

GAS SAFETY ORDINANCE

(Cap. 51)

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An Ordinance to control, in the interests of safety, the importation, manufacture, storage, transport, supply and use of gas, and to provide for matters incidental thereto or connected therewith.

[1 April 1991] *L.N. 119 of 1991*

(Enacting provision omitted—E.R. 2 of 2014)

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Gas Safety Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“appeal board” (上訴委員會) means an appeal board appointed under section 18;

“Authority” (監督) means the Gas Authority appointed under section 5;

“bulk tank” (大型石油氣缸) means a receptacle—

- (a) which has a water capacity of more than 450 litres; and
- (b) used, or to be used, to contain liquefied petroleum gas;

“code of practice” (工作守則) includes—

- (a) a standard;

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(b) a specification; and

(c) any other documentary form of practical guidance;

“Committee” (委員會) means the Gas Safety Advisory Committee established by section 4(1);

“company” (公司) means a body corporate—

(a) incorporated under the Companies Ordinance (Cap. 622); (*Amended 28 of 2012 ss. 912 & 920*)

(ab) incorporated under a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap. 622); (*Added 28 of 2012 ss. 912 & 920*)

(b) incorporated by any other Ordinance; or

(c) incorporated or established outside Hong Kong;

“container” (儲存器) means a bulk tank, mini-tank or cylinder;

“contract of employment” (僱用合約) means a contract of employment or apprenticeship, whether express or implied and, if express, whether oral or in writing;

“cylinder” (石油氣瓶) means a receptacle—

(a) which has a water capacity of not more than 150 litres; and

(b) used, or to be used, to contain liquefied petroleum gas;

“cylinder wagon” (石油氣瓶車) means a motor vehicle designed and constructed, or adapted, primarily for the conveyance of cylinders on roads;

“decommission” (解除運作), in relation to a notifiable gas installation, means a procedure to take the installation out of service in a safe and orderly manner; (*Added 22 of 1996 s. 2*)

“disposable cylinder” (祇用一次的石油氣瓶) means a cylinder which is not constructed or intended to be refilled with

liquefied petroleum gas after once containing such gas, and includes an aerosol can;

“domestic premises” (住宅房產) means any premises which are constructed or intended to be used for habitation;

“employee” (僱員) means a person who works for another person under a contract of employment;

“exercise” (行使), in relation to a function, includes perform and discharge;

“function” (職能) includes a power and a duty;

“gas” (氣體) means—

- (a) town gas;
- (b) liquefied petroleum gas;
- (c) natural gas; or
- (d) any mixture of such gases,

whether in the form of a liquid or vapour;

“gas appliance” (氣體用具) means an appliance which uses gas to provide lighting, heating or cooling, but does not include a boiler within the meaning of the Boilers and Pressure Vessels Ordinance (Cap. 56);

“gas fitting” (氣體配件) means a gas pipe, gas meter, gas appliance, gas valve or pressure-regulator which is supplied, or to be supplied, gas through a service pipe, and includes a service riser;

“gas main” (供氣主喉) means a pipe, other than a service pipe or installation pipe, used, or to be used, to supply gas;

“gas meter” (氣體錶) means a primary meter or secondary meter;

“gas pipe” (氣體喉管) means—

- (a) an installation pipe;
- (b) a service pipe; or

- (c) a gas main;
- “gas vehicle” (氣體車輛) means a road tanker or cylinder wagon;
- “gasholder” (儲氣鼓) means a receptacle—
- (a) used, or to be used, for the storage of town gas or natural gas; and
 - (b) which has a storage capacity of more than 140 standard cubic metres of town gas or natural gas,
- but does not include any such receptacle which is a gas main;
- “improvement notice” (敦促改善通知書) means a notice under section 13(1);
- “in bulk” (大量), in relation to liquefied petroleum gas, means the containment of any amount of such gas in a vessel which has a water capacity of more than 150 litres;
- “inspector” (氣體安全督察) means a public officer appointed under section 11 (1) to be a gas safety inspector;
- “installation pipe” (用戶喉) means a pipe used, or to be used, to supply gas to a particular consumer, and includes any gas fitting used in connection with the pipe except—
- (a) a service pipe, other than a service pipe comprised in a primary meter installation; or
 - (b) a pipe comprised in a gas appliance;
- “issue” (發出、發給), in relation to any document, includes grant;
- “kPa” means kilopascals;
- “liquefied petroleum gas” (石油氣) means any gas which is a mixture of—
- (a) hydrocarbons primarily consisting of butanes, butylenes, propane or propylene; or
 - (b) all or any of the hydrocarbons referred to in paragraph (a);

“manufacture” (生產), in relation to gas, means—

- (a) the production of—
 - (i) town gas;
 - (ii) substitute natural gas; or
 - (iii) synthetic natural gas; or
- (b) the transfer of liquefied petroleum gas in liquid form from one container (except a disposable cylinder) to another container, but does not include the transfer of such gas in such form from a ship or road tanker into a tank or road tanker;

“meter bypass” (繞錶喉) means a pipe through which gas can be supplied from a service pipe to an installation pipe without passing through a gas meter, and includes any gas fitting used in connection with the pipe;

“mini-tank” (小型石油氣缸) means a receptacle—

- (a) with a water capacity of more than 150 litres but not more than 450 litres; and
- (b) used, or to be used, to contain liquefied petroleum gas;

“motor vehicle” (汽車) means a motor vehicle within the meaning of the Road Traffic Ordinance (Cap. 374);

“natural gas” (天然氣) means any gas which is primarily methane obtained from natural strata, and includes—

- (a) substitute natural gas; and
- (b) synthetic natural gas;

