



Gas Supply Act 2003

Current as at 4 April 2024

© State of Queensland 2024



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Gas Supply Act 2003

Contents

		Page
Chapter 1	Preliminary	
Part 1	Introduction	
1	Short title	15
2	Commencement	15
Part 2	Purpose and application of Act	
3	Main purposes of Act	15
4	Gas-related matters to which Act does not apply	16
5	Act binds all persons	16
5A	Declaration for Commonwealth Act	17
6	Act does not affect other rights or remedies	17
Part 3	Interpretation	
Division 1	Dictionary	
7	Definitions	17
Division 2	Key definitions	
Subdivision 1	The regulator	
8	Who is the regulator	18
Subdivision 2	Covered gases	
9	What is a covered gas	18
Subdivision 3	Pipelines and pipeline systems	
12	What is a transmission pipeline	19
13	What is a distribution pipeline	19
14	What is a distribution system	20
15	When covered gas is reticulated	20
Subdivision 4	Customers	
16	Customers and their types	20
Subdivision 5	Customer connection and retail services	
19	What are customer connection services	21

Contents

Subdivision 6	Distribution authorities and distributors	
21	What are a distribution authority and distribution area	22
22	Distributors and references to distributors	22
Chapter 2	Distribution of covered gases	
Part 1	Distribution authorities	
Division 1	Applying for and obtaining distribution authority	
Subdivision 1	Application	
27	Who may apply for distribution authority	23
28	Requirements for application	24
29	Public notice by regulator and submissions	24
31	Deciding application	25
32	Criteria for deciding application	25
34	Term of authority	26
Subdivision 2	Steps after deciding application	
35	Notice of decision to grant application	26
36	Lapsing of application if conditions not accepted	27
37	Issue and public notice of authority	27
38	Information notice about refusal	28
Division 2	Distribution authority conditions	
39	Operation of div 2	28
40	General conditions	28
41	Ring fencing requirement	29
42	Obligation to operate and maintain distribution pipes	29
43	Restriction for distributors	29
46	Standard for distribution pipes	30
47	Inquiry practices and procedures	30
48	Contingency practices and procedures	30
49	Compliance with contingency supply plan requirements	31
50	Participation in retailer of last resort scheme	31
50A	Compliance with distribution network codes	31
50B	Membership of energy ombudsman scheme	31
51	Conditions imposed under a regulation	32
Division 3	Amendment, cancellation and suspension of distribution authority	
Subdivision 1	Amendment by regulator	
52	Amendments for which proposed action notice is not required . .	32
53	Amendments for which proposed action notice is required	32

54	Imposed condition can not be amended	33
Subdivision 2	Amendment by application	
55	Applying for amendment	33
56	Deciding application	33
Subdivision 3	Amendment, cancellation or suspension by regulator	
57	Conditions for amendment, cancellation or suspension	33
Subdivision 4	Procedure for immediate suspension	
58	Immediate suspension	35
Subdivision 5	Procedure for amendment, cancellation or suspension other than immediate suspension	
59	Application of sdiv 5	36
60	Notice of proposed action	36
61	Considering submissions	37
62	Decision on proposed action	37
63	Notice and taking of effect of proposed action decision	38
Division 4	Dealings with distribution authority	
Subdivision 1	Renewals	
64	Applying for renewal	38
65	Deciding renewal application	39
66	Continuing effect of authority for renewal application	39
Subdivision 2	Transfers	
67	Transfer only by application	39
68	Applying for transfer	39
69	Deciding transfer application	40
Subdivision 3	Mortgages	
70	Mortgage of distribution authority	40
71	Notice of intention to exercise powers under mortgage	40
72	Consequence of exercising powers under mortgage	41
Subdivision 4	Surrenders	
73	Surrenders	41
Part 2	Gas infrastructure	
Division 1	Preliminary	
75	What is gas infrastructure and gas infrastructure work	42
75A	References to distributor in pt 2 includes a reference to LPG distributor 42	
76	What is a public entity	42

Contents

77	Publicly controlled places and their public entities	42
Division 2	Carrying out gas infrastructure work on publicly controlled places	
Subdivision 1	When work may be carried out	
78	Right to carry out work on publicly controlled place	43
79	Requirements for carrying out work	44
80	Obtaining public entity’s approval	44
81	Conditions of approval	44
Subdivision 2	Obligations in carrying out work	
82	Application of sdiv 2	45
83	Guarding	45
84	Warning signs on roads	46
85	General obligations in carrying out work	46
86	Maintenance	46
Subdivision 3	Work directions	
87	Power to give work direction	47
88	Compliance with work direction	48
89	Costs of carrying out directed work	48
Division 3	Public entity work	
90	Application of div 3	48
91	Requirement to consult if gas infrastructure affected	48
92	Power to require consequential work	49
93	Compliance with consequential work requirement	49
94	Costs of carrying out required consequential work	50
Division 4	Gas infrastructure interfering with publicly controlled place	
95	Application of div 4	50
96	Remedial action by public entity in emergency	50
97	Power to require remedial action	50
98	Compliance with remedial action requirement	50
99	Costs of taking required remedial action	51
Division 5	Miscellaneous provisions	
100	Ownership of gas infrastructure that becomes part of land	51
101	Compensation	52
Part 3	Customer connection services	
Division 1	Preliminary	
102	Application of pt 3	52
Division 2	Applying for and obtaining customer connection services	

Subdivision 1	Applying for customer connection services	
103	Who may apply for customer connection services	53
104	Deciding application	53
104A	Information notice for refusal of services	53
Subdivision 2	Steps after granting application	
105	Distributor's obligation to propose terms	54
106	Connection contract	54
108	Commencement of customer connection services	55
109	Limits on provision of customer connection services	56
Subdivision 3	Requirements for connection contracts	
109A	General limits on what may be negotiated	57
109B	Provisions for small customers	58
109C	Provisions for large customers	58
Division 3	Changes to installations for covered gases	
110	Application of div 3	59
111	Obligation to give information to allow proposed changes	59
112	Applying to change connection	59
Part 4	Meter and control apparatus requirements	
125	Operation of pt 4	59
126	Distributor must provide meter	60
127	Matters that may be considered for placement	60
128	Placing meter on customer's premises	60
129	Change of meter placement	61
130	Customer must provide safe access	61
131	Alternative measurement	61
Part 5	Distribution officers	
Division 1A	Preliminary	
131A	References to distributor and covered gas in pt 5	62
Division 1	Appointment and functions	
132	Appointment	62
133	Functions	63
134	Distribution officers are public officials for particular functions ..	63
135	Issue of identity card	63
136	Production or display of identity card	64
137	Return of identity card	64
Division 2	Powers of entry	

Contents

138	Power to enter—general	64
139	Power to enter to make gas infrastructure safe	65
140	Power to enter for emergency	65
141	Power to enter common property unaffected	66
Division 3	Safeguards	
142	Duty to avoid damage	66
143	Notice of damage	66
144	Content of notice of damage	67
145	Compensation from distributor to owner or occupier	67
Chapter 3	Supply of reticulated covered gases	
Part 1	Retailers and particular exempt sellers	
175A	Retailer or particular exempt sellers must enter into community services agreement	68
Part 3	On-supply	
213	On-suppliers and their receivers	69
222	Individual metering option	70
223	Compensation for installation damage	70
Part 4	Pricing	
Division 1	QCA investigation	
227A	Direction by Minister to investigate effectiveness of retail competition	71
227B	Period for giving report	72
227C	Terms of reference	72
227D	Notice of pricing investigation or amended term of reference or direction	72
227E	Conduct of pricing investigation	73
227F	Required consultation for report	73
Division 2	Notified prices	
228	Fixing of prices	73
228A	Restrictions on the first exercise of price fixing power	74
229	Review of notified prices	75
230	Public advertisement of notified prices	75
231	Requirement to comply with notified prices	76
232	Additional consequences of failure to comply with notified prices	76
233	Directions for prices notification	76
234	Requirement to comply with direction for prices notification	77
Chapter 4	Sufficiency of supply	

Part 1	Preliminary	
236	Who is an industry participant	78
Part 2	Contingency supply plans	
237	Regulator's power to require plan	79
238	Regulator's power to make plan	79
239	Contingency supply plan—content requirements	80
240	Requirement to comply with plan	81
241	Limitation of industry participant's liability because of compliance with plan	81
242	When plan must be revised	81
243	Regulator's power to amend plan	82
Part 3	Information requirements	
244	Notice of significant disruption	83
245	Regulator's power to require information from industry participant	83
246	Failure to comply with information requirement	84
247	Notice of intention to stop transport or sale of covered gas or customer connection services	84
Part 5	Insufficiency of supply declarations and directions	
Division 1	Insufficiency of supply declarations	
251	Minister's power to make declaration	86
252	Requirements for making declaration	86
253	Duration of declaration	87
Division 2	Insufficiency of supply directions	
254	Minister's power to give directions while declaration in force	87
255	Failure to comply with direction	88
256	Liability of recipient for covered gas supplied under direction	89
257	Direction overrides contracts	89
257AA	Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction	90
Chapter 5	Resolution of gas infrastructure work disputes	
258	Application of ch 5	90
267	Referral to regulator to mediate	91
268	Regulator's powers	91
269	Resolution by Governor in Council	91
270	Exclusion of other jurisdictions	92
Chapter 5A	Distribution network codes	
Part 1	Initial distribution network codes	

Contents

270A	Making of initial distribution network codes by Minister	92
270B	Specific matters for which code may provide	93
270BA	Required consultation	93
270C	Gazettal and taking of effect of code	93
270D	Tabling of code	94
Part 2	QCA distribution network codes	
270E	QCA may make distribution network code	94
270F	QCA code objective	94
270G	Required consultation	95
270H	Ministerial approval	95
270I	When approved QCA distribution network code takes effect . . .	95
270J	Tabling of QCA distribution network code	96
Part 3	Review of distribution network codes and related matters	
270K	Direction by Minister to review	96
270L	Terms of reference	96
270M	Notice of review or amended term of reference or direction	97
270N	Conduct of review	97
Part 4	Amending distribution network codes	
270O	Application of pt 4	98
270OA	Required consultation for amendment	98
270OB	Application of pt 2 other than its consultation provision	98
Part 5	Enforcing distribution network codes	
Division 1	Code contravention notices	
Subdivision 1	Preliminary	
270P	Application of div 1	99
270Q	Criteria for deciding material contravention	99
Subdivision 2	Warning notices	
270R	Warning notice may be given	99
270S	Requirements for warning notice	100
270T	Considering submissions on warning notice	101
Subdivision 3	Action after warning notice	
270U	Giving of code contravention notice	101
270V	Duration of code contravention notice	102
Division 2	Proceedings	
270W	Proceeding for civil penalty order	103
270X	How order enforced	104

270Y	Injunctions	104
270Z	Conduct by directors, servants or agents	105
Division 3	Referrals to regulator	
270ZA	When QCA must refer material contravention	107
270ZB	When QCA may refer material contravention	107
270ZC	Guidelines for exercise of QCA powers for civil penalties	107
270ZD	How regulator deals with referral	108
Division 4	Production of documents or information	
270ZE	Notice to produce documents or information	108
270ZF	Protection of confidential information given for investigation	109
Division 5	Audits	
270ZG	QCA's powers concerning audit of compliance with distribution network code	110
270ZH	Responsibility for cost of audit	111
270ZI	Independent auditor may require reasonable help or information	111
270ZJ	Audit report and submissions on report	111
Part 6	Miscellaneous provisions	
270ZJA	Relationship with Fair Trading Act 1989	112
Chapter 6	Miscellaneous provisions	
Part 1A	Civil penalty for particular contraventions	
270ZK	Application of pt 1A	112
270ZL	Regulator may impose civil penalty	113
270ZM	Information notice about and taking effect of decision	114
270ZN	Civil penalty recoverable as a debt	114
Part 1B	Enforcing section 175A against retailers	
Division 1	Contravention notices	
Subdivision 1	Preliminary	
271AA	Application of pt 1B	114
271AB	Criteria for deciding material contravention	115
Subdivision 2	Warning notices	
271AC	Warning notice may be given	115
271AD	Requirements for warning notice	115
271AE	Considering submissions on warning notice	116
Subdivision 3	Action after warning notice	
271AF	Giving of contravention notice	117
271AG	Duration of contravention notice	117

