



## Gas Act 2000

**An Act to regulate the distribution and retailing of gas, to provide for safety and technical standards for gas installations and gas appliances and for related purposes**

**[Royal Assent 20 December 2000]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 - Preliminary**

#### **1. Short title**

This Act may be cited as the *Gas Act 2000*.

#### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

#### **3. Interpretation**

(1) In this Act, unless the contrary intention appears –

*appliance* means a gas appliance;

*authorised officer* means a person appointed under Part 6 as an authorised officer;

*code* means a gas code issued under section 38A;

*Commission* means the Tasmanian Planning Commission;

*complex gas installation* means a gas installation that is not a standard gas installation;

*condition* includes a limitation or restriction;

*contravene* includes fail to comply with;

*convey*, in respect of gas, means to transmit, distribute or otherwise convey by pipeline;

*council* means a council within the meaning of the Local Government Act 1993;

**customer** means a person who has a supply of gas available from a distribution system for consumption in a place, and includes –

- (a) the occupier for the time being of a place to which gas is supplied by a distribution system for consumption in the place; and
- (b) a person seeking a supply of gas from a distribution system for consumption in a place; and
- (c) a person whose supply of gas has been disconnected;

**disconnect** a gas supply includes interrupt or discontinue the gas supply to a customer;

**distribution** means the provision of pipeline services through a distribution system;

**distribution system** means the whole or a part of a pipe or a system of pipes and equipment for use for, or in connection with, the distribution and delivery of gas to persons for consumption, and includes a pipeline, or class of pipelines, declared under section 3(3) of the Gas Pipelines Act 2000 to be treated as not being a transmission pipeline for the purposes of that Act, but does not include –

(a) a pipeline in respect of which a licence has been granted or is required under the Gas Pipelines Act 2000; or

(b) a system of pipes and equipment –

(i) installed in a place for the conveyance and use of gas from a pressurised vessel situated in the place; and

(ii) not extending to, or connected to pipes in, some other place in separate occupation; or

(c) pipes or equipment declared by the regulations not to be, or not to form part of, a distribution system; or

(d) a pipeline or class of pipelines which, under subsection (3), is to be treated as not forming part of a distribution system for the purposes of this Act;

**facility** means –

(a) a distribution system; or

(b) a facility or service for the control of the conveyance of gas; or

(c) a facility for the measurement of gas where the facility is connected to a distribution system; or

(d) a service for the sale by retail of gas;

*function* includes duty;

*gas* means –

(a) natural gas; or

(b) liquefied petroleum gas; or

(c) any other gaseous fuel, being a gaseous fuel that is not declared by the regulations to be excluded from the operation of this Act;

*gas appliance* means an appliance that uses gas as a fuel, but does not include anything declared by the regulations not to be a gas appliance;

*gas distributor* means a gas entity licensed under section 24 to operate a distribution system;

*gas entity* means a person licensed under Part 3, and includes a person who has been licensed under that Part and whose licence has been suspended or cancelled or has expired;

*gas infrastructure* means any part of a distribution system owned or operated by a gas entity;

*gas installation* means, in respect of the use or intended use of gas, a combination of –

(a) any pipe or system of pipes for, or incidental to, the conveyance of gas and components or fittings associated with the pipe or pipes which are downstream from the gas supply point; and

(b) any one or more of the following:

(i) any appliance and associated components or fittings which are downstream from the gas supply point;

(ii) any meter which is downstream from the gas supply point;

(iii) any means of ventilation or system for the removal of combustion products which is downstream from the gas supply point;

*gas officer* means a person appointed under Part 5 as a gas officer;

*gas retailer* means a gas entity licensed under section 24 to retail gas;

*gas supply industry* means the operation of a distribution system, the retailing of gas and any other operation for which a licence is required under Part 3;

*gas supply point* means –

(a) the outlet of a gas entity's meter assembly used to measure a customer's gas use; or

(b) if paragraph (a) does not apply, the point of delivery of gas between the gas entity and the customer; or

(c) if paragraphs (a) and (b) do not apply, the point of delivery of gas between –

(i) a pipeline that is declared, or belongs to a class of pipelines that is declared, under section 3(3) of the *Gas Pipelines Act 2000* to be treated as a transmission pipeline for the purposes of that Act; and

(ii) the person to whom the gas is delivered; or

(d) if paragraphs (a), (b) and (c) do not apply, the outlet of the first stage regulator of a liquefied petroleum gas storage cylinder or tank;

and a gas installation;

***incident*** means any incident or event relating to the conveyance, supply or use of gas or another regulated substance which causes or has the potential to cause –

(a) death or injury to a person; or

(b) significant damage to property; or

(c) an uncontrolled explosion, fire or discharge of gas or another regulated substance; or

(d) an impact on the security of supply;

***label*** includes a stamp or mark;

***land*** includes –

(a) an estate or interest in land (including an easement); or

(b) a right or power over, or in respect of, land;

***licence*** means a licence granted and in force under this Act for one or more of the following:

(a) to sell gas by retail;

(b) to construct a distribution system;

(c) to operate a distribution system;

(d) any other operations for which a licence is required by the regulations;

**licensee under the Gas Pipelines Act** means the holder of a pipeline licence granted and in force under Division 3 of Part 2 of the Gas Pipelines Act 2000;

**natural gas** means a substance –

(a) which is in a gaseous state at standard temperature and pressure and which consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane; and

(b) which has been processed to be suitable for consumption –

but does not include anything declared by the regulations not to be natural gas;

**occupier** of land or a place means a person who has, or is entitled to, possession or control of the land or place;

**operations** includes activities;

**person** includes –

(a) any body of persons, corporate or unincorporate; and

(b) any government department or other government body;

**public land** means land owned by –

(a) the Crown; or

(b) an instrumentality or agent of the Crown; or

(c) a council or other local government body;

**quality**, in respect of gas, includes odorisation, purity, temperature, pressure and composition;

**regulated substance** means –

(a) gas, other than liquid petroleum gas; or

(b) natural gas; or

(c) any other substance declared by the regulations to be a substance to which this Act applies;

**regulations** means regulations made and in force under this Act;

**Regulator** means the person holding the office of Regulator under section 7;

**reviewable decision** means any direction, decision or determination under this Act other than a direction, decision or determination declared by this Act not to be reviewable;

**sell** includes –

- (a) to barter or exchange; and
- (b) to let on hire; and
- (c) to advertise for sale or hire; and
- (d) to offer or expose for sale or hire;

**standard gas installation** means –

(a) a gas installation –

(i) which contains only Type A appliances; and

(ii) which is located in residential premises of a prescribed class or on land associated with such premises; or

(b) a gas installation –

(i) which contains only Type A appliances; and

(ii) which is located in commercial premises of a prescribed class or on land associated with such premises; and

(iii) in which the total gas consumption of the appliances does not exceed the relevant prescribed amount an hour; and

(iv) in which the length of pipe from the gas supply point to the furthest appliance does not exceed the relevant prescribed length;

**supply** means the delivery of gas by means of a distribution system to a gas supply point;

**tariff** means a schedule of prices and conditions for the sale of gas to customers generally, or to various classes of customers, as amended from time to time;

**trader** means a person who sells gas appliances in the course of a trade or business;

**Tribunal** means the Resource Management and Planning Appeal Tribunal established under the Resource Management and Planning Appeal Tribunal Act 1993;

**Type A appliance** means an appliance (including a second-hand appliance) that has been approved by the Director of Gas Safety in accordance with section 70;

**Type B appliance** means an appliance (including a second-hand appliance) that –

(a) is not a Type A appliance; and

(b) has a gas consumption rating in excess of 10 megajoules an hour –

and includes any components and fittings of an appliance complying with paragraphs (a) and (b) that are downstream from, and including, the appliance's manual shut-off valve.

(2) In this Act, a reference to retailing or to retail is to be read as a reference to the sale of gas by a gas entity to a person for consumption where the gas is to be conveyed (whether or not by the seller) to the person by a distribution system, but as not including an activity declared by the regulations not to be retailing of gas.

(3) The Governor may, by order published in the *Gazette*, declare that a pipeline or class of pipelines is to be treated as –

(a) forming part of a distribution system for the purposes of this Act; or

(b) not forming part of a distribution system for the purposes of this Act.

### **3A. Application of Act**

(1) Subject to subsection (2), this Act does not apply to a gas installation or gas appliance, or class of gas installations or gas appliances, used or installed before the day on which the *Gas Legislation (Miscellaneous Amendments) Act 2001* received the Royal Assent.

(2) The regulations may provide that a provision of this Act applies to a gas installation or gas appliance, or class of gas installations or gas appliances, used or installed before the day on which the *Gas Legislation (Miscellaneous Amendments) Act 2001* received the Royal Assent if the gas installation or gas appliance, or class of gas installations or gas appliances, is modified after that day.

### **4. Objects**

The objects of this Act are –

(a) to facilitate the development of a gas supply industry in Tasmania; and

(b) to promote efficiency and competition in the gas supply industry; and

(c) to promote the establishment and maintenance of a safe and efficient system of gas distribution and supply; and

(d) to establish and enforce proper standards of safety, reliability and quality in the gas supply industry; and

(e) to establish and enforce proper safety and technical standards for gas installations and appliances; and

(f) to protect the interests of consumers of gas.

## **5. Crown bound**

This Act binds the Crown not only in right of Tasmania but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

## **6. Act does not derogate from certain Acts**

This Act is in addition to, and does not derogate from, the Work Health and Safety Act 2012 or Dangerous Goods (Road and Rail Transport) Act 2010.

**6A.**

## **PART 2 - Administration**

### ***Division 1 - Regulator***

## **7. Regulator**

(1) The office of Regulator is established.

(2) The Regulator, within the meaning of the Economic Regulator Act 2009, is the Regulator.

## **8. Functions of Regulator**

(1) The Regulator has the following functions:

(a) the administration of the licensing system for gas entities established by this Act;

(b) the establishment, monitoring and publication of standards and codes in respect of services provided by gas entities or arising from any functions performed for the purposes of this Act;

(c) any other functions assigned to the Regulator under this Act.

(2) The Regulator must, in performing any functions of a discretionary nature, endeavour to act in a fair and equitable manner taking proper account of the interests of participants in the gas supply industry and the interests of consumers of gas.

(2A) The Minister may give directions to the Regulator with respect to the carrying out of his or her functions and powers under this Act, except functions and powers

under subsection 24, and, in carrying out those functions and powers, the Regulator must comply with any directions so given.

(3) Nothing in subsection (2) gives rise to, or can be taken into account in, any civil cause of action.

#### **8A. State of the industry report**

(1) In this section –  
*energy Minister* means the Minister assigned the administration of Division 1 of Part 3.

(2) The Regulator may prepare a report on the state of the gas supply industry (the *state of the industry report*).

(3) The Regulator is to prepare a state of the industry report –

(a) on the Regulator's own initiative; or

(b) if directed to do so by the energy Minister and the Minister assigned the administration of the *Economic Regulator Act 2009*.

(4) A direction under subsection (3)(b) to prepare a state of the industry report may include the terms of reference for that state of the industry report.

(5) The Regulator is to cause a copy of the state of the industry report to be –

(a) laid before each House of Parliament within 7 sitting-days after preparing it; and

(b) made available to members of the public in such a manner as the Regulator considers appropriate.

#### **8B. Enforcement of Act by Regulator**

(1) If the Regulator is satisfied that a gas entity has contravened this Act or the conditions of the licence held by the gas entity, the Regulator may impose on the gas entity a monetary penalty not exceeding –

(a) 5 000 penalty units for the first day on which the contravention occurs; and

(b) a further fine not exceeding 200 penalty units for each subsequent day on which the contravention continues.

(2) If there is more than one gas entity that may be taken to have contravened this Act in respect of a single event, the Regulator may take any action under this section in respect of one or more such gas entities as the Regulator thinks fit.

(3) A decision of the Regulator under this section may be subject to administrative review under Part 7.

## *Division 2 - Director of Gas Safety*

### **9. Director of Gas Safety**

- (1) The Minister is to appoint a State Service officer or State Service employee to be Director of Gas Safety and that officer or employee holds that office in conjunction with State Service employment.
- (2) The Director is to perform the functions imposed, and may exercise the powers conferred, on the Director under this Act.

### **10. Functions of Director of Gas Safety**

The Director of Gas Safety has the following functions:

- (a) the monitoring and regulation of safety and technical standards in the gas supply industry;
- (b) the monitoring and regulation of safety and technical standards with respect to gas installations and gas appliances.

## *Division 3 - Provisions applicable to Regulator and Director of Gas Safety*

### **11. Delegation**

- (1) The Regulator or the Director of Gas Safety may, by instrument in writing, delegate the exercise of such of his or her powers under this Act (other than this power of delegation) as are specified in the instrument of delegation to any person who, in the Regulator's or Director's opinion, is competent and suitable.
- (2) The Regulator or Director of Gas Safety may, by instrument in writing, revoke wholly or in part any such delegation.
- (3) A power, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (4) A delegation under this section may be made subject to such conditions as to the exercise of any of the powers delegated, or as to time or circumstance, as are specified in the instrument.
- (5) Notwithstanding any delegation under this section, the Regulator or Director of Gas Safety may continue to exercise all or any of the powers delegated.
- (6) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Regulator or Director of Gas Safety and is taken to have been done by or to the Regulator or Director of Gas Safety.
- (7) An instrument purporting to be signed by a delegate of the Regulator or Director of Gas Safety in his or her capacity as such a delegate may in all courts

and before all persons acting judicially be received in evidence as if it were an instrument executed by the Regulator or Director and, until the contrary is proved, is taken to be an instrument signed by a delegate of the Regulator or Director under this section.

