

Queensland



GAS ACT 1965

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(includes amendments up to Act No. 28 of 1997)**

Reprint No. 2A

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This Act is reprinted as at 15 August 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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GAS ACT 1965

[as amended by all amendments that commenced on or before 15 August 1997]

An Act to provide for the regulation and control of the production, storage, supply and use of gases, the safe handling of gases, the setting of standards for gases, certain administrative matters associated with the gas industry and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Gas Act 1965*.

Relationship to prescribed Acts

2.(1) This Act is to be construed so as not to derogate from the provisions of a prescribed Act and if there is an inconsistency between a provision of this Act and that of a prescribed Act, the provision of the prescribed Act prevails to the extent of the inconsistency.

(2) In this section “**prescribed Act**” means—

- (a) *Carriage of Dangerous Goods by Road Act 1984*; or
- (b) *Health Act 1937*; or
- (c) *Petroleum Act 1923*.

Act inapplicable in certain case

2A. Save as is by this Act otherwise expressly prescribed, this Act does not apply to or in relation to fuel gas supplied by the producer thereof to a

fuel gas supplier except in relation to the safe handling and measurement thereof.

Repeals and savings

4.(5) Unless the context thereof otherwise indicates, a reference in any Act to a gas company within the meaning of any Act other than this Act shall be deemed to include reference to a gas supplier within the meaning of this Act.

Meaning of terms

5. In this Act—

“appliance” means any device which uses gas to produce light, heat or power.

“approved” means approved by the Minister.

“approved form” see section 59A.¹

“bulk liquefied petroleum gas” or **“bulk L.P. gas”**, in relation to a supply, consumption, carriage or other act done in respect of liquefied petroleum gas, means such gas which is supplied from, in or into, consumed from, carried or, as the case may be, otherwise dealt with in containers of a greater water capacity than 500 kg.

“caravan” means a structure designed or adapted for human habitation or for use as a workshop or mobile kitchen that is able to be moved from 1 place to another, whether by being towed or transported on a vehicle or trailer, and includes any vehicle designed or adapted for use as a caravan.

“carburetted water gas” means flammable gas produced by the interaction of steam and hot coke and which has had its heating power increased by the admixture of a gas.

“chief gas examiner” means the chief gas examiner appointed under the provisions of this Act, and includes any person for the time being carrying out the functions and duties of that office.

¹ Section 59A (Approval of forms)

“**coal gas**” includes all flammable gases produced by the thermal treatment of coal.

“**consumer**” means a person supplied or desirous of being supplied with gas, and includes a gas supplier supplied with gas by another gas supplier.

“**dry basis**” means free from water vapour.

“**dry type meter**” means a device for measuring a supply of gas, other than a “wet type meter”, and which generally uses a principle of displacement of a diaphragm or other mechanical means.

“**financial year**” means the period of time commencing on 1 July in a calendar year and concluding on 30 June in the next ensuing calendar year: where the gas supplier concerned is accustomed to extracting its annual balance sheet and profit and loss account in respect of some other period, the term means that other period.

“**fittings**” includes every appliance and everything used, designed or intended for use in connection with an appliance and everything used, designed or intended for use in or in connection with the supply, distribution or consumption of gas.

“**franchise**” means the right to establish and maintain a reticulation system in an area, granted under part 3.

“**franchise area**” means a part of the State in relation to which a gas supplier holds a subsisting franchise.

“**fuel gas**” means natural gas, carburetted water gas, coal gas, oil gas, producer gas, water gas, liquefied petroleum gas, tempered liquefied petroleum gas, reformed liquefied petroleum gas, liquefied natural gas, reformed natural gas, refinery gas, reformed refinery gas and any substance declared under a regulation to be fuel gas for the purposes of this Act, and a mixture of 2 or more fuel gases.

“**fuel gas supplier**” means a person supplying or desirous of supplying by way of sale—

- (a) bulk liquefied petroleum gas;
- (b) fuel gas through a reticulation system;
- (c) fuel gas to a consumer through pipes or mains located outside the consumer’s premises;

(d) fuel gas in any manner declared under a regulation for the purposes of this definition.

“gas” means any substance that has a critical temperature of less than 50° C or exerts, at that temperature, a vapour pressure greater than 300 kPa and any substance declared under a regulation to be gas for the purposes of this Act, and a mixture of 2 or more gases.

“gas examiner” means the chief gas examiner, the deputy chief gas examiner appointed for the purposes of this Act, or deemed so to be, and any person for the time being performing the whole or any part of the duties of a gas examiner.

“gas supplier” means a person supplying or desirous of supplying gas by way of sale, and includes a fuel gas supplier.

“gas terminal” means a place—

- (a) where gas is manufactured; or
- (b) into which gas is supplied from road, rail or marine tankers or by pipeline and, while awaiting delivery into road, rail or marine tankers or a pipeline or awaiting dispatch in cylinders, tanks or other vessels, is there stored in containers with an aggregate water capacity of 100 t or more; or
- (c) any other place declared under a regulation to be a gas terminal.

“gas works” means a gas terminal or a place where gas is produced for supply to a consumer.

“ground” includes stones, soil, pavement or material of any footway, and the roadway of any street.

“heating value” means the number of megajoules produced by the combustion at constant pressure of 1 standard m³ of gas when the water vapour formed during combustion is condensed.

“industrial and commercial”, when used in relation to a consumer, storage or installation, means respectively a consumer, storage, or as the case may be, installation other than for domestic purposes.

“liquefied petroleum gas” means a mixture composed substantially of C3 or C4 hydrocarbons or both of them either in a liquid or a gaseous state.

“**main**” means a pipe conveying gas for supply to 2 or more consumers.

“**measured gas**” means gas which has passed through a meter and the volume of which has been registered by that meter.

“**meter**” means an instrument to measure the volume of gas supplied through it.

“**natural gas**” means a gaseous material containing hydrocarbons and obtained from bore holes or from crude oil otherwise than by thermal or catalytic process.

“**oil gas**” means gas manufactured from petroleum or other oil by thermal, catalytic or other process but not including liquefied petroleum gas.

“**pipe**” means any pipe, main or service pipe for conveying gas, and includes all equipment and works connected with a pipe.

“**place**” means any land, building, house, shop, factory, vessel within any harbour, river or inland waters, caravan, vehicle, aeroplane or premises whatsoever.

“**premises**” means any land or building, and where a building is subdivided, each subdivision thereof which is separately occupied.

“**prepayment meter**” means a meter or appliance whereby the quantity of gas supplied through it is regulated according to the amount of money inserted therein.

“**private purposes**” means any purpose to which gas may from time to time be applied.

“**private way**” means any private way, private land, private building, private passage or private grounds.

“**producer gas**” means gas manufactured by the action of air on hot coke.

“**qualified person**” means a person who—

(a) is—

(i) a graduate in an approved branch of science or engineering of an approved educational institution; or

(ii) a corporate member of The Institution of Engineers, Australia, or the Royal Australian Chemical Institute;

and has had at least 12 months relevant technical experience

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approved by the chief gas examiner; or

(b) is—

- (i) the holder of a diploma in an approved branch of science, applied science or engineering; or
- (ii) the holder of a certificate of competency as a gas manager issued by the Australian Gas Association;

and has had at least 2 years relevant technical experience approved by the chief gas examiner; or

- (c) has qualifications and experience that in the opinion of the chief gas examiner are equivalent to the qualifications and experience prescribed by paragraph (a) or (b).

“refinery gas” means the residual gas produced at a refinery and left over after all normally useable products (including liquefied petroleum gas) have been made or extracted from the crude or a feed stock.

“regulator” means a device for controlling and maintaining a uniform gas supply pressure.

“relief device” means a safety device designed to forestall the development of a dangerous condition, by relieving pressure, temperature or vacuum build-up in a cylinder, appliance or any part of an installation.

“reticulation system” means an interconnected network of underground mains and associated fittings supplying fuel gas to at least 50 consumers.

“service pipe” means a pipe which conveys gas from a main to the premises of a consumer.

“specific gravity”, applied to a gas, means the ratio of the weight of a given volume of that gas to the weight of the same volume of air both measured under the same conditions.

“standard”, used in relation to a gas, means the standard prescribed for the time being pursuant to this Act.

“standard cubic metre of gas” means the amount of gas which, at a temperature of 15° C, under a barometric pressure of 101.325 kPa, would occupy 1 m³.

“standard cubic metre of gas (saturated)” means the amount of gas

which, at a temperature of 15° C, under a barometric pressure of 101.325 kPa, and saturated with water vapour, would occupy 1 m³.

“street” means any street, road, highway, lane, way, bridge, passage or other public place.

“system” means an assembly of equipment consisting essentially of a container and major devices such as vaporisers, relief valves, excess flow valves, regulators, appliances and pipes connecting such devices.

“tempered liquefied petroleum gas” means gas manufactured by mixing liquefied petroleum gas with air.

“testing place” means a testing place provided by a gas supplier or by the Minister under this Act for the purpose of carrying out the provisions of this Act in relation to testing of gas.

“tolling arrangement” means a contractual arrangement by which a person delivers gas to a reticulation system and takes gas in a similar quantity from another point in the system upon payment of a charge to the operator of the system.

“water gas” means gas manufactured by the action of steam on hot coke.

“wet basis” means saturated with water vapour.

“wet type meter” means a device for measuring a supply of gas using as its principle of measurement the position displacement of a liquid within a device such as a rotating subdivided cylindrical vessel or drum.

PART 2—ADMINISTRATION

Administration

6. This Act shall be administered by the Minister and, subject to the Minister, by the chief executive of the department within which this Act is administered, the chief gas examiner, the deputy chief gas examiner and such other gas examiners and officers appointed for the purposes of the Act or delegated in writing by the Minister to administer particular provisions of the Act and by persons and the holders from time to time of appointments

authorised or specified by the regulations to the extent specified in the regulations.

Minister may appoint advisory committees

6A.(1) The Minister may from time to time appoint advisory committees to advise the Minister and the chief gas examiner in respect of the administration of the provisions of this Act that relate to licensing.

(2) A member of an advisory committee shall not be paid a fee for attending any meeting of the committee.

Appointment of officers

7.(1) There shall be appointed from time to time for the purposes of this Act—

- (a) members of the Gas Tribunal;
- (b) a chief gas examiner;
- (c) a deputy chief gas examiner;
- (d) such number of gas examiners and other officers as are necessary for the effectual administration of this Act.

(2) Except for the members of the Gas Tribunal every person such as is referred to in subsection (1) shall be appointed as and shall hold appointment as an officer of the public service.

(2A) Judicial notice shall be taken of every such appointment notified in the gazette.

(3) The Gas Tribunal shall consist of 1 or more persons possessing relevant qualifications and experience and appointed by the Governor in Council on the recommendation of the Minister.

(4) A member of the Gas Tribunal—

- (a) shall be appointed for a term not exceeding 5 years; and
- (b) shall hold appointment upon such conditions as the Governor in Council determines; and
- (c) shall be eligible for reappointment.

Power to delegate

7A. The chief gas examiner may, delegate to any gas examiner or, with the Minister's approval, to any other person all or any of his or her powers, functions and duties.

Powers of inspection etc.

8.(1) If it appears to the chief gas examiner or the deputy chief gas examiner necessary or desirable so to do for the purposes of this Act, he or she or any gas examiner authorised by the chief gas examiner's or deputy chief examiner's notice may—

- (a) enter any place which is used, designed or intended to be used or which the gas examiner seeking entry reasonably believes to be used, designed or intended to be used for the production, supply, storage or consumption of gas or wherein the gas examiner seeking entry reasonably believes that there is or may be gas which is escaping or has escaped;
- (b) inspect such place and any works, machinery or thing in, on or about such place, test any substance which he or she reasonably believes to be gas, test any meter found therein and make such other tests as the gas examiner making such inspection considers necessary;
- (c) require in writing any person who is or who appears to the gas examiner to be for the time being in charge of the place in question or of any works therein or thereon to do all things which, in the opinion of the gas examiner issuing such requisition, are necessary to render or maintain such place or works and all machinery and things in, on or about such place or works safe;
- (d) take (without payment) samples of any substance which the gas examiner so sampling reasonably believes to be gas for the purpose of examination and testing;
- (e) seize, remove and detain any substance which the gas examiner so seizing reasonably believes to be gas (and any fitting, container, vehicle, caravan or vessel in which it is contained or is being carried) and any fitting, container, vehicle, caravan or vessel

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if he or she reasonably believes that a contravention or non-compliance with any provision of this Act exists or has occurred in respect of such substance, fitting, container, vehicle, caravan or vessel or that such fitting, container, vehicle, caravan or vessel is intended for use in contravention of or non-compliance with the provisions of this Act;

- (f) require the production of any certificate prescribed by this Act to be had, and any book, notice, record, list or writing which by this Act is required to be kept or exhibited, and inspect, examine and take copies or extracts from the same.

(1A) As soon as practicable after a gas examiner has made a test pursuant to the provisions of this subsection the gas examiner shall—

- (a) compile a report in writing of the results of such test; and
- (b) if the gas examiner is other than the chief gas examiner—furnish such report to the chief gas examiner; and
- (c) give to the occupier or person apparently in charge of the place wherein the substance or meter so tested was found a copy of such report.

(2) The chief gas examiner may, in writing—

- (a) require any person to dig around and expose any pipe or fitting or require a gas supplier to take apart or dismantle any item of plant to assist or facilitate an inspection being made or about to be made for the purposes of this Act;
- (b) require a gas supplier to replace any of its meters and to deliver a meter so replaced to the chief gas examiner for inspection and testing.

(3) A person to whom a requisition is given pursuant to the provisions of subsection (1), (1A) or (2) shall comply therewith forthwith or, where a period for compliance is therein limited, within such period.

(4) Where a gas examiner is of opinion that in any place whatsoever—

- (a) there exists a danger or likelihood of danger to the safety of persons or things caused directly or indirectly by the presence or escape of gas; or
- (b) because of the existence of a state of things arising from an act

done or omitted to be done by any person, a danger or likelihood of danger to the safety of persons or things would exist should gas be present or escape;

the gas examiner may—

- (c) do all such things and take all such steps; and
- (d) in the case of an act done or omitted to be done by any person as referred to in this subsection, require that person to do all such things and take all such steps;

as the gas examiner considers necessary or desirable to remove or limit the extent of such danger or the likelihood of such danger.

(5) A gas examiner shall be furnished with a certificate of the gas examiner's appointment signed by the Minister and shall, if required by a person apparently in charge of premises to which the gas examiner is seeking entry for the purposes of this Act, produce such certificate for the inspection of such person.

(6) Such a certificate shall be prima facie evidence of the appointment to which it refers and to the identity of the person who produces such certificate with the appointee named therein.

Assistance to gas examiners

9. If it appears to a gas examiner necessary or desirable so to do, the gas examiner may require any person to assist the gas examiner or to furnish to the gas examiner any facility or information for the purpose of the exercise or discharge by the gas examiner of his or her powers or duties under this Act.

