



An Coimisiún
um Rialáil Fóntas

**Commission for
Regulation of Utilities**

OPENING STATEMENT FOR OIREACHTAS JOINT COMMITTEE ON ENVIRONMENT AND CLIMATE ACTION

27th February 2024

Introduction

Good morning and thank you for inviting us to join you today to discuss the General Scheme of the Gas Safety (Amendment) Bill 2023.

The Commission for Regulation of Utilities, CRU, has a key role in the protection of public safety and the prevention of major accidents in Ireland's energy sector. This includes a safety role in relation to electrical contractors, gas installers, gas supply, transportation and storage, and upstream petroleum safety extraction and exploration activities.

Background

The Energy (Miscellaneous Provisions) Act, 2006 required the CRU to establish and implement a natural gas safety regulatory framework. In 2010 and 2012, the safety regulation of certain aspects of the liquefied petroleum gas (LPG) industry was added to the CRU's statutory functions. Firstly, the Energy (Biofuel Obligations and Miscellaneous provisions) Act, 2010, incorporated LPG installers into the Registered Gas Installer ("RGI") registration scheme. Secondly, the Energy (Miscellaneous Provisions) Act, 2012 provided the CRU with licensing powers for operators of piped LPG distribution networks. The revised framework became known as the "Gas Safety Regulatory Framework", incorporating the safety regulatory regime for both natural gas and LPG.

LPG undertakings are regulated by the CRU under this framework and require an LPG Safety Licence from the CRU to supply LPG to two or more domestic customers via a piped LPG distribution network. Piped LPG distribution networks are networks supplied by an LPG bulk tank or cylinder that distribute LPG to customers. At present, Calor Teoranta and Flogas Ireland Ltd. hold an LPG safety licence from the CRU and operate the majority of these types of networks.

More specifically, the legislation provides for operators who import LPG or purchase it directly from a refinery within the State and supply it to domestic customers via a piped LPG distribution network, to hold the above LPG safety licence. The legislation does not currently, however, cover operators of piped LPG distribution networks who purchase LPG from other sources, i.e. directly from an LPG supplier.

To regulate these operators with respect to safety, the CRU requested a change to primary legislation to amend the definition of an LPG undertaking and to include a new class of LPG safety licence covering these operators.

We will briefly outline further context which led to the development of this Bill.

Firstly, in November 2016, the CRU received a safety complaint from a customer supplied by an unlicensed piped LPG distribution network operator. Following receipt of this complaint, the CRU carried out an inspection of the network and identified several non-compliances with safety standards.

The CRU then engaged with LPG suppliers, requesting information on the location of any other such networks. Once received, the CRU used its gas safety officer powers to undertake inspections of these networks. This allowed the CRU to build an understanding of the scale and scope of the networks at each site and gather information on the condition of these networks and compliance with relevant codes and safety standards. Where the CRU's gas safety officers identified any immediate risks, action was taken to make the situation safe. To date, LPG suppliers have informed the CRU of approximately 100 piped LPG distribution networks currently operated by unlicensed parties.

At the same time as work was being done to gather information on the condition of these networks, the CRU examined the legislation and identified a gap in the Electricity Regulation Act, which identified that these operators did not meet the definition of an LPG undertaking, and therefore, they could not be licensed by the CRU.

To remove this gap in the legislation the CRU engaged with the Department of Environment, Climate and Communications (DECC). In 2018, the CRU provided DECC with a report which highlighted the non-compliances with safety standards found during CRU's inspections and requested that the Electricity Regulation Act be amended to bring these operators into the CRU's gas safety regulatory framework. Following this, the CRU also engaged with industry and the public, publishing consultations on our website in 2019, 2021 and 2022, seeking feedback on the CRU's overall proposed approach and its specifics.

The enduring regulatory framework for these operators has now been decided upon and will be enabled by the Gas Safety (Amendment) Bill. Once in force, it will enable CRU to begin the licensing process, bringing these operators, which supply LPG to approximately 1000 domestic premises, into the CRU's regulatory framework. In 2022, the CRU published an 'Operator Handbook' which sets out prescriptive safety requirements with clear conditions for compliance that must be met by the network operators once they are licensed. The Bill will also provide the CRU with the power to regulate the requirements of an emergency response service by the LPG supplier to the piped LPG distribution network.

The licensing process will require operators to complete an application form, provide a map of their network, and submit proof of payment of the €200 application fee. The Bill provides operators with three months to apply for a licence upon commencement.

In 2023, the CRU undertook a programme of inspection of over 100 unlicensed LPG networks which included re-inspection of some networks previously inspected. Following inspections, the CRU issued gas safety officer (GSO) statutory instructions to every network within the CRU's remit. Since August 2023, CRU has recorded over 500 communications with operators in relation to their safety responsibilities and requiring confirmation that remedial works, as instructed, have been completed. Until such a time as the licensing process has been completed, the CRU will continue to undertake a risk-based programme of network inspections, including extensive engagement with network operators, to address identified non-compliances with safety standards. This continues to include GSO instructions not to refill LPG bulk tanks until remedial works are undertaken, and GSO instructions to immediately disconnect the gas, where the level of risk warrants this.

