S, or 43TA.

Section 43I: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43I(b): amended, on 13 July 2021, by section 10 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43J Which gas governance regulations can be made if there is industry body but no Commission

(1) If there is an industry body but no Commission, the Minister may recommend only—

(a) regulations prescribing terms and conditions for access to the Maui pipeline under section 43F(2)(c):

(b) other gas governance regulations under section 43F but only if the recommendation—

(i) implements the effect of a recommendation of the industry body; and

(ii) does not differ from that recommendation in any material way (for example, other than in matters of drafting style or minor detail):

(c) regulations under section 43G, section 43H, section 43S, or 43TA.

(2) If there is an industry body but no Commission, the Minister must not recommend gas governance regulations under paragraph (a) or paragraph (c) or paragraph (h) of section 43G(2) unless the industry body has been given a reasonable opportunity to recommend gas governance regulations under those paragraphs.

Section 43J: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43J(1)(c): amended, on 13 July 2021, by section 11 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43K Which gas governance regulations can be made if there is Commission

If there is a Commission, the Minister may recommend any gas governance regulations but only if—

(a) the recommendation is for transitional purposes if the Commission has not yet made a recommendation to the Minister on the matter; or

(b) the recommendation—

(i) implements the effect of a recommendation of the Commission; and

(ii) does not differ from that recommendation in any material way (for example, other than in matters of drafting style or minor detail).

Section 43K: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43L Consultation before making recommendation for gas governance regulations

(1) Before making a recommendation for any gas governance regulations, the recommending body must—

(a) undertake an assessment under section 43N; and

(b) consult with persons that the recommending body thinks are representative of the interests of persons likely to be substantially affected by the proposed regulations; and

(c) give those persons the opportunity to make submissions; and

(d) consider those submissions.

(2) However, subsection (1) does not apply to the Minister if the Minister's recommendation—

(a) implements the effect of a recommendation of the industry body or the Commission; and

(b) does not differ from that recommendation in any material way (for example, other than in matters of drafting style or minor detail).

(3) Before making a recommendation concerning regulations under section 43G(2)(a) to (h) or section 43H, the Minister must consult with the Minister of Consumer Affairs.

(4) This section is subject to section 43P in the case of urgent regulations.

(5) A regulation that is found by a court to be invalid solely because of a contravention of this section may not be declared to be invalid with effect earlier than 6 months after the date of the declaration.

Section 43L: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43M Other process for making recommendations for gas governance regulations

(1) The following also applies to the making of recommendations for gas governance regulations:

(a) sections 43ZN to 43ZP apply to a recommendation of the industry body:

(b) sections 43ZZN and 43ZZO apply to a recommendation of the Commission:

(c) the industry body or the Commission must undertake an assessment under section 43N before making a recommendation:

(d) the Minister must, before making a recommendation for gas governance regulations for which a recommendation of the industry body is not required under section 43J, have regard to any recommendation that the industry body may have made about those regulations.

(2) Subsection (1)(c) is subject to section 43P in the case of urgent regulations.

Section 43M: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43N Assessment of proposed gas governance regulations

(1) Before making a recommendation to the Minister for a gas governance regulation, the industry body or the Commission must—

(a) seek to identify all reasonably practicable options for achieving the objective of the regulation; and

(b) assess those options by considering—

(i) the benefits and costs of each option; and

(ii) the extent to which the objective would be promoted or achieved by each option; and

(iii) any other matters that the industry body or the Commission considers relevant; and

(c) ensure that the objective of the regulation is unlikely to be satisfactorily achieved by any reasonably practicable means other than the making of the regulation (for example, by education, information, or voluntary compliance); and

(d) prepare a statement of the proposal for the purpose of consultation under section 43L(1).

(2) The statement of the proposal referred to in subsection (1)(d) must contain—

(a) a detailed statement of the proposal; and

(b) a statement of the reasons for the proposal; and

(c) an assessment of the reasonably practicable options, including the proposal, identified under subsection (1); and

(d) other information that the industry body or the Commission considers relevant.

(3) The industry body or the Commission is not required to comply with subsection (1) if it is satisfied that the effect of the recommendation is minor and will not adversely affect the interests of any person in a substantial way.

Section 43N: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43O Process after making recommendation for gas governance regulation

(1) The industry body and the Commission must, no later than 10 working days after it gives a recommendation to the Minister for a gas governance regulation, publicise—

(a) that recommendation; and

(b) the assessment completed under section 43N.

(2) The Commission or the Minister must advise the Commerce Commission as soon as practicable after making any recommendation for a gas governance regulation that is likely to affect any powers of the Commerce Commission under Part 4 or sections 70 to 72 of the Commerce Act 1986.

Section 43O: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43P Urgent regulations

Sections 43L and 43N (which relate to consultation and assessments) do not apply if the recommending body considers that it is necessary or desirable in the public interest that the proposed regulations be made urgently and, in this case, the recommendation must state that it is made in reliance on this section and then, within 6 months of those regulations being made,—

(a) the recommending body must—

(i) comply with sections 43L and 43N; and

(ii) make a recommendation to the Minister on whether the regulations should be revoked, replaced, or amended; and

(iii) no later than 10 working days after making the recommendation, publicise the recommendation and the assessment completed under section 43N; and

(b) after receiving that recommendation, the Minister must publish a notice in the *Gazette* stating whether or not he or she decides to recommend the revocation, replacement, or amendment of the regulations and explaining the reasons for that decision, or stating where copies of that explanation may be obtained,—

and then, within a further 6 months, the Minister must make that recommendation.

Section 43P: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Gas governance rules

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43Q Gas governance rules

(1) The Minister may make a rule for all or any of the purposes for which a gas governance regulation may be made.

(2) In deciding whether to make a rule rather than recommend the making of a gas governance regulation, the Minister must have regard to only—

(a) the importance of the rule, including whether the rule has a material effect on the rights and interests of individuals:

(b) the subject matter of the rule, including whether the rule contains detailed or technical matters rather than matters of general principle:

(c) the application of the rule, including—

(i) whether the rule applies principally to a particular group (eg, industry participants) rather than the general public:

(ii) *[Repealed]*

(d) the expertise and rule-making procedures of the recommending body.

(3) If the Minister makes, or the recommending body recommends, a rule for a purpose for which a gas governance regulation may be made, sections 43I to 43P apply (with necessary modifications) as if the rule were a gas governance regulation.

(4) *[Repealed]*

(5) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) To the extent that a rule is inconsistent with a gas governance regulation, the rule is subject to the gas governance regulation.

(7) A rule that is found by a court to be invalid solely because of a contravention of subsection (2) may not be declared to be invalid with effect earlier than 6 months after the date of the declaration.

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* • make it available for inspection free of charge at the head office of the Ministry and the principal office of the recommending body (during ordinary office hours) • make it available for sale at a reasonable price • make it available on the Internet in an electronic form that is publicly accessible (at all reasonable times)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43Q: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43Q(2)(c)(ii): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43Q(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43Q(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43R Method of making gas governance rules

[Repealed]

Section 43R: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Supplementary provisions

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43S Supplementary provision relating to regulations and rules

(1) Any regulations or rules made under this subpart may—

(a) provide for 1 or more persons or bodies or groups of persons to carry out functions in relation to those regulations or rules, and for matters concerning their establishment, constitution, functions, members (including their appointment, removal, duties, and protection from liability), procedures, employees, administration and operation, funding by industry participants, and reporting requirements:

(b) provide for systems, processes, and procedures (including dispute resolution procedures), and the keeping, supply, and disclosure of information, in relation to any of the matters specified in this subpart:

(c) prescribe the form and manner in which information is to be disclosed:

(d) require disclosed information, or information from which disclosed information is derived (in whole or in part), to be certified, in the prescribed form and manner, by persons belonging to any specified class of persons:

(e) prescribe when and for how long information must be disclosed:

(f) exempt or provide for exemptions (including provide for the revocation of exemptions), on any terms and conditions, of any person or class of persons from all or any of the requirements in regulations or rules made under this subpart:

(fa) *[Repealed]*

(g) provide for the supply of information for the purpose of administration and enforcement of this Act, and regulations and rules made under this Act:

(h) provide for transitional provisions:

(i) provide for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.

(2) Regulations or rules that may be made in respect of all industry participants or classes of industry participants may be made in respect of all or any of the persons in that class and in respect of all or part of their business.

(3) In this subpart, unless the context otherwise requires, **terms and conditions** includes both contractual matters and other types of arrangements and requirements.

(4) If regulations or rules authorise a person to grant exemptions referred to in subsection (1)(f),—

(a) an exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons; and

(b) the regulations or rules must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)(a) that is made under regulations

Publication	See the relevant publication, presentation, and disallowance table in the regulations under which it is made	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)(a) that is made under rules

Publication	If the rules were made before 28 October 2021, the maker must comply with any requirements to publish, notify, or otherwise make it available that applied under this Act or the rules immediately before that date If the rules were made on or after 28 October 2021, the maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) or clause 32 of Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019	LA19 ss 115, 116

This note is not part of the Act.

Section 43S: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43S heading: amended, on 13 July 2021, by section 12 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43S(1)(fa): repealed, on 30 May 2017, by section 144 of the Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12).

Section 43S(4): inserted, on 28 October 2021, by regulation 56 of the Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247).

43TA Regulations may provide for pecuniary penalties for consumers (other than domestic consumers)

(1) Any regulations made under this subpart may do 1 or more of the following:

(a) identify provisions of regulations made under this subpart, or provisions of rules made under section 43Q, for the purposes of subpart 5 (which allows the High Court to impose a pecuniary penalty on a consumer (other than a domestic consumer) for a breach of those identified provisions):

(b) prescribe, in relation to each of those provisions, the maximum pecuniary penalty that may be imposed under subpart 5 for a breach:

(c) prescribe a defence to a proceeding under subpart 5 or prescribe other matters relating to when a breach gives rise to liability for a pecuniary penalty under that subpart.

(2) A maximum pecuniary penalty referred to in subsection (1)(b) must not exceed $200,000.

Section 43TA: inserted, on 13 July 2021, by section 14 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43T Supplementary empowering provision for regulations

[Repealed]

Section 43T: repealed, on 12 January 2022, by section 13 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Provisions that apply if gas governance regulations or rules are in force

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43U Party must co-operate with investigations

Every industry participant must co-operate fully with any investigation carried out, for the purposes of monitoring or enforcing any gas governance regulations or rules, by the industry body or the Commission, or by an investigator appointed under those regulations,—

(a) by providing, within any reasonable time specified by the industry body, Commission, or investigator, all information, papers, recordings, and documents concerning the matter that are in the possession, or under the control, of the industry participant and that are requested for the purpose of the investigation; and

(b) by permitting its officers or other employees to be interviewed (which interview may be recorded) and by ensuring as far as possible that they are made available for interview and answer truthfully and fully any questions put to them; and

(c) by giving to the industry body or the Commission, or any person authorised by the industry body or the Commission, at all reasonable times, full access to any premises (subject to complying with any safety requirements that apply to visitors to those premises) at which the industry participant carries on business or maintains records; and

(d) by giving all other assistance that may be reasonable and necessary to enable the matter to be fully investigated.

Section 43U: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43V Privileges protected

(1) Section 43U does not limit any claim for legal professional privilege.

(2) A person is not excused from answering a question or giving any information or document on the ground that to do so may incriminate or tend to incriminate that person.

