



Electricity and Gas Complaints Commissioner Scheme

Amendments to the Scheme document

Bottled LPG, acting Chair and other minor changes

Consultation document

SUBMISSIONS DUE Friday 29 November 2013

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1. Background

The EGCC Board is seeking submissions on its proposals to amend the Scheme document to:

- Allow the Commissioner to consider complaints about bottled LPG
- Allow the Board to appoint an acting Chair when the Chair is unavailable
- Make other minor changes to clarify certain issues

This consultation document sets out the timetable, summarises the proposed changes, and provides information on the submission process.

2. Process and proposed timetable

Table 1 outlines the process and timetable for making the changes to the Scheme.

Table 1 – Outline process and timetable

Week	Activity
28 October – 1 November	Board considers and approves consultation document and process for appointing working group (31 October)
11 – 15 November	Consultation (3 weeks)
25 – 29 November	Consultation closes (29 November)

16 – 20 December	Working group meets, considers submissions, recommends to Board (date TBC)
13 – 17 January	Chair (under delegated authority) or Board (by circular resolution) votes on proposed changes (13/14 January)
13 – 17 January	Notice of proposed changes given to Minister of Consumer Affairs and members (15 January)
20 – 24 January	Board meeting
24 – 28 February	Time for Minister to object expires 28 February (45 days)
	Scheme document amended (1 March)

The Board's legal advisors, DLA Phillips Fox, have drafted the required amendments to the Scheme document.

The Board has agreed the proposed amendments meet the requirements of clause E.63 of the Scheme document.

Once the Board approves the final version of the amended Scheme document, the Board will notify the Minister of the proposed changes in accordance with E.65 and E.66 of the Scheme document.

The Commissioner's office will make the amended Scheme document available on its website.

3. Working Group

The Board will appoint a working group of stakeholder representatives to review submissions received and make recommendations to the Board. The Board will seek nominations to the working group separately from this consultation document.

4. Closing date for submissions

The closing time and date for submissions is **5 pm on Friday 29 November**.

Please note late submissions are unlikely to be considered.

5. Making submissions

Please send submissions in Microsoft Word format to:

Email submissions@egcomplaints.co.nz.

Post PO Box 5875, Lambton Quay, Wellington 6145

In making submissions, please use the template in appendix 1. Submitters should indicate any documents attached in support of the submission in a covering letter.

A word version of the form (with expandable boxes) called the *Preferred Form for Submissions* is available on the current consultation page of the website.

The Board may make submissions available on the Commissioner's website. If submitters provide any information on a confidential basis, please clearly show this in a cover letter.

If you have any **questions** during the consultation process, please contact James Blake-Palmer either by e-mail j.blake-palmer@egcomplaints.co.nz or phone 04 9144 537.

All submissions will be acknowledged. If you do not receive an acknowledgement within two working days, please contact Christy Waller 04 9144 542 or c.waller@egcomplaints.co.nz

6. Proposed changes

A full copy of the [proposed amended Scheme document](#) is available on the current consultation page of www.egcomplaints.co.nz

6.1. Remove exclusion for complaints about bottled LPG

Table 2 summarises the proposed changes to the Scheme to remove the exclusion for complaints about bottled LPG.

Table 2 – summary of proposed changes to remove the exclusion for complaints about bottled LPG

Clause	Proposed amendment
Definitions	Add definition: <i>Bottled LPG: Liquefied petroleum gas in bottles</i>
	Amend definition of gas to remove reference to gas supplied through a distribution system: <i>Natural gas, ... or liquefied petroleum gas, that is supplied to a Consumer but excludes</i> <i>(a) LPG for transportation purposes; and</i> <i>(b) CNG for transportation purposes</i>
	Amend definition of gas registry to read: <i>The national database of reticulated gas ICPs</i>
Commissioner's Terms of Reference	Amend clause B.6.4 to provide a starting date for consideration of bottled LPG complaints: <i>B.6.4 The act or failure to act that gives rise to the Complaint first occurred:</i> ...

