

Energy Safe Victoria

Charter of Consultation and Regulatory Practice

January 2012

The purpose of this Charter is to outline how Energy Safe Victoria consults with its stakeholders and undertakes its regulatory responsibilities. The Charter explains how ESV meets community expectations and upholds our corporate values of respect, integrity, partnerships and accountability.

Introduction

Energy Safe Victoria (ESV) was created under the *Energy Safe Victoria Act 2005* and is Victoria's independent electricity, gas and pipeline safety and technical regulator. It is responsible for the implementation and enforcement of standards, codes and policies under the *Electricity Safety Act 1998*, *Gas Safety Act 1997* and *Pipelines Act 2005* (the Acts) and their respective regulations.

ESV is required under the Energy Safe Victoria Act to develop and publish a Charter of Consultation and Regulatory Practice (the Charter) that must include guidelines relating to preparing the Corporate Plan and for conducting inquiries under Part 3 of the Energy Safe Victoria Act. The Corporate Plan documents strategic goals and priorities and how ESV directs and recovers the costs of resources to meet our statutory objectives and fulfil our functions.

As a technical regulator, ESV operates within a complex legislative framework interacting with energy industry participants, employer and employee associations, consumers and other government agencies, all of which have different objectives and obligations. Consultation with industry representatives, technical experts, regulators of other jurisdictions and other stakeholders is essential for developing efficient and effective regulation, industry safety standards, and codes and practices to support compliance. ESV coordinates and participates in a range of committees that facilitate such consultation. Development of Memoranda of Understanding between ESV and other agencies supports consultation and regulatory practice by clarifying roles and expectations. In addition, ESV directly communicates with, and seeks information from, industry stakeholders and the public as it performs its regulatory role.

ESV aims to encourage voluntary compliance with the Acts and respective regulations first through education, persuasion and cooperation. ESV holds the view that voluntary compliance is preferable but enforcement may be necessary to ensure safety. ESV employs a range of escalating enforcement activities based on established principles in relation to enforcement, when required.

ESV has a broad role from overseeing the design, construction and maintenance of electricity, gas and pipeline networks and installations to ensuring that appliances meet stringent safety and energy efficiency standards before they are sold. ESV licences and registers electricians, and issues and audits Certificates of Electrical Safety to ensure that electrical work has been conducted by qualified electricians to the appropriate standards. ESV has a team of investigators who probe gas and electrical safety issues and incidents in homes and businesses across the state to ensure improved community safety.

We conduct comprehensive public awareness campaigns to educate industry and the community on the potential dangers associated with electricity, gas and pipelines. One example of a campaign is *Look up and Live*.

Complementing the *Charter of Consultation and Regulatory Practice*, ESV has also developed a Customer Service Charter titled *Our Commitment to You – And a Safer Victoria* that is available as a brochure from ESV or on the website (www.esv.vic.gov.au).

Our mission

We protect and assist the community by:

- » Working cooperatively and in consultation with the industry and community to facilitate safety outcomes.
- » Developing and communicating safety and efficiency requirements and programs.
- » Monitoring, auditing and enforcing compliance with the requirements.
- » Administering licensing, registration and approval systems that maintain safety standards and skills.

Our vision

Victoria will be a state where the community, industry and regulators share a strong commitment to the safe and efficient supply and use of electricity and gas, and the safety of pipelines.

To ensure their safety, the community and industry will demand that work involving electricity and gas is carried out only by workers who are skilled and appropriately trained to respond to the demands of new and emerging technologies. The industry workforce will have sufficient numbers to deliver community requirements into the future.

ESV will be nationally respected and recognised as a leader in safety regulation that facilitates safety and efficiency outcomes through strong communication and consultation, clear regulation, and fair audit and enforcement activities. These activities will be carried out by a highly skilled, professional and adaptable regulatory team who are leaders in their field, and are able to explain their actions and decisions.

Safety and efficiency will be delivered within a framework that is cost-effective and fair to all parties. This framework will be consistently and openly communicated to the community and industry. This will create a safer state for the benefit of all Victorians.

Our values

The following core values are expected from all our team and these values are expressed in our day-to-day actions, decisions and interactions with others.

- » Respect
- » Integrity
- » Partnerships
- » Accountability

Our people

ESV consists of the Director of Energy Safety, under the Energy Safe Victoria Act, who also performs the role of Chief Executive Officer. The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Director. *The Public Administration Act 2004* applies to the Director. The Director shall be appointed for a term of no more than five years, but can be reappointed.