(3) However, a self-incriminating statement or document made or given by an individual—

(a) is not admissible as evidence in criminal or civil proceedings against that individual; and

(b) may not be used against the individual in any proceedings before the Rulings Panel, except for information provided under any self-reporting obligation under those regulations.

Section 43V: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43V(3): amended, on 12 January 2022, by section 15(1) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43V(3)(a): amended, on 12 January 2022, by section 15(2) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Section 43V(3)(b): amended, on 12 January 2022, by section 15(2) of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43W Limits on investigation powers

(1) The industry body or the Commission may authorise, in writing, any person or persons to exercise all or any of the powers referred to in section 43U(b) or (c) in respect of an industry participant.

(2) An authorised person must, before entering premises under section 43U(c), give reasonable notice to the owner or occupier of the premises (at least 4 days before entry) of his or her intention to enter the premises.

(3) An authorised person must, on first entering any premises under section 43U(c) and, if requested, at any later time, produce to the person apparently in charge of the premises the authorisation under subsection (1).

(4) If an authorised person enters any premises under section 43U(c) and is unable, despite reasonable efforts, to find any person apparently in charge, the authorised person must, before leaving the premises, leave a written notice stating—

(a) the authorised person's identity; and

(b) the address of premises where the authorised person may be contacted; and

(c) the date and time of entry; and

(d) the reasons for entering.

(5) Section 43U(c) does not authorise an authorised person to enter a home, except with the consent of an occupier or under the authority of a warrant.

(6) An authorised person may apply for a warrant by application made in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012.

(7) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied that there are reasonable grounds to believe that it is necessary, for the purpose of ascertaining whether or not an industry participant has breached, or may breach, the gas governance regulations or rules, for an authorised person to search any place may, by warrant, authorise that person to search a place specified in the warrant.

(8) The provisions of subparts 1, 3, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply.

Section 43W: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43W(6): amended, on 1 October 2012, by section 318(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 43W(7): amended, on 1 October 2012, by section 318(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 43W(8): inserted, on 1 October 2012, by section 318(4) of the Search and Surveillance Act 2012 (2012 No 24).

43X Rulings Panel may make certain orders

(1) A Rulings Panel may, after considering any complaint or matter referred to it in respect of any allegation that an industry participant has breached any gas governance regulations or rules,—

(a) decide that no action should be taken:

(b) issue a private warning or reprimand to an industry participant:

(c) issue a public warning or reprimand to an industry participant:

(d) impose additional or more stringent record-keeping or reporting requirements under or in connection with any gas governance regulation or rule:

(e) order an industry participant to pay a civil pecuniary penalty not exceeding $200,000:

(f) order an industry participant to pay a sum by way of compensation to any other person:

(g) order an industry participant that is found not to be complying with the gas governance regulations or rules to take any action that is necessary to restore it to a position of compliance:

(h) make an order terminating or suspending the rights of an industry participant under any gas governance regulation or rule:

(i) make orders regarding the reasonable costs of any investigations or proceedings:

(j) propose to the industry body or the Commission that it recommend to the Minister that a change should be made to a regulation or rule.

(2) In making any such decision, the Rulings Panel must take into account its previous decisions in respect of any similar situations previously dealt with by the industry body, the Commission, or the Rulings Panel.

Section 43X: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43X(1)(e): amended, on 12 January 2022, by section 16 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43Y Restriction of remedies

(1) The remedies provided for in section 43X and in any gas governance regulations and rules are the only remedies in respect of a breach of those regulations or rules.

(2) No one can bring an action for breach of statutory duty that arises out of, or relates to, a breach of those regulations or rules by an industry participant.

(3) This section does not limit the recovery of—

(a) a debt owing under any gas governance regulations or rules; or

(b) damages in tort other than breach of statutory duty, for breach of contract, or for any other wrong, that arises from any act or omission that is also a breach of those regulations or rules.

Section 43Y: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43YA Offence to breach compliance orders

Every industry participant that breaches a requirement or an order made under section 43X(1) commits an offence and is liable on conviction to a fine not exceeding $20,000.

Compare: SR 2008/253 r 51

Section 43YA: inserted, on 12 January 2022, by section 17 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43Z Limit on tort claims against service providers

(1) No industry participant may bring an action in tort against a service provider that arises out of, or relates to, any act, matter, or thing done, or required or omitted to be done, by the service provider in its role as service provider, provided that the act or omission is not a fraudulent act or omission by the service provider.

(2) **Service provider** means a service provider appointed under the gas governance regulations.

Section 43Z: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Appeals

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZA Appeals on ground of lack of jurisdiction

An industry participant affected by a decision of the Rulings Panel may appeal that decision to the High Court on the ground of lack of jurisdiction.

Section 43ZA: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZB Judicial review not precluded

Nothing in this Act limits access to the courts in an action for judicial review.

Section 43ZB: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZC Appeals on question of law in relation to decisions by industry body, Commission, or Rulings Panel

(1) There is a right of appeal to the High Court on a question of law only against a decision of the industry body, the Commission, or the Rulings Panel under any gas governance regulations or rules.

(2) The appeal must be made by giving notice of appeal within 20 working days after the date of the decision appealed against or within any further time that the court allows.

Section 43ZC: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZD Right of appeal against suspension or termination orders

(1) An industry participant in respect of which a suspension order or termination order is made may appeal to the High Court against the order.

(2) The appeal must be made by giving notice of appeal within 20 working days after the date of the order appealed against or within any further time that the court allows.

Section 43ZD: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZE Persons entitled to appeal

The industry body, the Commission, and the following industry participants, may exercise a right of appeal under this Part:

(a) an industry participant in whose favour or against whom a decision or order of the industry body, the Commission, or the Rulings Panel is made:

(b) an industry participant who was a party to a dispute that was determined by the industry body, the Commission, or the Rulings Panel:

(c) any industry participant who joined as a party to the investigation of the matter that is subject to the appeal.

Section 43ZE: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZF Determination of appeals

In its determination of any appeal (other than an appeal to the High Court by way of case stated for the opinion of the court on a question of law only), the High Court may do any 1 or more of the following things:

(a) confirm, modify, or reverse the decision or any part of it:

(b) exercise any of the powers that could have been exercised by the industry body, the Commission, or the Rulings Panel in relation to the matter to which the appeal relates.

Compare: 1986 No 5 s 93

Section 43ZF: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZG High Court may refer appeals back to industry body, Commission, or Rulings Panel for reconsideration

(1) The High Court may, in any case, instead of determining any appeal, direct the industry body, the Commission, or the Rulings Panel to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

(2) In giving any direction under this section, the court must—

(a) advise the industry body, the Commission, or the Rulings Panel, as the case may be, of its reasons for doing so; and

(b) give to the industry body, the Commission, or the Rulings Panel, as the case may be, any directions that it thinks just concerning the reconsideration or otherwise of the whole or any part of the matter that is referred back.

(3) In reconsidering the matter, the industry body, the Commission, or the Rulings Panel, as the case may be, must have regard to the court's reasons for giving the direction, and the court's directions.

Compare: 1986 No 5 s 94

Section 43ZG: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZH Provisions pending determination of appeal

If an appeal is brought under this Part against any decision of the industry body, the Commission, or the Rulings Panel, the decision to which the appeal relates remains in full force pending the determination of the appeal, unless the High Court orders to the contrary.

Compare: 1985 No 5 s 95

Section 43ZH: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZI High Court may order proceedings be heard in private

(1) The High Court may, in its discretion, order that the hearing or any part of the hearing of any proceedings under this Part be held in private.

(2) The High Court may make an order prohibiting the publication of any report or description of proceedings or any part of proceedings (whether heard in public or in private), but no order may prohibit the publication of any determination of the court.

Compare: 1985 No 5 s 96

Section 43ZI: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZJ Appeal to Court of Appeal in certain cases

(1) Any party to any appeal before the High Court against any decision of the industry body, the Commission, or the Rulings Panel, as the case may be, who is dissatisfied with any decision or order of the High Court may, with the leave of the High Court or of the Court of Appeal, appeal to the Court of Appeal.

(2) Section 56 of the Senior Courts Act 2016 applies to the appeal.

(3) In determining whether to grant leave to appeal under this section, the court to which the application for leave is made must have regard to the following matters:

(a) whether any question of law or general principle is involved:

(b) the importance of the issues to the parties:

(c) the amount of money in issue:

(d) any other matters that in the particular circumstances the court thinks fit.

(4) The court granting leave may, in its discretion, impose any conditions that it thinks fit, whether as to costs or otherwise.

Compare: 1985 No 5 s 97

Section 43ZJ: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZJ(2): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Subpart 2—Co-regulation of gas industry

Subpart 2: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZK Purpose of subpart

The purpose of this subpart is to provide for co-regulation of the gas industry by the Government and an industry body.

Section 43ZK: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Approval of industry body

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZL Approval of industry body

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, approve a body to be an industry body for the purposes of this Part.

(2) Before making the recommendation, the Minister must be satisfied that—

(a) the industry body is broadly inclusive of industry participants; and

(b) the constitution of the industry body requires the board of that body to have a majority of independent members, including an independent chairperson; and

(c) the industry body is capable of delivering outcomes that meet the Government's objectives for the gas industry; and

(d) the industry body has objectives, in its constitution, that are consistent with the objectives in section 43ZN; and

(e) the industry body enables, and has provisions in its constitution that enable, all industry participants to become members of the industry body; and

(f) the constitution of the industry body requires it to report regularly to the Minister on—

(i) the performance and present state of the New Zealand gas industry; and

(ii) the industry body's performance and achievement of its objectives; and

(iii) any other matters the industry body thinks fit or the Minister requests in writing.

(3) A member of the board is not **independent** if that person—

(a) has a material financial interest in an industry participant; or

(b) is a director, officer, member, employee, or trustee of an industry participant; or

(c) is otherwise directly or indirectly materially interested in an industry participant.

(4) The references to industry participants in subsection (2)(a) and (e) do not include service providers appointed under any gas governance regulations.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43ZL: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZL(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43ZM Revocation of approval of industry body

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, revoke any approval given under section 43ZL.

(2) Before making a recommendation for the revocation of the approval of an industry body, the Minister must—

(a) consult with the industry body; and

(b) be satisfied either that a Commission has been, or is to be, established or that the industry body has ceased to be a body that meets the criteria in section 43ZL.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43ZM: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZM(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Objectives of industry body in relation to recommendations for gas governance regulations

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZN Objectives of industry body in recommending regulations for wholesale market, processing facilities, transmission, and distribution of gas

The objectives of the industry body, in recommending gas governance regulations under section 43F, are as follows:

(a) the principal objective is to ensure that gas is delivered to existing and new customers in a safe, efficient, and reliable manner; and

(b) the other objectives are—

(i) the facilitation and promotion of the ongoing supply of gas to meet New Zealand's energy needs, by providing access to essential infrastructure and competitive market arrangements:

(ii) barriers to competition in the gas industry are minimised:

(iii) incentives for investment in gas processing facilities, transmission, and distribution are maintained or enhanced:

(iv) delivered gas costs and prices are subject to sustained downward pressure:

(v) risks relating to security of supply, including transport arrangements, are properly and efficiently managed by all parties:

(vi) consistency with the Government's gas safety regime is maintained.

Section 43ZN: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

GPS objectives and outcomes

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZO Setting of GPS objectives and outcomes

(1) The Minister may set objectives and outcomes that the Government wants the industry body to pursue in relation to the governance of the gas industry, and against which the industry body must report.

(2) The Minister must set those objectives and outcomes by—

(a) giving the industry body a statement of government policy containing those objectives and outcomes; or

(b) giving the industry body an amendment to, or replacement of, that statement.

