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The Government response to the ICL Inquiry Report



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Explosion at Grovepark Mills, Maryhill, Glasgow
11 May 2004

Presented to Parliament
by the Secretary of State for Work and Pensions
by Command of Her Majesty

March 2010

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Foreword

On May 11, 2004, nine people were killed and dozens injured in the explosion at the ICL Plastics factory in Glasgow. The emergency services played a tremendous role in the immediate aftermath of that tragedy, but the work to ensure that we prevent a repeat of such an incident continues.

Lord Gill's Inquiry Report into the underlying causes of the explosion made a number of well considered recommendations and I would like to take this opportunity to thank him once again for his insights and endeavour. In publishing the Government's response to Lord Gill's report, we mark yet another milestone in our bid to keep improving the safety and well-being of workers throughout the country.

The work that has gone into this publication has been exhaustive and it is important to recognise that it builds on the input and expertise provided by the many parties who have been involved in shaping its contents, including industry figures, trade unions, professional bodies, trade associations and, of course, the families of the victims.

One of the most important tributes we can make to those caught up in the explosion at ICL Plastics – and to their families and friends – is to make sure that we are all working together to prevent such terrible and avoidable events from happening in future.

Indeed, even in advance of this response, work is already underway to replace buried metallic pipework and take forward other safety enhancements, so the action we are taking is already making an impact.

However, there is more to do and this report will provide the impetus for further technical progress and advances in regulation that I believe will be welcomed across the board and do even more to protect workers' lives across the UK.



Yvette Cooper, MP
Secretary of State for Work and Pensions

THE GOVERNMENT RESPONSE TO THE ICL INQUIRY REPORT

Executive Summary

Lord Gill presented to the Government the findings of his Inquiry into the ICL Plastics Ltd explosion in July 2009, including recommendations for improving the safe use of liquified petroleum gas (LPG) at small bulk installations.

In providing this response, the Government would like to thank Lord Gill for his work and his considered recommendations.

Whilst the primary responsibility for the failings at the ICL Plastics Ltd site rested with the site user, Lord Gill's Inquiry also identified failings in the Health and Safety Executive's (HSE) inspection regime in the 1980s and 90s which needed to be addressed. The Chair and the Chief Executive of the HSE have both gone on record to acknowledge and apologise for these failings, including during the Inquiry itself. HSE has learned the lessons from this tragic and avoidable event and action is already being taken in many of the areas covered by the recommendations.

The key factor leading to the explosion at ICL Plastics Ltd was the corrosion of buried metallic service pipework. It is the Government view, informed by HSE technical expertise, that replacement with polyethylene pipework will substantially reduce the risk at these installations. Therefore, HSE has been working for some time with the LPG supply industry to develop a risk-based pipework replacement programme. Work on this programme is already well underway and replacement action in hand by the supply industry. This is a substantial programme of work covering up to 40,000 premises. A timetable has been set for replacement at all higher-risk premises by the end of 2013 and in all industrial and commercial premises by the end of 2015.

A parallel inspection campaign is being undertaken by HSE and local authority inspectors to ensure dutyholders comply with established safety standards. Where standards are not being met enforcement action will be taken to ensure workers and the public are properly protected. In addition, HSE has provided advice to users about inspecting their own buildings for at-risk pipework, advice which is being reinforced by visiting inspectors.

Lord Gill's proposals relating to a new safety regime were subject to a formal consultation process with stakeholders. Many of the specific recommendations were supported by stakeholders who expressed the view that the existing legislative framework allows for Lord Gill's objectives to be achieved. The Government agrees with this view but recognises the need to ensure that dutyholders are aware of how their legal obligations should be applied to the use of LPG and that they are compliant with them.

HSE, together with the supply industry, has already issued clear guidance to all industrial and commercial users on the inspection, maintenance and replacement of buried metallic pipework. Further information about dutyholders' responsibilities will be published on line by the end of March 2010.

Since the explosion at ICL Plastics Ltd the Government has also introduced tougher sanctions for dutyholders who fail to comply with their statutory obligations through the Corporate Manslaughter and Corporate Homicide Act 2007 and the Health and Safety (Offences) Act 2008.

The Government has asked HSE to engage further with stakeholders on implementing, within the existing legal framework, proposals made by Lord Gill that received their support, such as an installation record, some form of register of suppliers of LPG and the production of an asset register by suppliers.

