

# Safety obligations: gas appliances and fittings

November 2006

*This document explains the Mandatory Supplier Declaration Regime for gas appliances and specified fittings and revises the previous publication dated May 2005.*

*It explains the obligations of suppliers (including manufacturers, importers and retailers), and installers, and how those obligations should be fulfilled. It should be considered to be guidance and is not a substitute for a full understanding of the legislation and standards.*

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# 1 Current obligations

*Note: The following summary is provided as a guide only; if in doubt, the relevant legislation should be consulted.*

## 1.1 Gas safety obligations

The Gas Regulations 1993 (the Regulations) set the requirement that all gas appliances and fittings are capable of operating safely when installed correctly and used for their intended purpose.

Regulation 12 sets out the safety requirements for the installation of gas appliances and their associated fittings. Safety obligations in relation to gas appliances and fittings are set out in regulation 13 and marking requirements are set out in regulation 14.

There are also responsibilities for those repairing, modifying, adjusting, owning, using, and hiring gas appliances and fittings set in regulations 16 and 17.

There are substantial penalties for non-compliance. The offence provisions of the Regulations provide for penalties, upon summary conviction, of fines not exceeding \$10,000.

Annex A contains relevant extracts from those regulations. The full regulations and amendments can be downloaded from:

[http://www.ess.govt.nz/rules/rules\\_acts.asp](http://www.ess.govt.nz/rules/rules_acts.asp)

## 1.2 Other obligations

For gas appliances having electrical or electronic components there are requirements under the Electricity Regulations 1997. These appliances are required to meet the essential safety requirements of AS/NZS 3820. There are also obligations in regard to electromagnetic compliance (EMC). More details on this can be found on our web site in the “*For Electricity Industry*” section.

Suppliers<sup>1</sup> of gas appliances and fittings also have general obligations under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986. More details of that can be found at:

<http://www.consumeraffairs.govt.nz/>

## 1.3 Gas safety obligations are imposed through gas Standards

Regulation 12 requires that all gas installations (other than CNG refuelling stations) be installed in accordance with Part 1 of *NZS 5261: Gas installation: 2003*.

NSZ 5261 is divided into three Parts; the first part is mandatory, and the remaining two parts are recognised as means of compliance with Part 1.

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<sup>1</sup> “Supply” is defined in the Regulations as “includes supply (or resupply) by way of gift, sale, exchange, lease, hire, or hire purchase”

Included in Part 1 of NZS 5261 (clause 1.6.2) is a requirement that, as installed, every gas appliance shall comply with *NZS 5262: Gas appliance safety: 2003*.

Regulation 13 states that an appliance is not safe if it does not comply with NZS 5262. NZS 5262 is not an approval standard but a set of essential requirements to ensure safety. It lists things such as the safety of mechanical parts, temperatures, combustion, etc.

There are several avenues to show compliance with the standard.

- The standard lists, in Appendix A, some appliance standards that are considered to meet the requirements of the standard, subject, in some cases, to additional, NZ specific, requirements, such as test gases, seismic restraint, and marking.
- If an appliance complies with the CE directive on gas appliances *90/396/ECC* ([http://ec.europa.eu/enterprise/gas\\_appliances/index\\_en.htm](http://ec.europa.eu/enterprise/gas_appliances/index_en.htm)) it is considered to meet the standard except, again, there are additional NZ requirements such as test gases, seismic restraint, and marking to be met.
- Appendix B gives guidance on assessing the compliance of an appliance if the above two avenues are not followed.

#### **1.4 Assuring compliance: Supplier Declaration**

As from 18 November 2002 all importers/manufacturers (suppliers) of gas appliances have been required to make a formal declaration that their appliances meet the requirements of regulation 13 and 14 of the Regulations. Those supplying appliances in quantity (11 or more) must do so by first registering on the Energy Safety Service (ESS) website and then making their declarations on the website once the registration has been authorised. Declarations for the supply of less than 11 appliances of any type are addressed by registering with the ESS on the website and then supplying a written declaration with each appliance supplied.

Downstream suppliers (e.g. retailers) and appliance installers have an obligation to ensure that those appliances required to have declarations are listed on the website before supplying or installing the appliance.

## **2 The Mandatory “Supplier Declaration” Regime**

### **2.1 Introduction**

The central focus of the Mandatory Supplier Declaration regime is that a supplier declaration must be completed and key elements made publicly available, before any appliance or specified fitting may be supplied or installed.

The regime is designed to:

- Document suppliers’ commitments to compliance with the safety regime.
- Force a more rigorous assessment by suppliers of their compliance obligations.
- Provide transparency for other suppliers, the trade, and consumers.
- Keep compliance costs for appliance and fitting suppliers to a minimum.

Figure 1 gives an outline of the Mandatory Supplier Declaration regime as it applies to any “Tier 1” and “Tier 2” appliance or specified fitting<sup>2</sup>. For Tier 2 appliances and specified fittings, the regime is identical to Tier 1 except that suppliers must:

- Register (once only) as a supplier on the ESS website.
- Present declarations of compliance to each person to whom an appliance or fitting is supplied, rather than have it posted on a website.
- Maintain a schedule of all appliances and specified fittings supplied and to whom they have been supplied.

