

LN043-E

L. N. 43 of 2002

Gas Safety (Installation And Use And Miscellaneous) (Amendment) Regulation 2002  
(Made by the Chief Executive in Council under section 8  
of the Gas Safety Ordinance (Cap. 51))

1. Commencement

(1) Subject to subsection (2), this Regulation shall come into operation on 1 June 2002.

(2) Schedule 1 and section 1 of Schedule 2 shall come into operation on 1 January 2003.

2. Amendment of Gas Safety (Installation and Use) Regulations--- (Schedule 1)

The Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg.) are amended as set out in Schedule 1.

3. Amendment of Gas Safety (Miscellaneous)

Regulations--- (Schedule 2)

The Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) are amended as set out in Schedule 2.

SCHEDULE 1 [s. 2]

Amendment of Gas Safety (Installation and Use) Regulations

1. Regulation added

The Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg.) are amended by adding---

"23A. Installation of domestic gas appliance

(1) Subject to subregulation (2), no person shall install a domestic gas appliance which burns gas to provide lighting, heating or cooling unless the appliance complies with regulation 3B(1) (d) of the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.).

(2) Subregulation (1) does not apply to the reinstallation of a domestic gas appliance which has been installed in any premises before 1 January 2003. "

2. Offences

Regulation 37 is amended---

(a) in subregulation (1)---

(i) by repealing "35" and substituting "35(2) or (3)";

(ii) by repealing "of \$5,000" and substituting "at level 2";

(b) by adding---

"(1A) Any person who contravenes regulation 23A(1) commits an offence and is liable on conviction to a fine at level 3. ";

- (c) in subregulation (2), by repealing "of \$10,000" and substituting "at level 3";
- (d) by adding---

"(3) Any person who contravenes regulation 35(1) commits an offence and is liable on conviction to a fine at level 3."

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## SCHEDULE 2 [s. 3]

### Amendment of Gas Safety (Miscellaneous) Regulations

#### 1. Restriction on sale, etc. of flueless gas water heaters

Regulation 3A(2) of the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) is repealed and the following substituted---

"(2) Any person who contravenes subregulation (1) commits an offence and is liable---

- (a) on first conviction to a fine at level 6 and to imprisonment for 12 months;
- (b) on any subsequent conviction to a fine of \$200,000 and to imprisonment for 12 months; and
- (c) in the case of a continuing offence, to a daily penalty of \$10,000."

#### 2. Regulations added

The following are added---

"3B. Requirements relating to importation, etc. of domestic gas appliance

(1) No person shall, on or after 1 January 2003---

- (a) import; or
- (b) manufacture in Hong Kong, for use in Hong Kong, any domestic gas appliance which burns gas to provide lighting, heating or cooling unless the appliance---
- (c) is of a type or model in respect of which the person has the approval in writing of the Authority to import or manufacture; and
- (d) bears the mark specified in the Schedule prominently displayed on the appliance in accordance with the colour codes, proportion and minimum dimensions specified in the Schedule.

(2) No person shall, on or after 1 January 2003, knowingly---

- (a) sell, offer or expose for sale; or
- (b) supply or offer to supply, for use in Hong Kong, any domestic gas appliance---
- (c) which has been imported, or manufactured in Hong Kong, in contravention of subregulation (1); or
- (d) which is the subject of an approval mentioned in subregulation (1)(c) which has

been withdrawn under regulation 3C on the ground mentioned in regulation 3C(a) (i) (A).

(3) Any person who contravenes subregulation (1) or (2) commits an offence and is liable---

- (a) on first conviction to a fine at level 6 and to imprisonment for 12 months;
- (b) on any subsequent conviction to a fine of \$200,000 and to imprisonment for 12 months; and
- (c) in the case of a continuing offence, to a daily penalty of \$10,000.

(4) For the avoidance of doubt, it is hereby declared that an approval mentioned in subregulation (1) (c) may be subject to such reasonable conditions as the Authority thinks fit specified in the approval.

### 3C. Withdrawal of approval

The Authority may, by notice in writing served on a person who has an approval mentioned in regulation 3B(1)(c), withdraw the approval---

(a) where the Authority is satisfied that---

- (i) the type or model of domestic gas appliance the subject of the approval has---
  - (A) shown to be prejudicial to the safety of the members of the public; or
  - (B) ceased to be of a standard of safety acceptable to the Authority; or

(ii) the person has contravened regulation 3B(1) in relation to that type or model of appliance (including contravened any conditions to which the approval is subject) in such circumstances that the approval ought to be withdrawn, and whether or not the person is prosecuted for the contravention; and

(b) from a date specified in the notice, being a date reasonable in all the circumstances of the case.