However, there was a lack of clear stakeholder support for independent verification of the safety of LPG installations. It is the Government view that competent installation, assessment and maintenance of an LPG installation is already required through the responsibilities placed on owners and operators within the existing legal framework. We believe that it is possible to achieve effectively and quickly the outcomes desired by the proposed verification by ensuring that this current framework is thoroughly applied as outlined above.

The Government also accepts the recommendations in relation to the continuing development of the safety regime. HSE has already taken action to examine the long-term stability of polyethylene pipes through reviewing knowledge and research being generated for similar pipes being used in natural gas pipeline replacement. This indicates that polyethylene pipes have long-term stability and HSE will identify any additional research needed to ensure the results can be applied to LPG. We also accept Lord Gill's proposals in relation to knowledge and information sharing, between regulators, suppliers and users and believe this is critical in delivering the continuing safety of small bulk LPG installations. The Government notes that communication between these parties has already significantly increased.

Introduction

1. In May 2004 a large explosion at the ICL Plastics Ltd factory in Glasgow resulted in the deaths of nine people and injuries, some critical, to 33 more. The explosion was caused by a leak, into the basement of the factory, of liquefied petroleum gas (LPG) from a corroded underground metallic pipe. When the leaked LPG ignited, the explosion caused the four-storey factory to collapse.

2. ICL Plastics Ltd used LPG as a fuel source in some of its processes. However, since the LPG pipe was first installed, the factory and its yard had been subject to a number of structural modifications. These, together with the poor original installation and lack of pipework maintenance, contributed ultimately to the explosion.

3. Two companies (ICL Tech Limited and ICL Plastics Ltd) pleaded guilty to breaches of the Health and Safety at Work etc Act 1974 and were fined £200 000 each.

4. A joint public inquiry was held, under the Inquiries Act 2005, during 2008 into the circumstances leading to the disaster. It was established by the Secretary of State for Work and Pensions and the Lord Advocate and was conducted by Lord Gill, Scotland's second most senior judge. The Terms of Reference for the inquiry were:

- To inquire into the circumstances leading up to the incident on 11 May 2004 at the premises occupied by the ICL group of companies, Grovepark Mills, Maryhill, Glasgow.
- To consider the safety and related issues arising from such an inquiry, including the regulation of the activities at Grovepark Mills.
- To make recommendations in the light of the lessons identified from the causation and circumstances leading up to the incident.
- To report as soon as practicable.

5. The Inquiry Report¹ was published on 16 July 2009 and contained a four-phase action plan proposed by Lord Gill. Some of the recommended actions were already being taken forward through joint Government and industry work but for those not being addressed, HSE conducted a preliminary public consultation², which closed on 19 November 2009. This response addresses each of the four phases of Lord Gill's action plan, reflecting the work already underway and taking into account the views of stakeholders expressed through the consultation exercise. The text in italics describing each phase is taken from the Executive Summary of Lord Gill's report.

¹ The Inquiry report is available at http://www.theinquiry.org/Documents/Documents/HC838ICL_Inquiry_Report.pdf

² <http://www.hse.gov.uk/lpgconsultation/index.htm>

Phase 1 – The Urgent Programme of Pipework Replacement and Alterations to Buildings

The first and most urgent priority is to identify those sites where there is underground metallic pipework between tank and appliance and thereafter to replace all such pipework, on a systematic and prioritised basis, with polyethylene. Along with this, there should be an early inspection of all buildings that have an LPG supply in order to identify any hazardous features that arise from the design and layout of the building or are inherent in the layout or the condition of the service and installation pipework.

Underground service pipework replacement

6. The Government recognises that corrosion of the underground metallic service pipe supplying the factory was the key factor that contributed to the explosion at ICL Plastics Ltd and agrees with Lord Gill that there should be a programme of replacement of such pipework in industrial and commercial premises. It is the Government view, informed by HSE's technical expertise, that replacement with polyethylene pipework will substantially reduce the risk at small bulk LPG installations.

7. HSE had been working with the LPG supply industry through their trade organisation UKLPG to develop a prioritised replacement programme prior to the publication of Lord Gill's report. A high-level plan for pipework replacement was agreed with UKLPG in June 2009. This is a substantial programme of work and commitment of resource covering up to 40,000 industrial and commercial premises. The aim is to replace the underground metallic service pipework in all industrial/commercial and domestic higher risk premises by the end of 2013 and the remainder in industrial and commercial premises by 2015.