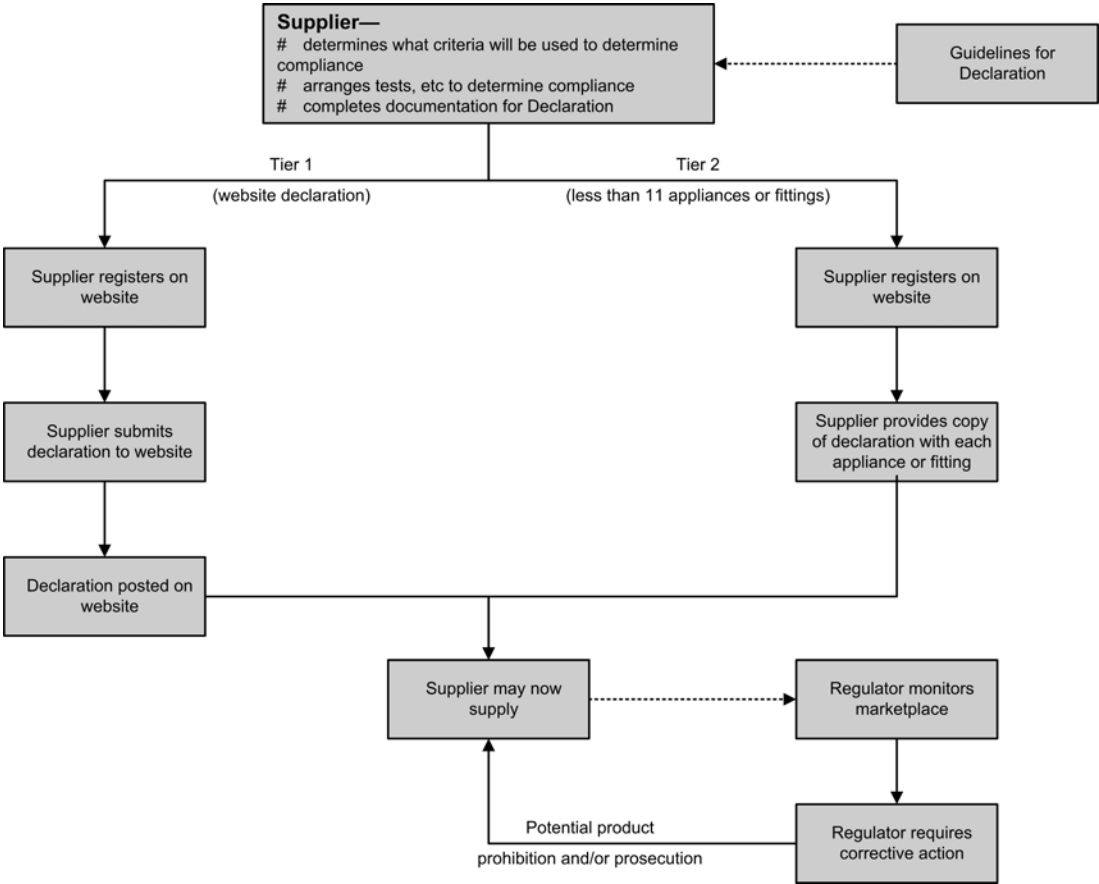


Figure 1 Gas appliance safety regime

**2.2 Scope of the Supplier Declaration regime**

A gas<sup>3</sup> appliance is defined in the Gas Act as: “...any appliance that uses, or is designed or intended to use, gas, whether or not it also uses, or is designed or intended to use, any other

<sup>2</sup> The “Tier 2” regime is an option available for appliances and fittings that are manufactured or imported on an essentially one-off basis and of which fewer than 11 are ever expected to be supplied. Appliances and fittings supplied in quantities of 11 or more **must** comply with the Tier 1 regime.

<sup>3</sup> “Gas” as defined in the Gas Act 1992 (section 3). Note that the requirements do not apply in relation to gas used as a feedstock, appliances used in metal working and fuelled exclusively by acetylene or any prescribed gas, or any appliance designed to be fuelled exclusively from a container not exceeding 120 ml in capacity.

*form of energy*". Any device that **uses** or consumes gas is defined as a gas appliance from a simple camping lantern to a gas-fired turbine.

Fittings are defined in the Gas Act as "...*everything used, or designed or intended for use, in or in connection with the supply, distribution, compression, or use of gas*". This excludes appliances but would include anything else from pipe fittings through to gas pressure raising devices. "Specified fittings" will be defined through a schedule that will be gazetted and posted on the website, (<http://www.ess.govt.nz>).

At this time (November 2006) there are no specified fittings. The list of specified fittings will be developed in consultation with industry, and is likely to align with the range of materials and components requiring approval in Australia, i.e. automatic shut-off valves, hose assemblies, limited flexibility connectors, flue cowls, jointing compounds and materials, manual shut-off valves, quick-connect devices, and vent valves.

The supplier declaration regime applies to all gas appliances, and specified fittings **supplied** by a New Zealand **importer** or New Zealand **manufacturer** after **18 November 2002**.

The obligations apply to each and every appliance or specified fitting supplied, i.e. they require an assurance of ongoing quality control.

The obligations do not apply to any (individual) appliance supplied in New Zealand before the introduction of the regime. This means an (individual) appliance supplied (by the New Zealand importer/manufacturer) prior to 18 November 2002 does not need a declaration.

The obligations do not apply to people who import or manufacture a gas appliance for their **own** use as they are **not supplying** an appliance. For example, a restaurant owner importing a cooker for installation in their own restaurant does not need a declaration. However a landlord importing appliances to fit in his or her rental accommodation would be supplying and would therefore need to make a declaration. Similarly if an "own use" importer then later sold the appliance he or she would become a supplier and would be required to make a declaration.

The importer of motor-homes and caravans with gas installations (new or second-hand) is classed as an appliance supplier as that person is the importer and supplier of the appliances fitted in the caravan.

### **2.3 The Supplier Declaration**

A supplier declaration is a public statement from an appliance supplier. It identifies the supplier and the person making the declaration (but only the supplier details are displayed on the website accessible by the public). It identifies the appliance and any standards that it complies with. It also identifies any testing or certification that has been undertaken.

Most importantly, it also includes a statement that the appliance complies with regulations 13 and 14 of the Regulations. Regulation 14 specifies the marking requirements and Regulation 13 the safety requirements.

