



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

## Regulation of Gas Installers with Respect to Safety, Definition for the Scope of Gas Works

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Commission for Energy Regulation

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Under sections 12 and 13 of the *Energy (Miscellaneous Provisions) Act 2006*<sup>1</sup>, the Commission has the responsibility to regulate the activities of natural gas undertakings and natural gas installers with respect to safety. To this end the Commission has set out its approach to the regulation of natural gas undertakings and natural gas installers in the decision papers, “*A Natural Gas Safety Regulatory Framework for Ireland*” (ref. CER/07/172) and “*Vision for the Regulation of Gas Installers with Respect to Safety*” (ref. CER/07/225). Sections 12 and 13 of the 2006 Act were commenced by the Minister<sup>2</sup> on March 11th, 2008. Section 13 of the 2006 Act gave the Commission the authority to appoint a Supervisory Body with responsibility for the day-to-day activities of registration, audit and regulation of installers on its behalf. On 6<sup>th</sup> November 2008, the Commission appointed the Register of Gas Installers of Ireland (RGII) as the Gas Safety Supervisory Body (GSSB).

The 2006 Act also provides that the Commission “*may by regulations designate a class or classes of works to be gas works.*” In this instance ‘works’ mean works which are related to the installation, removal, repair or replacement of a natural gas fitting. These regulations will set out the classes of work that can only be completed by a registered gas installer. Once in place it will be illegal for any person who is not a registered gas installer to undertake these classes of work subject to certain limited exceptions<sup>3</sup>. In essence by designating the classes of *gas works*, the Commission will set the scope of the system for regulation of gas installers with respect to safety.

The Commission published its Consultation Document entitled “*Regulation of Gas Installers with respect to Safety – Definition for the Scope of Gas Works*” on 31<sup>st</sup> July 2008. The Consultation Document set out the Commission’s proposed definition of the scope of *gas works*. This paper presents the Commission’s Draft Decision on the scope of *gas works*. Appendix 1 (CER/09/032) which accompanies this paper addresses the responses received to the Consultation Document.

The purpose of this draft decision paper is to elicit final industry and public comment on the Commission’s proposed definition of the scope of *gas works*. This draft decision will be followed by a final decision on the matter of *gas works*.

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<sup>1</sup> Sections 12 and 13 of the 2006 Act amend the Electricity Regulation Act 1999 (the ‘1999 Act’) by inserting new provisions providing for the natural gas safety regulatory regime

<sup>2</sup> Minister for Communications, Energy and Natural Resources

<sup>3</sup> These certain limited exemptions are for system operators, gas emergency officers and gas safety officers carrying out their functions

and this will be subsequently translated into regulations as required under the 2006 Act. This will take place before the end of 2009.

### Target Audience:

This consultation paper is aimed at the natural gas installer industry and the general public.

### Related Documents:

- [A Natural Gas Safety Regulatory Framework for Ireland \(ref. CER/07/172\) - 24th October, 2007.](#)
- [Vision for the Regulation of Gas Installers with Respect to Safety \(ref CER/07/225\) - 18th December 2008](#)
- [CER-HSA Memorandum of Understanding, \(ref CER/08/104\) - 25th June 2008](#)
- [Economic Regulation of the Gas Safety Supervisory Body and any Electrical Safety Supervisory Bodies to be designated by the Commission \(ref CER/08/108\) - 8th July 2008](#)
- [Criteria Document for the Regulation of Gas Installers with Respect to Safety \(Ref CER/08/130\) - 25th July 2008](#)
- [Safety Regulation of the Liquefied Petroleum Gas Industry in Ireland - Consultation Paper \(Ref CER/08/141\) - 31st July 2008](#)
- [Regulation of Gas Installers with Respect to Safety, Definition for the scope of Gas Works - Consultation Paper \(Ref CER/08/142\) - 31st July 2008](#)
- [The Commission for Energy Regulation appoints the RGII as the Gas Safety Supervisory Body](#)

Responses to this Draft Decision should be returned by email, post or fax and marked for the attention of **Dermot Lynch** at the Commission at [dlynch@cer.ie](mailto:dlynch@cer.ie).

**The Commission intends to publish all submissions received.** Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an Appendix, stating the rationale for not publishing this part of their comments.

## Executive Summary

Under sections 12 and 13 of the *Energy (Miscellaneous Provisions) Act 2006* (the '2006 Act'), the Commission for Energy Regulation (the 'Commission') has the responsibility to regulate the activities of natural gas undertakings and natural gas installers with respect to safety. To this end, the Commission published its decision paper "*A Natural Gas Safety Regulatory Framework for Ireland*" (ref. CER/07/172) in October 2007, which sets out the Commission's approach to the regulation of natural gas undertakings. In December 2007, the Commission published the decision paper "*Vision for the Regulation of Gas Installers with Respect to Safety*" (ref. CER/07/225) which sets out the Commission's high level approach to the regulation of natural gas installers with respect to safety. Sections 12 and 13 of the 2006 Act were commenced by the Minister on March 11th, 2008.

