

GAS AND ELECTRICITY (CONSUMER SAFETY) BILL 2017*First Reading*

Bill introduced on motion by Mr Mark Coure, on behalf of Mr Matthew Kean, read a first time and printed.

Second Reading

Mr MARK COURE (Oatley) (10:12): On behalf of Mr Matthew Kean: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Gas and Electricity (Consumer Safety) Bill 2017. This bill will deliver on the Government's commitment to reduce red tape for the industry and will also increase protections for consumers with respect to gas appliances. Currently the Minister for Innovation and Better Regulation, on whose behalf I speak today, has sole responsibility for the Electricity (Consumer Safety) Act 2004, the Electricity (Consumer Safety) Regulation 2015 and the Gas Supply (Consumer Safety) Regulation 2012. He also has responsibility for section 83A of the Gas Supply Act 1996 while his Cabinet colleague in the other place the Hon. Don Harwin, Minister for Energy and Utilities, has responsibilities for the remainder of the Act.

There are many similarities between the existing Electricity (Consumer Safety) Act 2004 and the Gas Supply (Consumer Safety) Regulation 2012. They both provide for the safe use of gas and electricity by consumers and prescribe and enforce minimum safety standards for gas and electrical equipment and installations in New South Wales. Gas and electricity are absolutely essential to our daily lives but poorly manufactured goods and substandard installations can present major hazards. The consolidation of these consumer safety laws into a single piece of legislation will provide a clear, consistent and strong regulatory framework. This bill will also ensure the enforcement powers are consistent and significant to safeguard the safety of consumers regarding both gas and electrical products and services.

Many of the clauses in the bill retain the language of the Electricity (Consumer Safety) Act, the Gas Supply (Consumer Safety) Regulation and the Electricity (Consumer Safety) Regulation. The purpose of this approach is to ensure that there is stability in the legal effect of these provisions. There are a number of clauses which make new provisions with respect to gas consumer safety. The purpose of these provisions is to increase the consumer safety protections and ensure that there is consistent approach across both gas and electricity. This will simplify compliance obligations for businesses. Consistent compliance and enforcement provisions will also enable NSW Fair Trading to utilise the full range of compliance mechanisms now available for electricity consumer safety to enforce consumer safety standards in the gas industry. The bill harmonises penalty of gas and electricity safety breaches. Penalties for gas-related offences have been increased to match those for electricity-related offences. These will provide a greater deterrent for breaches concerning consumer safety concerns.

I turn now to the substance of the bill. As this bill is largely a consolidation of existing provisions I highlight a limited number of matters only. Part 1 of the bill deals with preliminary matters, including the definitions of the bill. The definition of "sell" applying to electrical articles is extended to include gas appliances. This will ensure that gas appliances displayed for advertising will be treated as being displayed for sale. While it is already an offence to sell a gas appliance that is not certified, this offence does not extend to capture the display or the offer for sale of the uncertified appliance. This means that currently NSW Fair Trading investigators must purchase an uncertified gas appliance to prove the offence of sale. Applying this definition to both gas and electricity related offences will also enable authorised officers to carry out compliance and enforcement in the gas appliance retail industry more effectively.

Clause 6 is also important. It has been inserted to address a number of safety issues that have arisen with respect to hoverboards. Clause 6 will confer to the secretary a power to declare that a battery article—such as a particular model of hoverboard—or a battery article of class—such as hoverboards in general—are a "high risk battery article". Such a declaration will have the effect of bringing that article or class of article under the provisions of the Act. Importantly, this provision will safeguard consumers against some types of rechargeable batteries and products that incorporate rechargeable batteries. This clause is targeted. The purpose of the words "high risk battery article" is to ensure that this power is limited to cases where there is a real or material risk of damage to property, injury or death, not simply where the risk is far-fetched. Another purpose of that language is to ensure that the classes of article covered by such declarations are targeted and do not extend to products which are not high risk. Overall this provision will help to establish a consistent and cohesive approach to gas and electricity safety in the marketplace and will ensure that the laws operate effectively and efficiently.

Part 3 concerns gas appliances. Division 2 of Part 3 concerns the certification of gas appliances. Under clause 23 the secretary may grant applications for a person to hold a certificate of authority. Under clause 26 such certification authorities may be cancelled.