Obstruction of gas examiners

10.(1) Any person who—

- (a) wilfully obstructs any gas examiner in the exercise or discharge by the gas examiner of any of his or her powers or duties under this Act, or attempts so to do; or
- (b) fails to comply in all respects with a requisition of a gas examiner given under this Act; or

- (c) when required by a gas examiner under this Act to furnish information, furnishes information which to the knowledge of such person is false or misleading; or
- (d) threatens or uses any abusive or insulting language to a gas examiner in relation to any act or thing done, attempted to be done or desired to be done by the gas examiner under this Act; or
- (e) interferes with or damages any equipment, apparatus or thing being used by, or in the possession of, a gas examiner for the purpose of the exercise or discharge by the gas examiner of any of his or her powers or duties under this Act;

commits an offence against this Act.

(2) In the case of damage done to any equipment, apparatus or thing being used by, or in the possession of, a gas examiner for the purpose of the exercise or discharge of any of the gas examiner's powers or duties, under this Act the offender, whether or not any other penalty is imposed on the offender, shall be ordered to make restitution to the Minister to the value of any damage so done.

Notification of accidents

10A.(1) Where by reason of an accident caused by, involving or affecting gas or the production, supply or distribution of gas, injury to or the death of any person or damage to an amount apparently in excess of the sum prescribed under a regulation occurs—

- (a) the gas supplier; and
- (b) the owner, occupier or person in charge of the place where the accident occurs; and
- (c) any other person prescribed under a regulation;

shall—

- (d) where injury to or the death of any person occurs—immediately on becoming aware of the accident and of the injury or death;
- (e) where a fire occurs in connection with the accident—immediately on becoming aware of the accident and of the fire;
- (f) if damage happens—within 1 month after becoming aware of the

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accident and damage or, if another time is prescribed under a regulation, that time;

notify the chief gas examiner of all details known to him or her in relation thereto.

(2) A person required to notify the chief gas examiner in accordance with subsection (1) is excused from so doing where, to the person's knowledge, all details known to the person have been notified to the chief gas examiner by another of the persons so required to notify the chief gas examiner.

(3) When an accident which any person is required, by and in accordance with the provisions of subsection (1), to notify the chief gas examiner immediately that person becomes aware of the accident occurs, no person shall move or otherwise interfere with the place of the accident or anything involved in the accident unless the person first obtains the permission of a gas examiner or, if a gas examiner is not available, a police officer save where such movement or interference is necessary to save life, relieve suffering or to prevent damage to property.

(3A) A person who moves or interferes with the place of that accident or anything involved in that accident shall immediately furnish the gas examiner referred to in subsection (4) with full details thereof unless the gas examiner otherwise directs.

(4) Upon being informed of an accident referred to in subsection (1), the chief gas examiner or other gas examiner nominated by the chief gas examiner shall inquire into the circumstances of the accident with a view to establishing the cause thereof and shall make a written report of the gas examiner's findings which, in the case of a gas examiner other than the chief gas examiner, shall be made to the chief gas examiner.

- (5) In discharging his or her duty under this subsection a gas examiner—
- (a) may require a person to inform the gas examiner of what that person knows concerning the accident;
 - (b) may require a person to submit to the chief gas examiner within 2 weeks after the making of the requisition a written report containing a full and correct statement of the circumstances of and surrounding the accident as known to that person;
 - (c) may inspect any book, register, record (in whatever form it may be kept), list, document, notice or other writing and take

possession thereof or make copies or extracts thereof or take print-outs thereof.

(6) Any person who fails to comply with a requisition made on the person under subsection (5) or who conceals any particulars or who gives or tenders false or misleading particulars regarding an accident caused by, involving or affecting gas or the production, supply or distribution of gas or regarding the nature of the injury or damage caused by that accident commits an offence against this Act.

Fees payable in all cases

10B. Fees prescribed to be paid for the purposes of this Act with respect to the sale, supply, use and consumption of gas and in all other respects are payable in all cases and for all such purposes notwithstanding any other provisions of this Act.

Protection for acts done in the execution of this Act

10C.(1) Without derogating from section 44(5), no act or thing done or omitted by any person—

- (a) who is acting in that respect in execution of the person's functions, powers or duties under this Act; or
- (b) who purports to be acting in that respect in execution of the person's functions, powers or duties under this Act and acts in good faith and without negligence;

shall subject the person to any liability in respect thereof.

(2) When any question arises as to whether any liability for any act or omission, the subject of any proceedings, is negated under the provisions of subsection (1), and it appears that the act or omission of the person proceeded against was for the purpose of executing this Act or in the execution of any of the person's functions, powers or duties under this Act, the burden of proof of negligence and the absence of good faith shall lie upon the person taking those proceedings.

Inquiries into accidents

10D.(1) In every case of an accident in relation to which a person is required by section 10A(1) to notify the chief gas examiner, unless the Minister otherwise determines, an inquiry shall be held before a tribunal consisting of—

- (a) a stipendiary magistrate who ordinarily constitutes a Magistrates Court in the Magistrates Court district in which the accident occurs, who shall be chairperson of the tribunal; and
- (b) 3 persons with practical knowledge and skill in the gas industry (the “reviewers”) having no connection with the gas supplier concerned or the owner, occupier or person in charge of the place where the accident occurred who shall be selected by the Stipendiary Magistrate who is to be chairperson of the tribunal.

(2) In the case of an inquiry into a fatal accident, the stipendiary magistrate shall, at least 4 days before the inquiry is to commence, cause notice of the time and place for holding the inquiry to be given to—

- (a) the gas supplier concerned; and
- (b) the owner, the occupier and the person in charge of the place where the accident occurred; and
- (c) the relict or nearest of kin of the deceased person if that person resides in Queensland at an address known to the stipendiary magistrate; and
- (d) the chief gas examiner.

(3) In the case of an inquiry into a non-fatal accident, the stipendiary magistrate shall, at least 4 days before the inquiry is to commence, cause notice such as is referred to in subsection (2) to be given to the persons specified in that subsection except that, in lieu of the persons specified in subsection (2)(c), the notice shall be given to a person resident in Queensland nominated by the injured person or, as the case may be, the owner of property damaged in the accident.

(4) At an inquiry held under this section each person injured in the accident, each owner of property damaged in the accident and each person to whom notice is given under subsection (2) or (3) is entitled to be present and to call, examine, cross-examine and re-examine witnesses, personally or by counsel, solicitor or agent.

(5) A tribunal conducting an inquiry shall be deemed to be a commission within the meaning of the *Commissions of Inquiry Act 1950* and the provisions of that Act, other than sections 4, 4A, 5A, 5B, 10(3), 13, 14(1A), 19A, 19B, 19C and 26, shall apply in respect of the conduct of the inquiry.

(6) When a tribunal has heard and received all the evidence adduced at the inquiry the reviewers shall record their findings as to the cause or causes of the accident and shall record such recommendations as they consider appropriate with a view to preventing the occurrence of a similar accident.

(6A) The chairperson of the tribunal shall also record the chairperson's findings as to the cause or causes of the accident.

(7) The chairperson of the tribunal shall send to the Minister administering the *Commissions of Inquiry Act 1950*—

- (a) the depositions of evidence adduced at the inquiry;
- (b) documentary exhibits received in the inquiry;
- (c) the record of the chairperson's findings and the findings and recommendations of the reviewers;

and shall send a copy thereof to the Minister.

PART 3—GRANTING OF FRANCHISES

Application for and grant of franchise

12.(1) A person who proposes to establish and maintain a reticulation system in any part of the State or to extend a reticulation system outside the area to which a franchise relates shall—

- (a) make written application to the Minister for a franchise so to do; and
- (b) cause to be published in a newspaper circulating within the part of the State in respect of which application under this section has been made and, where such part is outside the City of Brisbane, in 1 of the principal newspapers circulating in and around

Brisbane, as often as the Minister directs, a notice prescribed by subsection (2).

(1A) An application referred to in subsection (1)(a) shall—

- (a) be in a form that is acceptable to the Minister; and
- (b) particularise the part of the State in respect of which the application is made; and
- (c) specify the length of time it will take to establish or, as the case may be, extend the reticulation system.

(1B) The Minister may require the applicant to specify the length of time it will take to establish distinct parts of the reticulation system or extension.

(2) A notice published pursuant to subsection (1) shall—

- (a) be in an approved form signed by or on behalf of the applicant; and
- (b) particularise—
 - (i) that an application has been made under subsection (1) and the nature of such application; and
 - (ii) the part of the State in respect of which such application has been made; and
 - (iii) any other matters which the Minister may, in any case, direct; and
- (c) specify the date before which any objection to such application must be made to accord with the provisions of subsection (3).

(3) A person who desires to object to an application made under subsection (1) shall within 14 days after the date of last publication of the notice prescribed by subsection (1), make an application in writing to the Minister for a franchise in relation to or including the same part of the State as that in respect of which the application objected to was made.

(3A) Save as the Minister may direct, an objector shall not be required to comply with the provisions of subsection (1)(b).

(4) The Minister may, by gazette notice—

- (a) grant a franchise or an extension of a franchise on conditions stated in the notice; or

(b) refuse to grant a franchise or an extension of a franchise.

(4A) A condition must not be inconsistent with this Act.

(5) Subject to section 15, as long as a franchise remains in force in relation to an area no other franchise shall be granted in relation to the same area or to any part thereof.

(6) The holder of a franchise may do all things which the holder is empowered by this Act to do or which the holder may otherwise lawfully do and which the holder considers to be necessary to the establishment or maintenance of a reticulation system in the area in relation to which the franchise was granted, or any part thereof.

Special conditions on franchise

12A.(1) A condition of the grant or extension of a franchise is in addition to a condition imposed by this Act.

(3) The holder of a franchise who contravenes or fails to comply with a condition imposed on that franchise under this section commits an offence against this Act.

Offence in relation to franchise areas

13.(1) A person shall not establish or maintain a reticulation system in a franchise area unless the person is the holder of the franchise that relates to the area.

(2) A person who contravenes subsection (1) commits a continuing offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of 20 penalty units for each day during which the offence continues.

Cancellation of franchise

15.(1) Should the holder of a franchise fail to make such progress in the establishment of a reticulation system in the franchise area or in any part thereof as, in the opinion of the Minister, is satisfactory, or where this Act otherwise permits cancellation of a franchise, the Minister may, by writing, call upon such holder to show cause within 1 month of the date of such

notice why the holder's franchise for such area or, as the case may be, part should not be cancelled.

(2) The Governor in Council may cancel the franchise for all or part of the franchise area from a specified date.

(3) The Governor in Council may cancel the franchise only after the Minister has considered the oral or written representations made by the franchise holder within the stated time.

(4) The Minister must give to the franchise holder written notice of the cancellation and the day of effect of the cancellation.

(5) If the Governor in Council cancels a franchise for all or part of a franchise area, the Minister may, after inviting applications from persons interested in establishing a reticulation system in the area, grant another franchise for the area.

(6) The Minister must publish notice of the invitation—

- (a) in a newspaper circulating in the area; and
- (b) if the area is outside Brisbane—in a newspaper circulating in Brisbane.

Applications for franchise in lieu of cancelled franchise

16.(1) An applicant who desires to apply for a franchise consequent upon a notice published pursuant to the provisions of section 15, shall make application to the Minister in accordance with the provisions of section 12.

(2) Such an application and every objection thereto shall take the same form as, and be treated in every respect as if it were, an application or, as the case may be, an objection, under section 12 and shall be subject to the provisions of that section accordingly except that every such application and objection shall be in respect of or include the whole of the area or part of an area in respect of which the subsisting franchise is liable to be cancelled.

Effect of cancellation of franchise

17.(1) When a franchise is cancelled under section 15 the person who theretofore was the holder thereof shall cease to be the holder of a franchise in relation to the area or part of the area in respect of which such franchise is

cancelled.

(2) The person who was, immediately prior to such cancellation, the holder of such franchise shall be entitled to compensation to be paid by the person who is the holder of the franchise granted in lieu of the franchise so cancelled.

(2A) Compensation shall be payable in respect of the value of work done and any asset acquired in the course of and for the purpose of the establishment of the reticulation system concerned prior to such cancellation which work or asset is made use of or taken over by the person to whom a franchise is granted in lieu of the franchise so cancelled and such value shall be assessed as at the date of such cancellation.

(2B) However, in no case shall the compensation payable for any such work or asset exceed the amount paid or agreed to be paid for the doing of such work or the acquisition of such asset by the person entitled to compensation or, as the case may be, by any previous holder of a franchise in relation to the area or part in question.

(3) If within 6 months after the date of cancellation of a franchise there is no agreement between the holder of the franchise granted in lieu of such cancelled franchise and the person who was the holder of the franchise so cancelled with respect to an amount of compensation payable under this section, the Minister may refer the question of such compensation to the Gas Tribunal which shall advise the Minister as to the amount of compensation which, in its opinion, should be paid.

(4) The Minister shall consider the advice of the Gas Tribunal and such other information as the Minister considers relevant and shall recommend to the Governor in Council the amount of compensation which in the Minister's opinion should be paid by the holder of the franchise granted in lieu of the cancelled franchise to the person who was the holder of the franchise so cancelled and, without in any way being bound by that recommendation, the Governor in Council shall, under a regulation, decide the amount of compensation payable by the holder to the previous holder.

(5) A decision by the Governor in Council under subsection (4) shall be final and binding on the holder of the franchise granted in lieu of the cancelled franchise and the person who was the holder of the franchise so cancelled.

(6) A copy of a regulation made under subsection (4) may be filed in the

registry of the Supreme Court whereupon the regulation shall be deemed to be a judgment of that court duly made that requires the payment of money and may be enforced accordingly.

Restriction on disposal of reticulation system

18.(1) The holder of a franchise shall not sell or otherwise dispose of such franchise or the reticulation system established or maintained by the holder pursuant thereto or any part of such reticulation system without the Minister's previous approval.

(2) If the Minister approves of a sale or other disposition of a franchise or a reticulation system established or maintained pursuant thereto or any part of such reticulation system then, upon completion of such sale or other disposition the person to whom such franchise or reticulation system or part is sold or disposed of shall be deemed to be the holder of a franchise in relation to the area specified in such approval.

(3) Any purported sale or other disposition of a franchise or reticulation system or any part of a reticulation system in contravention of this section shall be null and void and shall render the franchise concerned or pursuant to which such reticulation system is maintained liable to be cancelled in accordance with this Act.

Surrender of franchise

19.(1) The holder of a franchise who desires to surrender that franchise in respect of the whole or any part of the area in relation to which it was granted shall—

- (a) notify the Minister, in writing, of the holder's desire to surrender; and
- (b) cause to be published in a newspaper circulating within the area or part thereof in respect of which such holder desires to surrender the holder's franchise, as often as the Minister directs, a notice of the holder's desire to surrender specifying therein the area or part which will be affected by such surrender.

(2) The Minister may either—

- (a) accept the surrender, with or without conditions; or

(b) refuse to accept the surrender.

(3) If the Minister imposes conditions on the acceptance of the surrender, the surrender does not take effect until the conditions are satisfied.

Provisions applicable to a reticulation system

20.(1) The provisions set forth in schedule 2 shall apply in respect of the establishment and maintenance of a reticulation system under this Act.

(1A) The provisions of schedule 2, sections 8 to 10 and 13 to 21 and such other sections thereof as the Governor in Council may, under a regulation prescribe (either generally or in a particular case) shall apply, with any necessary adaptations, with respect to—

- (a) a person authorised to construct or maintain a pipe pursuant to section 52C;
- (b) a person supplying gas through a pipe the construction or maintenance of which is authorised under section 52C;

and in respect of the supply of gas thus supplied or received as if such person were a holder of a franchise in relation to the area wherein the person is so authorised to supply gas or the person receives the supply of gas as the case may be.