The 2006 Act also provides that the Commission "*may by regulations designate a class or classes of works to be gas works.*" In this instance 'works' mean works which are related to the installation, removal, repair or replacement of a natural gas fitting. These regulations will set out the classes of work that can only be completed by a registered gas installer. Once in place it will be illegal for any person who is not a registered gas installer to undertake these classes of work subject to certain limited exceptions<sup>4</sup>. In essence by designating the classes of *gas works*, the Commission will set the scope of the system for the regulation of gas installers with respect to safety.

In this draft decision paper, the Commission presents proposals on the definition for the scope of *gas works* including:

1. Implement classes of *gas works* for those works on natural gas fittings in the domestic customer category at the full commencement of the new regulatory system on the 26<sup>th</sup> June 2009.
2. Extend the regulatory model and the definition of *gas works* to include those works on natural gas fittings used or designed to be used by commercial gas customers in the medium term (post 2010) when certain conditions exist.
3. Not extending the regulatory model and the definition of *gas works* to include those works on natural gas fittings used or designed to be used by Industrial gas customers at this stage.

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<sup>4</sup> These certain limited exemptions are for system operators, gas emergency officers and gas safety officers carrying out their functions

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## **1.0 Introduction**

### **1.1 The Commission for Energy Regulation**

*The Commission for Energy Regulation* ('the Commission') is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The Commission was initially established and granted regulatory powers over the electricity market under the *Electricity Regulation Act, 1999*. The enactment of the *Gas (Interim) (Regulation) Act, 2002* expanded the Commission's jurisdiction to include regulation of the natural gas market, while the *Energy (Miscellaneous Provisions) Act 2006* granted the Commission powers to regulate electrical contractors with respect to safety, to regulate to natural gas undertakings involved in the transmission, distribution, storage, supply and shipping of gas and to regulate natural gas installers with respect to safety. The *Electricity Regulation Amendment (SEM) Act 2007* outlined the Commission's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the Commission and the Northern Ireland Authority for Utility Regulation (NIAUR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

### **1.2 Purpose of this paper**

The purpose of this paper is to outline and describe the Commission's draft decision with regard to the Commission's proposed definition for the scope of *gas works*. This Commission carried out a public consultation on this topic in July – September 2008 and has considered fully the comments and submissions received. Issues raised during the consultation process will be addressed in this paper, as well as outlining the Commission's draft decision on this topic. In order to make an informed and impartial final decision on this topic, the Commission wishes to obtain further comments from members of the general public, natural gas installers and all other interested parties, particularly those in the natural gas industry. The Commission commits to considering all views equally and affording each respondent the opportunity to clarify any issue raised in this paper.

### **1.3 Comments Received**

The Commission received 5 submissions to the consultation paper (CER/08/142). Submissions were received from the following organisations or individuals:

- Bord Gáis Networks (BGN);
- The National Standards Authority of Ireland (NSAI);
- The Installers Representative Panel (IRP);
- The Midland Energy Training & Assessment Centre (METAC); and
- Combustion Technicians Association Limited (CTA).

On 20<sup>th</sup> February 2009, the Commission published each of the responses received on the Commission's website [www.cer.ie](http://www.cer.ie).

## **1.4 Background Information**

Under the provisions of the *Energy (Miscellaneous Provisions) Act 2006* (the '2006 Act'), the Commission has the responsibility to regulate the activities of natural gas undertakings and natural gas installers with respect to safety. The Commission published its decision paper "*A Natural Gas Safety Regulatory Framework for Ireland*" (ref. CER/07/172) in October 2007, which sets out the Commission's approach to the regulation of natural gas undertakings which includes gas storage, liquefied natural gas (LNG), transmission, distribution and shipper and supplier businesses operating within Ireland. In December 2007, the Commission also published its decision paper "*Vision for the Regulation of Gas Installers with Respect to Safety*" (ref. CER/07/225), which sets out the Commission's high level approach to the regulation of natural gas installers with respect to safety within the Framework. These documents provide the general context to this consultation paper.

In particular, the "*Vision for the Regulation of Gas Installers with Respect to Safety*" decision paper sets out the Commission's approach to achieving its safety responsibilities with respect to gas installers through:

*"Designating categories of gas works which may only be undertaken by Individually registered installers who are competent, operating to the appropriate standard, using the appropriate materials, who will certify their work as safe and will be subject to ongoing regulation and inspection by the Gas Safety Supervisory Body".*

As stated earlier, on 6<sup>th</sup> November 2008 the Commission appointed the Register of Gas Installers of Ireland (RGII) as the new Gas Safety Supervisory Body (GSSB). In the above instance 'works' mean works which are related to the installation, removal, repair or replacement of a natural gas fitting. The Commission will designate class or classes of works to be *gas works* via regulations. These regulations will set out those classes of work that can only be completed by a registered gas installer. Once in place it will be illegal for any person who is not an installer registered with the RGII to undertake these classes



of work subject to certain limited exceptions<sup>5</sup>. In essence by designating the classes of *gas works*, the Commission will set the scope of the regulatory system for gas installers.

Further to the conclusion of the consultation process, the Commission has considered the responses received and is now publishing its draft decision on the proposed definition for the scope of *gas works*. Appendix 1 which accompanies the publication of this paper sets out the comments the Commission received further to the consultation and its response to same.