(3) The Minister must publish in the *Gazette*, and present to the House of Representatives, each statement (or amendment to, or replacement of, a statement) under subsection (2) as soon as practicable after giving it to the industry body.

(4) The industry body must have regard to those objectives and outcomes when making recommendations for gas governance regulations under this Part.

Section 43ZO: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZP What Minister can do with industry body recommendations about wholesale market, processing facilities, transmission, distribution of gas, security of supply, and disclosure

(1) The Minister must decide, within 90 days of receiving a recommendation from the industry body in relation to gas governance regulations under section 43F, either to accept or reject the recommendation.

(2) Subsection (1) does not apply to regulations made under section 43F(2)(c) prescribing terms and conditions for access to the Maui pipeline.

(3) The Minister must publish a notice in the *Gazette* stating his or her decision under subsection (1) and explaining the reasons for it or where copies of that explanation may be obtained.

Section 43ZP: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZP heading: amended, on 13 July 2021, by section 18 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Industry body statement of intent

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Heading: amended, on 12 December 2012, by section 10 of the Gas Amendment Act 2012 (2012 No 103).

43ZQ Industry body statement of intent

(1) At or before the start of each financial year, the industry body must prepare a statement of intent for the industry body for that financial year and at least the 2 following financial years.

(2) The statement of intent must contain the following information for the next financial year and at least the 2 following financial years:

(a) key background information about the industry body and its operating environment:

(b) the nature and scope of the industry body's intended operations:

(c) the specific impacts, outcomes, or objectives that the industry body seeks to achieve or contribute to and how those objectives might relate to any outcomes or objectives referred to in this subpart or in any GPS objectives and outcomes:

(d) how the industry body intends to conduct its operations to achieve those impacts, outcomes, or objectives:

(e) the main financial and non-financial measures and standards by which the future performance of the industry body may be judged:

(f) the matters on which the industry body will consult or notify the Minister before making a decision, the matters on which it will report to the Minister, and the frequency of reporting:

(g) other matters the industry body is required to include in the industry body statement of intent under this Act or another Act:

(h) any other matters that are reasonably necessary to achieve an understanding of the industry body's intentions and direction.

(3) The statement of intent must also contain the information required by section 43ZR for the first financial year to which it relates.

(4) The statement of intent must be in writing, be dated, and be signed on behalf of the board by 2 members of the board of the industry body.

Section 43ZQ: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZQ heading: amended, on 12 December 2012, by section 11(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZQ(1): amended, on 12 December 2012, by section 11(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZQ(2): amended, on 12 December 2012, by section 11(3) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZQ(2)(g): amended, on 12 December 2012, by section 11(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZQ(3): amended, on 12 December 2012, by section 11(3) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZQ(4): amended, on 12 December 2012, by section 11(3) of the Gas Amendment Act 2012 (2012 No 103).

43ZR Extra information required in statement of intent for first financial year

The industry body's statement of intent must contain the following information for the first financial year to which it relates:

(a) forecast financial statements for the industry body that have been prepared in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013); and

(b) other measures and standards necessary to judge the industry body's performance at the end of the financial year; and

(c) a statement of all significant assumptions underlying the forecast financial statements; and

(d) any additional information and explanations needed to fairly reflect the forecast financial operations and financial position of the industry body.

Section 43ZR: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZR heading: amended, on 12 December 2012, by section 12(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZR: amended, on 12 December 2012, by section 12(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZR(a): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

43ZS Application and term of statement of intent

An industry body statement of intent is in force—

(a) from the later of—

(i) the date on which the final statement of intent is provided to the Minister; or

(ii) the first day of the period to which the statement of intent states that it relates; and

(b) until a new statement of intent is in force in relation to the industry body (despite the end of any financial year to which the statement of intent relates); and

(c) with any amendments that are made as described in section 43ZU.

Section 43ZS: replaced, on 12 December 2012, by section 13 of the Gas Amendment Act 2012 (2012 No 103).

43ZT Process for providing statement of intent to Minister

(1) The industry body must provide a statement of intent to the Minister.

(2) The process that must be followed in providing a statement of intent is as follows:

(a) the industry body must provide a draft statement of intent to the Minister no later than 60 days before the start of each financial year; and

(b) the Minister must provide to the industry body any comments that he or she may have on the draft no later than 30 days before the start of the financial year; and

(c) the industry body must consider the comments (if any) on the draft and provide the final statement of intent to the Minister on or before the start of the financial year.

Section 43ZT: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZT heading: amended, on 12 December 2012, by section 14(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZT(1): amended, on 12 December 2012, by section 14(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZT(2): amended, on 12 December 2012, by section 14(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZT(2)(a): amended, on 12 December 2012, by section 14(2) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZT(2)(c): amended, on 12 December 2012, by section 14(2) of the Gas Amendment Act 2012 (2012 No 103).

43ZU Amendments by industry body

(1) The industry body may amend its statement of intent.

(2) The industry body must amend its statement of intent if—

(a) the information contained in it is false or misleading in a material particular; or

(b) the intentions and undertakings in it are significantly altered or affected by—

(i) any change in the law; or

(ii) any other change in the industry body's operating environment.

(3) The industry body must make the amendment required under subsection (2) as soon as practicable after the industry body becomes aware of the facts that give rise to the obligation to amend under that subsection.

(4) The industry body must amend its statement of intent in accordance with the following process:

(a) the industry body must provide a draft amendment to the Minister; and

(b) the Minister must provide to the industry body any comments that he or she may have no later than 30 days after receiving the draft; and

(c) the industry body must consider the comments (if any) and must provide a final amendment to the Minister as soon as practicable; and

(d) the final amendment to the statement of intent is in force from the date on which the final amendment is provided to the Minister.

Section 43ZU: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZU(1): amended, on 12 December 2012, by section 15 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZU(2): amended, on 12 December 2012, by section 15 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZU(4): amended, on 12 December 2012, by section 15 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZU(4)(d): amended, on 12 December 2012, by section 15 of the Gas Amendment Act 2012 (2012 No 103).

43ZV Statement of intent must be publicised

The industry body must publicise a final statement of intent or a final amended statement of intent as soon as practicable after it is provided to the Minister.

Section 43ZV: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZV heading: amended, on 12 December 2012, by section 16(1) of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZV: amended, on 12 December 2012, by section 16(2) of the Gas Amendment Act 2012 (2012 No 103).

Industry body annual report

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZW Annual report

(1) Within 3 months after the end of each financial year, the industry body must deliver to the Minister an annual report of the industry body's operations and performance for that year, including—

(a) information that is necessary to enable an informed assessment to be made of the industry body's operations and performance under this Part for that year, including an assessment against its statement of intent

prepared under this subpart at the beginning of the year and against the GPS objectives and outcomes; and

(b) a report on the exercise of the powers conferred on it by this Part during the year; and

(c) audited financial statements for the industry body for that financial year that have been prepared in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013); and

(d) the report on those financial statements that is signed by an auditor who was appointed or reappointed by the industry body within 12 months before the end of the period to which the statements relate; and

(e) a report of the matters required to be included in the annual report of a company by paragraphs (e), (f), and (g) of section 211(1) of the Companies Act 1993; and those paragraphs apply as if references to—

(i) an accounting period were references to that year; and

(ii) the company were references to the industry body; and

(iii) a director or former director were references to a member or former member of the board of the industry body; and

(f) the disclosures required under section 43ZX; and

(g) any matters that relate to or affect the body's operations that the body is otherwise required, or has undertaken, or wishes to report on in its annual report.

(2) An annual report must be in writing, be dated, and be signed on behalf of the board of the industry body by 2 members of the board of the industry body.

Section 43ZW: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZW(1)(a): amended, on 12 December 2012, by section 17 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZW(1)(c): replaced, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

43ZX Disclosure of payments in respect of industry body board members and employees

(1) The annual report must include—

(a) for each member of the board, the total value of the remuneration (other than compensation or other benefits referred to in paragraph (c)) paid or payable to the member during that financial year; and

(b) the number of employees to whom, during the financial year, remuneration (other than compensation or other benefits referred to in paragraph (c)) was paid or pay-able in their capacity as employees, the total value

of which is or exceeds $100,000 per annum, and the number of those employees in brackets of $10,000; and

(c) the total value of any compensation or other benefits paid or payable to persons who ceased to be members of the board or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was paid or payable; and

(d) details of any indemnity provided during the financial year to any member of the board or employee; and

(e) details of any insurance cover effected by the board during the financial year in respect of the liability or costs of any member of the board or employee.

(2) In subsection (1), **member** and **employee** include a person who was a member of the board or employee at any time after the commencement of this section but who is no longer a member or employee.

Section 43ZX: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZY Annual report must be presented to House of Representatives

The Minister must present a copy of the industry body's annual report to the House of Representatives as soon as practicable after receiving it.

Section 43ZY: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Miscellaneous provisions

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZ Publication of industry body documents

(1) The industry body must publicise its annual report from the earlier of—

(a) as soon as practicable after it is presented to the House of Representatives; or

(b) no later than 10 working days after it is delivered to the Minister.

(2) The industry body must publicise its constitution.

Section 43ZZ: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZA Auditors

For the purposes of the audit of any financial statements referred to in section 43ZW, an auditor has, and may exercise and perform, all the functions, powers, and duties of an auditor under the Companies Act 1993 as if the industry body were a company.

Section 43ZZA: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Levy to fund industry body

Heading: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZB Industry body recommendation for levy regulations

(1) The industry body may recommend to the Minister that regulations be made under section 43ZZE to require industry participants to pay a levy to the industry body.

(2) The recommendation may recommend different levies or levy rates for different classes of industry participants.

Section 43ZZB: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZC Costs that may be met from levy

(1) Levy regulations under section 43ZZE may provide for the levy to meet the following estimated costs:

(a) the costs of making recommendations concerning any gas governance regulations and rules under this Part:

(b) the costs of administering, monitoring compliance with, investigating, enforcing, and applying penalties or other remedies for contraventions of, gas governance regulations and rules, to the extent that the industry body is required to do so by those regulations or rules or requested to do so by any government policy statement applicable to the gas industry or the Minister:

(c) the costs of establishing, operating, and facilitating the operation of markets for industry participants (including by contracting with other parties, entering into a joint venture or contractual arrangement, or other means):

(d) the costs of establishing or implementing 1 or more complaints resolution systems:

(e) the costs of providing advice to the Minister on matters concerning the gas industry:

(f) the costs of governance of the industry body:

(g) the costs of collecting the levy:

(h) the costs of the industry body of carrying out any other functions or duties, or exercising any powers, under this Part.

(2) The levy may include any costs from the date on which the industry body is approved, even though regulations imposing the levy may be made after that date.

(3) The levy may—

(a) deduct over-recoveries in respect of a financial year from the levy payable in subsequent financial years; or

(b) add under-recoveries in respect of a financial year to the levy payable in subsequent financial years.

Section 43ZZC: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZD Minister must accept recommendations if certain conditions met

(1) The Minister may accept or reject a recommendation of the industry body to make levy regulations under section 43ZZB.

(2) However, the Minister must accept that recommendation, and recommend to the Governor-General that levy regulations be made, if he or she is satisfied that—

(a) the levy rate or amount is reasonable, having regard to the industry body statement of intent, the latest industry body annual report, and any GPS objectives and outcomes; and

(b) the industry body has consulted with industry participants on the levy rate or amount; and

(c) the requirements of sections 43ZZB to 43ZZE are met.