## **12. Power of Regulator and Director of Gas Safety to require information**

(1) The Regulator or the Director of Gas Safety may, by written notice, require a person to give the Regulator or Director, within a time stated in the notice (which must be reasonable), information in the person's possession that the Regulator or Director reasonably requires for the administration of this Act.

(2) A person required to give information under this section must provide the information within the time stated in the notice.

Penalty:

Fine not exceeding 100 penalty units.

(3) A person may not be compelled to give information under this section if the information might tend to incriminate the person of an offence.

(4) A requirement under this section is not a reviewable decision under Part 7.

## **13. Obligation to preserve confidentiality**

(1) The Regulator or the Director of Gas Safety must preserve the confidentiality of information gained in the course of administering this Act (including information gained by an authorised officer under Part 6) that –

(a) could affect the competitive position of a gas entity or other person; or

(b) is commercially sensitive for some other reason.

(2) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act.

(3) Information classified by the Regulator or the Director of Gas Safety as confidential is not liable to disclosure under the Right to Information Act 2009.

## **14.**

## **15. Advisory committees**

(1) The Minister, the Regulator or the Director of Gas Safety may establish an advisory committee to advise the Minister or the Regulator or Director on specified aspects of the administration of this Act.

(2) The members of an advisory committee are appointed and hold office on terms and conditions determined by the Minister.

## **16. Annual report by Director of Gas Safety**

(1) The Director of Gas Safety must, within 4 months after the end of each financial year, deliver to the Minister a report on the Director's operations during that financial year.

(1A) An annual report must include any information required by the Minister.

(2) The Minister must cause a copy of each report to be laid before both Houses of Parliament as soon as practicable after receiving it.

## **16A. Annual report by Regulator**

The annual report made by the Regulator, within the meaning of the *Economic Regulator Act 2009*, under that Act is to include a report on the performance and exercise of the Regulator's functions and powers under this Act.

### *Division 4 - . . . . .*

17.

18.

19.

20.

### *Division 5 - . . . . .*

20A.

20B.

## **PART 3 - Gas supply industry**

### *Division 1 - Licensing of gas entities*

## **21. Requirement for licence**

A person must not –

(a) construct a distribution system; or

(b) operate a distribution system; or

(c) sell gas by retail; or

(d) carry on any other activity for which a licence is required by the regulations –

unless the person holds a licence under this Part or the Gas Pipelines Act 2000 authorising the relevant activity.

Penalty:

Fine not exceeding 500 penalty units.

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### **23. Application for licence**

(1) An application for the issue or renewal of a licence must –

(a) be made to the Regulator in a form approved by the Regulator; and

(b) be supported by such information or evidence as the Regulator may require.

(2) The applicant must pay to the Regulator an application fee fixed by the Regulator of an amount that the Regulator considers appropriate to meet the reasonable costs of determining the application.

(3) The Regulator may, as he or she considers appropriate, accept a single application from an applicant in respect of different operations of the applicant or operations of the applicant at different locations or may require separate applications.

(4) The applicant must give the Regulator any further relevant information that the Regulator reasonably requests.

### **24. Consideration of application for issue of licence**

(1) The Regulator must consider an application for the issue of a licence and may, subject to this Division, issue or refuse to issue the licence within 60 days after receiving the application.

(2) Subject to this section, the Regulator may issue a licence only if satisfied that –

(a) the applicant is a body corporate or a partnership of 2 or more bodies corporate; and

(b) the applicant is suitable to hold the licence; and

(c) in the case of a licence authorising the operation of a distribution system, the Director of Gas Safety has provided a certificate that, in his or her opinion, the system has (or the proposed system will have) the necessary capacity for distributing gas safely; and

(d) . . . . .

(e) in the case of a licence authorising other operations for which a licence is required under the regulations, the applicant meets any special requirements imposed by the regulations for the holding of the licence; and

(f) in the case of a licence of any class, the grant of the licence would be consistent with criteria (if any) prescribed by the regulations for a licence of the relevant class.

(3) In deciding whether an applicant is a suitable person to hold a licence, the Regulator may consider –

(a) the applicant's previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and

(b) the financial, technical and human resources available to the applicant; and

(c) the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and

(d) any other matters prescribed by the regulations.

## **25. Authority conferred by licence**

(1) A licence authorises the person named in the licence to carry on operations in accordance with the terms and conditions of the licence.

(2) The operations authorised by a licence need not be all of the same character or at the same location but may consist of a combination of different operations or operations at different locations.

## **26. Licence term and renewal**

(1) A retail licence is to be for a term not exceeding 10 years stated in the licence.

(2) A distribution licence is granted for a term not exceeding 25 years stated in the licence.

(3) Subject to this Division and the conditions of the licence, the Regulator must, on receipt of an application in accordance with this section, renew a licence unless satisfied that the applicant –

(a) has been guilty of a material contravention of a requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence such that the licence should not be renewed; or

(b) is no longer for any reason entitled to the issue of the licence.

(4) An application for renewal of a licence must be made, in writing, to the Regulator at least 3 months, but not more than 6 months, before the end of the term of the licence.

(5) The Regulator may extend the period of 6 months referred to in subsection (4) as the Regulator thinks fit.

## **27. Licence fees and returns**

(1) A person is not entitled to the issue or renewal of a licence unless the person first pays to the Regulator the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

(2) The holder of a licence issued for a term of 2 years or more must –

(a) in each year lodge with the Regulator, before the date prescribed for that purpose, an annual return containing the information required by the Regulator as a condition of the licence or by written notice; and

(b) in each year (other than a year in which the licence is due to expire) pay to the Regulator, before the date prescribed for that purpose, the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

Penalty:

Fine not exceeding 10 penalty units.

(3) Subject to subsection (4), the annual licence fee for the distribution and retailing of gas is to be a fee fixed by the Regulator of an amount that the Regulator considers appropriate as a reasonable contribution towards the costs of administration of this Act having regard to the nature and scale of the operations that are authorised by the licence.

(4) The regulations may, for the purposes of subsection (3), exclude gas retailed to certain customers or certain classes of customers from the calculation of licence fees.

(5) The Regulator may determine that the annual fee in respect of any licence be paid in equal instalments at intervals fixed by the Regulator.

(6) If the holder of a licence fails to pay the annual licence fee (or an instalment of the annual licence fee) in accordance with this section, interest is to be charged on the amount of the fee outstanding at the prescribed rate.

(7) An annual licence fee (including any instalment of an annual licence fee or any penalty for default) payable under this section is recoverable in any court of competent jurisdiction as a debt due to the Crown.

(8) In this section, *holder* of a licence includes the holder of a licence that has been suspended.

## **28. Information to be included in licence**

A licence is to include the following information:

- (a) the name of the licence holder;
- (b) the activities that the licence authorises, including the geographical location of any operations, where relevant;
- (c) the term of the licence;
- (d) any conditions to which the licence is subject.

## **29. Licence conditions**

(1) A licence held by a gas entity is subject to –

- (a) conditions determined by the Regulator requiring compliance with –
  - (i) standards or codes specified in the licence; and
  - (ii) a safety and operating plan or safety case, in accordance with Part 4; and
- (b) conditions determined by the Regulator relating to the financial or other capacity of the gas entity to continue operations under the licence for the term of the licence; and
- (c) any other conditions determined by the Regulator for the purposes of this Act.

(2) Without limiting the effect of subsection (1) –

- (a) if a person holds a licence or licences authorising both the operation of a distribution system and the retailing of gas, the Regulator may impose conditions on the licence or licences requiring that the person's affairs in respect of the operation of the distribution system be kept separate from the person's affairs in respect of the retailing of gas in the manner and to the extent specified in the conditions; and
- (b) the Regulator may make a licence subject to a condition requiring a specified process to be followed to resolve disputes between the licence holder and customers as to the distribution or sale of gas.

## **30. Licences conferring exclusive franchise**

(1) The Minister may, by order published in the *Gazette*, determine that a person should have an exclusive franchise to undertake or carry on an activity for which a licence is required under section 21.

(2) The franchise may be expressed to be exclusive to such extent as is specified in the order.

(3) The order –

(a) is to specify the person to whom the exclusive franchise is to be granted; and

(b) is to specify the area within which the exclusive franchise applies; and

(c) is to specify the period of the exclusive franchise; and

(d) is to contain any other conditions which the Minister requires the Regulator to include in the licence under which the exclusive franchise is to be granted.

(4) The Regulator must exercise his or her powers under this Act so as to give effect to the order.

(5) The Minister may require the payment of a fee for the grant of an exclusive franchise and may direct the Regulator not to grant the proposed licence until the fee is paid.

(6) The period of an exclusive franchise need not be the same as the period of the licence under which the exclusive franchise is granted.

(7) An exclusive franchise may be subject to conditions –

(a) requiring or relating to standard contractual terms and conditions to apply to the retailing of gas to customers or customers of a prescribed class; or

(b) requiring the gas entity to comply with specified minimum standards of service in respect of the entity's customers or customers of a prescribed class, and requiring monitoring and reporting of levels of compliance with those standards.

(8) The Minister may, by order published in the *Gazette*, revoke or amend an order made under subsection (1).

(9) If the Minister revokes an order made under subsection (1), a licence issued under section 24 in accordance with the order remains in force, but is no longer to be taken as granting an exclusive franchise.

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### **32. Offence to contravene licence conditions**

(1) A gas entity must comply with any conditions to which its licence is subject.

Penalty:

Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day during which the offence continues.

(2) If a court finds a gas entity guilty of an offence against subsection (1), it may in addition to, or instead of, imposing a penalty under that subsection make one or more of the following orders:

(a) an order requiring the gas entity to comply with any conditions to which its licence is subject;

(b) an order directing the gas entity to do, or refrain from doing, anything;

(c) such other order as the court considers desirable to protect the interests of consumers of gas.

### **32A. Directions to comply with licence conditions**

(1) The Regulator, if satisfied on reasonable grounds that a gas entity has been or is failing to comply with the conditions of its licence, may give the gas entity a direction requiring it to take such action as the Regulator considers necessary to secure compliance with those conditions.

(2) A direction must be given by written notice or, if the Regulator is of the opinion that immediate action is required, it may be given orally.

(3) If a direction is given orally, it must be confirmed in writing as soon as practicable after being given.

(4) A direction must state the action required to be taken by the gas entity and the time within which the action is required to be taken.

(5) A gas entity that is given a direction under this section must comply with the direction.

Penalty:

Fine not exceeding 500 penalty units and, in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day during which the offence continues.

(6) If a gas entity fails to comply with a direction given to it under this section –

(a) the Regulator, or a person authorised in writing by the Regulator, may take any action that is reasonable and necessary to give effect to the direction; and

(b) the costs incurred in giving effect to the direction under paragraph (a) are recoverable from the gas entity in any court of competent jurisdiction as a debt due to the Crown from the gas entity; and

(c) for the purposes of giving effect to the direction, neither the Regulator nor a person authorised by the Regulator under paragraph (a) is required to hold a licence.

### **33. Notice of licence decisions**

The Regulator must –

- (a) give an applicant for the issue or renewal of a licence –
  - (i) written notice of the Regulator's decision on the application; and
  - (ii) if the decision is to refuse to issue or renew a licence, the reasons for the decision; and
- (b) give public notification of the Regulator's decision.

### **34. Variation of licence**

- (1) The Regulator may vary the terms or conditions of a gas entity's licence by written notice to the entity.
- (2) A variation may only be made –
  - (a) on application by the gas entity or with the gas entity's agreement; or
  - (b) after giving the gas entity reasonable notice of the proposed variation and allowing the entity a reasonable opportunity to make representations about the proposed variation.
- (3) The Regulator must give the holder of a licence written notice of any decision by the Regulator affecting the terms or conditions of the licence.

### **35. Transfer of licence**

- (1) A licence may be transferred with the agreement of the Regulator.
- (2) It is a condition of the transfer of a licence that the person to whom the licence is transferred must –
  - (a) provide the Director of Gas Safety with a written commitment to comply with the existing safety case for the relevant facility; or
  - (b) submit a new safety case to the Director of Gas Safety for approval.
- (3) The Regulator may impose conditions on the transfer of a licence, or vary the terms and conditions of the licence on its transfer.

### **36. Surrender of licence**

- (1) A gas entity may, by written notice given to the Regulator, surrender its licence.
- (2) The notice must be given to the Regulator at least 6 months before the surrender is to take effect or, if the licence requires a longer period of notice, as required by the licence.
- (3) The Regulator may, by agreement with the gas entity, shorten the required period of notice.