(2) If the Governor in Council considers it to be necessary or desirable for the effectual establishment or maintenance of a particular reticulation system that schedule 2 should be modified in its application to that reticulation system the Governor in Council may, under a regulation, specify the necessary or desirable modifications.

(3) Schedule 2 as so modified for the time being shall apply to the particular reticulation system in lieu of the schedule 2 prescribed by this Act.

(4) The power to modify schedule 2 does not include power to substantially rescind schedule 2 and substitute another schedule in its stead.

PART 4—FUEL GAS SUPPLIED UNDER A FRANCHISE

Application of this part

23. This part applies only with respect to fuel gas suppliers which supply fuel gas to consumers under a franchise and with respect to the supply of fuel gas under a franchise.

Forfeiture by fuel gas supplier for insufficiency of supply

26.(1) A fuel gas supplier which maintains a reticulation system in an area in respect of which a regulation is made under section 44 or is the holder of a franchise granted in relation to that area is liable to forfeit the sum of \$1 000 for every day during which such proclamation remains in force with respect to that area.

(2) A fuel gas supplier shall not suffer a forfeiture under this section if it be proved that the insufficiency in the supply of fuel gas was caused by circumstances beyond its control.

Duty of fuel gas supplier to supply consumers

28.(1) Upon being required so to do by the owner or occupier of any premises within the area in relation to which such fuel gas supplier is the holder of a franchise such fuel gas supplier shall, subject to this Act, give and continue to give a supply of fuel gas for such premises and shall furnish and lay all pipes that may be necessary for such purpose.

(1A) Such owner or, as the case may be, occupier, shall, upon demand therefor being made in writing by the fuel gas supplier concerned, pay the cost of so much of any service pipe laid for the purpose of such supply in, upon or through land owned or occupied by him or her and the cost of so much of any service pipe in excess of a distance of 20 m from any main of the fuel gas supplier concerned laid for the purpose of such supply in, upon or through land other than land owned or occupied by him or her and the cost of so much of any main in excess of a distance of 20 m laid for the purpose of such supply.

(2) If a fuel gas supplier believes that in respect of particular premises a

supply of fuel gas can not be given under the conditions specified in subsection (1) and provide the supplier with an economic financial return, the fuel gas supplier may apply to the Minister to be exempted from the duty imposed by subsection (1) and the Minister may, if the Minister thinks fit, grant the exemption sought.

Application for a supply of fuel gas

29.(1) An owner or occupier of premises which are by this Act entitled to a supply of fuel gas from a fuel gas supplier which is the holder of a franchise in relation to the area in which such premises are situated and who requires a supply of fuel gas from that fuel gas supplier for those premises shall give a written notice to the fuel gas supplier concerned at its principal place of business wherein shall be specified—

- (a) the premises in respect of which such supply is required; and
- (b) a date upon which such supply is required to commence, which date shall be such as to allow the fuel gas supplier a reasonable time after the giving of such notice in which to provide such supply.

Security for supply and charges

29A.(1) If the fuel gas supplier concerned treats the notice as a special application or as an application involving an extension of a main (which the fuel gas supplier is hereby empowered to do) it may—

- (a) require such owner or occupier to enter into a written contract with the fuel gas supplier to continue to take and pay for a supply of fuel gas for at least 12 months commencing on the date specified in the notice as the date of commencement of supply;
- (b) require such owner or occupier to give security for the payment to it of all moneys which may become due and payable to it by such owner or occupier on account of such supply of fuel gas or as the cost of any pipe to be laid by the fuel gas supplier for the purpose of such supply and which cost is, by this Act, to be paid for by such owner or occupier.

(2) The owner or, as the case may be, occupier shall comply as required by the fuel gas supplier pursuant to subsection (2).

Discontinuance of supply

29B.(1) If—

- (a) damage is occasioned to the meter or fittings, the property of the fuel gas supplier; or
- (b) the owner or, as the case may be, occupier of premises supplied with fuel gas by a fuel gas supplier fails to pay all moneys for the time being due and payable to the fuel gas supplier on account of such supply, or for the hire of such meter or fittings;

the fuel gas supplier concerned may discontinue a supply of fuel gas to the premises concerned and may remove such meter and fittings.

(2) The power conferred by subsection (4) is in addition to any other remedy afforded a fuel gas supplier by law to secure payment for fuel gas supplied by it to a consumer or for damage to any of its property.

Forfeiture where unauthorised discontinuance of supply

29C. A fuel gas supplier which wilfully fails to give or continue a supply of fuel gas of the quality and at the pressure prescribed to premises entitled thereto by this Act, the owner or occupier of which premises has complied with the provisions of this section, is liable to forfeit the sum of \$100 for each day during which such failure continues unless such failure is authorised by the provisions of subsection (4).

Application to Minister to obtain a supply of fuel gas

30.(1) Any 20 or more persons who are either owners or occupiers of premises situated in or adjacent to a franchise area and who require a supply of fuel gas from that fuel gas supplier for those premises may address an application in the approved form to the Minister whereby—

- (a) it is stated that such premises are not supplied with fuel gas, could conveniently to such fuel gas supplier be supplied with fuel gas and ought reasonably to be supplied with fuel gas by such fuel

gas supplier; and

- (b) each of such persons undertakes to be a consumer of a quantity of fuel gas specified therein for at least 12 months commencing on the date a supply of fuel gas to such premises commences.

(2) If the Minister is satisfied the return to the fuel gas supplier from the aggregate sales of fuel gas supplied to premises adjacent to a franchise area would be an economic return on the outlay that would be incurred by the supplier in supplying the fuel gas, the Minister may, by gazette notice, extend the franchise area to include the premises.

(2A) If the Minister is satisfied of the matters referred to in subsection (2) and the premises in question are in a franchise area (including the case where the franchise area has been extended under subsection (2)), the Minister may, by signed order, direct the fuel gas supplier concerned to lay such pipes, extend such mains and construct all such other works and do all such things, within a time limited by the order, as are necessary for the purpose of supplying fuel gas to premises in the part of the State defined in the order.

(3) If, within the time limited therefor in the order, the fuel gas supplier concerned has not complied with the order the Minister may cause such work and things to be done as are necessary to carry out the terms of the order.

(4) All expense incurred by the Minister in carrying out the terms of the order shall be repaid to the Minister by the fuel gas supplier concerned.

(5) A certificate under the hand of the Minister certifying the amount of such expense may be filed in the registry of a court which has jurisdiction in relation to a personal action arising otherwise than out of an accident in which a motor vehicle is involved in which the amount claimed is not more than the amount of such expense required by this Act to be paid by the fuel gas supplier concerned.

(6) Such certificate shall, at the time of its being so filed, be endorsed with or be accompanied by a statement of the amount of such expense which the fuel gas supplier thereunto required by this Act has failed to pay and such endorsement or statement shall be verified as correct by the Minister.

(7) Upon its being filed as aforesaid such certificate shall be of the same

force and effect and all proceedings and remedies for the enforcement thereof with costs may be taken as if such certificate were a judgment of the court in the registry of which such certificate is filed ordering payment of the amount of such expense together with costs.

Conservation and utilisation of fuels

32.(1) The Governor in Council may, by gazette notice, direct a fuel gas supplier—

- (a) to supply a particular type of fuel gas;
- (b) to use a particular type of feed stock for the purpose of supplying its fuel gas;

in lieu of or in addition to any other fuel gas or feed stock as the Governor in Council thinks fit.

(2) The Governor in Council shall specify in such a direction a date before which or a period within which the act or thing directed to be done shall be done.

(3) A copy of such notification shall be given to the fuel gas supplier concerned.

(4) A copy of the gazette containing such a notification shall, upon its production in any proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein and that the direction so notified has been duly given.

(5) The expression—

“feed stock” includes any fuel gas and any substance from which fuel gas can be produced.

Minister may direct to ensure continuous supply of fuel gas

32A.(1) The Minister may, in writing, direct a fuel gas supplier to do any act or thing which, in the opinion of the Minister, is necessary for the maintenance by the fuel gas supplier of a continuous supply of fuel gas in accordance with the provisions of this Act to all consumers of fuel gas supplied by it or to persons who are entitled, pursuant to this Act, to become such consumers and who have applied in that behalf.

(2) The Minister shall specify in such a direction a date before which or a period within which the act or thing directed to be done shall be done.

Minister's powers to ensure satisfactory progress

32B.(1) The Minister may at any time by notice in writing require a fuel gas supplier to furnish the Minister with any information within a time specified in such notice with a view to determining if the fuel gas supplier is making satisfactory progress in establishing, maintaining or expanding the business of supplying fuel gas within the scope of a franchise granted to that fuel gas supplier.

(2) The fuel gas supplier shall furnish the information referred to in such notice within the time specified therein.

(3) Irrespective of whether the Minister seeks information under subsection (1) or whether a fuel gas supplier supplies information, if, in the Minister's opinion, a fuel gas supplier is not making satisfactory progress in establishing, maintaining or expanding the business of supplying fuel gas within the scope of a franchise granted to that fuel gas supplier (whether or not persons are entitled to apply to be supplied with fuel gas under the provisions of section 32A(1) and whether or not such an application has been made), the Minister may, by notice in writing, call upon the fuel gas supplier to show cause within a period of not less than 1 month specified in such notice why the Minister should not direct the fuel gas supplier to do such things—

- (a) as are specified in the notice; and
- (b) as are within the scope of the franchise; and
- (c) as are directed towards satisfactory progress in establishing, maintaining or expanding the business of supplying fuel gas.

(4) If such cause is not shown to the Minister's satisfaction within the period specified, the Minister may, in writing, direct the fuel gas supplier to do all or any of the things specified in the notice to show cause and such other things as may be incidental or ancillary thereto.

(5) The Minister shall specify in the direction a date before which or a period within which the things directed to be done shall be done.

Penalty for disobedience to direction

32C. A fuel gas supplier which, having been directed by the Governor in Council or by the Minister under section 32, 32A or 32B, fails to comply with such direction before the date or within the period specified therein commits an offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable—

- (a) in the case of a direction given by the Governor in Council—to a penalty of 40 penalty units; or
- (b) in the case of a direction given by the Minister—to a penalty of 20 penalty units;

for each day after the said date or period during which its failure to comply continues.

Meters, pipes etc. not subject to distress for rent etc.

33. The meters, pipes, fittings and other property of a fuel gas supplier shall not be—

- (a) subject to distress for rent of the premises where the same are for the purpose of being used by any consumer; or
- (b) taken in execution under any process of law against the consumer in whose possession the same may be for the time being; or
- (c) affected by any order for sequestration of the estate of any consumer or any order against the consumer's estate to a similar effect (including an order for the liquidation of a body corporate), subject to the *Bankruptcy Act 1966* (Cwlth); or
- (d) affected by the sale or other disposal of the premises occupied by any consumer.

PART 6—SUFFICIENCY OF SUPPLY OF FUEL GAS

Application of part

42. The fuel gas suppliers to which this part applies include producers of natural gas which supply that gas to a fuel gas supplier and this part applies to and in relation to such natural gas.

Allocation of fuel gas resources

43.(1) A fuel gas supplier shall not make a contract for the supply of fuel gas being indigenous natural gas or liquefied petroleum gas derived from indigenous natural gas, where such contract provides for a rate of delivery in excess of 1 petajoule per year or delivery of a total quantity in excess of 5 petajoules, unless the Governor in Council has approved of the making of the contract in question.

(2) If it appears to the Governor in Council that a shortfall exists between the amount of fuel gas contracted for and the amount of fuel gas available to meet the contractual obligations, the Governor in Council shall determine the priority of supply of such fuel gas.

(3) If a fuel gas supplier, in contravention of subsection (1), purports to make a contract for the supply of fuel gas to any fuel gas supplier or other person, such contract shall be void.

(4) A fuel gas supplier which contravenes or fails to comply with any determination of the Governor in Council pursuant to subsection (2) commits an offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of 10 penalty units for each day during which its contravention or failure to comply continues.

Provision for insufficiency of supply

44.(1) Whenever it appears to the Governor in Council that the supply of the fuel gas available in or to any area or areas of the State is, or is likely to become, less than sufficient for the reasonable requirements of that area or those areas, the Governor in Council may exercise all or any of the powers conferred upon the Governor in Council by this section and may do all acts and things necessary or expedient to ensure the sufficiency of the supply of

fuel gas to such area or areas and, in the meantime, to ensure the equitable and proper distribution and use of the supply of fuel gas available to such area or areas.

(2) The powers conferred by subsection (1) are in addition to any other powers which, apart from subsection (1), may be exercised under this Act or otherwise.

(3) A regulation may—

- (a) regulate the sale, supply, use or consumption of fuel gas either generally or for any purpose specified in the regulation;
- (b) provide for the appointment of any person or body of persons to exercise such functions as may be prescribed for the purpose of achieving the objects of this section;
- (c) confer upon such person or body of persons such functions, powers and duties as appear to the Governor in Council necessary or desirable to achieve the objects of this section;
- (d) prescribe offences for a contravention of a regulation and fix a maximum penalty of not more than 60 penalty units and, for a continuing offence, a further penalty of not more than 5 penalty units for each day the offence continued.

(4) This section and the provisions of every regulation made pursuant to subsection (3) shall—

- (a) have full force and effect notwithstanding any provision of this Act or of any other Act or law or any judgment or order of any court or any contract, agreement, deed, security, document or writing whatsoever;
- (b) bind the Crown.

(5) No claim or demand, action, suit or proceeding shall lie or be brought against Her Majesty or any Minister of the Crown or any person acting in the execution of the person's powers, duties or functions under this section or any regulation made pursuant to subsection (3) for or in respect of any damage, loss or injury sustained, or alleged so to be, by reason of anything done or purporting to be done under this section or such regulation.

PART 7—THE GAS TRIBUNAL

Application of this part

45. This part applies with respect to all fuel gas suppliers.

Eligibility of members

46.(1) A member of the Gas Tribunal shall give notice in writing to the Minister of any direct or indirect pecuniary or other interest which the member has or acquires and which could conflict with the proper discharge of the member's functions.

(2) The Minister may direct, by instrument in writing, that a particular member of the Gas Tribunal not participate in a specific inquiry.

Gas Tribunal inquiry

47.(1) The Minister may require, by instrument in writing published in the gazette, that the Gas Tribunal inquire into a matter or matters specified in the instrument and report to the Minister its conclusions, advice and recommendations.

(2) Such instrument may contain—

- (a)** a direction to report within a specified period of time;
- (b)** directions as to specific matters to be taken into consideration by the Gas Tribunal in arriving at its conclusions and developing its advice and recommendations.

Confidentiality of information

48. The Gas Tribunal may, on the application of any person who has submitted or will submit confidential information to it, keep such information confidential for so long as and to the extent that it is satisfied that the disclosure of such information would be contrary to the public interest or be likely to cause commercial harm to the person submitting such information.