Section 43ZZD: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZZD(2)(a): amended, on 12 December 2012, by section 18 of the Gas Amendment Act 2012 (2012 No 103).

43ZZE Levy regulations that may be made

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make levy regulations that meet the requirements of sections 43ZZB to 43ZZD.

(2) The levy regulations must prescribe the amount of the levy, or the levy rate according to which the amount of the levy may be calculated.

(3) The levy regulations must apply only to the financial year in respect of which the levy regulations are made.

(4) The levy regulations may require payment of a levy for a financial year or part financial year, irrespective of the fact that the regulations may be made after that financial year has commenced.

(4A) The levy regulations may—

(a) require the keeping and supply to the industry body of such information as may be necessary for the purpose of establishing the correct amount of the levy payable; and

(b) prescribe the period for which such information must be kept; and

(c) prescribe the form and manner in which any of that information is to be supplied to the industry body; and

(d) require information supplied to the industry body to be certified, in the prescribed form and manner, by persons belonging to any specified class of persons.

(5) Every industry participant (or prescribed class of industry participants) must pay to the industry body the levy that is prescribed.

(6) The amount of any unpaid levy is recoverable in any court of competent jurisdiction as a debt due to the industry body.

(7) The levy regulations may exempt or provide for exemptions from, or provide for waivers of, the whole or any part of the levy for any case or class of cases.

(8) Levy regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(9) If regulations authorise a person to grant exemptions or waivers referred to in subsection (7),—

(a) an instrument granting an exemption or a waiver is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only in a particular case; and

(b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (8)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (9)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (8)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 43ZZE: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZZE(4A): inserted, on 12 December 2012, by section 19 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZZE(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 43ZZE(9): inserted, on 28 October 2021, by regulation 57 of the Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247).

43ZZF Expiry of subpart

(1) This subpart expires on the date on which subpart 3 comes into force.

(2) The expiry of this subpart does not affect any gas governance regulations or rules made on the recommendation of the industry body.

Section 43ZZF: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Subpart 4—Exemptions from restrictive trade practice provisions of Commerce Act 1986

Subpart 4: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

43ZZR Authorisations for purposes of Commerce Act 1986

The following are specifically authorised for the purpose of section 43 of the Commerce Act 1986:

(a) any act, matter, or thing done, or omitted to be done, by the industry body or an industry participant in the course of, or for the purpose of,—

(i) determining the form of the industry body's constitution and statement of intent, including any amendments to those documents:

(ii) complying with the constitution of the industry body, including any amendments to that constitution:

(iii) recommending any gas governance regulations or rules:

(iv) recommending a levy of industry participants in accordance with this Act:

(b) anything done, or omitted to be done, by the industry body, the Energy Commission, the Rulings Panel, or an industry participant, that is reasonably necessary to comply with, enforce, or otherwise administer any gas governance regulations or rules:

(c) the industry body's constitution and statement of intent and any amendments to those documents.

Section 43ZZR: inserted, on 18 October 2004, by section 5 of the Gas Amendment Act 2004 (2004 No 83).

Section 43ZZR(a)(i): amended, on 12 December 2012, by section 20 of the Gas Amendment Act 2012 (2012 No 103).

Section 43ZZR(c): amended, on 12 December 2012, by section 20 of the Gas Amendment Act 2012 (2012 No 103).

Subpart 5—High Court may impose pecuniary penalty on certain consumers for breach of gas industry regulations or rules

Subpart 5: inserted, on 12 January 2022, by section 19 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43ZZS When High Court may order certain consumers to pay pecuniary penalty

(1) The High Court may, on the application of the Secretary or the Commission, order a consumer (other than a domestic consumer) to pay to the Crown the

pecuniary penalty that the court determines to be appropriate if the court is satisfied that the consumer has breached—

(a) a provision of the gas governance regulations that is identified under section 43TA(1)(a); or

(b) a provision of the rules made under section 43Q that is identified under section 43TA(1)(a).

(2) The maximum amount of a pecuniary penalty for a breach of a provision is the amount prescribed under section 43TA(1)(b) for that provision.

(3) The court may not order an industry participant to pay a pecuniary penalty under subsection (1) (*see instead* section 43X, which allows the Rulings Panel to take action if an industry participant has breached any gas governance regulations or rules).

Section 43ZZS: inserted, on 12 January 2022, by section 19 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43ZZT Considerations for High Court in deciding on amount of pecuniary penalty

(1) The High Court must have regard to all relevant matters when deciding on an appropriate pecuniary penalty to impose on a consumer (**A**).

(2) Those matters include—

(a) the severity of the breach:

(b) the impact of the breach on industry participants and consumers:

(c) the extent to which the breach was inadvertent, negligent, deliberate, or otherwise:

(d) the circumstances in which the breach occurred:

(e) any previous breach of the regulations or rules by A:

(f) the length of time the breach remained unresolved:

(g) A's actions on learning of the breach:

(h) any benefit that A obtained, or expected to obtain, as a result of the breach.

Section 43ZZT: inserted, on 12 January 2022, by section 19 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43ZZU Rules of civil procedure and civil standard of proof apply

(1) A proceeding under this subpart is a civil proceeding.

(2) The usual rules of court and rules of evidence and procedure for civil proceedings apply (including the standard of proof).

Section 43ZZU: inserted, on 12 January 2022, by section 19 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

43ZZV Only 1 pecuniary penalty order may be made for same conduct

(1) This section applies if conduct by a consumer (**A**) constitutes a breach of 2 or more provisions identified under section 43TA(1)(a).

(2) One or more proceedings under this subpart may be brought against A for the breach of any 1 or more of the provisions.

(3) However, A is not liable to more than 1 pecuniary penalty order for the same conduct.

Section 43ZZV: inserted, on 12 January 2022, by section 19 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Part 5
Miscellaneous provisions

General

44 Gas suppliers

(1) Every person who is supplying gas or providing line function services at the date of commencement of this section shall advise the Secretary within 1 month of that date of the place at which that person is carrying on business.

(2) Every person who intends to commence supplying gas or providing line function services shall notify the Secretary of that person's intention at least 1 month before the commencement of the supply of gas or the provision of line function services, as the case may be, and state that person's place of business.

(3) Every person who intends to change that person's place of business in relation to the supply of gas or the provision of line function services shall notify the Secretary of the change at least 1 month before the change is to take place.

Compare: 1982 No 27 s 59

45 Standards for gas supply

All gas supplied shall be of such quality and pressure as is for the time being prescribed by regulations made under section 54.

Compare: 1982 No 27 s 60

46 Safety requirements for distribution systems, etc

(1) All distribution systems, gas installations, fittings, and gas appliances shall be of such quality and standard, and shall be constructed, maintained, and operated in accordance with such safety requirements, as are prescribed by regulations made under section 54.

(2) Nothing in subsection (1) applies to any distribution system, gas installation, fittings, or gas appliance exempted from the provisions of this section by regulations made under section 54.

Compare: 1982 No 27 s 61

46A Owners or operators of gas supply systems must have safety management system

(1) Every person that owns or operates a gas supply system must implement and maintain, in accordance with regulations made under section 54, a safety management system that prevents, so far as is reasonably practicable, the gas supply system from presenting a significant risk of—

(a) serious harm to any member of the public; or

(b) significant damage to property owned by a person other than the person that owns or operates the gas supply system.

(2) For the purposes of this section and sections 46B and 54A, **gas supply system** means the distribution systems, gas installations, fittings, and gas appliances prescribed in regulations made under section 54, being distribution systems, gas installations, fittings, and gas appliances that form part of a system for conveying gas to consumers.

Section 46A: inserted, on 4 May 2010, by section 11 of the Gas Amendment Act 2006 (2006 No 71).

Section 46A(1): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

46B Offence to breach requirement to have safety management system

Every person who, being a person that owns or operates a gas supply system, breaches section 46A commits an offence and is liable on conviction to a fine not exceeding $250,000.

Section 46B: inserted, on 4 May 2010, by section 11 of the Gas Amendment Act 2006 (2006 No 71).

Section 46B: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

47 Testing and inspection of gasfitting work

(1) Where any gasfitting is carried out, that work or, as the case may require, the gas installation or gas appliance in respect of which that work is carried out shall not be connected to a gas supply unless such testing, certification, and inspection as is required in respect of that work by regulations made under section 54 has been carried out.

(2) No person shall sell, or offer for sale, any gas appliance or fittings that have not been tested and certified in accordance with regulations made under section 54.

(3) No person (being a gas wholesaler or gas retailer) shall supply gas for passage through any gas installation unless that person is satisfied that such inspection and certification as is required in respect of that gas installation by regulations made under section 54 has been carried out.

(4) Nothing in this section prevents the connection of a gas installation or a gas appliance to a gas supply or a gas supply system, or the supply of gas to a gas installation, where that connection or supply is solely for the purposes of

carrying out any testing, inspection, or certification required by any regulations made under section 54.

Compare: 1979 No 139 ss 37, 38

48 Power of entry

(1) For the purpose of ensuring that the requirements of section 47 are complied with in relation to any gasfitting, any person authorised by the Board for the purpose may, at any reasonable time, enter any premises (including a dwelling-house) and—

(a) inspect and test any gas installation or gas appliance on those premises that is, or is intended to be, connected to a gas supply:

(b) make such inquiries as are necessary to determine whether or not any gasfitting on those premises has been properly certified.

(2) The power of entry conferred by subsection (1) may be exercised whether or not there are any grounds to believe that any gasfitting has not been properly carried out.

(3) Every person shall give reasonable notice of that person's intention to enter any premises pursuant to subsection (1) to both the owner and the occupier of the premises.

(4) Every person shall, on entering any premises pursuant to subsection (1), and when requested at any subsequent time, produce to the person in charge of the premises—

(a) evidence of that person's authority to enter the premises; and

(b) evidence of that person's identity.

Compare: 1979 No 139 s 39

49 Power to require information

[Repealed]

Section 49: repealed, on 4 May 2010, by section 12 of the Gas Amendment Act 2006 (2006 No 71).

50 Conditions relating to power to enter land or premises

(1) Subject to subsections (2) and (3) and to sections 32 and 48, but notwithstanding any other provision of this Act, any provision in this Act or in any regulations made under section 54 giving any person the power to enter any land or premises without the consent of the owner or occupier shall be subject to the following conditions:

(a) entry to the land or premises shall only be made by the person specified in the relevant provision or any other person that the person so specified authorises in writing, either specifically or as a member of a class so authorised:

(b) reasonable notice of the intention to enter shall be given unless the giving of the notice would defeat the purpose of the entry:

(c) entry shall be made at reasonable times:

(d) the person entering shall carry a warrant of authority or be working under the immediate control of a person holding such authority, which shall be produced on initial entry and, if requested, at any subsequent time:

(e) entry into a dwellinghouse must be authorised by a warrant issued by an issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) on an application made in the manner provided for an application for a search warrant in subpart 3 of Part 4 of the Search and Surveillance Act 2012.

(1A) Subparts 1, 3, 7, 9, and 10 of Part 4 of the Search and Surveillance Act 2012 apply in respect of an application for, and issue of, a warrant under subsection (1)(e).

(2) The conditions specified in subsection (1) shall not apply where the entry is necessary in circumstances of probable danger to life or property or where entry is necessary to maintain the continuity or safety of the supply and distribution of gas.

(3) Nothing in this section shall restrict rights of access in order to obtain consent to enter the land or premises for the authorised purpose in respect of which entry is required.