The person representing the supplier is making a statement that they have taken "...*all practicable steps to ensure that the gas appliance or fitting is safe in all reasonably foreseeable circumstances.*" (Regulation 13(2)). Regulation 13(3) further states that unless the appliance

complies with NZS 5262 it is not considered safe. This effectively means that the declaration includes a statement of compliance with NZS 5262.

Suppliers must be familiar with the Regulations pertaining to them including the definitions (such as the definitions for *safe* and *all practicable steps*).

Suppliers must also be thoroughly familiar with NZS 5262, the standard that they are stating they comply with. This is available from Standards New Zealand.

<http://www.standards.co.nz>

For Tier 1 appliances or specified fittings, a current and valid Declaration is required to be posted on the ESS website before the appliance or specified fitting may be supplied. For Tier 2 appliances or specified fittings, the Declaration is required to be given to the person to whom the appliance or fitting is supplied.

Any person making a Supplier Declaration must be able to demonstrate, through a “Compliance Folder” that all appliances and specified fittings covered by the Declaration comply with safety requirements of the Regulations. The Compliance Folder is subject to audit, and must be provided to the ESS within 10 working days of request. The content of the Compliance Folder must be in English

Any person, other than the manufacturer or importer, who supplies an appliance or specified fitting covered by the regime (e.g. appliance retailers), is required to ensure that the appliance or specified fitting is supported by a current and valid Supplier Declaration. In the case of Tier 2 appliances or specified fittings they must forward a copy of the declaration and keep records of those to whom they have supplied Tier 2 appliances.

Any person, other than the manufacturer or importer, who installs an appliance or specified fitting covered by the regime, is required to ensure that the appliance or specified fitting is supported by a current and valid Supplier Declaration. In the case of Tier 2 appliances or specified fittings they must supply a copy of the declaration to the customer. If an appliance or specified fitting has been manufactured or imported by the final user, the installer must note that fact on the certificate of gasfitting for the installation, and confirm that the appliance or fitting as installed is safe.

#### **2.4 Information required in Declaration**

The following information is required in the Declaration for an appliance or specified fitting type encompasses:

- Markings on the appliance or fitting that uniquely identify it (*manufacturer, model, type number, serial numbers, etc*).
- Type of appliance or fitting (*cooker, space heater, etc*).
- Fuel types for which it is designed.
- What standard the appliance or fitting complies with (*if applicable*), or reasons why a standard was not followed.
- Testing details held for the appliance or fitting (*nature and scope of tests and testing agency, if applicable*).
- Certification details held for the appliance or fitting (*nature and scope of certification, and certifying agency, if applicable*).

- A declaration that, in relation to all product identified in the Declaration, Regulations 13 and 14 (*if applicable*) of the Regulations have been complied with.
- Supplier — *full business information sufficient to identify and locate the supplier.*
- The person who declares compliance and their relationship to the supplier (*e.g. position within organisation*).
- Date of declaration.

All of the above information (*except the details of the person declaring*) will be presented on the website (Tier 1 appliances and specified fittings), or given to the person to whom the appliance or fitting is supplied (Tier 2 appliances and specified fittings).

For Tier 1 appliances and specified fittings, the Declaration must be made directly into the on-line form that is in the “*For the Gas Industry*” section of the ESS website, at <http://www.ess.govt.nz/product/suppliers.asp>

For Tier 2 Declarations, either the form in annex B of this paper should be used, or, as a minimum, the alternative Declaration should contain all of the information specified in the Annex B form.

## **2.5 Tier 1 or Tier 2?**

The “Tier 2” alternative applies only as long as less than 11 appliances or fittings of the same type are supplied. As soon as the eleventh appliance or specified fitting is supplied, the “Tier 1” regime applies.

## **2.6 Monitoring and corrective action**

As indicated in Figure 1 the Supplier Declaration regime is supported by a monitoring regime aimed at identifying any non-compliant appliances or fittings and requiring necessary remedial action. Corrective action may involve further testing by the supplier to establish compliance, product modifications, a ban on supply and/or use, or prosecution.

An “instant fine” system may be introduced in the future for failure to supply an appliance or specified fitting that is not supported by a Supplier Declaration or Compliance Folder.

## **3 Actions required by manufacturers and importers**

The “Supplier Declaration” is the primary focus of the regime. Although there is no formal requirement for testing, the onus is on the supplier to be able to demonstrate in some way that the appliance or fitting complies with the safety requirements in the Regulations. The overall test is whether a court could be satisfied that the supplier has established compliance of the appliance or fitting.

The following guidelines are provided to set out the expectations on the supplier when completing the declaration. (Guidance on filling out the on-line form is given in Annex D). Appliance and specified fitting suppliers may wish to use a certification by a competent organisation as the basis for their Declaration, but in so doing must ensure that variations for New Zealand conditions have been adequately addressed.

- Appliances are required to comply with *NZS 5262: Gas Appliance Safety: 2003*, which sets out the essential safety requirements to be met.

- NZS 5262 lists some appliance standards that are considered to be means of compliance with these essential safety requirements.
- Other standards may be used provided the supplier is confident and can demonstrate that, by doing so, safety is not compromised.
- If no “means of compliance” standard is used, then there should be explicitly stated reasons for not doing so, and an assurance that the basis used for establishing compliance does not compromise safety.
- Variations for New Zealand conditions should be identified. Variations should recognise:
  - The New Zealand Gas Specification (including specific LPG compositions).
  - New Zealand climatic conditions.
  - New Zealand seismic risks.
  - Labelling requirements in NZS 5262.
  - Other specific items that may be relevant in particular circumstances.
- Tests should be completed to establish compliance with the Standard for all tests for which:
  - Compliance is not obvious without formal testing, or
  - Compliance cannot be extrapolated from other tests.
- Tests should be done by a person or organisation who
  - Can demonstrate sufficient competence for the task, and
  - Can be demonstrated to have acted with integrity.
 (Note: these expectations assume greater importance for tests that require an element of value judgement, or are not easily repeatable.)
- There should be adequate means of establishing that **all** product supplied meets or exceeds the compliance obligations. This might be achieved through:
  - Having a recognised quality assurance programme in place, or
  - Having a sufficient product inspection regime in place, or
  - Having processes that clearly offer a sufficient degree of repeatability.