“non-domestic premises” (非住宅房產) means any premises other than domestic premises;

“notifiable gas installation” (應具報氣體裝置) means a gas installation which is, or consists of, or uses—

- (a) terminals for the importation of—

- (i) liquefied petroleum gas; or
- (ii) natural gas in liquid form;
- (b) works for the manufacture of town gas, substitute natural gas or synthetic natural gas;
- (c) gasholders, including the pressure-raising and control equipment used in connection therewith;
- (d) high pressure gas mains or service pipes;
- (e) pressure-regulating installations which are supplied with gas from an intermediate or high pressure gas main or service pipe, but does not include such an installation the volumetric capacity of which is less than 30 standard cubic metres per hour;
- (f) stores containing liquefied petroleum gas, including, where such gas is supplied to consumers by way of pipes from such a store, any outlet pipework, vaporisers and pressure-regulating installations used in connection therewith; or
- (g) any process which involves the transfer of liquefied petroleum gas in liquid form from one container (other than a disposable cylinder) to another container, but does not include the transfer of such gas in such form from a ship or road tanker into a tank or road tanker;
(Added 22 of 1996 s. 2)

“occupier” (佔用人)—

- (a) in relation to any place, means any person carrying on an occupation full-time in the place;
- (b) in relation to any domestic premises, means any person resident in such premises; and
- (c) in relation to any non-domestic premises, means any person carrying on an occupation full-time in such premises;

- “officer” (高級人員), in relation to a company, means an officer within the meaning of section 2(1) of the Companies Ordinance (Cap. 622); (*Amended 28 of 2012 ss. 912 & 920*)
- “order” (命令) means an order under section 19(4);
- “owner” (車主), in relation to a gas vehicle, means the owner within the meaning of the Road Traffic Ordinance (Cap. 374) of such vehicle;
- “panel” (委員團) means the appeal board panel appointed under section 17(1);
- “personal injury” (身體受傷) includes death;
- “premises” (房產) means—
- (a) any building where no part of the building is separately occupied, and includes any land appertaining to the building; and
 - (b) in any other case, any part of a building which is separately occupied, and includes any land appertaining to such part;
- “pressure-regulator” (調壓器) means a device which automatically controls the pressure of gas in a gas pipe downstream of the device;
- “primary meter” (主錶) means a meter connected to a service pipe for ascertaining the quantity of gas supplied through such pipe, but does not include a secondary meter;
- “primary meter installation” (主錶裝置) means a primary meter and the gas fittings used in connection with it, and includes any meter bypass, installed between the outlet of any service valve or, where there is no such valve, the outlet of the service pipe, and—
- (a) the outlet connection of the meter; or

(b) the outlet of the common connection of the meter and any meter bypass or any other primary meter, as the case may be;

“registered person” (註冊人) means a person registered under this Ordinance;

“requirement” (規定) includes a prohibition;

“responsible person” (負責人), in relation to any place or premises, means the occupier of the place or premises or, where there is no occupier or the occupier is away, the owner of the place or premises or the person for the time being in charge of the place or premises;

“road” (道路) means a road within the meaning of the Road Traffic Ordinance (Cap. 374);

“road tanker” (缸車) means a motor vehicle designed and constructed, or adapted, primarily for the conveyance of liquefied petroleum gas in bulk on roads;

“secondary meter” (分錶) means, where any gas is supplied to a person through a primary meter, a meter for ascertaining the quantity of such gas then supplied by that person to another person;

“Secretary” (局長) means the Secretary for the Environment; *(Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007)*

“service pipe” (供氣分喉) means a pipe used, or to be used, to supply gas from—

(a) a gas main; or

(b) a store containing liquefied petroleum gas, to not more than one building, and includes—

(i) any gas meter control valve; and

(ii) any service valve,

to which the pipe is connected;

“service riser” (上給供氣分喉) means the vertical sections of a service pipe used, or capable of being used, to supply gas to more than one floor of a building, and includes any horizontal sections of the service pipe between such vertical sections;

“service valve” (供氣分喉閥) means a valve—

- (a) incorporated in a service pipe;
- (b) for controlling the supply of gas through such pipe; and
- (c) not situated inside any premises;

“standard cubic metre” (標準立方米), in relation to any gas, means a cubic metre of such gas when measured—

- (a) at a temperature of 15.0°C;
- (b) at 101.325 kPa absolute pressure; and
- (c) under dry conditions;

“store” (儲存、倉庫)—

(a) when used as a verb, means the containing of—

- (i) town gas or natural gas in a gasholder; or
- (ii) liquefied petroleum gas in—

(A) a container which has a facility for withdrawing such gas in liquid form where such gas is, or is to be, supplied to consumers by way of gas pipes from such container; or

(B) any containers (including a single container) situated in the one place (including part of any premises) where the aggregated nominal water capacity of the containers is more than 130 litres,

and “storage” shall be construed accordingly; and

- (b) when used as a noun, means any place (including part of any premises) where there is or are kept—
- (i) a gasholder which contains or has contained town gas or natural gas;
 - (ii) a container which—
 - (A) contains or has contained liquefied petroleum gas; and
 - (B) has a facility for withdrawing such gas in liquid form where such gas is, or is to be, supplied to consumers by way of gas pipes from such a container; or
 - (iii) any containers (including a single container)—
 - (A) which contain or have contained liquefied petroleum gas; and
 - (B) the aggregated nominal water capacity of which is more than 130 litres;

“substance” (物品) means a natural or artificial substance, whether in the form of a solid, liquid or vapour;

“substitute natural gas” (代用天然氣) means any gas which is a mixture of liquefied petroleum gas and air such that the ratio of such gas to air in such mixture is more than 1 to 9;