Authorities of the Gas Tribunal

49.(1) The authorities that may be exercised by the Gas Tribunal for the purpose of complying with a requisition of the Minister issued pursuant to section 47 are—

- (a) to inquire into any matter related to the business of a fuel gas supplier or to specific aspects of its operations;
- (b) to evaluate the performance of a fuel gas supplier with respect to franchise or licence conditions;
- (c) to inquire into any matter that concerns the interests of consumers and without limiting the range of such matters to—
 - (i) inquire into the prices charged for fuel gas supplied to consumers;
 - (ii) inquire into any other charges or conditions which may be imposed by fuel gas suppliers in respect of the supply of fuel gas to consumers;
 - (iii) inquire into the level of profit achieved by a fuel gas supplier taking into account the profit level of other comparable business enterprises in Australia;
- (d) to inquire into other matters associated with fuel gas supply;
- (e) to carry out such investigations as may be necessary for or incidental to the advancement of its inquiries;
- (f) to report in writing upon the results of its inquiries and to provide advice and recommendations to the Minister, which recommendations may include recommended maximum prices or charges where appropriate or where required by the Minister.

(2) For the purposes of an inquiry conducted by it the Gas Tribunal shall be deemed to be a commission within the meaning of the *Commissions of Inquiry Act 1950* and the provisions of that Act, other than sections 4, 4A, 5A, 5B, 10(3), 13, 14(1A), 19A, 19B, 19C and 26, shall apply in respect of the conduct of the inquiry.

Inquiry into fuel gas prices

50. In an inquiry into prices charged or to be charged for fuel gas by a

fuel gas supplier, the Gas Tribunal shall take cognisance of but shall not be limited to—

- (a) the price or prices necessary to be charged for fuel gas to enable the fuel gas supplier to make a reasonable profit;
- (b) competition from other forms of energy;
- (c) interest payable on loans and ratio of debt to equity;
- (d) expenses properly chargeable to revenue in accordance with generally accepted accounting principles;
- (e) depreciation and reasonable contingencies;
- (f) the accumulation of reserves and special accounts before the commencement of the *Gas Act Amendment Act 1988*, section 16 and the purposes for which those reserves and special accounts were approved;
- (g) any other reasonable expenditure by the fuel gas supplier and reasonable provision for future expenditure by the fuel gas supplier in connection with the carrying on of its activities;
- (h) the efficiency of the fuel gas supplier in the conduct of its business.

Fixing of prices and charges

51.(1) If the Minister considers it appropriate to do so following a report of the Gas Tribunal on a matter referred to it, the Minister may recommend in relation to the matter that the Governor in Council do any 1 or more of the following—

- (a) fix a price or prices as the maximum fuel gas price or prices applicable;
- (b) prohibit a specified condition or type of condition or a specified charge or type of charge;
- (c) fix the maximum amount of a specified charge or type of charge;
- (d) take action regarding a licence or franchise;
- (e) fix a date from which a determination by the Governor in Council shall apply.

(2) The Governor in Council may, under a regulation, do all such acts and things necessary or desirable to achieve the Minister's recommendations.

(3) A fuel gas supplier who contravenes or fails to comply with a regulation made under subsection (2) and applicable to that fuel gas supplier commits an offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of 100 penalty units for each day during which the contravention or failure to comply continues.

PART 7A—TAKING OF EASEMENTS

Definition

51A. In this part—

“**corporation**” means the corporate entity preserved and continued in existence as a corporation sole by the *Petroleum Act 1923*, section 11(1) under the name and style ‘The Secretary for Mines’.

Constitution of corporation

51B.(1) The corporation is to be taken to have been constituted as a corporation sole for the purposes of this Act and shall be constituted as prescribed by the *Petroleum Act 1923*, section 11(1).

(2) All courts and persons acting judicially shall take judicial notice of the seal of the corporation affixed to any document and, in the absence of proof to the contrary, shall presume that the seal was duly affixed.

(3) The corporation taken to have been constituted for the purposes of this Act is capable in law of—

- (a) suing and being sued; and
- (b) compounding or proving in a court of competent jurisdiction all debts and sums of money due to it; and
- (c) taking, acquiring, holding, letting, leasing, dealing with and disposing of real and personal property; and

- (d) doing and suffering all such acts and things as bodies corporate may in law do and suffer.

Corporation a constructing authority

51C. For the purposes of this Act and for the purpose only of enabling the corporation to take an easement on land the corporation is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.

Power of corporation to take easement

51D.(1) As a constructing authority within the meaning of the *Acquisition of Land Act 1967* the corporation may take in accordance with that Act an easement on land to enable a person to construct and maintain a pipe for the purpose of any person supplying gas to a consumer.

(2) The corporation shall not exercise its power under subsection (1) in respect of a person unless it is satisfied that the person has made all reasonable endeavours to acquire by agreement with owners and occupiers of the land concerned all rights required by the person in respect of the land.

(3) Every easement taken shall be in the name of the person for whose benefit it was taken.

Compensation and expenses payable by person for whose benefit easement taken

51E.(1) The compensation payable in respect of an easement taken on land together with all expenses incurred by the corporation in taking the easement are payable by the person for whose benefit the easement is taken.

(2) Before taking an easement for the benefit of a person the corporation may require that person to deposit with it such moneys or other securities as are in its opinion sufficient to ensure the payment by that person of sums payable by that person under subsection (1).

Rights of benefited person

51F.(1) In respect of land the subject of an easement to enable a person to construct and maintain a pipe for the purpose of any person supplying

gas to a consumer that first mentioned person may with such assistants and with such vehicles and things as that person deems necessary or convenient for carrying out the purposes of the entry, at all times enter upon that land and construct, inspect, test, maintain, repair, alter, add to or replace a pipe belonging to that person and for any such purpose enter upon any other land giving necessary access to that land.

(2) The rights of a person under an easement taken to enable that person to construct and maintain a pipe for the purpose of any person supplying gas to a consumer include—

- (a) a right that no person shall, without the prior permission of the first mentioned person or otherwise than in compliance in every respect with any terms, provisions or limitations imposed by the first mentioned person in respect of the permission erect or place any building or structure whatsoever in, on or over the land the subject of the easement or, except for the purpose of cultivating the land in accordance with recognised good land husbandry, dig into such land; and
- (b) subject to this Act, a right to use, or allow another person to use, a pipe constructed under subsection (1) to supply gas to a consumer.

PART 8—MISCELLANEOUS

Person in charge of gas works to be qualified

52.(1) A person shall not be in charge of a gas works unless the person is—

- (a) a qualified person; or
- (b) authorised in writing by the Minister pursuant to this section to be in charge of the gas works in question and is so in charge in accordance with the conditions (if any) for the time being specified or notified by the Minister pursuant to this section.

(2) The Minister may authorise a person other than a qualified person to be in charge of a gas works for a period not exceeding 3 years subject to

such conditions as the Minister may specify in such authorisation.

(2A) Upon written application by or on behalf of the gas supplier concerned, the Minister may, from time to time, renew such authorisation for a period, in each case not exceeding 3 years, subject to such conditions as the Minister may specify in such renewal.

(3) The Minister may, at any time—

- (a) vary the conditions specified in any authorisation or renewal by written notice given to the gas supplier concerned;
- (b) cancel any authorisation or renewal by written notice given to the gas supplier concerned.

(4) A gas supplier shall not—

- (a) permit a person who is neither a qualified person nor a person authorised under this section to be in charge of a gas works of that gas supplier; or
- (b) permit a person authorised under this section to be in charge of a gas works of that gas supplier otherwise than in accordance with the conditions for the time being specified or notified by the Minister.

Measurement of fuel gas

52A. A fuel gas supplier, which is the holder of a franchise, shall cause all fuel gas obtained or produced by it for use in its reticulation system to be measured by a meter.

Supply of gas through meters

52B.(1) A gas supplier shall not—

- (a) subject to subsections (2) and (2A), supply gas through a meter to a consumer unless the meter—
 - (i) is the property of such gas supplier; and
 - (ii) has been tested and stamped by an approved person under and in accordance with this Act; or
- (b) supply gas to a consumer through a meter at any time after the

expiration of the period prescribed under a regulation after the date upon which such meter was last tested and stamped by an approved person under this Act.

(2) In circumstances and under conditions approved by the chief gas examiner a meter tested and stamped by an approved person which is not the property of the gas supplier concerned, may be used to measure the quantity of gas supplied to a consumer.

(2A) When 1 gas supplier supplies gas to another gas supplier the means of measuring the volume of gas so supplied shall be as approved by the chief gas examiner.

(3) A gas supplier shall remove from premises every meter through which it supplies gas to such premises before the expiration of the period prescribed under a regulation after the date—

- (a) upon which such meter was last tested and stamped by an approved person; or
- (b) where such meter has not previously been tested and stamped by an approved person—upon which such meter was installed in such premises;

and shall thereupon replace such meter with another meter which has been tested and stamped by an approved person within the prescribed period.

(3A) If required by the chief gas examiner so to do, a gas supplier shall deliver all meters required by this Act to be tested and stamped by an approved person to the place specified in the requisition.

(3B) In circumstances approved by the chief gas examiner an approved person may test a meter and, if the person finds it correct, stamp the same without its removal from the premises of a consumer.

(5) Subject to subsection (6), a gas supplier which contravenes or fails to comply with any provision of this section commits a continuing offence against this Act and is liable to a penalty of 20 penalty units and, in addition, to a penalty of 2 penalty units for each day during which such offence continues.

(6) If a gas supplier satisfies the chief gas examiner that it is unable to comply with any provision of this section because of circumstances beyond its control, the chief gas examiner may, in writing, exempt such gas supplier from such provision for such period, and subject to such terms and

conditions as the chief gas examiner considers proper in the circumstances.

(6A) A gas supplier which has been exempted under this section and which contravenes or fails to comply with any term or condition of such exemption commits an offence against this Act.

(6B) Upon a conviction of a gas supplier for an offence under subsections (6) and (6A) the exemption granted to such gas supplier shall be revoked by the chief gas examiner by writing addressed to such gas supplier.

(8) In this section—

“an approved person” means—

- (a) a gas examiner; or
- (b) any other person approved in writing by the chief gas examiner as a person who may test and stamp meters.

Restriction on constructing and maintaining pipe

52C.(1) A person shall not construct or maintain a pipe in any area for the purpose of any person supplying gas to a consumer from outside the premises of the consumer unless—

- (a) where the gas in question is fuel gas—the first mentioned person is the holder of the franchise that relates to the area; or
- (b) the pipe and all associated fittings are contained wholly within a single parcel of land; or
- (c) the premises concerned are contiguous with other premises and all the premises are occupied—
 - (i) where they consist of lots shown as such on a building units plan or a group titles plan within the meaning of the *Building Units and Group Titles Act 1980*—by the members of the body corporate incorporated in respect of that plan; or
 - (ia) if the premises consists of lots included in a community titles scheme under the *Body Corporate and Community Management Act 1997*—by the members of the body corporate for the scheme; or
 - (ii) by tenants of the same landlord;

and the pipe and all associated fittings are contained wholly within the perimeter of the contiguous premises; or

- (d) the first mentioned person is authorised under a regulation made under this section so to do and constructs or maintains the pipe in question in accordance with the regulation.

(2) The Governor in Council may, under a regulation, authorise any person to construct and maintain a pipe in an area (whether a franchise area or not) for the purpose of supplying gas to a consumer from outside the premises of the consumer.

(3) A regulation under subsection (2) may be made subject to such conditions as the Governor in Council thinks fit whereupon the authority conferred by the regulation is restricted to constructing and maintaining the pipe in accordance with those conditions.

(4) A person who contravenes subsection (1) commits a continuing offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of 20 penalty units for each day during which the offence continues.

Use of meters etc. restricted

53. Save as is prescribed by this Act, a person shall not install in any premises or use any measuring device to measure the volume of gas or any meter unless such measuring device or, as the case may be, meter is approved by the chief gas examiner and stamped in accordance with this Act.

Use of large containers of another without permission prohibited

53A. A fuel gas supplier shall not—

- (a) supply liquefied petroleum gas into; or
(b) purport to sell; or
(c) use in the conduct of his or her business as a fuel gas supplier;

a container that is of a greater water capacity than 25 kg and is the property of another fuel gas supplier unless the first mentioned fuel gas supplier has the permission in writing of the other fuel gas supplier so to do.

Maximum penalty—5 penalty units in respect of each container in respect of which this section is contravened.

Unauthorised interference with meters or fittings prohibited

54.(1) A person shall not fraudulently—

- (a) alter the index of a meter; or
- (b) prevent a meter from correctly registering the quantity of gas supplied to the premises whereon such meter is situated; or
- (c) interfere with a meter or a measuring device to measure the volume of gas or a seal or stamp affixed to any meter, measuring device or fitting; or
- (d) abstract, cause to be wasted or diverted, or consume gas supplied by a gas supplier.

(2) A person convicted of a contravention of any provision of subsection (1), whether or not the person is otherwise punished therefor, shall forfeit to the gas supplier concerned a sum not exceeding \$100.

(2A) The provisions of subsection (2) shall not be construed to prejudice nor shall any action or order made pursuant thereto be taken to prejudice the right of a gas supplier to recover in full damage done to this property.

(2B) However, in no case shall a gas supplier recover twice in respect of the same damage.

(3) When an act has been done which act, if done fraudulently, would constitute a contravention of any provision of subsection (1), the existence under the control of the person who did that act, of means for causing the alteration, prevention, interference, abstraction, wastage, diversion, or consumption occasioned by that act, or any of them, shall be prima facie evidence that such alteration, prevention, interference, abstraction, wastage, diversion or consumption, as the case may be, was caused fraudulently by such person.

(4) When an act which constitutes a contravention of any provision of subsection (1) has occurred in relation to any meter, measuring device or fitting the gas supplier concerned may discontinue the supply of gas theretofore supplied through or in connection with such meter, measuring device or, as the case may be, fitting until the act in question ceases or until

every matter resulting from such act has been remedied, whichever is the later to occur.

Regulation of payment to gas supplier

55. A gas supplier shall not demand or accept payment for gas supplied by it through a meter (other than a prepayment meter) to a consumer—

- (a) unless, at or before such demand or, as the case may be, acceptance an account for such payment showing the prescribed particulars is given to such consumer;
- (b) of an amount in excess of the net amount shown as payable in the account given in accordance with the provisions of paragraph (a).

Prepayment meters

56.(1) A gas supplier shall not collect coins from a prepayment meter unless at the time of such collection the gas supplier gives to the consumer who is party to the agreement under which the gas supplier supplied gas to the premises in question or to an agent of such consumer a receipt for the amount of money so collected.

(1A) A gas supplier who collects coins from a prepayment meter shall pay to such consumer or to such agent any amount of money in excess of the amount lawfully payable to such gas supplier in respect of gas supplied through such meter.

(2) Where gas is supplied through a prepayment meter to premises occupied, to the exclusion of the consumer who is party to the agreement under which such gas is supplied, by any lessee, tenant, licensee or other person holding from or in occupation by leave of such consumer the coins placed in such meter for a supply of gas through it shall be deemed to be the property of such consumer who shall be entitled to collect the same.

(2A) Such consumer shall be liable to pay to the gas supplier concerned the amount lawfully payable in respect of gas supplied through such meter and shall replace in such meter any amount of money in excess of such amount.

(2B) If the amount of money contained within such a meter is less than the amount lawfully payable to the gas supplier concerned in respect of gas

supplied through such meter such consumer shall be liable to make good the amount of such deficit.