All information necessary to demonstrate compliance must be documented and able to be presented to the ESS as a Compliance Folder, within 10 working days of request. The information in the compliance folder should be consistent with the above guidelines. The Compliance Folder need not be assembled before an appliance or fitting is supplied, but the supplier must be confident that all necessary information can be assembled within the time frame.

### **3.1 For appliances and specified fittings of which 11 or more are expected to be supplied (Tier 1)**

1. Ensure, for each appliance or specified fitting being supplied, that a Compliance Folder can be provided within 10 days of request (*refer to the Guidelines in Section 3 and Annex D for the details to be declared*).
2. Register as a supplier, by going to the ESS website (<http://www.ess.govt.nz/product/suppliers.asp>). (*Allow two working days for confirmation of the registration.*) Instructions on completing the on-line registration are given in Annex C.
3. Complete Supplier Declarations online, so that every appliance or specified fitting supplied by you is covered by a valid supplier declaration. Instructions on filling out the declaration form are given in Annex D.

4. We suggest that you also print copies of your declarations to allow those to whom your appliances and specified fittings are supplied (*e.g. retailers and gasfitters*) to meet their obligation to be satisfied that a declaration has been made. This will also give consumers confidence in the compliance of appliances and fittings.

Manufacturers and importers are also encouraged to report to the Energy Safety Service (Email [[appliances@ess.govt.nz](mailto:appliances@ess.govt.nz)]) any instances of apparent non-compliance of any appliances or fittings on the market.

### **3.2 For appliances and specified fittings of which less than 11 of the same type are expected to be supplied (Tier 2)**

1. Ensure, for each type of appliance or specified fitting being supplied, that a Compliance Folder can be provided within 10 days of request (*refer to the Guidelines in Section 3 and Annex D for the details to be declared*).
2. Register as a supplier, by going to the ESS website (<http://www.ess.govt.nz/product/suppliers.asp>). (*Allow two working days for confirmation of the registration.*) Instructions on completing the on-line registration are given in Annex C.
3. Complete Supplier Declaration form, and provide a copy with every appliance or specified fitting supplied. An example form is provided in Annex B.
4. Retain a copy of the declaration and the name and address of the person supplied with the appliance. This record must be retained for a period of seven years.

Manufacturers and importers are also encouraged to report to the Energy Safety Service (Email [[appliances@ess.govt.nz](mailto:appliances@ess.govt.nz)]) any instances of apparent non-compliance of any appliances or fittings on the market.

## **4 Actions required by retailers and others who supply appliances and fittings**

Retailers have an obligation to be satisfied that any gas appliance or fitting they sell complies with safety requirements of Regulations 13 and 14 of the Regulations. Regulation 13 requires that “...every person who manufactures, imports, **sells or offers for sale**, hires out, leases out, or installs a gas appliance or fitting ... **must take all practicable steps** to ensure that the gas appliance or fitting is safe in all reasonably foreseeable circumstances”.

Any person who supplies a gas appliance or specified fitting has an explicit obligation to ensure that the appliance or fitting is supported by a current and valid Supplier Declaration (on the ESS website). **Note:** At this time (November 2006) there are no specified fittings.

Alternatively, if fewer than 11 of that type of appliance or fitting are supplied throughout New Zealand, a copy of the supplier declaration must be supplied with each appliance or fitting. Retain a copy of the declaration and the name and address of the person supplied with the appliance. This record must be retained for a period of seven years.

Retailers and other suppliers are also encouraged to report to the Energy Safety Service (Email [[appliances@ess.govt.nz](mailto:appliances@ess.govt.nz)]) any instances of apparent non-compliance of any appliances or fittings on the market.

## 5 Actions required by installers

Installers have an obligation to be satisfied that any gas appliance or fitting they install complies with safety requirements of Regulations 13 and 14 of the Regulations. Regulation 13 requires that “...every person who manufactures, imports, sells or offers for sale, hires out, leases out, or **installs** a gas appliance or fitting ... **must take all practicable steps** to ensure that the gas appliance or fitting is safe in all reasonably foreseeable circumstances”.

Installers must:

1. Ensure that a supplier declaration is on the ESS website<sup>4</sup>, or that you have received a copy of the supplier declaration from the supplier, before installing any appliance or specified fitting<sup>5</sup>

**Note:** At the time of writing of this document (November 2006) there are no specified fittings.

2. Ensure the appliance or fitting is correctly installed and commissioned in accordance with instructions and NZS 5261, and that the installation is certified if required under the Regulations.

For any appliance or fitting imported or manufactured by a person for their own use (and which therefore does not have a Supplier Declaration), the installer must record that fact on the Gasfitting certificate, and certify that the appliance or fitting as installed is safe (refer section 2.2).

Installers are also encouraged to report to the Energy Safety Service (Email [[appliances@ess.govt.nz](mailto:appliances@ess.govt.nz)]) any instances of apparent non-compliance of any appliances or fittings on the market.

## 6 ESS contact details

Any questions or suggestions regarding the safety obligations for gas appliances and fittings should be submitted (preferably by Email) to:

Email: [appliances@ess.govt.nz](mailto:appliances@ess.govt.nz)  
Postal: Energy Safety Service  
Ministry of Economic Development  
PO Box 1473  
Wellington  
Free fax 0580 723 336

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<sup>4</sup> Whilst the obligation to be satisfied that a Supplier Declaration is in place can be fulfilled by checking the website, this may not always be convenient. Obtaining a printout from the website, that the installer can be confident in, should be sufficient in most situations.