“supply” (供應), in relation to gas, means the supply of any gas through gas pipes or in containers, whether by sale or otherwise, to consumers of such gas, but does not include the supply of liquefied petroleum gas in disposable cylinders;

“synthetic natural gas” (合成天然氣) means any gas which is primarily methane not obtained from natural strata;

“tank” (石油氣缸) means a bulk tank or mini-tank;

“town gas” (煤氣) means any gas which is primarily a mixture of hydrogen and methane;

“transport” (運送), in relation to liquefied petroleum gas, means the conveyance of such gas by a gas vehicle;

“vehicle” (車輛) means a vehicle within the meaning of the Road Traffic Ordinance (Cap. 374);

“works” (工程) means construction works, that is to say, any kind of work involving or in connection with—

- (a) building works within the meaning assigned to that term in section 2(1) of the Buildings Ordinance (Cap. 123), and for the purposes of this paragraph reference in that section to “ground investigation in the scheduled areas” shall be read as a reference to “ground investigation”;
- (b) the laying out, construction, alteration or repair of any road, footpath, tunnel, airport runway, canal, reservoir, pipe-line, railway or tramway;
- (c) trench works carried out by or for any public utility;
- (d) the extraction of material from land or the seabed;
- (e) landfill works;
- (f) river training works; or
- (g) reclamation works. (*Added 3 of 1996 s. 2*)

3. Application

- (1) Subject to subsection (2), this Ordinance shall bind the Government.
- (2) No fee prescribed under this Ordinance shall be payable by the Government.
- (3) This Ordinance shall not apply to the use of liquefied petroleum gas for and incidental to the production of entertainment special effects within the meaning of the Entertainment Special Effects Ordinance (Cap. 560). (*Added 41 of 2000 s. 60*)

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(Replaced 22 of 1996 s. 3)

PART II

**GAS SAFETY ADVISORY COMMITTEE AND GAS
AUTHORITY**

4. Gas Safety Advisory Committee

- (1) There is hereby established a committee by the name of the Gas Safety Advisory Committee for the purpose of advising the Authority upon any matters relevant to the importation, manufacture, storage, transport, supply or use of gas.
- (2) The Committee shall consist of—
 - (a) the Authority, who shall be the chairman; and
 - (b) not less than 6 or more than 10 other persons, not being public officers, appointed by the Chief Executive.
- (3) The members of the Committee appointed under subsection (2)(b) shall hold office for such period and upon such terms as the Chief Executive specifies in their respective appointments or from time to time.
- (4) A member of the Committee appointed under subsection (2)(b) may resign at any time by notice in writing delivered to the Chief Executive.
- (5) The Committee may regulate its own procedure.

(Amended 61 of 2000 s. 3)

5. Gas Authority

The Chief Executive shall, by notice in the Gazette, appoint a public officer to be the Gas Authority for the purposes of this Ordinance.

(Amended 61 of 2000 s. 3)

6. Functions of Authority

- (1) The principal function of the Authority shall be to promote and provide for the implementation of safe working practices for and in relation to the importation, manufacture, storage, transport, supply and use of gas.
- (2) Without prejudice to the generality of subsection (1), the Authority shall—
 - (a) supervise compliance with the provisions of this Ordinance; and
 - (b) assist and encourage persons concerned with matters relevant to any of the safe working practices referred to in subsection (1) to further those practices.
- (3) The Authority may from time to time cause to be prepared and published by notice in the Gazette, for the guidance of persons upon whom there is any obligation to comply with any requirements under this Ordinance, guidelines not inconsistent with this Ordinance, indicating the manner in which he proposes to exercise functions conferred or imposed under this Ordinance upon him.

7. Chief Executive may give directions

The Chief Executive may give directions generally or in a particular case in relation to the exercise by the Authority of any of his functions under this Ordinance, and the Authority shall comply with any such direction.

(Amended 61 of 2000 s. 3)

PART III

REGULATIONS AND CODES OF PRACTICE

8. Regulations

- (1) The Chief Executive in Council may make such regulations as he thinks fit in relation to any matters relevant to— (*Amended 61 of 2000 s. 3*)
 - (a) the importation, manufacture, storage, transport, supply or use of gas;
 - (b) the carrying out of works in the vicinity of gas pipes, and, without prejudice to the generality of the foregoing, in particular for securing that members of the public are, so far as is practicable, protected from any personal injury, fire, explosion or other danger arising from the importation, manufacture, storage, transport, supply or use of gas or the carrying out of works in the vicinity of gas pipes. (*Amended 3 of 1996 s. 3*)
- (2) Without prejudice to the generality of subsection (1), the Chief Executive in Council may by regulation— (*Amended 61 of 2000 s. 3*)
 - (a) provide for the control of, and the safety precautions which shall be taken in relation to—
 - (i) the importation, manufacture, storage, transport, supply and use of gas;
 - (ii) the importation, manufacture, sale, installation and use of gas fittings and gas tubing;
 - (iii) work involving the fabrication, connection, disconnection, testing, commissioning, decommissioning, maintenance, repair or

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- replacement of gas fittings; (*Amended 3 of 1996 s. 3*)
- (iv) the construction and use of gas installations which are, or consist of, or use—
- (A) terminals for the importation of gas;
 - (B) works for the manufacture of gas;
 - (C) gasholders, including the pressure-raising and control equipment used in connection therewith;
 - (D) gas mains or service pipes;
 - (E) pressure-regulating installations;
 - (F) stores containing liquefied petroleum gas, including, where such gas is supplied to consumers by way of gas pipes from any such store, any outlet pipework, pressure-regulating installations or equipment used in connection therewith; or
 - (G) any process which involves the transfer of liquefied petroleum gas in liquid form from one container (except a disposable cylinder) to another container; or (*Amended 3 of 1996 s. 3*)
- (v) the carrying out of works in the vicinity of gas pipes; (*Added 3 of 1996 s. 3*)
- (b) specify the tests, examinations or inspections to be carried out for the purposes of safety on any—
- (i) gas;
 - (ii) gasholder or container;
 - (iii) gas pipe;
 - (iv) gas fitting;

