



An Coimisiún  
um Rialáil Fóntais  
**Commission for  
Regulation of Utilities**

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# Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking

## Consultation Paper

Reference: CRU19059

Date: 29/05/2019

Closing Date: 12/07/2019



## Executive Summary

The purpose of this paper is to set out how those LPG distribution networks that are operated by a party other than a licensed LPG undertaking might be regulated from a safety perspective. It is important that all operators of piped LPG distribution networks are regulated with respect to safety and managed to a level that is as low as reasonably practicable (ALARP).

The Commission for Regulation of Utilities (CRU) has responsibility for the regulation of certain LPG activities with respect to safety under the Electricity Regulation Act, 1999 as amended. This Act *requires the CRU to establish and implement a LPG and natural gas safety regulatory framework (the Gas Safety Framework or GSF).*

The CRU became aware of safety concerns relating to LPG distribution networks operated by a party other than a licensed LPG undertaking in November 2016. Further to this, it was determined that there were approximately 70 such sites operating across the country. These operators fall outside of the gas safety regulatory framework (GSF) as the current legislation does not allow for a party other than an LPG undertaking, as defined in the *Electricity Regulation Act 1999*, to apply for an LPG safety licence. The definition of an LPG undertaking is:

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network<sup>1</sup>*

These LPG distribution network operators do not fulfil both required elements of the definition as, although they make LPG available to individual domestic or commercial customers, they do not import or purchase LPG directly from a refinery within the State. This gap in legislation has prompted this review of the regulation of piped LPG distribution networks.

In 2017, the CRU undertook inspections of all known sites that are not operated by licensed LPG undertakings. Immediate intervention was required on 16% of the sites to make them

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<sup>1</sup> Section 2(1) of the *Electricity Regulation Act 1999*, as amended by the *Energy (Miscellaneous Provisions) Act 2012*

safe. In other cases, Gas Safety Officer (GSO) instructions were issued to the network operators requiring actions within specified timeframes in order to bring the networks into conformity with the appropriate safety standards. A follow up inspection programme is being undertaken in 2019.

The intention of this paper is a more enduring proposal for the protection of the general public particularly end customers from the risks associated with the operation of a piped LPG distribution network.

This paper sets out the two options proposed to extend the gas safety regulatory framework:

1. Extend the existing class of LPG safety licence to all LPG distribution network operators, requiring operators to submit a safety case for acceptance by the CRU. Operators could be required to pay an application fee of €600 (current fee) and an annual LPG levy (e.g. between €8 and €174 at current levy).
2. Introduce a new class of LPG safety licence requiring LPG distribution network operators to comply with an 'Operator Handbook'. Operators could be required to pay an application fee of approximately €200 (indicative fee).

In relation to emergency response, it is proposed that the CRU would exercise powers conferred on it by Section 9H of the Electricity Regulation Act 1999, as amended to make a new regulation placing an obligation on LPG suppliers of bulk tanks (supplying LPG to distribution networks with domestic customers) to be responsible for providing emergency response to operators.

The CRU is seeking stakeholder responses on the options presented in this paper to regulate LPG distribution networks that are operated by a party other than a licensed LPG undertaking with respect to safety.

Responses to this consultation are invited by 12<sup>th</sup> July 2019.

## Public/Customer Impact Statement

- It is important that all operators of piped LPG distribution networks are regulated with respect to safety so that the general public and, in particular, end customers are protected from the safety risks associated with piped LPG distribution networks.
- The CRU has undertaken inspections in the last couple of years of all such known networks and issued instructions requiring the operators to take actions within specified timeframes in order to bring the networks into compliance with relevant safety standards.
- As there is a gap in legislation the purpose of this paper is to propose a more enduring regime by bringing these operators into the gas safety regulatory framework and sets out two options for achieving this.
- Both proposed options will require operators to demonstrate that they are managing the risks associated with operating a piped LPG distribution network to a level that is as low as reasonably practicable (ALARP).
- In relation to emergency response, it is proposed in both options, that LPG suppliers of bulk tanks (supplying LPG to distribution networks with domestic customers) would be obliged to provide emergency response to LPG distribution network operators.
- The CRU intends to publish a decision paper following a review of the responses to this consultation. The decision paper will set out the next steps in terms of bringing those LPG distribution networks that are operated by a party other than a licensed LPG undertaking within the gas safety regulatory framework including legislative amendments required and proposed timeframes.
- This consultation paper will be of interest to operators of LPG distribution networks and their end customers. It will also be of interest to LPG suppliers, LPG undertakings and their representative body, the Irish Liquefied Petroleum Gas Association (ILPGA).

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## Glossary of Terms and Abbreviations

<b>Abbreviation or Term</b>	<b>Definition or Meaning</b>
<b>ALARP</b>	As Low as Reasonably Practicable
<b>CRU</b>	Commission for Regulation of Utilities
<b>DCCAE</b>	Department of Communications, Climate Action and Environment
<b>ERA</b>	Electricity Regulation Act 1999, as amended
<b>GSF</b>	Gas Safety Framework
<b>GSO</b>	Gas Safety Officer
<b>HSA</b>	Health and Safety Authority
<b>ILPGA</b>	Irish Liquefied Petroleum Gas Association
<b>LPG</b>	Liquefied Petroleum Gas
<b>LPG DNO</b>	LPG Distribution Network Operator
<b>NSAI</b>	National Standards Authority of Ireland

# 1. Introduction

The Commission for Regulation of Utilities (CRU) is Ireland's independent energy and water regulator. The CRU's mission is to protect the public interest in Water, Energy and Energy Safety.

The Electricity Regulation Act, 1999 (ERA), as amended by the Energy (Miscellaneous Provisions) Act, 2006, gives the Commission for Regulation of Utilities (CRU), specific functions in the area of safety regulation of the natural gas industry.