8. As recommended by Lord Gill, this programme is risk based using information from a survey of LPG users and an adaptation of the model used for prioritisation under the natural gas pipeline replacement programme. That programme is designed to replace natural gas pipelines over a 30-year period. Replacement under the LPG service pipework replacement programme extends to the substitution of steel risers, as recommended by Lord Gill. This is the standard for replacement as described in UKLPG Code of Practice 22. Pipework replacement under this programme began at the end of October 2009, although some supply companies had already started to work with their customers before then to replace pipework.

9. In parallel with the development of the replacement programme, an HSE/ local authority (LA) inspection campaign is underway. This will help to maintain the momentum already established through the replacement programme, ensure that LPG users are aware of the need to respond and to replace pipework where appropriate and verify the risk level derived from the survey. Inspectors will ensure dutyholders comply with established safety standards. Where standards are not being met, enforcement action will be taken to ensure workers and the public are properly protected.

10. Lord Gill rightly draws attention to the fact that whilst the pipework replacement programme is on going, operators of LPG installations should make arrangements to

inspect and maintain their buried metallic pipework to monitor its condition pending replacement. The Government agrees that this is important and HSE has worked with the supply industry to develop an information leaflet³ for commercial and industrial users of LPG on inspecting and maintaining such pipework. An original version was distributed by the LPG supply companies to all commercial and industrial customers in 2006. A revised version was produced during 2009 and made available via the HSE website and in hard copy format. Awareness of the issue has also been raised with industrial and commercial users through the survey that has been conducted by LPG suppliers in developing the replacement programme and UKLPG have an information sheet available on their website⁴ on inspection and maintenance of pipework.

11. Although not within the remit of Lord Gill's inquiry, the Government has also been addressing the issue of domestic users of LPG with underground metallic pipework. A substantial piece of research has been undertaken to provide greater understanding of the key factors that contribute to the risk of LPG explosions in domestic premises. This research is now complete, has been externally peer reviewed and has led to a greater understanding of the risk factors in domestic properties. It has provided reassurance that for most domestic properties the risk of an explosion resulting in serious consequences for the people living there is very low. Straightforward advice has been developed to help householders identify whether their property is among the small minority that might be at a level of risk making further risk reduction action worth considering. HSE will work with the supply industry to raise awareness amongst domestic users of this advice. Also, HSE has engaged experts in corrosion to provide independent advice on the practical lifetime of buried metallic pipework under different environmental conditions. Their report will help to provide further advice to domestic users on overall timescales by which they may wish to consider replacing their own pipework.

Installation pipework in buildings

12. The Government accepts Lord Gill's recommendation that users should ensure that their premises do not have any features that could contribute to the risk of an explosive atmosphere developing, for example through poor sleeving of entry pipes into buildings or the passage of installation pipework through unventilated voids. As recommended by Lord Gill, in parallel with the replacement programme, steps are being taken to ensure that site owners are aware of these issues.

13. The HSE leaflet on inspection and maintenance of buried metallic pipework that was distributed to all industrial and commercial customers advised that those operating installations should consider spaces within or under buildings where gas could accumulate. This issue will also be addressed and the messages reinforced during the HSE/LA inspection campaign, having been covered in the training of inspectors and being an element of the topic pack they receive to provide advice and support for their inspection activities. HSE has been working with UKLPG to develop a web-based source that will

³ <http://www.hse.gov.uk/pubns/indg428.pdf>

⁴ http://www.uklpg.org/lpg_property/UIS015.pdf

be available in the first quarter of 2010 aimed at LPG users to provide information on what they need to consider for meeting their legal obligations for their installation. This includes the need to consider the adequate sleeving of entry pipes into buildings and the passage of pipework through unventilated voids.

14. The Government agrees with Lord Gill that it is important to ensure that pipework should not pass through unventilated voids in new installations and that entry through an external wall should be sleeved and the sleeve sealed to the structure.

15. For those premises in scope, the Gas Safety (Installation and Use) Regulations (GS(IU)R) 1998 under Regulation 19(6) prohibit installation pipework passing through unventilated voids unless it is contained in a ventilated duct. Existing UKLPG (Code of Practice 22) and Institution of Gas Engineers and Managers (IGEM) (IG/TD/4) guidance addresses the issue of entry pipes and sleeving standards. HSE will also consider the merits of issuing additional guidance in partnership with UKLPG and IGEM.