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- (v) gas installation referred to in paragraph (a)(iv); or
- (vi) gas vehicle;
- (c) provide for the registration, cancellation of registration and suspension of registration of—
 - (i) persons who as a business carry out work referred to in paragraph (a)(iii);
 - (ii) persons who personally carry out work referred to in paragraph (a)(iii); or
 - (iii) companies which as a business import, manufacture or supply any gas;
- (d) provide for the issue and cancellation of permits in respect of gas vehicles;
- (e) provide for the reporting and subsequent actions to be taken in respect of any accident or emergency involving gas;
- (f) provide for records and other documents to be kept and maintained by registered persons, owners of gas installations referred to in paragraph (a)(iv) and owners of gas vehicles;
- (g) impose requirements, for the purposes of safety, in respect of the design, construction, operation and maintenance of—
 - (i) gas installations referred to in paragraph (a)(iv);
 - (ii) gas vehicles; or
 - (iii) gas pipes;
- (h) specify fire precautions to be taken in respect of the importation, manufacture, storage, transport, supply and use of gas; and
- (i) specify the rank below which a public officer shall not be appointed as an inspector.

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- (3) Any regulations made under this section may—
- (a) impose requirements by reference to approval by the Authority or by any other specified person;
 - (b) provide for references in the regulations to any specified document to operate as a reference to such document as revised or re-issued from time to time;
 - (c) provide for exemptions from any requirement under the regulations;
 - (d) enable exemptions from any requirement under the regulations to be granted by the Authority or any other specified person;
 - (e) provide for any specified defence to be available in proceedings for any offence against the regulations;
 - (f) specify the information to be furnished to the Authority or any other specified person for the purposes of the regulations;
 - (g) provide for an appeal to be made to the appeal board against any specified decision or action taken by the Authority under the regulations;
 - (h) provide for fees to be paid in respect of—
 - (i) any application for registration;
 - (ii) the issue of any certificates, permits or other documents; or
 - (iii) the performance of any services, under the regulations;
 - (i) provide for fees to be paid in respect of—
 - (i) any search of; or
 - (ii) any copy of any entry in, any register required to be kept under the regulations;

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- (ia) empower the Secretary to amend any Schedule to the regulations except a Schedule which provides for any fees referred to in paragraph (h) or (i); (*Added 22 of 1996 s. 4*)
 - (j) provide for the better carrying into effect of this Ordinance; and
 - (k) provide for such incidental, consequential and supplemental provisions as are necessary or expedient for the purpose of giving full effect to this Ordinance.
- (4) Any regulations made under this section may—
- (a) make different provisions for different circumstances and provide for a particular case or class of cases; and
 - (b) be made so as to apply only in such circumstances as are specified in the regulations.
- (4A) Any regulations made under subsection (2)(b) may repeal the Gasholders Examination Ordinance* (Cap. 54) and any subsidiary legislation made thereunder. (*Added 22 of 1996 s. 4*)
- (5) Any regulations made under subsection (3)(h) may provide for a fee to be fixed at a level which provides for the recovery of expenditure incurred or likely to be incurred in the exercise of any functions under this Ordinance and shall not be limited by reference to the amount of any administrative or other costs incurred or likely to be incurred in the exercise of any particular function under this Ordinance.
- (6) Any regulations made under this section may provide that a contravention thereof shall be an offence and may provide penalties for such offences not exceeding a fine of \$200,000 and imprisonment for 12 months and, in the case of a continuing offence, to a daily penalty not exceeding \$10,000. (*Amended 3 of 1996 s. 3*)

Editorial Note:

* Repealed-see L.N. 268 of 1996

9. Approval of codes of practice by the Authority

- (1) For the purpose of providing practical guidance in respect of any requirements under this Ordinance, the Authority may—
 - (a) approve and issue such codes of practice (whether prepared by him or not) as in his opinion are suitable for that purpose; and
 - (b) approve such codes of practice issued or proposed to be issued otherwise than by him as in his opinion are suitable for that purpose.
- (2) Where a code of practice is approved under subsection (1), the Authority shall, by notice in the Gazette—
 - (a) identify the code concerned and specify the date on which its approval is to take effect; and
 - (b) specify for which of the requirements under this Ordinance the code is so approved.
- (3) The Authority may—
 - (a) from time to time revise the whole or any part of any code of practice prepared by him in pursuance of this section; and
 - (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section,and the provisions of subsection (2) shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1).

- (4) The Authority may at any time withdraw his approval from any code of practice approved under this section.
- (5) Where under subsection (4) the Authority withdraws his approval from a code of practice approved under this section, he shall, by notice in the Gazette, identify the code concerned and specify the date on which his approval of it is to cease to have effect.
- (6) References in this Ordinance to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.
- (7) The power of the Authority under subsection (1)(b) to approve a code of practice issued or proposed to be issued otherwise than by him shall include power to approve a part of such a code and, accordingly, in this Ordinance “code of practice” (工作守則) may be read as including a part of such a code.