ESV appoints employees or other persons as necessary for performing its functions and determines the terms and conditions of appointment.

The organisational structure of ESV is shown in Figure 1. Each Division is led by an Executive Manager reporting to the Director of Energy Safety.

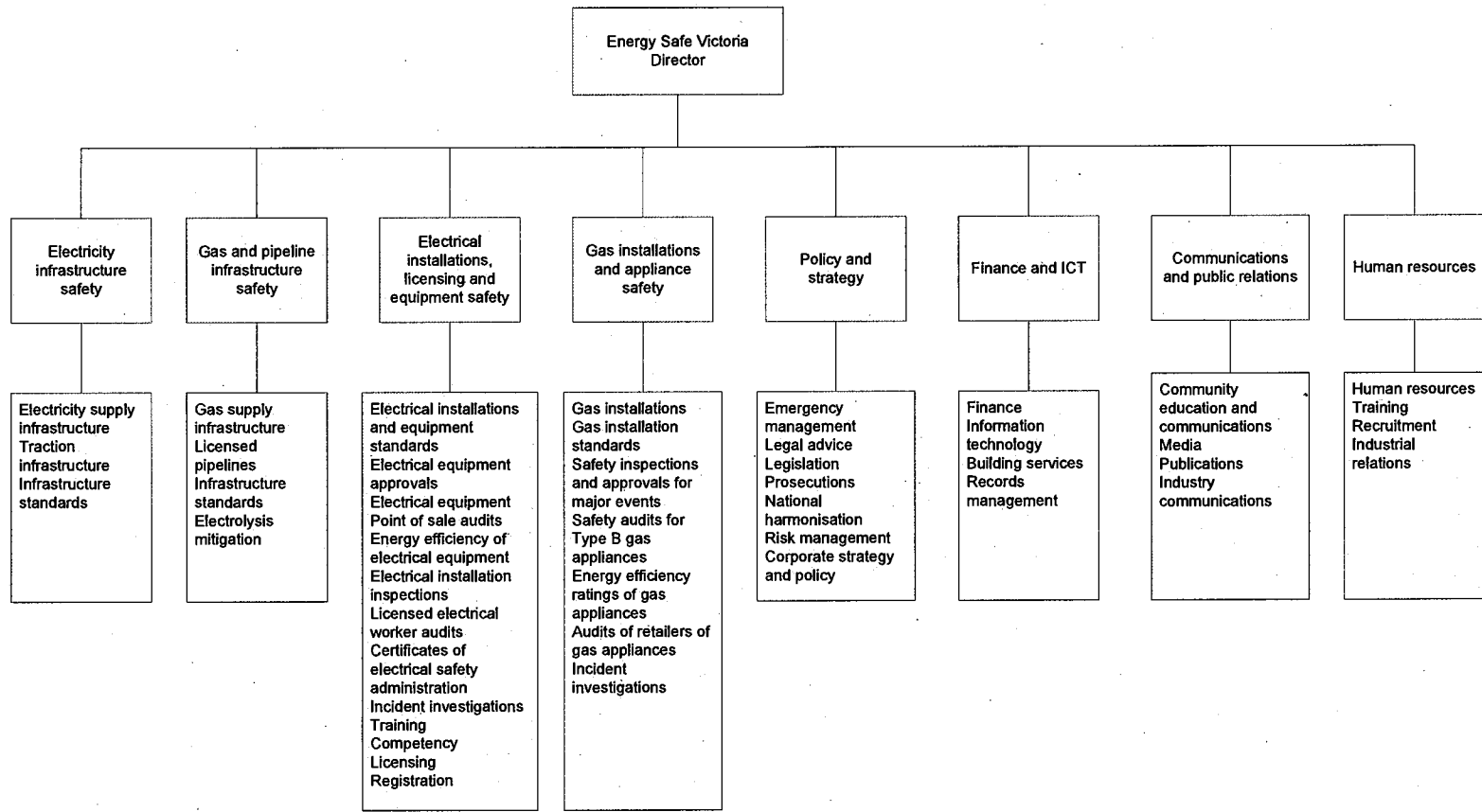


Figure 1
Organisational structure of Energy Safe Victoria

Consultation

Consultation is about sharing information, seeking the views of different stakeholders and taking these into consideration in the design and administration of regulation, in ways that best achieve the objectives of ESV under the Acts. It is not primarily a consensus-building or agreement process. Energy Safe Victoria is involved in consultation with other agencies, industry stakeholders and the wider community. ESV consults and communicates with industry, experts and the community in relation to gas and electrical safety, for example, in the development and review of safety standards, codes and guidelines, safety messages and changes to legislation. ESV consults in a range of ways such as statutory committees and other committees, Memoranda of Understanding, by specific industry or tradespeople stakeholder engagement, public consultation and information.