Contents

Division 2	Proceedings	
271AH	Proceeding for civil penalty order	117
271AI	How order enforced	119
271AJ	Injunctions	119
271AK	Conduct by directors, servants or agents	120
Division 3	Production of documents or information	
271AL	Notice to produce documents or information	121
Part 1	Reviews	
Division 1	Internal reviews	
271	Who may apply for internal review	122
272	Requirements for making internal review application	122
273	Stay of operation of original decision	123
274	Internal review decision	123
275	Internal review procedure	124
276	Reviewer may seek advice or information	124
277	Offence about disclosure of advice or information	125
278	Notice of internal review decision	125
Division 2	External reviews by QCAT	
279	External review of internal review decision	126
Part 2	General offences	
286	Unlawfully operating distribution pipeline	126
287	Unlawful tampering with gas infrastructure	127
289	Unlawfully taking covered gas or LPG	127
289A	Restriction on providing gas retail market services	128
290	False or misleading information	128
291	Attempts to commit offences	129
Part 3	Offence proceedings	
Division 1	General provisions	
292	Offences under Act are summary	129
293	Statement of complainant’s knowledge	129
294	Allegations of false or misleading matters	129
295	Evidence of tampering with gas infrastructure	130
296	Conduct of representatives	130
Division 2	Provisions for proceedings for unlawfully taking covered gases or LPG	
297	Evidence of unlawful taking of covered gases or LPG	131

298	Proceeding may be for a period	132
299	Ownership of covered gases or LPG for proceeding	132
Division 3	Provisions for civil penalty proceedings	
299A	Relationship with criminal proceedings	132
299B	Avoidance of multiple penalties	133
Part 4	General remedies	
300	Forfeiture and costs of remedial work	134
301	Additional consequences of unlawfully operating distribution pipe	134
303	Recovery of unlawful profits	135
Part 5	Evidentiary provisions	
304	Application of pt 5	135
305	Appointments and authority	135
306	Signatures	135
307	Other evidentiary aids	136
307A	Evidentiary effect of code contravention notice	136
Part 6	Registers	
308	Register of authorities	137
309	Keeping of register of authorities	137
310	Access to register of authorities	138
310A	Registers QCA must keep	139
Part 7	Additional provisions for applications	
311	Substantial compliance with application requirements may be accepted 139	
312	Additional information may be required about application	139
313	Power to refund application fee on withdrawal	140
Part 8	Other miscellaneous provisions	
314	Replacement of authority	140
315	Protection from civil liability for particular persons	141
316	Limitation of liability of distributors	141
316A	Protection from liability of member or employee of QCA	142
317	Power to require additional information	142
318	Confidentiality of particular information	143
319	Application of provisions	143
320	Delegation by Minister	144
321	Delegation by regulator	144
321B	Reporting to Minister by QCA	144

Contents

322	Approved forms	145
323	Regulation-making power	145
Chapter 7	Transitional provisions	
Part 1	Transitional provisions for Electricity and Other Legislation Amendment Act 2006	
324	Definitions for pt 1	145
325	Conversion of customer retail contracts for particular small customers to standard contracts	146
326	Small customer may enter into negotiated retail contract before FRC day 147	
327	Transitional retail contracts	147
328	References to other particular contracts under pre-amended Act	148
329	Price publication requirements of area retailers for FRC	149
330	Area retailer's obligations about standard terms apply 1 month before FRC day	150
331	Price publication requirements of general retailers for FRC	150
332	Existing mediated agreements	150
333	Existing orders on arbitrated disputes	150
Part 2	Transitional provision for Mines and Energy Legislation Amendment Act 2009	
334	Continued protection from civil liability for particular persons	151
Part 3	Transitional provisions for Electricity Competition and Protection Legislation Amendment Act 2014	
335	Definition for pt 3	151
336	Continuation of cancellation or suspension of distribution authorities 152	
337	Unfinished customer connection services	152
338	Undecided retail authority applications	152
339	Existing retail authorities	153
340	Continuation of actions by QCA	153
341	Regulator may continue to impose civil penalties	154
Part 4	Transitional provisions for Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Act 2023	
342	Definitions for part	154
343	Existing distribution authorities	154
344	Insufficiency of supply declarations	155
345	Insufficiency of supply directions	155
Schedule 1	Decisions subject to internal review	156

Schedule 2	Dictionary	158
-------------------	-------------------------	------------

Gas Supply Act 2003

An Act about the transport and supply of covered gases, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Gas Supply Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Purpose and application of Act

3 Main purposes of Act

The main purposes of this Act are to—

- (a) promote efficient and economical supply of covered gases; and
- (b) ensure the interests of customers are protected by—
 - (i) regulating the distribution services for reticulated covered gases; and
 - (ii) providing for the making of relevant distribution network codes.

Note—

This Act also includes provisions about LPG distribution pipelines and LPG distribution systems. See sections 75, 75A, 131A, 258, 289, 295 and 297 to 299.

4 Gas-related matters to which Act does not apply

- (1) This Act does not—
 - (a) provide for the safety of persons involved in, or who may be affected by, the supply or use of covered gases; or
 - (b) provide for the measurement or quality of covered gases; or
 - (c) regulate gases other than—
 - (i) covered gases; and
 - (ii) LPG, in relation to LPG distribution pipelines and LPG distribution systems.
- (2) This Act provides for access to a distribution pipeline or system only to the extent of the physical connection, or the opening of the connection, to the pipeline or system.

Editor's note—

For other laws about access to a distribution pipeline or system, see the Gas Pipelines Access Law, the Australian Consumer Law (Queensland) and the *Queensland Competition Authority Act 1997*.

- (3) Other than for chapter 4, this Act does not provide for or regulate transmission pipelines.

5 Act binds all persons

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

5A Declaration for Commonwealth Act

A distribution authority is declared not to be personal property under the *Personal Property Securities Act 2009* (Cwlth).

6 Act does not affect other rights or remedies

- (1) Subject to sections 241, 256, 315 and 316, this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.
- (2) Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.
- (3) In addition, a breach of an obligation under this Act does not, of itself, give rise to an action for breach of statutory duty or another civil right or remedy.
- (4) This Act does not limit a court's powers under the *Penalties and Sentences Act 1992* or another law.

Part 3 Interpretation

Division 1 Dictionary

7 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

Subdivision 1 The regulator

8 Who is the *regulator*

The chief executive of the department is the *regulator*.

Subdivision 2 Covered gases

9 What is a *covered gas*

- (1) A *covered gas* is a primary gas or a gas blend.
- (2) A *primary gas* is—
 - (a) processed natural gas; or
 - (b) hydrogen; or
 - (c) biomethane; or
 - (d) synthetic methane; or
 - (e) a gas, prescribed by regulation, that is suitable for consumption.
- (3) *Processed natural gas* is a substance that—
 - (a) is in a gaseous state at standard temperature and pressure; and
 - (b) consists of hydrocarbons that occur naturally and other substances; and
 - (c) is more than half, by volume, methane; and
 - (d) has been processed to be suitable for consumption.
- (4) In this section—

biogas means a gas derived or recovered from organic matter other than fossilised organic matter.

biomethane means a substance—

-
- (a) that is in a gaseous state at standard temperature and pressure; and
 - (b) the principal constituent of which is methane; and
 - (c) that is produced by refining biogas; and
 - (d) that is suitable for consumption.

gas blend means primary gases that have been blended together to be suitable for consumption.

synthetic methane means a substance—

- (a) that is in a gaseous state at standard temperature and pressure; and
- (b) the principal constituent of which is methane; and
- (c) that is produced by the methanation of carbon dioxide; and
- (d) that is suitable for consumption.

Subdivision 3 Pipelines and pipeline systems

12 What is a *transmission pipeline*

A *transmission pipeline* is a pipeline operated, or to be operated, for the primary purpose of conveying a covered gas directly to a market after it has been processed, whether or not it is subsequently processed or reprocessed.

13 What is a *distribution pipeline*

A *distribution pipeline* is a pipeline that—

- (a) transports a covered gas as—
 - (i) part of a reticulation system within a covered gas market; or
 - (ii) a single point-to-point pipeline to a specific commercial or industrial facility; and

- (b) is not a transmission pipeline.

14 What is a *distribution system*

- (1) A *distribution system* is a system of distribution pipelines and meters and other equipment used for, or in connection with, the supply of a covered gas to more than 1 customer within a covered gas market.
- (2) However, a *distribution system* does not include—
 - (a) pipelines connected from the exit point of a meter installed for a customer's premises; or
 - (b) appliances or equipment connected to pipelines mentioned in paragraph (a).

15 When covered gas is *reticulated*

A covered gas is *reticulated* if it is supplied by way of a distribution pipeline.

Subdivision 4 Customers

16 Customers and their types

- (1) A *customer* is a person who receives, or wants to receive, a reticulated covered gas.
- (2) However, a receiver is only a customer if the receiver's premises has an installation for a covered gas that, to the reasonable satisfaction of the distributor whose distribution area includes the premises, is capable of receiving supply directly from a distribution system.
- (3) A *small customer* is a person who is—
 - (a) a small customer, for covered gas, under the NERL (Qld), section 5(2); or
 - (b) an excluded customer to whom a covered gas may be sold for premises only by an exempt seller and—

-
- (i) who purchases the covered gas from the exempt seller principally for personal, household or domestic use at premises; or
 - (ii) who consumes energy at premises below the upper consumption threshold applying under the NERL (Qld), section 6.
- (4) An *excluded customer* is a person whose premises are located in—
- (a) the Maranoa distribution area; or
 - (b) the Western Downs distribution area.
- (5) In this section—

Maranoa distribution area means the distribution area described in the distribution authority held by the Maranoa Regional Council.

Western Downs distribution area means the distribution area described in the distribution authority held by the Western Downs Regional Council.

Subdivision 5 **Customer connection and retail services**

19 **What are *customer connection services***

- (1) A person provides *customer connection services* to premises by—
- (a) either—
 - (i) if the premises are not already connected to a distribution pipeline or system for a covered gas—physically connecting the premises to the pipeline or system; or
 - (ii) if the premises are already connected to a distribution pipeline or system for a covered gas—opening a physical connection to the pipeline or system to allow reticulated covered gas to be

transported to the premises by way of the pipeline or system; and

- (b) leaving the connection open to allow the covered gas to be transported to the premises by way of the pipeline or system.
- (2) The provision of customer connection services does not include the transportation of a covered gas.

Subdivision 6 Distribution authorities and distributors

21 What are a *distribution authority* and *distribution area*

A *distribution authority* authorises its holder to—

- (a) transport a covered gas through a distribution pipeline or system within a stated area (*distribution area*); and
- (b) provide customer connection services for the covered gas to premises in the area.

22 Distributors and references to distributors

(1) The *distributor* for—

- (a) a distribution authority—is its holder; or
- (b) a customer—is the person who holds a distribution authority and provides customer connection services for a covered gas to the customer; or
- (c) premises—is the person who holds a distribution authority and provides customer connection services for a covered gas to a customer at the premises; or
- (d) gas infrastructure is—
 - (i) if the infrastructure is the subject of a distribution authority—the person who holds the authority; or

-
- (ii) if the infrastructure is an LPG pipeline or LPG distribution system—the LPG distributor who owns or operates the pipeline or system; or
 - (e) a distribution officer—is the distributor or LPG distributor that appointed the officer.

Note—

For when a distribution authority is required, see section 286. See also section 72.

- (2) Otherwise, a reference to a *distributor* is a reference to a person who holds a distribution authority.

Chapter 2 Distribution of covered gases

Part 1 Distribution authorities

Division 1 Applying for and obtaining distribution authority

Subdivision 1 Application

27 Who may apply for distribution authority

- (1) A person may, in the approved form, apply to the regulator for a distribution authority.
- (2) However, a retailer can not apply for a distribution authority to provide customer connection services for a covered gas to be transported through a pipeline if the retailer sells the covered gas transported through a covered pipeline.

Note—

See also sections 41 and 57.

28 Requirements for application

The application must—

- (a) describe the distribution area for the distribution authority; and
- (b) state the type of covered gas for the distribution authority; and
- (c) be accompanied by the fee prescribed by regulation.

29 Public notice by regulator and submissions

- (1) This section does not apply if the applicant holds a corresponding authority for the distribution authority.
- (2) Before deciding the application, the regulator must—
 - (a) publish in a Statewide newspaper a notice stating each of the following—
 - (i) that an application for a distribution authority has been made;
 - (ii) the applicant's name;
 - (iii) a period of at least 20 business days during which anyone may make written submissions to the regulator about the application;
 - (iv) where the application, other than any part of the application that is RTI excluded information, may be inspected;
 - (v) the type of covered gas for the distribution authority; and
 - (b) consider written submissions about the application made to the regulator within the stated period.

31 Deciding application

- (1) The regulator must decide whether to grant or refuse the application.
- (2) If the regulator decides to grant the application, the regulator may impose conditions on the distribution authority the regulator considers appropriate.

Note—

See also division 2.

32 Criteria for deciding application

- (1) The regulator may decide to grant the application only if satisfied the applicant is a suitable person to hold the distribution authority.
- (2) For subsection (1), the regulator may consider any of the following (the *suitability criteria*), to the extent they are relevant to the applicant's competence to hold the distribution authority—
 - (a) ability to provide an adequate level of customer connection services for the covered gas stated in the application;
 - (b) financial capacity;
 - (c) commercial and other dealings and the standard of honesty and integrity shown in the dealings;
 - (d) failure to perform contractual or statutory obligations and the reasons for the failure;
 - (e) criminal history;
 - (f) technical expertise;
 - (g) knowledge of, or experience in, the gas or energy industries;
 - (h) if the applicant is a corporation—the matters mentioned in paragraphs (a) to (g) for persons who are executive officers of, or substantial shareholders in, the corporation.