10. Use of approved codes of practice in criminal proceedings

- (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of a requirement under this Ordinance, being a requirement for which there was an approved code of practice at the time of the alleged contravention, subsection (2) shall have effect with respect to such code in relation to those proceedings.
- (2) Any provision of a code of practice which appears to a magistrate or court to be relevant to a requirement under this Ordinance alleged to have been contravened shall be admissible in evidence in the criminal proceedings concerned and if it is proved that there was at any material time a failure

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to observe any provision of the code which appears to the magistrate or court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of such requirement, that matter shall be taken as proved unless the magistrate or court is satisfied that such requirement was in respect of that matter complied with otherwise than by way of observance of that provision.

- (3) In any criminal proceedings, a code of practice which appears to a magistrate or court to be the subject of a notice under section 9(2) shall be taken to be the subject of such notice unless the contrary is proved.
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PART IV

APPOINTMENT OF INSPECTORS, POWERS OF ENTRY AND IMPROVEMENT NOTICES

11. Appointment of inspectors

- (1) The Authority may, by notice in the Gazette, appoint public officers not below the prescribed rank to be gas safety inspectors for the purposes of this Ordinance.
- (2) The Authority shall issue to each person who is an inspector a certificate in the approved form as evidence of his appointment as an inspector.
- (3) An inspector shall, if so requested when exercising or attempting to exercise any power conferred on him under this Ordinance, produce the certificate issued to him under subsection (2).
- (4) The Authority may exercise any power under this Ordinance that an inspector may exercise and, for that purpose, the Authority shall be deemed to be an inspector.

12. Powers of entry, etc.

- (1) Subject to this section, an authorized officer may—
 - (a) enter, inspect and examine any place or premises in which any gas is manufactured, stored, supplied or used and every part of such place or premises, at all times by day and by night, but so as not unnecessarily to impede or obstruct the work in such place or premises, and may make inquiries as to the observance of any requirements under this Ordinance and all matters and things relating to the safety of members of the public or of the persons employed in or about such place or premises;

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- (b) require the responsible person for any place or premises which he is entitled under this section to enter, or a person employed in such place or premises by the responsible person, to give him samples of any substance in such place or premises;
 - (c) enter and search any place or premises in which he has reasonable grounds for suspecting that there may be anything which is liable to seizure under paragraph (e);
 - (d) stop, board and search any ship, vehicle or aircraft in which he has reasonable grounds for suspecting that there may be anything which is liable to seizure under paragraph (e); (*Amended 3 of 1996 s. 4*)
 - (e) seize, remove and detain—
 - (i) anything in respect of which he has reasonable grounds for suspecting that any offence against this Ordinance has been committed; or
 - (ii) any other thing which appears to him likely to be, or to contain, evidence of any such offence; and (*Amended 3 of 1996 s. 4*)
 - (f) enter upon the site of and inspect any works in the vicinity of a gas pipe. (*Added 3 of 1996 s. 4*)
- (2) An authorized officer may—
- (a) break open any outer or inner door of any place or premises which he is empowered to enter and search;
 - (b) forcibly enter any ship, vehicle or aircraft which he is empowered to stop, board and search and every part thereof;
 - (c) remove by force any material obstruction to, or any person obstructing any arrest, detention, entry, search, inspection, seizure or removal which he is empowered to make;

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- (d) detain any person found in any place or premises which he is empowered to enter and search until such place or premises have been searched; and
 - (e) detain any ship, vehicle or aircraft which he is empowered to stop, board and search and any person on board such vessel or vehicle and prevent any person from approaching or boarding such vessel or vehicle until such vessel or vehicle has been searched.
 - (3) Without prejudice to any power of entry or search conferred by any other enactment, no authorized officer shall enter or search any domestic premises except—
 - (a) by virtue of a warrant issued by a magistrate, where the magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed in such premises or there is in such premises anything likely to be or to contain evidence of such offence; or
 - (b) without warrant, where the authorized officer is of the opinion, having regard to the circumstances of the case, that the matter to which the entry or the search relates is an imminent danger to any person or property.
 - (4) An authorized officer may exercise any of his powers under this section with the assistance of such other persons as he thinks fit.
 - (5) For the purposes of this section, “authorized officer” (特准人員) means—
 - (a) an inspector; or
 - (b) a police officer not below the rank of inspector in the Hong Kong Police Force. (*Amended L.N. 362 of 1997*)

13. Improvement notices

Last updated date
1.7.2002

- (1) Where the Authority is of the opinion that a person—
 - (a) is contravening a requirement under this Ordinance; or
 - (b) has contravened such a requirement in circumstances that make it likely that the contravention will continue or be repeated,he may serve on him a notice stating that he is of that opinion, specifying the requirement as to which he is of that opinion, giving particulars of the reasons why he is of that opinion, and directing that person to remedy the contravention or, as the case may be, the matters occasioning it within such period as is specified in that notice. (*Amended 3 of 1996 s. 5*)
- (1A) The period specified in the improvement notice—
 - (a) subject to paragraph (b), shall be a period ending not earlier than the period within which an appeal against that decision may be made under this section;
 - (b) may be such lesser period than is specified in paragraph (a) as the Authority reasonably considers necessary in the interests of safety. (*Added 3 of 1996 s. 5*)
- (2) An improvement notice may include instructions as to the measures to be taken to remedy any contravention or matter to which such notice relates, and any such instructions may be framed—
 - (a) to any extent by reference to any approved code of practice; and
 - (b) so as to afford the person on whom the notice is served a choice between different ways of remedying such contravention or matter.
- (3) Any person aggrieved by a direction specified in an improvement notice served on him may appeal to the appeal board against such direction.
- (4) An appeal under this section shall—

- (a) be in writing;
 - (b) set out the details of or be accompanied by the improvement notice concerned;
 - (c) be commenced within 14 days after the improvement notice concerned was served or such further period as the Authority allows upon the request of the person upon whom that notice was served; and
 - (d) be delivered to the Secretary.
- (5) A person who appeals under this section shall deliver to the Authority notice of, and the grounds for, the appeal.
- (6) Subject to subsection (7), a direction specified in an improvement notice shall take effect immediately or on such later date, if any, as is specified in such notice, notwithstanding that an appeal has been or may be made under this section against such direction.
- (7) Where—
- (a) an appeal is made under this section against a direction specified in an improvement notice; and
 - (b) the Authority is satisfied that the matter to which such direction relates is not an imminent danger to any person or property,
- the Authority shall suspend that part of such notice which contains such direction upon such terms as he thinks fit and, for that purpose, the Authority shall have such powers as are necessary to give effect to that suspension.