The 2006 Act requires the CRU to discharge this responsibility through the implementation and ongoing operation of a Gas Safety Regulatory Framework (GSF). The CRU may amend or review the Framework as often as is considered necessary, but there is a requirement that the Framework would at least include:

- A system for the inspection and testing of all natural gas transmission and distribution pipelines, storage and liquefied natural gas facilities to an extent and at a frequency specified in the GSF;
- A system for the regulation, certification, ongoing inspection of work and investigation of safety complaints regarding the competence of any particular natural gas installer; and;
- Procedures for the investigation of any incidents involving natural gas which, in the opinion of the CRU, warrant investigation and for the making of a report in respect of the investigation.

## 1.1 Structure of Paper

This paper is structured as follows. Section 1 is an introduction and it includes a background to LPG distribution networks that are operated by parties other than a licensed LPG undertaking and the rationale for extending the safety regulatory framework to all piped LPG distribution networks.

Section 2 outlines the proposals for bringing all piped LPG distribution network operators within the safety regulatory framework.

Section 3 outlines proposed fees

Section 4 concludes with the CRU's next steps and consultation questions. The timelines for responses and the next steps that the CRU will take in relation to this paper are also detailed under this section.

## **1.2 Gas Safety Regulatory Framework (GSF)**

In 2007, the CRU published a Decision Paper entitled “*A Natural Gas Safety Regulatory Framework for Ireland – Decision Paper, CER/07/172*”. This paper set out the CRU's high level approach for the safety regulation of the Irish natural gas sector based on the requirements of the 2006 Act.

The framework structure is a collection of regulations, written regulatory documents and processes which the CRU uses to regulate the activities and infrastructure of natural gas undertakings in Ireland.

In 2010 – 2012, safety regulation of certain aspects of the LPG industry was included in the CRU's suite of statutory functions. The first phase was implemented under the Energy (Biofuel Obligations and Miscellaneous provisions) Act, 2010 which incorporated LPG installers into the Registered Gas Installer (“RGI”) registration scheme from June 2011.

The second phase of LPG regulatory functions granted the CRU increased enforcement powers over all natural gas and LPG undertakings, and licensing powers over certain LPG undertakings; specifically operators of piped LPG distribution systems. This was enacted in 2012, through the Energy (Miscellaneous Provisions) Act, 2012 and was commenced in January 2013. The revised GSF incorporates the safety regulatory regime for both natural gas and LPG undertakings<sup>2</sup>.

As part of the framework design, a number of detailed documents were produced along with the decision paper, such as Safety Case Guidelines for Natural Gas Undertakings and a Gas Safety Promotion and Public Awareness Strategy document. These documents outlined in detail how the various parts of the GSF operate.

## **1.3 Safety Case Guidelines**

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<sup>2</sup> Gas Safety Regulatory Framework for Ireland – High Level Approach, 2014, CER/14/296

Under the GSF, undertakings are required to submit a safety case to the CRU for acceptance, for each licence they hold or apply for. The safety case regime is risk and outcomes-based but flexible in the approach to the management of ‘lifecycle gas safety’ and not driven by prescriptive regulation. The focus of the safety case relates to the management of the safety risks associated with the design, construction, operation, maintenance, and modification/refurbishment and decommissioning of gas infrastructure.

The safety case regime emphasises ‘demonstration’ by the gas undertaking that acceptable safety arrangements for the management of gas-safety related risks are in place and working effectively on a day-to-day basis. In this context, demonstration involves a higher standard than simply describing the way measures work or are expected to work. There is a requirement on the undertaking to provide evidence that the measures described in the safety case work in practice and are monitored to ensure that this actually happens. The ‘demonstration’ requirement is explained clearly in the Safety Case Guidelines Document<sup>3</sup>.

## **1.4 Gas Safety Officer (GSO) powers**

The 2006 Act enabled CRU to appoint ‘Gas Safety Officers’ (GSOs) with powers that are not limited to licensed natural gas and LPG undertakings only. Appointed GSOs have powers to enter land (forcibly if necessary) and inspect natural gas pipelines, piped LPG distribution networks, natural gas installations or facilities, natural gas fittings and LPG fittings etc. and take suitable protective measures in order to safeguard life or property from any dangers arising from natural gas and LPG.

Such protective measures may include evacuation of property, disconnection of supply or the issuing of instructions to prevent or reduce any danger arising from natural gas and LPG. GSOs exercise these powers where there is a valid reason to believe that a dangerous situation exists, or an activity is being undertaken, that constitutes a danger to life or property from the perspective of gas safety

It should also be noted that, under the ERA, a person who

- obstruct or impedes a GSO in the exercise of powers conferred, or,

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<sup>3</sup> Gas Safety Regulatory Framework for Ireland Gas Safety Case Guidelines for Natural Gas and LPG Licenced Undertakings V4.0, CRU18254

- fails or refuses to comply with an instruction given by a GSO or knowingly gives information which is false or misleading in a material respect, or,
- turns on or reconnects the supply of natural gas or LPG which supply has been turned off or disconnected by a GSO, without the consent of a GSO, is guilty of an offence.