Principles of consultation

Energy Safe Victoria is committed to effective consultation. The following principles guide the consultation processes used by Energy Safe Victoria.

- » ESV will transparently explain the objectives of consultation and the context within which consultation is occurring.
- » The level of consultation will reflect the likely impact of decisions on the different stakeholders.
- » ESV will be accessible to, and inclusive of, relevant stakeholders taking into account the number and type of persons to be consulted and their ability to contribute to consultation.
- » Consultation will be undertaken in a timely and flexible way.

Committees

Energy Safe Victoria establishes and participates in a range of committees as part of achieving its objectives in consultation with key stakeholders. Generally the committee will comprise a core group of stakeholders with a breadth of specific technical expertise to coordinate provision of advice to relevant parties, or develop technical and safety materials for different uses and audiences.

Energy Safe Victoria Act – Committees

ESV may establish committees that consist of employees and other people determined by Energy Safe Victoria under the auspices of the Energy Safe Victoria Act (Section 8). ESV must appoint one of the members of the committee as Chair. Committees established under the Energy Safe Victoria Act are listed below.

Committee	Purpose
Incident Review and Prevention Committee	Reviews electrical incidents involving electricity supply networks, equipment and installations, and provides advice on the means for preventing incident re-occurrence.
Electrical Safety Committee	Provides advice to ESV on the setting of safety standards for work on or near high voltage electrical installations and to the electricity industry on high voltage electrical safety.
Victorian Foundations for Safety Committee	Provides advice to ESV on safe working methods for electrical installations.
Powerline Bushfire Safety Taskforce	Investigated the full range of options available to reduce the risks of catastrophic bushfires from electricity infrastructure within the next decade, taking into account the costs and benefits and measures already adopted.

Electricity Safety Act – Committees

The Minister appoints members for committees established under the Electricity Safety Act. There may be requirements for particular technical expertise or agency representation for specific committees. The functions of the committee may be specified under the Act.

Committee	Purpose
Equipment Advisory Committee (Section 50)	Provides advice to ESV or the Minister on safety standards for electrical equipment and the procedures for monitoring compliance with the safety standards.
Electric Line Clearance Consultative Committee (Section 87)	Provides advice to ESV or the Minister on matters relating to the clearance of electric lines, including preparation and maintenance of the Code of Practice for Electric Line Clearance. This committee provides an annual report to the Minister.
Victorian Electrolysis Committee (Section 91)	Provides advice to ESV on any matter related to electrolysis and the regulations relating to cathodic protection and the mitigation of stray current corrosion. This includes the establishment and maintenance of standards for systems for cathodic protection and mitigation of stray current corrosion.

Other committees

ESV participates in other consultative committees, with a range of external stakeholders.

Committee	Purpose
Energy Supply Industry Safety Committee (ESISC)	Provides advice and assists in the development and implementation of a new nationally harmonised safety framework for the energy supply industry. There are representatives from each state, territory and commonwealth government, gas and electricity industries, unions, contractor businesses and the industry skills council.
Electrical Regulatory Authorities Council	Coordinates liaison between the safety and electrical regulatory functions of Australia and New Zealand to encourage a uniform regulatory environment in Australia and New Zealand.
Standards – Energy – Technical Committees	Review and develop relevant Australian and international standards in relation to electricity and gas.
Integrated Fire Management Planning – State Committee	Provides leadership and development of tools and processes for consistency and continuous improvement in fire management planning. This committee obtains authority under the <i>Emergency Management Act 1986</i> .
Gas Technical Regulators Committee	Association of government agencies responsible for the safe use of gas with representatives from each state and territory in Australia and New Zealand.
Plumbing Industry Advisory Council	Industry advisory group established under the <i>Building Act 1993</i> to provide advice to the Minister for Planning and the Plumbing Industry Commission.
National Appliance and Equipment Energy Efficiency Committee (E3 Committee)	Manages the Australian end-use energy efficiency program and consists of representatives from Australian and New Zealand government agencies.
Consultative committees- gas transportation and supply, gas retailers, and LPG	ESV coordinates separate meetings for the industry representatives of gas transportation and supply, gas retailers and LPG to share information and discuss industry issues.
Pipeline Consultative Meeting	ESV coordinates meetings to share information and discuss industry issues.
Consultative committees – Gas appliances	ESV participates in separate consultative committees with the plumbing industry, gas distributors and gas appliance certifying bodies.
Consultative committee – Gas – Building Industries Regulators Forum	Representatives from government agencies share information and develop protocols with respect to gas safety issues.
LPG Safety Committee	Provides advice and develops guidance materials to support the safety of the LPG industry.
Renewable and Emerging Technologies Committee	Provides advice to ESV on safety issues and possible regulatory responses arising from the adoption of new technologies such as solar panels.