(3) A person shall not remove or attempt to remove money from a prepayment meter unless the person is authorised by this Act or by the gas supplier whose property such meter is and the person acts within the terms of the person's authority.

Hire of prepayment meter and fittings

57. A gas supplier may charge a consumer who is party to the agreement under which gas is supplied through a prepayment meter to any premises an annual sum not exceeding 5% of the amount lawfully charged for gas supplied through such meter during the financial year in which such annual sum is to be charged for the hire of such meter and, where such gas supplier has installed the fittings to be used in association with such meter, for the hire of such fittings.

Accounts and audit

58.(1) A gas supplier shall keep its books and accounts pertaining to its business of or in connection with the supplying of gas separate and apart from its other books and accounts.

(2) The Minister may at any time authorise an officer of the Audit Office or any person appointed by the auditor-general in that behalf to examine and audit the books and accounts of a gas supplier and the person so authorised shall thereupon make such examination and audit and shall have and may exercise all powers and authorities necessary for that purpose.

(3) A person shall not obstruct or hinder any person authorised under subsection (2) in the performance of the person's duty or in the exercise by the person of any power or authority in aid thereof.

Returns

59. A gas supplier must lodge with the chief executive, in the approved form, the statistics, information and returns prescribed under a regulation.

Approval of forms

59A. The chief executive may approve forms for use under this Act.

Provisions to ensure standards and safety requirements complied with

60A.(1) Any person who—

- (a) installs, maintains, alters or repairs any system, pipe, container, fitting, works or anything used, designed or intended for use in or in connection with the supply, distribution or consumption of gas; or
- (b) stores, distributes, supplies, transports or handles gas;

shall comply in every respect with—

- (c) the provisions of this Act with respect to those things; and
- (d) the prescribed standards and manner of installing, maintaining, altering or repairing those things; and
- (e) all directions (if any) given by the chief gas examiner with respect thereto;

and shall ensure that all work is carried out competently and with due regard to safety.

(2) Where a direction in the nature of a safety requirement has been given by the chief gas examiner under the provisions of schedule 2, section 8 to the holder of a franchise and that holder ensures that the direction is carried out competently then that holder shall be deemed with respect to the subject matter of the direction to have carried out that work with due regard to safety.

Provisions with respect to defective or dangerous fittings

60B.(1) Notwithstanding the provisions of section 28, no person shall be obliged to give or supply gas, or to continue so to do, to any premises or places in which fittings are incomplete, defective or do not comply with the standards prescribed by this Act.

(2) Where a gas supplier or other prescribed person is of opinion that in

any premises, place or part thereof there exists a danger or likelihood of danger to the safety of persons or things caused, directly or indirectly, by fittings which are defective or do not comply with the prescribed standards, the gas supplier or other person shall immediately disconnect the supply of gas from those premises, place or part thereof and shall not reconnect the supply of gas to those premises, place or part thereof whilst such danger or likelihood of danger continues to exist.

(3) A gas supplier or other prescribed person who disconnects the supply of gas from any premises, place or part thereof under subsection (2) shall forthwith notify in writing the chief gas examiner of the disconnection and the reason therefor.

Standards of gas

60C. Every gas supplier shall supply gas which is of a quality and at a pressure and in and through fittings for the time being prescribed.

Penalties

61.(1) A person who contravenes or fails to comply with any provision of this Act or with any order, direction or requisition lawfully given, made or issued pursuant to this Act commits an offence against this Act.

(2) A person who commits an offence against this Act shall, save where it is otherwise prescribed and the context does not indicate that this provision applies, be liable to a penalty of 40 penalty units.

(3) A prosecution for an offence against any provision of this Act shall be taken by way of summary proceeding under the *Justices Act 1886*, except that such proceeding may be instituted at any time within the time limited therefor by those Acts or within 12 months after the commission of the offence comes to the knowledge of the complainant whichever period shall be the later to expire.

(3A) A forfeiture under this Act shall be enforced and recovered by way of summary proceeding under the *Justices Act 1886*, or by way of action as for a debt due to the person in whose favour the forfeiture is prescribed in any court of competent jurisdiction.

(3B) However, where any forfeiture is prescribed to occur in

consequence of the commission of an offence against any provision of this Act the court by which the defendant is convicted of such offence may order the amount of such forfeiture to be paid in accordance with this Act.

(4) When a body corporate commits an offence against this Act every member of the governing body thereof shall be deemed to have committed that offence and to be liable to the prescribed penalty and to pay any forfeiture arising therefrom unless it be proved, in any particular case, that such member did not know, and had no reasonable means of knowing, of the commission of the offence.

(5) Where it is provided in this Act that in respect of an offence against this Act a daily penalty may be imposed it is to be understood that the offence is a continuing offence in respect of which a complaint may be laid, from time to time, alleging the commission of the offence over a period.

(6) However, an offender shall not be punished more than once in respect of any period.

Power of court to order cause of contravention to be remedied

61A.(1) Where any person is convicted of an offence under this Act, the court may, in addition to inflicting a penalty, order the person, within the time specified in the order, to take such steps as may be specified therein for remedying the matters in respect of which the contravention occurred and may, on application, enlarge the time so specified.

(2) Where such an order is made, that person shall not be liable under this Act in respect of the continuation of the contravention during the time allowed by the court, but if, after the expiration of the time as originally specified or enlarged by subsequent order, the order is not complied with, that person shall be liable to a penalty of 4 penalty units for each day on which the non-compliance continues.

Evidentiary provisions

62. In any proceeding in respect of an offence against this Act—

- (a) an averment in the complaint that—
 - (i) any person is the chief executive, the chief gas examiner, the deputy chief gas examiner or a gas examiner, a member of

the governing body of a body corporate or a consumer of gas; or

- (ii) any place or area named in the complaint is within a franchise area;

shall be prima facie evidence of the matter so averred and, in the absence of evidence to the contrary, shall be conclusive evidence thereof;

- (b) a certificate of analysis purporting to be signed by an analyst shall, upon its production in any proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of its contents unless the party against whom such certificate is to be tendered requires that the analyst concerned be called as a witness and gives notice thereof to the party proposing to tender such certificate at least 3 days before the date of the hearing of such proceeding;
- (c) a signature purporting to be that of the Minister, the chief executive, the chief gas examiner, the deputy chief gas examiner or a gas examiner shall be taken to be the signature it purports to be until the contrary is proved.

Laying of complaint; service of analyst's certificate

63.(1) A complaint for an offence against this Act may be laid by the chief gas examiner, deputy chief gas examiner, a gas examiner or by any person authorised in that behalf by the Minister.

(1A) Without derogating from the provisions of subsection (1), the Minister may give a general authority to any person in the Minister's own name or as the holder for the time being of a position specified in the authority to lay complaints for offences referred to in schedule 2, sections 17 and 21, and any such person may in accordance with the authority lay complaints in respect of those offences.

(1B) Every authority so given is revocable by the Minister at the Minister's will.

(2) When it is proposed to tender an analyst's certificate on behalf of the complainant to a proceeding there shall be served on the defendant with the summons in that proceeding a copy of such certificate.

(2A) The endorsement of such certificate with an oath of service shall be prima facie evidence of such service.

(3) When it is proposed to tender an analyst's certificate on behalf of the defendant to a proceeding a copy of such certificate shall be given to the complainant at least 7 days before the hearing.

(4) If a copy of such certificate is not so given the court hearing the matter may adjourn the hearing on such terms as it thinks just.

Regulations

64.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may make provision for a purpose mentioned in schedule 4.

(3) The regulations may—

- (a) adopt, wholly or in part and either by way of reference or by way of express specification therein, any of the standard rules, codes, or specifications of the bodies known as the Standards Association of Australia, the British Standards Institution, the Australian Gas Association, the Australian Liquefied Petroleum Gas Association or a like body identified in the regulations;
- (b) provide for the approval of the Minister or the chief gas examiner to be the standard applicable in respect of a particular matter;
- (c) provide that such things as are specified therein shall not be done except by a person who holds a licence issued under this Act, notwithstanding that a licence issued or continued under any other Act authorises such thing to be done.

PART 9—TRANSITIONAL

SCHEDULE 2
PROVISIONS APPLICABLE TO THE
ESTABLISHMENT AND MAINTENANCE OF A GAS
UNDERTAKING

section 20

Meaning of term “holder”

1. In this schedule—

“holder” means the holder for the time being of a franchise.

Power to produce gas

2. The holder may carry on the production of gas and such other materials as arise from the conversion and manufacture of the residuum occasioned by the production of gas, and the processes connected therewith, and from any substance that now is or may hereafter be used for such purposes, subject to the provisions of this schedule.

Power of acquisition

3. The holder may, from time to time, acquire any estate or interest in such premises, works or fittings as the holder considers necessary for the purposes of the holder’s gas undertaking or for the purposes of this Act and may hold or dispose of any of the same subject—

- (a) in the case of a holder which is a body corporate—to the terms of its memorandum and articles of association; and
- (b) in the case of a holder which is incorporated under an Act repealed in part by this Act—to the provisions of that Act which are not repealed by this Act.

Execution against holder’s property restricted

4. Notwithstanding any rule of law, judgment, execution, distress or

SCHEDULE 2 (continued)

other process, the provisions of any covenant or any claim of right and, in the case of a holder which is a body corporate, notwithstanding the terms of its articles of association, a person shall not levy or seize in execution or attempt to recover any sum of money from the holder by taking or interfering with any fittings, the property of the holder which are laid in, under or through any street or place of which the holder is not the owner or occupier.

Power of salaried officers to hold shares in body corporate

5. In the case of a holder which is a body corporate, a salaried officer of the body corporate shall be competent to hold any share, estate or interest in the capital, stock, funds or property thereof, either solely or jointly with any other person or in trust for any other person or persons.

Authority to dispense with corporate seal

6. In the case of a holder which is a body corporate, it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the holder, and any person duly authorised and empowered under the corporate seal may, without affixing such seal, execute any deed and do all other acts, matters, and things which may be required to be executed and done on behalf of the body corporate and in conformity with the provisions of this Act and with the articles of association of the body corporate.

Incorporated holder may act through agent

7. Where any act is required or permitted to be done or any document is required or permitted to be made by the holder which is a body corporate then, subject to the provisions of any other Act, the secretary or the authorised agent of such body corporate may do such act or make such document on behalf of such holder.

Powers of holder to erect structures and install fittings

8.(1) Subject to the provisions of this schedule the holder may, within the area of the holder's franchise and from time to time—

SCHEDULE 2 (continued)

- (a) erect such gas storage tanks, reservoirs, works and premises, install such engines, machines and fittings, lay such pipes and make such drains, sewers and watercourses as the holder considers necessary for the proper conduct of the holder's gas undertaking or for the purposes of this Act;
 - (b) break up, cut into and remove the ground of any street and erect, install or lay such fittings in, on or under any street or in or on any wall adjacent to a street or, with the consent of the owner thereof, do such like things in relation to any private way or other place as the holder considers necessary for the proper conduct of the holder's gas undertaking or for the purposes of this Act;
 - (c) maintain, repair and replace anything erected, installed, laid or made pursuant to the provisions of this Act;
 - (d) do all such acts and things as the holder considers necessary to secure and maintain a proper supply of gas to or for any street, private way or place or to improve or regulate such a supply or to carry this Act into effect.
- (2)** The holder—
- (a) shall pay just compensation in respect of any damage caused by the holder's conduct of the holder's gas undertaking or in the holder's exercise of any power conferred on the holder by the provisions of subsection (1);
 - (b) shall not erect, replace, alter or add to any supply, production or associated equipment save on an allotment approved by the local government or other authority charged with the control of the locality in which the equipment is or is to be erected and in accordance with safety requirements approved by the chief gas examiner;
 - (c) shall not break up, cut into or remove the ground of any street save in a part thereof approved by the local government or other authority charged with the control of the street in question nor lay any main therein at a less depth than the prescribed minimum depth.
- (3)** For the purposes of subsection (2) the prescribed minimum depth

SCHEDULE 2 (continued)

shall be measured from the top of the main to the surface of the street in question and shall be 600 mm or such depth less than 600 mm as the local government or other authority concerned approves (either generally or in a particular case) and where such local government has fixed the permanent level of a street and has supplied to the holder information concerning the same the surface of such street shall be ascertained according to such permanent level.

(4) Any coated pipe laid or used underground by the holder shall be coated or coloured, unmodified along its length, a bright yellow colour or such other colour as may be approved from time to time by the Standards Association of Australia, and a person other than a holder or gas supplier shall not lay or use underground a pipe coated or coloured as aforesaid or so similar a coating or colour thereto as to be mistaken or likely to be mistaken for such coating or colour.

(5) A holder who does any of the things permitted by this section to be done shall comply in every respect with—

- (a) the provisions of this Act with respect to such things; and
- (b) the prescribed standards and manner of doing those things; and
- (c) all directions (if any) given by the chief gas examiner with respect to each of such things;

and shall ensure that all work is carried out competently.

(6) Where no direction has been given by the chief gas examiner in relation to such things (or part thereof) the holder shall ensure that all things done are done safely and all fittings systems, mains, pipes, vehicles, vessels and things used, designed, or intended for use in connection with a gas undertaking are safe.

Power of holder to enter and inspect any place

9. The holder may, within the area of the holder's franchise by itself or the holder's surveyor, agent or servant, at all reasonable times, and as often as the holder considers necessary, enter any place to or through which the holder supplies gas and inspect and examine all fittings to or through which the holder supplies or has agreed to supply gas, and repair or replace any

SCHEDULE 2 (continued)

fittings as may be necessary, and ascertain the quantity of gas consumed and compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption, and regulate the same in accordance therewith, and carry out any other lawful and reasonable purpose consistent with and relating to such contract.

Power to inspect fittings and to order removal thereof

10. The holder may, within the area of the holder's franchise, by itself or the holder's surveyor, agent or servant, at all reasonable times inspect all fittings which have been erected, installed or made by any person to whom the holder supplies or has agreed to supply gas.

Power to contract for supply of gas

11. The holder may, contract with—

- (a) a local government or other authority charged with the control of any street within the area of the holder's franchise for supplying such street with gas;
- (b) any person for supplying with gas any premises, private way or place within the area of the holder's franchise of which such person is owner or occupier or over which such person has control;

in such manner and on such conditions as the holder considers proper and as are consistent with the provisions of this Act.

Power to lay pipes from mains

12. Subject to the provisions of this Act and with the consent of the owner, occupier or other person having control of the private way or place in question, the holder may, within the area of the holder's franchise install and lay pipes from any main of the holder in or through any private way or place for the purpose of supplying gas.

SCHEDULE 2 (continued)

Breaking up of ground

13.(1) Subject to the provisions of subsections (3) and (4), the holder shall not break up, cut into or remove the ground of any street unless the holder has first given notice of the holder's intention so to do to the local government or other authority charged with the control of the street in question.

(1A) Such a notice—

- (a) shall contain particulars of the street and the part thereof the ground of which is to be broken up, cut into or removed and the purpose of such breaking up, cutting into or removal;
- (b) shall be given to the chief executive officer of such local government or, as the case may be, the secretary to such other authority at least 24 hours before the date on which it is proposed to commence to break up, cut into or remove such ground.