### ***1.5 Structure of this paper***

This paper is structured as follows:

- **Section 2.0** presents a high level summary of the Commission's draft decisions with respect to the definition of *gas works*;
- **Sections 3.0** describes the legislative context and provisions which underpin the designation of *gas works*;
- **Section 4.0** outlines a more detailed evaluation of the Commission's proposals for the broad scope of *gas works*;
- **Section 5.0** invites further comment from the public and industry and sets out the Commission's proposed timetable for publication of final decisions on this issue and their subsequent translation into regulations; and
- **Appendix 1: The Response Document** - to view Appendix 1, please download the following document accompanying this paper from [www.cer.ie](http://www.cer.ie): **Response Document - CER/09/032-1**.

### ***1.5 Scope of this paper***

The scope of this paper is strictly limited to the Commission's high level proposals for the broad scope of *gas works* with respect to natural gas.

### ***1.6 Responding to this paper***

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<sup>5</sup> There are certain limited exemptions for system operators, gas emergency officers and gas safety officers carrying out their functions.



Comments should be sent to Dermot Lynch, Gas Safety Analyst at [dlynch@cer.ie](mailto:dlynch@cer.ie) no later than 20<sup>th</sup> March, 2009. Comments in electronic format are preferable, however comments may also be posted to the Commission at the following address:

*Dermot Lynch,*  
Gas Safety Analyst,  
Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24

The Commission intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an Appendix, stating the rationale for not publishing this part of their comments.

## 2.0 Draft Decisions

### 2.1 Summary of Draft Decisions contained in this paper

Below is a summary of the draft decisions that the Commission is presenting for further consultation. A more in depth analysis of the draft decisions is provided in Sections 4 and 5 of this paper:

1. Based on comments received from Respondents, the Commission has amended the high level definitions of Domestic, Commercial and Industrial Gas Customers. These proposed revised definitions are set out in Section 4;
2. As required under the 2006 Act, the Commission proposes to implement *Option A: Minimum Scope of Gas Works (as set out in Section 4)* at full commencement of the new regulatory system on June 26<sup>th</sup> 2009;
3. The Commission proposes to extend the regulatory model and the definition of *gas works* to include those works on natural gas fittings used or designed to be used by Commercial gas customers (i.e. *Option B: Intermediate Scope of Gas Works*) in the medium term (i.e. post 2010), when certain necessary conditions exist. These conditions are set out in Section 5;
4. The RGII will hold a voluntary register for those installers carrying out commercial *gas works* who wish to join (as an interim measure) until such time as the regulatory model is extended to include commercial *gas works*; and
5. The Commission proposes not extending the regulatory model and the definition of *gas works* to include those works on natural gas fittings used or designed to be used by Industrial Gas Customers (e.g. *Option C: Maximum Scope of Gas Works*). The reasons for excluding these *gas works* are set out in Section 5.

## 3.0 Consideration of Legislative Context & Provisions

### 3.1 Introduction

The 2006 Act is the principal piece of legislation in the context of the Commission's new responsibilities with regard to the regulation of gas installers with respect to safety. The provisions relating to *gas works* are outlined in Section 3.2 of this paper. There are also a number of other Acts and Regulations which ought to be considered when determining the appropriate definition for the scope of *gas works*, which are discussed in Section 3.3.

### 3.2 The Energy (Miscellaneous Provisions) Act 2006

#### 3.2.1 High level Provisions

Section 13 of the 2006 Act provides for –

- (1) The Commission, having consulted with such persons as it considers appropriate, and with the consent of the Minister, may by regulations designate a class or classes of works to be gas works.*
- (2) In this section 'works' means work which is related to the installation, removal, repair or replacement of a natural gas fitting.*

Section 11 of the 2006 Act defines a natural gas fitting as:

*Any appliance, apparatus or other things including associated pipework and flueing which is used or designed to be used by –*

- (a) a domestic customer, or*
- (b) such class or classes of industrial customer or commercial customers as the Commission may specify from time to time, in connection with the consumption or use of natural gas whether the appliance, apparatus or thing is the property of a natural gas undertaking or otherwise.*

Once *gas works* are designated by the Commission, the 2006 Act makes it illegal for any person other than a registered gas installer to carry out such works<sup>6</sup>. In such instances a person who is guilty of this offence will be liable to a fine of up to €5,000 and/or a prison term of up to six months upon summary conviction or conviction on indictment which can have an associated fine of up to €15,000 and/or a prison sentence of up to three years.

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<sup>6</sup> There are certain limited exemptions for system operators, gas emergency officers and gas safety officers carrying out their functions.

The above provisions have a number of implications. Firstly, from **a legal perspective**, the definition of *gas works* relates to a natural gas fitting which is used or designed to be used by a domestic customer or, if so decided by the Commission, commercial or industrial customers (i.e. such classes of customer as the Commission may specify from time to time). Therefore in determining the scope of *gas works*, a definition of domestic, commercial and industrial gas customers is required. Proposals in this regard are set out in Section 4.2.

Once the decision on the definition on the broad classes of customer categories is made, it is the view of the Commission, that any regulations with respect to *gas works* must include, as a minimum, those works on natural gas fittings used or designed to be used by domestic customers.