13A. Powers of Authority where failure to comply with improvement notice

- (1) Where a person fails to comply with a direction specified in an improvement notice in relation to a contravention of a requirement imposed by regulations made under section

8(2)(a)(v), the Authority may himself, with or without notice to the person, take such measures as reasonably appear to him to be necessary in the interests of safety.

- (2) Without limiting the generality of subsection (1), the Authority may for the purpose of taking any measures under that subsection—
 - (a) enter upon the site of any works to which the improvement notice relates; and
 - (b) remove by force any person obstructing the Authority in the taking of those measures.
- (3) The cost of any measures taken by the Authority under this section shall be recoverable by the Authority from the person who has failed to comply with the improvement notice, and shall be recoverable as a civil debt due to the Government.

(Added 3 of 1996 s. 6)

13AA. Ancillary provisions in relation to improvement notices

- (1) Without prejudice to the generality of section 13(2), an improvement notice—
 - (a) may include instructions as to repairs or alterations to be effected to a notifiable gas installation (whether constructed before, on or after the commencement of this section) the subject of the contravention or matter to which the notice relates if, but only if, the Authority states in the notice that he is satisfied that the repairs or alterations are necessary for the proper maintenance and operation of the installation for the prevention of fire, explosion or other danger arising from the installation;
 - (b) shall, where paragraph (a) is applicable, afford the person on whom the notice is served the choice of decommissioning the installation as an alternative to effecting the repairs or alterations.

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- (2) Where a person on whom an improvement notice is served to which subsection (1) applies fails to effect the repairs or alterations to, or to decommission, the notifiable gas installation the subject of the contravention or matter to which the notice relates, then the Authority—
- (a) may, with or without notice to the person—
 - (i) effect the repairs or alterations to the installation; or
 - (ii) decommission the installation until such time, if any, as the repairs or alterations are effected;
 - (b) shall, where paragraph (a)(ii) is applicable, prominently display on or near the installation a notice, in the Chinese and English languages—
 - (i) stating that the installation has been decommissioned by the Authority under this Ordinance; and
 - (ii) setting out the provisions of subsection (3) and section 27(1A) and (1B).
- (3) No person shall without the consent in writing of the Authority—
- (a) either—
 - (i) put a notifiable gas installation into service; or
 - (ii) supply gas to the installation,
where he knows or ought reasonably to know that the installation has been decommissioned by the Authority under this Ordinance; or
 - (b) remove or mark, or damage or destroy, a notice referred to in subsection (2)(b).

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- (4) Where under subsection (2)(a) the Authority has effected any repairs or alterations to, or the decommissioning of, a notifiable gas installation, the expenses thereof shall—
- (a) be borne by the person or whom the improvement notice concerned was served;
 - (b) be recoverable from the person as a civil debt due to the Government.

(Added 22 of 1996 s. 5)

PART V

OBTAINING AND DISCLOSURE OF INFORMATION

14. Obtaining of information by the Authority

For the purposes of obtaining any information which the Authority is of the opinion that he needs for the exercise of his functions under this Ordinance, the Authority may serve on any registered person, owner of a gas installation referred to in section 8(2)(a)(iv) or owner of a gas vehicle a notice requiring such person or owner to furnish to the Authority such information about such matters as are specified in the notice, and to do so in such form and manner and within such period as are specified in that notice.

15. Restrictions on disclosure of information

- (1) Except in the exercise of a function under this Ordinance or in carrying a provision of this Ordinance into effect, a person appointed under this Ordinance or who exercises or assists any other person in the exercise of a function under this Ordinance—
 - (a) shall preserve and aid in preserving secrecy with regard to any matter coming to his knowledge in the exercise of a function under this Ordinance or assisting any other person in the exercise of a function under this Ordinance;
 - (b) shall not communicate any such matter to any other person; and
 - (c) shall not suffer or permit any other person to have access to any record or other document which is in his possession or under his control by virtue of his—
 - (i) appointment under this Ordinance; or

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- (ii) exercising or assisting any other person in the exercise of a function under this Ordinance.
 - (2) Subsection (1) shall not apply to a disclosure by the Authority of information—
 - (a) in the form of a summary compiled from similar or related information provided by persons under any requirement under this Ordinance if the summary is so compiled as to prevent particulars relating to the business or identity, or the trading particulars, of any such person being ascertained from it;
 - (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings or investigation, whether under this Ordinance or otherwise, in Hong Kong; or
 - (c) in connection with any civil proceedings arising out of this Ordinance.
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PART VI

APPEALS TO APPEAL BOARD

16. Interpretation

In this Part, “appeal” (上訴) means any appeal under any provision of this Ordinance which specifies that an appeal against a decision or action taken by the Authority, specified or referred to in that provision, may be made to the appeal board.