(4) Notwithstanding any other provision of this Act, no provision in this Act or in any regulations made under section 54 giving any person the power to enter any land or premises without the consent of the owner or occupier shall authorise any person to enter or search any restricted area within a defence area (within the meaning of the Defence Act 1990) unless the person entering has a security clearance approved by the person in charge of the area.

Compare: 1968 No 125 s 15A; 1983 No 123 s 4; 1987 No 111 s 5

Section 50(1)(e): replaced, on 1 October 2012, by section 318(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 50(1A): inserted, on 1 October 2012, by section 318(6) of the Search and Surveillance Act 2012 (2012 No 24).

51 Compensation for damage

(1) Every person having any right, title, estate, or interest in any land or property injuriously affected by the exercise from time to time of any powers conferred by this Act on WorkSafe or a gas operator or any other owner of existing fittings shall be entitled to full compensation for all loss, injury, or damage suffered by that person.

(2) In default of agreement between the parties, claims for compensation under this section shall be made and determined within the time and in the manner provided by the Public Works Act 1981, and the provisions of that Act shall, as far as they are applicable and with all necessary modifications, apply with respect to claims under this section.

(3) Notwithstanding the provisions of any enactment or any rule of law, the exercise of any power conferred by this Act on WorkSafe shall not be curtailed, suspended, or delayed by reason of the fact that any claim for compensation under this section has been made but not determined.

Compare: 1968 No 125 s 16

Section 51(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 51(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

52 Penalty for obstructing officers

Every person commits an offence and is liable on conviction to a fine not exceeding $10,000 who intentionally obstructs any person in the performance of any duty or in doing any work that that person has lawful authority to do under this Act.

Compare: 1982 No 27 s 63

Section 52: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

53 Notices in relation to Maori land

(1) Where a notice or other document is to be given to the owner of land for the purposes of this Act, then, in the case of Maori land, the notice or other document may be served on the Registrar of the Maori Land Court in accordance with Part 10 of Te Ture Whenua Maori Act 1993, and the provisions of that Part shall apply accordingly.

(2) In this section, the term **Maori land** has the same meaning as in section 4 of Te Ture Whenua Maori Act 1993.

Section 53(1): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Section 53(2): amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Maori Act 1993 (1993 No 4).

Regulations—General

54 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) providing for the removal of any fittings or gas appliance erected or used contrary to the provisions of this Act or any regulations made under this section, and for the removal or alteration of any dangerous fittings or dangerous gas appliance, at the expense in all cases of the owner of the fittings or gas appliance:

(b) securing the protection of persons and property from injury or damage caused through gas, either directly or indirectly, by—

(i) authorising, controlling, and prescribing conditions in respect of, the design, construction, installation, maintenance, use, management, inspection, and testing of distribution systems or gas installations:

(ii) authorising, controlling, and prescribing conditions in respect of, the design, installation, manufacture, maintenance, use, inspection, importation, sale, and testing of gas appliances or fittings used or intended to be used in the application of gas:

(iii) prohibiting the manufacture, importation, sale, and use of such gas appliances and fittings as do not satisfy any prescribed tests, standards, or safety criteria:

(iv) requiring such types or categories of gas appliances and fittings as are—

(A) specified in the regulations; or

(B) from time to time declared by WorkSafe to be subject to the regulations (*see* subsection (9))—

to be approved by WorkSafe before being offered for sale in New Zealand; providing for the giving of such approval, for the specifying by WorkSafe of conditions subject to which such approval may be given, for the variation or withdrawal of any such approval, and for the revocation, variation, or addition of any condition of any such approval; and prescribing circumstances in which types or categories of gas appliances or fittings are deemed to be approved by WorkSafe for the purposes of the regulations:

(v) authorising, controlling, restricting, prescribing conditions in respect of, and, where necessary, prohibiting, the construction, installation, use, management, operation, maintenance, transportation, and movement of any structure, device, thing, or substance, whether fixed or movable and whether permanent or temporary, in the vicinity of any fittings or where any fittings may affect or be affected by the structure, device, thing, or substance:

(vi) controlling the existence and location of the whole or any part of any tree or vegetation that is in the vicinity of, or may affect, any fittings:

(bb) prescribing requirements for safety management systems:

(bc) prescribing, for the purposes of sections 46A, 46B, and 54A, what distribution systems, gas installations, fittings, and gas appliances are deemed to be or not to be a gas supply system (or part of a gas supply system) and the circumstances and conditions in which any distribution systems, gas installations, fittings, and gas appliances are deemed to be or not to be a gas supply system (or part of a gas supply system):

(c) prescribing standards in respect of fittings, gas appliances, gas installations, meters, and gas that are or is to be supplied to or used by gas retailers and consumers:

(d) providing for the periodic examination of fittings and gas appliances installed in relocatable buildings or pleasure vessels, or both, and the issue of warrants of fitness by such persons or class or classes of persons as are prescribed or as are authorised by WorkSafe; prescribing fees or maximum fees or authorising the charging of reasonable fees in respect of such examinations (and different fees may be prescribed or provided for in respect of different circumstances and different testing authorities); prescribing the persons to whom any fees are to be paid; and exempting specified relocatable buildings or pleasure vessels, or classes of relocatable buildings or pleasure vessels, from the provisions of the regulations:

(e) prescribing, in relation to workers,—

(i) the training required for any specified class or classes of workers for the purposes of establishing and maintaining safety standards in relation to the manufacture, extraction, storage, processing, treatment, distribution, supply, and application of gas:

(ii) the levels of technical or other qualifications necessary for the carrying out of any specified class or classes of gas work:

(f) regulating and controlling—

(i) the distribution and supply of gas:

(ii) the installation, use, and maintenance of gas measurement systems used for or in connection with the supply or use of gas:

(g) providing for the protection of fittings:

(h) requiring the keeping and retention of such records as are necessary for the purposes of establishing and maintaining safety standards in relation to the production, transmission, distribution, and application of gas, and prescribing the particulars that shall be included in such records:

(i) requiring gas wholesalers to supply to gas retailers and consumers such information on changes in gas composition or variations in gas supplied as is prescribed:

(j) providing for the testing, inspection, and certification of gasfitting:

(k) prescribing standards in respect of the quality, composition, physical properties, dew point, calorific value, purity, odorisation, and odour of gas supplied:

(l) prescribing permissible pressure ranges in respect of the supply of gas:

(m) providing for the testing and sealing of gas measurement systems and calibration equipment; prescribing the manner in which and the means

by which such testing and sealing shall be done; and regulating the manner in which and the means by which gas measurement systems and calibration equipment are reassembled in connection with such testing:

(n) authorising WorkSafe—

(i) in cases of urgency, to issue, in such manner as may be prescribed, instructions, orders, or requirements for securing the protection of persons from injuries caused, directly or indirectly, by gas:

provided that any such instruction, order, or requirement shall remain in force for such period, not exceeding 6 months, as may be determined by WorkSafe or until its earlier revocation by WorkSafe:

(ii) to obtain such information concerning the production, transmission, distribution, sale, consumption, application, and supply of gas as may be required for statistical purposes:

(iii) to carry out tests on distribution systems, gas installations, fittings, and gas appliances:

(o) authorising WorkSafe or the chief executive of the department of State responsible for the administration of the Building Act 2004, or both, to exempt specific gas installations, gas appliances, fittings, persons, or things from requirements imposed by regulations made under this section, subject to any conditions that WorkSafe or, as the case requires, the chief executive thinks fit:

(p) exempting or providing for the exemption of distribution systems, gas installations, fittings, and gas appliances from the provisions of section 46:

(q) prescribing the matters in respect of which fees are payable under this Act; prescribing the amount of the fees or the method by which they are to be assessed; and providing for the remission or refund of any such fees:

(r) prescribing the forms of documents required under this Act, or authorising WorkSafe or the Secretary to prescribe or approve such forms, and requiring the use of such forms:

(s) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amount of the fine that may be imposed in respect of any such offence, which fine shall be an amount not exceeding $50,000 and, where the offence is a continuing one, a further amount not exceeding $2,000 for every day or part of a day during which the offence has continued:

(sb) prescribing infringement offences:

(sc) setting the infringement fee for each infringement offence, which,—

(i) in the case of an individual, must not exceed $1,000; or

(ii) in the case of a body corporate, must not exceed $3,000:

(sd) prescribing information to be included in infringement notices and reminder notices:

(se) prescribing, for the purposes of this Act, where the point of supply is deemed to be or not to be in relation to any place and the circumstances and conditions in which any point is deemed to be or not to be a point of supply:

(t) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Any regulations made under any of paragraphs (b) to (m) of subsection (1) may—

(a) require compliance with the whole or any part of any gas code of practice or any official standard:

(b) provide that proof of compliance with—

(i) any gas code of practice, or any part of such a code; or

(ia) any official standard, or any part of an official standard; or

(ii) any approved code of practice for the time being in force pursuant to section 222 of the Health and Safety at Work Act 2015, or any part of any such approved code of practice,—

shall be proof of compliance with such provisions of the regulations as are specified in the regulations.

(2A) Regulations may require compliance with an official standard (or a specified part of an official standard) that relates to the subject matter of the regulations by referring to it in the regulations (with any additions or variations that may be specified in the regulations).

(2B) That official standard (or the specified part), as it existed on the date of the inclusion (but with any specified additions or variations) is then deemed to form part of the regulations.

(3) Without limiting paragraph (b) of subsection (1), regulations made under subparagraph (iv) of that paragraph may require types or categories of gas measurement systems to be approved by WorkSafe before being offered for sale in New Zealand, notwithstanding that such approval is not required for the purposes of securing the protection of persons and property from injury or damage caused through gas, either directly or indirectly.

(4) No regulation made under this section is invalid because it leaves any matter to the discretion of WorkSafe, the Secretary, or any other person, or because it authorises WorkSafe, the Secretary, or any other person—

(a) to give any consent or approval on or subject to conditions to be imposed or approved by the Secretary or any other person; or

(b) to set any standard.

(5) Notwithstanding section 1(3), and without limiting sections 43 and 44 of the Legislation Act 2019, no regulation made under this section may be expressed to come into force before 1 April 1993.

(6) The Minister, before recommending the making of any regulations under this section, must consult the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011 about the contents of such regulations and shall take into account any submissions made by that Authority.

(7) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(8) Subpart 1 of Part 3 and section 114 of the Legislation Act 2019 do not apply to material that is incorporated by reference in regulations under subsections (2) to (2B) merely because it is incorporated.

(9) Subsection (10) applies if regulations made under this section authorise any of the following:

(a) WorkSafe to make a declaration referred to in subsection (1)(b)(iv)(B):

(b) WorkSafe to issue instructions, orders, or requirements referred to in subsection (1)(n)(i):

(c) WorkSafe or the chief executive to grant exemptions referred to in subsection (1)(o):

(d) a person to grant exemptions referred to in subsection (1)(p).

(10) If this subsection applies,—

(a) an instrument exercising that authority is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons; and

(b) the regulations must contain a statement to that effect.

Compare: 1968 No 125 s 55; 1982 No 27 s 67; 1983 No 123 s 8; 1987 No 111 s 13

Legislation Act 2019 requirements for secondary legislation referred to in subsection (7)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (10)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (7)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 54(1)(b)(iv): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(1)(bb): inserted, on 5 December 2006, by section 13(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(bc): inserted, on 5 December 2006, by section 13(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(d): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(1)(e) proviso: repealed, on 1 April 2010, by section 185 of the Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74).