A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 6 months or to both, or on conviction on indictment to a fine not exceeding €15,000 or a term of imprisonment not exceeding 3 years or both

## 1.5 Licensed LPG undertakings

The 2012 Act defines a piped LPG distribution network as:

*a pipeline system connected to a central storage bulk tank or LPG cylinder but not including a bulk tank or LPG cylinder as the case may be, and includes pipework above and below ground and all other equipment necessary upstream of the point of delivery and downstream of the emergency control valve, supplying gas to two or more customers.*

The definition of an LPG undertaking under the *Electricity Regulation Act 1999* is

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network.*

Under Section 9JE of the 2012 Act, the CRU has powers to issue LPG safety licences in respect of LPG distribution networks:

*...for the purposes of ensuring LPG safety a person shall not make available LPG by way of a piped LPG distribution network for use by individual final domestic customers unless a LPG safety licence is in force in respect of the activity....*

*...The Commission may, upon application to it, grant or refuse to grant to a LPG undertaking a LPG safety licence to make LPG available to final customers by way of a piped LPG distribution network.*

As such, the CRU's licensing powers under the 2012 Act only extend to LPG undertakings operating piped LPG distribution networks to multiple domestic final customers. However, CRU's functions with regard to incident investigations, promotion and public awareness and certain enforcement powers including GSO powers are not limited to natural gas or LPG undertakings only.

The CRU regulates LPG distribution networks primarily through Safety Licensing and the underpinning safety case. The key elements of a safety case are:

1. Facility/infrastructure description
2. Formal safety risk assessment
3. Safety management system
4. Emergency procedures

Currently there are two LPG undertakings operating under a safety licence from the CRU, Calor Teoranta (Calor Gas) and Flogas Ireland Limited (Flogas).

Both companies procure, distribute and supply LPG to domestic and non-domestic customers and hold an LPG safety licence to provide LPG by way of piped distribution networks for use by domestic customers across Ireland. Both companies paid an LPG safety licence application fee and pay an annual LPG levy discussed further in Section 3.

A third company, Tervas Gas, is an LPG supplier for both bottled and bulk gas to domestic and commercial customers. The CRU understands that Tervas Gas does not own or operate any LPG distribution network supplying multiple final domestic customers and as such there is no legislative requirement for them to hold an LPG safety licence.

## **1.6 LPG Distribution Network Operators (LPG DNOs)**

In November 2016, the CRU became aware of safety concerns relating to LPG distribution networks that are not operated by licensed LPG undertakings (referred to as 'LPG DNOs' in this paper for ease of reference). These networks are outside the current safety regulatory framework. Current legislation only allows LPG undertakings, as defined in the Electricity Regulation Act 1999, to apply for an LPG safety licence. Those operators that do not import or purchase LPG directly from a refinery within the State in addition to making LPG available to individual domestic or commercial final customers via a piped LPG distribution network cannot be defined as an LPG undertaking.

It is an offence under section 9JE (1) of the *Electricity Regulation Act 1999* for a person to make available “LPG by way of a piped LPG distribution network for use by individual domestic final customers unless a LPG safety case is in force in respect of the activity”. As LPG DNOs do not meet the definition of an LPG undertaking, it is not possible for them to apply for an LPG safety licence and this legislation cannot appropriately be used in this case.

As CRU cannot licence these LPG distribution networks under the existing legislation, in 2017, it undertook inspections of all known sites that are not operated by licensed LPG undertakings. Gas Safety Officer (GSO) powers under Section 9J of the *Electricity Regulation Act 1999* were used to carry out these inspections.

The networks varied in size from 3 to 60 apartments and from 3 to 64 houses with pipelines ranging from 15m to 1.5km in length. The operators were typically management company representatives handling general maintenance and repair issues and upkeep of common areas with little or no experience in the operation of LPG distribution networks. In a number of cases the operators were the original property developers billing the customers for use of LPG only and having no responsibility for services or maintenance of the properties.

Immediate intervention was required by the CRU on 16% of the sites to make them safe. In other cases, GSO instructions were issued requiring actions within specified timeframes in order to bring the networks into conformity with the relevant safety standards. A follow up inspection programme has commenced in Q1 2019. Where works have not been completed in accordance with the GSO instructions a risk assessment will be carried out to determine if isolation of the network is necessary. Prosecution will be considered for failure to comply with a GSO instruction.

## **1.7 Purpose of this Paper**

There is a requirement to extend the safety regulatory framework to include all piped LPG distribution networks, including those currently operated outside the framework. This is because the risks associated with piped LPG distribution networks are the same regardless of the operator status.

This paper sets out the position in relation to the operation of LPG distribution networks by parties other than licensed LPG undertakings and the CRU's proposals to extend the safety regulatory framework to include these operators.

The CRU welcomes opinions on these proposals. The CRU seeks your comments on the following:

<b>Consultation Question</b>	
<b>1</b>	What is your preferred option for regulation of LPG distribution networks operated by a party other than a licensed LPG undertaking and why?
<b>2</b>	Do you have any proposals on a fee methodology for LPG distribution networks operated by a party other than a licensed LPG undertaking?
<b>3</b>	Can you suggest alternative proposals on how those LPG distribution networks operated by a party other than a licensed LPG undertaking may be brought within the safety regulatory framework?

Based on responses received the CRU will issue a Decision Paper on the regulatory framework for operators of LPG distribution networks other than licensed LPG undertakings going forward.

Please note that the proposals outlined in this paper do not change the requirements/obligations upon licensed LPG undertakings.

## **1.8 Linkage with Health and Safety Authority Regime**

The Health and Safety Authority (HSA) also has a role in the regulation of LPG with respect to safety. The demarcation of regulatory roles between the CRU and the HSA is at the Emergency Control Valve (ECV) on the LPG tank, indicated by the broken line on the diagram below. The LPG supplier fills the LPG tank and owns the LPG tank. The LPG distribution network owner owns the distribution network of mains and service pipes and the primary meters serving the individual properties. The end customers own all pipework, fittings and appliances downstream of the meter outlet.