16. Additionally, the Department of Communities and Local Government (CLG) has recently consulted on a revision of Approved Document J (Combustion appliances and fuel storage systems) of the Building Regulations, part 5 (ADJ 5) of which covers the use of LPG as a fuel. It is proposed via the consultation that the revised document could highlight the need to consider LPG pipework including appropriate sleeving of entry points and the need to ensure that installation pipework does not pass through unventilated voids, referencing the existing legislative provisions and available guidance and standards. The Building Regulations only apply in England and Wales. HSE has had discussions with the Building Standards Division of the Scottish Government regarding their work with CLG on the revision of ADJ5. Clause 4.11.2 of the Scottish Building Standards Technical Handbooks currently advises that pipework connecting an LPG tank to a space/water heating or cooking appliance should be designed in accordance with the requirements set out in the LPG Code of Practice 1: "Bulk LPG Storage at Fixed Installations".

17. In relation to existing installations, the Government agrees that re-routing of existing pipework where feasible is important and this is being done as part of the replacement programme. This will include fitting of an Emergency Control Valve (this is a requirement under Regulation 9(1) of GS(IU)R for those installations within scope) although it may not be appropriate to fit the common form of Emergency Control Valve at some industrial sites.

Phase 2 – Creating a New Safety Regime

This phase should run concurrently with the pipework replacement programme and is to establish a permanent and uniform safety regime governing the installation, maintenance, monitoring and replacement of all LPG systems, including the establishment of a uniform rule for the demarcation of the responsibility for any installation between supplier and user. This should proceed on the principle of life-cycle integrity, that is to say a principle that the integrity of the system for safe operation should be understood and safeguarded at every stage in the life of the system from initial design to ultimate decommissioning.

18. This phase of Lord Gill's proposal formed the basis for HSE's preliminary consultation. A range of stakeholders responded to the consultation including business, LPG suppliers, unions and other interested parties. There was strong support for some specific aspects of the proposed safety regime but views were more mixed and no clear consensus emerged on other aspects. A key theme that emerged from stakeholders was the view that the existing legislative framework already allows for Lord Gill's objectives to be achieved providing that it is supported by improved guidance, compliance and enforcement to make it work more effectively. The Government agrees with this view but recognises the need to ensure that dutyholders are aware of how their legal duties should be applied to the use of LPG and that they are compliant with them. We also note that the existing regime is equally applicable to other forms of liquid or gas fuel and would expect the same level of compliance in users of these as in those using LPG.

Installation record for users

19. Lord Gill recommended that every LPG installation should have its own comprehensive installation record, the preparation, maintenance and safe custody of which should be the direct responsibility of the user and of a named person. This proposal was supported by 84% of stakeholders responding through the consultation. The Government recognises the value that such a record may have in helping to focus the attention of the operator onto the installation and its safe operation.

20. Much of what could be contained within such a record can be based on obligations that are already required of those operating LPG installations under existing legislation, in particular the Health and Safety at Work etc Act 1974 and its subsidiary legislation. For example, the Management of Health and Safety at Work Regulations (MHSWR) 1999 require an employer to make suitable and sufficient assessments of the risk that their installation may present and identify suitable preventative measures with the help of competent persons if required. The Provision and Use of Work Equipment Regulations (PUWER) 1998 apply to the tank and pipework of the installation and require an inspection regime by a competent person to ensure health and safety conditions are maintained and that any deterioration can be detected and remedied in good time. There are also requirements under the Dangerous Substances and Explosive Atmosphere Regulations (DSEAR) 2002. It is the Government's view that dutyholders meeting their legal obligations will already be collecting much of the information required for an installation record. Furthermore, such a record would provide evidence of how site operators are compliant with their legal obligations. Therefore, in line with Lord Gill's proposal, the Government has asked HSE to consult further with stakeholders on the content and development of guidance for the production of installation records.