(2) Subject to the provisions of subsections (3) and (4), the holder shall not break up, cut into or remove the ground of any street except on such days and at such times as the local government or other authority charged with the control of the street in question directs.

(3) Where, due to any defect in a main, pipe or fitting or to other serious cause, an emergency has arisen in the opinion of the holder the holder shall proceed to break up, cut into or remove the ground of any street as soon as practicable for the purpose of remedying such defect or eliminating such other cause and shall continue in such work until such purpose is accomplished.

(4) However, where a holder proceeds pursuant to the provisions of subsection (3) the holder shall give the notice prescribed by subsection (1) as soon as possible.

Duty of holder upon breaking up etc. of street

14.(1) When the holder has broken up, cut into or removed the ground of any street the holder shall—

- (a) with all reasonable speed complete the work for which such ground was broken up, cut into or removed and make good and

SCHEDULE 2 (continued)

reinstate such ground to as good a condition as before it was so broken up, cut into or removed and carry away the rubbish or surplus earth occasioned by such work; and

- (b) at all times while such ground is broken up, cut into or removed—cause the site of such work to be fenced and guarded and, throughout the hours of darkness, cause a light sufficient for the warning of traffic to be set up and maintained against or near the site of such work for so long as such ground is broken up, cut into or removed; and
- (c) keep that part of the street the ground whereof has been reinstated and made good pursuant to the provisions of paragraph (a) in good repair for a period of 3 months thereafter and for any further period not exceeding 9 months during which such ground continues to subside.

(2) If the holder makes default in performing the holder's duties under subsection (1) the local government or other authority charged with the control of the street in question may do all acts and things necessary or desirable to make good such default and the expenses incurred by such local government or other authority in so doing shall be repaid to it by the holder.

(3) Such expenses may be recovered by way of proceeding under the *Justices Act 1886*, or by way of action as for a debt due to such local government or other authority in any court of competent jurisdiction.

Local government etc. to supply information as to levels and alignments

15.(1) A local government or other authority charged with the control of the street or streets concerned may at any time and shall within 14 days after the receipt by it of a request in that behalf from the holder supply to the holder full information concerning the permanent level of any street or streets situated within the area of such holder and the alignment allocated by it for any mains in relation thereto, which alignment shall be of a width adequate to ensure reasonable protection for such mains and shall wherever practicable be on the footway of the street.

- (2) Where a local government or other authority, upon request by the

SCHEDULE 2 (continued)

holder has failed to comply with the provisions of subsection (1) and the holder has thereafter erected, installed or laid fittings in or under a street in respect of which such failure has occurred, if such local government or other authority changes the permanent level of such street so as to raise, sink or otherwise alter the situation, line or direction of any of such fittings the holder may sink, raise, or otherwise alter the situation, line or direction of such fittings and the expenses incurred by the holder in so doing shall be repaid to the holder by the local government or other authority concerned.

(3) Such expenses may be recovered by way of proceeding under the *Justices Act 1886*, or by way of action as for a debt due to such holder in any court of competent jurisdiction.

Alteration of street levels

16.(1) The local government or other authority charged with the control of any street shall give to the holder notice of its intention to alter the permanent level of such street and may require the holder to vary the situation, line or direction of any of the holder's fittings in or under such street so that it conforms to the requirements of this schedule and, if the holder does not comply with such a requisition within the time specified therein the local government or other authority may at its own expense cause to be varied the situation, line or direction of such fittings as the circumstances may require.

(2) If in the course of varying the situation, line or direction of any fittings pursuant to subsection (1) damage is done to any fittings of the holder the local government or other authority which caused such variation to be made shall forfeit and pay to the holder the amount of such damage.

Fraudulent appropriation of gas etc.

17.(1) A person shall not—

- (a) lay a pipe to communicate with a fitting of the holder without the consent of the holder first had and obtained;
- (b) use an appliance of larger dimensions than those agreed upon with the holder;

SCHEDULE 2 (continued)

- (c) consume more gas than the person has contracted for with the holder;
- (d) supply any other person with gas supplied to the person by the holder unless such first mentioned person is a gas supplier and such gas has been supplied to the gas supplier by the holder for the purpose of supply to another.

Maximum penalty—\$4 for every day or part thereof such pipe is so laid, such appliance is used, such gas is consumed or, as the case may be, such gas is supplied.

(1A) The amount of a penalty imposed in respect of a contravention of any provision of this subsection (1) shall be payable to the holder.

(2) A person shall not—

- (a) wilfully or negligently damage any fittings of the holder;
- (b) alter, remove or interfere with any fittings of the holder;
- (c) waste or improperly use gas supplied to the person by the holder.

Maximum penalty—\$20 and (whether or not any other penalty is imposed) 3 times the amount of damage done to the fitting concerned or loss occasioned to the holder.

(2A) The amount of a penalty imposed in respect of a contravention of any provision of subsection (2) and the amount of any damage or loss ordered to be paid shall be payable to the holder.

(3) A person who—

- (a) wilfully or negligently does any damage to any fitting of the holder or of any other person; or
- (b) wastes gas supplied to the person by the holder; or
- (c) consumes gas for a period longer than that for which the person has contracted with the holder;

shall, upon demand, forfeit and pay to the holder or, in the case referred to in paragraph (a), such other person, as the case may require, an amount by way of satisfaction for the damage done or the gas wasted or consumed.

(4) In this section—

SCHEDULE 2 (continued)

“**negligently**” means in such manner as would render the doer of the act in question liable in damages in a civil action brought in respect thereof.

Offences in relation to pipes etc.**17A.(1)** A person—

- (a) shall not interfere with, expose or damage a pipe of the holder or its protective coating or cathodic protection system or any foundations, earthworks or other material supporting a pipe of the holder unless—
 - (i) the person has previously notified the holder of the person’s intention so to do or, because of an emergency precluding the person from previously so notifying, the person notifies the holder as soon as practicable thereafter or, having entered into an arrangement with the holder in respect of a procedure of notification in the case of what is agreed between them to be minor work, the person notifies the holder in such a case in accordance with such procedure; and
 - (ii) such interference, exposure or damage is necessary to enable the person to carry out the person’s work; and
 - (iii) the person takes all reasonable steps to ensure such interference, exposure or damage does not constitute a danger to safety in the area;
- (b) shall, subject to subsection (2A), with all reasonable speed, restore to its former condition a pipe of the holder or its protective coating or cathodic protection system or any foundations, earthworks or other material supporting a pipe of the holder which the person has interfered with, exposed or damaged;
- (c) shall in any case notify the holder of the nature of any damage done or caused by the person to a pipe of the holder or its protective coating or cathodic protection system or any foundations, earthworks or other material supporting a pipe of the holder as soon as practicable after such damage has occurred.

Maximum penalty—\$2 000.

SCHEDULE 2 (continued)

(2) If a person fails to comply with subsection (1)(b) where it is applicable to the person, the holder may do all such acts and things as are necessary to restore to its former condition the pipe or its protective coating or cathodic protection system or the foundations, earthworks or other material supporting the pipe, and the expenses incurred by the holder in so doing shall be repaid to the holder by the person so failing to comply.

(2A) However, the holder may in the first instance, on notifying the person concerned, if practicable, of the holder's intention to do so, do all such acts and things as are necessary for such restoration where the holder is of the opinion that, having regard to the nature or extent of the interference, exposure or damage, the holder should then do all such acts and things itself, and the expenses incurred by the holder in so doing shall be repaid to the holder by that person.

(3) Expenses incurred by the holder pursuant to subsections (2) and (2A) may be recovered by way of proceeding under the *Justices Act 1886*, or by way of action as for a debt due to such holder in any court of competent jurisdiction.

(3A) However, in the case of a proceeding for an offence under subsection (1)(b), the court may, on conviction, in addition to any other penalty imposed, order that the offender pay the amount of such expenses to be paid pursuant to subsection (2).

(4) A person shall not excavate in an area in which any main or high-pressure pipe is laid—

- (a) without first ascertaining the alignment and depth of such main or high-pressure pipe;
- (b) without first taking all reasonable steps to ensure that such excavation will not constitute a danger to safety in that area by reason of the presence of such main or high-pressure pipe.

Maximum penalty—\$2 000.

(5) If a gas examiner reasonably believes that an excavation in an area in which any main or high-pressure pipe is laid is not being carried out in such a manner as to ensure that it does not constitute a danger to safety in that area or is not otherwise being carried out in accordance with any requirements of this Act in relation thereto, the gas examiner may, in

SCHEDULE 2 (continued)

writing, require the person making the excavation to do or refrain from doing all such acts and take or refrain from taking all such steps as the gas examiner thinks fit to ensure safety in that area and compliance in all respects with this Act.

(5A) A person to whom a requisition is given pursuant to subsection (5) shall comply therewith immediately or, where a period for compliance is therein limited, within such period.

Maximum penalty—\$4 000.

(6) A holder shall provide all reasonable assistance in the location of mains and high-pressure pipes in the holder's area when requested to do so by any person who has a lawful interest in ascertaining such location.

Duty to prevent leakage of gas

18.(1) The holder, being the owner of any fitting erected, installed or laid on or under any street shall, at regular intervals of time, survey for leakage of gas in areas in which gas is reticulated using methods suitable to the location being surveyed.

(1A) In determining the intervals of time at which surveys shall be undertaken in a particular case, the holder shall have regard to the location and public safety generally.

(2) The holder shall investigate every report received of leakage of gas, and shall deal with each of the following reports immediately for the purpose of classification unless information is furnished to the holder that indicates that the leakage is not hazardous—

- (a) a report from a member of the public, or a police officer, or from any other body;
- (b) a report of the presence of gas (whether suspected or proven) in or under a building;
- (c) a report of a blowing leakage of gas, whether detected by hearing, sight or smell;
- (d) a report of the suspected or proven presence of gas in underground ducts, utility holes, subways or other confined

SCHEDULE 2 (continued)

spaces;

- (e) any other report of a leakage or suspected leakage of gas, that the holder thinks hazardous.

(2A) The holder shall investigate all reports, other than those specified in subsection (1)(a) to (e), within 24 hours of the receipt thereof.

(3) A leakage of gas shall be classified by the holder as—

- (a) class A—hazardous;
- (b) class B—potentially hazardous;
- (c) class C—non-hazardous.

(4) Where a leakage of gas has been classified by the holder as class A, the holder shall commence work on repairs immediately and shall continue that work with expedition until those repairs are completed and the leakage of gas eliminated.

(4A) Leakages of gas that shall be classified by the holder as class A include—

- (a) a blowing leakage of gas (whether detected by hearing, sight or smell);
- (b) a leakage of gas in or under a building;
- (c) a leakage of gas in an underground duct, utility hole, subway or other confined space;
- (d) any other leakage of gas that having regard to the circumstances the holder thinks hazardous.

(4B) Where in a case to which subsection (4) applies, the source of the leakage of gas is fittings that are not the property of the holder, the holder may, for the purpose of enabling work on repairs to be undertaken, cut off the supply of gas to those fittings.

(5) A leakage of gas that has been classified as potentially hazardous or non-hazardous shall be listed—

- (a) for repair; or
- (b) for re-examination of the location at a later date;

SCHEDULE 2 (continued)

as the case requires.

(5A) A leakage of gas that has been classified as class B and listed for repair shall be repaired within 7 days of the date of investigation unless a further inspection during that period indicates that the leakage may be reclassified and repair thereof deferred.

(5B) Leakages of gas to which subsection (5A) applies include—

- (a) an area of density of leakages that renders a form of collective repair necessary, subject always to consideration of the possibility that individual leakages in this category may justify attention of a higher priority;
- (b) an indication of a leakage within 2 m of a building where the reading from a vented barhole exceeds 50% LEL and an examination has indicated that there is no gas in or under the building;
- (c) an indication of a leakage within 5 m of a building where there is in the vicinity a medium or high-pressure gas main or service;
- (d) an indication of a leakage adjacent to a school, hospital or place in which members of the public assemble.

(6) Leakages of gas that have been classified as class C and that may be left unrepaired include—

- (a) an indication of a leakage in an area outside a radius of 30 m from the nearest building where there is no evidence of vegetation decay and vented barhole readings are less than 50% LEL;
- (b) an indication of a leakage that is considered by the holder not to constitute a hazard and of such a nature as to be left unrepaired until the next survey.

(7) For the purposes of subsections (5B) and (6)—

“LEL” means lower explosive limit of the gas being measured.

“vented barhole” means a barhole that has been vented for a period of at least 3 hours.

(8) A holder shall keep records in proper form to the satisfaction of the chief gas examiner of—

SCHEDULE 2 (continued)

- (a) every report received of a leakage of gas;
- (b) every inspection, investigation and report made by the holder following receipt of a report of a leakage of gas;
- (c) the action taken by the holder in respect of every report received of a leakage of gas following an inspection and investigation thereof.

(9) A holder who fails to comply with a provision of this section commits an offence against this Act.

Maximum penalty—\$25 for each day or part thereof during which the failure to comply continues.

Duty to prevent contamination of water

19.(1) When water which is intended for the use of inhabitants of an area is contaminated or affected by gas of the holder the holder shall forthwith upon learning of such contamination or affection take effectual measures to prevent further such contamination or affection.

(1A) The holder who, within 48 hours after learning of such contamination or affection, does not prevent further such contamination or affection shall forfeit and pay to the local government or other authority charged with the control of the supply of water concerned a sum not exceeding \$20 for each day or part thereof during which contamination or affection is caused to such water after the expiration of such period of 48 hours.

Search for cause of contamination

(2) Should a question arise whether water referred to in subsection (1) is or is likely to be contaminated or affected by gas of the holder the local government or other authority charged with the control of the supply of water concerned may by its servants and agents dig to and about the fittings of the holder wherever situated and may examine such fittings whether situated above or below the ground.

(3) If it is established that gas of the holder is causing or is likely to cause such contamination or affection the holder shall forfeit and pay to the local government or other authority concerned the expenses incurred in and in

SCHEDULE 2 (continued)

connection with such digging and examination and reinstatement of any ground necessitated thereby but otherwise such expenses shall be borne by such local government or other authority which shall also forfeit and pay to the holder a sum in satisfaction for damage occasioned thereby to any fittings of the holder.

Holder may cut off supply of gas

20.(1) When a person who has consumed gas of the holder in any place—

- (a) pursuant to an agreement with the holder; or
- (b) without lawful authority;

fails to pay to the holder the price of such gas within 7 days after demand therefor has been made upon the person by the holder, the holder may, subject, in the case referred to in paragraph (a), to the terms of the agreement, cut off the supply of gas to such place.

(2) Subsection (1) shall not be construed to prejudice any other right or remedy of the holder to recover the price of such gas.

Obstruction prohibited

21.(1) A person shall not obstruct or hinder the holder or the holder's servants or agents a local government or other authority, its servants or agents in the exercise or performance by the person, it or them of any power or duty conferred or imposed by this schedule.

Maximum penalty—\$100.

(2) A person convicted of a contravention of the provisions of this section shall, whether or not any other penalty is imposed upon the person, forfeit and pay to the holder the local government or, as the case may be, other authority the amount of any loss or damage occasioned to the holder or it by such contravention.

