

c2020-101R
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Gas Legislation Amendment (Medical Gas Systems) Bill 2020

First Print

Proposed amendments

No. 1 **Mechanical services and medical gas work**

Page 3, Schedule 1[4], section 4(1), proposed definition of *maintenance*, line 23. Omit all words on that line. Insert instead—

mechanical services and medical gas work has the same meaning as in the *Home Building Act 1989*.

No. 2 **Definition of “medical facility”**

Page 3, Schedule 1[4], section 4(1), proposed definition of *medical facility*, paragraphs (b) and (c), lines 26–29. Omit all words on those lines. Insert instead—

- (b) an aged care facility,
- (c) a veterinary hospital within the meaning of the *Veterinary Practice Act 2003*,
- (d) another place where medical gas is supplied or removed (except as prescribed by the regulations).

No. 3 **Definition of “medical gas installation”**

Page 3, Schedule 1[4], section 4(1), proposed definition of *medical gas installation*, lines 32–37. Omit all words on those lines. Insert instead—

medical gas installation means a reticulated system of pipes, hoses or lines that conveys or controls the supply or removal of medical gases, including associated fixtures or fittings and any other thing prescribed by the regulations, but not including anything connected to and extending or situated beyond a wall outlet or NIST fitting.

No. 4 **Medical gas technician not to carry out maintenance**

Page 3, Schedule 1[4], section 4(1), proposed definition of *medical gas technician work*, line 38. Omit “maintenance,”.

No. 5 **Definition of “medical gasfitting work”**

Page 3, Schedule 1[4], section 4(1), proposed definition of *medical gasfitting work*, lines 40 and 41. Omit all words on those lines. Insert instead—

medical gasfitting work means the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of a medical gas installation and includes incidental design work.

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- No. 6 **Mechanical services and medical gas work**
Pages 4–5, Schedule 1[6], proposed section 38A, line 30 on page 4 to line 9 on page 5. Omit all words on those lines.
- No. 7 **Mechanical services and medical gas work**
Page 5, Schedule 1[6], proposed section 38B(1), lines 11 and 12. Omit “or medical gas technician work”. Insert instead “, medical gas technician work or mechanical services and medical gas work”.
- No. 8 **Work to comply with standards**
Page 5, Schedule 1[6], proposed section 38B(1)(a), lines 13 and 14. Omit all words on those lines. Insert instead—
 - (a) the relevant Australian standards or, if a particular Australian standard is prescribed by the regulations in relation to the work, that Australian standard,
 - (a1) any relevant standards of the International Organization for Standardization that are prescribed by the regulations in relation to the work,
- No. 9 **Work to comply with standards**
Page 5, Schedule 1[6], proposed section 38C(1), lines 37–41. Omit all words on those lines. Insert instead—
 - (1) A person responsible for a medical gas installation at a place must, to the best of the person’s ability and knowledge, ensure that the installation is, while it is connected to the source of the supply of medical gas, maintained in accordance with—
 - (a) the relevant Australian standards or, if a particular Australian standard is prescribed by the regulations in relation to the installation, that Australian standard, and
 - (b) any relevant standards of the International Organization for Standardization that are prescribed by the regulations in relation to the installation.
- No. 10 **Responsibilities of persons concerning the safety of medical gas installations**
Page 6, Schedule 1[6], proposed section 38D(2), lines 17 and 18. Omit “take reasonable steps to make the installation safe”. Insert instead “notify the person responsible for the installation (within the meaning of section 38C) of that fact”.
- No. 11 **Medical gas technician to give notice of defective medical gas installations**
Page 6, Schedule 1[6], proposed section 38E(1), line 22. Insert “or medical gas technician work” after “medical gasfitting work”.
- No. 12 **Time for notice of defective medical gas installation**
Page 6, Schedule 1[6], proposed section 38E(1), lines 22 and 23. Omit “, within the period prescribed by the regulations,”.
- No. 13 **Medical gas technician to give notice of defective medical gas installations**
Page 6, Schedule 1[6], proposed section 38E(2), line 29. Insert “, medical gas technician work or mechanical services and medical gas work” after “medical gasfitting work”.
- No. 14 **Time for notice of defective medical gas installation**
Page 6, Schedule 1[6], proposed section 38E(2), lines 29 and 30. Omit “, within the period prescribed by the regulations,”.
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No. 15 **Time for notice of defective medical gas installation**

Page 6, Schedule 1[6], proposed section 38E. Insert after line 34—

- (2A) Notice of a defective gas installation required to be given under this section must be given—
 - (a) in relation to notice referred to in subclause (1)—as soon as practicable after the defective gas installation is discovered, and
 - (b) in relation to notice referred to in subclause (2)— within 24 hours after the defective gas installation is discovered.