<sup>5</sup> Appliances supplied from the NZ importer or NZ manufacturer before 18 November 2002 are not required to have a declaration.

## **Annex A: Extract from the Gas Regulations 1993**

### **Note:**

- **This is not a copy of the full regulations; it covers only those parts directly applicable to the gas appliance regime. It does not cover definitions such as “supply” or “all practicable steps” (r2 Interpretation) or the offence provisions (r37).**
- **A full copy of the Gas Regulations and amendments is available for download from the ESS website or may be viewed at [www.legislation.govt.nz](http://www.legislation.govt.nz)**

### **Gas installations, gas appliances, and fittings**

#### **12 Safety of gas installations**

- (1) Every person who installs a gas installation or part of a gas installation must install that gas installation or part in accordance with Part 1 of NZS 5261<sup>6</sup>.
- (2) Subclause (3) applies to the following types of installation:
- (a) the installation of a gas installation that does not contain any gas appliance with a rated input of more than 250 MJ/h;
  - (b) the installation of a part of a gas installation if the gas installation as a whole does not contain any gas appliance with a rated input of more than 250 MJ/h.
- (3) Every person is deemed to have complied with subclause (1), in relation to an installation to which this subclause applies, if the person has complied with Part 2 of NZS 5261.
- (4) Subclause (5) applies to the following types of installation:
- (a) the installation of a gas installation that contains a gas appliance with a rated input of 250 MJ/h or more ;
  - (b) the installation of a part of a gas installation if the gas installation as a whole contains a gas appliance with a rated input of 250 MJ/h or more.
- (5) Every person is deemed to have complied with subclause (1), in relation to the application of a particular performance requirement of Part 1 of NZS 5261 to an installation to which this subclause applies, if—
- (a) that particular performance requirement is fully satisfied by 1 or more standards listed in Part 3 of NZS 5261; and
  - (b) the person complies with at least 1 of those standards.
- (6) This regulation does not apply to CNG stations.

#### **13 Safety of gas appliances and fittings**

- (1) This regulation applies to every person who manufactures, imports, sells or offers for sale, hires out, leases out, or installs a gas appliance or fitting.
- (2) Every person to whom this regulation applies must take all practicable steps to ensure that the gas appliance or fitting is safe in all reasonably foreseeable circumstances.
- (3) Without limiting subclause (2), a gas appliance is not safe if it does not comply with NZS 5262<sup>7</sup>.
- (4) Without limiting subclause (2), a fitting is not safe if—
- (a) it has a gas leakage; or
  - (b) it is operated in a manner that is hazardous when exposed to any reasonably foreseeable torques, pressures, or chemical or physical conditions.

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<sup>6</sup> [NZS 5261: Gas Installation: 2003]

<sup>7</sup> [NZS 5262: Gas appliance safety: 2003]

(5) Despite subclause (4)(a), minute leakages from some fittings are permissible under relevant testing procedures.

#### **14 Marking of appliances**

Every gas appliance sold or intended for sale must be marked in accordance with section 5 of NZS 5262.

#### **15 Appliances and fittings to which regulations 15A to 15F apply**

Regulations 15A to 15F apply to the following:

- (a) all gas appliances; and
- (b) any fitting that the Secretary has specified, by notice in the *Gazette*, to be of a type to which regulations 15A to 15F apply (a **specified fitting**).

#### **15A Manufacturer or importer must make supplier declaration**

(1) This regulation applies to—

- (a) all persons who manufacture gas appliances or specified fittings in New Zealand; and
- (b) all importers of gas appliances or specified fittings.

(2) Every person to whom this regulation applies must, before that person supplies a gas appliance or specified fitting in New Zealand, make a supplier declaration that relates to the appliance or fitting and either—

- (a) publish the declaration on the website; or
- (b) if the declaration relates to fewer than 11 appliances or fittings of the same type,—
  - (i) notify the Secretary that the person elects to comply with this paragraph instead of publishing the declaration on the website; and
  - (ii) give a copy of the declaration to the person to whom the person supplies the appliance or fitting.

(3) The manufacturer or importer of a gas appliance or a specified fitting must, if he or she elects to comply with subclause (2)(b),—

- (a) maintain a record of the name and address of the person to whom the manufacturer or importer supplied the appliance or fitting in New Zealand; and
- (b) keep the record for at least 7 years after the date that the manufacturer or importer supplied the appliance or fitting in New Zealand; and
- (c) make the supplier declaration and the record available to the Secretary within 10 working days of a request being made by the Secretary (unless the request relates to a record that is no longer required to be kept under paragraph (b)).

(4) Notification under subclause (2)(b)(i) must be in the form prescribed by the Secretary for the purpose by notice in the *Gazette*, if the Secretary has prescribed a form.

#### **15B Contents of supplier declaration**

(1) Every supplier declaration must—

- (a) be in the form prescribed for the purpose by the Secretary by notice in the *Gazette*, if the Secretary has prescribed a form; and
- (b) specify the full name of the manufacturer or importer and the full name of the person making the declaration; and
- (c) specify the full address of the manufacturer or importer and the full address of the person making the declaration (including an email address, if any); and
- (d) identify the gas appliances or specified fittings covered by the declaration; and
- (e) identify, in relation to the gas appliances or specified fittings covered by the declaration,—
  - (i) any standards that have been complied with; and
  - (ii) any testing or certification that has been undertaken; and
- (f) include a statement that the manufacturer or importer has complied with—
  - (i) regulations 13 and 14 in relation to all gas appliances covered by the declaration; and
  - (ii) regulation 13 in relation to all specified fittings covered by the declaration.