### **37. Register of licences**

- (1) The Regulator is to keep a register of the licences issued to gas entities under this Act.
- (2) A register kept under this section –
  - (a) is to include the terms and conditions of each licence; and
  - (b) is to include other information required under the regulations.
- (3) A person may, on payment of a fee fixed by the Regulator, inspect the register.

#### *Division 2 - Standard terms and conditions*

### **38.**

#### *Division 2A - Gas codes*

### **38A. Gas codes**

- (1) Either of the following persons may issue gas codes:
  - (a) the Minister;
  - (b) the Regulator.
- (2) A code may provide for any matter relating or incidental to the distribution or retailing of gas.
- (3) A code must be consistent with this Act and the public interest.
- (4) If there is an inconsistency between a code and this Act, the code is invalid to the extent of the inconsistency.
- (5) A code may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the code.

(6) A code may authorise any matter to be from time to time determined, applied or regulated by –

(a) the Regulator; or

(b) the Tribunal; or

(c) a tribunal established under the code.

(7) The Minister is to notify the Regulator whenever the Minister issues a code and provide the Regulator with a copy of the code.

(8) The Regulator is to notify the Minister whenever the Regulator issues a code and provide the Minister with a copy of the code.

### **38B. Publication and availability of gas codes**

(1) As soon as practicable after the Minister or the Regulator issues a code, the Regulator is to cause it to be published in the *Gazette*.

(2) The Regulator must provide a person with a copy of a code or part of a code if the person –

(a) requests it; and

(b) pays to the Regulator a reasonable fee determined by the Regulator.

(3) The Regulator must allow a person to peruse a code, free of charge, at the office of the Regulator at any time within the hours during which that office is normally open.

### **38C. Review, amendment and replacement of gas codes**

(1) In this section –

*issuing authority* means the Minister or the Regulator;

*protected provision* means a code provision that is identified, in the code, as a provision that is not to be omitted from the code, or amended, without the Minister's written approval.

(2) An issuing authority may, on its own initiative or at the request of any person, review a code issued by that authority.

(3) The Regulator is to review a code issued by the Regulator when required to do so by the Minister.

(4) An issuing authority may amend, rescind or substitute a code issued by that authority as specified in, and in accordance with, the code.

(5) Despite subsection (4), the Regulator must not do any of the following without first obtaining the written approval of the Minister:

- (a) amend a protected provision of a code;
- (b) amend a code by omitting a protected provision;
- (c) rescind or substitute a code containing a protected provision.

***Division 3 - . . . . .***

**39.**

**40.**

***Division 4 - Failure to supply or convey gas***

**41. Gas retailer not liable for failure to supply gas**

- (1) A gas retailer is not liable to a penalty or damages for failing to supply gas if the failure arises out of any accident or cause beyond the control of the gas retailer.
- (2) A gas retailer may enter into an agreement with a person varying or excluding the operation of subsection (1).
- (3) Nothing in subsection (1) or (2) affects the liability of a gas retailer under Part 4.

**42. Gas entity not liable for failure to convey gas**

- (1) A gas entity is not liable to a penalty or damages for failing to convey gas through its distribution pipelines if the failure arises out of any accident or cause beyond the control of the gas entity.
- (2) A gas entity may enter into an agreement with a person varying or excluding the operation of subsection (1).
- (3) Nothing in subsection (1) or (2) affects the liability of a gas entity under Part 4.

***Division 5 - Protection of property in gas infrastructure***

**43. Gas and co-located infrastructure does not merge with land**

In the absence of an agreement in writing to the contrary, the ownership of a pipe, conduit or equipment is not affected by the fact that it has been –

- (a) laid or installed as gas infrastructure in or under land; or
- (b) laid or installed, in conjunction with gas infrastructure, as telecommunications infrastructure in or under land.

**44. Seizure and dismantling of gas infrastructure**

- (1) Gas infrastructure may not be seized or dismantled in execution of a judgment.
- (2) This section does not prevent the sale of a distribution system as a going concern in execution of a judgment.

### *Division 6 - Temporary gas rationing*

#### **45. Temporary gas rationing**

(1) If for any reason the volume of gas available for supply through a distribution system is insufficient to meet the requirements of all customers who draw gas from that system –

(a) the Minister may, by notice in writing to the gas entity by which the system is operated, give directions to ensure the most efficient and appropriate use of the available gas; and

(b) the Minister may, by notice published in such manner as may be appropriate in the circumstances, direct customers not to draw gas from the system except for the purposes (if any) allowed by the directions.

(2) A direction under this section operates for a period (not exceeding 30 days) specified in the notice.

(3) No civil liability arises from a failure to supply gas as a result of compliance with a direction under this section.

(4) A person must not contravene a direction under this section.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 500 penalty units; or

(b) a natural person, a fine not exceeding 25 penalty units.

### *Division 7 - Suspension or cancellation of licences*

#### **46. Suspension or cancellation of licences**

(1) The Regulator may suspend or cancel a licence with effect from a specified date, if satisfied that –

(a) the holder of the licence obtained the licence improperly; or

(b) the holder of the licence has been guilty of a material contravention of a requirement imposed by or under this Act or any other Act in connection with the operations authorised by the licence; or

(c) the holder of the licence has ceased to carry on operations authorised by the licence; or

(ca) the holder of the licence has failed to commence operations as authorised by the licence; or

(d) there has been any act or default such that the holder of the licence would no longer be entitled to the issue of such a licence.

(2) A suspension under this section may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Regulator.

(3) Before the Regulator acts under this section, the Regulator must –

(a) notify the holder of the licence in writing of the proposed action specifying the reasons for the proposed action; and

(b) allow the holder of the licence a reasonable period within which to make submissions to the Regulator in respect of the proposed action.

### *Division 8 - Power of Regulator to take over operations*

#### **47. Power to take over operations**

(1) The Governor may, on receipt of a report from the Regulator, make an order under this section if –

(a) a gas entity contravenes this Act and the contravention is, in the opinion of the Governor, of a sufficiently serious nature, or a gas entity's licence ceases, or is to cease, to be in force; and

(b) it is necessary, in the Governor's opinion, to take over the entity's operations (or some of them) to ensure that the entity's customers receive an adequate supply of gas.

(2) Before the Governor makes an order under this section, the Regulator must give the gas entity a reasonable opportunity to make written representations giving reasons why the order should not be made.

(3) An order under this section –

(a) authorises the Regulator to take over the gas entity's operations or a specified part of the gas entity's operations; and

(b) may contain ancillary directions including, without limitation, directions about how the costs of carrying on the operations, and revenue generated from the operations, are to be dealt with.

(4) A direction under subsection (3)(b) operates to the exclusion of rights that are inconsistent with it.

#### **48. Appointment of operator**

(1) If an order is made under section 47, the Regulator must appoint a suitable person (who may, but need not, be a gas entity) to take over the relevant operations on agreed terms and conditions.

(2) A person appointed to take over a gas entity's operations is referred to in this section as the "operator".

(3) The gas entity must facilitate the takeover of the relevant operations by the operator.

Penalty:

Fine not exceeding 500 penalty units.

(4) The operator may have access to the distribution system and other property of the gas entity for the purposes of carrying on the relevant operations.

(5) A person must not obstruct the operator's access to property or the exercise by the operator of the operator's responsibilities under this Part.

Penalty:

Fine not exceeding 500 penalty units.

(6) A person must comply with reasonable directions given by the operator in the exercise of the operator's responsibilities under this Part.

Penalty:

Fine not exceeding 500 penalty units.

### ***Division 9 - Disputes***

#### **49. Disputes**

(1) If a dispute arises as to the activities of a gas entity, a party to the dispute may request the Regulator or the Director of Gas Safety to mediate in the dispute.

(2) The Regulator or the Director of Gas Safety may mediate or decline to mediate in a dispute and may impose conditions that must be satisfied if the mediation is to proceed.

- (3) If the Regulator or the Director of Gas Safety proceeds with the mediation –
- (a) the Regulator or the Director of Gas Safety may give directions to the parties to assist in the resolution of the matters in issue; and
  - (b) the Regulator or the Director of Gas Safety must make a reasonable attempt to assist the parties to agree to a negotiated settlement of the dispute.
- (4) If a dispute is resolved, the parties to the dispute and the Regulator or the Director of Gas Safety must sign a document setting out the terms of the settlement and the agreement is binding on the parties.
- (5) This section is not intended to provide an exclusive method of dispute resolution.

## **PART 4 - Safety of infrastructure, installations and appliances**

### *Division IAA - . . . . .*

#### **49A.**

### *Division 1 - General requirements for safe operation*

#### **50. General requirements for safe operation**

- (1) A person who owns or operates gas infrastructure or a gas installation must take reasonable steps to ensure that –
- (a) the infrastructure or installation complies with, and is operated in accordance with, technical and safety requirements imposed under the regulations; and
  - (b) the infrastructure or installation is safe and safely operated.

Penalty:

Fine not exceeding 1 000 penalty units.

- (2) For the purpose of ensuring under this section that a gas installation complies with the technical and safety requirements, a person may rely on a certificate of compliance referred to in section 66 in respect of the installation.

#### **51. Gas quality**

- (1) A gas entity must ensure that, as far as practicable, the gas which it conveys –
- (a) meets the prescribed standards of quality; and
  - (b) complies with any other prescribed requirements.

Penalty:

Fine not exceeding 1 500 penalty units.

(2) A gas entity that supplies or sells gas to a customer for use in a gas installation must ensure that, as far as practicable, the gas supplied or sold –

(a) meets the prescribed standards of quality; and

(b) complies with any other prescribed requirements.

Penalty:

Fine not exceeding 1 500 penalty units.

## **52. Offence to supply or sell gas for unsafe gas installation**

(1) A person must not knowingly supply or sell gas for use in a gas installation which is unsafe.

Penalty:

Fine not exceeding 1 500 penalty units.

(2) A gas entity or licensee under the Gas Pipelines Act must not knowingly supply or sell gas for use in a gas installation which does not comply with this Act otherwise than with the approval of the Director of Gas Safety.

Penalty:

Fine not exceeding 1 500 penalty units.

## **53. Mandatory reporting of gas incidents**

(1) A gas entity must report to the Director of Gas Safety in accordance with the regulations any incident which occurs in respect of a facility of that gas entity.

Penalty:

Fine not exceeding 500 penalty units.

(2) A gas entity or licensee under the Gas Pipelines Act must report to the Director of Gas Safety, as soon as practicable, any incident of which it is aware and which occurs in respect of a gas installation to which it supplies or sells gas.

Penalty:

Fine not exceeding 500 penalty units.

(3) The Chief Officer of the Tasmania Fire Service must report to the Director of Gas Safety any fire or explosion in which he or she suspects gas was a cause or contributing factor.

(4) If an incident occurs that is caused by the operation or condition of gas infrastructure or a gas installation, the gas infrastructure or gas installation must not be altered or interfered with unnecessarily by any person so as to prevent a proper investigation of the incident.

Penalty for breach of this subsection: Fine not exceeding 1 000 penalty units.

## *Division 2 - Safety and operating plan for facilities*

### **54. Safety and operating plan**

(1) A gas entity must submit to the Director of Gas Safety a safety and operating plan for each of its facilities that demonstrates compliance with the standards and codes prescribed by the regulations.

(2) Before submitting a safety and operating plan to the Director of Gas Safety, the gas entity must ensure that the plan is independently certified by a person approved by the Director as conforming to any relevant standard.

(3) A safety and operating plan for a facility –

(a) must be in writing; and

(b) in accordance with the regulations, must specify the safety management system being followed or to be followed by the gas entity –

(i) to comply with the gas entity's duties under Division 1; and

(ii) in respect of any other matters relating to the safe conveyance, supply, sale, measurement or control of gas that are prescribed.

(4) A gas entity must not commission or commence to operate a facility of the gas entity unless a certified safety and operating plan for that facility has been accepted or provisionally accepted by the Director of Gas Safety.

Penalty:

Fine not exceeding 1 500 penalty units.

(5) A safety and operating plan may be submitted in stages.

(6) A safety and operating plan may apply to more than one facility.

(7) A gas entity must thoroughly review and revise its safety and operating plan in accordance with the review schedule contained in the plan.

Penalty:

Fine not exceeding 500 penalty units.

### **55. Auditing of safety and operating plan for facility**

(1) A gas entity must have the implementation of its safety and operating plan audited as required by the Director of Gas Safety.

Penalty:

Fine not exceeding 500 penalty units.

(2) Within 14 days of receiving an audit report, the gas entity must submit a copy of it to the Director of Gas Safety.

Penalty:

Fine not exceeding 500 penalty units.

### **56. Additional information**

(1) The Director of Gas Safety may require a gas entity to provide any additional information that the Director thinks fit in respect of a safety and operating plan submitted by the gas entity under this Division.

(2) The Director of Gas Safety is not required to proceed with the consideration of a safety and operating plan until the additional information is provided.

### **57. Acceptance of safety and operating plan**

The Director of Gas Safety must accept a certified safety and operating plan submitted under this Division if satisfied that it has been prepared in accordance with this Act.