Gas Safety (Amendment) Bill

Moving now to the Bill, the CRU has collaborated with DECC on the legislative review process. In addition to bringing all operators of piped LPG distribution networks serving domestic customers into the CRU's full regulatory remit, the Bill also includes several measures that strengthen the CRU's existing safety powers to enhance the protection of the public from gas safety risks.

We will now provide the Committee with our views on the main provisions of the Bill.

- Head 4 amends certain definitions in the Electricity Regulation Act which relate to LPG. Under head 4, the definition of an LPG undertaking is amended and expanded, which is necessary to capture those operators that are currently outside of the CRU's safety regulatory remit, as outlined.

Also under head 4, the definition of an LPG safety licence is amended to reflect the subdivision of such licences elsewhere in the Electricity Regulation Act into two classes of licence. A class 1 LPG safety licence will apply to a person who operates ten or more piped LPG distribution networks for use by individual domestic final customers. A class 2 LPG safety licence will apply to a person who operates fewer than ten piped LPG distribution networks. Based on current information, the operators that currently fall outside of the CRU's regulatory remit each operate less than ten networks, and so, the class 2 LPG safety licence will be applicable to them. The introduction of two classes of LPG safety licences is necessary, as it allows the CRU to implement a more proportionate and effective regulatory approach in respect of the class 2 licensees, while still requiring that these networks are in compliance with the same safety standards as those applicable to networks operated by class 1 licensees.

- Head 5 adds to the CRU's functions under the Electricity Regulation Act by providing the CRU with the power to regulate the requirements of an emergency response service by the LPG supplier to customers of a class 2 licensee. This amendment is necessary, as class 2 LPG licensees do not have the means of directly providing an effective emergency response service to their customers.
- Head 7 amends section 9J of the Electricity Regulation Act, which provides for the appointment and powers of gas safety officers (GSOs). This amendment includes the provision of an explicit CRU power to appoint a GSO to investigate natural gas incidents, as is already the case for LPG incidents, and to provide GSOs with the power to preserve a scene and apply for a warrant. These amendments are important to enable learnings to be derived

from the investigation of gas incidents, which can lead to further safety improvements and reduction in gas safety risks.

Head 7 also provides necessary clarifications on the existing powers of GSOs to enter onto private land, including into an individual's premises where there may be a danger to life or property. It states the powers they can exercise and under what circumstances they can exercise them. It is necessary for GSOs to have these powers as the risks posed by gas are not just confined to an individual but may pose danger to the general public.

- Head 8 and head 12 remove the 21-day period that is provided to an undertaking to submit representations to the CRU before the CRU can issue an improvement notice. The improvement notice is a type of enforcement action, which forms part of the CRU's regulatory toolkit. When a decision has been taken to issue an enforcement action, the CRU will consider the circumstances of the non-compliance and then look to take an action that will be, amongst other things, proportionate and effective. This amendment is necessary, as the existing representation provision results in a significant time delay in the management of safety risk and diminishes the CRU's ability to ensure effective and efficient enforcement. Furthermore, this amendment brings the CRU's power in this regard into line with comparator safety regulators (for example, the Health and Safety Authority). Undertakings retain their right to appeal to the High Court within 14 days against the improvement notice.
- Head 9 introduces the class 1 and class 2 LPG safety licences and licensing procedure, the necessity of which we have already noted.
- Head 10 amends the Electricity Regulation Act to provide the CRU with powers to make regulations relating to natural gas incidents. This amendment is necessary, as it brings the CRU's natural gas powers into line with those already provided for in respect of LPG. Gas incident reporting is essential as it supports the identification of trends and the effective investigation of gas

incidents, which, as already noted, can be examined for learnings that can lead to safety improvements and a reduction in gas safety risks.

- Head 11 amends the Electricity Regulation Act to place the safety case guidelines, safety case and operator handbook on a statutory footing. Currently, under the gas safety regulatory framework, the CRU operates a safety case regime, which requires that gas undertakings, such as Gas Networks Ireland, demonstrate how they manage the gas safety risks associated with their activities to a level that is as low as is reasonably practicable. This safety case must then be accepted by the CRU before the undertaking can begin operating. The CRU publishes gas safety case guidelines to assist the undertakings in the development of their safety cases. The operator handbook is a new element of the gas safety framework, and prescriptively sets out the safety requirements with which the class 2 LPG safety licensees must comply.

Creating a legislative basis for these documents is important, as it allows for associated amendments to the Electricity Regulation Act to place an obligation on the gas undertakings to comply with either their safety cases or the operator handbook, and to set penalties for non-compliance with same. In addition, this amendment brings this element of the gas safety regulatory framework into alignment with the CRU's petroleum safety framework.

In conclusion, we would like to emphasise the importance of this Bill in helping to ensure that the public, and end customers, are appropriately protected from the safety risks associated with piped LPG distribution networks, and that the additional measures contained in the Bill will also serve to strengthen the CRU's gas safety regulatory framework, enhancing the protection of the public from gas safety risks.

This concludes our opening statement. We are happy to take your questions. Thank you.