

Australian Capital Territory

Utilities (Technical Regulation) (Gas Safety and Network Operation Code) Approval 2021

Disallowable instrument DI2021–217

made under the

Utilities (Technical Regulation) Act 2014, s 14 (Technical codes—approval)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Utilities (Technical Regulation) (Gas Safety and Network Operation Code) Approval 2021* as presented to the Legislative Assembly. It has been prepared to assist the reader of the disallowable instrument. It does not form part of the instrument and has not been endorsed by the Assembly.

This statement must be read in conjunction with the instrument. It is not, and is not meant to be, a comprehensive description of the instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

This is a disallowable instrument under the *Utilities (Technical Regulation) Act 2014* (the *Act*). The Act provides a technical regulatory framework for regulated utilities in the Australian Capital Territory. Section 14 of the Act authorises the Minister to approve a technical code as recommended by the technical regulator.

This disallowable instrument is the *Utilities (Technical Regulation) (Gas Safety and Network Operation Code) Approval 2021* (the *instrument*). The purpose of the instrument is to approve the making of the Gas Safety and Network Operation Code 2021 and revoke the Gas Safety and Operating Plan Code, December 2000 (contained within DI2000-369). The Gas Safety and Network Operation Code (the *Code*) is a technical code under part 3 of the Act. The Code is provided in schedule 1 of the instrument.

Technical codes must be consistent with the objects of the Act as follows:

- Ensuring safe, reliable and efficient delivery of regulated utility services
- Promotion of long-term serviceability of regulated networks
- Promotion of networks' design integrity and functionality; and
- Safe and reliable operation of regulated utility services.

The purpose of the Code is to set out the requirements to ensure the safe and reliable design, construction, maintenance and operation of gas networks in delivering gas to customers. It replaces the existing Gas Safety and Operating Plan Code to modernise language and ensure consistency with national legislation and standards and current practice.

The Code applies to a utility licensed to distribute gas through a gas distribution network and/or gas transmission network within the ACT. It provides that a utility must conform, at a minimum, with the following relevant national standards:

- (a) AS/NZS 4645 Gas distribution networks
- (b) AS/NZS 2885 Pipelines gas and liquid petroleum
- (c) AS 4564 Specification for general purpose natural gas

These standards may be purchased at www.standards.org.au. The copyright in Australian Standards is owned by a non-government organisation, Standards Australia. While it may be prohibitive for members of the public to purchase these standards, undue expense is minimised as the only parties materially affected by the Code are regulated utilities. Ensuring the safe, reliable and efficient delivery of utility services, in conformance with Australian Standards or Australian/New Zealand Standards is core business for the utilities. The public can access copies of many national standards at the National Library of Australia.

The Code states that a key requirement in achieving the purpose is conformance with AS/NZS 4645 with respect to gas distribution and conformance with AS/NZS 2885 with respect to gas transmission. This conformance must be partnered with a Safety and Operating Plan or Pipeline Management System (as approved under the Code).

The code provides a framework for the lodgment, approval, amendment, implementation and audit of a safety and operating plan. For the purposes of the code:

- a pipeline management system created in conformance with AS/NZS 2885 will be taken to be a safety and operating plan; and
- a safety management study prepared in conformance with AS/NZS 2885 will be taken to be the formal safety assessment.

The Code requires for a safety and operating plan to be approved by the Chief Technical Officer and the utility's Chief Executive Officer.

The Code is consistent with the objects of the Act and with section 11 of the Act.

Consultation

In accordance with section 13 of the Act, the technical regulator consulted the Independent Competition and Regulatory Commission and the relevant regulated utilities to create the Code.

Regulatory Impact Statement

A regulatory impact statement for the instrument is not required in accordance with section 34 (1) of the *Legislation Act 2001*. The updates to the Code do not impose appreciable costs on the community, or part of the community. Further, a regulatory

impact statement is unnecessary in accordance with section 36 (1) (b) of the *Legislation Act 2001*.

Human rights and Scrutiny of Committee Terms of Reference

The instrument does not engage or limit any person's human rights.

The instrument is consistent with the Legislative Assembly's Scrutiny of Bills Committee Terms of Reference. In particular, the instrument:

- is made under a ministerial power found in the Act;
- is in accordance with the general objects of the Act under which the instrument is made;
- does not unduly trespass on rights previously established by law; and
- does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.