No. 16 **Medical gas technician to give notice of defective medical gas installations**

Page 6, Schedule 1[6], proposed section 38E(3), line 36. Insert “, medical gas technician work or mechanical services and medical gas work” after “medical gasfitting work”.

No. 17 **Medical gas technician to give notice of defective medical gas installations**

Page 6, Schedule 1[6], proposed section 38E(4), definition of “responsible person”, line 40. Insert “, medical gas technician work or mechanical services and medical gas work” after “medical gasfitting work”.

No. 18 **Mechanical services and medical gas work**

Page 7, Schedule 1[6], proposed section 38F(a), line 7. Insert “or mechanical services and medical gas work” after “medical gasfitting work”.

No. 19 **Limitations of regulation making power relating to medical gas installations**

Page 9, Schedule 1. Insert after line 21—

[17A] Section 75(3A)

Insert after section 75(3)—

- (3A) Despite subsection (3), the regulations cannot exempt, or provide for the exemption, of a person from the requirements of Part 5A.

No. 20 **Savings and transitional provision**

Page 9, Schedule 1[18], lines 22–31. Omit all words on those lines.

No. 21 **Mechanical services and medical gas work**

Page 10, Schedule 2. Insert after line 1—

[1A] Sections 15A–15C

Insert after section 15—

15A Unqualified mechanical services and medical gas work

- (1) An individual must not do any mechanical services and medical gas work (whether or not it is also residential building work) except—
 - (a) as a qualified supervisor in respect of that work, or
 - (b) as the holder of a tradesperson certificate authorising its holder to do that work under supervision, but only if the work is done under the supervision and in accordance with the directions, if any, of a qualified supervisor.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (2) Despite subsection (1), an apprentice or trainee may do mechanical services and medical gas services work even though the apprentice or

trainee is not a qualified supervisor or holder, but only if a qualified supervisor—

- (a) is present at all times where the work is being done by the apprentice or trainee, and
- (b) is available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee.

- (3) A qualified supervisor who is supervising any mechanical services and medical gas work being done by an apprentice or trainee as referred to in subsection (1)(b) must—

- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it, and
- (b) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (4) A qualified supervisor who is supervising any mechanical services and medical gas work being done by an apprentice or trainee as referred to in subsection (2) must—

- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it (which, unless the qualified supervisor considers it unnecessary, must include directions requiring the apprentice or trainee to advise in detail on progress with the work), and
- (b) be present when the work is being done and be available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee, and
- (c) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (5) Despite subsection (1), a person may do mechanical services and medical gas work that is also refrigeration work or air conditioning work, plumbing and drainage work, or roof plumbing work, if the person is—

- (a) the holder of an endorsed contractor licence, or of a supervisor or tradesperson certificate, authorising its holder to do that work, or
- (b) under the immediate supervision of the holder of a contractor licence or supervisor certificate that is endorsed with respect to that work.

- (6) This section applies to an individual acting in the course of his or her employment by the Crown.

- (7) In this section—

apprentice has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

qualified supervisor, in respect of a class of work, means the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work.

trainee has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

15B Unqualified medical gasfitting work

- (1) An individual must not do any medical gasfitting work (whether or not it is also residential building work) except—

- (a) as a qualified supervisor in respect of that work, or

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- (b) as the holder of a tradesperson certificate authorising its holder to do that work under supervision, but only if the work is done under the supervision and in accordance with the directions, if any, of a qualified supervisor.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (2) Despite subsection (1), an apprentice or trainee may do medical gasfitting work even though the apprentice or trainee is not a qualified supervisor or holder, but only if a qualified supervisor—

- (a) is present at all times where the work is being done by the apprentice or trainee, and
- (b) is available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee.

- (3) A qualified supervisor who is supervising medical gasfitting work being done by an apprentice or trainee as referred to in subsection (1)(b) must—

- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it, and
- (b) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (4) A qualified supervisor who is supervising medical gasfitting work being done by an apprentice or trainee as referred to in subsection (2) must—

- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it (which, unless the qualified supervisor considers it unnecessary, must include directions requiring the apprentice or trainee to advise in detail on progress with the work), and
- (b) be present when the work is being done and be available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee, and
- (c) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (5) Despite subsection (1), a person may do medical gasfitting work that is also mechanical services and medical gas work, if the person is—

- (a) the holder of an endorsed contractor licence, or of a supervisor or tradesperson certificate, authorising its holder to do that work, or
- (b) under the immediate supervision of the holder of a contractor licence or supervisor certificate that is endorsed with respect to that work.

- (6) This section applies to an individual acting in the course of his or her employment by the Crown.