The HSA has responsibilities in relation to bulk storage, loading and unloading, use of LPG and related activities that are carried on in the course of any trade or business under *S.I. No. 201/1990 Dangerous Substances (Storage of LPG) Regulations, 1990*. The CRU's responsibilities relate to the safety of domestic customers and the public with regards to distribution and use of LPG.

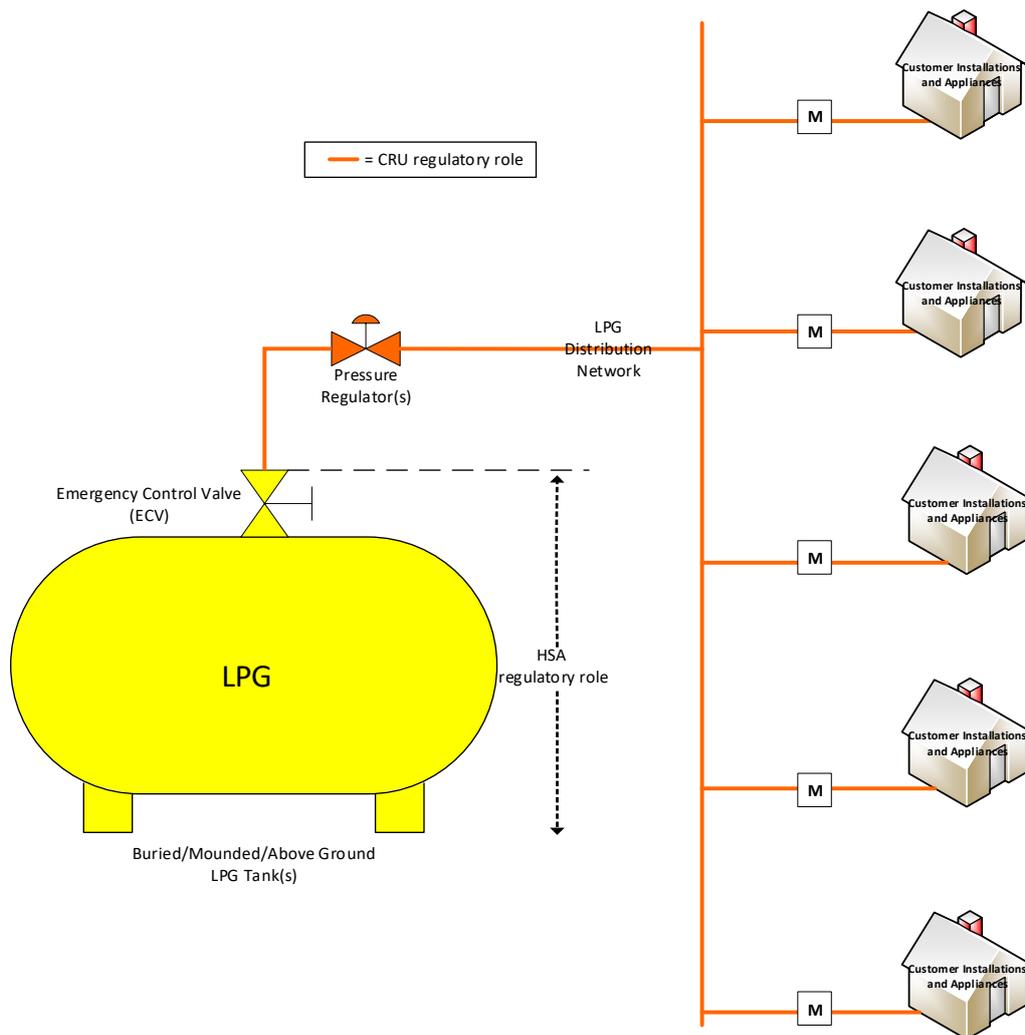


Figure 1: Demarcation of regulatory roles

## 1.9 Related Documents

By way of background to this paper, the following list of documents is of relevance:

- [CER/10/095](#) – Safety Regulation of the Liquefied Petroleum Gas Industry in Ireland
- [CER/14/096](#) – Gas Safety Regulatory Framework for Ireland – Decision Paper on LPG Safety Licence and LPG Safety Licence Fees
- [CRU/18/254](#) – Gas Safety Case Guidelines for Natural Gas & LPG Licensed Undertakings

Information on the CRU's role and relevant legislation can be found on the CRU's website at [www.cru.ie](http://www.cru.ie)

## 1.10 Responding to this Consultation

Responses to this paper should be returned by email or post by close of business on 12<sup>th</sup> July 2019 and marked with the CRU reference CRU19059.

Please forward submissions on this paper (preferably in electronic format) to:

**GSF Team,**

**Commission for Regulation of Utilities,**

**The Grain House,**

**The Exchange,**

**Belgard Square North,**

**Dublin 24,**

**D24 PXW0**

**Email: [GSFteam@cru.ie](mailto:GSFteam@cru.ie)**

The CRU intends to publish all submissions received. Unless marked confidential, all responses may be published on the CRU's website. Respondents may request that their response is kept confidential.

The CRU shall respect this request, subject to any obligations to disclose information. Respondents who wish to have their response remain confidential should clearly mark the document to that effect and include the reasons for confidentiality.

Responses from identifiable individuals will be anonymised prior to publication on the CRU website unless the respondent explicitly requests their personal details to be published.

Our privacy notice sets out how we protect the privacy rights of individuals and can be found [here](#).

## 2. Overview of Proposed Options

Two options have been proposed to extend the safety regulatory framework to include piped LPG distribution networks that are operated by a party other than a licensed LPG undertaking. This paper details further the proposed options. These options were identified through workshops led by the CRU's Energy Safety Division, taking account of consultations with internal and external stakeholders.

