



Victoria Government Gazette

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Subordinate Legislation Act 1994

NOTICE OF DECISION

Gas Safety Act 1997

As Minister responsible for the **Gas Safety Act 1997**, I give notice under section 12 of the **Subordinate Legislation Act 1994** that, further to public consultation on a Regulatory Impact Statement (RIS), I have decided to recommend the making of the Gas Safety (Gas Installation) Amendment Regulations 2022.

I hereby give notice of the decision to make the Gas Safety (Gas Installation) Amendment Regulations 2022.

- a. The objective of the proposed regulations is to prohibit the installation of Open Flued Gas Space Heaters (OFGSHs) unless the appliance has a fan-assisted combustion system and a fail-safe interlock which will shut down the appliance within 15 minutes if spillage of combustion products occurs under any negative pressure conditions. The proposed regulations are expected to:
 - i. reduce the risk of users experiencing carbon monoxide poisoning; and
 - ii. increase consumer confidence that OFGSHs installed going forward comply with modern safety requirements.
- b. The proposed regulations prohibit the installation of OFGSHs unless they meet the following requirements:
 - i. the OFGSH must have a fan assisted combustion system;
 - ii. the burner must only operate when the combustion fan is functioning;
 - iii. the OFGSH must incorporate a fail-safe interlock that will shut the appliance down in the event of combustion spillage under negative pressure;
 - iv. the OFGSH must satisfy prescribed restrictions on the ratio of carbon monoxide to carbon dioxide in its exhaust gases; and
 - v. the OFGSH must comply with further specified limits on carbon monoxide spillage under specified test conditions.
- c. An exposure draft of the proposed regulations and a RIS were released for public consultation on the Engage Victoria website from 29 December 2020 to 22 February 2021.
- d. The RIS assessed two options to prohibit the installation of OFGSHs which do not meet modern safety requirements:
 - i. Option 1: by introducing the proposed regulations; and
 - ii. Option 2: by fast-tracked amendments to AS/NZS 5263.1.3, 'Gas appliances – Part 1.3: Gas spaceheating appliances' (AS/NZS 5263).
- e. Option 2 was the preferred option based on a breakeven analysis. However, the RIS and Statement of Reasons noted that if the preferred approach became unfeasible or ineffective I would consider pursuing Option 1.
- f. 17 submissions were received from a range of stakeholders including industry bodies, gas appliance manufacturers, consumer advocacy organisations and individuals. The submissions were considered in accordance with section 11 of the **Subordinate Legislation Act 1994** and were generally supportive of Option 2 but were also in favour of Option 1 being implemented if Option 2 was unfeasible.
- g. On 28 July 2022, Energy Safe Victoria, published an order in the Government Gazette prohibiting, from 1 August 2022, the sale and supply of OFGSHs that do not comply with

SPECIAL

AS/NZS 5263 under section 76 of the **Gas Safety Act 1997**. On 1 August 2022, ESV published an order in the Government Gazette declaring that such OFGSHs are no longer accepted for the purposes of the **Gas Safety Act 1997**, pursuant to their power in section 69A of the **Gas Safety Act 1997**, effective immediately.

- h. After considering the submissions and the implementation of the revised AS/NZS 5263 I do not consider that the preferred approach has been effectively implemented. I have also considered the fact the ESV has made the safety decisions under the Gas Safety Act referred to above which prevents these items being sold and supplied.
- i. For these reasons, I have decided that the Gas Safety (Gas Installation) Amendment Regulations 2022 should be made, with amendments to the draft which was released for public comment. The key amendments are:
 - i. the commencement date is 10 August 2022;
 - ii. the definition of AS/NZS 5263 now refers to the Standard as published or amended from time to time, rather than a specific edition of the Standard; and
 - iii. when tested, the carbon monoxide in the combustion products from the test room extraction system must not exceed 90 parts per million. This was previously 150 parts per million. This change is to align the regulation with the updated Australian Standard.

After the Gas Safety (Gas Installation) Amendment Regulations 2022 are made, they will be published in the Government Gazette and be available from the government website: www.legislation.vic.gov.au

A copy of this notice, the submissions received, and a Statement of Reasons which summarises the issues raised in submissions and the reason for the final form of the Regulations are published on the Engage Victoria website: www.engage.vic.gov.au and available in hard copy at: Energy Safety and Security, Energy Group, Department of Environment, Land, Water and Planning, Level 3, 8 Nicholson Street, East Melbourne, Victoria 3002.

LILY D'AMBROSIO MP
Minister for Energy

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