21. Related to the installation record, Lord Gill also recommended that LPG suppliers should be obliged to provide the user with details of its asset register, critical safety features, examination, inspections and risk assessments for its equipment on the user's site. The Government agrees that such formal records can provide the user with important safety information relating to the site. It can also contribute to increased communication between the two parties. Stakeholders (93%) supported this

recommendation through the HSE consultation, recognising that much of what would be required is already produced, for example in relation to meeting duties under the Pressure Systems Safety Regulations (PSSR) 2000. The Government therefore accepts this recommendation and has asked HSE to engage further with stakeholders on the details of implementation. This work will also contribute to increasing the effective sharing of knowledge between supplier and user as recommended by Lord Gill as part of Phase 4 of his proposals.

Verification scheme for users

22. In addition to the installation record, Lord Gill proposed that a formal verification scheme should be established with periodic assessment of every installation by an independent approved competent person and that it would be unlawful for the user to use the installation or obtain any further supply of LPG without a valid verification certificate issued following satisfactory assessment. It would also be unlawful to supply to an installation that does not have a valid verification certificate. Stakeholders were more mixed in their response to this part of the proposed scheme with 34% in support, 34% opposed and the rest not expressing a clear view.

23. As already outlined, it is the Government view that existing legislation already requires operators of LPG installations to assess, inspect, monitor and take necessary remedial action regarding their installation. Under DSEAR risk assessments are required for the supply and storage of LPG and to eliminate or reduce the risk, so far as is reasonably practicable, from its storage, transport and use on site. Risk assessments conducted under DSEAR should not be carried out in isolation from that required by the Management of Health and Safety at Work Regulations (MHSWR) 1999. MHSWR require that the employer appoint one or more competent persons to provide assistance to help comply with the law, as required, if the relevant competence is not already available to them. Inspection and maintenance of the storage tank is subject to PSSR and these require that a written system of examination is required to be drawn up and monitored by competent persons. Under PUWER, inspection by a competent person of the installation, including pipework, and the keeping of a record of the latest inspection, is required. In addition, independent inspection of the installation will be conducted by regulatory authorities. Thus it is the Government view that inspection and maintenance by competent persons is already a requirement under the existing legislative framework. Since the explosion at ICL Plastics Ltd, the Government has also introduced tougher sanctions for dutyholders who fail to comply with their legal obligations through the Corporate Manslaughter and Corporate Homicide Act 2007 and the Health and Safety (Offences) Act 2008.

24. The Government recognises that compliance by dutyholders is vital for this system to operate effectively. Enforcement by the regulatory authorities of existing provisions provides, in the Government view, the necessary oversight to assure that installations are being operated safely. Proportionate sanctions to ensure compliance are available to enforcement authorities including, if required in the case of serious concern, the prohibition of its operation until the concern is satisfactorily addressed.

25. Given the existing legal and enforcement provisions and available sanctions, the Government believes that there is already in place the necessary regulatory framework to ensure the safe operation of small bulk LPG installations. We believe that it is possible to achieve effectively the outcomes desired by Lord Gill's proposed verification scheme by ensuring that the current existing framework is thoroughly applied. This will be achieved rapidly through increasing awareness in users of their legal obligations and providing guidance on how these can be met, supported by appropriate enforcement action when required. We do not, therefore, believe that there is any added benefit in instituting a formal verification scheme or to introducing further legislation through which to support it.

Demarcation of responsibilities of suppliers and users

26. Lord Gill recommended that a uniform rule should be established for the demarcation of the responsibility for any installation between supplier and user, suggesting that this could be at the first-stage regulator. The Government recognises that demarcation of ownership of parts of an LPG installation is important to ensure that suppliers and operators understand where their responsibilities lie. Thus we agree with the principle that every supply contract should be clear on where supplier liability ends and installation operator responsibility starts. Clearly a uniform demarcation point identified in all contracts would help to maintain clarity particularly when, for example, there is a change in suppliers. Currently this is not common practice and so the Government has asked HSE to discuss further with suppliers the development of a uniform demarcation point.

Registration of LPG suppliers

27. Lord Gill recommended that suppliers of LPG should only be able to supply if they were members of an accredited registration scheme. The proposal for an accredited registration scheme was supported by 70% of stakeholders responding to this aspect of the consultation. The Government accepts this recommendation in principal and has asked HSE to consult further with stakeholders on how such a scheme could be implemented, looking at various options from, for example, a formal accreditation scheme operated by a third party, through to a charter of standards to which suppliers would sign up to demonstrate their commitment to the safe operation of small bulk LPG installations and to helping their users meet their obligations.