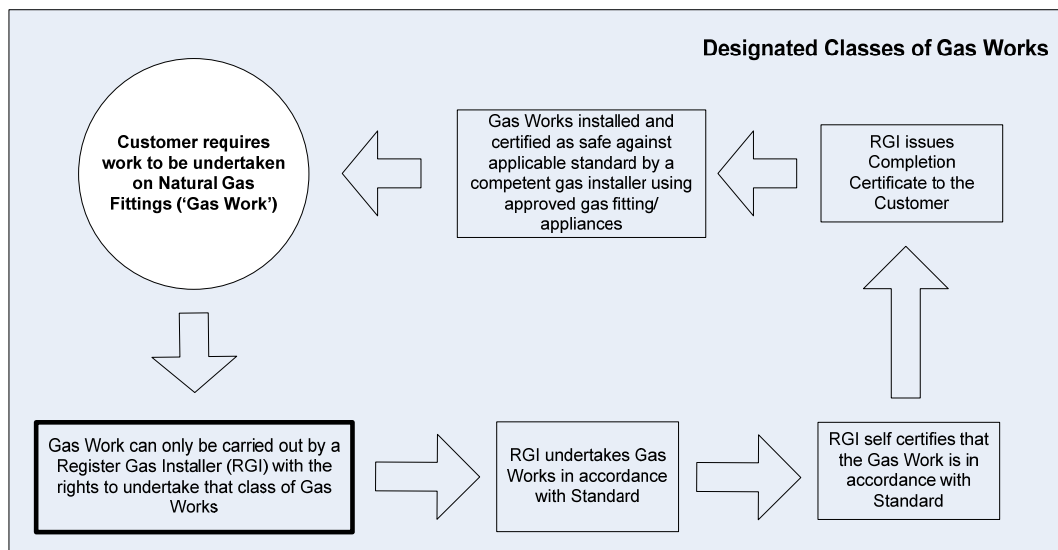
Thereafter, the Commission has a degree of discretion with respect to broadening the scope of *gas works* to include works on natural gas fittings used or designed to be used by commercial and industrial customers. **This represents the key policy decision for the Commission** and is the primary subject of this paper.

### 3.2.2 Specific Provisions

The 2006 Act also contains specific requirements related to *gas works* including:

- *gas work* must be carried out in accordance with the safety requirements specified by the Commission,
- gas installers must issue an appropriate completion certificate to the customer for any *gas work* carried out.
- the Commission is required to “*specify a form of completion certificate*” to be used by gas installers in the above instance.

The above provisions reinforce the link between the customer, the gas installer and the regulatory system, as illustrated in Diagram 1 below.



*Diagram 1: Operation of the Regulatory System*

### **3.3 Other Relevant Legislation**

In addition to the 2006 Act, the *Safety, Health and Welfare at Work Act 2005* (the ‘2005 SHWAW Act’) and regulations made under that Act are also relevant to the definition of *gas works* **particularly with respect to gas installers operating in a non-domestic environment**. The 2005 SHWAW Act applies to safety in the workplace generally and includes a number of relevant general protective and preventative provisions such as hazard identification, risk assessment and the preparation of safety statements. Furthermore under Section 16 of the 2005 SHWAW Act a person who supplies any article for use at work, or any substance, must ensure that, so far as is reasonably practicable, the article or substance:

- is safe and without risk to health when used by a person at a place of work;
- is given only to those who have been provided with adequate information and revisions of such information as may become available, about the use of the article or substance, and of any conditions relating to either;
- complies with relevant statutory provisions; and
- undergoes and has undergone appropriate testing to ensure its safety.

This duty falls on those who manufacture, design, import or supply any article for use in a place of work, and on those who erect, assemble or install articles for use at a place of work. There are also duties regarding testing, research and examination prior to use, and to disposal and dismantling of equipment after use.

The *Safety, Health and Welfare at Work (Construction) Regulations 2006* are also relevant “to the installation, commissioning, maintenance, repair or removal of ....gas systems, or similar services which are normally fixed within or to a structure”. Section 17 of the Regulations state:

- (1) A person who commissions or procures a project for construction work shall appoint in writing a competent person or persons for the purpose of ensuring, so far as is reasonably practicable, that the project—
  - (a) is designed and is capable of being constructed to be safe and without risk to health,
  - (b) is constructed to be safe and without risk to health,
  - (c) can be maintained safely and without risk to health during subsequent use, and
  - (d) complies in all respects, as appropriate, with the relevant statutory provisions.
- (2) A person who designs a project for construction work shall ensure, so far as is reasonably practicable, that the project—
  - (a) is designed and is capable of being constructed to be safe and without risk to health,
  - (b) can be maintained safely and without risk to health during use, and

- (c) complies in all respects, as appropriate, with the relevant statutory provisions.*
- (3) A person who carries out construction work shall ensure, so far as is reasonably practicable, that it is constructed to be safe and without risk to health and that it complies in all respects, as appropriate, with the relevant statutory provisions.*
- (4) For the purposes of this section, 'project' means any development which includes or is intended to include construction work.*

Therefore the 2005 SHWAW Act and the associated Regulations place certain responsibilities upon employers with respect to the installation, commissioning, maintenance, repair or removal of natural gas fittings currently. As such this must be considered by the Commission when determining whether it is appropriate to extend the scope of *gas works* to include those natural gas fittings used or designed to be used by commercial and/or industrial customers. This is discussed further in Section 5.