- (3) However, the regulator may, without regard to any of the suitability criteria, decide the applicant is a suitable person to hold the distribution authority if the applicant holds a corresponding authority.
- (4) In deciding the application, the regulator must consider any relevant government policies about energy issues.

34 Term of authority

- (1) This section applies if the regulator decides to grant the application.
- (2) The regulator may decide to grant the authority for a stated term.
- (3) If no term is decided for a distribution authority, it continues in force unless cancelled or surrendered under this part.

Subdivision 2 Steps after deciding application

35 Notice of decision to grant application

- (1) If the regulator decides to grant the application, the regulator must, as soon as practicable, give the applicant notice (*decision notice*) stating each of the following—
 - (a) the decision;
 - (b) the conditions the regulator has decided to impose on the authority;
 - (c) any other matter relevant to the grant of the authority;
 - (d) a period after the giving of the decision notice for the applicant to give the regulator notice (*acceptance notice*) that the applicant agrees to the conditions, or the conditions with changes to which the regulator has agreed;
 - (e) the application will be taken to have lapsed unless the applicant gives acceptance notice within the period or later period as extended by the regulator.

- (2) The stated period must end at least 20 business days after the applicant is given the decision notice.
- (3) The regulator may, by notice to the applicant given before the stated period ends, extend the period for giving an acceptance notice.

36 Lapsing of application if conditions not accepted

The regulator is taken to have decided to refuse the application if—

- (a) the regulator has given the applicant a decision notice; and
- (b) the applicant has not given the regulator an acceptance notice within the period stated in the notice, or if the regulator has extended the period for giving an acceptance notice, the extended period.

37 Issue and public notice of authority

- (1) This section applies if the applicant gives the regulator an acceptance notice within the period stated in the notice, or if the regulator has extended the period for giving an acceptance notice, the extended period.
- (2) The regulator must, as soon as practicable—
 - (a) issue the applicant the distribution authority; and
 - (b) publish a notice about the authority in a Statewide newspaper.
- (3) The notice must state—
 - (a) that the applicant has been issued a distribution authority; and
 - (b) the authority's distribution area; and
 - (c) the conditions of the authority, or where they may be inspected.

38 Information notice about refusal

If the regulator decides to refuse the application, the regulator must, as soon as practicable, give the applicant an information notice about the decision.

Division 2 Distribution authority conditions

39 Operation of div 2

- (1) This division imposes conditions on each distribution authority that apply as well as any conditions stated in the authority.
- (2) If an imposed condition conflicts with a condition stated in the authority, the imposed condition prevails to the extent of the inconsistency.
- (3) As well as imposing a condition, section 43 also imposes a penalty.

40 General conditions

A distributor must—

- (a) take appropriate account of the environmental effects of activities carried out under the distributor's distribution authority; and
- (b) pay amounts required to be paid under the authority or this Act; and
- (c) in carrying out activities under the authority, comply with this Act, the Petroleum and Gas (Production and Safety) Act and all other relevant laws; and
- (d) in carrying out gas infrastructure work, comply with part 2.

41 Ring fencing requirement

A distributor must not sell a covered gas transported through a pipeline if the distributor provides customer connection services for the covered gas transported through a covered pipeline.

Note—

See also sections 27 and 57.

42 Obligation to operate and maintain distribution pipes

- (1) This section imposes obligations on a distributor for each distribution pipeline the subject of the distributor's distribution authority.
- (2) If, under this Act or another Act, someone else is entitled to have the distributor transport covered gases through the pipeline, the distributor must operate, maintain and protect the pipeline to ensure the transportation is adequate, reliable and safe.
- (3) Otherwise, the distributor must ensure the pipeline is operated and maintained and protected so that it is able to be used for the adequate, reliable and safe connection, transport and sale of covered gases.
- (4) In this section—
maintain includes repair and replace as necessary.

43 Restriction for distributors

A distributor must not provide customer connection services to a customer outside the distribution area of the distributor's distribution authority unless the services are provided under another distribution authority.

Maximum penalty—500 penalty units.

46 Standard for distribution pipes

A distributor must ensure each distribution pipe, or each distribution pipeline in a distribution system, the subject of the distributor's distribution authority is built in a way that complies with the Petroleum and Gas (Production and Safety) Act and any other relevant Act.

47 Inquiry practices and procedures

- (1) A distributor must establish and maintain appropriate practices and procedures to allow inquiries by customers and the public to be addressed or appropriately responded to within 5 business days.
- (2) For subsection (1) an appropriate response means giving the inquirer notice or telling the inquirer—
 - (a) the work that needs to be done to address the inquiry; and
 - (b) the period needed to address it.

48 Contingency practices and procedures

- (1) A distributor must establish and maintain appropriate practices and procedures to manage the prompt and efficient handling of all of the following reported to the distributor by anyone—
 - (a) emergency incidents;
 - (b) gas leakages;
 - (c) gas outages;
 - (d) faults and difficulties in the distributor's gas infrastructure;
 - (e) unplanned interruptions to gas transport;
 - (f) other situations relevant to the distributor that relate to safety.

-
- (2) A distributor must have a telephone number at which customers can report to the distributor matters mentioned in subsection (1)—
 - (a) at any time; and
 - (b) for the cost of a local telephone call.
 - (3) Each account of the distributor must include the number.
 - (4) The number may be the number of a relevant retailer from which the call is transferred to the distributor.
 - (5) An automated answering telephone service complies with subsection (2) only if it provides for the transfer of calls to a human being.
 - (6) Subsections (3) and (4) do not apply to a distributor within the meaning of the NERL (Qld).

49 Compliance with contingency supply plan requirements

A distributor must comply with chapter 4, part 2.

50 Participation in retailer of last resort scheme

A distributor must comply with the retailer of last resort scheme to the extent it applies to the distributor.

50A Compliance with distribution network codes

A distributor must comply with any distribution network code that applies to the distributor.

50B Membership of energy ombudsman scheme

A distributor must pay any amount that, under the *Energy and Water Ombudsman Act 2006*, it must pay the energy and water ombudsman.

51 Conditions imposed under a regulation

- (1) A distributor must comply with—
 - (a) any conditions prescribed under a regulation for, or relating to, the provision of customer connection services; or
 - (b) any code, intergovernmental agreement, protocol or other agreement prescribed under a regulation.
- (2) A code or agreement may be prescribed only if it relates to the provision of customer connection services.

Division 3 Amendment, cancellation and suspension of distribution authority

Subdivision 1 Amendment by regulator

52 Amendments for which proposed action notice is not required

The regulator may amend a distribution authority at any time by giving the distributor notice of the amendment and recording particulars of the amendment in the register of authorities if the amendment—

- (a) is to correct a clerical or formal error; or
- (b) does not affect the interests of the distributor or anyone else and the distributor has, in writing, agreed to the amendment.

53 Amendments for which proposed action notice is required

The regulator may amend a distribution authority if—

- (a) the regulator considers the amendment necessary or desirable; and
- (b) the procedure under subdivision 5 is followed.

54 Imposed condition can not be amended

The regulator can not amend a condition of a distribution authority imposed under division 2.

Subdivision 2 Amendment by application

55 Applying for amendment

- (1) A distributor may, in the approved form, apply to the regulator to amend its authority in a stated way, other than to amend a condition imposed under division 2.
- (2) The application must be accompanied by the fee prescribed under a regulation.
- (3) Subsection (1) does not limit section 69(3).

56 Deciding application

- (1) The regulator must decide to make or refuse to make the amendment.
- (2) If the decision is to make the amendment, the regulator must, as soon as practicable, make the amendment to the distribution authority and give the applicant notice of the decision.
- (3) If the decision is to refuse to make the amendment, the regulator must, as soon as practicable, give the applicant an information notice about the decision.

Subdivision 3 Amendment, cancellation or suspension by regulator

57 Conditions for amendment, cancellation or suspension

- (1) The regulator may amend, cancel or suspend a distribution authority if—

- (a) an event mentioned in subsection (2) has happened; and
 - (b) either—
 - (i) for immediate suspension—the procedure under section 58 is followed; or
 - (ii) for cancellation or suspension other than immediate suspension—the procedure under subdivision 5 is followed.
- (2) For subsection (1), the event is that the distributor—
- (a) obtained the authority because of a materially false or misleading declaration or representation, made orally or in writing; or
 - (b) is, or is likely to become, unsuitable to hold, or continue to hold, the authority, including, for example because of a contravention of any of the following by the distributor or, if the distributor is a corporation, any executive officer of, or substantial shareholder in, the corporation—
 - (i) this Act;
 - (ii) the Petroleum and Gas (Production and Safety) Act or another relevant Act;
 - (iii) a direction given under this Act, the Petroleum and Gas (Production and Safety) Act or another relevant Act;
 - (iv) the authority;
 - (v) a distribution network code, in a material way;
- Note—*
- For criteria for deciding a material contravention, see section 270Q.
- (vi) the gas retail market procedures if AEMO decides under the *National Gas (Queensland) Law*, section 91MB, the contravention is a material breach of the procedures; or
- (c) has contravened, or is contravening, section 41; or

-
- (d) has used the authority for a purpose other than for a purpose for which it was issued.
 - (3) In deciding whether the distributor is a suitable person to hold, or continue to hold, the authority the regulator must have regard to the suitability criteria.

Subdivision 4 Procedure for immediate suspension

58 Immediate suspension

- (1) The regulator may, by notice (*suspension notice*) to the distributor, immediately suspend a distribution authority if the regulator reasonably believes—
 - (a) a ground exists to suspend or cancel the authority; and
 - (b) the circumstances are so extraordinary that it is imperative to immediately suspend the authority to control or prevent—
 - (i) a significant adverse economic or social impact on the State or a part of the State; or
 - (ii) a danger to the public.
- (2) The suspension notice must—
 - (a) state each of the following—
 - (i) that the authority is suspended immediately;
 - (ii) the grounds for the suspension;
 - (iii) the facts and circumstances forming the basis for the grounds;
 - (iv) the suspension period;
 - (v) that the distributor may make written submissions to the regulator to show why the suspension should end; and

- (b) include, or be accompanied by, an information notice about the decisions to give the notice and to fix the suspension period.
- (3) The suspension period must not be more than 40 business days.
- (4) The suspension has effect immediately after the distributor is given the suspension notice.
- (5) The authority is ineffective during the suspension period.

Subdivision 5 Procedure for amendment, cancellation or suspension other than immediate suspension

59 Application of sdiv 5

This subdivision applies if—

- (a) under section 53, the regulator proposes to amend a distribution authority; or
- (b) the regulator proposes to cancel or suspend a distribution authority, other than an immediate suspension under section 58.

60 Notice of proposed action

- (1) The regulator must give the distributor a notice stating each of the following—
 - (a) the action (the *proposed action*) the regulator proposes to take under this division;
 - (b) the grounds for the proposed action;
 - (c) the facts and circumstances that are the basis for the grounds;
 - (d) if the proposed action is to amend—the proposed amendment;

- (e) if the proposed action is to suspend—the proposed suspension period;
 - (f) that the distributor may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (2) The stated period must end at least 20 business days after the notice is given.

61 Considering submissions

- (1) The regulator must consider any written submission made under section 60 by the distributor within the period stated in the notice.
- (2) If the regulator at any time decides not to take the proposed action, the regulator must, as soon as practicable, give the distributor notice of the decision.

62 Decision on proposed action

If, after complying with section 61, the regulator still believes a ground exists to take the proposed action, the regulator may decide to—

- (a) if the proposed action was to amend—make the amendment; or
- (b) if the proposed action was to suspend for a stated period—suspend for no longer than the proposed suspension period; or
- (c) if the proposed action was to cancel—
 - (i) cancel the distribution authority; or
 - (ii) suspend it for a stated period.

63 Notice and taking of effect of proposed action decision

- (1) The regulator must, as soon as practicable after making a decision under section 62, give the distributor an information notice about the decision.
- (2) The decision takes effect on the later of the following—
 - (a) the day the information notice is given;
 - (b) a later day of effect stated in the notice.
- (3) However, if the decision was to amend, cancel or suspend because of a conviction, the amendment, cancellation or suspension—
 - (a) does not take effect until—
 - (i) the period to appeal against the conviction ends; and
 - (ii) if an appeal is made against the conviction—the appeal is finally decided or is otherwise ended; and
 - (b) has no effect if the conviction is quashed on appeal.

Division 4 Dealings with distribution authority

Subdivision 1 Renewals

64 Applying for renewal

- (1) This section applies to a distribution authority that is issued for a term.
- (2) The distributor may apply to the regulator to renew the authority for a stated term or to renew it without a term.
- (3) An application under this section—
 - (a) must be made in the approved form and accompanied by the fee prescribed under a regulation; and
 - (b) can not be made if the authority has ended.