Memoranda of Understanding

ESV enters into Memoranda of Understanding (MOUs) with other agencies from time to time. The purpose of the MOU is to transparently and publicly set out the arrangements that promote effective communication, cooperation and coordination between Energy Safe Victoria and the other party in the performance of their roles in Australia's energy industry. Generally, the MOU is with another government agency (state or commonwealth).

This ensures that the parties are aware of each other's regulatory responsibilities and facilitates the provision of advice and sharing of information between them. The MOU is not intended to create legally enforceable obligations between the parties. An individual MOU may describe the approach to consultation.

The MOUs held between Energy Safe Victoria and other agencies are available on the ESV website (www.esv.vic.gov.au).

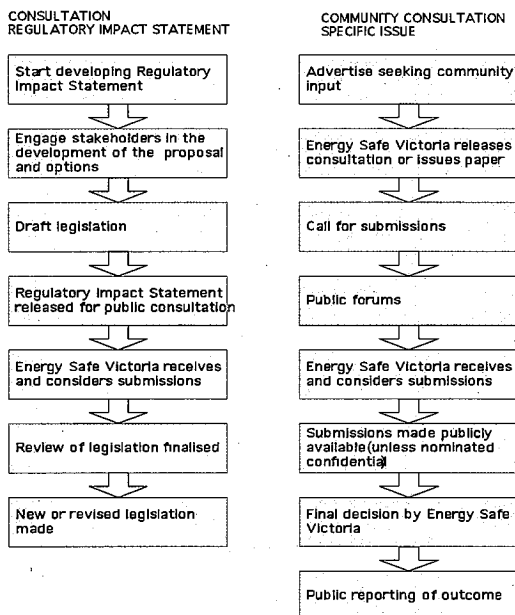
Stakeholder engagement and feedback

Energy Safe Victoria conducts separate stakeholder surveys with industry and tradespeople every two years seeking feedback that will enable improved delivery of services to the community. Outcomes of surveys are included in the relevant Annual Report. Every year ESV undertakes a public survey seeking information about the recognition and recall of advertised safety messages in relation to electricity and gas.

Public consultation

There may be times when Energy Safe Victoria, or an established committee, seeks to formally consult with the wider community about a particular issue, or as part of preparing a Regulatory Impact Statement in relation to legislation. If introducing legislation or amending legislation that has a significant economic or social burden on a sector of the public then preparation of a Regulatory Impact Statement is required under the *Subordinate Legislation Act 1994*. Stakeholder engagement and separate public consultation may be conducted as part of the process.

In these instances the following processes will typically be applied.



For public consultations that involve engaging the wider community, ESV advertises via a range of channels to encourage community input, for example daily state-based newspapers and local newspapers, and radio announcements

ESV is subject to legislative obligations with respect to confidentiality, commercially sensitive information, privacy matters and freedom of information when conducting public consultation.

Community information

Energy Safe Victoria issues reports, consultation papers, safety alerts, product recalls, safety advice and media releases. These are available at www.esv.vic.gov.au and also by contacting ESV. ESV runs public awareness campaigns to ensure the safety of the Victorian community in relation to all aspects of electricity, gas and pipelines. There are brochures, posters and DVDs available for educational purposes from ESV or on the website.

Regulatory practice

Energy Safe Victoria is responsible for the safety and technical regulation of electricity, gas and pipelines in Victoria. The objectives and functions of ESV are conferred by legislation and are described in the Acts and the Corporate Plan. Consultation and provision of advice and information by ESV to the industry and the community form a part of the regulatory practice of ESV.