	<p>(b) <i>In the case of a Gas-related or a combined electricity and Gas-related Complaint, other than a Bottled LPG related Complaint, on or after 1 April 2005; or</i></p> <p>...</p> <p>(d) <i>In the case of a Bottled LPG Complaint, on or after 1 March 2014</i></p>
Levies	<p>Amend clause D.9 to cover levies for Bottled LPG Complaints:</p> <p>D.9.2 <i>Of the percentage to be raised from or distributed to Retailer Joint Class Scheme Members, each Retailer Scheme Member's proportion will be determined by its market share of the retail sector based on energised Consumer ICPs and Bottled LPG Consumers mapped to each Retailer, compared with the total number of energised Consumer ICPs and Bottled LPG Consumers mapped to all Retailer Scheme Members.</i></p> <p>D.9.5 <i>Numbers of energised Consumer ICPs and Bottled LPG Consumers will be calculated by the Board based on information available to the Board. Scheme Members authorise the Board or any person authorised by the Board to obtain the relevant information from the Electricity Registry or Gas Registry, or from Scheme Members' records, for this purpose. Scheme Members will provide all information sought within 5 working days of such request.</i></p>
Scheme Member Participation	<p>Amend clause F.15 to cover allocations for voting:</p> <p>F.15.1 <i>Each Retailer Scheme Member has one vote for each 0.01% of its market share of all energised Consumer ICPs and Bottled LPG Consumers mapped to each Retailer, compared with the total number of energised Consumer ICPs and Bottled LPG Consumers mapped to all Retailer Scheme Members.</i></p>
	<p>Amend clause F.17 to cover allocations for voting:</p> <p>F.17 <i>The number of energised Consumer ICPs and Bottled LPG Consumers must be calculated at the date the notice of a general meeting of the Scheme Members is given under clause F.9 based on information available to the Board. Each Scheme Member authorises the Board or any person authorised by the Board to access the Electricity Registry and the Gas Registry and Scheme</i></p>

	<i>Members' records for this purpose. Scheme Members will provide all information sought within 5 working days of such request.</i>
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6.2. Board to appoint an acting Chair when the Chair is unavailable

The Board proposes to amend the Scheme to allow the Board to appoint one of the consumer representatives as an acting Chair when the Chair is unavailable. This is to allow uninterrupted governance of the Scheme, and to mitigate the risk from the Chair being unavailable.

The Board of the Scheme is comprised of two member representatives, two persons appointed by the Minister of Consumer Affairs (consumer representatives), and an independent Chair. The required quorum for Board meetings is four Board members, including the Chair.¹ There is not provision for the appointment of an acting Chair, should the Chair be unavailable.

The recommended change is to allow four members of the Board, present at a meeting for which the Chair is unavailable, to appoint one of the consumer representatives as the Acting chair. The reason the Acting Chair is limited to one of the two consumer representatives is to ensure the governance of the Scheme remains independent of the industry.²

The reworded clause says:

Clause	Proposed amendment
Board Meetings	E.36.Board Members may meet together and regulate their meetings as they think necessary, subject to each meeting having a quorum of four. If the Board chair is not present within 15 minutes of the scheduled meeting start time, one of the Board Members appointed by the Minister shall be the Board chair for that meeting.

6.3. Other minor changes to clarify certain clauses

The Board proposes other minor changes to the Scheme to clarify certain clauses. Table 3 summarises these proposed changes.

¹ E.36: Board Members may meet together and regulate their meetings as they think necessary, subject to each meeting having a quorum consisting of at least the Board chair, one Board Member appointed by the Minister, one Board Member elected by Scheme Members and one other Board Member.

² The Chair of the Board has both a deliberative and a casting vote – see clause E.39

Table 3 – Summary of other minor changes

Clause	Proposed amendment
Principles	<p>Amend clause C.2.1 to make it consistent with the definition of Complaint:</p> <p>C.2. In handling Complaints, Scheme Members must:</p> <p>C.2.1 treat any expression of dissatisfaction or concern related to Services, or the complaints handling process itself, where a response or resolution is implicitly or explicitly expected, as a Complaint.</p>
Promotion of Scheme	<p>Amend clause C.26 to make the requirement to promote the Scheme consistent across all members by removing reference to <i>who directly invoice Consumers or who contract with Consumers</i></p>
Duties of the Board	<p>Amend clause E.16.21(c) to align the Board's breach reporting obligations for the annual report to the Board's breach reporting requirement for the Minister, ie only <i>material or persistent breaches</i></p>



Richard Janes
Independent Chair
Electricity and Gas Complaints Commissioner Scheme
 7 November 2013

Appendix 1 Preferred form for submissions

Questions for submitters	Yes/No	Comment
1. Do you agree with the Board's proposal that the Commissioner have jurisdiction to consider complaints about bottled LPG?		
2. Do you agree with the Board's proposal that would allow the Board to appoint a consumer representative as acting Chair when the Chair is unavailable?		
3. Do you agree with the other minor changes proposed?		
4. Do you have any other comments or concerns about the proposed changes you would like the Board to consider?		