65 Deciding renewal application

- (1) The regulator must decide whether to grant or refuse the application.
- (2) Division 1 (other than section 27) applies to the application as if it were an application for the authority.

66 Continuing effect of authority for renewal application

If the term of the distribution authority ends before the application is decided, despite the ending of the term, the authority continues in force until—

- (a) the start of any renewal of the authority; or
- (b) the applicant is given an information notice about a decision to refuse the application; or
- (c) the application is withdrawn; or
- (d) the authority is cancelled under this Act.

Subdivision 2 Transfers

67 Transfer only by application

- (1) A distribution authority may be transferred only under this subdivision.
- (2) A purported transfer of a distribution authority not made under this subdivision is of no effect.

Note—

See also section 301.

68 Applying for transfer

- (1) A distributor may apply to the regulator to transfer the distributor's authority.
- (2) The application must be—
 - (a) in the approved form; and

- (b) made by the distributor and the proposed transferee; and
- (c) accompanied by the fee prescribed under a regulation.

69 Deciding transfer application

- (1) The regulator may decide to grant the application only if the regulator is satisfied the proposed transferee is a suitable person to hold the authority.
- (2) For subsection (1), the regulator may consider any suitability criteria to the extent it is relevant to the proposed transferee's competence to hold the distribution authority.
- (3) The regulator may, in granting the application, impose conditions on the authority.
- (4) If the regulator decides to refuse the application or impose a condition on the authority, the regulator must, as soon as practicable, give the applicants an information notice about the decision.
- (5) Subsection (4) does not apply for a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicants.

Subdivision 3 Mortgages

70 Mortgage of distribution authority

A distributor may mortgage the distributor's distribution authority without the approval of, or notice to, the regulator.

71 Notice of intention to exercise powers under mortgage

- (1) This section applies if a mortgage has been granted over a distribution authority and the distributor has defaulted under the mortgage.
- (2) The mortgagee may exercise its powers under the mortgage only if the mortgagee has given the regulator at least 20

business days notice of the mortgagee's intention to exercise powers under the mortgage that relate to the authority.

- (3) Any purported exercise of a power under the mortgage relating to the authority in contravention of subsection (2) is of no effect.

72 Consequence of exercising powers under mortgage

If a mortgagee under a mortgage over a distribution authority exercises any power under the mortgage relating to the authority, this Act applies to the mortgagee as if the mortgagee were the distributor under the authority.

Subdivision 4 Surrenders

73 Surrenders

- (1) A distributor may surrender its authority only if the regulator has, on the distributor's application, approved the surrender.
- (2) The application must be in the approved form and accompanied by the fee prescribed under a regulation.
- (3) The regulator—
 - (a) may impose conditions on giving the approval; and
 - (b) must fix a time, no later than 6 months after deciding the application, for the surrender to take effect.
- (4) If the regulator decides to refuse the application or impose a condition on the surrender, the regulator must, as soon as practicable, give the applicant an information notice about the decision.
- (5) Subsection (4) does not apply for a condition that is the same, or is to the same effect, as a condition agreed to or requested by the applicant.

Part 2 Gas infrastructure

Division 1 Preliminary

75 What is *gas infrastructure* and *gas infrastructure work*

- (1) *Gas infrastructure* is the whole or any part of—
 - (a) a distribution pipeline or system the subject of a distribution authority; or
 - (b) an LPG distribution pipeline; or
 - (c) an LPG distribution system.
- (2) *Gas infrastructure work* is the installation, operation, maintenance, repair, alteration or removal of gas infrastructure.
- (3) For subsection (2), installation includes installation by way of excavation.

75A References to distributor in pt 2 includes a reference to LPG distributor

In this part, a reference to a distributor includes a reference to an LPG distributor.

76 What is a *public entity*

A *public entity* is—

- (a) a government entity under the *Government Owned Corporations Act 1993*, section 4; or
- (b) a local government.

77 *Publicly controlled places* and their public entities

- (1) A *publicly controlled place* is—

-
- (a) a State-controlled road under the *Transport Infrastructure Act 1994*; or
 - (b) a place for which a public entity is responsible that—
 - (i) the public is entitled to use; or
 - (ii) is open to members of the public; or
 - (iii) is used by the public, whether or not on payment of money.
- (2) However, ***publicly controlled place*** does not include any of the following under the *Transport Infrastructure Act 1994*—
- (a) busway land;
 - (b) light rail land;
 - (c) a railway;
 - (d) rail corridor land.

Note—

For provisions relevant to gas infrastructure works for places mentioned in subsection (2), see the *Transport Infrastructure Act 1994*, chapter 6, chapter 9, part 4, divisions 4 and 5 and chapter 10, part 4, divisions 3 and 4.

- (3) The ***public entity*** for a publicly controlled place is the public entity immediately and primarily responsible for the place.

Division 2 Carrying out gas infrastructure work on publicly controlled places

Subdivision 1 When work may be carried out

78 Right to carry out work on publicly controlled place

Subject to sections 79 and 88 and subdivision 2, a distributor may carry out gas infrastructure work on a publicly controlled place.

79 Requirements for carrying out work

- (1) A distributor may carry out gas infrastructure work on a publicly controlled place only if—
 - (a) the public entity has given its written approval for the carrying out of the work; or
 - (b) the carrying out of the work is necessary because of an emergency.
- (2) If the work is carried out because of an emergency, the distributor must, as soon as practicable, give the entity notice of the work.

80 Obtaining public entity's approval

- (1) The distributor may, in writing, apply to the public entity for approval to carry out the gas infrastructure work.
- (2) The application must—
 - (a) describe the work and how it is proposed to be carried out; and
 - (b) give particulars of where it is to be carried out; and
 - (c) be supported by other relevant information, reasonably required by the entity, to enable it to consider the application.
- (3) The entity must, within 30 business days after receiving the information mentioned in subsection (2)(c), decide to grant or refuse the approval.
- (4) The entity must not unreasonably refuse to grant the approval.

81 Conditions of approval

- (1) The public entity may impose conditions on the approval it considers are reasonable.

Example of a possible condition—

a condition that, to minimise interference with public access to the place, the work may be carried out only on stated days or at stated times

- (2) However, a condition about an alignment for gas infrastructure on, or proposed to be built on, a road must ensure the alignment is—
 - (a) situated to ensure reasonable protection for the infrastructure; and
 - (b) if practicable, on the footpath or verge of the road.

Subdivision 2 Obligations in carrying out work

82 Application of sdiv 2

This subdivision applies if a distributor is carrying out gas infrastructure work on a publicly controlled place.

83 Guarding

- (1) This section applies if the distributor has opened or broken up (the *interference*) the place, or any part of the place.
- (2) The distributor must, at all times while the interference continues, ensure—
 - (a) the interference is barricaded and guarded; and
 - (b) signs and lights sufficient to warn and guide the public are set up and maintained against or near the interference.
- (3) If required by the public entity, the distributor must also set up and maintain against or near the interference additional warning or protection devices to safeguard the public while the interference continues.
- (4) The requirement may be made—
 - (a) before or during the carrying out of the work; and
 - (b) as well as any condition imposed under section 81.

84 Warning signs on roads

If the work is carried out on a road, lights and signs set up or maintained to safeguard the public must be the appropriate official signs under the *Transport Operations (Road Use Management) Act 1995*.

85 General obligations in carrying out work

- (1) The distributor must—
 - (a) complete the work as soon as practicable; and
 - (b) restore, as nearly as practicable, the relevant part of the place to the condition it was in before the work started; and
 - (c) remove any rubbish or surplus earth caused by the work; and
 - (d) comply with—
 - (i) conditions the public entity has imposed on any approval it has given to carry out the work; and
 - (ii) any relevant provisions of the Petroleum and Gas (Production and Safety) Act and any other relevant law.
- (2) If, in carrying out the work, the distributor causes damage to the place, the distributor must fix the damage as soon as practicable.

86 Maintenance

- (1) This section applies if the distributor has opened or broken up the place or any part of it and has, under section 85, restored the place or part.
- (2) The distributor must carry out maintenance to ensure the place or part is kept in good repair until the later of the following periods to end—
 - (a) the period that ends 3 months after the restoration was finished;

- (b) if, because of the carrying out of the work or the restoration, the ground at the place or part subsides within the 3 months, the period that ends on the earlier of the following—
 - (i) the day the subsidence ends;
 - (ii) the first anniversary of the day the restoration was finished.
- (3) The maintenance must be carried out in the way agreed between the public entity and the distributor.

Subdivision 3 Work directions

87 Power to give work direction

- (1) This section applies if—
 - (a) a distributor is carrying out, or has carried out, gas infrastructure work on a publicly controlled place; and
 - (b) the public entity reasonably considers work should be, or should have been, carried out to ensure compliance with a condition imposed under section 81 or an obligation under subdivision 2.
- (2) The entity may give the distributor a notice (a *work direction*) directing the distributor to carry out stated work to comply with the condition or obligation within a stated reasonable period.
- (3) The work direction must—
 - (a) identify the condition or obligation; and
 - (b) include, or be accompanied by, an information notice about the decision to give the direction.

88 Compliance with work direction

- (1) A distributor to whom a work direction has been given must comply with the direction to the reasonable satisfaction of the public entity that gave the direction.
- (2) If the distributor does not comply with subsection (1), the entity may carry out the relevant work.
- (3) In carrying out the work, the entity must comply with any relevant provisions of the Petroleum and Gas (Production and Safety) Act and any other relevant law.

89 Costs of carrying out directed work

- (1) A distributor to whom a work direction has been given must bear the costs of complying with the direction.
- (2) If, under section 88(2), the public entity has carried out the relevant work, it may recover from the distributor as a debt the amount of its reasonable costs of carrying out the work.

Division 3 Public entity work

90 Application of div 3

This division applies if a public entity for a publicly controlled place proposes to do work (*public entity work*) that is likely to affect the safety, location or operation of gas infrastructure.

91 Requirement to consult if gas infrastructure affected

- (1) The public entity must give the distributor for the gas infrastructure a notice stating—
 - (a) details of the proposed public entity work; and
 - (b) that the distributor may, within a stated period, make written submissions to the entity about the proposal.

- (2) The stated period must not end before 30 business days after the notice is given.
- (3) Before deciding to make the change, the entity must consider any written submission made by the distributor within the stated period.

92 Power to require consequential work

- (1) This section applies if—
 - (a) the public entity has complied with section 91; and
 - (b) to carry out the public entity work, it is reasonably necessary for any of the following work to be done (*consequential work*)—
 - (i) changing the position of the gas infrastructure;
 - (ii) carrying out other work in relation to the gas infrastructure.
- (2) The entity may, by notice (a *consequential work requirement*), require the distributor to do the consequential work within a stated reasonable period.

93 Compliance with consequential work requirement

- (1) A distributor of whom a consequential work requirement has been made must comply with the requirement to the reasonable satisfaction of the public entity that made the requirement.
- (2) If the distributor does not comply with subsection (1), the entity may carry out the relevant consequential work.
- (3) In carrying out the work, the entity must comply with any relevant provisions of the Petroleum and Gas (Production and Safety) Act and any relevant law.

94 Costs of carrying out required consequential work

- (1) A public entity must bear the costs of complying with any consequential work requirement it makes.
- (2) If the relevant distributor has complied with section 93(1), the distributor may recover from the entity as a debt the amount of the distributor's reasonable costs of carrying out the work.

Division 4 Gas infrastructure interfering with publicly controlled place

95 Application of div 4

This division applies if gas infrastructure on a publicly controlled place interferes with the use of the place by the public entity or the public.

96 Remedial action by public entity in emergency

If, because of an emergency, it is necessary to take action (*remedial action*) to ensure the gas infrastructure ceases to interfere with the use of the place, the public entity may take the remedial action.

97 Power to require remedial action

The public entity may, by notice (a *remedial action requirement*), require the distributor for the gas infrastructure to take remedial action within a stated reasonable period.

98 Compliance with remedial action requirement

- (1) A distributor of whom a remedial action requirement has been made must comply with the requirement to the reasonable satisfaction of the public entity that made the requirement.
- (2) If the distributor does not comply with subsection (1), the entity may take the relevant remedial action.

-
- (3) In taking the remedial action, the entity must comply with any relevant provisions of the Petroleum and Gas (Production and Safety) Act and any other relevant law.

99 Costs of taking required remedial action

- (1) A public entity must bear the costs of complying with any remedial action requirement it makes.
- (2) If the relevant distributor has complied with section 98(1), the distributor may recover from the entity as a debt the amount of the distributor's reasonable costs of taking the action.