Corporate Plan

The Energy Safe Victoria Act requires ESV to prepare a Corporate Plan each year, in a form approved by the Minister. ESV must consult with the Minister about the Corporate Plan, the key requirements of which are documented by the Minister in a Statement of Expectations. A copy of the Corporate Plan must be provided to the Minister and the Treasurer by May 31 each year.

The Corporate Plan outlines the assessment of the external environment, emerging risks and how ESV intends to build and deploy resources to ensure electrical and gas safety for Victorians. The key goals and strategic challenges for ESV are identified. Regulatory initiatives and priorities are included along with corresponding goals, targets and key performance indicators across all parts of the ESV organisation.

The Corporate Plan includes financial statements: income statement, balance sheet, budget summaries and accounting policies that form the basis for determining relevant fees, charges and levies on industry and the community.

Energy Safe Victoria must act only in accordance with its Corporate Plan unless the Minister has provided written approval to do otherwise.

The outcomes of ESV activities and initiatives identified in the Corporate Plan, and financial statements for the previous financial year, are included in the Annual Report that is tabled by the Minister in Parliament each year.

Guidelines relating to preparation of the Corporate Plan

The Corporate Plan must include:

- » Statements of corporate intent.
- » Each statement must specify information for the current financial year and each of the two following financial years, as follows:
 - › objectives of Energy Safe Victoria
 - › nature and scope of activities to be undertaken by Energy Safe Victoria
 - › accounting policies to be applied
 - › performance targets and other measures in relation to the stated objectives
 - › the kind of information to be provided to the Minister during the year, and
 - › other matters as agreed between the Minister and Energy Safe Victoria.
- » A business plan containing information as required by the Minister.
- » Financial statements containing information as required by the Minister.

The Corporate Plan may be published or made publicly available only after approval by the Minister and Energy Safe Victoria. The current plan is available on the Energy Safe Victoria website (www.esv.vic.gov.au).

Legislation administered by Energy Safe Victoria

ESV administers a range of legislation that is prescriptive in parts, and outcome-based in other parts. Prescriptive legislation tends to specify the conditions for compliance and the ways by which compliance may be satisfied. There are advantages to this approach where there are limited options to safely achieve an outcome, for example licensing, electric line clearance and gas and electricity installations.

In contrast, outcome-based regimes complement a risk-based and evidence-based approach where the business aligns its objectives and processes with the outcomes specified by legislation. The use of gas safety cases and electricity safety management schemes are examples of this approach.

The Acts and accompanying regulations apply across different sectors of the electricity and gas industries, from production to consumer, and are depicted in the appended gas and electricity frameworks (Figure 2 and Figure 3). Other agencies that have different responsibilities in relation to the energy industry are also included.

The legislation administered by ESV is listed on the website (www.esv.vic.gov.au).

National regulatory issues

Energy Safe Victoria participates in a range of national regulatory reforms. These include:

- » energy supply industry harmonisation for transmission and distribution businesses
- » occupational licensing to facilitate the mobility of workers between jurisdictions
- » occupational health and safety legislation
- » arrangements for gas and electrical equipment safety and energy efficiency.

Such reforms may be coordinated by a committee. For example, the *Energy Supply Industry Safety Committee* is assisting in the development and implementation of a new nationally harmonised safety framework for the energy supply industry (see earlier section on Committees).

Compliance and enforcement

As a regulator, ESV employs good decision-making taking into account its duty of care, natural justice, evidence and a consistent approach to compliance and enforcement. ESV has officers (enforcement officers/inspectors) who have legislated powers conferred under the Acts to determine and enforce compliance.

ESV aims to encourage voluntary compliance with the Acts and respective regulations first through education, persuasion and cooperation. ESV holds the view that voluntary compliance is preferable but enforcement may be necessary in some instances to ensure safety. ESV employs a range of escalating enforcement activities based on established principles in relation to enforcement, when required.

Energy Safe Victoria will be guided by the following principles when enforcing the requirements of the Acts and regulations.