In developing options, the following were to be met:

- Operators of piped LPG distribution networks must reduce the risks from their activities to a level that is as low as reasonably practicable (ALARP), irrespective of the status of the operator. The general public particularly end customers should be protected from the risks associated with the operation of a piped LPG distribution network.
- Regulatory balance should ensure that the chosen option is proportionate and manageable for all stakeholders.
- The regulatory regime should be in line with the principles of better regulation i.e. necessity, effectiveness, proportionality, transparency, accountability and consistency.

Two options were proposed as follows:

1. Extend the existing class of LPG safety licence to LPG distribution network operators, requiring operators to submit a safety case for acceptance by the CRU. Operators could be required to pay an application fee of €600 (current fee) and an annual LPG levy (e.g. between €8 and €174).
2. Introduce a new class of LPG safety licence requiring LPG distribution network operators to comply with an 'Operator Handbook'. Operators could be required to pay an application fee of approximately €200 (indicative fee).

These options are explored in more detail in Section 2.1 and 2.2.

A third option was initially considered, namely a framework modelled on the written scheme of examination (WSE). The typical format of a WSE is:

- Identification of plant and assets and those that require inspection;
- The type of system examination, inspection and testing required;
- The maximum interval between examination;

- The critical parts of the system which, if modified or repaired, should be inspected by a 'competent person' before the system is used again;
- Details of the competent person carrying out the examination and the date of certification.

This third option is not proposed due to a number of difficulties including:

- Oversight and effectiveness: As the WSE is drafted independently on behalf of the operator, the CRU will have less oversight of the contents and hence the effectiveness of the regime. This could lead to inconsistency of approach to overall safety management.
- Use of a WSE for LPG distribution networks serving domestic customers: The WSE is utilised for safety regulation of confined pressure vessels/systems within industrial/commercial settings by the HSA and Health and Safety Executive (HSE). LPG distribution networks serving domestic customers are not confined and impact multiple domestic properties. Under ALARP principles individual risk for the general public is weighted more heavily than for persons in places of work. Use of a WSE in this case is less appropriate.
- Difficulties in defining a 'competent person' and the CRU's ability to specify all such relevant levels of skills and qualifications: It would be necessary to define 'competent person'. Existing licensed LPG undertakings could be considered to be competent persons. However, as there may be other combinations of experience and skills meeting the definition of 'competent person', it would be difficult to draw up a clear definition.

In Section 2.4, the two options proposed have also been reviewed against the six principles of regulation as set out in the Government White Paper *Regulating Better*: Necessity; proportionality; effectiveness; transparency; accountability; and, consistency.

## **2.1 Amendments required for both proposed options**

Both options require primary and secondary legislative amendment in respect of LPG undertakings, emergency response and gas emergency officers as detailed below.

Following consultation, the CRU will request primary legislation change through the Department of Communications, Climate Action and Environment (DCCAE).

It is acknowledged that an amendment to primary legislation may take a significant amount of time. In the meantime, the GSO powers will continue to be used and LPG DNOs re-inspected/issued with instructions as necessary.

### **2.1.1 LPG undertaking definition (Primary legislation)**

To bring all operators of LPG distribution networks within the definition of an LPG undertaking, and thus within the GSF, an amendment to primary legislation will be required. Section 9JE(3) of the *Electricity Regulation Act*, as amended, defines an LPG undertaking as:

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network.*

The definition as per the *Energy (Miscellaneous Provisions) Act 2012* is cumulative in that the undertaking must import or purchase LPG from a refinery within the State **and** they must make it available via LPG cylinder, bulk tank or piped distribution network. Those LPG distribution networks operated by a party other than a current licensed LPG undertaking could be brought within the legislative definition by inserting an ‘**or**’ within the definition – suggested wording below:

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial final customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network, **or, makes LPG available to individual domestic or commercial final customers via a piped LPG distribution network.***

This proposed amendment would not require operators, such as Tervas Gas, who only either import LPG or purchase LPG directly from a refinery within the State and do not operate LPG distribution networks, to hold a safety licence.

It is proposed to retain reference to the import or purchase of LPG directly from refineries as operators who carry out both importing/purchasing, and LPG distribution network operation activities should remain as LPG undertakings and subject to safety licence and safety case requirements. It is noted that quality/composition of LPG imported or purchased is subject to compliance with BS 4250 *Specification for commercial butane and commercial propane* as a

minimum standard and this is guaranteed via certificates of quantity, quality and origin that are issued by the refinery or the ships at port terminals to those purchasing LPG from them. Licensed LPG undertakings demonstrate how they manage LPG quality assurance through their accepted safety cases.

### **2.1.2 Emergency Response (Secondary legislation)**

In relation to emergency response, it is proposed in both options, that the CRU would exercise powers conferred on it by Section 9H of the Electricity Regulation Act 1999, as amended to make a new regulation placing an obligation on LPG suppliers of bulk tanks (supplying LPG to distribution networks with domestic customers) to be responsible for providing emergency response to operators.

This is in line with UK legislation, *Gas Safety (Installation and Use) Regulations 1998* as amended which requires LPG suppliers, within 12 hours of being so informed of the escape, prevent the gas escaping (whether by cutting off the supply of gas to any premises or otherwise).

The operator would be responsible for taking all reasonable steps to cause the supply of gas to be shut off including immediately giving notice of the escape or smell to the LPG supplier. The regulations would set out no person could cause or permit the supply of LPG to be re-opened until all necessary steps have been taken to prevent a recurrence of a gas escape

The CRU understands that there are currently three LPG suppliers; Calor Gas, Flogas and Tervas Gas supplying LPG to operators for use in piped distribution networks. Calor Gas and Flogas are licensed LPG undertakings and have demonstrated emergency response arrangement capability in their safety cases. As discussed in section 1.4, the CRU understands that Tervas Gas does not own or operate any LPG distribution network supplying multiple final domestic customers and as such there is no legislative requirement for them to hold an LPG safety licence. Tervas Gas and any other such supplier of bulk tanks (supplying LPG to distribution networks with domestic customers) would now be responsible for providing emergency response to operators.