Division 5 Miscellaneous provisions

100 Ownership of gas infrastructure that becomes part of land

- (1) Gas infrastructure owned by a distributor remains the distributor's personal property despite—
- (a) it becoming part of any land; or
 - (b) the sale or other disposal of the land.
- (2) However, subsection (1) ceases to apply if the distributor agrees that the gas infrastructure is no longer the distributor's property.
- (3) This section applies despite—
- (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.
- (4) This section ceases to apply if—
- (a) the distribution authority is cancelled or otherwise ends; or
 - (b) the land on which the infrastructure is situated ceases to be land subject to, or in the distribution area of, the authority.

- (5) For subsection (4), if the term of the authority ends but, under section 66, it is continued in force, the authority only ends if, under that section, it stops being in force.

101 Compensation

- (1) This section applies if a person (the *claimant*) suffers a cost, damage or loss because of the exercise, or purported exercise, of a power under this part by a distributor.
- (2) Compensation for the cost, damage or loss is payable by the distributor to the claimant.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.

Part 3 Customer connection services

Division 1 Preliminary

102 Application of pt 3

This part applies to a distributor in relation to the distributor's gas infrastructure that is not a distribution system under the NERL (Qld).

Division 2 Applying for and obtaining customer connection services

Subdivision 1 Applying for customer connection services

103 Who may apply for customer connection services

- (1) Each person as follows may apply to a distributor for the provision of customer connection services for a covered gas to premises within the distributor's distribution area—
 - (a) a person who owns or occupies the premises;
 - (b) a retailer, for a customer or proposed customer of the retailer.
- (2) The application must be made in the way and give the information reasonably required by the distributor.

104 Deciding application

- (1) The distributor must decide to grant or refuse the application within—
 - (a) 10 business days after the application is made; or
 - (b) a longer period agreed between the distributor and the applicant.
- (2) The distributor must decide to grant the application unless a limit under section 109 on the obligation to provide customer connection services applies.

104A Information notice for refusal of services

If the distributor decides not provide to the premises the customer connection services for the covered gas applied for, the distributor must, as soon as practicable after, but within 1 month of, receiving the application give the customer an information notice about the decision.

Subdivision 2 Steps after granting application

105 Distributor's obligation to propose terms

- (1) If the distributor decides to grant the application, the distributor must, within the relevant period, tell or give the applicant notice of, each of the following—
 - (a) that the application has been granted;
 - (b) the terms on which the distributor will provide the customer connection services for the covered gas;
 - (c) that the applicant may ask for the terms in writing.
- (2) If the applicant asks, the distributor must, as soon as practicable, give the applicant notice of the terms.
- (3) If the distributor does not comply with subsection (1) within the relevant period the distributor is taken to have decided to refuse the application.
- (4) In this section—

relevant period means—

 - (a) 10 business days after the application is decided; or
 - (b) a longer period agreed between the distributor and the applicant within the 10 business days.

106 Connection contract

- (1) If the distributor and the applicant agree about the terms for providing the customer connection services for the covered gas, the agreement is called a *connection contract*.

Note—

See also section 125.

- (2) The agreement may be oral or written.
- (3) The making of a connection contract is subject to subdivision 3.

108 Commencement of customer connection services

- (1) If the distributor and the applicant enter into a connection contract, the distributor must, subject to section 109, start to provide the customer connection services for the covered gas at the time provided under this section.
- (2) Generally, the distributor must use reasonable endeavours to comply with the obligation within the required period after entering into the contract.
- (3) However, if, within the required period after entering into the contract, the distributor requires any of the following the obligation ceases—
 - (a) the giving of security for the services in an amount and a way that is fair and reasonable;
 - (b) the giving of a reasonable advance payment for the services;
 - (c) the payment of charges for establishing a connection to the applicant's premises, if the charges are reasonable having regard to the expected revenue from the transportation of the covered gas as a result of the connection.
- (4) If the requirement is met, the distributor must use reasonable endeavours to connect the premises within the required period after meeting the requirement.
- (5) In this section—

required period, after entering into the contract or meeting the requirement, means—

 - (a) if starting to provide the services only involves opening a physical connection to the distributor's pipeline or system—
 - (i) 10 business days; or
 - (ii) any longer period agreed to by the applicant within the 10 business days;

- (b) if starting to provide the services involves more than opening a physical connection to the distributor's pipeline or system—
 - (i) a reasonable period; or
 - (ii) any longer period agreed to by the applicant.

109 Limits on provision of customer connection services

- (1) The distributor is not obliged to provide the customer connection services to a person's premises in any of the following circumstances—
 - (a) providing the services—
 - (i) contravenes a provision of the Petroleum and Gas (Production and Safety) Act or another relevant Act about safety; or
 - (ii) contravenes a provision of the Petroleum and Gas (Production and Safety) Act or another relevant Act about gas measurement or quality; or
 - (iii) would unreasonably interfere with the connection, transport or sale of a covered gas to other customers; or
 - (iv) is denied or limited under an insufficiency of supply direction;
 - (b) the distributor has asked the person to do any of the following and the person has not complied with the request within a reasonable period—
 - (i) perform work, or changes to the person's installation for a covered gas, necessary to allow connection of the distributor's meter to measure consumption of the covered gas;
 - (ii) provide or maintain access, equipment, facilities, space or anything else reasonably needed for the provision of the services;

- (c) the distributor is entitled, under its connection contract or under a regulation, to disconnect customer connection services to the premises;
 - (d) a circumstance beyond the distributor's control prevents the distributor from providing the customer connection services.
- (2) The obligation ceases during any period in which the provision of the services is disconnected under a connection contract or under a dangerous situation direction under the Petroleum and Gas (Production and Safety) Act.
- (3) Also, the obligation does not apply if a regulation states the obligation does not apply.
- (4) The obligation is subject to—
- (a) any relevant insufficiency of supply declaration or insufficiency of supply direction; and
 - (b) the retailer of last resort scheme; and
 - (c) the conditions of the distributor's relevant distribution authority; and
 - (d) any relevant provision of a distribution network code about cooling-off periods for the provision of customer connection services.
- (5) This section does not prevent the distributor from lawfully providing the customer connection services even though it is not obliged to do so.

Subdivision 3 Requirements for connection contracts

109A General limits on what may be negotiated

- (1) A connection contract must not be inconsistent with this Act or any relevant distribution network code.
- (2) If—

[s 109B]

- (a) customer connection services relate to a covered gas transported through a covered pipeline; and
 - (b) there is an approved access arrangement for the pipeline;
- a connection contract for the services must not be inconsistent with the access arrangement.
- (3) A connection contract is unenforceable to the extent it does not comply with this section.

109B Provisions for small customers

- (1) This section applies to a connection contract for the provision of customer connection services to a small customer's premises.
- (2) The contract must comply with all relevant distribution network code provisions about minimum terms for the provision of customer connection services to small customers.
- (3) The contract is unenforceable to the extent it does not comply with subsection (2).
- (4) If, under subsection (3), a term of the contract is unenforceable because it conflicts with a minimum term provision mentioned in subsection (2), the minimum term is taken to be a term of the contract.

109C Provisions for large customers

- (1) This section applies to a connection contract for the provision of customer connection services to a large customer's premises.
- (2) The contract must provide for the provision of the services on fair and reasonable terms.
- (3) The services are taken to be provided on fair and reasonable terms if the contract is consistent with relevant distribution network code provisions about minimum terms for the provision of customer connection services to small customers.

(4) In this section—

large customer, for premises, means a customer other than a small customer for the premises.

Division 3 Changes to installations for covered gases

110 Application of div 3

This division applies if the distributor provides customer connection services to a person's premises.

111 Obligation to give information to allow proposed changes

The distributor must, if asked by the person, give the person reasonable information about the distributor's requirements to allow the person to change or replace an installation for a covered gas at the premises.

112 Applying to change connection

- (1) The person may apply to the distributor to change the connection of an installation for a covered gas at the premises to the distributor's distribution system.
- (2) The distributor must, subject to section 109, make the change within a reasonable period and on fair and reasonable terms.

Part 4 Meter and control apparatus requirements

125 Operation of pt 4

This part imposes obligations for the provision of customer connection services to small customers.

126 Distributor must provide meter

- (1) The distributor must, unless the distributor and the customer otherwise agree, provide, install and maintain a meter used or to be used to measure or record a reticulated covered gas transported to the premises.

Maximum penalty—20 penalty units.

- (2) Subsection (1) is subject to section 131.

127 Matters that may be considered for placement

In deciding placement of a meter the distributor may consider—

- (a) safe access; and
- (b) aesthetics; and
- (c) protection against damage from—
 - (i) mechanisms; or
 - (ii) vibration; or
 - (iii) the effects of weather; or
 - (iv) corrosive atmosphere.

128 Placing meter on customer's premises

- (1) The customer must, at the customer's cost—
 - (a) provide on the customer's premises space, housing, mounting and connecting facilities for each meter; and
 - (b) maintain the facilities in a safe and sound condition.
- (2) The facilities must be in a position that meets the distributor's reasonable requirements.

129 Change of meter placement

- (1) This section applies if, because of building changes or similar works, the position of a meter no longer meets the distributor's reasonable requirements for its placement.
- (2) The customer must provide space, housing, mounting and connecting facilities in another position on the customer's premises that meets the requirements.
- (3) If the distributor relocates the meter to meet the requirements, the distributor may, by notice, require the customer to pay the distributor the amount of the distributor's costs reasonably incurred in relocating the meter.
- (4) If the customer does not comply with the notice, the distributor may recover the amount from the customer as a debt.

130 Customer must provide safe access

The customer must not prevent the distributor's distribution officers from safely exercising a power under section 138.

131 Alternative measurement

- (1) This section applies if the distributor reasonably believes the customer has contravened section 130 by preventing any distribution officer of the distributor from safely reading or testing a meter connected to the distributor's distribution pipeline or system.
- (2) The distributor may, by notice, require the customer to remedy the contravention within a stated period of at least 1 month.
- (3) If the customer does not comply with the notice, the distributor may install alternative metering or other equipment to measure or record a reticulated covered gas transported to the premises by remote or other suitable ways.
- (4) Subsection (3) does not limit another remedy the distributor has against the customer.

[s 131A]

- (5) If the distributor acts under subsection (3), the distributor may, by notice, require the customer to pay the distributor the amount of the distributor's costs reasonably incurred in taking the action.
- (6) If the customer does not comply with the notice, the distributor may recover the amount from the customer as a debt.

Part 5 Distribution officers

Division 1A Preliminary

131A References to distributor and covered gas in pt 5

In this part—

- (a) a reference to a distributor includes a reference to an LPG distributor; and
- (b) a reference to a distributor's distribution pipeline or system includes a reference to an LPG distributor's LPG pipeline or LPG distribution system; and
- (c) a reference to covered gas transported through a distributor's distribution pipeline or system includes, for an LPG distributor's LPG pipeline or LPG distribution system, a reference to LPG transported through the pipeline or system.

Division 1 Appointment and functions

132 Appointment

- (1) A distributor may appoint distribution officers to perform the functions mentioned in section 133.
- (2) However, the distributor may appoint a person under subsection (1) only if the person is appropriately qualified for

the appointment and has the necessary expertise or experience.

- (3) Subject to subsection (2), an officer of a retailer may be appointed as a distribution officer.

133 Functions

A distribution officer's functions are to—

- (a) install and maintain the distributor's gas infrastructure; and
- (b) read or test meters connected to the distributor's distribution pipeline or system; and
- (c) ensure the distributor's gas infrastructure is safe; and
- (d) prevent or deal with an emergency involving, or that may involve, a covered gas transported through the distributor's distribution pipeline or system.

134 Distribution officers are public officials for particular functions

A distribution officer is declared to be a public official for the *Police Powers and Responsibilities Act 2000* if the officer is, or is proposing to, perform a function mentioned in section 133(c) or (d).

Note—

See the *Police Powers and Responsibilities Act 2000*, chapter 1, part 3, division 2.

135 Issue of identity card

- (1) A distributor must issue an identity card to each of its distribution officers.
- (2) The identity card must—
 - (a) contain a recent photo of the person; and
 - (b) contain a copy of the person's signature; and

- (c) identify the person as a distribution officer for the distributor; and
- (d) state an expiry date for the card.

136 Production or display of identity card

- (1) In exercising a power under division 2 in relation to another person, a distribution officer must—
 - (a) produce his or her identity card for the person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the officer must produce the identity card for the person's inspection at the first reasonable opportunity.

137 Return of identity card

A person who ceases to be a distribution officer must return the person's identity card to the distributor within 20 business days after ceasing to be a distribution officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Division 2 Powers of entry

138 Power to enter—general

- (1) A distribution officer may enter a place to—
 - (a) install, maintain or take away the distributor's gas infrastructure; or
 - (b) read or test a meter connected to the distributor's distribution pipeline or system.
- (2) However, the officer can not under subsection (1)—

- (a) enter a part of the place where a person resides; or
 - (b) enter the place between 5p.m. on any day and 8a.m. on the next day.
- (3) The power under subsection (1) may be exercised without the consent of, or notice to, the occupier of the place.