### **58. Provisional acceptance of safety and operating plan**

(1) The Director of Gas Safety may provisionally accept a certified safety and operating plan if satisfied that –

(a) it has not been prepared in accordance with the Director's directions in only a minor respect; and

(b) despite that failure, it will provide for the safe operation of the pipeline.

(2) The Director of Gas Safety must notify a gas entity in writing of his or her decision to provisionally accept its safety and operating plan.

(3) The notice of acceptance must state –

(a) the period during which the provisional acceptance will be in force; and

(b) the extent to which the safety and operating plan has been accepted; and

(c) any limitations or conditions which will apply in respect of the use or operation of the facility while the provisional acceptance is in force.

### **59. Non-acceptance of safety and operating plan**

(1) If the Director of Gas Safety does not accept or provisionally accept a safety and operating plan, he or she must –

(a) notify the gas entity in writing of the non-acceptance; and

(b) give the gas entity an opportunity to modify and resubmit the safety and operating plan.

(2) A modified safety and operating plan must be submitted to the Director within 28 days after the notice is given under subsection (1).

(3) If, after considering any modified safety and operating plan submitted under this section, the Director decides not to accept it, the Director must give notice in writing of that decision to the gas entity.

(4) A notice under this section must be accompanied by a statement of the reasons for the decision.

### **60. Director of Gas Safety may determine safety and operating plan**

(1) The Director of Gas Safety may determine the safety and operating plan which is to apply in respect of a facility which is in operation at the time of the determination if –

(a) the gas entity fails to submit a safety and operating plan for the facility in accordance with this Act; or

(b) the Director has decided not to accept a safety and operating plan for the facility.

(2) If the Director determines the safety and operating plan to apply to a facility under this section –

(a) the Director must give notice in writing to the gas entity of that determination; and

(b) the gas entity must pay the costs associated with determining the safety and operating plan.

(3) On notice being given to the gas entity under subsection (2), the safety and operating plan determined by the Director is taken for the purposes of this Act to be the accepted safety and operating plan for the facility to which it applies.

(4) Nothing in subsection (3) prevents a gas entity from submitting a safety and operating plan or a revised safety and operating plan for a facility to the Director for acceptance under this Division.

### **61. Compliance with safety and operating plan**

(1) A gas entity must comply with the accepted safety and operating plan for a facility in respect of the management and operation of the facility.

Penalty:

Fine not exceeding 1 500 penalty units.

(2) A gas entity must not –

(a) undertake or permit a modification of a facility that has the potential to significantly increase the overall levels of risk in respect of the facility; or

(b) undertake or permit a modification of a facility that has the potential to significantly influence the level of a particular risk or the ranking of risk contributing factors; or

(c) make or permit a significant change to the safety management system in respect of a facility –

unless the Director of Gas Safety has accepted a revision of the safety and operating plan in respect of that matter for that facility.

Penalty:

Fine not exceeding 1 500 penalty units.

### **62. Revision of safety and operating plan**

A gas entity must submit a revised safety and operating plan for a facility to the Director of Gas Safety if –

- (a) developments in technical knowledge or the assessment of hazards relevant to the facility make it appropriate to revise the safety and operating plan; or
- (b) proposed modifications of the facility will result in a significant increase in the overall levels of risk in respect of the facility; or
- (c) a proposed modification of the facility may significantly influence the level of a particular risk or the ranking of risk contributing factors; or
- (d) the gas entity proposes to make a significant change to the safety management system in respect of the facility.

### **63. Director of Gas Safety may require submission of revised safety and operating plan**

- (1) The Director of Gas Safety may at any time require a gas entity to submit a revised safety and operating plan for a facility of the gas entity.
- (2) The requirement must –
  - (a) be in writing; and
  - (b) set out –
    - (i) the matters to be dealt with by the required revision; and
    - (ii) the proposed date of effect of the revision; and
    - (iii) the grounds for the requirement.
- (3) The gas entity of which the requirement is made may make a submission to the Director on all or any of the following grounds:
  - (a) that the revision should not occur;
  - (b) that the revision should be in terms different from the terms proposed in the requirement;
  - (c) that the revision should take effect on a later date than the proposed date of effect.
- (4) The submission must –
  - (a) be in writing; and
  - (b) state the gas entity's reasons for the submission; and

(c) be made within 21 days, or such later period as the Director allows in writing, after the request is received.

(5) If a gas entity makes a submission under this section, the Director must –

(a) accept the submission or part of the submission and vary or withdraw the requirement accordingly; or

(b) reject the submission.

(6) The Director must give the gas entity notice in writing of his or her acceptance or rejection of the submission and the reasons for it.

#### **64. Offence to fail to submit revised safety and operating plan when required**

If the Director of Gas Safety requires the revision of a safety and operating plan under section 63, the gas entity must submit a revised safety and operating plan for the facility to the Director –

(a) within a time that is not less than 60 days specified by the Director in the requirement, if the gas entity does not make a submission under that section; or

(b) if the gas entity has made a submission under that section and the Director has not withdrawn the requirement, within a time that is not less than 60 days specified by the Director in his or her decision on the submission.

Penalty:

Fine not exceeding 400 penalty units.

#### **65. Application of provision to revised safety and operating plan**

Sections 55, 56, 57, 58, 59, 60 and 61 apply to the revision of a safety and operating plan in the same manner as they apply to a safety and operating plan.

### ***Division 3 - Gas infrastructure, gas installations and gas fitting work***

#### **66. Certain gas fitting work**

A person who carries out work on a gas installation or proposed gas installation must ensure that –

(a) the work is carried out as required under the regulations; and

(b) examinations and tests are carried out as required under the regulations; and

(c) the requirements of the regulations as to notification and certificates of compliance are complied with.

Penalty:

Fine not exceeding 100 penalty units.

### **67. Power to require rectification, &c., in respect of gas infrastructure or gas installations**

(1) If gas infrastructure or a gas installation is unsafe, or does not comply with this Act, the Director of Gas Safety may give a direction requiring –

(a) rectification of the infrastructure or installation to the satisfaction of the Director; and

(b) if appropriate, the temporary disconnection of the gas supply while the rectification work is carried out; and

(c) the disconnection and removal of the infrastructure or installation.

(2) Subject to this section, a direction under this section must be given –

(a) in respect of gas infrastructure, to the gas entity in charge of the infrastructure; or

(b) in respect of an installation, to the person in charge of the installation or the occupier of the place in which the installation is situated.

(3) A direction must be given by written notice or, if the Director of Gas Safety is of the opinion that immediate action is required, it may be given orally.

(4) If a direction is given orally, it must be confirmed in writing as soon as practicable after being given.

(5) A person to whom a direction is given under this section must not contravene the direction.

Penalty:

Fine not exceeding 100 penalty units.

(6) If a person contravenes a direction, the Director of Gas Safety, or a person authorised in writing by the Director, may take any action that is reasonable and necessary to give effect to the direction.

(7) The costs incurred in carrying out the direction are recoverable from the relevant gas entity or person in any court of competent jurisdiction as a debt due to the Crown from the person who contravened the direction.

## *Division 4 - Gas appliances*

### **68. Gas appliances to which this Division applies**

(1) This Division applies to –

(a) gas appliances of a class specified in the relevant standard prescribed in the regulations, or in a relevant appendix to that standard; and

(b) gas appliances of a class declared by the Director of Gas Safety, by notice in the *Gazette*, to be gas appliances to which this Division applies.

(2) The Director of Gas Safety may, by notice in the *Gazette* –

(a) declare gas appliances of a specified class to be gas appliances to which this Division applies; or

(b) vary or revoke a previous declaration under this section.

### **69. Relevant standard**

(1) A standard is a relevant standard for a gas appliance to which this Division applies, if –

(a) it is stated in the relevant Australian Standard or the relevant Australian Gas Association Standard to be –

(i) a standard applicable to the gas appliance or the relevant class of gas appliances; or

(ii) a standard accepted by the Director of Gas Safety instead of such a standard; or

(b) where there is no standard applicable under paragraph (a), the Director of Gas Safety declares it to be a relevant standard for the gas appliance or appliances of the relevant class.

(2) The Director of Gas Safety may, by notice in the *Gazette* –

(a) declare that a particular standard is the relevant standard for gas appliances of a specified type; or

(b) vary or revoke a previous declaration under this section.

### **70. Approval of gas appliances**

(1) In this section,  
*external authority* means –

(a) an authority of another State or a Territory that has the power to approve, register or certify gas appliances; or

(b) an authority or any other person approved by the Director of Gas Safety as an external authority for the purposes of this section.

(2) A gas appliance to which this Division applies is taken to be approved if –

(a) it is approved by the Director of Gas Safety under this Division; or

(b) it is approved, registered or certified by an external authority.

(3) The Director of Gas Safety may, by notice in the *Gazette*–

(a) approve an authority or any other person as an external authority for the purposes of this section; or

(b) vary or revoke a previous approval under this section.

## **71. Labelling of gas appliances**

(1) A gas appliance to which this Division applies is labelled as required under this Division if –

(a) in the case of an appliance approved by the Director of Gas Safety under this Division, it is labelled as required under the conditions of its approval; or

(b) in the case of an article approved by an external authority –

(i) it displays a regulatory compliance label in accordance with the relevant Australian Standard or the relevant Australian Gas Association Standard for gas appliances; or

(ii) it is labelled as required by the law in force in the jurisdiction of the external authority.

(2) A person must not –

(a) label a gas appliance in a way that suggests it is approved by the Director of Gas Safety or an external authority if it is not in fact so approved; or

(b) make any form of representation to the effect that a gas appliance is approved by the Director of Gas Safety or an external authority, or from which it might reasonably be inferred that an appliance is approved by the Director of Gas Safety or an external authority, if it is not in fact so approved; or

(c) misuse a label for indicating approval of a gas appliance.

Penalty:

Fine not exceeding 100 penalty units.

## **72. Application for approval of gas appliances**

An application for approval of gas appliances of a certain class –

- (a) must be made to the Director of Gas Safety in an approved form; and
- (b) must be accompanied by –
  - (i) a declaration by the applicant that a representative sample of the appliances has been tested and examined by a specified testing laboratory approved by the Director of Gas Safety; and
  - (ii) a report from a suitably qualified person from the relevant laboratory stating that the appliance has been tested and examined by reference to the relevant standard and stating the results of the tests and examination; and
  - (iii) if the Director of Gas Safety so requires, a sample of the appliance; and
  - (iv) any other relevant information that the Director of Gas Safety requires about the construction, operation or safety of the appliance.

Penalty:

Fine not exceeding 100 penalty units.

## **73. Approval of appliances by Director of Gas Safety**

(1) The Director of Gas Safety may approve gas appliances of a particular class if satisfied that the articles comply with the requirements of the relevant standard.

(2) When the Director approves gas appliances of a certain class, he or she must –

- (a) assign an identification number indicating approval of appliances of the relevant class; and
  - (b) issue a certificate of approval in respect of appliances of the relevant class to the applicant.
- (3) If the Director decides not to approve gas appliances of a certain class, he or she must give the applicant written notice of the decision not to approve the appliances –

- (a) setting out the reasons for the decision; and

(b) stating the applicant's right of appeal under Part 7.

#### **74. Term of approval**

(1) Unless cancelled earlier, an approval of gas appliances of a certain class remains in force for 5 years.

(2) An approval may be renewed by the Director of Gas Safety for a further 5 years but may not be again renewed so that the aggregate period of approval exceeds 10 years.

#### **75. Offence to install Type A appliances unless approved**

A person must not knowingly install a Type A appliance unless the appliance has been approved as required under this Division by the Director of Gas Safety or an external authority.

#### **76. Offence to use Type B appliances**

A person must not use a Type B appliance –

(a) unless the gas installation of which the appliance forms a part has been accepted by the Director of Gas Safety in accordance with this Division; or

(b) otherwise than in prescribed circumstances.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 200 penalty units; or

(b) a natural person, a fine not exceeding 50 penalty units.

### ***Division 5 - Acceptance of gas installations***

#### **77. Acceptance of gas installations**

(1) This section does not apply to any repair or maintenance work on a gas installation.

(2) A person who carries out work on a complex gas installation or on a standard gas installation of a prescribed class must apply to the Director of Gas Safety for acceptance of the gas installation before the gas installation is commissioned.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 200 penalty units; or

(b) a natural person, a fine not exceeding 50 penalty units.

(3) An application –

(a) is to be in writing; and

(b) is to include the prescribed information; and

(c) is to include a statement of compliance in the prescribed form; and

(d) is to be made in accordance with the regulations; and

(e) is to be accompanied by the prescribed fee.

(4) The Director of Gas Safety must accept a gas installation if he or she is satisfied that the relevant standards have been met and the statement of compliance is satisfactory.

(5) The Director of Gas Safety must notify the applicant in writing of his or her decision–

(a) to accept a gas installation; or

(b) to accept a gas installation subject to conditions specified by the Director; or

(c) not to accept a gas installation.

(6) The conditions specified by the Director of Gas Safety may include –

(a) requirements for the testing of the gas installation in accordance with the regulations by a person or body approved by the Director; and

(b) requirements for modifications to be made to the gas installation; and

(c) requirements for the affixing of compliance plates to the gas installation or to any appliance forming part of the gas installation in accordance with the regulations.