SCHEDULE 2 (continued)

Power of court to assess forfeitures

22. Where by this schedule it is prescribed that an indeterminate sum shall be forfeited and paid to any person it is implied that a court seised of a matter in issue giving rise to such forfeiture may assess the amount to be so forfeited and paid and may order the forfeiture and payment of the amount so assessed.

Holder's right to refuse to supply gas restricted

23.(1) The holder shall not refuse to supply gas to a person for the reason that such person is using or is contemplating the use of any other method of lighting, heating or power in substitution for or in combination with gas.

(1A) A person who alleges that a refusal of the holder to supply the person with gas is in contravention of this section may by way of summary proceeding under the *Justices Act 1886*, cause a Magistrates Court to inquire into the reason for such refusal and, if such court is satisfied that such refusal is in contravention of this section, it shall order the holder to supply and to continue to supply such person with gas until lawful cause to discontinue such supply exists.

(1B) The holder who fails to comply with such an order within 30 days after the making thereof or, where a period for compliance is therein limited, within such period, commits an offence against this Act and is liable to a penalty of \$25 for each day thereafter during which the holder fails to supply such person.

(2) A proceeding for an inquiry under this section shall be instituted in the Magistrates Court constituted for the district in which are situated the premises in respect of which a supply of gas has been refused.

Prohibition of differential terms

24. If the holder supplies gas to any consumer the holder shall supply it on the same terms as those on which any other consumer is entitled under similar circumstances to a similar supply of gas from such holder.

SCHEDULE 4

PURPOSES FOR WHICH REGULATIONS MAY BE MADE

section 64

1. Providing for and regulating the powers, duties and authorities of a gas examiner and any person or holder of an appointment authorised under this Act to administer this Act.

2. Providing for and regulating the testing, examination and stamping of meters, the registration and regulation of meters and the installation of meters upon consumers' premises.

3. Providing for and regulating the installation of fittings including regulating the type thereof, the manner of their installation, rectification of defects in fittings or their installation, the payment of the costs of such rectification and the persons who may install fittings and providing for a system of licensing such persons (including the specification of types of licences and qualifications therefor, who may sponsor a licensee, the duties and responsibilities of a sponsor and the recognition, cancellation and revocation of gasfitter's licences issued under the *Sewerage and Water Supply Act 1949*) and the control and discipline of licensed persons.

4. Providing for and regulating the composition, characteristics and quality of gas and the pressure at which it is to be supplied.

5. Providing for and regulating the safe storage, handling and transport of gas and the maintenance of plant and fittings used, designed or intended for use in or in connection with the production, treatment, storage, handling and transport of gas.

6. Providing for and regulating the construction, marketing, and maintenance of fittings.

6A. Providing for the regular inspection of fittings and the issue of certificates of compliance with the standards prescribed for those fittings.

6B. Providing for the control and regulation of the dealing in (including selling, disposing and transferring) fittings.

SCHEDULE 4 (continued)

7. Providing for the places and methods for the testing of gas and the apparatus to be used therein.

8. Providing for the location, arrangement and requirements of installations to be used for the purpose of storing, distributing or filling containers with liquefied petroleum gas and the conditions upon which such gas may be supplied.

9. Providing for records to be kept by gas suppliers and the furnishing of information to the chief gas examiner in respect thereof and of meters used by such suppliers for the purpose of the supply and consumption of gas.

10. Providing for returns and information to be furnished to the chief gas examiner, forms to be used and fees to be paid for the purposes of this Act.

11. Providing for the fixing and variation of prices for gas, the fixing of security deposits demandable by gas suppliers and regulating the terms and conditions upon which such deposits are to be held.

12. Providing for and regulating the presentation to consumers of accounts for gas supplied by a gas supplier, the contents of such accounts and payment thereof.

12A. Providing for the registration of persons as agents or distributors of the grantees of gas suppliers' licences, the qualifications necessary to be had for registration and the suspension and cancellation of that registration.

13. Providing for exemptions from compliance with the regulations or part thereof.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 August 1997. Future amendments of the Gas Act 1965 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

Reprint No.	Amendments included	Reprint date
1	to Act No. 87 of 1994	22 December 1994
2	to Act No. 58 of 1995	30 November 1995

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Gas Act 1965 No. 68

date of assent 24 December 1965

commenced 1 July 1966 (proc pubd gaz 25 June 1966 p 1116)

as amended by—

Gas Act Amendment Act 1966 No. 34

date of assent 21 December 1966

commenced on date of assent

Gas Acts Amendment Act 1967 No. 33

date of assent 15 November 1967

commenced on date of assent

Gas Act Amendment Act 1971 No. 5

date of assent 14 April 1971

commenced on date of assent

Metric Conversion Act 1972 No. 31 pt 2 sch 1

date of assent 21 December 1972

commenced 15 July 1976 (proc pubd gaz 17 July 1976 p 1616)

Gas Act Amendment Act 1974 No. 10

date of assent 18 April 1974

commenced on date of assent

Gas Act Amendment Act 1976 No. 35

date of assent 28 April 1976
commenced on date of assent

Gas Act Amendment Act 1981 No. 39

date of assent 20 May 1981
commenced on date of assent

Gas Act Amendment Act 1981 (No. 2) No. 108

date of assent 16 December 1981
commenced on date of assent

Gas Act Amendment Act 1985 No. 75

date of assent 23 October 1985
commenced on date of assent

Gas Act Amendment Act 1988 No. 9

date of assent 7 April 1988
ss 1–2 commenced on date of assent
ss 3, 7–9, 11–15, 27, 32–34, 37, 43, 45–50 commenced 28 May 1988 (proc
pubd gaz 28 May 1988 pp 720–1)
remaining provisions commenced 1 August 1988 (proc pubd gaz 2 July 1988
p 2620)

Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 sch

date of assent 25 October 1989
commenced on date of assent

Gas Act Amendment Act 1990 No. 66

date of assent 19 September 1990
ss 1–2 commenced on date of assent
remaining provisions commenced 13 October 1990 (proc pubd gaz 13 October
1990 p 792)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1

date of assent 1 December 1994
commenced on date of assent (see s 2)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1 (as amd Statute Law
Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1)**

date of assent 28 November 1995
commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 2

date of assent 28 November 1995
commenced on date of assent

Body Corporate and Community Management Act 1997 No. 28 ss 1–2, 295 sch 3

date of assent 22 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 13 July 1997 (1997 SL No. 210)

7 List of annotations

Long title

sub 1990 No. 66 s 3

Short title

s 1 amd 1995 No. 57 s 4 sch 1

Relationship to prescribed Acts

s 2 amd 1967 No. 33 s 2; 1971 No. 5 s 2; 1972 No. 31 s 6 sch 1; 1988 No. 9 s 4
sub 1990 No. 66 s 4

Act inapplicable in certain case

s 2A ins 1990 No. 66 s 4

Arrangement of Act

s 3 amd 1971 No. 5 s 3; 1976 No. 35 s 2; 1988 No. 9 s 5; 1990 No. 66 s 5
om R1 (see RA s 36)

Repeals and savings

s 4 amd R1 (see RA s 40)

Further repeals

s 4A ins 1990 No. 66 s 6
om R1 (see RA s 40)

Meaning of terms

s 5 amd 1988 No. 9 s 6(a)(i), (b)
def “**approved form**” ins 1995 No. 57 s 4 sch 1
def “**Area**” amd 1971 No. 5 s 4
om 1988 No. 9 s 6(a)(ii)
def “**British Thermal unit**” or “**B.T.U.**” om 1972 No. 31 s 6 sch 1
def “**bulk liquefied petroleum gas**” or “**bulk L.P. gas**” amd 1972 No. 31 s 6 sch 1; 1988 No. 9 s 6 (a)(iii)
def “**Calorific value**” om 1972 No. 31 s 6 sch 1
def “**caravan**” ins 1988 No. 9 s 6(a)(iv)
def “**carburetted water gas**” amd 1976 No. 35 s 3(a)
def “**chief gas examiner**” ins 1976 No. 35 s 3(b)
def “**coal gas**” amd 1976 No. 35 s 3(c)
def “**Cylinder**” om 1976 No. 35 s 3(d)
def “**fittings**” amd 1976 No. 35 s 3(e)
def “**franchise**” amd 1976 No. 35 s 3(f)
sub 1988 No. 9 s 6(a)(v)
def “**franchise area**” ins 1988 No. 9 s 6(a)(vi)
def “**fuel gas**” ins 1990 No. 66 s 7(a)
amd 1995 No. 57 s 4 sch 1
def “**fuel gas supplier**” ins 1990 No. 66 s 7(a)
amd 1995 No. 57 s 4 sch 1
def “**gas**” amd 1976 No. 35 s 3(g)
sub 1990 No. 66 s 7(a)
amd 1995 No. 57 s 4 sch 1

- def “**gas examiner**” amd 1988 No. 9 s 6(a)(vii)
 def “**gas supplier**” sub 1988 No. 9 s 6(a)(viii); 1990 No. 66 s 7(b)
 def “**gas terminal**” ins 1990 No. 66 s 7(b)
 amd 1995 No. 57 s 4 sch 1
 def “**Gas undertaking**” amd 1985 No. 75 s 2
 om 1988 No. 9 s 6(a)(ix)
 def “**gas works**” sub 1988 No. 9 s 6(a)(x)
 amd 1990 No. 66 s 7(c)
 def “**heating value**” ins 1972 No. 31 s 6 sch 1
 def “**justice**” om R1 (see RA s 39)
 def “**Liquefied petroleum gas terminal**” ins 1988 No. 9 s 6(a)(xi)
 om 1990 No. 66 s 7(d)
 def “**local government**” om 1995 No. 57 s 4 sch 1
 def “**Metal working**” ins 1966 No. 34 s 2
 om 1990 No. 66 s 7(e)
 def “**Minister**” sub 1988 No. 9 s 6(a)(xii); 1990 No. 66 s 7(f)
 om R1 (see RA s 39)
 def “**Part**” om R1 (see RA s 39)
 def “**pipe**” sub 1990 No. 66 s 7(g)
 def “**Pound avoirdupois**” om 1972 No. 31 s 6 sch 1
 def “**private purposes**” amd 1975 No. 35 s 3(h)
 def “**P.S.I.G.**” om 1972 No. 31 s 6 sch 1
 def “**Public purposes**” om 1975 No. 35 s 3(i)
 def “**qualified person**” sub 1988 No. 9 s 6(a)(xiii)
 def “**reticulation system**” ins 1988 No. 9 s 6(a)(xiv)
 amd 1990 No. 66 s 7(h)
 def “**Standard cubic foot of gas**” om 1972 No. 31 s 6 sch 1
 def “**standard cubic metre of gas**” ins 1972 No. 31 s 6 sch 1
 amd 1988 No. 9 s 6(a)(xv)
 def “**Standard cubic foot of gas (saturated)**” om 1972 No. 31 s 6 sch 1
 def “**standard cubic metre of gas (saturated)**” ins 1972 No. 31 s 6 sch 1
 amd 1988 No. 9 s 6(a)(xvi)
 def “**Station meter**” om 1990 No. 66 s 7(i)
 def “**tolling arrangement**” ins 1988 No. 9 s 6(a)(xvii)
 def “**Unaccounted for gas**” amd 1988 No. 9 s 6(a)(xviii)
 om 1990 No. 66 s 7(j)

Administration

- s 6** amd 1966 No. 34 s 3
 sub 1988 No. 9 s 7
 amd 1990 No. 66 s 8

Minister may appoint advisory committees

- s 6A** ins 1990 No. 66 s 9

Appointment of officers

- s 7** sub 1988 No. 9 s 8

Power to delegate

- s 7A** ins 1976 No. 35 s 4
 amd 1988 No. 9 s 9; 1995 No. 57 s 4 sch 1

Powers of inspection etc.

s 8 amd 1967 No. 33 s 3; 1971 No. 5 s 5; 1976 No. 35 s 5; 1988 No. 9 s 10;
1995 No. 57 s 4 sch 1

Obstruction of gas examiners

s 10 amd 1988 No. 9 s 11

Notification of accidents

s 10A ins 1971 No. 5 s 6
amd 1976 No. 35 s 6; 1988 No. 9 s 12; 1995 No. 57 s 4 sch 1

Fees payable in all cases

s 10B ins 1971 No. 5 s 7

Protection for acts done in the execution of this Act

s 10C ins 1971 No. 5 s 8
amd 1988 No. 9 s 13

Inquiries into accidents

s 10D ins 1988 No. 9 s 14
amd 1995 No. 57 s 4 sch 1

Franchises existing before 1988 amending Act

s 11 sub 1988 No. 9 s 15
om 1994 No. 87 s 3 sch 1

Cessation of certain franchises

s 11A ins 1988 No. 9 s 16
om 1994 No. 87 s 3 sch 1

Sole right to supply LP gas

s 11B ins 1988 No. 9 s 17
om 1994 No. 87 s 3 sch 1

Application for and grant of franchise

s 12 amd 1985 No. 75 s 3; 1988 No. 9 s 18; 1990 No. 66 s 10; 1994 No. 87 s 3
sch 1

Special conditions on franchise

s 12A ins 1990 No. 66 s 11
amd 1994 No. 87 s 3 sch 1

Offence in relation to franchise areas

prov hdg amd 1985 No. 75 s 4(a); 1990 No. 66 s 12(a)
s 13 amd 1971 No. 5 s 9; 1976 No. 35 s 23(1) sch; 1985 No. 75 s 4(b)–(c)
sub 1988 No. 9 s 19
amd 1990 No. 66 s 12(b)–(c)

Authorisation to supply gas in special cases

s 14 sub 1988 No. 9 s 20
om 1990 No. 66 s 13

Restriction on supply of gas outside franchise area

s 14A ins 1988 No. 9 s 21
om 1990 No. 66 s 13

Cancellation of franchise

s 15 amd 1988 No. 9 s 22; 1990 No. 66 s 14; 1994 No. 87 s 3 sch 1

Effect of cancellation of franchise

s 17 amd 1988 No. 9 s 23; 1995 No. 57 s 4 sch 1

Restriction on disposal of reticulation system

prov hdg amd 1988 No. 9 s 24(a)

s 18 amd 1988 No. 9 s 24(b); 1990 No. 66 s 15; 1994 No. 87 s 3 sch 1

Surrender of franchise

s 19 amd 1990 No. 66 s 16; 1994 No. 87 s 3 sch 1

Provisions applicable to a reticulation system

prov hdg amd 1985 No. 75 s 5(a); 1988 No. 9 s 25(a)

s 20 amd 1971 No. 5 s 10; 1985 No. 75 s 5(b)–(c); 1988 No. 9 s 25(b)–(c);
1990 No. 66 s 17; 1995 No. 57 s 4 sch 1

Mode of grant, &c., of franchise

s 21 om 1990 No. 66 s 18

Power to vary franchise areas

prov hdg amd 1988 No. 9 s 26(a)

s 22 amd 1988 No. 9 s 26(b)
om 1990 No. 66 s 18

PART 4—FUEL GAS SUPPLIED UNDER A FRANCHISE

pt hdg sub 1976 No. 35 s 7
amd 1990 No. 66 s 30

Application of this part

s 23 amd 1976 No. 35 s 8; 1990 No. 66 s 30

Quality and pressure of gas

s 24 om 1988 No. 9 s 27

Provision for insufficiency of supply

s 25 renum as s 40A 1971 No. 5 s 14(b)

