



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



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

## Decision Paper

### Decision Paper

**Reference:** CRU20030

**Date Published:** 24 February 2020

[www.cru.ie](http://www.cru.ie)

## Mission Statement

The CRU's mission is to protect the public interest in Water, Energy and Energy Safety.

The CRU is guided by four strategic priorities that sit alongside the core activities we undertake to deliver on the public interest. These are:

- Deliver sustainable low-carbon solutions with well-regulated markets and networks
- Ensure compliance and accountability through best regulatory practice
- Develop effective communications to support customers and the regulatory process
- Foster and maintain a high-performance culture and organisation to achieve our vision

## Executive Summary

This Decision Paper sets out the CRU's approach to the *Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking (CRU19059)*. It includes the responses to the public consultation on this matter and the next steps the CRU will take to implement this decision.

The CRU has responsibility for the regulation of certain LPG activities with respect to safety under the *Electricity Regulation Act 1999*, as amended. The CRU may licence LPG undertakings that import or purchase LPG directly from a refinery within the State and that make LPG available to individual domestic or commercial customers by way of a piped LPG distribution network

In November 2016, the CRU became aware of LPG distribution networks being operated by individuals that did not hold an LPG Safety Licence. Although these LPG distribution network operators made LPG available via piped LPG distribution networks, they did not also import LPG or purchase LPG from a refinery or from the state. There is currently was no mechanism for these individuals to apply for an LPG Safety Licence.

On 29<sup>th</sup> May 2019, the CRU published a consultation paper, *Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking (CRU19059)*, to determine the best method as to how these LPG distribution networks should be regulated with respect to safety.

Two options were proposed in the consultation paper. Following a review of the two responses received, the CRU has decided to proceed with the following option:

- Introduce a new class of LPG Safety Licence requiring LPG distribution network operators to comply with an 'Operator Handbook'. Operators would be required to pay an application fee of approximately €200 (indicative fee,).

This option is the most proportionate and effective for regulating LPG distribution networks that are not operated by a licensed LPG undertaking. The Operator Handbook will be prescriptive in setting out safety requirements and conditions for compliance will be clear. It is less onerous on the operator than option 1 and has a significant level of CRU input and oversight.

The CRU has set out next steps in this paper to establish the regulatory framework for these LPG distribution network operators. These will include:

1. Requesting the Minister for Communications, Climate Action and Environment (CCAIE) and to amend Primary Legislation to bring all LPG distribution network operators within the definition of an LPG undertaking;
2. Development of an Operator Handbook in line with relevant standards. The operator handbook is to include requirements in respect of emergency contact information and emergency response arrangements for customers, LPG safety promotion, asset management, 20-year meter replacement, incident reporting/ investigation and requirements in respect of any changes in ownership. The Operator Handbook will be issued for consultation for a six-week period before finalization published;
3. Development of a new class of Safety Licence requiring LPG distribution network operators to comply with an 'Operator Handbook'. The new class of LPG Safety Licence and proposed licence application fee will also be issued for consultation for a six-week period before finalisation;
4. Development of Secondary Legislation by the CRU (including prior consultation with the Minister for CCAIE) 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; and
5. Updating the Gas Safety Framework to take account of the Operator Handbook, the new class of LPG Licence, the amendments to Primary Legislation and development of Secondary Legislation.

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## Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
<b>ALARP</b>	As low as reasonably practicable
<b>CCAIE</b>	Communications, Climate Action and Environment
<b>DNO</b>	Distribution Network Operator
<b>ERA</b>	Electricity Regulation Act 1999, as amended
<b>GNI</b>	Gas Networks Ireland
<b>GSF</b>	Gas Safety Framework
<b>LPG</b>	Liquefied Petroleum Gas
<b>ILPGA</b>	Irish Liquefied Petroleum Gas Association

## **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.

At present, the legislation provides for operators who import LPG or purchase it directly from a refinery within the State and supply to it to individual domestic and commercial customers via a piped LPG distribution network, to hold an LPG Safety Licence. The legislation does not, however, cover operators of LPG distribution networks who purchase LPG from other sources.

In order to regulate these operators with respect to safety, the CRU has decided to request the Minister for the Department of Communications, Climate Action and Environment to amend the existing legislation to include a new class of LPG Safety Licence covering these operators. In this way, all customers supplied with LPG via a distribution network will be protected with respect to safety, regardless of where their network operator sources LPG.