139 Power to enter to make gas infrastructure safe

- (1) A distribution officer may enter a place to make the distributor's gas infrastructure safe if the occupier of the place has been given at least 48 hours notice of the entry.
- (2) However, the officer can not under subsection (1)—
- (a) enter a part of the place where a person resides; or
 - (b) enter the place between 5p.m. on any day and 8a.m. on the next day.
- (3) The power under subsection (1) may be exercised without the occupier's consent.

140 Power to enter for emergency

- (1) A distribution officer may enter a place to prevent or deal with an emergency involving, or that may involve, a covered gas transported through the distributor's distribution pipeline.
- (2) The power under subsection (1) may be exercised without the consent of, or notice to, the occupier of the place.
- (3) However, if the occupier is present at the place, before entering the place, the officer must do, or make a reasonable attempt to do, the following things—
- (a) comply with section 136 for the occupier;
 - (b) tell the occupier the purpose of the entry;
 - (c) seek the consent of the occupier to the entry;
 - (d) tell the occupier the officer is permitted under this Act to enter the place without the occupier's consent.

- (4) Also, if the occupier is not present at the place, the officer must take reasonable steps to advise the occupier of the officer's intention to enter the place.
- (5) Subsections (3) and (4) do not require the officer to take a step that the officer reasonably believes may frustrate or otherwise hinder the prevention or dealing with the emergency.

141 Power to enter common property unaffected

- (1) The powers under this division are in addition to and do not limit a distribution officer's power, under the *Body Corporate and Community Management Act 1997*, section 263, to enter common property.
- (2) However, if the entry is also authorised under this division, section 145 applies to the entry.

Division 3 Safeguards

142 Duty to avoid damage

In performing a function or exercising a power under this part, a distribution officer must take all reasonable steps to ensure the officer causes as little inconvenience, and does as little damage, as is practicable.

143 Notice of damage

- (1) This section applies if a distribution officer damages something when performing a function or exercising a power under this part.
- (2) However, this section does not apply to damage the officer reasonably considers is trivial or if the officer reasonably believes—
 - (a) there is no-one apparently in possession of the thing; or
 - (b) the thing has been abandoned.

- (3) The officer must promptly give notice of the damage to the person who appears to the officer to be the owner or person in possession of the thing.
- (4) However, if for any reason it is not practicable to comply with subsection (3), the officer must—
 - (a) leave the notice at the place where the damage happened; and
 - (b) ensure it is left in a conspicuous position and in a reasonably secure way.
- (5) The officer may delay complying with subsection (3) or (4) if the officer is exercising a power under section 139 or 140.
- (6) However, the delay may be only for so long as it is reasonably necessary—
 - (a) for section 139—to make the gas infrastructure safe; or
 - (b) for section 140—to prevent or deal with the emergency.

144 Content of notice of damage

- (1) A notice of damage under section 143 must state—
 - (a) particulars of the damage; and
 - (b) that the person who suffered the damage may claim compensation under section 145.
- (2) If the distribution officer believes the damage was caused by a latent defect in the thing or circumstances beyond the officer's control, the officer may state the belief in the notice.

145 Compensation from distributor to owner or occupier

- (1) This section applies if an owner or occupier of land (the *claimant*) suffers a cost, damage or loss because of performance, or purported performance or the exercise, or purported exercise, of a function or power under this part by a distribution officer.

- (2) Compensation for the cost, damage or loss is payable by the distributor to the claimant.
- (3) The compensation may be claimed and ordered in a proceeding brought in a court of competent jurisdiction.

Chapter 3 Supply of reticulated covered gases

Part 1 Retailers and particular exempt sellers

175A Retailer or particular exempt sellers must enter into community services agreement

- (1) A retailer must not provide customer retail services unless—
 - (a) the retailer—
 - (i) enters into an agreement with the State to provide, for at least 5 years, the community services agreed between the State and the retailer; and
 - (ii) complies with the agreement; or
 - (b) if no agreement is entered into with the State under paragraph (a)(i), the retailer—
 - (i) provides the community services decided by the Minister; and
 - (ii) complies with any conditions included in the Minister's decision about the provision of the services.

Maximum penalty—1333 penalty units.

-
- (2) In making a decision under subsection (1)(b), the Minister must have regard to the retailer's reasonable administration costs and other risks in providing the community services.
- (3) In this section—
- retailer* includes each of the following councils if the council is taken under the National Energy Retail Regulations (Queensland), section 14 as an exempt seller holding an individual exemption under the NERL (Qld), part 5, division 6—
- (a) the Maranoa Regional Council;
 - (b) the Western Downs Regional Council.

Part 3 On-supply

213 On-suppliers and their receivers

- (1) An on-supplier is a person who—
- (a) is the owner or occupier of premises or has the right to use premises; and
- Example—*
- an owner, occupier or a person who has a right to use a caravan park, exhibition centre, hostel, hotel, industrial park, lodging house, marina, market arcade, motel or shopping centre
- (b) supplies, by reticulation, a covered gas for use in the premises.
- (2) An on-supplier also includes a body corporate or body corporate manager under a body corporate Act who supplies, or authorises someone else to supply, by reticulation, a covered gas to—
- (a) members of the body corporate; or
 - (b) persons who occupy the premises that make up the body corporate.
- (3) The premises for which a person is an on-supplier is called the on-supplier's premises.

- (4) A receiver is a person who owns, occupies or has the right to use an on-supplier's premises and to whom the on-supplier supplies a covered gas, by reticulation.

222 Individual metering option

- (1) This section applies if an on-supply agreement for the supply of a covered gas from an on-supplier to a receiver is in force.
- (2) The receiver may, at any time—
- (a) elect, by notice to the on-supplier, to be charged on the basis of the receiver's consumption of the covered gas supplied from the on-supplier, as measured by a meter; and
 - (b) install the meter, at the receiver's expense.
- (3) However, the election has effect only if the installation—
- (a) complies with the Petroleum and Gas (Production and Safety) Act and any other relevant Act; and
 - (b) is done in a way—
 - (i) that complies with any reasonable written directions the on-supplier gives the receiver within 5 business days after the giving of the notice; or
 - (ii) if no written directions are given within the 5 business days—that is reasonable.
- (4) In deciding what is reasonable for subsection (3), regard must be had to the interests of the on-supplier and anyone who is an occupier of the on-supplier's premises.

223 Compensation for installation damage

- (1) This section applies if—
- (a) a receiver has, under section 222, given an on-supplier a notice of election; and
 - (b) the receiver installs a meter for the covered gas supplied from the on-supplier to the receiver; and

- (c) either—
 - (i) no written direction was given by the on-supplier under section 222(3)(b); or
 - (ii) the installation was done in a way that does not comply with the on-supplier’s reasonable written directions under that section; or
 - (iii) the installation was not done in a way that is reasonable; and
- (d) a person as follows (the claimant) suffers damage to property because of the installation—
 - (i) the on-supplier;
 - (ii) anyone who is an occupier of the on-supplier’s premises.
- (2) Compensation for the damage is payable by the receiver to the claimant.
- (3) The compensation may be claimed and recovered in a proceeding brought in a court of competent jurisdiction.
- (4) In making the order the court must have regard to—
 - (a) whether it was reasonable for the claimant to give the receiver an opportunity to fix the damage; and
 - (b) if paragraph (a) applies—whether the receiver was given a reasonable period to fix the damage.

Part 4 Pricing

Division 1 QCA investigation

227A Direction by Minister to investigate effectiveness of retail competition

- (1) The Minister may, by gazette notice, give QCA a written direction to—

[s 227B]

- (a) investigate (the *pricing investigation*) the effectiveness of retail competition in the Queensland retail gas market; and
 - (b) give the Minister a report on the pricing investigation within a stated period.
- (2) QCA must comply with the direction.
- (3) QCA must publish the direction on its website.

227B Period for giving report

QCA must give the Minister the report within—

- (a) the period stated in the direction; or
- (b) if no period is stated in the direction—6 months after it receives the direction.

227C Terms of reference

The direction may do all or any of the following—

- (a) state the terms of reference of the pricing investigation;
- (b) require QCA to, during the pricing investigation, make a draft report publicly available or available to a stated entity;
- (c) require QCA to, in conducting the pricing investigation—
 - (i) consider stated matters; and
 - (ii) have stated objectives;
- (d) give QCA other directions the Minister considers appropriate.

227D Notice of pricing investigation or amended term of reference or direction

QCA must publish a notice of the following on its website and in a Statewide newspaper—

- (a) the pricing investigation;
- (b) if a term of reference or direction relating to the pricing investigation is amended—the amended term of reference or direction.

227E Conduct of pricing investigation

- (1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the pricing investigation—
 - (a) as if a reference in the applied part to an investigation were a reference to the pricing investigation; and
 - (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review.
- (2) However, the applied part applies subject to any requirement or direction of the Minister.

227F Required consultation for report

Before QCA gives the Minister the report it must prepare a draft of the report and engage in the consultation prescribed under a regulation.

Division 2 Notified prices

228 Fixing of prices

- (1) Subject to section 228A, the Minister may fix any or all of the following—
 - (a) standing offer prices of a retailer for or relating to the sale of a covered gas to a customer;
 - (b) charges relating to the sale of a covered gas to a customer;

- (c) a methodology to fix the standing offer prices or charges.

Examples of matters for which prices, charges or a methodology may be fixed—

- charges for selling a covered gas
 - charges or fees for late or dishonoured payments
 - charges or fees for discontinuing or recommencing the sale of a covered gas
- (2) In exercising the power, the Minister must consider the main purposes of this Act and the QCA code objective.
- (3) The prices, or prices fixed under the methodology, are called ***notified prices***.
- (4) The notified prices, or methodology to fix the prices—
- (a) must be notified by gazette notice; and
 - (b) take effect on the later of the following days—
 - (i) the day the notice is gazetted;
 - (ii) if the gazette notice states a later day of effect—the later day.

- (5) In this section—

retailer means a retailer under the NERL (Qld).

standing offer prices has the meaning given by the NERL (Qld), section 2.

Note—

Under section 320, the Minister may delegate the Minister's powers under this division to QCA.

228A Restrictions on the first exercise of price fixing power

- (1) This section applies only for the first occasion on which the Minister exercises the power under section 228.
- (2) The power may be exercised only if—
- (a) either—

-
- (i) QCA has given the Minister a report about a pricing investigation; or
 - (ii) AEMC has, under the AEMC Act, a report about the effectiveness of retail competition in the Queensland retail gas market; and
- (b) no more than 6 months has passed since the giving of the report; and
 - (c) the Minister has considered the report.
- (3) The Minister must—
- (a) publish on the department’s website reasons for exercising the power; and
 - (b) give each retailer a copy of the reasons.

- (4) In this section—

AEMC means the Australian Energy Market Commission established under section 5 of the AEMC Act.

AEMC Act means the *Australian Energy Market Commission Establishment Act 2004* (SA).

retailer means a retailer under the NERL (Qld).

229 Review of notified prices

- (1) A retailer to whom notified prices apply may ask the Minister to review the notified prices.
- (2) The Minister must complete the review within 6 months after the request was made.

230 Public advertisement of notified prices

- (1) This section applies if there is a change to notified prices that apply to a particular retailer.
- (2) QCA may publish a notice giving particulars of the changed prices in a newspaper circulating in each locality in which small customers to whom the prices apply reside.

- (3) If QCA asks, the retailer must pay QCA's reasonable costs of the publication.

231 Requirement to comply with notified prices

If—

- (a) there is a notified price for or relating to the sale of a covered gas; and
- (b) the notified price applies to a retailer;

the retailer must comply with the notified price unless otherwise required under the retailer of last resort scheme.

Maximum penalty—500 penalty units.

232 Additional consequences of failure to comply with notified prices

- (1) This section applies if—
- (a) a retailer contravenes a notified price for a matter; and
- (b) the contravention was not caused by a compliance with the retailer of last resort scheme.
- (2) The retailer has no right to recover from the relevant customer or receiver any amount for the matter that is more than the notified price.
- (3) The customer may recover from the retailer as a debt any amount paid for the matter that is more than the notified price.
- (4) The failure to comply with the notified price does not, of itself, affect the customer's liability to the retailer to pay an amount for the matter that is no more than the notified price.
- (5) This section applies despite any retail contract.

233 Directions for prices notification

- (1) The Minister may, by notice, give a retailer a direction to do any of the following if the Minister reasonably believes the direction may help the Minister to fix notified prices—

- (a) give the Minister stated information at stated reasonable times or intervals;
- (b) keep stated records;
- (c) give the Minister copies of the records at stated times or intervals.

Note—

See also section 318.