### **2.1.3 Gas Emergency Officers (Primary legislation)**

The ERA enables holders of LPG safety licences to appoint a 'gas emergency officer' under Section 9I. Their powers are extensive e.g. a gas emergency officer may, subject to this section, enter and inspect any land without giving notice or obtaining the consent of any person, and there take such measures as the officer considers appropriate for the protection

of any person or property from any danger arising from the natural gas or LPG. It is an offence not to comply with a gas emergency officer instruction. It is proposed to amend this power through primary legislation to introduce limitations applicable to LPG undertakings.

## **2.2 Option 1: Require LPG Distribution Network Operators to submit a safety case**

Option 1 would extend the existing class of LPG safety licence to all types of LPG undertakings requiring LPG DNOs through a licence condition to submit and adhere to a safety case. Option 1 would provide consistency of regulation by the CRU across LPG undertakings.

### **Impact of this option on LPG Distribution Network Operators and Key Considerations**

- Submission of safety case:
  - Option 1 places the same regulatory obligations on these network operators as on Calor Gas and Flogas. It would represent a significant change for LPG DNOs as they would be required to meet all safety licence and safety case requirements.
  - Operators were typically management company representatives (often just one person) handling general maintenance and repair issues and upkeep of common areas with little or no experience in the operation of LPG distribution networks. In a number of cases the operators were the original property developers billing the customers for use of LPG only and having no responsibility for services or maintenance of the properties.
  - The operators were typically responsible for just one LPG distribution network which varied in size from 3 to 60 apartments and from 3 to 64 houses with pipelines ranging from 15m to 1.5km in length.
  - Licensed LPG undertakings, in contrast, have operated multiple LPG distribution networks across Ireland for a number of decades and have

extensive experience in technical and safety aspects of these networks, their operatives having undergone specialised training<sup>4</sup>.

- The LPG DNO's safety case will be subject to ongoing audit and inspections conducted by the CRU to verify that the arrangements in the safety case are actually operating in practice.
  - Given the scale of the known existing LPG DNOs, it is reasonable to anticipate that the preparation of a safety case and meeting of on-going audit and inspection requirements will have to be met through external providers. This will impose a significant cost on these network operators.
- Asset lifecycle safety:
  - To ensure associated risk is ALARP the LPG DNOs will be required, in the safety case, to carry out full asset identification with associated risk assessment. As set out in the Safety Case Guidelines, information will be required on design, operation, preventative and corrective maintenance, modification and de-commissioning.
  - The operators may incur significant costs depending upon the level of asset identification and network upgrades required.
- Gas safety promotion and public awareness:
  - LPG DNOs will be required, in the safety case, to provide a description of how it promotes LPG safety to raise public awareness of the potential dangers of LPG.
- Safety reporting
  - LPG DNOs will be required, in the safety case, to demonstrate through a safety reporting framework that safety is being managed effectively, that safety trends are analysed and progress towards safety performance objectives and targets are being achieved.
- Fees:
  - Operators would be required to pay the existing application fee of €600 (current

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<sup>4</sup> Licensed LPG undertakings complete a specialised course such as the Distribution System Installation and Repair course provided by METAC Training

fee) and an annual LPG levy discussed further in Section 3.

- GSF regime
  - While the framework for this option is already in place, there will be a significant increase on the CRU's resources to assess a large number of safety cases. Generally, the CRU works to finalise safety case assessments within 6 months of receipt of a complete and comprehensive submission.
  - In addition to the initial safety case submission for acceptance by the CRU, any modifications to the safety case must be considered by LPG DNOs for materiality and submitted for acceptance to the CRU.

## Legislative Amendments

The legislative amendments associated with implementation of this option are detailed below:

Primary legislative amendment to the ERA:

- An amendment to primary legislation to bring all LPG distribution networks operators within the definition of an LPG undertaking. The suggested change to the existing wording is highlighted in bold below:

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial final customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network, **or, makes LPG available to individual domestic or commercial final customers via a piped LPG distribution network.***

- Amend Gas Emergency Officer powers through primary legislation to introduce limitations applicable to LPG undertakings.

New secondary legislation:

- In relation to emergency response, it is proposed that the CRU would exercise powers conferred on it by Section 9H of the Electricity Regulation Act 1999, as amended to make a new regulation placing an obligation on LPG suppliers of bulk

tanks (supplying LPG to distribution networks with domestic customers) to be responsible for providing emergency response to operators.

## **2.3 Option 2: Require LPG Distribution Network Operators to adhere to an Operator Handbook**

Option 2 would introduce a new class of LPG safety licence requiring LPG DNOs through a licence condition to comply with an 'Operator Handbook' rather than submit and adhere to a safety case.

This option also requires amendment to the legislation in respect of LPG undertakings, emergency response and gas emergency officers as discussed in Section 2.1 above.

The ERA enables the CRU to grant different classes of LPG safety licence, this would be further strengthened through legislative amendment. The CRU would implement Option 2 by updating the GSF to account for a new class of LPG safety licence and to introduce the Operator Handbook requirement. It is an offence under the ERA to not hold an LPG safety licence if so required.

A licence condition will require compliance with the Operator Handbook which will be designed by the CRU with input from all relevant stakeholders e.g. National Standards Authority of Ireland (NSAI) Technical Committees (TCs), ILPGA etc. This will ensure appropriate input from subject matter experts.