Forfeiture by fuel gas supplier for insufficiency of supply

prov hdg amd 1988 No. 9 s 28(a); 1990 No. 66 s 30

s 26 amd 1966 No. 34 s 6 sch; 1971 No. 5 s 12; 1976 No. 35 s 23(1) sch; 1988
No. 9 s 28(b)–(e); 1990 No. 66 s 30

Person in charge of gas works to be qualifies

s 27 renum as s 52 1990 No. 66 s 19(a)

Duty of fuel gas supplier to supply consumers

prov hdg amd 1990 No. 66 s 30

s 28 amd 1967 No. 33 s 4; 1972 No. 31 s 6 sch 1; 1976 No. 35 s 9; 1988 No. 9
s 29; 1990 No. 66 s 30

Application for a supply of fuel gas

prov hdg amd 1988 No. 9 s 30(a); 1990 No. 66 s 30

s 29 amd 1966 No. 34 s 6 sch; 1974 No. 10 s 2; 1976 No. 35 s 23(1) sch; 1988
No. 9 s 30(b); 1990 No. 66 s 30; 1995 No. 57 s 4 sch 1

- s 29(2)–(3) renum as 29A 1995 No. 58 s 4 sch 2
- s 29(4)–(4A) renum as 29B 1995 No. 58 s 4 sch 2
- s 29(5) renum as 29C 1995 No. 58 s 4 sch 2

Security for supply and charges

- s 29A new s 29A (prev s 29(2)–(3)) renum 1995 No. 58 s 4 sch 1

Discontinuance of supply

- s 29B new s 29B (prev s 29(4)–(4A)) renum 1995 No. 58 s 4 sch 1

Forfeiture where unauthorised discontinuance of supply

- s 29C new 29C (prev s 29(5)) renum 1995 No. 58 s 4 sch 1

Application to Minister to obtain a supply of fuel gas

- prov hdg amd 1990 No. 66 s 30

- s 30 amd 1966 No. 34 s 6 sch; 1988 No. 9 s 31; 1990 No. 66 s 30; 1994 No. 87 s 3 sch 1; 1995 No. 57 s 4 sch 1

Measurement of gas

- s 31 amd 1966 No. 34 s 6 sch; 1976 No. 35 s 10; 1976 No. 35 s 23(1) sch; 1988 No. 9 s 32
om 1990 No. 66 s 20

Conservation and utilisation of fuels

- s 32 amd 1966 No. 34 s 6 sch; 1976 No. 35 ss 11, 23(1) sch; 1988 No. 9 s 33;
1990 No. 66 s 30; 1995 No. 57 s 4 sch 1
s 32(2)–(2AA) renum as s 32A(1)–(2) 1995 No. 57 s 4 sch 1
s 32(2A)–(2E) renum as s 32B(1)–(5) 1995 No. 57 s 4 sch 1
s 32(3) renum as s 32C 1995 No. 57 s 4 sch 1

Minister may direct to ensure continuous supply of fuel gas

- s 32A new s 32A (prev s 32(2)–(2AA)) renum 1995 No. 57 s 4 sch 1

Minister's powers to ensure satisfactory progress

- s 32B new s 32B (prev s 32(2A)–(2E)) renum 1995 No. 57 s 4 sch 1

Penalty for disobedience to direction

- s 32C new s 32C (prev s 32(3)) renum 1995 No. 57 s 4 sch 1

Meters, pipes etc. not subject to distress for rent etc.

- s 33 amd 1988 No. 9 s 34; 1990 No. 66 s 30; 1995 No. 57 s 4 sch 1

PART 5—GAS SUPPLIERS' LICENCES

- pt hdg sub 1988 No. 9 ss 35(a), 36
exp 30 June 1995 (see s 34)

Termination of this part

- s 34 amd 1985 No. 75 s 6
sub 1988 No. 9 ss 35(b), 36
exp 30 June 1995 (see s 34)

Gas supplier to be licensed

- s 35 sub 1988 No. 9 ss 35(b), 36
amd 1990 No. 66 s 21
exp 30 June 1995 (see s 34)

Granting of gas supplier's licence

s 36 sub 1988 No. 9 ss 35(b), 37
exp 30 June 1995 (see s 34)

Contents of licences

s 37 amd 1972 No. 31 s 6 sch 1
sub 1988 No. 9 ss 35(b), 37
amd 1990 No. 66 s 22
exp 30 June 1995 (see s 34)

Licence fee

s 38 sub 1988 No. 9 ss 35(b), 37
exp 30 June 1995 (see s 34)

Cancellation of licence

s 39 amd 1971 No. 5 s 13; 1972 No. 31 s 6 sch 1; 1976 No. 35 s 12
sub 1988 No. 9 ss 35(b), 38
exp 30 June 1995 (see s 34)

Surrender, transfer etc. of licence

s 40 amd 1966 No. 34 s 6 sch; 1976 No. 35 sch
sub 1988 No. 9 ss 35(b), 38
exp 30 June 1995 (see s 34)

PART VIA—INSUFFICIENCY OF SUPPLY OF GAS

pt hdg ins 1971 No. 5 s 14(a)
om 1988 No. 9 s 35(a)

Provision for insufficiency of supply

s 40A pres s 40A (prev s 25) renum 1967 No. 5 s 14(b)
amd 1966 No. 34 s 6 sch
amd 1976 No. 35 s 23(1) sch
om 1988 No. 9 s 35(b)

Penalty for breach of licence conditions

s 41 amd 1976 No. 35 s 14
sub 1988 No. 9 ss 35(b), 38
exp 30 June 1995 (see s 34)

PART 6—SUFFICIENCY OF SUPPLY OF FUEL GAS

pt hdg sub 1988 No. 9 ss 35(a), 39
amd 1990 No. 66 s 30

Application of part

s 42 sub 1988 No. 9 ss 35(b), 39
amd 1990 No. 66 s 30

Allocation of fuel gas resources

prov hdg amd 1990 No. 66 s 30
s 43 amd 1966 No. 34 s 6 sch; 1967 No. 33 s 5
sub 1974 No. 10 s 3
amd 1976 No. 35 s 15; 1976 No. 35 sch
sub 1988 No. 9 ss 35(b), 39
amd 1990 No. 66 s 30

Conduct of business by gas supplier

s 43A ins 1974 No. 10 s 4
om 1988 No. 9 s 35(b)

Directions by Minister as to certain dealings by a gas supplier

s 43B ins 1974 No. 10 s 4
amd 1976 No. 35 s 23(1) sch
om 1988 No. 9 s 35(b)

Provision for insufficiency of supply

s 44 amd 1967 No. 33 s 6
sub 1988 No. 9 ss 35(b), 39
amd 1990 No. 66 ss 23, 30; 1995 No. 57 s 4 sch 1

PART 7—THE GAS TRIBUNAL

pt hdg sub 1976 No. 35 s 13; 1988 No. 9 ss 35(a), 40

Application of this Part

s 45 amd 1966 No. 34 ss 4, 6 sch; 1967 No. 33 s 7; 1974 No. 10 s 5; 1981
No. 39 s 2; 1981 No. 108 s 2
sub 1988 No. 9 ss 35(b), 40
amd 1990 No. 66 s 30

Eligibility of members

s 46 prev s 46 om 1974 No. 10 s 6
pres s 46 ins 1988 No. 9 s 40

Gas Tribunal inquiry

s 47 amd 1974 No. 10 s 7
sub 1988 No. 9 ss 35(b), 40

Confidentiality of information

s 48 sub 1988 No. 9 ss 35(b), 41

Authorities of the Gas Tribunal

s 49 sub 1988 No. 9 ss 35(b), 41
amd 1990 No. 66 s 30

Inquiry into fuel gas prices

prov hdg amd 1990 No. 66 s 30
s 50 sub 1988 No. 9 ss 35(b), 42
amd 1989 No. 103 s 3 sch; 1990 No. 66 s 30

Fixing of prices and charges

s 51 amd 1966 No. 34 s 6 sch; 1967 No. 33 s 8; 1976 No. 35 ss 16, 23(1) sch
sub 1988 No. 9 ss 35(b), 42
amd 1990 No. 66 s 30; 1995 No. 57 s 4 sch 1

PART 7A—TAKING OF EASEMENTS

pt hdg ins 1990 No. 66 s 24

Definition

s 51A ins 1974 No. 10 s 8
prev s 51A om 1988 No. 9 s 35(b)
pres s 51A ins 1990 No. 66 s 24

Constitution of Corporation

- s 51B** ins 1974 No. 10 s 8
 prev s 51B om 1988 No. 9 s 35(b)
 pres s 51B ins 1990 No. 66 s 24

Corporation a constructing authority

- s 51C** ins 1990 No. 66 s 24

Power of Corporation to take easement

- s 51D** ins 1990 No. 66 s 25

Compensation and expenses payable by person for whose benefit easement taken

- s 51E** ins 1990 No. 66 s 25

Rights of benefited person

- s 51F** ins 1990 No. 66 s 25

PART 8—MISCELLANEOUS

- pt hdg** amd 1995 No. 57 s 4 sch 1

Person in charge of gas works to be qualified

- s 52** amd 1967 No. 33 s 9
 prev s 52 om 1988 No. 9 s 43
 pres s 52 (prev s 27) renum 1990 No. 66 s 19(a)
 amd 1990 No. 66 s 19(b)–(c); R1 (see RA s 39)

Measurement of fuel gas

- s 52A** ins 1990 No. 66 s 26

Supply of gas through meters

- s 52B** ins 1990 No. 66 s 26
 amd 1995 No. 57 s 4 sch 1

Restriction on constructing and maintaining pipe

- s 52C** ins 1990 No. 66 s 26
 amd 1995 No. 57 s 4 sch 1; 1997 No. 28 s 295 sch 3

Use of meters etc. restricted

- s 53** amd 1988 No. 9 s 44

Use of large containers of another without permission prohibited

- s 53A** ins 1988 No. 9 s 45
 amd 1990 No. 66 s 30

Unauthorised interference with meters or fittings prohibited

- s 54** amd 1966 No. 34 s 6 sch; 1976 No. 35 s 23(1) sch

Returns

- s 59** amd 1988 No. 9 s 46
 sub 1995 No. 57 s 4 sch 1

Approval of forms

- s 59A** ins 1995 No. 57 s 4 sch 1

Regulations

s 60 amd 1995 No. 57 s 4 sch 1
 reloc as s 64 1995 No. 57 s 4 sch 1

Provisions to ensure standards and safety requirements complied with

s 60A ins 1976 No. 35 s 18
 amd 1989 No. 103 s 3 sch

Provisions with respect to defective or dangerous fittings

s 60B ins 1976 No. 35 s 18
 amd 1990 No. 66 s 28

Standards of gas

s 60C ins 1988 No. 9 s 47

Penalties

s 61 amd 1966 No. 34 s 6 sch; 1971 No. 5 s 15; 1976 No. 35 s 19; 1976 No. 35
 s 23(1) sch; 1988 No. 9 s 48

Power of court to order cause of contravention to be remedied

s 61A ins 1976 No. 35 s 20
 amd 1988 No. 9 s 49

Evidentiary provisions

s 62 amd 1971 No. 5 s 16; 1988 No. 9 s 50; 1995 No. 57 s 4 sch 1

Laying of complaint; service of analyst's certificate

s 63 amd 1971 No. 5 s 17; 1988 No. 9 s 51

Regulations

s 64 prev s 64 amd 1971 No. 5 s 18
 sub 1974 No. 10 s 9
 om 1995 No. 57 s 4 sch 1
 new s 64 (prev s 60) amd 1976 No. 35 s 17; 1990 No. 66 s 27; 1995 No. 57
 s 4 sch 1
 reloc 1995 No. 57 s 4 sch 1

PART 9—TRANSITIONAL

pt hdg ins 1995 No. 57 s 4 sch 1

Approved forms

s 65 sub 1990 No. 66 s 29; 1995 No. 57 s 4 sch 1
 amd 1995 No. 58 s 4 sch 1
 exp 28 February 1996 (see s 65(3))

SCHEDULE 1—ACTS REPEALED BY THIS ACT

sch om R1 (see RA s 40)

SCHEDULE 1A

sch ins 1990 No. 66 s 31
 om R1 (see RA s 40)

**SCHEDULE 2—PROVISIONS APPLICABLE TO THE ESTABLISHMENT
AND MAINTENANCE OF A GAS UNDERTAKING**

Powers of holder to erect structures and install fittings

s 8 amd 1967 No. 33 s 10; 1971 No. 5 s 19(a); 1972 No. 31 s 6 sch 1; 1974 No. 10 s 10(a); 1976 No. 35 s 21(a); 1989 No. 103 s 3 sch

Power of holder to enter and inspect any place

s 9 amd 1976 No. 35 s 21(b)

Power to inspect fittings and to order removal thereof

s 10 1976 No. 35 s 21(c)

Power to lay pipes from mains

s 12 amd 1989 No. 103 s 3 sch

Breaking up of ground

prov hdg sub 1995 No. 57 s 4 sch 1

s 13 amd 1995 No. 57 s 4 sch 1

Local government etc. to supply information as to levels and alignments

prov hdg amd 1971 No. 5 s 19(b)(i)

s 15 amd 1971 No. 5 s 19(b)(ii)

Alteration of street levels

prov hdg amd 1971 No. 5 s 19(c)(i); 1995 No. 57 s 4 sch 1

s 16 amd 1971 No. 5 s 19(c)(ii); 1995 No. 57 s 4 sch 1

Fraudulent appropriation of gas

s 17 amd 1966 No. 34 s 6 sch; 1976 No. 35 s 23(2) sch; 1995 No. 57 s 4 sch 1; 1995 No. 58 s 4 sch 2

Offences in relation to pipes, etc.

s 17A ins 1971 No. 5 s 19(d)

amd 1976 No. 35 s 23(2) sch; 1989 No. 103 s 3 sch

Duty to prevent leakage of gas

s 18 amd 1966 No. 34 s 6 sch

sub 1974 No. 10 s 10(b)

amd 1976 No. 35 s 23(2) sch

Duty to prevent contamination of water

s 19 amd 1966 No. 34 s 6 sch

Obstruction prohibited

s 21 amd 1966 No. 34 s 6 sch; 1976 No. 35 s 23(2) sch

Holder's right to refuse supply of gas restricted

s 23 amd 1966 No. 34 s 6 sch; 1976 No. 35 s 23(2) sch

**SCHEDULE 3—LIST OF ASSETS TO BE UTILIZED IN THE
CALCULATION OF PRICE OF GAS**

sch amd 1967 No. 33 s 11

om 1974 No. 10 s 11

SCHEDULE 4—PURPOSES FOR WHICH REGULATIONS MAY BE MADE

s 1 amd 1966 No. 34 s 5(a)

- s 3** amd 1966 No. 34 s 5(b); 1976 No. 35 s 22(a); 1989 No. 103 s 3 sch
- s 5** amd 1976 No. 35 s 22(b)
- s 6A** ins 1976 No. 35 s 22(c)
- s 6B** ins 1976 No. 35 s 22(c)
- s 9** amd 1976 No. 35 s 22(d)
- s 11** amd 1976 No. 35 s 22(e)
- s 12A** ins 1990 No. 66 s 32
- s 13** ins 1976 No. 35 s 22(f)