Section 54(1)(n): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(1)(n)(i) proviso: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(1)(o): substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 54(1)(o): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(1)(r): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(1)(s): amended, on 5 December 2006, by section 13(2) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(sb): inserted, on 5 December 2006, by section 13(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(sc): inserted, on 5 December 2006, by section 13(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(sd): inserted, on 5 December 2006, by section 13(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(1)(se): inserted, on 5 December 2006, by section 13(3) of the Gas Amendment Act 2006 (2006 No 71).

Section 54(2)(a): amended, on 27 September 2001, by section 4(1) of the Gas Amendment Act 2001 (2001 No 67).

Section 54(2)(b)(ia): inserted, on 27 September 2001, by section 4(2) of the Gas Amendment Act 2001 (2001 No 67).

Section 54(2)(b)(ii): amended, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 54(2A): inserted, on 27 September 2001, by section 4(3) of the Gas Amendment Act 2001 (2001 No 67).

Section 54(2B): inserted, on 27 September 2001, by section 4(3) of the Gas Amendment Act 2001 (2001 No 67).

Section 54(3): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(4): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 54(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(6): added, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

Section 54(6): amended, on 1 July 2011, by section 53(1) of the Environmental Protection Authority Act 2011 (2011 No 14).

Section 54(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(9): replaced, on 28 October 2021, by regulation 58 of the Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247).

Section 54(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 54(10): inserted, on 28 October 2021, by regulation 58 of the Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247).

54A Regulations that prescribe requirements for safety management systems

(1) Regulations made under section 54(1)(bb) must provide for requirements relating to—

- (a) the systematic identification of—
  - (i) existing hazards; and
  - (ii) new hazards (if possible before, and otherwise as, they arise); and
- (b) the elimination, isolation, or minimisation of those hazards, so far as is reasonably practicable; and
- (c) the regular assessment of each hazard identified; and
- (d) the documentation of the safety management system; and
- (e) the audit of the safety management system.

(2) Regulations made under section 54(1)(bb) for the purposes of subsection (1)(b) may include, for example, requirements relating to—

- (a) the design, construction, operation, maintenance, and inspection of the gas supply system; and
- (b) security and the control of access to the gas supply system; and
- (c) the skills, knowledge, and experience of persons who do, or assist in doing, work on or in connection with the gas supply system; and

(d) the implementation and management of contingency plans for emergency situations that may affect, or be affected by, the gas supply system; and

(e) processes for the ongoing improvement of safety in connection with the gas supply system; and

(f) the investigation of accidents that involve or affect the gas supply system.

(3) Regulations made under section 54(1)(bb) for the purposes of subsection (1)(e) may include, for example, requirements relating to—

(a) who may conduct audits; and

(b) how often audits must be conducted; and

(c) the outcomes and objectives of audits.

(4) Subsections (2) and (3) do not limit subsection (1).

(5) In this section, **hazard**—

(a) means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside the gas supply system) that presents or may present a significant risk of—

(i) serious harm to any member of the public; or

(ii) significant damage to property owned by a person other than the person that owns or operates the gas supply system; and

(b) includes—

(i) a situation where a person's behaviour may present a significant risk of the matters referred to in paragraph (a)(i) or (ii); and

(ii) without limitation, a situation described in subparagraph (i) resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person's behaviour.

Section 54A: inserted, on 5 December 2006, by section 14 of the Gas Amendment Act 2006 (2006 No 71).

Section 54A(1)(b): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

54B Miscellaneous provisions relating to regulations that prescribe requirements for safety management systems

(1) To avoid doubt, a person required by a safety management system to eliminate, isolate, or minimise hazards so far as is reasonably practicable is required to take action only in respect of circumstances that the person knows, or ought reasonably to know, about.

(2) Different requirements may be prescribed under section 54(1)(bb) in respect of different classes of persons.

Section 54B: inserted, on 5 December 2006, by section 14 of the Gas Amendment Act 2006 (2006 No 71).

Section 54B(1): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Regulations—Information disclosure

55 Regulations relating to information disclosure

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) requiring every gas wholesaler to publish in the prescribed manner information in relation to the supply of gas by that gas wholesaler (including gas supplied direct to a consumer); and prescribing the information, including (without limitation) prices, terms, and conditions, that the gas wholesaler shall make available:

(b) requiring gas wholesalers, pipeline owners, and gas retailers to make publicly available prescribed financial statements that follow generally accepted accounting principles, including (without limitation) statements of financial performance and statements of financial position and statements of accounting principles:

(c) requiring every pipeline owner to publish in the prescribed manner information in relation to the conveyance of gas by means of pipelines owned by that pipeline owner; and prescribing the information that the pipeline owner shall make available, which information may include (without limitation)—

(i) prices, terms, and conditions:

(ii) pricing policies and methodologies:

(iii) costs:

(iv) cost allocation policies and methodologies:

(v) performance measures, or information from which performance measures may be derived, or both:

(vi) the amount of gas conveyed:

(vii) the capacity of the pipeline owner's pipelines, and the methodology used to measure that capacity:

(d) requiring every gas retailer to publish in the prescribed manner information in relation to gas and prescribed related services supplied by the gas retailer; and prescribing the information, including (without limitation) the prices, terms, and conditions, that every gas retailer shall make available:

(e) prescribing the form and manner in which the financial statements required by regulations made under paragraph (b) shall be made available:

(f) prescribing the form of statutory declaration and by whom it shall be made for the purposes of section 56:

(g) requiring, in respect of statements or information required from pipeline owners,—

(i) the adoption, in the preparation or compilation of those statements or that information, of such methodology as is prescribed in the regulations or in any document published by or under the authority of the Secretary and referred to in the regulations:

(ii) the disclosure, in the prescribed manner, of the methodology adopted in the preparation or compilation of those statements or that information:

(iii) the inclusion of any matters prescribed in any document published by or under the authority of the Secretary and referred to in the regulations:

(h) requiring that any statements or information required, by regulations made pursuant to this section, to be made available, or information from which those statements or that information is derived (in whole or in part), be certified, in the prescribed form and manner, by persons belonging to any class of persons specified in that behalf in the regulations:

(ha) requiring, in respect of any person that is required to publish information or to make publicly available prescribed financial statements, that that person include with or in that information, or with or in those prescribed financial statements, information or statements in respect of prescribed business relationships involving that person and involving the supply of gas or the provision of prescribed related services; and, for this purpose, prescribed business relationships involving activities conducted by, or occurring within, 1 person only are included:

(i) prescribing the time limits within which the information disclosure required by any regulations made pursuant to this subsection shall be made to the public:

(j) requiring gas distributors and gas retailers, in charging for the conveyance of gas, or the supply of gas, or both, to disclose, in the prescribed manner, charges, or components of charges, or both:

(k) exempting or providing for the exemption of any person or class of persons from all or any of the requirements of any regulations made under this subsection.

(2) The regulations may not require the disclosure of the names of the parties to, or the terms and conditions of, contracts made before 1 August 1990 but,

if the contract is modified after that date, the regulations may require the disclosure of information as to the modification, the term or condition that has been modified (including its context), and the names (or characteristics) of the parties.

(2A) Nothing in section 43F, 43G, or 56AA limits this section.

(3) Notwithstanding section 1(3) of this Act, and without limiting sections 43 and 44 of the Legislation Act 2019, no regulations made under this section may be expressed to come into force before 1 April 1993.

(4) References in this section to pipeline owners, gas wholesalers, gas retailers, and gas distributors include any person that is or was such a person for any part of a financial year.

(5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) If regulations authorises a person to grant exemptions referred to in subsection (1)(k),—

(a) an exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons; and

(b) the regulations must contain a statement to that effect.

Compare: 1987 No 116 s 5C; 1990 No 21 s 3

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (4)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 55(1)(b): substituted, on 28 September 1993, by section 3(1) of the Gas Amendment Act 1993 (1993 No 144).

Section 55(1)(b): amended, on 1 October 1997, pursuant to section 6(1) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 55(1)(b): amended, on 1 October 1997, pursuant to section 6(2) of the Financial Reporting Amendment Act 1997 (1997 No 17).

Section 55(1)(c): amended, on 27 September 2001, by section 5(1) of the Gas Amendment Act 2001 (2001 No 67).

Section 55(1)(d): amended, on 28 September 1993, by section 3(2) of the Gas Amendment Act 1993 (1993 No 144).

Section 55(1)(g): substituted, on 27 September 2001, by section 5(2) of the Gas Amendment Act 2001 (2001 No 67).

Section 55(1)(ha): inserted, on 28 September 1993, by section 3(3) of the Gas Amendment Act 1993 (1993 No 144).

Section 55(1)(ha): amended, on 15 November 2000, by section 3 of the Gas Amendment Act 2000 (2000 No 69).

Section 55(2): substituted, on 27 September 2001, by section 5(3) of the Gas Amendment Act 2001 (2001 No 67).

Section 55(2A): inserted, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 55(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 55(4): added, on 27 September 2001, by section 5(4) of the Gas Amendment Act 2001 (2001 No 67).

Section 55(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 55(6): inserted, on 28 October 2021, by regulation 59 of the Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247).

56 Information to be supplied to Secretary

(1) Every person who is required by regulations made under section 55 to make available statements and information shall supply to the Secretary—

(a) a copy of all statements and information, made available to the public pursuant to regulations made under that section, which statements and information must be supplied within 5 working days after the statements and information are first made so available:

(b) any further statements, reports, agreements, particulars, and other information requested in writing by the Secretary for the purpose of monitoring the person's compliance with those regulations.

(2) Every person to whom a request is made pursuant to subsection (1)(b) shall comply with that request within 30 days after receiving the request or within such further period as the Secretary in any particular case may allow.

(3) All statements, reports, agreements, particulars, and information supplied to the Secretary under paragraph (a) or paragraph (b) of subsection (1) shall be verified by statutory declaration in the form and by the persons prescribed by regulations made under section 55(1)(f).

Compare: 1987 No 116 s 5D; 1990 No 21 s 3

Section 56(1)(a): amended, on 28 July 1997, by section 3 of the Gas Amendment Act 1997 (1997 No 46).

56A Reasonable charge may be imposed for providing copies of statements

(1) Any person who is required by regulations made under section 55 to provide copies of statements and information, on request, to the public, may charge for providing those copies.

(2) Any charge imposed under subsection (1) for copies of statements and information may be no more than is reasonably required to recover the costs of providing those copies.

Section 56A: inserted, on 28 July 1997, by section 4 of the Gas Amendment Act 1997 (1997 No 46).

Regulations—Disclosure of market information to industry body or Secretary

Heading: inserted, on 6 June 2026, by section 5 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

56AA Regulations relating to disclosure of market information to industry body or Secretary

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) requiring an industry participant or a consumer (other than a domestic consumer) to disclose information about gas markets (**gas markets information**) to the industry body or the Secretary (or both), including, for example, any of the following to the extent that it relates to gas markets:

(i) petroleum reserves and resources within the meaning of the Petroleum Resources Management System:

(ii) forecasts of supply or demand:

(iii) information about how much gas has been supplied or is being supplied to any other person or persons (whether for the purpose of resupply or for any purpose other than for resupply):

(iv) information about how much gas has been produced or is being produced:

(v) information about any risks to security of supply, including outages:

(vi) information about agreements to trade gas, including volumes traded, prices, parties to the agreement, and duration of the agreement:

(vii) information about an industry participant or a consumer (other than a domestic consumer) that has, or may have, a significant effect on other industry participants or consumers:

(viii) information to help other industry participants or consumers (other than domestic consumers) to make informed decisions in connection with the gas markets:

(b) prescribing the circumstances in which gas markets information must be disclosed to the industry body or the Secretary (or both) (for example, when requested, at a specified time, or on the occurrence of a specified event):

(c) prescribing the form and manner in which gas markets information must be disclosed to the industry body or the Secretary (or both):

(d) prescribing the information that must be recorded and retained about any gas markets information, including the methodologies that must be applied in recording the information:

(e) requiring the contents of gas markets information to be independently assessed for accuracy and certified by a person who is approved by the industry body or the Secretary (or both) (in the prescribed manner, if any):

(f) prescribing limits or restrictions on the publication of information under section 56AAB.