(7) If the Director of Gas Safety decides not to accept a gas installation under this section, he or she must notify the applicant of the reasons for that decision.

(8) If the Director of Gas Safety accepts a gas installation subject to certain conditions, the acceptance takes effect when the conditions are met.

## **78. Sale of gas appliances**

- (1) A person must not sell a gas appliance of a prescribed class unless –
- (a) the appliance is approved as required under this Division; and
  - (b) the appliance is labelled as required under this Division; and
  - (c) the appliance complies with the relevant standard for the appliance.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
  - (b) a natural person, a fine not exceeding 50 penalty units.
- (2) This section does not apply to –
- (a) a sale that takes place within 6 months after the relevant class of appliances is approved; or
  - (b) the sale of second-hand goods.

### **79. Offence to alter approved gas appliance**

A person must not modify an approved gas appliance, unless the Director of Gas Safety has given written approval to the modification.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; or
- (b) a natural person, a fine not exceeding 50 penalty units.

### **79A. Prohibition of supply of appliances or components**

- (1) The Director of Gas Safety, by notice published in the *Gazette* and in a newspaper circulating generally in the State, may prohibit the supply or sale of an appliance or component, or appliances or components of a specified class.
- (2) A prohibition under subsection (1) takes effect from the date of publication of the notice or from such later date as is specified in that notice.
- (3) The Director of Gas Safety, by notice in writing given to a person, may prohibit that person from supplying or selling an appliance or component or appliances or components of a specified class.

(4) A notice under subsection (3) takes effect from the date of the notice or such later date as is specified in the notice.

(5) The Director of Gas Safety may exercise a power of prohibition under this section only if it appears to the Director that –

(a) the appliance or component or an appliance or component of the specified class is, or is likely to become, by reason of its design or construction, unsafe to use; and

(b) prohibition of the supply or sale of the appliance or component or of all appliances or components of the specified class is warranted by reason of the risk of death or injury to any person or damage to any property arising out of the use of that appliance or component, or appliances or components of that class.

(6) The Director of Gas Safety may withdraw a prohibition made under subsection (1) by notice published in the *Gazette* and in a newspaper circulating generally in the State.

(7) The Director of Gas Safety may withdraw a prohibition made under subsection (3) by notice given to the person to whom the notice of prohibition was given.

(8) . . . . .

**79B. Offence to disobey prohibition**

(1) A person must not, while a prohibition under section 79A(1) remains in force, contravene that prohibition.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 200 penalty units; or

(b) a natural person, a fine not exceeding 50 penalty units.

(2) A person must not, while a prohibition under section 79A(3) remains in force, contravene that prohibition.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 200 penalty units; or

(b) a natural person, a fine not exceeding 50 penalty units.

## **79C. Recall of appliances or components**

**(1)** The Director of Gas Safety, by notice in writing served on a person –

**(a)** whose business is, or includes, the supply or sale of appliances or components; and

**(b)** who has supplied or sold an appliance or component, or an appliance or component of a specified class –

may require the person to take, within a period specified in the notice, any action specified in the notice.

**(2)** The Director of Gas Safety may make a requirement under this section only if it appears to the Director that –

**(a)** an appliance or component, or an appliance or component of a specified class, is, or is likely to become, by reason of its design or construction, unsafe to use; or

**(b)** specific action is necessary –

**(i)** to make an appliance or a component or appliances or components of a specified class safe to use; or

**(ii)** to render safe the use of an appliance or a component or appliances or components of a specified class.

**(3)** The action specified in the notice may consist of or include –

**(a)** sending a written request to the person to whom the appliance or component, or an appliance or component of the specified class, was supplied or sold to return the appliance or component to the place at which it was supplied or sold; and

**(b)** placing an advertisement in a form approved by the Director of Gas Safety in a newspaper or newspapers specified by the Director, for a period or periods specified by the Director, requesting all persons to whom an appliance or component of the specified class was supplied or sold to return the appliance or component to the place at which it was supplied or sold; and

**(c)** making the appliance or component, or appliances or components of the specified class, safe to use or rendering safe the use of that appliance or component, or appliances or components, in the manner specified in the notice; and

**(d)** refunding the purchase price on return of the appliance or component, if it is not practicable to render the appliance or component safe or if the supplier elects not to do so.

(4) The Director of Gas Safety may alter or revoke a requirement under this section by notice given to the person of whom the requirement was made.

(5) . . . . .

***Division 6 - Pipeline planning corridors***

**79D. Interpretation**

(1) In this Division –

***affected pipeline*** means the pipeline in respect of which a pipeline planning corridor has been declared under this Division;

***appeal*** means an appeal to the Tribunal under Division 3 of Part 4 of the *Land Use Planning and Approvals Act 1993*;

***AS 2885*** means AS 2885 Pipelines - Gas and liquid petroleum published by the Standards Association of Australia, as in force from time to time (including any code or standard having effect under that standard);

***condition*** includes restriction;

***discretionary development*** means a development or use to which section 57 of the *Land Use Planning and Approvals Act 1993* applies;

***permitted development*** means a development or use to which section 58 of the *Land Use Planning and Approvals Act 1993* applies;

***pipeline*** means a pipe or system of pipes for use for, or in connection with, the distribution and supply of gas to persons for consumption, but does not include –

(a) a pipeline in respect of which a licence has been granted or is required under the *Gas Pipelines Act 2000*; or

(b) a system of pipes and equipment –

(i) installed in a place for the conveyance and use of gas from a pressurised vessel situated in the place; and

(ii) not extending to, or connected to pipes in, some other place in separate occupation; or

(c) pipes or equipment declared by the regulations not to be, or not to form part of, a distribution system; or

(d) a pipeline or class of pipelines which, under section 3(3), is to be treated as not forming part of a distribution system for the purposes of this Act;

***pipeline licensee***, for a pipeline planning corridor, means –

(a) if the affected pipeline is a proposed pipeline, the gas entity licensed to construct the pipeline; or

(b) if the affected pipeline is an existing pipeline, the gas entity licensed to operate the pipeline;

**pipeline planning corridor** means a planning corridor declared by an order in force under section 79E(1);

**planning authority** means a planning authority within the meaning of the Land Use Planning and Approvals Act 1993;

**safety condition** means a condition imposed on a permit for a permitted or discretionary development in order to apply, adopt or otherwise give effect to a safety requirement contained in AS 2885.

(2) For the purposes of the definition of "pipeline licensee" in subsection (1), a pipeline ceases to be a proposed pipeline once it is capable of being used by a gas entity to deliver gas to persons for consumption.

#### **79E. Declaration of pipeline planning corridors**

(1) To limit potential impacts on the risk profile of a proposed or existing pipeline the Minister may, by order, declare a planning corridor in respect of that pipeline.

(2) In determining the width of the pipeline planning corridor the Minister may have regard to AS 2885.

(3) The Minister may revoke an order under subsection (1) at any time and must do so without delay if he or she becomes aware that –

(a) in the case of an order for a proposed pipeline, the pipeline will never be constructed or made operational; or

(b) in the case of an order for an existing pipeline, the pipeline has been dismantled or has ceased permanently to be operational.

(4) The Minister is to cause notice of the declaration of a pipeline planning corridor to be given to the Minister to whom the administration of the Water Management Act 1999 is assigned.

#### **79F. Effect of declarations: permitted development applications**

(1) If application is made for a permit for a permitted development wholly or partly within a pipeline planning corridor –

(a) the relevant planning authority must give the pipeline licensee notice of the application and, subject to the time constraints of section 58(2) of the Land Use

*Planning and Approvals Act 1993*, at least 14 days in which to advise the authority on the proposed development; and

(b) the pipeline licensee may, within that period, give the planning authority such advice on the application as the pipeline licensee thinks fit and in so doing may recommend that the permit be granted subject to safety conditions specified in the advice.

(2) If the pipeline licensee gives such advice, the planning authority –

(a) may have regard to the advice in determining the application; and

(b) may, without limiting its discretion but subject to paragraph (c), grant the permit subject to any safety condition recommended by the pipeline licensee (with or without modification); and

(c) must not grant the permit subject to a condition that conflicts with any condition contained in the safety and operating plan applying to the affected pipeline under Division 2.

(3) If the planning authority decides to grant the permit subject to a safety condition and the applicant lodges an appeal against that decision –

(a) the planning authority must give the pipeline licensee notice of the appeal; and

(b) the pipeline licensee is, for the purposes of section 14 of the Resource Management and Planning Appeal Tribunal Act 1993, taken to be a person whose interests are affected by the decision and who has a proper interest in the subject matter of the appeal.

(4) If the Tribunal is satisfied on hearing the appeal that the safety condition –

(a) was recommended to the planning authority by the pipeline licensee; and

(b) is in the same or essentially the same terms as the pipeline licensee recommended; and

(c) exceeds the requirements of AS 2885 as in force when the affected pipeline was constructed; and

(d) has added to the cost of the development –

the Tribunal is (if it is appropriate to do so having regard to its decision on the appeal) to order that the pipeline licensee reimburse the applicant for the additional cost or such part of the additional cost as the Tribunal determines is fair in the circumstances.

## **79G. Effect of declarations: discretionary development applications**

**(1)** If application is made for a permit for a discretionary development wholly or partly within a pipeline planning corridor –

**(a)** the relevant planning authority must, when notice of the application is given under section 57 of the *Land Use Planning and Approvals Act 1993*, refer the application to the pipeline licensee; and

**(b)** the pipeline licensee may, within the 14 day or further representation period allowed under section 57(5) of the *Land Use Planning and Approvals Act 1993*, give the planning authority such advice on the application as it thinks fit and in so doing may recommend that, if granted, the permit should be made subject to safety conditions specified in the advice.

**(2)** If the pipeline licensee fails to give any such advice, the planning authority may determine the application without further reference to the pipeline licensee.

**(3)** If the pipeline licensee gives any such advice –

**(a)** the planning authority is to have regard to the advice in determining the application; and

**(b)** the advice is taken to be a representation made under section 57(5) of the *Land Use Planning and Approvals Act 1993* in relation to the application; and

**(c)** the planning authority may, without limiting its discretion in the event it approves the application but subject to paragraph (d), grant the permit subject to any safety condition recommended by the pipeline licensee (with or without modification); and

**(d)** the planning authority must not grant the permit subject to a condition that conflicts with any condition contained in the safety and operating plan applying to the affected pipeline under Division 2.

**(4)** If the permit is granted subject to a safety condition and the Tribunal is satisfied on an appeal against that safety condition that it –

**(a)** was recommended to the planning authority by the pipeline licensee; and

**(b)** is in the same or essentially the same terms as the pipeline licensee recommended; and

**(c)** exceeds the requirements of AS 2885 as in force when the affected pipeline was constructed; and

**(d)** has added to the cost of the development –

the Tribunal may (if it is appropriate to do so having regard to its decision on the appeal) order that the pipeline licensee reimburse the applicant for the additional cost or such part of the additional cost as the Tribunal determines is fair in the circumstances.

(5) Section 57(2) of the *Land Use Planning and Approvals Act 1993* does not apply to an application referred to in subsection (1).

(6) When a planning authority complies with section 57(7) of the *Land Use Planning and Approvals Act 1993* for an application referred to in subsection (1), it must also serve notice of its decision on the pipeline licensee whether or not the pipeline licensee has given it advice on the application.

(7) The failure of a planning authority to comply with subsection (1) for a development application does not invalidate a permit for the development but, in any such case, the pipeline licensee has the same right of appeal against the grant of the permit as a person who made representations in relation to the application.

## **79H. Orders of Tribunal**

(1) In making an order under section 79F(4), or in determining whether to make an order under section 79G(4) and in making any such order, the Tribunal is to have regard to –

(a) whether or not the future land use and development considerations applicable to pipeline design and construction under AS 2885, as in force when the affected pipeline was designed, were taken into account in the design and construction of the affected pipeline; and

(b) whether any compensation has been paid or awarded under the *Land Acquisition Act 1993* or *Major Infrastructure Development Approvals Act 1999* to the owners or former owners of land affected by the proposed development and, if so, the amount paid or awarded.

(2) An order of the Tribunal under section 79F(4) or section 79G(4) is enforceable in the same manner as a judgment of a court of competent jurisdiction.

(3) The power of the Tribunal to make an order under section 79F(4) or section 79G(4) on an appeal under the *Land Use Planning and Approvals Act 1993* is in addition to any other power that it may exercise on the appeal.

## **79I. Effect of declarations: minor amendments of permits**

A planning authority must, in making any determination under section 56(2)(b) of the *Land Use Planning and Approvals Act 1993*, have regard to the safety of any affected pipeline.

## **79J. Effect of declarations: compensation and land acquisition**

(1) Except for any costs or compensation that may be ordered to be paid pursuant to –

(a) section 79F(4) or section 79G(4); or

(b) section 279A(2) or (3) of the *Water Management Act 1999* –

the declaration of a pipeline planning corridor does not entitle a person to claim or recover compensation under this or any other Act for any loss or detriment that the person may suffer in consequence of the declaration.