# 1. Introduction

## 1.1 Background

The activities of LPG undertakings are regulated in accordance with the *Electricity Regulation Act 1999*, as amended (ERA), and the Gas Safety Framework (GSF).

The ERA was amended by the *Energy (Miscellaneous Provisions) Act 2012*, giving the CRU the powers to regulate the LPG industry with respect to safety. The GSF is the collection of regulations, written regulatory documents and processes used by the CRU to regulate the activities and infrastructure of natural gas and LPG undertakings in Ireland.

In accordance with the ERA, LPG distribution networks operated by LPG undertakings are required to be licensed under the Gas Safety Framework through a safety case, demonstrating that their risks are being managed to a level that is as low as reasonably practicable (ALARP).

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*

A 'piped LPG distribution network' means

*...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;*

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

If any person contravenes this section<sup>1</sup>, they commit an offence and are liable;

*(a) on summary conviction to a class A fine, or*

*(b) on conviction on indictment to a fine not exceeding €500,000.*

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<sup>1</sup> S. 9JF of the Electricity Regulation Act 1999, as amended

In 2016, the CRU became aware of approximately 70 LPG distribution networks that were being operated by individuals making LPG available to domestic or commercial customers but not importing or purchasing LPG directly from a refinery within the State. These individuals operate outside the scope of the GSF as current legislation does not allow for a party other than an LPG undertaking to apply for an LPG safety Licence.

There were significant safety concerns for a number of these sites and immediate intervention was required on 16% of the sites to make them 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 relevant safety standards. A follow up inspection programme was undertaken in 2019. Where works had not been completed in accordance with GSO instructions a risk assessment was carried out to determine if immediate isolation or an instruction to cease further fills of the LPG bulk tank supplying the network was necessary. Prosecution will be considered for failure to comply with a GSO instruction.

In general engagement with operators has been very positive with most operators completing the works as instructed. As of January 2020, GSO instructions to prevent further fills of the LPG bulk tanks supplying nine of the networks remain in place to allow for the completion of works and one network has been isolated as no works were undertaken. No prosecutions have taken place.

## **1.2 Scope and Purpose of this Paper**

This decision paper follows the consultation paper published in May 2019, *Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking (CRU19059)*. The consultation set out how LPG distribution networks that are operated by a party other than a licensed LPG undertaking might be regulated from a safety perspective.

The paper outlined two options to regulate these LPG distribution networks:

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); or
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).

The CRU sought stakeholder responses on these options. The consultation paper closed for responses on the 12th July 2019.

Responses were received from:

- The Irish LPG Association (ILPGA)
- Gas Networks Ireland (GNI)

In addition to the questions posed by CRU in this consultation paper, both respondents had a number of additional comments for the CRU.

All responses are published alongside this consultation response paper and are available at [www.cru.ie](http://www.cru.ie).

Gas Networks Ireland: [link](#)

ILPGA: [link](#)

## 1.3 Structure of this paper

This paper is structured as follows:

- Section 2 sets out the responses received to the consultation paper and CRU's response to the comments received
- Section 3 describes the next steps the CRU plans to implement this decision

## 1.4 Related Documents

Related documents to this Decision paper include:

- A Natural Gas Safety Regulatory Framework for Ireland – 2014 - High Level GSF Policy Document ([CER/17/103](#))
- LPG Safety Licence and Licence Application Fees – Decision Paper ([CER/14/096](#))
- Safety Case Guidelines for Natural Gas & LPG Licenced Undertakings ([CRU/19/155](#))
- Consultation Paper - Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking ([CRU19059](#))

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

## 2. Consultation Responses

The two consultation responses received from the Irish LPG Association (ILPGA) and Gas Networks Ireland (GNI) are summarised below. The CRU response has regard to the entire responses received which are available at the links provide in Section 1.2.

### 2.1 Response from the ILPGA

**ILPGA response to 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?***

*The ILPGA outlined that its preferred option is option 2 (the development of a new class of LPG safety licence and operator handbook). The ILPGA noted that given the cost of implementing a safety case and the generally small size of the operator's operations and staff, option 1 did not seem proportional and given its complexity could be less safe. The ILPGA further noted that option 1 put additional cost on the CRU in terms of approving and auditing individual safety cases without providing improved safety over option 2.*

#### **CRU Response**

The CRU agrees that option 1 could potentially lead to poorer safety outcomes if the operators did not have the resources to develop and maintain a safety case.