(2) The Minister may recommend any regulations to require the disclosure of information under this section only if the Minister is satisfied that the disclosure is necessary or desirable for 1 or more of the following purposes:

(a) to help industry participants or consumers (other than domestic consumers) (or both) to make informed decisions:

(b) to assist the Government in overseeing, monitoring, or regulating any gas market:

(c) to assist in the co-regulation of the gas industry by the Government and the industry body.

(3) In this section, **domestic consumer**, **industry body**, and **industry participant** have the meanings set out in section 43D.

(4) In this section, **Petroleum Resources Management System** means the system of that name developed and published by the Society of Petroleum Engineers and available on the Society's Internet site.

(5) Nothing in section 43F, 43G, or 55 limits this section.

(6) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 56AA: inserted, on 6 June 2026, by section 5 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

56AAB Industry body or Secretary may publish information

(1) The industry body or the Secretary (or both) may publish any information disclosed under regulations made under section 56AA (or any analysis or summary of that information) if the industry body or Secretary is satisfied that publishing the information is necessary or desirable for 1 or more of the purposes set out in section 56AA(2)(a) to (c).

(2) Subsection (1)—

(a) applies despite any legislation or other rule of law to the contrary; but

(b) is subject to any limits or restrictions imposed under section 56AA(1)(f).

Section 56AAB: inserted, on 6 June 2026, by section 5 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Gas safety instruments

Heading: replaced, on 30 March 2025, by section 14 of the Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10).

56AB Minister may approve gas safety instruments

(1) The Minister may—

(a) approve a gas safety instrument developed by WorkSafe for the purposes referred to in subsection (2); and

(b) amend or revoke an approved gas safety instrument.

(2) The purposes of gas safety instruments are to define terms, prescribe matters, or make other provision in relation to any activity or thing, including (without limitation) listing standards, control of substances, competency requirements, and certification requirements.

(3) The Minister must not approve a gas safety instrument unless the Minister is satisfied that all persons and organisations that the Minister thinks appropriate have been consulted, having regard to the subject matter of the proposed gas safety instrument.

(4) The Minister may approve an amendment to a gas safety instrument (including approving incorporation of amendments to, or updates of, documents incorporated by reference) without complying with subsection (3) if the Minister is satisfied that the amendment is minor or technical.

(5) To the extent that a gas safety instrument is given effect to in accordance with section 56AC, it is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) To the extent that a gas safety instrument is not secondary legislation, subsection (7) applies.

(7) The Minister must, as soon as practicable after a gas safety instrument is made,—

(a) notify the gas safety instrument in the *Gazette*; and

(b) ensure that a copy of the gas safety instrument is published on an internet site—

(i) that is maintained by or on behalf of WorkSafe; and

(ii) from which members of the public can access and download it free of charge at all times (as far as practicable).

(8) A failure to comply with subsection (3) does not affect the validity of a gas safety instrument.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 56AB: replaced, on 30 March 2025, by section 14 of the Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10).

56AC Legal effect of gas safety instruments

(1) A gas safety instrument has legal effect only to the extent that any regulations made under this Act refer to it.

(2) For the purposes of subsection (1), regulations may refer to—

(a) a particular gas safety instrument as amended or replaced from time to time; or

(b) any gas safety instrument that may be made for the purposes of regulations (even if the instrument is not or has not been made at the time the regulations are made).

Section 56AC: inserted, on 30 March 2025, by section 14 of the Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10).

56AD Minister may delegate approval of gas safety instruments to WorkSafe

(1) The Minister may, either generally or specifically, delegate to WorkSafe the Minister's power to approve, amend, or revoke a gas safety instrument.

(2) A delegation under this section must be in writing.

(3) WorkSafe must not delegate the power to approve, amend, or revoke a gas safety instrument delegated to it under subsection (1) except in accordance with the terms of the delegation.

(4) The power of the Minister to delegate under this section—

(a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but

(b) does not limit any power of delegation conferred on the Minister by any other Act.

(5) WorkSafe may, unless the delegation provides otherwise, exercise the power delegated to it under this section in the same manner, subject to the same restrictions, and with the same effect as if it had been conferred on WorkSafe directly.

(6) If WorkSafe purports to act under a delegation under this section, WorkSafe is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

(7) No delegation under this section affects or prevents the performance or exercise of any function or power by the Minister or affects the responsibility of the Minister for the actions of a person acting under the delegation.

Section 56AD: inserted, on 30 March 2025, by section 14 of the Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10).

Miscellaneous provisions

56B Offences for actions or omissions likely to cause serious harm or significant property damage

(1) Every person commits an offence if—

(a) the person takes an action knowing that the action is reasonably likely to cause serious harm to any person or significant property damage; and

(b) the action is contrary to a provision of this Act; and

(c) the person fails to prevent, so far as is reasonably practicable, the serious harm or significant property damage.

(2) Every person commits an offence if—

(a) the person fails to take an action knowing that the failure to take the action is reasonably likely to cause serious harm to any person or significant property damage; and

(b) the person is required by this Act to take the action; and

(c) the person fails to prevent, so far as is reasonably practicable, the serious harm or significant property damage.

(3) Every person who commits an offence under this section is liable on conviction to—

(a) imprisonment for a term of not more than 2 years; or

(b) a fine of not more than $100,000 in the case of an individual, or $500,000 in the case of a body corporate; or

(c) both.

(4) A person charged with an offence under this section may be convicted of an offence under any other section in this Act as if the person had been charged under that section.

(5) To avoid doubt, a person required by this section to prevent, so far as is reasonably practicable, serious harm or significant property damage is required to take action only in respect of circumstances that the person knows, or ought reasonably to know, about.

(6) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under this section.

Compare: 1992 No 96 s 49

Section 56B: inserted, on 4 May 2010, by section 15 of the Gas Amendment Act 2006 (2006 No 71).

Section 56B(1)(c): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 56B(2)(c): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 56B(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 56B(5): replaced, on 4 April 2016, by section 232 of the Health and Safety at Work Act 2015 (2015 No 70).

Section 56B(6): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

57 Other offences

(1) Every person commits an offence against this section who—

(a) fails, without reasonable excuse, to comply with any information disclosure or other requirements prescribed in regulations made under section 55 or 56AA; or

(b) fails, without reasonable excuse, to comply with the requirements of section 56(1)(a) or section 56(1)(b) or section 56(2) or section 56(3).

(2) Every person commits an offence against this section who makes a false declaration when supplying any statement, report, agreement, particulars, or information pursuant to section 56 or 56AA.

(3) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $200,000 and, if the offence is a continuing one, to a further fine not exceeding $10,000 for every day or part of a day during which the offence is continued.

(4) Every person who commits an offence against subsection (2) is liable on conviction to a fine not exceeding $20,000.

Compare: 1987 No 116 s 5E; 1990 No 21 s 3

Section 57 heading: substituted, on 4 May 2010, by section 16 of the Gas Amendment Act 2006 (2006 No 71).

Section 57(1)(a): amended, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 57(2): amended, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

Section 57(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

57A Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act or any regulations made under section 54, 55, or 56AA ends on the date that is 5 years after the date on which the offence was committed.

Section 57A: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57A: amended, on 6 June 2026, by section 6 of the Gas (Market Transparency) Amendment Act 2026 (2026 No 28).

57B Infringement offences

(1) If a person is alleged to have committed an infringement offence, the person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 57C.

(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if WorkSafe commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

Section 57B: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57B(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

57C Infringement notices

(1) WorkSafe may issue an infringement notice to a person if—

(a) WorkSafe believes on reasonable grounds that the person is committing, or has committed, an infringement offence; and

(b) WorkSafe or another person has not taken enforcement action against the same defendant in respect of the same matter.

(2) WorkSafe may revoke an infringement notice before the infringement fee is paid, or before an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

(3) An infringement notice is revoked by giving written notice to the person to whom it was issued that the notice is revoked.

(4) For the purposes of this section, **enforcement action** means,—

(a) in relation to WorkSafe,—

(i) the filing of a charging document under this Act; or

(ii) the issuing of an infringement notice under this Act; and

(b) in relation to a person other than WorkSafe, the filing of a charging document under this Act.

Section 57C: inserted, on 4 May 2010, by section 17(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 57C(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(1)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(1)(b): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(4)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(4)(a)(i): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 57C(4)(b): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57C(4)(b): amended, on 4 October 2013, by regulation 3(1) of the Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409).

57D Procedural requirements for infringement notices

(1) An infringement notice may not be issued after the close of the 14th day after WorkSafe becomes aware of the alleged infringement offence.

(2) An infringement notice may be served on a person—

(a) by delivering it, or a copy of it, personally to the person who appears to have committed the infringement offence; or

(b) by sending it, or a copy of it, by post, addressed to the person at the person's last known place of residence or business.

(3) An infringement notice sent under subsection (2)(b) must be treated as having been served on the person on the date it was posted.

(4) An infringement notice must be in the prescribed form and must contain—

(a) details of the alleged infringement offence that are sufficient to fairly inform a person of the time, place, and nature of the alleged infringement offence; and

(b) the amount of the infringement fee; and

(c) an address at which the infringement fee may be paid; and

(d) the time within which the infringement fee must be paid; and

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(f) a statement that the person served with the notice has a right to request a hearing; and

(g) a statement of what will happen if the person served with the notice does not pay the fee and does not request a hearing; and

(h) any other prescribed matters.

(5) If an infringement notice has been issued, proceedings in respect of the infringement offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957 and, in that case,—

(a) reminder notices may be prescribed under regulations made under this Act; and

(b) in all other respects, section 21 of the Summary Proceedings Act 1957 applies with all necessary modifications.

(6) Reminder notices must contain the prescribed information.

Section 57D: inserted, on 4 May 2010, by section 17(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 57D(1): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 57D(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

57E Payment of infringement fee

WorkSafe must pay all infringement fees received into a Crown Bank Account.

Section 57E: inserted, on 4 May 2010, by section 17(1) of the Gas Amendment Act 2006 (2006 No 71).

Section 57E: amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

57F Effect of infringement notice

(1) If an infringement notice is issued, a criminal record must not be created in respect of the infringement offence.

(2) Subsection (1) does not prevent a court being told, for the purpose of sentencing a person convicted of an offence under this Act, that the person has paid, or is obliged to pay, an infringement fee for a particular infringement offence.

Section 57F: inserted, on 4 May 2010, by section 17(1) of the Gas Amendment Act 2006 (2006 No 71).

58 Repeals, revocations, and consequential amendments

(1) The enactments specified in Schedule 1 are hereby repealed.

(2) The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.

(3) The regulations specified in Schedule 3 are hereby revoked.

(4) The Gas Meter Testing Fees Determination 1982 (SR 1982/130) is hereby revoked.

