

**Opening Statement to Joint Oireachtas Committee on Climate and Environment on the
Pre-Legislative Scrutiny of the General Scheme of the Gas Safety (Amendment) Bill 2023.**

Department of the Environment, Climate and Communications

20 February 2024

Dear Chair and members of the Joint Oireachtas Committee on Climate and Environment, thank you for this invitation to this meeting of the Committee on the Pre-Legislative Scrutiny of the General Scheme of the Gas Safety (Amendment) Bill 2023.

My name is Jennifer Harte and I am Principal Officer in the Department of the Environment, Climate and Communications in the area of Energy Security. I am joined today by Cristina Hurson, Assistant Principal.

- The purpose of the Gas Safety (Amendment) Bill 2023 is to extend the LPG Safety regime in the existing legislation, so that all types of piped LPG distribution networks can be regulated by the Commission for Regulation of Utilities (CRU).
- At present, the legislation (Electricity Regulation Act, 1999) requires that operators of piped LPG (liquefied petroleum gas) distributions networks (i.e., networks supplied by an LPG bulk tank or LPG cylinder, that provide LPG to two or more customers) have an LPG safety license from the CRU.
- However, there are a small number of operators who cannot be licensed by the CRU because they fall outside the legislative definition of an 'LPG undertaking'. This is because they purchase their LPG directly from an LPG supplier (e.g., Calor, Flogas), rather than importing LPG themselves or purchasing it directly from a refinery within the State.
- Once primary legislation has been amended, the CRU will be able to begin the licensing process for these LPG networks.
- The bill also includes a number of measures that strengthen the CRUs existing safety powers including amendments around the appointment of authorised officers, the extension of emergency response service, and revisions to the process by which LPG and petroleum undertakings have to make representations to the CRU or to the High Court upon receiving Safety Improvement Notices.

Background:

- The Commission for the Regulation of Utilities (CRU) advised the Department that it was seeking specific legislative changes to the gas safety framework in Ireland. The legislation is for a number of specific amendments to the existing Electricity Regulation Act 1999, focussed on ensuring that third party operators of Liquefied Petroleum Gas (LPG) networks are fully incorporated into the existing LPG Safety Regime.
- In 2018 the CRU provided the Department with a report on its inspection programme for LPG Networks. This report highlighted that the scope of the CRU's current regulatory regime for LPG should be increased to include operators of LPG networks (who) do not meet the

definition of an LPG undertaking as it is currently defined in the Electricity Regulation Act 1999, and so cannot apply for CRU LPG safety licence.

- In 2019 the CRU published its first policy document on how these networks would be brought within the existing safety regime, and engaged with stakeholders. It was identified that this would require changes to primarily legislation.
- Government approved drafting on the General Scheme of the Gas (Amendment) Bill that included Gas Safety amendments in 2020, and engagement with the AGO began.
- In 2021 the CRU opened consultations on the development of classes of safety licence and required guidelines in response to the Decision Paper on Regulation of Piped LPG Distribution Networks that are not operated by a Licenced LPG Undertaking.
- The CRU continue to inspect LPG installations to ensure safety. The CRU carried out their 2023 inspection programme for LPG installations and are liaising with DECC accordingly.
- It should also be noted that this legislation is not related to any specific gas or LPG safety incident that has occurred. The formulation of the legislation began in 2019 on the foot of the CRU's LPG inspection programme after which the CRU had published its final decision on the regulation of these networks, and the Department's work on the legislation commenced.

Stakeholder Engagement

The Department has worked closely with the CRU and engaged independent gas safety consultants, WSP UK Limited (WSP), to review the proposed legislative amendments to the Electricity Regulation Act 1999, and to advise the Department on the impacts of the proposed amendments on gas network safety. WSP have undertaken an independent review of the changes sought to the Electricity Regulation Act 1999 on behalf of the Department, and have prepared a report providing an assessment of proposed legislative changes and made a number of recommendations.

WSP concluded that the legislative measures proposed are appropriate and proportionate from the perspective of gas safety and are supportive of these amendments in ensuring gas safety. Furthermore, WSP stated that the proposed amendments address the critical observations raised by consultants throughout the review process, which will have an impact on gas safety.