Independent audit of workplace risk assessments

28. Lord Gill concluded that "compliance with the risk assessment provisions of MHSWR and DSEAR give only limited assurance of the safety of an installation. It is possible for what may look like a full risk assessment to miss a significant risk". The Work and Pensions Select Committee also expressed concern that many small and medium-sized firms find risk assessment difficult, and that the risk assessments they do are not necessarily leading them to address real risks effectively⁵.

⁵ Work & Pensions Committee report; The work of the Health and Safety Executive in regulating workplace health and safety; July 2008

29. Lord Gill recommended that Ministers should consider whether the existing regulations for risk assessments could be made more effective, perhaps by the addition of some form of independent audit.

30. HSE consulted stakeholders on this proposal both in relation to LPG specifically and workplace risk assessments more generally. Stakeholders were strongly opposed (78%) to the concept of the introduction of such independent audits for all risk assessments. A significant majority (62%) were also opposed to such measures for LPG only.

31. The current requirement for risk assessment is in MHSWR, but other regulations, such as DSEAR, require that risk assessments should be carried out for specific hazards. MHSWR also requires that employers have arrangements for the effective planning, organisation, control, monitoring and review of those control measures. MHSWR implements the EU Directive; known as the Framework Directive 89/391/EEC, which does not require independent auditing.

32. The risk assessment is the starting point for most health and safety legislation, as it requires the employer (or other dutyholder) to recognise that a hazard arises from their work processes, to decide what control measures will be required and to keep a record of the significant findings of that assessment. Some employers will already use third parties to assist them to do their risk assessments.

33. Whereas some stakeholders agreed that independent auditing would increase the likelihood that risk assessments are suitable and sufficient, the majority of stakeholders expressed concern that:

- It would increase burdens on business with little perceived benefit;
- it would serve to fundamentally undermine the primary responsibility of dutyholders to address risks that arise from their work activities and thereby reduce their awareness of the importance of managing health and safety risks;
- involving a third party would potentially obscure liability in the event of an accident/incident; and
- on a practical level, the availability of and independence of competent auditors would be insufficient to meet demand.

34. Introducing an auditing system would necessarily involve more bureaucracy and expense. Provisional estimates, based on assumptions about the practical implementation of such a scheme, suggest the cost to industry would be significant and in the order of hundreds of millions of pounds.

35. The issue of the availability of suitable and competent independent auditors is also a potential obstacle to the proposed change. HSE is working with the health and safety professional bodies to look at the feasibility of establishing an accreditation system for health and safety professionals. The aim of this work is that users of external services could be confident that their advisers were competent and have a means of addressing any concerns. This work is in its first stages, but an early finding has been

that organisations use professional health and safety advice to assist them at many stages of the risk control process, of which risk assessment is just one part. Introducing a mandatory audit of risk assessment could risk too much of this limited resource being expended on just one aspect of risk control.

36. HSE's current work is focussed on assisting organisations to comply with the existing requirements for suitable and sufficient risk assessments. To this end HSE launched a web-based risk assessment template, aimed at small and medium-sized enterprises (SMEs) in low risk environments, to guide employers on completing their own general workplace assessments. The template combines both the risk assessment and the health and safety policy statement into one document. It is complemented by a suite of over 30 different example risk assessments for a range of business-types that have been specifically designed to show a low-risk SME what a 'suitable' record may look like.

37. For those employers whose work activities involve greater risks, HSE provides guidance that is sector-targeted and addresses specific risks. HSE has also started work to refresh its offer of guidance on managing for health and safety, including addressing the importance of both avoiding catastrophe and addressing (conventional) health & safety – because although they arise from a common set of principles they do require different application of those principles.

38. Therefore, although the Government recognises Lord Gill's concern that risk assessments must cover all significant risks, it does not consider that the case has been made for the introduction of mandatory independent audits of all workplace risk assessments. We also believe that the measures the Government proposes to take, as outlined in this response, in relation to LPG installations mean that the need for specific risk assessments for those installations to be independently audited is also not required.

Phase 3 – The Continuing Development of the Safety Regime

There should be a continuing and planned development of the safety regime, particularly in relation to the use of polyethylene pipes.

39. The Government accepts this recommendation. The replacement of buried metallic service pipework will have a substantial impact on the risk at LPG installations. However, the Government agrees with Lord Gill that we must have sufficient knowledge about the replacement material to be confident that a similar situation will not arise again and that we know if and what further action may be required in the future.