59 Savings

The repeal, by section 58(1), of the Gas Act 1982 does not affect—

(a) the validity of anything validated by section 69 of that Act; and

(b) the amendments made by section 71 of that Act.

Amendment to Gas Act 1982

60 Power to execute works on private land

Amendment(s) incorporated in the Act(s).

Schedule 1AA
Transitional, savings, and related provisions

s 3A

Schedule 1AA: inserted, on 13 July 2021, by section 20 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Part 1
Provisions relating to Gas (Information Disclosure and Penalties) Amendment Act 2021

Schedule 1AA Part 1: inserted, on 13 July 2021, by section 20 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

1 Action taken by gas industry body before enactment is valid for purposes of new regulations

(1) Any action taken by the industry body for the purposes of making a recommendation relating to regulations made under section 43F(2)(e) or (f) or for the purpose of section 43TA (as in force immediately after the commencement of this clause) must be treated as having been validly taken by the industry body under, and for the purposes of, sections 43I to 43P.

(2) However, the industry body may make the recommendation relating to those regulations only after the commencement of this clause.

(3) Subclause (1) applies even if the action is taken before the Gas (Information Disclosure and Penalties) Amendment Act 2021 is enacted.

Schedule 1AA clause 1: inserted, on 13 July 2021, by section 20 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

2 Rulings Panel not required to take into account amount of previous civil pecuniary penalties

(1) This clause applies when the Rulings Panel is making a decision under section 43X in relation to a breach of any gas governance regulations or rules committed on or after the commencement of section 16 of the Gas (Information Disclosure and Penalties) Amendment Act 2021.

(2) The Rulings Panel is not required to take into account under section 43X(2) the amount of any civil pecuniary penalty imposed under section 43X before the commencement of section 16 of the Gas (Information Disclosure and Penalties) Amendment Act 2021.

Schedule 1AA clause 2: inserted, on 13 July 2021, by section 20 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

3 Offences for breach of Rulings Panel's compliance orders

(1) Regulation 51 of the Gas Governance (Compliance) Regulations 2008 continues to apply as if it were still in force in relation to a breach that occurs

before the commencement of section 22 of the Gas (Information Disclosure and Penalties) Amendment Act 2021.

(2) Section 43YA applies to a breach that occurs on or after the commencement of section 22 of the Gas (Information Disclosure and Penalties) Amendment Act 2021.

(3) In this clause, **breach** means a breach of a requirement or an order made under section 43X(1).

Schedule 1AA clause 3: inserted, on 13 July 2021, by section 20 of the Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30).

Schedule 1
Enactments repealed

s 58(1)

Auckland Provincial Act

Gas Company Lease Act 1863 (1863 Sess 15 No 25)

Other Acts

Auckland Gas Company Act 1871 (1871 No 1 (P))

Auckland Gas Company Amendment Act 1963 (1963 No 2 (P))

Auckland Gas Company Amendment Act 1968 (1968 No 8 (P))

Auckland Gas Company Amendment Act 1969 (1969 No 3 (P))

Christchurch Gas Act 1870 (1870 No 2 (P))

Christchurch Gas Amendment Act 1971 (1971 No 1 (P))

Dunedin Suburban Gas Company Empowering Act 1907 (1907 No 2 (P))

Gas Act 1982 (1982 No 27)

Gas Amendment Act 1987 (1987 No 31)

Gisborne Borough Gas Act 1916 (1916 No 7 (L))

Gisborne Gas Company Act 1884 (1884 No 3 (P))

Hamilton Gasworks Act 1895 (1895 No 1 (P))

Hastings Gas Company Act 1958 (1958 No 3 (P))

Hokitika Gas Company Act 1877 (1877 No 46 (L))

Johnsonville and Makara Gas Supply Act 1928 (1928 No 7 (L))

Melrose Borough Gas Act 1899 (1899 No 28 (L))

Napier Gas Company's Act 1875 (1875 No 3 (P))

Napier Gas Company Amendment and Enlargement Act 1936 (1936 No 6 (P))

Nelson City Gas Act 1871 (1871 No 2 (P))

New Plymouth Gas Company Act 1879 (1879 No 1 (P))

Paeroa Gasworks Act 1900 (1900 No 2 (P))

Pahiatua Gasworks Act 1900 (1900 No 1 (P))

Thames Gas Company's Act 1873 (1873 No 3 (P))

Timaru Gas Act 1876 (1876 No 1 (P))

Wellington Gas Company's Act 1870 (1870 No 3 (P))

Schedule 2
Enactments amended

s 58(2)

Energy Companies Act 1992 (1992 No 56)

Amendment(s) incorporated in the Act(s).

Environment Act 1986 (1986 No 127)

Amendment(s) incorporated in the Act(s).

Judicature Amendment Act 1991 (1991 No 60)

Amendment(s) incorporated in the Act(s).

Ministry of Energy (Abolition) Act 1989 (1989 No 140)

Amendment(s) incorporated in the Act(s).

Public Finance Act 1989 (1989 No 44)

Amendment(s) incorporated in the Act(s).

Resource Management Act 1991 (1991 No 69)

Amendment(s) incorporated in the Act(s).

Schedule 3
Regulations revoked

s 58(3)

Gas Industry Regulations 1984 (SR 1984/246)

Gas Industry Regulations 1984, Amendment No 2 (SR 1987/347)

Gas Amendment Act 2004

Public Act	2004 No 83
Date of assent	17 October 2004
Commencement	see section 2

1 Title

(1) This Act is the Gas Amendment Act 2004.

(2) In this Act, the Gas Act 1992 is called "the principal Act".

2 Commencement

(1) Subpart 3 of Part 4A of the Gas Act 1992 (as inserted by section 5) comes into force on a date to be appointed by the Governor-General by Order in Council on the recommendation of the Minister of Energy in accordance with section 3.

(2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Section 2(1): amended, on 18 October 2004, by section 201(1) of the Crown Entities Act 2004 (2004 No 115).

Commencement of Energy Commission provisions

3 Process to apply before Energy Commission provisions may be commenced

(1) The Minister of Energy may recommend the making of the Order in Council under section 2(1) only if—

(a) the Minister has publicly notified his or her intention to do so by publishing in the *Gazette* a notice—

(i) stating that the Minister is proposing to recommend that the Order in Council be made, when the Minister proposes that the Order in Council will come into force, and that the effect of the Order in Council will be to establish the Energy Commission under the Gas Act 1992; and

(ii) stating the reason or reasons that the Minister proposes recommending the making of the Order in Council or stating where copies of that statement may be obtained; and

(iii) inviting members of the public to make submissions on the proposal; and

(iv) stating the last date on which the Minister will receive submissions on the proposal (which date must be no less than 28 days after the date of the notice's publication); and

(b) the Minister has considered all submissions on the proposal that are received by him or her on or before the date stated under paragraph (a)(iv); and

(c) at least 3 months have expired since the date of the notice's publication; and

(d) no more than 6 months have expired since the date of the notice's publication or, if the Minister renews the period by notice in the *Gazette* before the end of that 6 months, no more than 12 months have expired since the date of the notice's publication.

(2) If the Minister of Energy commences a notice and submission process under subsection (1) but subsequently decides not to recommend the making of an Order in Council, he or she must publish a further notice in the *Gazette* stating that decision and terminating the notice and submission process, as soon as practicable after making that decision.

(3) Subsection (1) does not apply if the Minister considers that it is necessary or desirable in the public interest that the Order in Council be made urgently.

(4) The Minister may carry out more than 1 notice and submission process under subsection (1), and those processes may be carried out concurrently or consecutively.

Gas Amendment Act 2006

Public Act	2006 No 71
Date of assent	4 December 2006
Commencement	see section 2

1 Title

This Act is the Gas Amendment Act 2006.

2 Commencement

(1) Section 1, this section, sections 3, 6(1), 8, 9, 13, and 14 come into force on the day after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.

Section 2(2): sections 4, 5, 6(2)–(5), 7, 10–12, and 15–18 brought into force, on 4 May 2010, by clause 2 of the Gas Amendment Act 2006 Commencement Order 2010 (SR 2010/75).

17 New sections 57A to 57F inserted

(1) *Amendment(s) incorporated in the Act(s)*.

(2) Nothing in section 57A of the principal Act (as inserted by this section) enables any proceedings to be brought that were barred before the commencement of this section.

Infrastructure (Amendments Relating to Utilities Access) Act 2010

Public Act	2010 No 99
Date of assent	5 August 2010
Commencement	see section 2

1 Title

This Act is the Infrastructure (Amendments Relating to Utilities Access) Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Transitional provision

28 Transitional provision

To avoid doubt, the amendments made by this Act are intended to apply prospectively only and do not apply to or affect any notice given, request made, condition proposed or agreed to, or any other thing done before this Act comes into force.

Notes

1 General

This is a consolidation of the Gas Act 1992 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Gas (Market Transparency) Amendment Act 2026 (2026 No 28)

Regulatory Systems (Immigration and Workforce) Amendment Act 2025 (2025 No 10): Part 3

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Legislation Act (Amendments to Legislation) Regulations 2021 (SL 2021/247): regulations 56–59

Secondary Legislation Act 2021 (2021 No 7): section 3

Gas (Information Disclosure and Penalties) Amendment Act 2021 (2021 No 30): Part 1

Urban Development Act 2020 (2020 No 42): section 300

Public Service Act 2020 (2020 No 40): section 135

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Regulatory Systems (Commercial Matters) Amendment Act 2017 (2017 No 12): Part 3 subpart 2

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Standards and Accreditation Act 2015 (2015 No 91): section 45(1)

Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72): section 55

Health and Safety at Work Act 2015 (2015 No 70): section 232

Consumer Guarantees Amendment Act 2013 (2013 No 144): section 16

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

WorkSafe New Zealand Act 2013 (2013 No 94): section 22

Criminal Procedure (Consequential Amendments) Regulations 2013 (SR 2013/409): regulation 3(1)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Crown Minerals Amendment Act 2013 (2013 No 14): section 65

Legislation Act 2012 (2012 No 119): section 77(3)

Gas Amendment Act 2012 (2012 No 103)

Search and Surveillance Act 2012 (2012 No 24): section 318

Criminal Procedure Act 2011 (2011 No 81): section 413

Environmental Protection Authority Act 2011 (2011 No 14): section 53(1)

Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13): section 100(3)

Electricity Industry Act 2010 (2010 No 116): section 166

Infrastructure (Amendments Relating to Utilities Access) Act 2010 (2010 No 99): sections 18–20

Gas Amendment Act 2010 (2010 No 17)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Commerce Amendment Act 2008 (2008 No 70): section 31(2)

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Gas Amendment Act 2007 (2007 No 60)

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74): section 185

Gas Amendment Act 2006 (2006 No 71)

Railways Act 2005 (2005 No 37): section 103(3)

Gas Amendment Act 2004 (2004 No 83)

Building Act 2004 (2004 No 72): section 414

Gas Amendment Act 2003 (2003 No 74)

Local Government Act 2002 (2002 No 84): section 262

District Courts Amendment Act 2002 (2002 No 63): section 4

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)

Telecommunications Act 2001 (2001 No 103): section 158

Gas Amendment Act 2001 (2001 No 67)

Gas Amendment Act 2000 (2000 No 69)

Land Transport Act 1998 (1998 No 110): section 215(1)

Gas Amendment Act 1997 (1997 No 46)

Financial Reporting Amendment Act 1997 (1997 No 17): section 6

Hazardous Substances and New Organisms Act 1996 (1996 No 30): section 149

Gas Amendment Act 1993 (1993 No 144)

Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)

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