Cost to Exchequer

- There will be no additional cost to the Exchequer. Schedule 1 of the 1999 Electricity Regulation Act, paragraph 16 provides the funding mechanism for the CRU to discharge its statutory functions through a levy to be paid each year by industry.
- To enable the CRU to fund the safety regulatory activities associated with these operations charges must be imposed on Class 2 LPG operators (This is the new class of licence introduced for LPG undertakings below 10 networks). Following public consultation, the CRU decided to apply a one-off application fee of €200 for each Class 2 LPG safety licence. Class 1 licence holders (LPG undertakings above 10 networks) will continue to cover this through the industry levy, which is not charged to Class 2 LPG operators.

General Scheme of the Gas Safety (Amendment) Bill 2023

I will now elaborate on the provisions of the Bill. It is a relatively short Bill with 12 heads in total. It is largely a technical Bill in nature.

The General Scheme of the Gas Safety (Amendment) Bill 2023 is divided into *three* parts.

Part One of the general scheme provides for the title of the Bill, its commencement and definitions which are used in the Bill.

Part 2 provides for the specific amendments to the existing Electricity Regulation Act 1999, focussed on ensuring that third party operators of Liquid Petroleum Gas (LPG) networks are fully incorporated into the existing LPG regulatory regime. This part also amends definitions to provide for new classes of safety licence and to strengthen the safety remit of the CRU in regard to LPG Networks, amends provisions on what bodies may appoint gas safety officers and strengthen the existing powers of gas safety officers and distinguishes different licence classes for suppliers above and below 10 LPG distribution networks to domestic final customers.

Part 3 of the Bill concerns the revision to the period that LPG undertaking and Petroleum undertaking owners have to make representations to the CRU or to the High Court upon receiving Safety Improvement Notices.

The Bill is in 3 parts with 12 Heads, which consist of the following:

Heads 1 to 2 are standard heads which provide for the short title of the Bill, commencement on enactment or by means of Ministerial Order (as appropriate) of its various provisions, as well as definitions of certain terms referred to in the Bill.

Head 3 proposed the update to the references to the Commission for Electricity Regulation in the Electricity Regulation Act 1999 to the Commission for Regulation of Utilities in order to reflect that the CRU changed its name in 2017. However, through drafting discussions with OPC, it is deemed as not necessary, as the issue of renaming CRU has been dealt with in section 4 of the Energy Act 2016 and SI 397 of 2017.

Head 4 amends certain definitions in the 1999 Act which relate to LPG. Under Head 4 the definition of an LPG safety licence is amended to facilitate the subdivision of such licences elsewhere in the legislation into two classes of licences. A class 1 LPG safety licence will apply to a person who supplies 10 or more piped LPG distribution networks for use by individual domestic final customers. A class 2 LPG safety licence relates to a person who supplies 10 or less piped LPG distribution networks. This amendment is required to bring all operators of LPG distribution networks within scope of safety licensing by the CRU, and makes a differentiation between different size operators, in order to provide for a safety framework that better reflects the existing regime.

Head 5 provides for a range of legislative amendments to the Electricity Regulation Act 1999 and the Energy (Miscellaneous Provisions) Act 2012 in order to increase the powers of CRU in relation to the regulation of LPG. This includes the extension of the emergency response to all LPG distribution networks. This will provide CRU the power to direct suppliers of LPG bulk tanks serving piped LPG distribution networks to provide an emergency response service to networks operated under a Class 2 licence, for the avoidance of doubt.

Head 6 amends the Electricity Regulation Act 1999 in order to change the current legislation regarding the appointment of Gas Emergency Officers (GEOs). GEOs are staff with the relevant experience currently appointed by LPG undertakings or GNI to intervene in case of a Gas Emergency. The new provision will remove this power from the LPG Undertakings and enable CRU to appoint officers going forward in order to ensure the competency of the individual appointed. It also now provides these bodies further powers around the revocation of an emergency officer's certificate. It also adds more clarity regarding compensation that is paid to the occupier or owner of the land. Should a GEO cause any damage during the execution of their duties, the new provisions ensure that the compensation is proportionate to the damage caused, the amendments will also further clarify the scope of the powers of GEOs in legislation.

Head 7 amends the Electricity Regulation Act 1999 which provides for the appointment and powers of Gas Safety Officers (GSO). This includes expanding the criteria for which a GSO can be appointed by CRU to cover investigating both natural gas incidents and LPG incidents. It clarifies the powers of GSOs to enter onto private land including into an individual's premises in the case of a threat to life or property, the powers in which they can exercise, under what circumstances they can exercise them, the manner in which they must execute their role when entering onto an individual's land and the powers they have to preserve the scene of an incident for the purposes of investigation. Additionally, it includes new provisions which allow the GSO to apply for a warrant from a district judge if they require entry to a premises during the course of an inspection. These amendments also include compensation for any damage caused by the GSO in the course of their duties and provide for Gardaí to accompany GSOs in the execution of their duties when appropriate. These provisions seek to strike a balance between the additional powers granted to GSOs and constitutional rights.