## 4.0 The Commission's Proposals for the Scope of Gas Works and Classes within that Scope

### 4.1 High Level Overview

As set out in Section 3.2.1, **the scope of gas works** relates to the installation, removal, repair or replacement of a natural gas fitting which is used or designed to be used by a domestic customer, or if so decided by the Commission, commercial and industrial customers.

Therefore, at a high level, the **minimum scope of gas works**<sup>7</sup> must include work related to installation, removal, repair or replacement of natural gas fittings used or designed to be used by domestic customers. This would include those natural gas fittings including domestic appliances designed to be used by domestic customers where they are used by both commercial and industrial customers.

The **potential maximum scope of gas works**<sup>8</sup> would include all works related to the installation, removal, repair or replacement of:

- all natural gas fittings used or designed to be used by domestic customers;
- all natural gas fittings used or designed to be used by commercial customers;
- all natural gas fittings used or designed to be used by industrial customers;
- natural gas fittings designed to be used by domestic customers which are used by both commercial and industrial customers;
- natural gas fittings designed to be used by commercial customers which are used by industrial customers;

Between the minimum and potential maximum scope of *gas works*, is an **intermediate scope of gas works**<sup>9</sup> which would include all works identified in the potential maximum scope of *gas works* above excluding:

- all natural gas fittings used or designed to be used by industrial customers;

These potential scope options as set out in the consultation paper are illustrated in Diagram 2 on the following page.

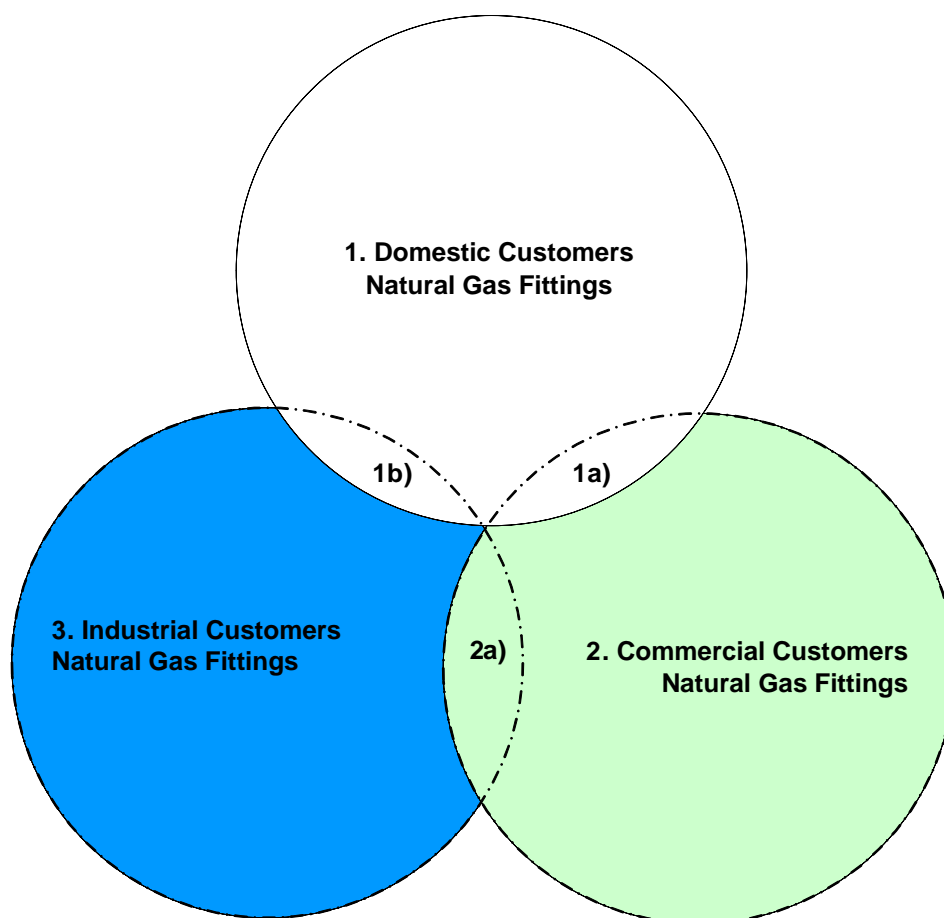
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<sup>7</sup> This is referred to as Option A: Minimum Scope of Gas Works throughout this paper

<sup>8</sup> This is referred to as Option C: Maximum Scope of Gas Works throughout this paper

<sup>9</sup> This is referred to as Option B: Intermediate Scope of Gas Works throughout this paper

*Diagram 2: Potential Scope Options for Gas Works*



**Key:**

1. natural gas fittings designed for use by domestic gas customers only	2. natural gas fittings designed to be used by commercial customers only
1 a) natural gas fittings designed to be used by domestic gas customers but installed in commercial premises	2a) natural gas fittings designed to be used by commercial customers but installed in industrial premises
1 b) natural gas fittings designed to be used by domestic gas customers but installed in industrial premises	3. natural gas fittings designed to be used by industrial customers only

Scope of the Regulatory Model	Includes For
A. Minimum Scope of Gas Works	1., 1a) and 1b)
B. Intermediate Scope of Gas Works	1., 1a), 1b), 2. and 2a) s
C. Maximum Scope of Gas Works	1., 1a), 1b), 2., 2a) and 3. ,

Based on the Potential Scope Options for Gas Works and responses received to the consultation paper, the following section provides the proposed high level description/definition for domestic, commercial and industrial customers. The proposed definitions include the approximate numbers in each of the respective types of customers and examples of natural gas fittings used or designed to be used by the above customers.