- » The emphasis in administration and enforcement will be on ensuring public safety, equipment efficiency and compliance with the Acts and regulations.
- » The primary purpose of enforcement measures is to stop activities that place at risk electricity, gas or pipeline safety by holding offenders accountable and to act as a deterrent to those involved and to others who may not be complying with the Act and regulations.
- » Enforcement will be undertaken in a fair, predictable and consistent manner.
- » Enforcement will be applied consistently to individuals and companies, as far as practicable.
- » ESV will use reasonable endeavours to investigate suspected offences within the limitations of available resources.
- » Enforcement will be undertaken using lawful procedures and in accordance with the *Charter of Human Rights and Responsibilities Act 2006*.
- » During the investigation and prosecution process ESV will have regard to the principles set out in the *Victims' Charter Act 2006* when ESV is aware that it is dealing with a victim who has suffered injury (includes loss of property) as a direct result of an offence under the Acts or regulations.

Enforcement options considered by Energy Safe Victoria include the following:

- » Warnings
- » Improvement Notices
- » Infringement Notices – fines for selected offences
- » Prohibition Notices
- » Directions – instructions to take certain action or provide information or materials
- » Prosecution – via the court system, and
- » Non-renewal of licence or registration, or attaching conditions to the licence or registration.

Inquiries

Energy Safe Victoria may, after consultation with the Minister, conduct an inquiry for the purpose of carrying out its functions under Part 3 of the Energy Safe Victoria Act. The Minister may also refer matters for inquiry to ESV, by written notice, that specify the terms of reference for the inquiry. The Minister may change the terms of reference.

Inquiries are separate to general regulatory activities by ESV and confer specific obligations and powers on ESV.

Guidelines relating to inquiries

The Minister may:

- » specify a time period that a report is to be submitted to the Minister
- » require Energy Safe Victoria to make a draft report publicly available or available to specified persons or bodies during the inquiry
- » require Energy Safe Victoria to consider specified matters, and
- » make specific directions to ESV with respect to the conduct of the inquiry.

Energy Safe Victoria must report to the Minister on the results of any inquiry. The Minister may extend the period within which the report is to be submitted to the Minister.

Notice of inquiry

After notifying the Minister, Energy Safe Victoria must publish notice of an inquiry:

- » in the Government Gazette
- » in a daily newspaper in general circulation in Victoria, and
- » on the internet.

The notice of inquiry must specify:

- » the purpose of the inquiry
- » the time period over which the inquiry will be held
- » the time period within which, and the form in which, members of the public may make submissions, including details of public hearings
- » the matters that ESV would like public submissions to deal with.

If the Minister has referred a matter for inquiry to ESV the notice must include the terms of reference and matters, specified directions, time periods and draft report requirements. ESV must publish a further notice if the Minister amends the terms of reference or extends the period within which the report is to be submitted to the Minister.

ESV must send a copy of any published notice to any person or body that it considers should be notified.

Conduct of inquiry

ESV may seek information in a way it considers appropriate and is not bound by rules or practice. ESV may receive written submissions or statements.

ESV must hold at least one public hearing and has discretion as to whether any person may appear before Energy Safe Victoria in person, or be represented by another person. ESV may determine that a hearing or part of hearing be held in private if satisfied that it would be in the public interest, or the evidence is confidential or commercially-sensitive in nature.

In conducting an inquiry ESV may consult with any person it considers appropriate, hold public seminars and conduct workshops, and establish working groups and taskforces.

Powers relating to inquiries

Energy Safe Victoria may serve a summons on any person to:

- » provide specified information
- » produce specified documents, or
- » appear before ESV to give evidence.

Report of inquiry

Energy Safe Victoria must submit a copy of its final report on an inquiry to the Minister. If ESV considers that a final report will contain confidential or commercially-sensitive information then ESV must divide the report into a document containing the confidential or commercially-sensitive information, and another document containing the rest of the report.

The Minister must ensure a copy of the final report is laid before each House of Parliament within a specified period of time. The Minister must also ensure that a copy of the final report is available for public inspection at a later stage. In situations where there had been confidential or commercially-sensitive information the final report will be the document that does not contain this information. ESV must ensure copies of the final report are publicly available once it has been released to the public by the Minister.

ESV may identify other relevant information that should be reported during the inquiry. This may be included in the final report, or in a special report.

Accountability

Energy Safe Victoria publishes an Annual Report to Parliament that documents the operational and financial performance over the previous year against the goals in the Corporate Plan. Key achievements and significant initiatives are included in the report.

Matters relevant to this Charter will be contained in the Annual Report, as appropriate.

The Annual Report is made available to the public on the Energy Safe Victoria website (www.esv.vic.gov.au).