17. Appeal board panel

- (1) The Secretary may appoint persons to be the members of an appeal board panel in accordance with the following numbers and categories—
 - (a) not less than 3 persons who represent the interests of consumers of gas;
 - (b) not less than 3 persons who are corporate members of the Hong Kong Institution of Engineers;
 - (c) not less than 3 persons from tertiary educational institutions;
 - (d) not less than 3 persons who represent the interests of persons who as a business import, manufacture or supply town gas or natural gas;
 - (e) not less than 3 persons who represent the interests of persons who as a business import, manufacture or supply liquefied petroleum gas;
 - (f) not less than 3 persons who represent the interests of persons who as a business carry out work referred to in section 8(2)(a)(iii) which relates to the supply of town gas or natural gas; and

- (g) not less than 3 persons who represent the interests of persons who as a business carry out work referred to in section 8(2)(a)(iii) which relates to the supply of liquefied petroleum gas.
- (2) A public officer is not eligible for appointment to the panel.
- (3) A member of the panel may resign at any time by notice in writing delivered to the Secretary and the Secretary may at any time and for any reason revoke the appointment of any person as a member of the panel.
- (4) An appointment under subsection (1) shall be notified in the Gazette.

18. Appeal board

- (1) The Secretary shall, not later than 30 days after an appeal is made, appoint an appeal board to hear the appeal.
- (2) The appeal board shall consist of—
 - (a) a public officer who does not work in the same department of the Government as the Authority; and
 - (b) one member from each category of the panel.
- (3) Subject to subsection (4), the members of the appeal board shall elect a chairman from among themselves.
- (4) No member of the appeal board shall be the chairman of the appeal board at any hearing of an appeal in respect of which such member has made a disclosure under section 19(2).
- (5) The quorum at any meeting of the appeal board shall be 6 members.

19. Determination of appeal

- (1) The appeal board shall conduct a hearing into the grounds for the Authority's decision or action to which the appeal before it relates.

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- (2) Where a member of the appeal board is in any way directly or indirectly interested in any appeal—
 - (a) he shall disclose the nature of his interest at a meeting of the appeal board;
 - (b) the disclosure shall be recorded in the minutes of the appeal board; and
 - (c) he shall not, without the permission of the chairman of the appeal board, take any part in any deliberation or determination of the appeal board in respect of that appeal.
 - (3) Where the chairman of an appeal board does not permit a member of the appeal board who has made a disclosure under subsection (2) to take any part in any deliberation or determination of the appeal board in respect of the appeal to which that disclosure relates, the member shall not be counted for the purpose of forming a quorum of the appeal board at any hearing of that appeal.
 - (4) For the purposes of subsection (1), the appeal board hearing an appeal shall have all the powers of the Authority in respect of the decision or action of the Authority against which the appeal is made, and shall determine the appeal by an order in writing—
 - (a) confirming or disallowing;
 - (b) varying in such manner as it thinks fit; or
 - (c) substituting its own decision for, such decision or action.
 - (5) The Authority shall do all such things as are necessary to give effect to an order.

20. Conduct of hearing

- (1) Subject to this Part, the procedure of any hearing shall be

determined by the appeal board.

- (2) In conducting a hearing, the appeal board shall not be bound by the rules relating to admission of evidence in courts of law.
- (3) A counsel, solicitor or legal officer may be present at any hearing to advise the chairman of the appeal board on any legal matter.

21. Summons

The appeal board may, in relation to a hearing, by notice served on a person, require—

- (a) the attendance of the person before the appeal board; or
- (b) the production to the appeal board of records or documents specified in the notice which are in the possession or control of that person.

22. Representation

- (1) The appellant at a hearing may be represented at the hearing by—
 - (a) a counsel or solicitor; or
 - (b) an agent.
- (2) The Authority may be represented at a hearing by a counsel, solicitor, agent or legal officer.
- (3) A counsel, solicitor, agent or legal officer appearing before the appeal board at a hearing shall have the same liabilities, protection and immunity as a counsel has in appearing for a party in proceedings before the District Court.

23. Evidence

- (1) A person appearing before the appeal board to give evidence at a hearing shall, where required by the appeal board, take

an oath.

- (2) The chairman of the appeal board may—
 - (a) administer an oath to a person appearing before the appeal board to give evidence at a hearing; and
 - (b) require a person to answer any question.
- (3) A person appearing before the appeal board to give evidence at a hearing shall have the same liabilities, protection and immunity as a witness has in proceedings before the District Court.

24. Effect of determination

Where the appeal board determines an appeal under section 19, the determination shall take effect on the date specified by the appeal board in its order.

25. Majority decision

The determination under section 19 by the appeal board of an appeal shall be that of the majority of the members of the appeal board present, except that in the case of an equality of votes, the chairman of the appeal board shall have a casting as well as a deliberative vote.

26. Notification to appellant

The Authority shall, as soon as practicable after an order has been made in respect of an appeal, serve a copy of that order on the person who made the appeal.

PART VII

MISCELLANEOUS

27. Offences

- (1) Any person who contravenes any direction specified in an improvement notice (including any such notice as modified on an appeal under section 13) commits an offence and is liable on conviction to a fine of \$25,000 and to imprisonment for 6 months and, in the case of a continuing offence, to a daily penalty of \$2,000.
- (1A) Any person who contravenes section 13AA(3)(a) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 6 months and, in the case of a continuing offence, to a daily penalty of \$2,000. *(Added 22 of 1996 s. 6)*
- (1B) Any person who contravenes section 13AA(3)(b) commits an offence and is liable on conviction to a fine at level 2. *(Added 22 of 1996 s. 6)*
- (2) Any person who, without reasonable excuse, contravenes any requirement specified in a notice under section 14 commits an offence and is liable on conviction to a fine of \$10,000 and, in the case of a continuing offence, to a daily penalty of \$1,000.
- (3) Any person who contravenes section 15(1) commits an offence and is liable on conviction to a fine of \$25,000 and to imprisonment for 6 months.
- (4) Any person who, without reasonable excuse, contravenes any requirement specified in a notice under section 21, or contravenes any requirement under section 23(2)(b), commits an offence and is liable on conviction to a fine of \$5,000 and to imprisonment for 3 months.