- (7) In this section—

apprentice has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

qualified supervisor, in respect of a class of work, means the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work.

trainee has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

15C Unqualified medical gas technician work

- (1) An individual must not do any medical gas technician work (whether or not it is also residential building work) except—
- (a) as a qualified supervisor in respect of that work, or
 - (b) as the holder of a tradesperson certificate authorising its holder to do that work under supervision, but only if the work is done under the supervision and in accordance with the directions, if any, of a qualified supervisor.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (2) Despite subsection (1), an apprentice or trainee may do medical gas technician work even though the apprentice or trainee is not a qualified supervisor or holder, but only if a qualified supervisor—
- (a) is present at all times where the work is being done by the apprentice or trainee, and
 - (b) is available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee.
- (3) A qualified supervisor who is supervising medical gas technician work being done by an apprentice or trainee as referred to in subsection (1)(b) must—
- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it, and
 - (b) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (4) A qualified supervisor who is supervising medical gas technician work being done by an apprentice or trainee as referred to in subsection (2) must—
- (a) give directions that are adequate to enable the work to be done correctly by the apprentice or trainee performing it (which, unless the qualified supervisor considers it unnecessary, must include directions requiring the apprentice or trainee to advise in detail on progress with the work), and
 - (b) be present when the work is being done and be available to be consulted by, and to give directions relating to how the work is to be done to, the apprentice or trainee, and
 - (c) personally ensure that the work is correctly done.

Maximum penalty—1,000 penalty units in the case of a corporation and 200 penalty units in any other case.

- (5) This section applies to an individual acting in the course of his or her employment by the Crown.
- (6) In this section—

apprentice has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

qualified supervisor, in respect of a class of work, means the holder of an endorsed contractor licence, or a supervisor certificate, authorising its holder to do that work.

trainee has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

No. 22 **Limitations of regulation making power relating to mechanical services and medical gas work**

Page 10, Schedule 2. Insert after line 13—

[2A] Section 140(2A)

Insert after section 140(2)—

- (2A) Despite subsection (2)(k), regulations cannot be made for or with respect to—
- (a) the exemption of a person from the requirements of sections 15A–15C, or
 - (b) the exemption of work from the definition of *mechanical services and medical gas work*.

No. 23 **Mechanical services and medical gas work**

Page 10, Schedule 2[3]. Insert after line 15—

mechanical services and medical gas work means—

- (a) the construction, installation, replacement, repair, alteration, maintenance, testing or commissioning of a mechanical heating, cooling or ventilation system in a building, which is associated with the heating, cooling or ventilation of that building, and includes the following—
 - (i) any valve, regulator, register, pipe, duct, flue, tank, heating or cooling pipe or surface, boiler, burner, solid fuel heater, coil or other item that is used in the system,
 - (ii) in the case of a cooling tower, any water pipe, valve, pump, automated dosing device or automated bleeding device or any other mechanical component that affects the cooling tower's cooling water flow rate or wastewater disposal,
 - (iii) roof sheeting and roof flashing that is necessary for the purpose of any work described in this paragraph or paragraphs (b)–(d), and
 - (b) medical gasfitting work, and
 - (c) the installation, commissioning and any incidental design work that is associated with the installation and commissioning of—
 - (i) any part of a single head split system, or
 - (ii) a ceiling cassette system, or
 - (iii) an add-on condenser unit for a ducted system,that is associated with the heating and cooling of a building, and
 - (d) any design work that is incidental to, or associated with, any work described in paragraphs (a) and (b),
- but does not include the following—
- (e) gasfitting work,
 - (f) any work on a cooling tower drift eliminator,
 - (g) any treatment of cooling or heating water,
 - (h) any cleaning of a cooling tower,
 - (i) disassembly or reassembly of a flue terminal for the purposes of cleaning a solid fuel heater,
 - (j) the connection or disconnection of a system referred to in paragraphs (a)–(d) from a water supply other than disconnection of the system from a water supply at an isolating valve adjacent to a mechanical component of that system.

No. 24 **Definition of “specialist work”**

Page 10, Schedule 2[4], lines 20–23. Omit all words on those lines. Insert instead—

[4] Schedule 1, clause 1(1), definition of “specialist work”

Insert after paragraph (a)—

- (a1) mechanical services and medical gas work,
- (a2) medical gasfitting work,
- (a3) medical gas technician work,

No. 25 **Transitional provision**

Page 10, Schedule 2[5], proposed clause 158(1), line 31. Insert “, 15A–15C” after “12”.

No. 26 **Transitional provision**

Page 10, Schedule 2[5], proposed clause 158(1), line 32. Insert “, mechanical services and medical gas work” after “medical gasfitting work”.

No. 27 **Transitional provision**

Page 10, Schedule 2[5], proposed clause 158(2), lines 34 and 35. Omit all words on those lines. Insert instead—

- (2) In this clause, *transitional period* means the period commencing on 1 November 2020 and ending—
 - (a) in relation to medical gasfitting work and medical gas technician work—at the end of 30 April 2021, and
 - (b) in relation to mechanical services and medical gas work—at the end of 30 April 2022.

No. 28 **Long title**

Insert “and in mechanical services and medical gas work” after “facilities”.