Review of the Charter

Energy Safe Victoria is committed to ensuring that this Charter is effective.

The Charter will be reviewed every three years or earlier as material changes to regulatory practice and consultation are identified.

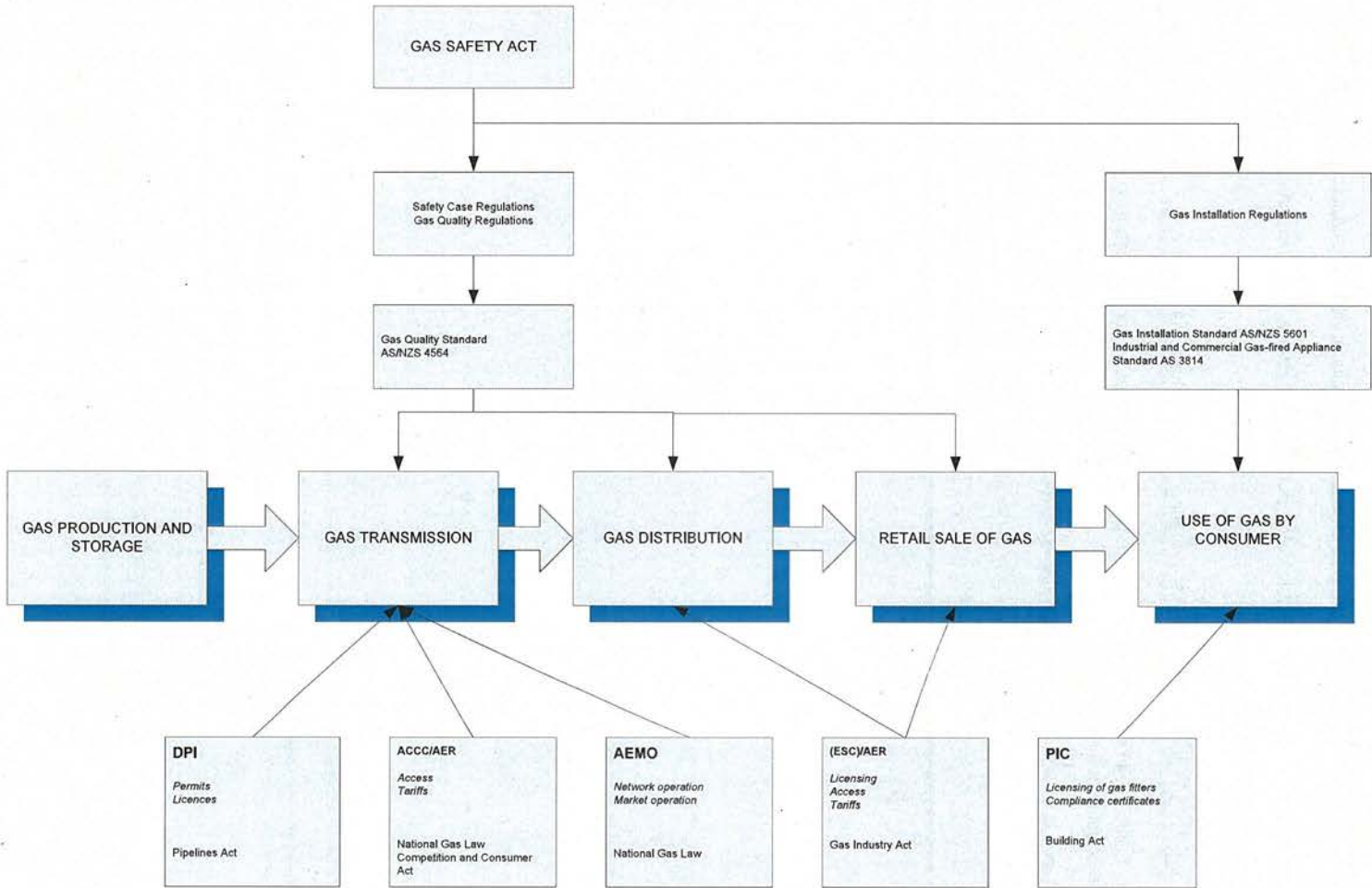


Figure 2
 Gas safety regulatory framework administered by ESV showing the principal functions
 and other agencies