- (5) Any person who—
- (a) wilfully obstructs, resists or delays the Authority or an inspector in the exercise of his functions under this Ordinance;
 - (b) fails, without reasonable excuse, to comply with any lawful requirement of the Authority or an inspector under this Ordinance; or
 - (c) makes a statement which he knows to be false or recklessly makes a statement which is false where the statement is made—
 - (i) in purported compliance with a requirement under this Ordinance to furnish any information; or
 - (ii) for the purpose of obtaining the issue of a document under this Ordinance to himself or another person,
- commits an offence and is liable on conviction to a fine of \$25,000 and to imprisonment for 6 months.
- (6) For the purposes of—
- (a) subsection (5)(a), “inspector” (氣體安全督察) shall include any person assisting an inspector in the exercise of his functions under this Ordinance; and
 - (b) subsection (5)(b), “this Ordinance” (本條例) shall not include regulations made under section 8.

28. Prosecution of offences

- (1) Subject to this section, proceedings for offences against this Ordinance may be instituted in the name of the Authority, and may be commenced and conducted by a public officer appointed under section 13 of the Magistrates Ordinance (Cap. 227).

- (2) Nothing in this section shall be deemed to derogate from the powers of the Secretary for Justice in relation to the prosecution of offences. (*Amended L.N. 362 of 1997*)

29. Onus of proving limits of what is practicable, etc.

In any proceedings for an offence against this Ordinance consisting of a failure to comply with a requirement under this Ordinance to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, the onus is on the accused to prove that it was not practicable or not reasonably practicable to do more than was in fact done to comply with the requirement, or that he has used the best practicable means to comply with the requirement, or done the appropriate thing to comply with the requirement.

30. Liability of registered person for offences committed by his employees and agents

- (1) Subject to this section, where it is proved to the satisfaction of a magistrate or court that an offence against this Ordinance has been committed by any employee or agent of any registered person, the registered person shall, unless—
- (a) the offence was committed without his knowledge or consent; and
 - (b) he had exercised all due diligence to prevent the commission of the offence,
- also be held to be liable for such offence and to the penalty provided therefor.
- (2) In any proceedings against a registered person in relation to which subsection (1) is alleged to apply, it shall, in relation to the offence against this Ordinance concerned committed by the employee or agent concerned of the registered person, be presumed, in the absence of evidence to the contrary, that—

- (a) the offence was committed with the knowledge and consent of that registered person; and
 - (b) the registered person did not exercise all due diligence to prevent the commission of the offence.
- (3) No registered person shall be sentenced to imprisonment (except in default of payment of a fine) by virtue of the application of subsection (1) to him.
- (4) Nothing in this section shall be deemed to exempt any employee or agent of a registered person from the penalties provided for an offence committed by such employee or agent.

31. Proof of certain matters

- (1) For the purposes of any proceedings under this Ordinance, a document purporting to be a copy of a specified document certified by or on behalf of the Authority to be a true copy shall be received in evidence in those proceedings upon its production without further proof and, until the contrary is proved, it shall be presumed that—
- (a) the document—
 - (i) is a true copy of the specified document; and
 - (ii) was certified by or on behalf of the Authority; and
 - (b) the specified document was issued to or served on the person stated therein.
- (2) For the purposes of this section, “specified document” (指明文件) means any certificate, permit or other notice issued to or served on a person by or on behalf of the Authority under this Ordinance, and includes any conditions specified in such certificate, permit or notice.

32. Forfeiture

A magistrate or court may, on application by the Government, order to be forfeited any article or substance which has been seized under this Ordinance and in respect of which an offence against this Ordinance has been committed, irrespective of whether any person has been charged with such offence.

33. Limitation of time for proceedings in respect of offences

Proceedings for the prosecution of an offence against this Ordinance shall be instituted within—

- (a) 6 months from the discovery of such offence by the Authority; or
- (b) 6 years after the commission of such offence,

whichever is the earlier.

34. Power of Authority to specify forms

The Authority may specify the form of—

- (a) any application, certificate, permit or notice required under this Ordinance to be in the approved form; and
- (b) any other record or document required for the purposes of this Ordinance.

35. Service of notices

A notice required to be served under this Ordinance on a person shall be deemed to be so served if—

- (a) in the case of an individual, it is—
 - (i) delivered to him;
 - (ii) left at his last known address for service; or
 - (iii) sent by post to him at such address;
- (b) in the case of a company, it is—
 - (i) given to or served on an officer of the company;

- (ii) left at the company's last known address for service; or
 - (iii) sent by post to the company at such address; and
- (c) in the case of a partnership, it is given to or served on any partner.

36. Protection of public officers

- (1) A public officer is not personally liable in respect of any act or omission of his if it was done or made by him in the honest belief that it was required or authorized in the exercise of any function under this Ordinance.
- (2) The protection conferred on public officers by subsection (1) in respect of any act or omission shall not in any way affect any liability of the Government in tort for that act or omission. (*Amended 61 of 2000 s. 3*)
- (3) For the purposes of this section, "public officer" (公職人員) includes a person assisting a public officer in the exercise of any function under this Ordinance.

37. Saving for other enactments

This Ordinance shall be in addition to, and shall not derogate from, the provisions of any other enactment relating to safety in respect of the importation, manufacture, storage, transport, supply or use of gas.

38. (*Omitted*)

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Schedule

(Omitted)