(2) The declaration of a pipeline planning corridor over any land does not constitute injurious affection of that land or any other land for the purposes of the *Land Acquisition Act 1993*, *Major Infrastructure Development Approvals Act 1999* or any other Act.

## **PART 5 - Gas entities' powers and duties**

### ***Division 1 - Gas officers***

#### **80. Appointment of gas officers**

(1) A gas entity may, subject to the conditions of the entity's licence, appoint a person to be a gas officer for the entity.

(2) A gas officer may exercise powers under this Act only subject to the conditions of appointment and any directions given to the gas officer by the gas entity.

#### **81. Conditions of appointment**

(1) A gas officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.

(2) A gas officer may be removed from office by the gas entity.

#### **82. Gas officer's identity card**

(1) A gas entity must give each gas officer for the entity an identity card.

(2) The identity card –

(a) must contain a photograph of the gas officer taken for the purpose; and

(b) must be signed by the gas officer; and

(c) must identify the gas officer as a gas officer for the relevant gas entity.

(3) A person must, within 21 days after ceasing to be a gas officer, return the identity card to the gas entity.

Penalty:

Fine not exceeding 2.5 penalty units.

### **83. Production of identity card**

A gas officer must, before exercising a power in respect of another person, produce the officer's identity card for inspection by the other person.

Penalty:

Fine not exceeding 2.5 penalty units.

## ***Division 2 - Powers and duties relating to gas infrastructure***

### **83A. Interpretation of Division**

In this Division –

***operational work***, on gas infrastructure, means –

(a) locating, inspecting, testing, operating, maintaining, repairing, altering, adding to, upgrading, replacing or removing the gas infrastructure; or

(b) excavating land in order to carry out work of a kind referred to in paragraph (a);

***protective work***, on gas infrastructure, means –

(a) work that is necessary or expedient for the protection of the infrastructure or public safety; or

(b) excavating land in order to carry out work of the kind referred to in paragraph (a);

***upgrading***, of gas infrastructure, includes the insertion of a new pipe inside any existing pipe that forms part of the infrastructure.

### **84. Power to carry out work on public land**

(1) Subject to this section, a gas entity may –

(a) install gas infrastructure on public land; and

(b) carry out operational work or protective work on gas infrastructure on public land; and

(c) carry out other work on public land for the distribution or supply of gas.

(2) Subject to this section, the gas entity must –

(a) give the authority responsible for the management of the public land not less than 7 days' notice of the entity's intention to carry out work on the land; and

(b) before commencing the work, secure the authority's agreement as to how the work is to be carried out.

(3) The agreement under subsection (2)(b) may include conditions that the responsible authority considers appropriate in the public interest.

(4) Prior notice is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.

(5) Agreement is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.

(6) If the responsible authority, on being given notice under subsection (2), decides to –

(a) include, in the agreement under that subsection, conditions that the gas entity considers unreasonable; or

(b) dispute that the gas entity is entitled to carry out the proposed work –

the gas entity may appeal to the Tribunal.

(7) Subsection (6) does not apply if the responsible authority is a Minister or a person or body to whom directions may be given by a Minister in respect of the matter in dispute.

(8) Except as provided by subsection (9), the Tribunal is to hear and determine the appeal in accordance with the Resource Management and Planning Appeal Tribunal Act 1993.

(9) Notwithstanding section 14(2) of the Resource Management and Planning Appeal Tribunal Act 1993, the Tribunal must not, under that section, allow any person other than the gas entity and the responsible authority to be a party to the appeal.

(10) . . . . .

(11) . . . . .

(12) A gas entity must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.

(13) If the responsible authority and the gas entity do not agree as to the extent of compensation, the claim for compensation is to be determined –

(a) if it is a small claim within the meaning of the Magistrates Court (Small Claims Division) Act 1989, by the small claims division of the Magistrates Court; or

(b) in any other case, as if it were a disputed claim under the Land Acquisition Act 1993.

(14) This section does not derogate from an obligation to comply with any other Act.

#### **84A. Acquisition of land, &c.**

(1) In this section –

**telecommunications carrier** means the holder of a carrier licence under the Telecommunications Act 1997 of the Commonwealth;

**telecommunications infrastructure** means infrastructure that is necessary or convenient for the purposes of a telecommunications network within the meaning of the Telecommunications Act 1997 of the Commonwealth.

(2) A gas entity is an acquiring authority under the Land Acquisition Act 1993 and may acquire land under that Act for the purposes of the operations that the gas entity is authorised to carry on under its licence.

(3) Without limiting subsection (2), a gas entity is taken to be a public authority for the purposes of section 90A(1) of the Conveyancing and Law of Property Act 1884 and, accordingly, may acquire by compulsory process an easement in gross within the meaning of that section of that Act.

(4) Notwithstanding subsections (2) and (3) –

(a) a gas entity may acquire land by compulsory process only if the acquisition is authorised in writing by the Minister; and

(b) a gas entity may install and maintain telecommunications infrastructure on land that it has acquired under the Land Acquisition Act 1993 or allow a telecommunications carrier to install and maintain such infrastructure on such land.

(5) Regulations may be made under section 137 modifying the Land Acquisition Act 1993 in its application to the acquisition of land by gas entities under that Act, but not so as to affect the monetary entitlements of persons from whom land is acquired.

#### **85. Power to enter land for purposes related to gas infrastructure**

(1) A gas officer for a gas entity may, at any reasonable time –

**(a)** enter and remain on land to carry out preliminary investigations in connection with the installation of gas infrastructure; or

**(b)** enter and remain on land where the gas infrastructure of the entity is situated to carry out operational work or protective work on the infrastructure.

**(2)** Subject to this section, if a gas officer seeks to enter on land under this section, the officer must give prior written notice to the occupier of the land stating the reason and the date and time of the proposed entry.

**(3)** The period of notice of entry must be reasonable.

**(4)** If the proposed entry is refused or obstructed, a gas officer may obtain a warrant under Part 8 to enter the land.

**(5)** In an emergency, a gas officer may exercise a power of entry under this section –

**(a)** at any time and without prior notice if it is not practicable to give such notice; and

**(b)** if necessary in the circumstances, by the use of reasonable force.

**(6)** When a gas officer enters on land under this section, the gas officer –

**(a)** may be accompanied by such assistants as the gas officer considers necessary or appropriate; and

**(b)** may take any vehicles or equipment that the gas officer considers necessary or appropriate for the work which the gas officer is to carry out on the land.

**(7)** A gas officer must be accompanied by a member of the police force –

**(a)** when entering a place with the authority of a warrant; and

**(b)** if it is practicable to do so, when entering a place by force in an emergency.

**(8)** Subject to this section, a gas entity must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.

**(9)** If the occupier of the land and the gas entity do not agree as to the extent of compensation, the claim for compensation is to be determined –

**(a)** if it is a small claim within the meaning of the *Magistrates Court (Small Claims Division) Act 1989*, by the small claims division of the Magistrates Court; or

**(b)** in any other case, as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.

## **86. Certain gas infrastructure developments exempt from planning approval**

(1) In this section, *development*, of new gas infrastructure, includes –

(a) the installation, construction, inspection and commissioning of that new gas infrastructure (and any co-located telecommunications infrastructure); and

(b) if the new gas infrastructure (or any co-located telecommunications infrastructure) makes use of an existing distribution system, the upgrading of that system for the purposes of the new gas (or co-located telecommunications) infrastructure.

(2) Where –

(a) a gas entity proposes to carry out work on the development of new gas infrastructure, including any necessary excavation of land; and

(b) the work is of a prescribed kind and meets prescribed criteria –

the work does not require a planning permit under the *Land Use Planning and Approvals Act 1993*.

(3) Any new gas infrastructure development work to which subsection (2) does not apply is taken to be a development which a planning authority has a discretion to refuse or permit in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

### ***Division 3 - Powers relating to gas installations***

## **87. Entry to inspect, &c., gas installations**

(1) A gas officer for a gas entity may, at any reasonable time, enter and remain in a place to which gas is, is to be, or has been, supplied by the entity –

(a) to inspect gas installations in the place to ensure that it is safe to connect or reconnect the gas supply; or

(b) to take action to prevent or minimise the risk of an incident occurring; or

(c) to investigate suspected theft of gas.

(2) In an emergency, a gas officer may exercise a power of entry under this section at any time and, if necessary in the circumstances, by the use of reasonable force.

(3) When a gas officer enters a place under this section, the gas officer –

(a) may be accompanied by such assistants as the gas officer considers necessary or appropriate; and

(b) may take any vehicles or equipment the gas officer considers necessary or appropriate for the functions which the gas officer is to carry out in the place.

(4) A gas officer must, if it is practicable to do so, be accompanied by a police officer when entering a place by force in an emergency.

(5) If in the opinion of a gas officer a gas installation is unsafe, the gas officer may disconnect the gas supply to the place in which the installation is situated until the installation is made safe to the satisfaction of the gas officer.

### **88. Entry to read meters, &c.**

A gas officer for a gas entity may, at any reasonable time, enter and remain in a place to which gas is, or is to be, supplied by the entity –

(a) to read, or check the accuracy of, a meter for recording consumption of gas; or

(b) to install, repair or replace meters or control apparatus or any part of a gas installation.

### **89. Entry to disconnect supply**

If a gas officer proposes to disconnect a gas supply to a place under this Act, the gas officer may, at any reasonable time, enter and remain in the place to disconnect the gas supply to the place.

### **90. Disconnection of supply if entry refused**

(1) If a gas officer seeks to enter a place under this Division and entry is refused or obstructed, the gas entity may, by written notice to the occupier of the place, ask for consent to entry by a gas officer.

(2) The notice must state the reason for, and the date and time of, the proposed entry.

(3) If entry is again refused or obstructed, the gas entity may –

(a) if it is possible to do so, disconnect the gas supply to the place without entering the place; or

(b) if it is not possible to disconnect the gas supply to the place without entering the place, obtain a warrant under Part 8 to enter the place for the purpose of disconnecting the gas supply, enter the place as authorised and disconnect the gas supply.

## *Division 4 - Powers and duties in emergencies*

### **91. Gas entity may cut off gas supply to avert danger**

A gas entity may, without incurring any liability for failure to supply gas, cut off the supply of gas to any region, area, land or place if it is, in the entity's opinion, necessary to do so to avert danger to any person or property.

### **92. Emergency legislation not affected**

Nothing in this Act affects the exercise of any power, or the obligation of a gas entity to comply with any direction, order or requirement, under the *Emergency Management Act 2006* or any other law relating to emergencies.

## **PART 6 - Enforcement**

### *Division 1 - Appointment of authorised officers*

### **93. Appointment of authorised officers**

- (1) The Regulator or the Director of Gas Safety may appoint suitable persons as authorised officers.
- (2) An authorised officer may, but need not, be a State Service officer or State Service employee.
- (3) In the exercise of the authorised officer's powers, the authorised officer is subject to control and direction by the Regulator or the Director of Gas Safety.

### **94. Conditions of appointment**

- (1) An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.
- (2) An authorised officer holds office on the conditions stated in the instrument of appointment.
- (3) An authorised officer may resign by written notice given to the Regulator or the Director of Gas Safety.
- (4) An authorised officer may be removed from office by the Regulator or the Director of Gas Safety for any reason that the Regulator or the Director of Gas Safety considers sufficient.

### **95. Authorised officer's identity card**

- (1) The Regulator or the Director of Gas Safety must provide each authorised officer with an identity card.
- (2) The identity card must –

- (a) contain a photograph of the authorised officer taken for the purpose; and
- (b) be signed by the authorised officer.

### **96. Production of identity card**

An authorised officer must, before exercising a power that may affect another person, produce the officer's identity card for inspection on demand by the other person.

### **97. Return of identity card**

On ceasing to be an authorised officer, a person must return his or her identity card to the Regulator or the Director of Gas Safety.

Penalty:

Fine not exceeding 2.5 penalty units.

## ***Division 2 - Authorised officer's powers***

### **98. Power of entry**

(1) An authorised officer may, as may be reasonably required for the purposes of the enforcement of this Act, the audit of a safety and operating plan or the inspection of any document relating to a safety and operating plan, enter and remain in any place.

(2) When an authorised officer enters a place under this section, the authorised officer –

(a) may be accompanied by such assistants as the authorised officer considers necessary or appropriate; and

(b) may take any vehicles or equipment the authorised officer considers necessary or appropriate for the functions that the authorised officer is to carry out in the place.

(3) An authorised officer may use reasonable force to enter a place under this Part if –

(a) the entry is authorised by a warrant under Part 8; or

(b) the entry is necessary in an emergency.

(4) A person must not obstruct, hinder, delay, threaten or assault a person who is –

(a) authorised to enter on land under this section; and

(b) acting in accordance with this section.

Penalty:

Fine not exceeding 10 penalty units.

