



New South Wales

# Gas Legislation Amendment (Medical Gas Systems) Bill 2020

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Gas and Electricity (Consumer Safety) Act 2017* and the *Home Building Act 1989* to provide for a regulatory scheme for persons and other entities involved in medical gas systems in health and medical facilities.

The amendments will require a person who contracts for or carries out certain medical gasfitting work and medical gas technician work to hold a relevant specialist work licence or supervisor or tradesperson certificate under the *Home Building Act 1989* in a manner similar to electricians and plumbers.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      Amendment of Gas and Electricity (Consumer Safety) Act 2017 No 15

**Schedule 1[4]** inserts definitions into section 4(1) of the *Gas and Electricity (Consumer Safety) Act 2017* (the **GECS Act**), including—

*medical facility*

*medical gas*

*medical gas installation*

*medical gas technician work*  
*medical gasfitting work*

**Schedule 1[1]–[3]** make consequential amendments to other definitions.

**Schedule 1[5]** inserts proposed section 5A into the GECS Act to provide that the provisions of Parts 6 (Accident reporting and investigations) and 7 (Enforcement) of that Act extend to medical gasfitting work and medical gas technician work.

**Schedule 1[6]** inserts proposed Part 5A (proposed sections 38A–38F) into the GECS Act.

**Proposed section 38A** makes it an offence for a person to carry out medical gasfitting work or medical gas technician work, or employ any other person to carry out medical gasfitting work or medical gas technician work, unless the person by whom the work is carried out is appropriately certified or does so under appropriate supervision.

The proposed offence carries a maximum penalty of 1,000 penalty units in the case of a corporation and 200 penalty units in the case of an individual.

**Proposed section 38B** makes it an offence for a person to carry out medical gasfitting work or medical gas technician work otherwise than in accordance with the following—

- (a) any standards or requirements prescribed by the regulations under the GECS Act for the purposes of the proposed section,
- (b) any standards or requirements specified by the Secretary of the Ministry of Health by order in writing and published on the website of the Ministry of Health.

The proposed offence carries a maximum penalty of—

- (a) in the case of an individual—
  - (i) 500 penalty units for a first offence, or
  - (ii) 750 penalty units or imprisonment for 2 years, or both, for a second or subsequent offence, or
- (b) in the case of a corporation—
  - (i) 5,000 penalty units for a first offence, or
  - (ii) 7,500 penalty units for a second or subsequent offence.

**Proposed section 38C** provides that a person responsible for a medical gas installation at a place (being the occupier of the place or, if there is no occupier, any owner of the place) must, to the best of the person's ability and knowledge, ensure that any parts of the gas installation that are prescribed by the regulations under the GECS Act are maintained in accordance with the regulations while the installation remains connected to the source of the supply of medical gas.

The proposed offence carries a maximum penalty of 500 penalty units in the case of a corporation and 150 penalty units in the case of an individual.

**Proposed section 38D** provides that a person who carries out any type of work for fee or reward at or near a place where a medical gas installation is located must ensure that the carrying out of the work, and the work, do not interfere with the installation in a way that adversely affects the safety of the installation.

The proposed section also provides that a person who—

- (a) carries out any type of work at or near a place where a medical gas installation is located, and
  - (b) carries out the work in a way that adversely affects the safety of the installation, and
  - (c) knows, or ought to have known, that the installation has been adversely affected,
- must, as soon as is reasonably practicable after becoming aware that the installation has been adversely affected, take reasonable steps to make the installation safe.

The proposed offences carry a maximum penalty of 500 penalty units in the case of a corporation and 200 penalty units in the case of an individual.

**Proposed section 38E** requires the responsible person for medical gasfitting work carried out on land to give written notice of any defective medical gas installation on the land discovered in the course of carrying out the work to the owner of the land and the occupier of the land. If the defective medical gas installation poses an imminent risk to public health or safety the responsible person must also notify the Commissioner for Fair Trading.

**Proposed section 38F** provides that regulations under the GECS Act may make provision for or with respect to the following matters—

- (a) testing, inspection and compliance requirements that must be carried out on completion of medical gasfitting work,
- (b) the use and maintenance of medical gas installations,
- (c) the connection of containers, regulators or appliances to medical gas installations.

**Schedule 1[8]** amends section 40 of the GECS Act to provide that the occupier of the place at which a serious medical gas accident occurs (or any other person that the regulations under that Act may prescribe) must notify the Commissioner for Fair Trading within 24 hours after the accident.

**Schedule 1[9]** substitutes section 44 of the GECS Act to make consequential changes concerning arrangements between public authorities (now including the Secretary of the Ministry of Health) regarding certain investigable incidents. **Schedule 1[7]**, **[10]–[13]** and **[15]–[17]** make other consequential amendments.

**Schedule 1[14]** inserts proposed section 68A into the GECS Act to provide for the operation of continuing offences.

**Schedule 1[18]** provides for a 6-month transitional exemption from the operation of proposed section 38A.

## **Schedule 2      Amendment of Home Building Act 1989 No 147**

**Schedule 2[4]** amends the definition of *specialist work* in Schedule 1 to the *Home Building Act 1989* (the **HB Act**) to include medical gasfitting work or medical gas technician work to give effect to the object of this Bill.

Among other provisions and requirements, Part 2 of the HB Act provides that a person must not do, or contract to do, specialist work unless the person holds the appropriate licence or tradesperson certificate. Those licences and certificates are issued under Part 3 of the HB Act.

**Schedule 2[3]** makes a consequential amendment.

**Schedule 2[1] and [2]** amend section 47 of the HB Act to provide that the holder of an authority (such as a licence or certificate) in the case of a person performing medical gas technician work must immediately produce the authority for inspection on demand by a chief executive officer, or a person nominated in writing by a chief executive officer, of a medical facility.

**Schedule 2[5]** provides for a 6-month transitional exemption from the operation of sections 4, 5, 12 and 16 of the HB Act in relation to specialist work that is medical gasfitting work or medical gas technician work.