(2) For the purposes of subclause (1)(a), the Secretary may prescribe—

- (a) a form that may only be used for declarations that are to be published on the website; and
- (b) a form that may only be used for declarations made under regulation 15A(2)(b).

### **15C Management of website**

- (1) Every manufacturer or importer who is required to publish a supplier declaration on the website must ensure that he or she has—
  - (a) registered with the Secretary so as to enable the manufacturer or importer to publish supplier declarations on the website; and
  - (b) supplied to the Secretary any information reasonably required by the Secretary to register the manufacturer or importer.
- (2) The Secretary—
  - (a) may remove from the website any supplier declaration that appears to the Secretary to be incorrect, frivolous, non-complying, or outdated; and
  - (b) must promptly send notice of the removal to the manufacturer or importer.

### **15D Supply of documents**

- (1) Every manufacturer or importer of a gas appliance or a specified fitting must, within 10 working days of a request being made by the Secretary, supply to the Secretary a document or documents that demonstrate that the manufacturer or importer has—
  - (a) in the case of a gas appliance, complied with regulations 13 and 14 in relation to the gas appliance; or
  - (b) in the case of a specified fitting, complied with regulation 13 in relation to the specified fitting.
- (2) The manufacturer or importer must supply with any document that is supplied an accurate English translation of the whole or any part of that document if the document or that part is in a language other than English.

### **15E Duty to provide copy of supplier declaration**

- (1) Every person who is supplied with a gas appliance or a specified fitting to which a declaration under regulation 15A(2)(b) relates must provide a copy of the declaration to—
  - (a) any other person to whom the person supplies the appliance or fitting; and
  - (b) any other person who installs the appliance or fitting.
- (2) The copy of the declaration must be provided,—
  - (a) in the case of subclause (1)(a), before or when the appliance or fitting is supplied; and
  - (b) in the case of subclause (1)(b), before or when the appliance or fitting is installed.

### **15F Other suppliers and installers must check that declaration published or supplied**

- (1) Every person who supplies a gas appliance or a specified fitting in relation to which a supplier declaration is required to be made under regulation 15A, other than the manufacturer or importer, must,—
  - (a) before supplying the appliance or fitting,—
    - (i) ensure that a supplier declaration relating to the appliance or fitting is published on the website; or
    - (ii) in the case of an appliance or fitting to which a declaration under regulation 15A(2)(b) relates, ensure that he or she obtains a copy of the supplier declaration relating to the appliance or fitting; and
  - (b) in the case of an appliance or fitting to which a declaration under regulation 15A(2)(b) relates,—
    - (i) maintain a record of the name and address of the person to whom the person has supplied the appliance or fitting; and
    - (ii) keep the record for at least 7 years after the date that the appliance or fitting is supplied by the person; and
    - (iii) make the record available to the Secretary within 10 working days of a request being made by the Secretary (unless the request relates to a record that is no longer required to be kept under subparagraph (ii)).
- (2) Every person who installs a gas appliance or a specified fitting in relation to which a supplier declaration is required to be made under regulation 15A must, before installing the appliance or fitting,—
  - (a) ensure that a supplier declaration relating to the appliance or fitting is published on the website; or

(b) in the case of an appliance or fitting to which a declaration under regulation 15A(2)(b) relates, ensure that he or she obtains a copy of the supplier declaration relating to the appliance or fitting.

#### **16 Repairs, modifications, and adjustments to appliances and fittings**

- (1) Every person who repairs, modifies, or makes adjustments to a gas appliance or fitting must take all practicable steps to ensure that the appliance or fitting is safe in all reasonably foreseeable circumstances before the appliance or fitting is returned to service.
- (2) Without limiting subclause (1), a gas appliance is not safe if it does not comply with NZS 5262.
- (3) Without limiting subclause (1), a fitting is not safe if—
  - (a) it has a gas leakage; or
  - (b) it is operated in a manner that is hazardous when exposed to any reasonably foreseeable torques, pressures, or chemical or physical conditions.
- (3) Despite subclause (3)(a), minute leakages from some fittings are permissible under relevant testing procedures.

#### **17. Responsibility for safe operation and use of gas appliances and fittings**

- (1) Every person who owns, operates, or uses any fittings, gas appliance, or gas installation must take all reasonable steps to ensure that the fittings, appliance, or installation is in a safe condition, is operated in a safe manner, and is maintained in a safe condition.
- (2) Every person who hires out or leases out any fittings, gas appliance, or gas installation shall take reasonable steps to ensure that—
  - (a) The fittings, appliance or installation is in a safe condition; and
  - (b) Any instructions to ensure the safe use of the appliance are provided—prior to so hiring or leasing them out.

**Annex B:**  
**Tier 2 Declaration Form**

This form is available for download from the ESS website.

# DECLARATION OF COMPLIANCE OF GAS APPLIANCES

This form, or a form disclosing the same information, may be used as an alternative to web-based declarations for appliances of which less than 11 of the same type are supplied. Suppliers may use their own form so long as it provides the same information.

The supplier must provide a copy of the declaration with each appliance.

The supplier must maintain a record of the name and address of the person to whom they supplied the appliance or fitting; and keep the record for at least 7 years after the date that they supplied the appliance or fitting; and make the supplier declaration and the record available to the Secretary within 10 working days of a request being made by the Secretary.