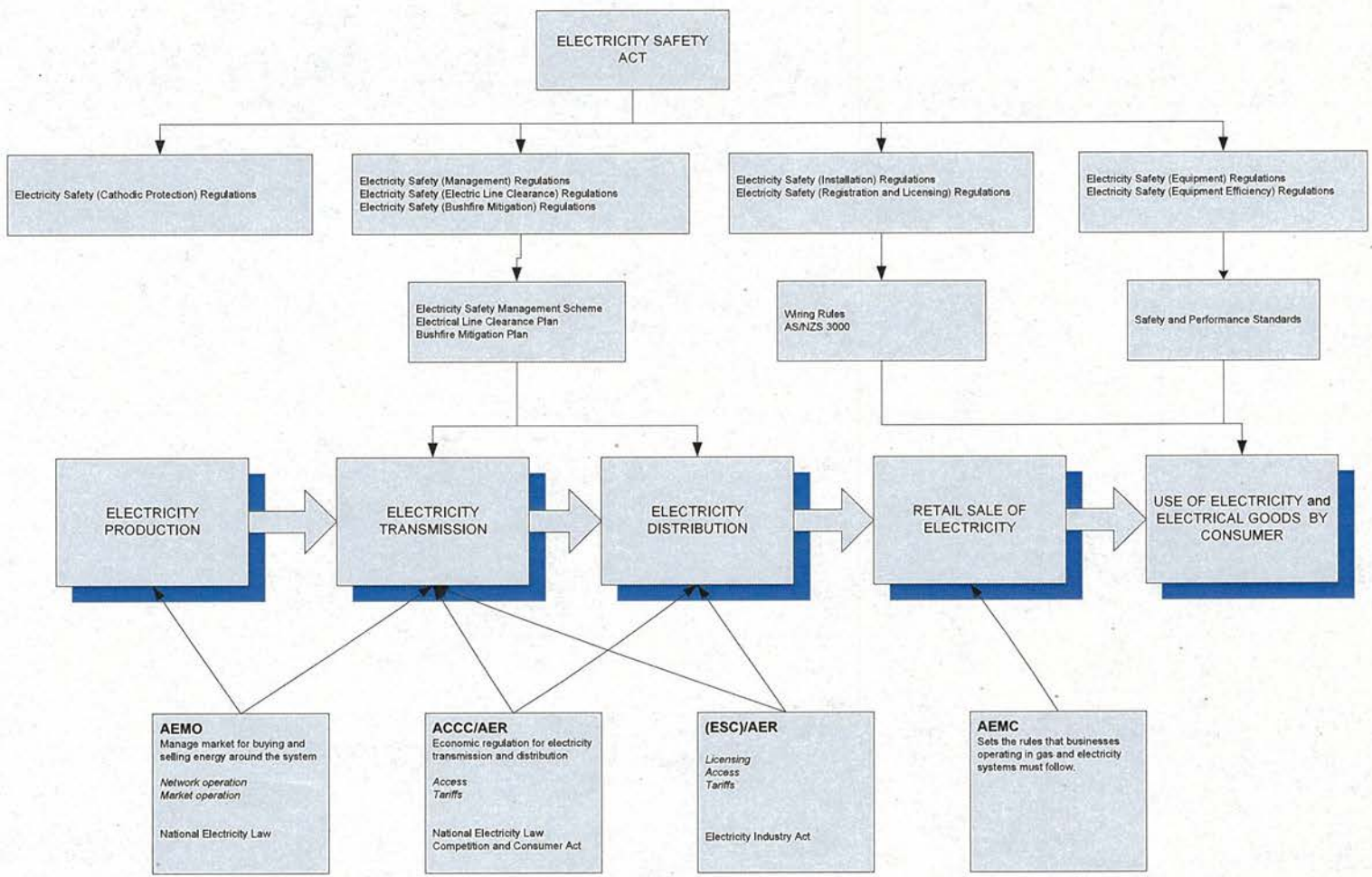


Figure 3
Electrical safety regulatory framework administered by ESV showing the principal functions and other agencies

Head Office

Level 5, Building 2
4 Riverside Quay
Southbank, VIC 3000

Postal Address

PO Box 262,
Collins Street West, VIC 8007
Telephone 03 9203 9700
Facsimile 03 9686 2197
Website www.esv.vic.gov.au
Email info@esv.vic.gov.au
ABN 27 462 247 657

Brandon Office Park

Building 3
540 Springvale Road
Glen Waverley, VIC 3150