It is appropriate that the CRU develops this Operator Handbook rather than the NSAI TC1 (Distribution) as a standards recommendation, as it will include additional regulatory requirements and will be amended based on learnings e.g. outcomes of audits/inspections/incidents. Once developed the Operator Handbook would be published for a three-month public consultation.

The Operator Handbook will be developed from I.S. 329 '*Gas Distribution Mains*' (including clause 14 *Monitoring*, 15 *Operations*, 16 *Records* and 17 *Additional measures when dealing with LPG systems*) and elements of I.S. EN 12007-5:2014 '*Gas infrastructure – Pipelines for maximum operating pressure up to and including 16 bar – Part 1: General functional requirements*', I.S. EN 12186:2014 '*Gas infrastructure – gas pressure regulations stations for*

*transmission and distribution – functional requirements’ and IGEM/TD/13– Pressure regulations installations for Natural Gas, LPG and Liquefied Petroleum Gas/Air.*

The Operator Handbook would also include emergency response arrangements, LPG safety promotion, pressure controls, 20-year meter replacement, incident reporting/investigation and requirements in respect of any changes in ownership.

This option would allow the CRU to have effective oversight of the risk management applied by all LPG distribution network operators. The CRU has not previously used this approach, but the Criteria Document approach used by the CRU for the Registered Gas Installer (RGI) scheme is similar in that the RGI must perform work to a standard specified (I.S. 813). It is also similar to the ‘Supplier Handbook’ used by the CRU in the economic regulation of energy suppliers to detail what a supplier should include in their codes of practice, terms and conditions and customer charter.

The GSF would prescribe that this approach would only be available to those operators operating less than 10 networks and not importing or purchasing LPG directly from a refinery within the State. None of the known LPG DNOs identified and inspected by the CRU are understood to operate more than 10 networks. It is considered that a safety case would be more appropriate where an operator is operating more than 10 networks.

The ERA enables the CRU to prescribe the LPG levy for different classes of LPG safety licence. It is proposed that the application fee of €600 (current fee) and annual LPG levy would not apply for this new class of LPG safety licence. A once of application fee of €200 would apply instead. This is considered appropriate given that the CRU will not be assessing the LPG DNO’s documentation and will instead rely on audits and inspections to verify compliance with the Operator Handbook.

To ensure that the CRU is kept abreast of any changes in ownership and responsibility for the LPG DNOs, a licence condition would require notification to the CRU in respect of any such change, for acceptance by the CRU.

### **Impact of this option on LPG DNOs and Key Considerations**

- Operator Handbook and Fees:
  - Operators of piped LPG distribution networks with less than 10 networks (LPG DNOs) will be required to apply for a new class of LPG safety licence and comply with an Operator Handbook.

- This is effectively a prescriptive form of the safety case and would likely be more straight-forward for an operator to implement
  - While the CRU may be guided by existing standards and will request input from NSAI TC1 and relevant stakeholders, the development of an Operator Handbook by the CRU will be critical to the success of the implementation of this option.
  - The LPG DNO will be responsible for ensuring that the person carrying out work in accordance with the Operator Handbook is competent having sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken.
  - The Operator Handbook will be controlled by the CRU therefore adherence via a competent person represents sufficient oversight.
  - In addition, those LPG DNOs that fall under the proposed Operator Handbook framework will be subject to the risk-based audit and inspection regime.
  - LPG DNOs would be required to notify the CRU in respect of any changes in ownership for acceptance by the CRU.
  - A once of application fee of approximately €200 (indicative fee) would apply.
- GSF regime:
    - The CRU would implement Option 2 by updating the GSF to account for a new class of LPG safety licence and the Operator Handbook requirement.
    - The number of audits and inspections conducted by the CRU will increase but will be prioritised based on risk.

## **Legislative Amendments**

The legislative amendments associated with implementation of this option are detailed below:

Primary legislative amendment to the ERA:

- An amendment to primary legislation to bring all LPG distribution networks operators within the definition of an LPG undertaking. The suggested change to the existing wording is highlighted in bold below:

*...any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial final customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network, **or makes LPG available to individual domestic or commercial final customers via a piped LPG distribution network.***

- The ERA enables the CRU to grant different classes of LPG safety licence, this will be further strengthened through legislative amendment.
- Amend Gas Emergency Officer powers through primary legislation to introduce limitations applicable to LPG undertakings.

New secondary legislation:

- In relation to emergency response, it is proposed that the CRU would exercise powers conferred on it by Section 9H of the Electricity Regulation Act 1999, as amended to make a new regulation placing an obligation on LPG suppliers of bulk tanks (supplying LPG to distribution networks with domestic customers) to be responsible for providing emergency response to operators.

## **2.4 Assessment against the Principles of Regulation**

Each of the options have been reviewed against the six principles of regulation as set out in the Government White Paper *Regulating Better*.<sup>5</sup> Necessity; proportionality; effectiveness; transparency; accountability; and, consistency.

1. Necessity: Rationale for introducing regulation is clear.
2. Proportionality: Regulation is fair and appropriate for the outcomes required.

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<sup>5</sup> *Regulating Better* (2004). A Government White Paper setting out six principles of Better Regulation. Department of the Taoiseach

3. Effectiveness: The regulation is properly targeted. The regulation can be complied with and enforced.
4. Transparency: Consultation conducted with stakeholders prior to implementation. The regulation is clear and accessible.
5. Accountability: The regulation makes it clear who is responsible and for what.
6. Consistency: The regulations are in line with other regulations in the same area.