<b>A</b>			
<b>DECLARER DETAILS</b>			
<b>1. NAME OF DECLARER</b>	Surname	Title (Mr, Mrs, etc)	Given names
	Company and/or trading name (if applicable)		Position in Company
	Email		
<b>2. CONTACT ADDRESS</b>	Postal address		Physical address (if different)
	Telephone	Fax (if applicable)	Company website (optional)
<b>B</b>			
<b>EQUIPMENT DETAILS</b>			
<b>3. EQUIPMENT IDENTIFICATION</b>  <small>(To describe all markings etc on the equipment to uniquely identify it. Some fields may be left blank.)</small>	Type of product (e.g. cooker, space heater)		Fuel type
	Make		Website address for equipment (optional)
	Model		Serial No.s
	Other identifiers		Supplier's reference (optional)
<b>4. STANDARD AND COMPLIANCE</b>  <small>("Application and scope of certification" must include - information on what standards, including variants to standards, the certification is to, - whether the certification is limited to type approval or covers ongoing quality, and - any qualifications to the certification. )</small>	Standard followed to determine compliance, or reasons why a Standard was not followed		
	Name, address and accreditation of laboratory where tested for compliance (if applicable)		
	----- Tests completed (if applicable)		
	----- Test report No.		Date issued
	Name, address and accreditation of agency issuing certification of compliance (if applicable)		
----- Certificate no; application and scope of certification (if applicable)		Date issued	
<b>5. DECLARATION</b> <small>This is an important legal declaration. Please be <b>sure you understand its implications!</b></small>	<b>I hereby declare that I have complied with regulations 13 and 14 of the Gas Regulations 1993 in relation to all product covered by this Declaration.</b>		
	Signed		Dated

## Annex C: Supplier registration instructions

There are two parts for the supplier registration; the details of the company that will be supplying the gas appliance and then the details of the person making the declaration.

### Company details

It is important that a New Zealand entity is registered. The Gas Regulations only apply in New Zealand and the supplier declaration regime applies to the importer or New Zealand manufacturer.

Most suppliers will register as a *Tier 1* supplier. The *Tier 2* level is generally for suppliers who are importing or manufacturing “one-off” appliances. If you are going to be supplying more than 10 of an appliance that you are declaring you must register as a Tier 1 supplier and make your declarations on the website.

The phone; fax; website and email contact details in the Company section will appear on the public view of the declaration.

\* Indicates a mandatory field

Company Details	
Company / Trading Name	ESS Test Company *
Tier 1 or Tier 2 Supplier	1
Physical Address	Level 5, MED Building 3 Bowen St *
Physical Address City	Wellington *
Postal Address	<input type="checkbox"/> Same as Physical Address (Includes City) PO Box 1473 *
Postal Address City	Wellington *
Phone	+64 4 460 8566 *
Fax	+64 4 460 1365
Company Website Address	www.ess.govt.nz
Company Email Address (If applicable)	info@ess.govt.nz

### Declarer Section

The declarer or personal section is where the details of the person making the declaration are entered. These details are not available to the public but are needed by ESS to contact the company (and are required by the Gas Regulations).

It is in this section that the User ID and Password are selected. The password must be at least 8 characters long and contain both letters **and** numbers.

For the most part the declarer will be part of the company and have the same address and postal details but it is possible that the declarer may be located elsewhere. If that is the case then the appropriate fields should be completed.

It is important that a telephone number for the declarer is provided so that ESS can contact the supplier if there is any problem.

Personal Details	
First Name	<input type="text" value="Fred"/> *
Last Name	<input type="text" value="Nong"/> *
Position in company	<input type="text" value="Technical Director"/>
Email address	<input type="text" value="fred.nong@ess.govt.nz"/> *
Confirm Email address	<input type="text" value="fred.nong@ess.govt.nz"/> *
Physical Address	<input checked="" type="checkbox"/> Personal addresses the same as Company addresses <input type="text"/>
Physical Address City	<input type="text"/>
Postal Address	<input type="checkbox"/> Same as Physical Address (Includes City) <input type="text"/>
Postal Address City	<input type="text"/>
Phone	<input type="text" value="+64 4 460 9876"/>
Fax	<input type="text"/>
Preferred Username	<input type="text" value="Freddy"/> *
Password	Passwords should be at least 8 characters long and contain both letters and number. <input type="password" value="*****"/> *
Confirm Password	<input type="password" value="*****"/> *

## Annex D

### Guidance for completing declaration

When you are entering your declaration you should enter as much detail as possible giving details of any standards that have been complied with and any testing or certification that has been undertaken. There are two reasons for this:

- Declarations that lack supporting evidence are more difficult to assess and they are much more likely to be targeted for auditing (for auditing, full information would be required by ESS)
- A complete and detailed declaration provided to the public displays an image of quality and professionalism.

When completing this you need to bear in mind that downstream suppliers and installers must identify your appliance on the database before they can sell or install the appliance. Will the retailer be able to identify the appliance from the packaging? When the installer comes to install the appliance will the make and model markings on the appliance data plate be the same as what you are entering in the declaration?

If a person were to search the database on **Supplier** they will see a listing something like the following. While they could “View” the full declaration to get more detail will they be able to identify the appliance from the fields displayed?

Your search returned 9 results

	Make	Model	Supplier	Declaration Number	Product Category
<a href="#">View</a> <a href="#">Edit</a>	Phantom Ovens	Big Shiny One	Phantom Ovens	020067	Domestic freestanding cooker
<a href="#">View</a> <a href="#">Edit</a>	Phantom Ovens	Small One	Phantom Ovens	020067	Domestic freestanding cooker
<a href="#">View</a> <a href="#">Edit</a>	Phantom Cooktops	Goblin Hoblin	Phantom Ovens	020067	Domestic hotplate (hob)
<a href="#">View</a> <a href="#">Edit</a>	Phantom Heaters	Skull Cave	Phantom Ovens	020068	Space heater balanced flue convection

### Product Identification Section

#### “Make” field:

A mandatory field indicating the make of the appliance. Please be consistent and not introduce variations (or misspellings) of the make such as: *Bloggs; Bloggs (NZ) Lts; Bloggs Ltd; etc.*

#### “Model” field:

A mandatory field indicating the model of the appliance. If there is a range of appliances covered by the same testing or certification documentation it may be possible to enter a series here but bear in mind that downstream users should be able to identify individual models.