**ILPGA response to consultation question 2: *Do you have any proposals on a fee methodology for LPG distribution networks operated by a party other than a licensed LPG undertaking?***

*The ILPGA stated 'The primary purpose is to maintain or increase the safety of the LPG Distribution Network Operators (DNOs) who, by the nature of their operations, have limited resources. High fees will create negative attitudes and give rise to attempts to challenge the regulations by questioning the definitions or through limited changes to their networks to move them outside the scope. A fee of no more than the €200 referred to accompanied by explanatory documentation promoting the advantages of the system to the LPG DNOs (e.g. the handbook being established principles to reduce incidents and their exposure to the consequent issues) is more likely to bring positive safety benefits.*

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## **CRU Response**

The CRU recognises that high fees may act as a deterrent for LPG distribution network operators in complying with new regulations. The CRU will have regard to this and ensure that the importance of managing safety risks is communicated to operators during the licence application process.

**ILPGA response to consultation question 3: *Can you suggest alternative proposals on how those LPG distribution networks operated by a party other than a licenced LPG undertaking may be brought within the regulatory framework?***

## **ILPGA Response:**

*The ILPGA stated that they believed that option 2 is the best approach and did not propose an alternative.*

## **CRU Response**

The CRU agrees that option 2 is the best approach for extending the regulatory framework for operators of LPG distribution networks other than licensed LPG undertakings.

## **ILPGA additional responses**

The ILPGA provided a number of further comments:

1. *'The ILPGA believe the re-definition of LPG Undertaking and the existing definition of a Distribution Network may need further consideration, particularly if option 1 is chosen or if the option 2 fees are prohibitive since it may be challenged in those cases. The current definitions are not contentious since the existing participants know what the definitions are intended to include.'*
  - CRU response: As outlined in the consultation paper, the definition of an LPG undertaking will require amendment and the CRU will give careful consideration to the new definition.
2. *'We understand that the appointment of a Gas Emergency Officer by the DNO is optional and that unlike the wide ranging GSO powers, the GEO responsibilities would be linked to the site covered by "New Type Licence" been proposed.'*

- CRU response: The powers of a Gas Emergency Officer (GEO) are extensive e.g. the officer may, subject to Section 91 of the Electricity Regulation Act 1999 as amended, enter and inspect any land without giving notice or obtaining the consent of any person, and there take such measures as the officer consider appropriate for the protection of any person or property from any danger from LPG. It is an offence not to comply with a gas emergency officer instruction.

As outlined in the consultation paper, it is proposed to amend this power through primary legislation to introduce limitations applicable to these operators. Such limitations may include limiting the power to the operator's network or following further legal consideration the removal of the gas emergency officer power in its entirety.

3. *'It is not clear why Natural Gas DNOs are not included if such networks already exist or were to be put in place in the future, they carry the same safety risks if not regulated'.*

- CRU response: The definition of natural gas undertaking<sup>2</sup> is not limited in the same manner as the LPG undertaking and as such does not require legislative amendment.

The CRU agrees that safety risks also apply to natural gas distribution networks but is not aware of natural gas distribution networks serving domestic customers that are operated by an unlicensed natural gas undertaking.

4. *'The Operator Handbook refers to various standards that it would be aligned to (page 24). it is suggested that it would be more beneficial to align it with the current LPG Operators approved safety cases, where relevant. These safety cases are generally aligned particularly regarding technical requirements and contractor training. Any differences that affect contractors will cause unnecessary confusion, non-compliance, and potential safety issues. The operator handbook will inevitably have some differences, but it should be generally aligned with safety case used for LPG supplier operated sites. We are available to assist the CRU with the preparation of the Operator Handbook.'*

- CRU response: The CRU agrees that the safety cases adhered to by existing holders of LPG safety licences have similar requirements to the proposed operator

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<sup>2</sup> "natural gas undertaking" means a person engaged in the transmission, distribution, supply or storage of natural gas, including any holder of a licence or a consent under this Act, or any person who has been granted a licence or given a consent under the Gas Acts, 1976 to 2002

handbook including the relevant gas safety standards. The operator handbook will be more prescriptive and will also set out requirements in respect of emergency contact information and emergency response arrangements for customers, LPG safety promotion, asset management, 20-year meter replacement, incident reporting/ investigation and requirements in respect of any changes in ownership.