## **99. General investigative powers of authorised officers**

(1) An authorised officer who enters a place under this Part may exercise any one or more of the following powers:

(a) investigate whether the provisions of this Act are being, or have been, complied with;

(b) examine and test any gas infrastructure, gas installation or gas appliance in the place to ascertain whether the infrastructure, installation or appliance is safe and complies with the requirements of this Act;

(c) investigate an accident suspected to involve gas;

(d) investigate a suspected interference with gas infrastructure or a gas installation;

(e) investigate a suspected theft or diversion of gas;

(f) search for, examine and copy, or take an extract from, a document or record of any kind as reasonably required for the purposes of the enforcement of this Act;

(g) take photographs or make films or other records of activities in the place and of any gas infrastructure, gas installation or gas appliance in the place;

(h) take possession of any thing that may be evidence of an offence against this Act.

(2) If an authorised officer takes possession of an object that may be evidence of an offence –

(a) the authorised officer must give the occupier of the place a receipt for the thing; and

(b) the thing must be returned to its owner –

(i) if proceedings for an offence are not commenced within 6 months after the authorised officer takes possession of the thing, at the end of that period; or

(ii) if such proceedings are commenced within that period, on completion of the proceedings, unless the court, on application by the Regulator or the Director of Gas Safety, orders confiscation of the thing.

(3) A court may order the confiscation of a thing of which an authorised officer has taken possession under subsection (1) if of the opinion that the thing has been used for the purpose of committing an offence or that there is some other proper reason for ordering its confiscation.

(4) If the court orders the confiscation of a thing –

(a) the Regulator or the Director of Gas Safety may dispose of the thing; and

(b) the person from whom the thing is confiscated is not entitled to be compensated for its loss.

### **100. Disconnection of gas supply**

(1) If an authorised officer finds that gas is being supplied or consumed in contravention of this Act, the authorised officer may disconnect the gas supply.

(2) If an authorised officer disconnects a gas supply under this section, the officer must give written notice to the occupier of the relevant place –

(a) informing the occupier that the gas supply has been disconnected under this section; and

(b) directing that the gas supply must not be reconnected until arrangements have been made to the satisfaction of an authorised officer to ensure against any future contravention of this Act.

(3) If a gas supply has been disconnected under this section, a person must not reconnect the gas supply, or have it reconnected, without the approval of an authorised officer.

Penalty:

Fine not exceeding 500 penalty units.

### **101. Power to make gas infrastructure or gas installation safe**

(1) If an authorised officer finds that any gas infrastructure or gas installation is unsafe, the officer may –

(a) disconnect the gas supply or give a direction requiring the disconnection of the gas supply; or

(b) give a direction requiring the carrying out of the work necessary to make the infrastructure or installation safe before the gas supply is reconnected.

(2) Subject to this section, a direction under this section must be given –

(a) in respect of gas infrastructure, to the gas entity in charge of the infrastructure; or

(b) in respect of a gas installation, to the person in charge of the installation or the occupier of the place in which the installation is situated.

(3) A direction under this section may be given by written notice or, if the authorised officer is of the opinion that immediate action is required, orally.

(4) If a direction is given orally it must be confirmed in writing as soon as practicable after being given.

(5) A person to whom a direction is given under this section –

(a) must not contravene the direction; and

(b) must not reconnect or permit the reconnection of the gas supply unless the work required by the direction under this section has been carried out, or an authorised officer approves of the reconnection of the gas supply.

Penalty:

Fine not exceeding 500 penalty units.

## **102. Power to require information**

(1) An authorised officer may require a person to provide information in the person's possession relevant to the enforcement of this Act.

(2) An authorised officer may require a person to produce documents in the person's possession that may be relevant to the enforcement of this Act for inspection by the authorised officer.

(3) A person must not, without reasonable excuse, contravene a requirement under this section.

Penalty:

Fine not exceeding 100 penalty units.

(4) A person is not required to give information or produce a document under this section if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

## **PART 7 - Administrative review and appeal**

## *Division 1 - Administrative review*

### **102A. Interpretation**

In this Division,

*appropriate authority* means the Regulator or Director of Gas Safety, whichever is appropriate.

### **103. Interested person**

(1) For the purposes of this Part, an interested person is a person whose interests are affected by a decision of the appropriate authority or an authorised officer.

(2) A person is not to be regarded as a person whose interests are affected by a decision to grant or refuse to grant an application for a licence unless the person was the applicant for the licence.

### **104. Statement of reasons for decision**

(1) An interested person may apply, in writing, to the appropriate authority or authorised officer for a statement of the reasons for a decision.

(2) An application under this section must be made within 28 days after the date on which the applicant received notice of the decision.

(3) The appropriate authority or authorised officer must grant an application under this section as soon as practicable and, in any case, not later than 60 days after receiving the application.

### **105. Application for administrative review**

(1) An interested person may, subject to this Act, apply to the appropriate authority for an administrative review of a decision.

(2) An application for an administrative review must be in writing and must set out in detail the grounds on which the person seeks review of the decision.

(3) An application for an administrative review of a decision must be made within 28 days after the date when notice of the decision was given to the person.

(4) An application under this section does not postpone the effect of the decision unless the operation of the decision is stayed under [section 106](#).

### **106. Stay of operation**

(1) The appropriate authority, as the case may require, may stay the operation of a decision that is subject to administrative review or appeal under this Part.

(2) A stay may not be granted if, in the opinion of the appropriate authority, the effect of the stay would be to create a risk to public safety or to allow a risk to public safety to continue.

### **107. Reference of application for mediation**

(1) The appropriate authority may refer an application for administrative review to a mediator.

(2) If a mediator achieves an agreed settlement of the matter to which the application relates, the appropriate authority must determine the application in accordance with the agreed settlement.

### **108. Administrative review by appropriate authority**

(1) After considering an application for administrative review, and taking any advice that the appropriate authority considers appropriate, the appropriate authority may –

(a) confirm the disputed decision; or

(b) amend the disputed decision; or

(c) substitute another decision for the disputed decision.

(2) The appropriate authority must, by notice served on the applicant, notify the applicant of –

(a) the determination made; and

(b) the findings on material questions of fact; and

(c) the evidence or other material on which the findings are based; and

(d) the reasons for the determination.

### **109. Reference of application for review for mediation or advice**

The appropriate authority may delegate its, his or her power to review decisions, or decisions of a particular class, to –

(a) a review panel appointed under the regulations; or

(b) a mediator.

### **110.**

## *Division 2 - Appeals*

### **111. Appeal against decisions**

(1) An interested person who is dissatisfied with a decision made by the Regulator, the Director of Gas Safety or an authorised officer on administrative review may, subject to this Act, appeal against the decision to the Minister.

(2) . . . . .

### **112. Procedure on appeal**

An appeal is to be commenced, heard and determined in accordance with the regulations.

### **113. Stay of operation**

(1) The Minister may stay the operation of a decision that is subject to administrative review or appeal under this Part.

(2) A stay may not be granted if, in the Minister's opinion, the effect of the stay would be to create a risk to public safety or to allow a risk to public safety to continue.

### **114. Powers of Minister on appeal**

(1) On an appeal, the Minister may –

(a) confirm the decision under appeal; or

(b) set aside the decision and substitute another decision; or

(c) set aside the decision and remit the issue to the primary decision-maker with any directions that the Minister considers appropriate.

(2) The Minister may make ancillary directions to deal with incidental matters.

(3) No appeal lies from the decision of the Minister on an appeal.

### **115. Reference to Tribunal**

(1) The Minister may refer an appeal from a decision on a technical or complex matter to the Tribunal if the Minister considers it appropriate to do so.

(2) The Tribunal must hear and determine the matter in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.

### **116. Constitution of Tribunal**

(1) For the purpose of hearing an appeal referred under section 115, the Tribunal is to include one or more members whose appointment was on the ground that he or she has, in the opinion of the Minister, wide practical knowledge and experience relevant to the gas industry.

(2) A member referred to in subsection (1) is to be designated as such by the Minister, by instrument in writing, for the purposes of the Tribunal's jurisdiction under this Act.

## **PART 8 - Miscellaneous**

### **117. Exemptions**

(1) The Governor, by order, may declare that the provisions of this Act, or such of the provisions of this Act as are specified in the order, do not have effect in respect of –

(a) a specified person or class of persons, or do not have effect to such extent as is specified; or

(b) a specified facility or class of facilities, or do not have effect to such extent as is specified; or

(c) a specified appliance or class of appliances, or do not have effect to such extent as is specified; or

(d) a specified gas installation or class of gas installations, or do not have effect to such extent as is specified; or

(e) specified gas fitting work or a class of gas fitting work, or work relating to a gas installation or class of gas installations, or do not have effect to such extent as is specified.

(2) An order under subsection (1) –

(a) may specify the period during which the order is to remain in force; and

(b) may provide that its operation is subject to such terms and conditions as are specified in the order.

(3) A person to whom an order under this section applies must comply with any terms and conditions to which the operation of the order is subject.

Penalty:

In the case of –

(a) a body corporate, a fine not exceeding 500 penalty units; or

(b) a natural person, a fine not exceeding 25 penalty units.

### **118. Obligation to comply with conditions of exemption**

A person in whose favour an exemption is granted must not contravene any condition of the exemption.

Penalty:

Fine not exceeding 100 penalty units.

### **119. Application and issue of warrant**

(1) An authorised officer or a gas officer may apply to a justice of the peace for a warrant to enter a place specified in the application for the purposes of performing his or her functions, or exercising his or her powers, under this Act.

(2) A justice of the peace may issue a warrant to assist the officer in the exercise of his or her powers under this Act.

(3) A warrant authorises the authorised officer or gas officer, with any assistants and by any force reasonably necessary –

(a) to enter the place specified in the warrant; and

(b) to do anything authorised by this Act, at any time, or within any period, specified in the warrant.

(4) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

### **120. Urgent situations**

(1) An authorised officer or a gas officer may apply to a justice of the peace for a warrant by telephone, facsimile or other prescribed means if the officer considers the urgency of the situation requires it.

(2) The justice of the peace may complete and sign the warrant in the same way as for a warrant applied for in person if satisfied that there are reasonable grounds for issuing the warrant urgently.

(3) The justice of the peace must –

(a) inform the relevant officer of –

(i) the terms of the warrant; and

(ii) the date on which, and the time at which, the warrant was signed; and

(iii) the date on which, and the time at which, the warrant ceases to have effect; and

(b) record on the warrant the reasons for granting it.

(4) The relevant officer must –

(a) complete a form of warrant in the same terms as the warrant signed by the justice of the peace; and

(b) write on the form –

(i) the name of the justice of the peace; and

(ii) the date on which, and the time at which, the warrant was signed; and

(c) send the completed form of warrant to the justice of the peace not later than the day after the warrant is executed or ceases to have effect.

(5) On receipt of the form of warrant, the justice of the peace must attach it to the warrant that the justice of the peace signed.

(6) A form of warrant completed by an authorised officer or a gas officer under subsection (4) has the same force as a warrant signed by the justice of the peace under subsection (2).

## **121. Extension of time limits**

(1) The Regulator or the Director of Gas Safety may extend time limits fixed by or under this Act.

(2) A time limit may be extended under this section even though it has, at the time of the extension, already expired.

## **122. Confidentiality**

(1) A person who is, or has been, employed in carrying out duties related to the administration of this Act must not disclose confidential information acquired in the course, or as a result, of carrying out those duties except –

(a) in the course of carrying out official duties; or

(b) as authorised by the person to whom the duty of confidentiality is owed; or

(c) as authorised by the regulations; or

(d) as required by a court or other lawfully constituted authority; or

(e) as authorised by the Regulator or the Director of Gas Safety after consultation, where practicable, with the person to whom the duty of confidentiality is owed.

Penalty:

Fine not exceeding 200 penalty units.

(2) No civil liability attaches to any person for a disclosure of confidential information made as authorised under subsection (1).

### **123. Unlawful interference with distribution system or gas installation**

A person must not, without proper authority –

(a) attach a gas installation or other thing, or make any connection, to a distribution system; or

(b) disconnect or interfere with a supply of gas from a distribution system; or

(c) damage or interfere with gas infrastructure or a gas installation in any other way.

Penalty:

Fine not exceeding 100 penalty units.

### **124. Unlawful abstraction or diversion of gas**

(1) A person must not, without proper authority –

(a) abstract or divert gas from a distribution system; or

(b) interfere with a meter or other device for measuring the consumption of gas supplied by a gas entity.

Penalty:

Fine not exceeding 100 penalty units.

(2) Subject to subsection (2A), a person must not construct or operate a pipe that extends beyond the boundaries of property occupied by the person if the pipe conveys gas or the pipe's main purpose is to convey gas.

Penalty:

Fine not exceeding 100 penalty units.

(2A) A person is not guilty of an offence under subsection (2) if –

(a) the person is a gas entity; or

(b) the person is a person licensed under Division 3 of Part 2 of the *Gas Pipelines Act 2000*; or

(c) the pipe is authorised under the regulations.

(3) If, in proceedings for an offence against this section, it is proved that a device has been installed, or any other act done, without proper authority, the apparent purpose of which is –

(a) to abstract or divert gas to any particular land or place; or

(b) to affect the proper measurement of gas supplied to any particular land or place –

it will be presumed, in the absence of proof to the contrary, that the occupier of the land or place installed the device or did the other act with that purpose.

(4) If a gas entity suffers loss or damage as a result of a contravention of this section, the entity may recover compensation for the loss or damage from a person guilty of the contravention –

(a) on application to a court convicting the person of an offence against this section; or

(b) by action in a court of competent jurisdiction.