Examples of stated information in relation to a direction for prices notification for a covered gas—

- how many customers the retailer has in stated consumption ranges
 - the total gas supplied to the retailer's customers
 - how much gas the retailer supplied its customers in stated consumption ranges
 - the cost of gas at the point, commonly called the 'city gate', where a distributor's distribution system connects with a transmission pipeline
 - the fees and charges paid to the retailer for the sale of gas
 - the retailer's gas transportation costs
 - the cost to the retailer of gas
 - the retailer's margin for gas supplied
 - the total cost to the retailer's customers of gas supplied
 - the retailer's total revenue from the sale of gas
 - a profile of the number of the retailer's customers in stated consumption ranges
 - other information relating to the retailer's cost and revenue bases for gas supply
- (2) The direction must be accompanied by, or include, a QCAT information notice for the decision to give the direction.

234 Requirement to comply with direction for prices notification

If a retailer is given a direction under section 233, the retailer must comply with the direction unless the retailer has a reasonable excuse.

Maximum penalty—500 penalty units.

Chapter 4 Sufficiency of supply

Part 1 Preliminary

236 Who is an *industry participant*

Each of the following is an *industry participant*—

- (a) a distributor;
- (b) a retailer;
- (c) the holder of a transmission pipeline licence;
- (d) a person who—
 - (i) holds—
 - (A) a lease under the *Petroleum Act 1923*; or
 - (B) a petroleum lease or petroleum facility licence under the Petroleum and Gas (Production and Safety) Act; and
 - (ii) conducts a business in relation to the lease or licence that significantly affects, or may significantly affect, the supply of a covered gas to the community or part of the community;
- (e) a person who ships gas to a retail market under an agreement with a person who is an industry participant under paragraph (a), (b), (c) or (d);
- (f) a customer who, in the last 12 months, consumed more than 100TJ of covered gases;
- (g) a customer who, in the next 12 months, is likely to consume more than 100TJ of covered gases.

Part 2 Contingency supply plans

237 Regulator's power to require plan

- (1) The regulator may, by notice, require an industry participant to, within a stated reasonable period, make a plan that complies with section 239 for the contingency supply of a covered gas (a *contingency supply plan*).
- (2) The industry participant must comply with the notice.
Maximum penalty—500 penalty units.
- (3) For subsection (1), the plan is not made until the regulator is given a copy.
- (4) Before the industry participant makes the plan, the participant must make reasonable endeavours in the circumstances to consult with the regulator and stakeholders in the covered gas industry about the proposed plan.
- (5) However, subsection (4) does not apply if the industry participant has made a plan under another Act and the plan complies or substantially complies with section 239.
- (6) A failure to comply with subsection (4) does not invalidate or otherwise affect the plan.

238 Regulator's power to make plan

- (1) If, in contravention of section 237, an industry participant does not make a contingency supply plan, the regulator may, by notice to the participant, make the plan for the participant.
- (2) However, before making the plan, the regulator must give the industry participant—
 - (a) a proposed plan; and
 - (b) a reasonable opportunity to make submissions to the regulator about the proposed plan.
- (3) This section does not prevent the industry participant from making another contingency supply plan or amending the plan

made by the regulator if the other plan or amended plan complies with the content requirements.

239 Contingency supply plan—content requirements

- (1) This section imposes requirements (the *content requirements*) for an industry participant's contingency supply plan.
- (2) Despite the content requirements, a matter must not be provided for in the plan to the extent it conflicts with—
 - (a) a safety-related provision made under the Petroleum and Gas (Production and Safety) Act or another Act; or
 - (b) a contingency supply plan made for the State by the regulator.
- (3) The plan must—
 - (a) identify the contingencies or events that may lead to an interruption or curtailment of the supply of a covered gas in relation to the industry participant; and
 - (b) provide for the following if any of the contingencies or events happen—
 - (i) alternative arrangements for the supply of the covered gas;
 - (ii) a list stating the priority for supply to customers, or types of customer;
 - (iii) how essential services are to be supplied; and
 - (c) give information on the types of customer each contingency or event is likely to affect; and
 - (d) contact details for the industry participant; and
 - (e) another matter prescribed under a regulation.
- (4) The alternative arrangements must, as far as reasonably practicable, ensure supply to customers is maximised if any of the contingencies or events happen.

240 Requirement to comply with plan

If a contingency or event identified in an industry participant's contingency supply plan happens, the industry participant must comply with the plan, unless the industry participant has a reasonable excuse.

Maximum penalty—500 penalty units.

241 Limitation of industry participant's liability because of compliance with plan

- (1) This section applies if—
 - (a) a person incurs a cost, damage or loss because of an act done or omission made by an industry participant; and
 - (b) doing the act or making the omission was required by the industry participant's contingency supply plan.
- (2) The industry participant is not civilly liable for the cost, damage or loss if—
 - (a) in doing the act or making the omission the industry participant complied with this Act and the conditions of any relevant distribution authority or retailer authorisation; and
 - (b) the doing of the act or the making of the omission was carried out in good faith and without negligence.
- (3) Subsection (2)—
 - (a) is subject to any agreement between the person and the industry participant; and
 - (b) does not limit section 6(3).
- (4) In this section—

retailer authorisation means a retailer authorisation under the NERL (Qld).

242 When plan must be revised

- (1) This section applies if—

[s 243]

- (a) a circumstance happens that affects, or may affect, an industry participant's contingency supply plan complying with the content requirements; and
 - (b) the industry participant becomes aware, or ought reasonably to have become aware, of the happening of the circumstance.
- (2) The industry participant must, as soon as practicable, amend or remake the plan so that it complies with the content requirements.
- Maximum penalty—500 penalty units.
- (3) For subsection (2), the plan is not amended or remade until the regulator is given a copy.

243 Regulator's power to amend plan

- (1) If the regulator reasonably believes an industry participant's contingency supply plan does not comply with the content requirements, the regulator may, by complying with subsections (3) and (4), amend the plan so that it does comply with the requirements.
- (2) The regulator must give the industry participant a notice stating each of the following—
- (a) how the plan does not comply with the requirements;
 - (b) that the regulator proposes to amend the plan so that it does comply;
 - (c) the proposed amendment;
 - (d) that the industry participant may within a stated reasonable period—
 - (i) amend the plan so that it does comply with the requirements; or
 - (ii) make written submissions to the regulator about why the proposed amendment should not be made.

- (3) The regulator must consider any written submissions or amendments made by the industry participant within the stated period.
- (4) The amendment does not take effect until the industry participant is given an information notice about the decision to make the amendment.
- (5) This section does not prevent the industry participant from further amending the plan if the further amended plan complies with the content requirements.
- (6) In this section—
amend includes remake and replace.

Part 3 Information requirements

244 Notice of significant disruption

If an industry participant becomes aware of any significant disruption, or event likely to result in a significant disruption, to the supply of a covered gas, the participant must, as soon as practicable, give the regulator notice of the disruption or event.

Maximum penalty—100 penalty units.

245 Regulator's power to require information from industry participant

- (1) This section applies if the regulator reasonably believes an industry participant has information that will help the regulator assess the current or probable future sufficiency of supply of a covered gas.

Examples of information in relation to sufficiency of supply of a covered gas—

- gas production and estimated future production, by location
- gas purchases, by location

[s 246]

- gas supplied and future contractual obligations to supply, by location
 - the number of customers in each stated class of customer
 - transportation prices
 - gas prices for a stated class of customer
 - estimated reserves of coal seam gas and natural gas
- (2) The regulator may, by notice, require the industry participant to give the regulator in the approved form stated information of a type mentioned in subsection (1), at stated reasonable times or intervals.
- (3) The direction must be accompanied by, or include, an information notice about the decision to give the direction.

Note—

See also section 318.

246 Failure to comply with information requirement

- (1) An industry participant of whom a requirement under section 245 has been made must comply with the requirement unless the participant has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) It is a reasonable excuse not to give the information if giving it might tend to incriminate the industry participant.

247 Notice of intention to stop transport or sale of covered gas or customer connection services

- (1) The holder of a transmission pipeline licence for a pipeline that transports a covered gas must give the regulator the required notice at least 3 months before stopping, or significantly reducing, the transportation of the covered gas through the pipeline.

Maximum penalty—100 penalty units.

- (2) A distributor must give the regulator the required notice at least 6 months before stopping, or significantly reducing, the provision of customer connection services.

Maximum penalty—100 penalty units.

- (3) A retailer must give the regulator the required notice at least 6 months before stopping, or significantly reducing, the sale of a covered gas to a customer.

Maximum penalty—100 penalty units.

- (4) Subsections (1) to (3)—
- (a) do not apply for a distributor or retailer if the stoppage or reduction is because of a discontinuance under a connection contract or contract for the sale of the covered gas to a customer; and
 - (b) do not apply if there is a reasonable excuse for the stopping or significant reduction.

- (5) In this section—

required notice means a notice stating each of the following—

- (a) whether the notice is a notice of a stoppage or of a significant reduction;
- (b) reasons for the stoppage or reduction;
- (c) each type of customer (***affected customers***) who will, or are likely to be, affected by the stoppage or reduction;
- (d) details of any arrangements that have been, or will be, put in place to ensure affected customers continue to be supplied with the covered gas;
- (e) information to be provided to affected customers about the stoppage or reduction and the arrangements;
- (f) details of any level of help to be offered to affected customers.

Part 5 **Insufficiency of supply declarations and directions**

Division 1 **Insufficiency of supply declarations**

251 **Minister’s power to make declaration**

The Minister may make a declaration (an *insufficiency of supply declaration*) that this part applies to a stated area if the Minister reasonably believes the supply of a covered gas in the area—

- (a) is, or is likely to be, disrupted; or
- (b) is, or is likely to become, insufficient for the reasonable requirements of the community, or a part of the community, in the area.

Examples of when the supply of a covered gas may be disrupted—

- 1 A retailer for the area has given a notice under section 247.
- 2 A retailer for the area becomes an externally-administered body corporate under the Corporations Act and the retailer’s financial position does not, or may not, allow the retailer to continue to sell the covered gas in the area.

252 **Requirements for making declaration**

- (1) Generally, an insufficiency of supply declaration must be made by gazette notice.
- (2) However, the Minister may make an insufficiency of supply declaration by another document if the Minister is reasonably satisfied extraordinary circumstances require it to be made immediately.
- (3) If an insufficiency of supply declaration is made under subsection (2), the Minister must immediately publish the making of the declaration in the way the Minister considers most appropriate to notify persons likely to be affected by it.

-
- (4) A failure to comply with subsection (3) does not invalidate or otherwise affect the declaration.

253 Duration of declaration

- (1) If an insufficiency of supply declaration was not made by gazette notice, it expires on the third day after its making.
- (2) If an insufficiency of supply declaration is not tabled in the Legislative Assembly before the end of the next sitting day after its making, it expires at the end of that day.
- (3) Otherwise, an insufficiency of supply declaration continues in force until—
- (a) any time provided in the declaration for its expiry; or
 - (b) it is repealed.

Division 2 Insufficiency of supply directions

254 Minister's power to give directions while declaration in force

- (1) The Minister may give a person as follows a direction (an *insufficiency of supply direction*) to do or not do something to ensure the safe supply of a covered gas to customers in the area the subject of an insufficiency of supply declaration—
- (a) an industry participant;
 - (b) a stated customer, or type of customer;
 - (c) AEMO.
- (2) However, before making the direction, the Minister must, if it is practicable to do so, give the person a reasonable opportunity to make submissions about the proposed direction.
- (3) A failure to comply with subsection (2) does not invalidate or otherwise affect the direction.

- (4) Subsection (1)(a) applies even if the person or the relevant business of the person is not in the area.
- (5) The direction may be given in any way the Minister considers appropriate including, for example, by—
 - (a) publishing a notice in a newspaper; or
 - (b) television transmission or radio broadcast.

Examples of possible insufficiency of supply directions—

- 1 a direction to control, direct, restrict, or prohibit the production, distribution, supply, or the consumption or use of, the covered gas
- 2 a direction to a person who extracts, produces, transports or distributes the covered gas to extract, produce or transport it for supply, or to extract produce, transport or distribute it in a stated way
- 3 a direction to comply with stated conditions for the extraction, production, distribution, supply or consumption or use of the covered gas
- 4 a direction to carry out stated work to ensure the production, distribution or transportation or supply of the covered gas
- 5 a direction to make available stated gas infrastructure
- 6 a direction not to operate or use stated gas infrastructure, or to use it only with the Minister's consent
- 7 a direction fixing prices for the covered gas
- 8 directing an occupier of land to allow a stated person authorised by the Minister, to enter the land to carry out a stated activity to ensure the safe supply of the covered gas in the area
- 9 a direction to comply with a contingency supply plan made for the State by the regulator

255 Failure to comply with direction

- (1) A person to whom an insufficiency of supply direction has been given must comply with the direction unless the person has a reasonable excuse.

Maximum penalty—500 penalty units.

- (2) It is a reasonable excuse to not comply with the direction if compliance would reasonably, or is reasonably likely to, result in a risk to—

- (a) the safety of anyone; or
- (b) the operation or security of a pipeline or other plant or equipment.