The CRU will consult on the operator handbook and welcomes the assistance of the ILPGA and its members in this regard to ensure that it is not confusing for contractors carrying out works on these networks.

## **2.2 Response from GNI**

*GNI stated that it recognises the requirements to extend the safety framework to include all piped LPG distribution networks including those currently operated outside the framework. GNI noted that as the consultation paper is directed at non-regulated distribution system operators, GNI did not wish to propose any course of action regarding LPG networks and did not provide responses to the consultation questions specifically.*

*GNI instead outlined that it operates and maintains five piped LPG distribution networks and provided detail of same.*

### **CRU Response**

- All operators of piped LPG distribution networks will be required to apply for an LPG safety licence and comply with the operator handbook. All known operators including GNI will be notified when the LPG safety licence and operator handbook have been published for consultation.

## 3. Conclusion and Next Steps

After considering the responses to the consultation paper, the CRU has decided to proceed with option 2:

- Introduce a new class of LPG Safety Licence requiring LPG distribution network operators to comply with an 'Operator Handbook'. Operators would be required to pay an application fee of approximately €200 (indicative fee).

### 3.1 Next steps

The CRU intends to carry out the steps outlined below to ensure LPG distribution networks that are operated by a party other than a licensed LPG undertaking are regulated with respect to safety.

#### **Amendment of Primary Legislation**

The CRU will request the Minister for Communications, Climate Action and Environment to amend primary legislation to bring all LPG distribution networks operators within the definition of an LPG undertaking. The change, subject to legal review, to the existing wording is 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, legislative amendment will be required in order to specify different classes of LPG Safety Licence. Gas Emergency Officer powers will be amended through primary legislation to introduce limitations applicable to these operators.

#### **Development of 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.

## **Development of Safety Licence**

A new class of LPG safety licence for individuals operating LPG distribution networks that are not operated by a licensed LPG undertaking will be developed and consulted on in tandem with the Operator Handbook. A licence condition will require compliance with the Operator Handbook rather than with an accepted Safety Case. The proposed licence application fee together with the proposed new class of LPG safety licence and operator handbook will be consulted on.

## **Development of Operator Handbook**

The Operator Handbook will be developed as per section 2.3 of the consultation paper, *“Regulation of piped LPG distribution networks that are not operated by a licensed LPG undertaking” (CRU19095)*. This will enable the CRU to have oversight of the risk management applied to all LPG distribution networks. The Operator Handbook will include requirements in respect of emergency contact information and arrangements for customers, LPG safety promotion, pressure controls, a 20-year meter replacement incident reporting/ investigation and requirements in respect to any changes in ownership.

## **Communication to stakeholders**

In order to increase awareness of this process, the CRU aims to identify all relevant stakeholders and will ensure they are contacted, where appropriate, during the project.

The CRU will notify the ILPGA, GNI and individuals operating LPG distribution networks that are not operated by a licensed LPG undertaking on publication of the draft Safety Licence and Operator Handbook for a 6-week consultation period. Other LPG suppliers e.g. Tervas Gas, impacted by the requirement to provide emergency response to customers will also be communicated with. Registered gas installers (RGIs) will be updated through the RGI website and/or RGI newsletter and road shows.

## **Updating the Gas Safety Framework**

The Gas Safety Framework (CER/14/296), version 2.0, published 7<sup>th</sup> July 2014 will be revised to account for the Operator Handbook, the new class of LPG Safety Licence and primary and secondary legislative amendments.

## 3.2 Project Timelines

CRU has provided a project timeline, in Figure 1, of the key deliverables to regulate individuals operating LPG distribution networks that are not operated by licensed LPG undertakings.

Phase 1 Consultation & Legislation 2020 - 2021			
Consultation on Operator Handbook	Consultation on Licence, application fee	Amendments to Primary Legislation	Development of Secondary Legislation

  

Phase 2 Publication & Implementation 2020 - 2022			
Publication of Operator Handbook	Publication of Safety licence	Application for licences closes	Licences Granted to Operators

  

Phase 3 Amendment to Gas Safety Framework 2021 - 2022	
Consultation on amendments to Gas Safety Framework	Publication of amended Gas Safety Framework

Figure 1: Project Timeline