### **125. Notice of work that may affect gas infrastructure**

(1) A person must not, without authority from the operator of a distribution system, carry out any boring or excavation or open any ground so as to uncover or expose any pipelines or equipment upstream from a gas meter.

Penalty:

Fine not exceeding 25 penalty units.

(2) It is a defence to a charge for an offence against subsection (1) if, in the circumstances of an emergency –

(a) it was not practicable to obtain the authority required by that subsection; and

(b) the operator of the distribution system was notified as soon as practicable after the work was commenced.

(3) A person who carries out work as mentioned in subsection (1) in the vicinity of gas infrastructure must not contravene –

(a) requirements prescribed by the regulations that are applicable to the work; and

(b) reasonable requirements made by the operator for the protection of the infrastructure or the safety of the persons carrying out the work.

Penalty:

Fine not exceeding 25 penalty units.

### **126. Impersonation of officials, &c.**

A person must not impersonate an authorised officer, a gas officer or any other person exercising powers under this Act.

Penalty:

Fine not exceeding 50 penalty units.

### **127. Obstruction**

(1) A person must not, without reasonable excuse, obstruct an authorised officer, a gas officer or any other person acting in the administration of this Act or exercising powers under it.

Penalty:

Fine not exceeding 50 penalty units.

(2) A person must not use abusive or intimidatory language to, or engage in offensive or intimidatory behaviour towards, an authorised officer, a gas officer or any other person engaged in the administration of this Act or the exercise of powers under this Act.

Penalty:

Fine not exceeding 50 penalty units.

### **128. False or misleading information**

A person must not make a statement or representation that the person knows or believes to be false or misleading in a material particular, whether by reason of the inclusion or omission of any particular, in any information provided under this Act.

Penalty:

Fine not exceeding 50 penalty units.

## **129. Statutory declarations**

If a person is required by or under this Act to furnish information to the Regulator or Director of Gas Safety, the Regulator or Director of Gas Safety may require that the information be verified by statutory declaration and, in that event, the person is taken not to have furnished the information as required unless it has been so verified.

### **129A. Regulator may take court action on behalf of customers**

Where a customer or a class of customers could take any action in a court or tribunal to enforce a right under, or to enforce compliance with, this Act or a code, the Regulator may take that action on behalf of the customer or class of customers.

## **130. General defence**

(1) It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

(2) It is a defence to a charge of an offence against this Act if the defendant proves that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to any person or property.

## **131. Offences by bodies corporate**

If a body corporate is guilty of an offence against this Act, each director of the body corporate is, subject to the general defences under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

## **132. Continuing offence**

(1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission –

(a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and

(b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or

omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the first-mentioned offence.

(2) If an offence consists of an omission to do an act that is required to be done, the omission is taken to continue for as long as the relevant person fails to do that act after the end of the period for compliance with the requirement.

### **133. Recovery of profits from contravention**

If a gas entity profits from a contravention of this Act, the Regulator may recover an amount equal to the profit from the entity –

(a) on application to a court convicting the entity of an offence in respect of the contravention; or

(b) by action in a court of competent jurisdiction.

### **134. Immunity from personal liability**

(1) No personal liability attaches to the Regulator, the Director of Gas Safety, a delegate of the Regulator or Director, an authorised officer or any officer or employee of the Crown engaged in the administration or enforcement of this Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act.

(2) A liability that would, but for subsection (1), lie against a person lies instead against the Crown.

### **135. Evidence**

(1) In any legal proceedings, an apparently genuine document signed by the Secretary of the Department stating that a person held a specified appointment under this Act at a specified time is admissible as evidence of that fact.

(2) In any legal proceedings, an apparently genuine document signed by the Regulator or the Director of Gas Safety certifying –

(a) that a person was or was not the holder of a licence at a specified date or as to the particulars or conditions of a licence; or

(b) as to the giving and contents of a delegation, exemption, approval or authorisation under this Act –

is admissible as evidence of the matters so certified.

### **136. Service of notices, &c.**

If a notice or other document is required or authorised to be given to or served on the holder of a licence and the licence is held by 2 or more persons, it is sufficient for the purposes of this Act if the notice or other document is given to or served on any one of those persons.

### **137. Regulations**

**(1)** The Governor may make regulations for the purposes of this Act.

**(2)** Without limiting subsection (1), the regulations may provide for the following matters:

**(a)** the distribution and retailing of gas;

**(b)** the construction and installation of gas infrastructure and gas installations;

**(c)** technical, operational and safety requirements and standards and monitoring and enforcing compliance with the prescribed requirements and standards;

**(d)** the quality of gas;

**(e)** testing, approving and installation of meters;

**(f)** examination and testing of gas appliances;

**(g)** labelling of gas appliances of a class specified in the regulations;

**(h)** the exemption (conditionally or unconditionally) of classes of persons, things or operations from the application of this Act or specified provisions of this Act;

**(i)** fees to be paid in respect of any matter under this Act and the waiver or refund of those fees;

**(j)** penalties not exceeding 500 penalty units for contravention of a regulation.

**(3)** The regulations may –

**(a)** be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply; or

**(b)** provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister, the Regulator or the Director of Gas Safety; or

**(c)** refer to or incorporate, wholly or partially and with or without modification, any standard or other document prepared or published by a body referred to in the regulations as in force from time to time or as in force at a particular time.

(4) The regulations may –

(a) provide for savings or transitional matters necessary or expedient for bringing this Act, as amended by the *Economic Regulator (Consequential Amendments) Act 2009*, into operation; and

(b) provide for any of those savings or transitional matters to take effect when that Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

### **138. Administration**

Until provision is made in respect of this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Minister for Infrastructure, Energy and Resources; and

(b) the department responsible to the Minister for Infrastructure, Energy and Resources in respect of the administration of this Act is the Department of Infrastructure, Energy and Resources.

### **138A. Transitional provisions on enactment of *Economic Regulator (Consequential Amendments) Act 2009***

(1) In this section –

*Director* means the Director of Gas as appointed under the former Act;  
*former Act* means this Act as in force immediately before the transition day;

*transition day* means the day on which the *Economic Regulator Act 2009* commences.

(2) Except as otherwise provided by this section or the regulations –

(a) a delegation, requirement, direction, notice, public notification, other publication of a document, approval, authorisation, agreement, application, determination, other decision or other act made, given, done or omitted to be done by the Director before the transition day is taken, if appropriate, to have been made, given, done or omitted to be done by the Regulator; and

(b) a licence issued by the Director and in force immediately before the transition day continues and is taken to have been issued by the Regulator, and anything done or omitted to be done by the Director in relation to that licence is taken to have been done or omitted by the Regulator; and

(c) a gas code issued by the Director and in force immediately before the transition day continues and is taken to have been issued by the Regulator and anything done

or omitted to be done by the Director in relation to that licence is taken to have been done or omitted by the Regulator; and

**(d)** a person appointed by the Director as an authorised officer and who, immediately before the transition day, holds that office is taken to have been appointed by the Regulator as an authorised officer for the same term and on the same conditions; and

**(e)** a fee fixed by the Director under a provision of the former Act that is in force immediately before the transition day is taken to have been fixed by the Regulator under that provision of this Act; and

**(f)** an application, notice, other document or information provided to the Director is taken, if appropriate, to have been provided to the Regulator; and

**(g)** a reference to the Director in a document referred to in, or relating to a matter referred to in, paragraph (a), (b), (c), (d), (e) or (f) is taken, if appropriate, to be or include a reference to the Regulator; and

**(h)** a document referred to in, or relating to a matter referred to in, paragraph (a), (b), (c), (d), (e) or (f) made by the Director and in force immediately before the transition day is taken, if appropriate, to have been made by the Regulator.

**(3)** Except as otherwise provided by the regulations –

**(a)** an approval, notice, prohibition, requirement, determination, other decision or other act made, given, done or omitted to be done by the Director before the transition day under Division 5 of Part 4 of the former Act is taken, if appropriate, to have been made, given, done or omitted to be done by the Regulator under Division 5 of Part 4 of this Act; and

**(b)** an application, notice, other document or information provided to the Director in relation to a matter under Division 5 of Part 4 of the former Act is taken to have been provided to the Regulator under Division 5 of Part 4 of this Act; and

**(c)** a reference to the Director in a document referred to in, or relating to a matter referred to in, paragraph (a) or (b) is taken, if appropriate, to be or include a reference to the Regulator; and

**(d)** a document referred to in, or relating to a matter referred to in, paragraph (a) or (b) made by the Director and in force immediately before the transition day is taken, if appropriate, to have been made by the Regulator.

**(4)** On and after the transition day, the following provisions apply except as otherwise provided by this section or the regulations:

(a) a legal or other proceeding that could have been instituted immediately before the transition day –

(i) by or against the Director in relation to a matter or document referred to in subsection (2) may be instituted by or against the Regulator; or

(ii) by or against the Director in relation to a matter referred to in subsection (3) may be instituted by or against the Director of Gas Safety;

(b) a legal or other proceeding that is pending immediately before the transition day and was instituted –

(i) by or against the Director in relation to a matter or document referred to in subsection (2) may be continued by or against the Regulator; or

(ii) by or against the Director in relation to a matter referred to in subsection (3) may be continued by or against the Director of Gas Safety;

(c) a document relating to a legal proceeding referred to in paragraph (b) served on or by the Director before the transition day is taken to have been served on or by the Regulator or Director of Gas Safety, as appropriate;

(d) a judgment or order of a court obtained by or against the Director before the transition day may be enforced by or against the Regulator or Director of Gas Safety, as appropriate;

(e) a reference to the Director in a document referred to in, or relating to a matter referred to in, paragraph (a), (b), (c) or (d) is taken to be, or to include, a reference to the Regulator or Director of Gas, as appropriate.

## **PART 9 - Miscellaneous amendments**

### **139.**

The amendments effected by this Part have been incorporated into authorised versions of the following Acts:

(a) *Launceston Gas Company Act 1982*;

(b) *Petroleum (Submerged Lands) Act 1982*.

### **140.**

The amendments effected by this Part have been incorporated into authorised versions of the following Acts:

(a) *Launceston Gas Company Act 1982*;

(b) Petroleum (Submerged Lands) Act 1982.

## **PART 10 - Miscellaneous repeals**

### **141. Hobart Gas Company Act 1977 repealed**

The Hobart Gas Company Act 1977 is repealed.

### **142. Hobart Town Gas Company's Act 1854 repealed**

The Hobart Town Gas Company's Act 1854 is repealed.

### **143. Hobart Town Gas Company's Act 1857 repealed**

The Hobart Town Gas Company's Act 1857 is repealed.

### **144. Launceston Gas Company Loan Guarantee and Subsidy Act 1976 repealed**

The Launceston Gas Company Loan Guarantee and Subsidy Act 1976 is repealed.

## **Table Of Amendments**

<b>Act</b>	<b>Number and year</b>	<b>Date of commencement</b>
Gas Amendment Act 2004	No. 58 of 2004	20.12.2000
Gas Act 2000	No. 92 of 2000	20.12.2000
Gas Amendment Act 2001	No. 46 of 2001	16.7.2001
Gas Legislation (Miscellaneous Amendments) Act 2001	No. 111 of 2001	17.12.2001 (remaining provisions)
Statute Law Revision Act 2003	No. 9 of 2003	16.4.2003
Gas Legislation Amendment (Land Acquisition) Act 2003	No. 32 of 2003	18.6.2003
Gas Amendment Act 2004	No. 58 of 2004	1.7.2003
Gas Infrastructure (Miscellaneous Amendments) Act 2002	No. 44 of 2002	1.7.2003
Financial Management and Audit Amendment Act 2003	No. 42 of 2003	4.7.2003
Gas Infrastructure (Miscellaneous Amendments) Act 2003	No. 36 of 2003	4.7.2003
Police Service (Consequential Amendments) Act 2003	No. 76 of 2003	1.1.2004
Gas Amendment Act 2005	No. 60 of	9.12.2005

	2005	
Emergency Management Act 2006	No. 12 of 2006	20.10.2006
Gas Amendment Act 2008	No. 1 of 2008	17.4.2008
Dangerous Goods and Substances (Transitional and Consequential Provisions) Act 2005	No. 52 of 2005	1.7.2009
Resource Planning and Development Commission Legislation (Miscellaneous Amendments) Act 2009	No. 28 of 2009	1.9.2009
Economic Regulator (Consequential Amendments) Act 2009	No. 59 of 2009	1.6.2010
Right to Information (Consequential and Transitional) Act 2009	No. 54 of 2009	1.7.2010
Dangerous Goods (Road and Rail Transport) Act 2010	No. 16 of 2010	1.1.2011
Explosives Act 2012	No. 4 of 2012	1.1.2013
Work Health and Safety (Transitional and Consequential Provisions) Act 2012	No. 2 of 2012	1.1.2013
Economic Regulator Amendment Act 2015	No. 13 of 2015	1.7.2015
Water Management Amendment (Consequential and Transitional Provisions) Act 2015	No. 34 of 2015	1.1.2016