Head 8 amends the Energy (Miscellaneous Provisions) Act 2012. Removes the 21-day representation period that an undertaking has to make to the CRU before it can issue an Improvement Notice. The CRU have advised that this period makes this notice ineffective at enforcing Gas Safety, since the 21-day period for appeal combined with a 14-day appeal to the High Court is too long when improvements are required quickly to ensure safety, but do not warrant an immediate suspension of the gas infrastructure. The CRU will henceforth issue the notice immediately without the representation period; however, the undertaking will have 14 days to appeal this notice to the High Court, which shall remain unchanged.

Head 9 amends the Electricity Regulation Act 1999 to facilitate the change in the LPG Safety Licence into class 1 and class 2 licences and outlines the transitional arrangements supporting this process. If a person operates more than 10 networks e.g., 40 networks, then they will need a Class 1 licence, and it would cover all 40 networks. The purpose of two classes of LPG safety licence is to reflect that the safety requirements for LPG undertakings are proportional depending on the size of their LPG distribution network. There is the possibility that an LPG network could be of a large scale but still come within the parameters proscribed for a Class 2 licence, by only serving less than 10 individual domestic final customers, and provisions are added to enable CRU to account for this when issuing licences.

Head 10 amends the Electricity Regulation Act 1999 in respect of the CRU's powers to make regulations relating to LPG incidents. The text is amended to include reference to natural gas so that the CRU can make regulations for both natural gas and LPG. Furthermore, it provides for the CRU to make regulations on the reporting of events or occurrences that may increase the risk of an event or occurrence which are already prescribed in the Act. It additionally adds offence provisions for non-compliance with CRU regulations.

Head 11 proposes amendments to the Electricity Regulation Act 1999 to provide for the Safety Case that Class 1 Safety Licence holders must comply with, and the Operator Handbook that Class 2 Safety Licence holders must comply with. Specifically, Head 11 now provides for the definitions of gas safety case guidelines, Operator Handbook, and the Safety Case. It inserts a new section 9JH which lays out what the Safety Case must consist of and what standards it should apply to it. It also provides for the CRU to revise the Safety Case requirements and Safety Case Guidelines should be made available to assist gas undertakings in the development of their respective safety cases or material changes for submission to the CRU. It also inserts a new section that puts the duty to comply with Safety Case or Operator Handbook into legislation. This ensures that even if the operator receives their Safety Licence, they must continue to be compliant with the terms of the safety licence after it has been issued to them by the CRU. The new provisions provide for the CRU to create and publish the Operator Handbook that Class 2 suppliers must adhere to, and the provisions specify the CRU's ability to revise the Operator Handbook so it may be kept in line as standards are updated. Also included in the new provisions are the penalties to ensure that operators comply with the Safety Case or Operator Handbook.

Head 12 amends the Electricity Regulation Act 1999 in relation to improvement notices for petroleum undertakings. This provision mirrors the provision for the Gas Improvement Notice in Head 8. It removes the 21-day representation period that an undertaking has to make to the CRU before it can issue an Improvement Notice, as this currently makes the notice useless, as undertakings are appealing within the 21-day period which delays the process. CRU have advised that this period makes this notice ineffective at enforcing Gas Safety, as the 21-day period for appeal combined within a 14-day appeal to the High Court is too long when improvements are required quickly, but do not warrant shutting down infrastructure. The CRU will henceforth issue the notice immediately and the undertaking shall have 14 days to appeal this notice to the High Court, which shall remain in place.

There is currently a large amount of work being undertaken to develop the Bill, by this Department, other Government Departments and agencies, the Office of the Parliamentary Counsel, and the CRU. It is a beneficial piece of legislation, and this is a major collaborative effort on behalf of all those organisations.

We look forward to the recommendations from this Committee which will inform the development of the General Scheme as it moves towards being published as a Bill and then to it becoming enacted having completed its passage through the various stages of the House which will afford further opportunities for debate.

The Department will attempt to answer any questions from the Committee on the General Scheme, or alternatively can supply additional material after today's session as required.

Thank you.