## **4.2 Definitions for Domestic, Commercial and Industrial Customers**

It should be noted that it is extremely difficult to define or categorise classes of domestic, commercial and industrial customers succinctly as there will always be anomalous situations whereby a particular end-user may 'fall between' two categories- e.g. a take-away restaurant using a commercial gas cooking range that is situated in a domestic property. The following proposed definitions provide a generic description of the various customer categories and take into account suggested amendments arising out of the publication of the consultation paper. However, whatever definition is finally decided upon following review of the draft decision responses, regulations for registered gas installers will be drafted and enacted to assist them in determining precisely what appliances they are deemed competent to work on and those that they are not.

### **4.2.1 Domestic Gas Customers**

'Domestic gas customers' are defined as those end users who use gas for residential purposes such as space heating, cooking and hot water utilizing standardized and gas burning appliances approved under the requirements of the G.A.D<sup>10</sup>. There are approximately 600,000 of these domestic customers within Ireland.

In this customer category, the relevant class of *gas work* would relate to all works on natural gas appliances and associated flueing such as natural gas cookers, fires, boilers etc. used or designed to be used by domestic customers.

### **4.2.2 Commercial Gas Customers**

'Commercial gas customers' are defined as those end users who use gas for commercial business and institutional purposes. Examples of these businesses include leisure and hotel facilities, restaurants, warehousing, office accommodation and hospitals. utilising appliances for purposes such

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<sup>10</sup> Gas Appliance Directive 90/396/EEC

as catering and heating but excluding industrial processes. There are approximately 19,000 of these commercial consumers within Ireland.

In this customer category the relevant classes of *gas works* would relate to all works on natural gas appliances and associated flueing such as natural gas catering equipment, space and water heating appliances which are used or designed to be used by these commercial customers.

**NOTE: Domestic classes of gas work will apply in situations where domestic type appliances are installed in the premises of non-domestic (commercial and industrial) gas customers. Examples may include very small-scale businesses such as dentists, doctors, solicitors, accountants, hair salons etc. who carry out their business at residential-type properties<sup>11</sup>.**

#### **4.2.3 Industrial Gas Customers**

‘Industrial gas customers’ are defined as those end users who use gas for primarily industrial business purposes. Examples of these purposes include power generation, chemical processing, glass-making etc. utilising purpose designed industrial gas-burning equipment and processes. There are approximately 240 of these industrial customers<sup>12</sup> within Ireland.

In the industrial customer category the relevant classes of *gas works* would relate to work on natural gas fittings used or designed to be used within the industrial sector. For example in the industrial customer category the class of gas work would relate to all works on natural gas appliances and associated gas pipework and flueing such as natural gas catering equipment, space and water heating appliances. In addition there will be specifically designed plant, purpose built for production purposes. In these cases the installation, commissioning and servicing work is undertaken by bespoke trained operatives generally associated with the appliance/equipment manufacturer.

#### **4.2.4 The Policy Decision on the Scope of Gas Works**

For the avoidance of doubt, it is the Commission’s view that it is obligated to implement ‘*Option A: Minimum Scope of Gas Works*’ with respect to

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<sup>11</sup> In these properties only appliances designed for domestic use would be appropriate for installation into this type of property.

<sup>12</sup> This category of customers is commonly referred to as either: (i) Daily-Metered (DM) customers where the gas consumption is between 5,550,000 kWh and 57,500,000 kWh; or (ii) Large Daily-Metered (LDM) customers where the gas consumption is in excess of 57,500,000 kWh

Domestic gas customers as illustrated in Diagram 2. Therefore the *gas works* regulations must include work related to the installation, removal, repair or replacement of natural gas fittings used or designed to be used by Domestic gas customers regardless of whether they are used in a Domestic, Commercial or an Industrial setting. It is clear from the Commission's interpretation of the 2006 Act that capturing such work under the regulatory system represents the primary public policy intent of the legislation.

## 5. The Draft Decision on the Scope of Gas Works

### 5.1 Background

In the consultation paper, the Commission advised that it would take its policy decision on the scope of *gas works* with due regard to:

- the requirements and obligations placed on the Commission under the 2006 Act;
- the extent of safety risks associated with the utilisation of gas by Commercial Customers and Industrial Customers (**please see Section 4.2 of the consultation paper**);
- the existing legislative provisions in such environments (**please see Section 4.3 of the consultation paper**);
- the suitability of regulatory model provided for in the 2006 Act with respect to the regulation of natural gas installers in the commercial and industrial *gas works* area (**please see Section 4.4 of the consultation paper**); and
- the considered opinion of all respondents to the consultation paper.