	<b>Option 1 – Safety Case</b>	<b>Option 2 – Operator Handbook</b>
<b>Necessity</b>	It is necessary to extend the safety regulatory framework to include all piped LPG distribution networks as it is a core function of the CRU to establish and implement an LPG and natural gas safety regulatory framework under Section 9IG of the <i>Electricity Regulation Act 1999</i> as amended. All piped LPG distribution networks risks should be managed to ALARP.	
<b>Proportionality</b>	The burden associated with compliance for the LPG DNOs would be significant. This is particularly apparent when the LPG DNOs are compared to the licensed LPG undertakings in terms of experience, trained operatives and customer numbers.	Less onerous on the LPG DNOs than Option 1, has a significant level of CRU input and oversight.
<b>Effectiveness</b>	Very effective means of managing the risks associated with the operation of a piped LPG distribution system to ALARP. Widely used in other regimes e.g. COMAH. Ensures safety advice is effectively communicated to customers.	It is similar to codes of practices used to provide practical guidance with respect to safety, health and welfare at work by the HSA. In the UK the HSE use codes of practices to provide guidance for a range of activities. The Operator Handbook will ensure safety advice is effectively communicated to customers.
<b>Transparency</b>	Full consultation will be conducted prior to implementation.	
<b>Accountability</b>	High accountability. The existing safety licence and safety case regime is well known and understood. It is a proven method of regulation.	High accountability. The conditions for compliance with the Operator Handbook would be clear.
<b>Consistency</b>	Entirely aligned with current practices and represents a consistent regulatory approach albeit a singular approach may not be appropriate.	The Criteria Document approach used for the Registered Gas Installer (RGI) scheme is similar in that the RGI must perform work to a standard specified (I.S. 813). It is similar to the ‘Supplier Handbook’ used by the CRU in the economic regulation of energy suppliers to detail what a supplier should include in their codes of practice, terms and conditions and customer charter. In this case the LPG DNO must ensure that the distribution network adheres to a defined Operator Handbook.

## 3. Proposed Fees

### Application Fee

The CRU in its decision paper CER/14/096<sup>6</sup> sets out that the LPG licence application fee is €600. The fee is charged in order to cover reasonable costs and expenses that the CRU is likely to incur through the assessment and consideration of the licence application. The fee is a one-off payment that must accompany the licence application.

### LPG levy

The *Energy (Miscellaneous Provisions) Act 2012* enables the CRU to impose a levy for the purposes of meeting expenses incurred in the discharge its function on different classes of holders of LPG safety licences.

The CRU set out in its decision paper CER/14/101<sup>7</sup> how the CRU will recover its operational costs for the regulation of LPG through the annual LPG levy. In calculating the levy amount required the CRU takes into account internal costs, such as resources, time spent on LPG regulatory activities, technical, licensing and legal costs. Costs also includes activities such as audit and inspection, assessment of applications for safety licences, LPG safety promotion, review of LPG Safety Cases, policy work and consultations with stakeholders.

The levy is calculated based on customer numbers (at June of preceding year) based on information provided confidentially to the CRU by licensed LPG undertakings. Levy order are made in December in advance of the levy year.

### Proposed fees

Implementation of Option 1 would require operators to pay a licence application fee (current fee is €600) and would also automatically bring these operators within the LPG levy regime as the LPG safety licence will be the same class as existing licensed LPG undertakings. In 2018, the levy was set at €2.73 per customer per annum for each licensed LPG undertaking.

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<sup>6</sup> Gas Safety Regulatory Framework for Ireland – Decision Paper on LPG Safety Licence and LPG Safety Licence Fees, CER/14/096

<sup>7</sup> Gas Safety Regulatory Framework for Ireland – Decision Paper on a Levy Methodology for Licensed LPG undertakings, CER/14/101

The 70 identified networks have varying customer number e.g. 3 to 64. This could require operators to be invoiced for between €8 and €174, for example, every year. Consideration must be given to how practical the imposition of this LPG levy would be on the smaller LPG DNOs.

It is proposed in the implementation of Option 2 to require an application fee of approximately €200 (indicative fee) for the LPG safety licence only and not impose the LPG levy as the licence will be a different class of LPG safety licence. This is considered appropriate given that CRU will not be assessing the LPG DNO's documentation and will instead rely on audits and inspections to verify compliance with the Operator Handbook.

Following consultation and review of responses, the CRU will identify the best approach to a fee methodology for the LPG DNOs.

## 4. Next Steps

The CRU intends to publish a decision on the regulation of LPG distribution networks operated by a party other than an LPG undertaking (LPG DNO) following a review of the responses to this consultation.

The consultation questions that we seek comments on are:

Consultation Question	
1	What is your preferred option for regulation of LPG distribution networks operated by a party other than a licensed LPG undertaking and why?
2	Do you have any proposals on a fee methodology for LPG distribution networks operated by a party other than a licensed LPG undertaking?
3	Can you suggest alternative proposals on how those LPG distribution networks operated by a party other than a licensed LPG undertaking may be brought within the safety regulatory framework?

A decision paper is expected by the end of Q3 2019. Where there are areas which require additional consideration as discussed in this paper the CRU may consult further.

This consultation will close on **12th of July 2019**.

Responses to this paper from all interested parties are invited, preferably by email, to [GSFteam@cru.ie](mailto:GSFteam@cru.ie) Alternatively, responses can be sent to:

GSF Team,  
The Commission for Regulation of Utilities,  
The Grain House,  
The Exchange,  
Belgard Square North,  
Dublin 24,  
D24 PXW0

Any responses to this paper should be clear and specific, with reference analysis or rationale provided to support any views provided and marked with the CRU reference CRU19059.

Unless marked confidential, all responses may be published on the CRU's website. Respondents may request that their response is kept confidential. The CRU shall respect this request, subject to any obligations to disclose information. Respondents who wish to have their responses remain confidential should clearly mark the document to that effect and include the reasons for confidentiality.