40. The Government is aware that the natural gas distribution companies have a programme in place to monitor the state of buried polyethylene (PE) pipework and are undertaking research to establish the limits of integrity of pipework made from this material. The design life of PE pipe is 50 years and findings to date from the programme suggest that this limit could be extended.

41. HSE will review the natural gas programme and will identify any possible gaps. If additional research work is needed to ensure the results of research on natural gas

pipework can be applied to LPG then this will be taken forward by HSE. In addition, the Government has asked HSE to consult with IGEM, UKLPG and the PE pipe manufacturers to determine of what appropriate integrity tests might consist.

42. The Government agrees with Lord Gill that although PE pipe may have been used to replace buried metallic service pipe, users should ensure the integrity of their pipework and indeed of their installation overall. As outlined above, it is the Government view that the current legislative framework places obligations on the user to maintain their installation and that this remains the case even with the service pipework replaced.

Phase 4 – Establishing Effective Communications and Clarifying Responsibilities

There should be a permanent system by which safety questions will be reviewed and dealt with on an industry-wide basis, by which advances in the knowledge and understanding of safety questions will be communicated effectively within HSE and from HSE and UKLPG to suppliers and users alike and by which areas of regulatory responsibility between HSE and local authorities will be clarified.

43. The Government agrees with Lord Gill that effective communication is vitally important to ensuring the continuing safety of small bulk LPG installations. There have been significant efforts between HSE and UKLPG to establish strong communication channels. This includes, for example, regular meetings between the most senior representatives of both organisations through to the establishment of working groups to address specific issues such as the pipework replacement programme and domestic pipework. The establishment of these channels will play a significant part in helping to take forward the Government's proposed approach of raising awareness in LPG users and developing suitable guidance to help them meet their legal obligations and, importantly, to develop a clear understanding of the safe operation of their installation. Practical examples of this are already available through the production of the leaflet on inspection and maintenance of buried metallic pipework and the web-based information source outlined below.

Guidance for users on meeting their legal obligations

44. The Government recognises that, although LPG users have responsibilities for the safe operation and maintenance of their installations, it can be difficult for them to understand exactly what these are and how to meet them. We therefore accept Lord Gill's recommendation, made especially in relation to DSEAR that HSE should, in consultation with UKLPG, prepare practical advice for LPG users regarding the fulfilment of their statutory duties. It is the Government view that improved access to practical advice can contribute significantly to improving LPG users' compliance with their existing obligations. HSE has already been working with UKLPG to develop a web-based source aimed at LPG users to provide information on what they need to consider for meeting their obligations for their installation.

The role of regulatory authorities

45. Lord Gill recommended that the roles and responsibilities of HSE and local authorities in the enforcement of the safety of buildings in relation to LPG risks should be clearly set out in the installation record and that HSE should publish more detailed guidance on the assessment of the structural safety of buildings into which LPG is supplied.

46. The Government agrees with Lord Gill that it is important that operators of small bulk LPG installations should understand where regulatory responsibilities lie with respect to buildings and accepts this recommendation. Currently, responsibility for the inspection and enforcement of the structural safety of buildings is as follows:

- Local authority building control departments in England and Wales have enforcement responsibility for all new buildings and for structural modifications to existing buildings including for changes in use.
- In Scotland local authority building standards verifiers have responsibility for all new buildings and extensions to existing buildings including certain changes in use termed conversions. In Scottish workplaces, matters of structural safety are handled by the local authority (normally the building standards section) using powers under Sections 29 and 30 of the Building (Scotland) Act 2003.
- In workplaces, matters of structural safety are also handled by the relevant enforcing authority for the Health and Safety at Work etc Act 1974, taking into account the requirements of the Building Regulations.

47. Thus, it is the Government view that clarity for regulatory responsibility already exists and that the development of appropriate guidance for the content of the installation record will meet Lord Gill's recommendation in ensuring this is clearly understood and documented by the user of LPG.

48. In relation to guidance on the assessment of structural safety of buildings, the Government view is that guidance is already available that can help operators of small bulk LPG installations. As part of the overall approach to developing guidance for users, HSE will ensure that relevant guidance and information is referenced for the user so that it is more easily accessed. In addition, HSE will develop advice on the assessment of structural safety of workplaces, a requirement under Regulation 4A of the Workplace (Health, Safety and Welfare) Regulations 1992.



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