To assist stakeholders in responding to the consultation paper, the Commission presented its views on some of the above decision criteria with respect to the scope of *gas works*. There was general agreement among respondents with respect to the Commission's analysis in the consultation paper regarding the above areas. Therefore, the Commission's draft decisions with respect to the scope of works reflect the proposals contained in the consultation paper. If stakeholders wish to review the decision criteria they can do so by revisiting the relevant sections listed above in the consultation paper.

### 5.2 Draft Decisions

#### 5.2.1 Installers carrying out Domestic Gas Works

As discussed in Section 3.2.1, it is the Commission's view that it is obligated to implement '*Option A: Minimum Scope of Gas Works*' with respect to Domestic gas customers as illustrated in Diagram 1. Therefore the *gas works* regulations must include work related to the installation, removal, repair or replacement of natural gas fittings used or designed to be used by the approximately 600,000 Domestic gas customers described in Section 4.2.1. It also includes work on those natural gas fittings designed to be used by the Domestic gas customers being used by both Commercial and Industrial gas customers (as described in Section 4.2.2 and 4.2.3). It is clear from the 2006 Act that capturing such work under the regulatory system represents the primary public policy intent of the legislation. The Commission also notes that this is consistent with I.S. 813<sup>13</sup> which states that the Irish domestic gas installations standard includes "*domestic-type appliances in non-domestic buildings*".

For clarity purposes, the Domestic *gas works* that will be included within the scope of *gas works* comprise the following classes of domestic *gas works*:

- **Installation** (includes pipework construction/alteration, pipework integrity test, pipework commissioning, installation and commissioning of appliances, minor electrical works when specifically associated with the fitting and/or repair of a natural gas fitting and certification of new and existing installations including those undertaken by others); and
- **Servicing/Maintenance** (includes appliance repair/servicing/maintenance and minor electrical works when specifically associated with the repair of a natural gas fitting).

**The Commission proposes that Regulations will be drafted and enacted on 26<sup>th</sup> June 2009 which will designate those *works* related to the installation, removal, repair or replacement of natural gas fittings used or designed to be used by Domestic gas customers regardless of whether they are used by a Domestic, Commercial or an Industrial customer, as defined in Section 4.2, as a class of gas works and provide for the inclusion of such works in the regulatory system. Therefore post 26<sup>th</sup> June 2009, it will be an offence for a person to carry out Domestic Gas Works unless he/she is registered with the RGII.**

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<sup>13</sup> Irish Domestic Gas Installation Standard (I.S. 813) published under the authority of the National Standards Authority of Ireland (2002).

### 5.2.2 Commercial Gas Installers

As set out in Section 3.3, the 2005 SHWAW Act and the associated regulations currently place clear safety responsibilities upon employers with respect to the installation, commissioning, maintenance, repair or removal of natural gas fittings. However the ability of employers to form such a judgement regarding an individual's competence to undertake gas work will change, determined by the technical knowledge the individual employer has. In the case of many of the 19,000 Commercial gas customers defined in Section 4.2.2, it is highly likely there is little or no technical knowledge in this area and therefore they will not have the ability to establish an installer's level of competence to undertake such work.

**Therefore the Commission deems it a prudent proposal to extend the regulatory model and designate those works on natural gas fittings used or designed to be used by Commercial gas customers (i.e. *Option B: Intermediate Scope of Gas Works*) as gas works in the medium term (i.e. post 2010), when the following conditions exist:**

- a. the new regulatory system has operated successfully in the domestic sphere for a reasonable period of time;
- b. appropriate training course/courses and award(s) which relate directly to commercial gas works is/are widely available in the 'non-domestic' arena for a reasonable period of time; and
- c. A competency assessment process is in place which enables the competence of an individual to be formally assessed against the provisions of the standard applicable to the commercial gas work (I.S. 820).

In this way the Commission can satisfy itself that the individually registered gas installer is competent to undertake 'commercial' gas works. When the above conditions exist, the Commission will be satisfied that its regulatory model can be applied to mitigate the risks associated with *Option B: Intermediate Scope of Gas Works* and will introduce further regulations which will prohibit persons who are not registered from undertaking such "commercial" gas works.

For clarity purposes, the Commission proposes that Commercial Gas Works refers to the following classes of commercial gas works:

- o **Installation** (includes pipework construction/alteration, pipework integrity test, pipework commissioning, installation and commissioning of appliances, minor electrical works when



specifically associated with the fitting and/or repair of a natural gas fitting and certification of new and existing installations including those undertaken by others);

- **Servicing/Maintenance** (includes appliance repair/servicing/maintenance and minor electrical works when specifically associated with the repair of a natural gas fitting); and

The Commission proposes that Commercial Gas Works will cover any work on a natural gas fitting within the scope of I.S.820<sup>14</sup> with the following exceptions;

- The welding of pipework for commercial customers;
- The design of gas works; and
- The manufacture of gas appliances/natural gas fittings.