#### “Serial No.s” field:

This is a non-mandatory field. It is intended for an appliance where a particular model may need two declarations because one model run was covered by one set of testing and a different run by another test regime.

**“Other identifiers” field:**

This is a non-mandatory field which can be used for other identifiers. For example, if you had listed a series above it could be used to identify the specific models in the “series” declaration.

**“Input rating” field:**

This is a non-mandatory field. It is intended to record the input rating of the appliance. This would provide “added value” to gasfitters when sizing an installation job

**“Fuel type” field:**

A mandatory field. Tick the fuel types that the appliance is safe (is rated) to use on. Note that the appliance standard (NZS 5262) requires that all “LPG” appliances should be safe to run on both butane **and** propane. “*General Product*” is the “LPG” most New Zealanders receive and is similar to the “Universal” LPG designation in Australia.

**“Appliance category” field:**

A mandatory field selected from a drop down list. Please familiarise your self with the list and select the appropriate category. The appliances are grouped into commercial and domestic cooking equipment; industrial; portable/camping; space heating; and water heating. If your appliance doesn’t meet any of the categories then please select the *Other..* choice. You will be required to enter a description in the *Appliance Type* field.

**“Appliance type” field:**

A legacy field from an earlier version of the database. Now generally only used if there is not a suitable choice in the *Product Category* field

**“Suppliers reference” field:**

This is a non-mandatory field that could be used for such things as a stock code.

**“Standard” section**

This supplier declaration is a statement from you, (the supplier), that your appliance complies with the safety and marking requirements of Regulation 13 and 14 of the Gas Regulations. An appliance is not safe if it does not comply with NZS 5262. NZS 5262 has a list of approval standards that are (with certain additional requirements) considered to be a means of compliance with NZS 5262 and thus regulation 13. An alternative means of compliance is to be able to show that the appliance meets the European Directive on gas appliances 90/396/EEC.

The *Standard followed...* field is the heart of the declaration scheme in that it allows the supplier to demonstrate how their appliance meets the requirements of NZS 5262. If the appliance meets one of the means of compliance standards then most of the requirements of the regulations are considered to be met.

Standard	
Standard followed to determine compliance, or reasons why a standard was not followed	ANSI Z21.11.2-2000 Gas-fired room heaters -Vol II, ur

This field is a mandatory field with a drop down list that lists all the means of compliance standards and the European Directive. If you are not able to demonstrate compliance with one of these items you should select ***Not an NZS 5262 recognized standard...*** You will then be required to fill in the next text field to record any other standard the appliance complies with that may be used to prove compliance with the requirements of Regulation 13 and NZS 5262. If the appliance does not meet any standards then the basis for declaring compliance with Regulation 13 and NZS 5262 must be given.

Standard	
Standard followed to determine compliance, or reasons why a standard was not followed	Not an NZS 5262 recognized standard - reason to follow
	Singapore SP3452

Entering “NZS 5262” or “Gas Regs R13” is not considered adequate. By making the declaration (that the appliance complies with Regulation 13), it is already implicit that the appliance complies with NZS 5262 therefore it is redundant to state NZS 5262, R13, etc in the “Standards followed...” field. Citing NZS 5262 may be acceptable if there is documented testing in other fields to support the statement. That is, if a testing laboratory has issued a test report citing compliance with NZS 5262.

It is also important that any standard cited is actually relevant to gas safety. For example, while an appliance may well have been tested to *EN 61000-6-3* this standard is an EMC standard (electrical interference) and has no bearing on the gas safety requirements. Citing such a standard on its own with no gas safety standard mentioned may be considered to mean that the supplier has not taken “...***all practicable steps..***” as required by the Regulations.

## Testing section

Testing	
Name, address and accreditation of laboratory where tested for compliance (if applicable)	Singapore Test Lab *
Tests Completed (if applicable)	NZ Fuel gases
Test Report Number (if applicable)	15541584
Date Report Issued (if applicable)	03 May 2001

While completing this section is not mandatory, if you have claimed compliance with the Gas Regulations it is reasonable to expect you must have some means of demonstrating this compliance. If you do not enter any details in the *Name, address...* field you will be required to select from the associated drop down list and select either *None* or *Don't know*.

When a product has been “approved” to a standard it usually means that the product has been tested to the standard in some manner and then the product has been certified as meeting the standard by the certifying agency. So generally if your product has been approved (say to Australian or EU regimes) the “test lab” and “test number” details should be in the next section (Certification).

The testing section is meant to cover any testing that has been carried out on an appliance other than testing done in conjunction with certification, such as testing to NZ fuel gas which would not be covered by an overseas approval.

## Certification section

Certification	
Name, address and accreditation of agency issuing certification of compliance (if applicable)	AFNOR CERTIFICATION 11 FRANCIS DE PRESSENCE 93571 SAINT DENIS CEDEX FRANCE *
Certificate No; application and scope of certification (if applicable)	49BN1234
Date Certification Issued (if applicable)	19 Sep 2002

While completing this section is not mandatory, if you have claimed compliance with a standard it is reasonable to expect you must have some means of demonstrating this compliance. If you do not

enter any details in the *Name, address...* field you will be required to select from the associated drop down list and select either *None* or *Don't know*.

Whereas testing laboratories generally complete individual tests, third party certification involves certification that an appliance complies with a certain standard as a whole. In Europe, certification bodies are known as *notified bodies*. In the example above the certificate number indicates the agency (49 = Afnor); the year of issue (BN= 2002) and the actual certificate number (3638). Australian (AGA) approvals will have a four digit number.