### 3D. Measures to take upon withdrawal of approval on ground mentioned in regulation 3C(a) (i) (A)

(1) Where the Authority has withdrawn under regulation 3C an approval mentioned in regulation 3B(1)(c) on the ground mentioned in regulation 3C(a) (i) (A), then the person who had the approval shall---

(a) expeditiously take reasonable measures to ensure that the safety of the members of the public is not prejudiced, or is no longer prejudiced, by the type or model of domestic gas appliance which was the subject of the approval; and

(b) provide to the Authority such information as the Authority may, by notice in writing served on the person, require---

(i) in relation to the person's operations in respect of that type or model of appliance; and

(ii) within such period as is specified in the notice, being a period reasonable in all the circumstances of the case.

(2) Any person who contravenes subregulation (1) commits an offence and is liable---

- (a) on first conviction to a fine at level 6 and to imprisonment for 12 months;
- (b) on any subsequent conviction to a fine of \$200,000 and to imprisonment for 12 months; and
- (c) in the case of a continuing offence, to a daily penalty of \$10,000.

3E. Appeals to appeal board

(1) Any person aggrieved by a decision of the Authority under regulation 3C may appeal to an appeal board against that decision.

(2) An appeal under this regulation shall---

- (a) be in writing;
- (b) set out the details of or be accompanied by the notice of withdrawal under regulation 3C concerned served on the person;
- (c) be commenced within 30 days after the notice was served on the person; and
- (d) be delivered to the Secretary.

(3) A person who appeals under this regulation shall deliver to the Authority notice of, and the grounds for, the appeal.

(4) A decision referred to in subregulation (1) shall take effect immediately, notwithstanding that an appeal has been or may be made under this regulation against that decision.

3F. Unauthorized use of mark

(1) Subject to subregulation (2), no person shall, without the approval in writing of the Authority---

- (a) attach to;
- (b) display on; or
- (c) use in any other manner in connection with, a domestic gas appliance, a mark---
- (d) that is identical to the mark specified in the Schedule; or
- (e) that closely resembles the mark specified in the Schedule, so as to be capable of misleading any person into believing that the appliance is a type or model of domestic gas appliance the subject of an approval mentioned in regulation 3B(1)(c).

(2) Subregulation (1) shall not apply to or in relation to a domestic gas appliance---

- (a) the subject of an approval mentioned in regulation 3B(1)(c) which has been withdrawn under regulation 3C; and
- (b) on which is displayed the mark specified in the Schedule if, and only if, the mark was so displayed before the approval was so withdrawn.

(3) Any person who contravenes subregulation (1) commits an offence and is liable---

- (a) on first conviction to a fine at level 6 and to imprisonment for 12 months;
- (b) on any subsequent conviction to a fine of \$200,000 and to imprisonment for 12 months; and
- (c) in the case of a continuing offence, to a daily penalty of \$10,000. "

3. Schedule added

The following is added---

"SCHEDULE [regs. 3B & 3F]

Specification of mark

THIS MARK SHALL BE DISPLAYED PROMINENTLY ON THE DOMESTIC GAS APPLIANCE IN ACCORDANCE WITH THE COLOUR CODES, PROPORTION AND MINIMUM DIMENSIONS AS SPECIFIED ABOVE. "

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

19 March 2002

Explanatory Note

The purpose of this Regulation is to---

- (a) amend the Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg.) to---
  - (i) specify that no person shall install a domestic gas appliance which burns gas to provide lighting, heating or cooling unless the appliance complies with new regulation 3B(1) (d) of the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) (see new regulations 23A and 37(1A) at sections 1 and 2(b) respectively of Schedule 1); and
  - (ii) increase the penalty for installing a flueless gas water heater from a fine of \$5,000 to a fine of \$10,000 (see section 2(a) (i) and (d) of Schedule 1); and
- (b) amend the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) to---
  - (i) amend the penalty under regulation 3A(2) for selling, etc. flueless gas water heaters (see section 1 of Schedule 2);
  - (ii) specify that no person shall import, or manufacture in Hong Kong, any domestic gas appliance unless the appliance is a type or model in respect of which the person has the approval in writing of the Gas Authority ("Authority") to import or manufacture and the appliance bears the mark specified in the new Schedule to those Regulations (see new regulation 3B(1) at section 2 of Schedule 2);
  - (iii) specify that no person shall knowingly sell, etc. any domestic gas appliance which has been imported, or manufactured in Hong Kong, in contravention of the new regulation 3B(1) (see new regulation 3B(2) at section 2 of Schedule 2);

(iv) empower the Authority to withdraw the approval in respect of a type or model of domestic gas appliance on specified grounds, in particular the ground that the Authority is satisfied that the appliance is prejudicial to the safety of the members of the public (see new regulation 3C at section 2 of Schedule 2);

(v) require a person whose approval has been withdrawn on the ground that the domestic gas appliance concerned is prejudicial to the safety of members of the public to expeditiously take reasonable measures to ensure that such safety is not prejudiced or no longer prejudiced (see new regulation 3D at section 2 of Schedule 2);

(vi) provide an appeal for a person aggrieved by a decision of the Authority to withdraw an approval (see new regulation 3E at section 2 of Schedule 2); and

(vii) prohibit the unauthorized use of the mark specified in the new Schedule (see new regulation 3F at section 2 of Schedule 2).