### **5.2.3 Interim Voluntary Register for Installers carrying out Commercial Gas Works**

In the interim period, the Commission is keen to accede to respondents wishes with respect to providing the opportunity to “non-domestic” gas installers to become ‘registered’ on a voluntary basis until such time as “commercial” *gas works* regulations are brought into force and proposes that the RGII will carry out such a function. This measure would help to ensure that the current safety standards in place are adhered to and enhanced in the new regulatory regime. This measure would also act as a mechanism to aid transition to any new regulations introduced in this area in the future. The Commission proposes that the voluntary registration criteria will be on the basis of verifiable experience. **The Commission requests further comment from Respondent’s in relation to its proposals in this regard. The Commission will develop principles with respect to the voluntary registration scheme with the relevant stakeholders post publication of this draft decision paper and will provide further details in its decision paper.**

### **5.2.3 Installers carrying out Industrial Gas Works**

The 2005 SHWAW and the associated regulations also place clear responsibilities with respect to the installation, commissioning, maintenance, repair or removal of natural gas fittings which are used or designed to be used by an industrial customer. It is reasonable to assume that employers in an

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<sup>14</sup> Irish Non-Domestic Gas Installation Standard (I.S. 820) published under the authority of the National Standards Authority of Ireland (2003).

industrial setting are more likely to have some level of understanding of the specific competency requirements for individuals to undertake work on their industrial business operations which utilise highly specialised industrial gas-burning equipment and processes. Indeed it is in the employers' economic interest to allow a highly competent individual to undertake work on such equipment as the costs of equipment malfunction can be costly. In many instances, industrial and large commercial employers engage specifically trained in-house individuals to undertake such work.

If one concurs with this analysis, it suggests that there is not a strong requirement or benefit to extend the scope of the regulatory system to include industrial gas customers at this stage given that it is reasonable to assume that they have the capacity and relevant information to hand to form the judgement with respect to competence. As such the 2005 SHWAW provides the relevant enforcement powers in this area. Furthermore, it can be argued that extending the regulatory model to include *gas works* on natural gas fittings used or designed to be used by Industrial customers is problematic for a number of reasons. Firstly industrial processes are unique and specialised – i.e. there is no generic approach beyond the use of combustion technology and controls. Design, build, construction and maintenance should be undertaken only by individuals who understand that unique process well, often the manufacturer itself. In process work, utilisation of gas is recognised as being integral to the core process(es) and therefore, in most cases, is an integral element of the company's in-house safety regime. To attempt to apply the generic regulatory model, primarily developed to address the safety risks associated with the utilisation of gas by domestic customers, to this unique and specialised area is unlikely to add any value or specifically address the safety risks associated with this area.

**Therefore, the Commission proposes not extending the regulatory model and the definition of *gas works* to include those works on natural gas fittings used or designed to be used by Industrial Gas Customers (e.g. *Option C: Maximum Scope of Gas Works*) at this stage given that:**

- **The Health and Safety Authority already has an enforcement role in this area; and**
- **The generic regulatory model, implicit under the 2006 Act, is not appropriate to address the safety risks associated with the industrial area given the unique and specialised nature of industrial processes.**

**However it proposes to maintain a watching brief on the safety statistics in this area, and does not close off the possibility of regulating industrial works if it deems it appropriate in the future.**

## 6.0 Next Steps

The Commission now invites comment on its proposals as outlined in this consultation paper. The specific aspects on which the Commission particularly invites comments are:

- a) The proposed definitions for Domestic, Commercial and Industrial Gas Customers (Section 4.2); and
- b) The appropriateness of the Commission's proposals in Section 5.

The Commission is committed to full consultation throughout the process of developing regulations which define gas works. The Commission commits to considering all views equally and affording each respondent the opportunity to clarify any issue raised in this draft decision paper.

This draft decision will be followed by the issuance of a final decision paper on the matter of *gas works* and this will be subsequently translated into regulations as required under the 2006 Act. This will take place before June 26<sup>th</sup> 2009. Therefore, this draft decision provides respondents with one last opportunity to comment on and influence the Commission's decision with respect to gas works.

**The closing date for this consultation is March 20<sup>th</sup>, 2009.**

## Appendix A – List of Substantive Questions

It should be noted **that respondents are in no way obliged to respond to the table provided below and are welcome to submit comments in their preferred format.** It is included to allow for a “short-cut” option for respondents to submit their comments to the Commission

Respondents are invited to complete the table to indicate their position on the questions being asked. Respondents should outline YES or NO answers to each of the questions listed. If you have a further comment which will clarify your answer, this should be included in the Comments box.

Question/ Proposal	Yes	No	Comments
<b>Q1.</b> Do you agree with the proposed definitions for Domestic, Commercial and Industrial Gas Customers in Section 3.2?			
<b>Q2.</b> Do you agree with the Commission’s proposals set out in Section 5?			

## Appendix B – Glossary of Terms

<b>CER:</b>	Commission for Energy Regulation.
<b>CO</b>	Carbon Monoxide
<b>GTSC:</b>	Gas Technical Standards Committee of the NSAI
<b>HSA:</b>	Health and Safety Authority.
<b>LPG:</b>	Liquefied Petroleum Gas.
<b>MoU:</b>	Memorandum of Understanding.
<b>NSAI:</b>	National Standards Authority of Ireland
<b>RGII:</b>	The Register of Gas Installers of Ireland Limited, as designated by the Commission under the 2006 Act. See <a href="#">The Commission for Energy Regulation appoints the RGII as the Gas Safety Supervisory Body</a>
<b>2005 SHWAW Act:</b>	Safety, Health and Welfare at Work Act 2005