Under clause 26 (1) (a) the secretary will be able to cancel an authority following a show cause notice. The effect of a show cause notice is that a certification authority-holder's certification authority will be suspended for a period of no longer than 21 days. During that time he or she can make submissions to the secretary, which the secretary will need to consider in making a final cancellation decision. Importantly, while that process is underway, the public will be protected from any risk of that person engaging in substandard certification.

Under clause 26 (1) (b) a certification authority may be cancelled without first being suspended. This power gives the secretary a broad power to cancel certification authority for the purposes of the bill, namely safety. Of course, the secretary will be able to give certification holders a chance to make submissions, without having the certification authority suspended first. These provisions are substantially a re-enactment of the secretary's present powers under the Gas Supply (Consumer Safety) Regulation 2012.

The next aspect of the bill to which I wish to draw the attention of the House is division 2 of part 7 of the bill, which contains a number of important compliance and investigatory powers. Clause 49 (d) will confer on authorised officers the power to seize and remove unsafe gas appliances. Currently, Fair Trading officers have to purchase unsafe gas appliances to ensure that they are not sold to the public. This will bring Fair Trading's powers with respect to gas appliances in line with Fair Trading's existing powers of seizure contained in the Electricity (Consumer Safety) Act.

Clause 51 (b) confers on authorised officers the power to disconnect electrical articles and gas appliances from installations being used in a manner that presents, or is likely to present, a significant risk of damage to property, injury or death.

Clause 52 of the bill will repose in authorised officers the powers necessary to address situations in which gas or electrical installations or articles are being used in a way which poses a real risk of harm. These powers are important. Fair Trading has received reports of people using LPG-fuelled barbecues indoors or in fully enclosed balcony spaces. These types of gas appliances are designed for outdoor use only, and when used indoors can lead to incomplete combustion, a by-product of which is carbon monoxide, which can be lethal. Other examples have been instances of gas hot water heaters situated on balconies of units where the balcony has been fully enclosed, not allowing for proper ventilation, again leading to the build-up of carbon monoxide. Under current laws, Fair Trading investigators are unable to require owners to cease using LPG barbecues in this dangerous manner or require them to properly ventilate an area. The bill will remedy this problem.

Clause 52 will more generally confer on an authorised officer the powers necessary to address situations in which gas or electrical installations or articles are being used in a way which poses a real risk of harm. Currently, if a Fair Trading investigator encounters a situation that is fundamentally unsafe, the only available remedy is to seek the assistance of the relevant energy provider to shut down the power supply to the installation. There was a case where Fair Trading investigators became aware of an LPG installation in a caravan park that was using natural gas regulators instead of LPG regulators. Gas regulators control the pressure and output of gas, and an installation being used with the wrong type of regulator is non-compliant and can cause an explosion. The investigators requested that the regulators be exchanged for the correct type, but when the owner refused to do so they were powerless to address the issue. This problem will be remedied by these powers.

Clause 53 concerns the investigation of serious gas or electrical accidents. It is an example of how electrical article consumer protections have been extended to serious gas accidents. The clause will enable an authorised officer to enter any place where a serious electrical or gas accident has occurred and to exercise certain investigative powers in that place.

Clause 66 authorises the issuing of penalty notices for selected gas-related breaches. This is another example of bringing the gas regulatory scheme in line with the existing scheme for electricity. Allowing penalty notices to be issued will address a key compliance issue, as current laws do not provide for penalty notices for gas-related offences. Penalty notices are an effective compliance tool which send a clear and immediate message about the importance of consumer safety requirements. Fair Trading's ability to efficiently and cost-effectively administer the gas consumer safety provisions will be significantly enhanced by the ability to issue penalty infringement notices. The alternative to penalty infringement notices is to initiate court action, which can be disproportionately costly and time-consuming for less serious offences.

While I have spoken a lot about gas, I emphasise that the merger of the two energy sources will not weaken or reduce the existing consumer safety regulation of electricity and electrical products. The current level of electricity consumer safety regulation will be maintained and gas consumer safety regulation will be strengthened to a consistent level. A clear, consistent consolidated Act will highlight to the community the importance of consumer safety for gas and electricity work and products. The provisions of this bill will give NSW Fair Trading appropriate and necessary powers to deal with gas and electricity consumer safety. Information and education will be provided prior to the introduction of the new Act to advise and inform stakeholders of the changes that will affect them and to make them aware of their rights and obligations. I commend the bill to the House.

Debate adjourned.