256 Liability of recipient for covered gas supplied under direction

- (1) This section applies if—
 - (a) under an insufficiency of supply direction a person (the *supplier*) supplies someone else (the *recipient*) with the covered gas stated in the direction; and
 - (b) the recipient consumes the covered gas; and
 - (c) the supplier was not, other than for the direction, legally obliged to supply the covered gas to the recipient.
- (2) The recipient must, unless the Minister otherwise approves, pay the supplier a reasonable amount for the covered gas.
- (3) In working out what is a reasonable amount for the covered gas, regard must be had to—
 - (a) the cost to the supplier of producing or transporting the gas; and
 - (b) any lost revenue to the supplier as a result of the gas being redirected.

257 Direction overrides contracts

If there is an inconsistency between an insufficiency of supply direction and a contract as follows, the direction prevails to the extent of the inconsistency—

- (a) a connection contract;
- (b) another contract relating to the production, transport or sale of the covered gas.

257AA Exemption from Petroleum and Gas (Production and Safety) Act, ss 800, 802 and 803 for person complying with direction

- (1) This section applies to a person to whom an insufficiency of supply direction has been given.
- (2) The Petroleum and Gas (Production and Safety) Act, sections 800, 802 and 803 do not apply for a relevant activity carried out by the person if the carrying out of the activity was required under the direction.
- (3) In this section—
relevant activity means—
 - (a) a petroleum tenure activity as defined under the Petroleum and Gas (Production and Safety) Act, section 800; or
 - (b) the construction or operation of any of the following, as defined under the Petroleum and Gas (Production and Safety) Act—
 - (i) a pipeline, other than a distribution pipeline;
 - (ii) a petroleum facility.

Chapter 5 Resolution of gas infrastructure work disputes

258 Application of ch 5

This chapter applies to a dispute about gas infrastructure work or proposed gas infrastructure work between a distributor and a public entity or an LPG distributor and a public entity.

267 Referral to regulator to mediate

Either party to the dispute may refer it to the regulator to mediate.

268 Regulator's powers

- (1) The regulator may—
 - (a) give instructions about procedures to be followed by the parties to the dispute to attempt to resolve it before the regulator mediates it; or
 - (b) engage someone else, other than a court, to help mediate the dispute; or
 - (c) decide not to mediate the dispute and refer it to the Governor in Council to decide.
- (2) Also, the regulator may, by notice, require the distributor, LPG distributor or public entity (the *party*) to give the regulator stated information the regulator reasonably requires to mediate the dispute.
- (3) The notice must be accompanied by, or include, an information notice about the decision to make the requirement.
- (4) The information must be given within a reasonable period after the regulator gives the notice, unless the party has a reasonable excuse.

Maximum penalty—500 penalty units.
- (5) It is a reasonable excuse not to give the information if giving it might tend to incriminate the party.

269 Resolution by Governor in Council

- (1) This section applies if the regulator refers the dispute to the Governor in Council to decide.
- (2) Before deciding the dispute, the Governor in Council must—

[s 270]

- (a) give the parties a reasonable opportunity to make written submissions about the dispute; and
 - (b) have regard to any submissions made under paragraph (a).
- (3) The submissions must be made to the regulator.
- (4) The Governor in Council's decision binds the parties.

270 Exclusion of other jurisdictions

- (1) If the dispute has been referred to the Governor in Council, the following matters are not justiciable by a court or tribunal at the instigation of a party to the dispute—
- (a) the issue in the dispute;
 - (b) any issue that emerges in the course of the Governor in Council's deciding of the dispute.
- (2) However, subsection (1) does not apply if the proceeding before the court or tribunal was started before the dispute was referred to the Governor in Council.

Chapter 5A Distribution network codes

Part 1 Initial distribution network codes

270A Making of initial distribution network codes by Minister

- (1) The Minister must make initial distribution network codes for reticulated covered gas markets to apply to distributors and their customers.
- (2) A code must state the distributors to which it applies.
- (3) A code is not subordinate legislation.

Note—

QCA must keep a register of distribution network codes and publish them on its website. See section 310A and the QCA Act, sections 227A to 227C.

270B Specific matters for which code may provide

Without limiting section 270A, a distribution network code may provide for the rights and obligations of distributors and customers about customer connection services.

270BA Required consultation

- (1) This section applies if the Minister proposes to make a distribution network code, unless the Minister considers the proposed code—
 - (a) is needed urgently; or
 - (b) will not be materially detrimental to anyone's interests.
- (2) Before the Minister makes the distribution network code, the Minister must prepare a draft of the code and consult with—
 - (a) entities the Minister is satisfied are likely to be affected by the proposed code; and
 - (b) entities representing gas consumers.

270C Gazettal and taking of effect of code

- (1) The Minister must, as soon as practicable after making an initial distribution network code, publish a gazette notice stating the Minister has made the code and where it may be inspected.
- (2) The code takes effect on the later of the following days—
 - (a) a day of effect stated in the gazette notice;
 - (b) if no day of effect is stated in the notice—the day the notice is gazetted.

270D Tabling of code

- (1) Within 14 days after an initial distribution network code takes effect, the Minister must table a copy in the Legislative Assembly.
- (2) The copy is tabled for information only.
- (3) A failure to table the copy does not affect the code's ongoing effect.

Part 2 QCA distribution network codes

270E QCA may make distribution network code

- (1) Subject to sections 270F and 270G, QCA may make distribution network codes.
- (2) However, a code made by QCA has no effect unless it is approved by the Minister.
- (3) A code may provide for any matter that may be provided for under an initial distribution network code.
- (4) Sections 270A and 270B apply to the making of a distribution network code by QCA as if the code were an initial distribution network code.

270F QCA code objective

- (1) The objective (the *QCA code objective*) of a distribution network code made by QCA is to promote efficient investment in, and efficient use of, covered gas services for the long-term interests of Queensland customers of covered gas about price, quality, safety, reliability and security of supply of the covered gas.
- (2) QCA may make a distribution network code only if it is satisfied the code will, or is likely to, contribute to the achievement of the QCA code objective.

270G Required consultation

- (1) This section applies if QCA proposes to make a distribution network code, unless QCA considers the code—
 - (a) is needed urgently; or
 - (b) can not be materially detrimental to anyone's interests.
- (2) Before QCA makes the distribution network code it must prepare a draft of the code and engage in the consultation prescribed under a regulation.

270H Ministerial approval

- (1) QCA must, as soon as practicable after making a distribution network code, give the Minister a copy.
- (2) The Minister may, within 20 business days after receiving the code, decide whether to approve it.
- (3) The Minister must, in making the decision, have regard to the QCA code objective.
- (4) If the decision is not to approve the code, the Minister must, as soon as practicable after the making of the decision, give QCA a notice stating the decision, and the reasons for it.
- (5) If the Minister does not make the decision within the 20 business days, the Minister is taken to have approved the code.

270I When approved QCA distribution network code takes effect

- (1) This section applies for a distribution network code made by QCA only if the Minister approves the code.
- (2) QCA must, as soon as practicable after the approval, publish a gazette notice stating the Minister has approved the code and where it may be inspected.
- (3) The code takes effect on the later of the following days—
 - (a) a day of effect stated in the gazette notice;

- (b) if no day of effect is stated in the notice—the day the notice is gazetted.

270J Tabling of QCA distribution network code

- (1) If a distribution network code made by QCA takes effect, the Minister must, within 14 sitting days, table a copy of the code in the Legislative Assembly.
- (2) The copy is tabled for information only.
- (3) A failure to table the copy does not affect the code's ongoing effect.

Part 3 Review of distribution network codes and related matters

270K Direction by Minister to review

- (1) The Minister may, by gazette notice, give QCA a written direction to conduct a review into—
 - (a) any matter relating to the Queensland reticulated covered gas markets; or
 - (b) the operation and effectiveness of a distribution network code; or
 - (c) any matter relating to a distribution network code.
- (2) QCA must comply with the direction.
- (3) QCA must publish the direction on its website.

270L Terms of reference

The direction may do all or any of the following—

- (a) state the terms of reference of the review;
- (b) require QCA to give the Minister a report on the review within a stated period;

- (c) require QCA to make the report publicly available or available to a stated entity;
- (d) require QCA to, during the review, make a draft report publicly available or available to a stated entity;
- (e) require QCA to, in conducting the review—
 - (i) consider stated matters; and
 - (ii) have stated objectives;
- (f) give QCA other directions the Minister considers appropriate.

270M Notice of review or amended term of reference or direction

QCA must publish a notice of the following on its website and in a Statewide newspaper—

- (a) the review;
- (b) if a term of reference or direction relating to the review is amended—the amended term of reference or direction.

270N Conduct of review

- (1) The QCA Act, part 6, other than section 171, (the *applied part*) applies for the review—
 - (a) as if a reference in the applied part to an investigation were a reference to the review; and
 - (b) as if the QCA Act, section 176(3), required the notice mentioned in that subsection to be given to any entity that QCA knows would be potentially affected by the review.
- (2) However, the applied part applies subject to any requirement or direction of the Minister.

Part 4 **Amending distribution network codes**

2700 Application of pt 4

This part applies if QCA proposes to amend a distribution network code.

2700A Required consultation for amendment

- (1) Before QCA may make the amendment it must prepare a draft of the amendment and engage in the consultation prescribed under a regulation.
- (2) However, subsection (1) does not apply if QCA considers the amendment—
 - (a) is needed urgently; or
 - (b) does not materially detriment anyone's interests; or
 - (c) is of an uncontroversial nature; or
 - (d) corrects an error.
- (3) To remove any doubt, it is declared that subsection (2)(d) applies even if the correction is materially detrimental to someone's interests.

2700B Application of pt 2 other than its consultation provision

The provisions of part 2, other than section 270G, apply to the amendment—

- (a) as if a reference in the provisions to making the code were a reference to the making of the amendment; and
- (b) as if a reference in the provisions to the code were a reference to the amendment.

Part 5 Enforcing distribution network codes

Division 1 Code contravention notices

Subdivision 1 Preliminary

270P Application of div 1

This division applies if QCA suspects—

- (a) a distributor—
 - (i) has contravened, or is contravening, a distribution network code; or
 - (ii) is involved in an activity that is likely to result in a contravention of a distribution network code; and
- (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code.

270Q Criteria for deciding material contravention

- (1) This section applies to the making of any decision under this Act about whether a contravention of a distribution network code is a material contravention of the code.
- (2) Regard must be had to the QCA code objective.
- (3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.

Subdivision 2 Warning notices

270R Warning notice may be given

- (1) QCA may give the distributor a notice (the *warning notice*), warning the distributor that QCA proposes to give the

distributor a further notice about the contravention or likely contravention (a *code contravention notice*).

- (2) QCA must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion.
- (3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent code contravention notice.
- (4) Despite subsections (2) and (3), if the warning notice is proposed to be given for a contravention, it can only be given within 2 years after the day on which the contravention happened.

270S Requirements for warning notice

- (1) The warning notice must state each of the following—
 - (a) particulars of the contravention or likely contravention;
 - (b) that QCA proposes to give the distributor a code contravention notice unless the distributor—
 - (i) takes steps reasonably necessary to remedy the contravention or avoid the likely contravention; and
 - (ii) gives QCA a written assurance (a *conduct assurance*), in the terms stated in the warning notice, that the distributor will—
 - (A) avoid any similar future contravention; and
 - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
 - (c) a period (the *warning period*) after which the code contravention notice may be given unless the warning notice is complied with;
 - (d) that the distributor may make, within the period, written submissions to show why the proposed code contravention notice should not be given.

-
- (2) The warning period must be—
 - (a) if the warning notice is given because QCA considers the contravention or likely contravention is of a type that requires urgent action—a period that QCA considers is reasonable in the circumstances; or
 - (b) otherwise—at least 20 business days.
 - (3) The warning notice may also state the steps QCA reasonably believes are necessary to remedy the contravention or avoid its future recurrence, or avoid the likely contravention.

Examples of steps that may remedy a contravention—

- refunding an amount wrongly paid because of the contravention
- paying compensation to someone who has damage, injury or loss because of the contravention
- disclosing particular information
- publishing advertisements about the contravention or action to remedy it

270T Considering submissions on warning notice

- (1) QCA must consider any written submission made under section 270S(1)(d) by the distributor within the period stated in the warning notice.
- (2) If QCA at any time decides not to give the proposed code contravention notice, it must, as soon as practicable, give the distributor notice of the decision.

Subdivision 3 Action after warning notice

270U Giving of code contravention notice

- (1) QCA may give the proposed code contravention notice if—
 - (a) the distributor has not complied with the warning notice; and
 - (b) after complying with section 270T, QCA still believes the code contravention notice ought to be given.

- (2) The code contravention notice must state—
 - (a) that the distributor—
 - (i) has contravened, or is contravening, a distribution network code; or
 - (ii) is likely to contravene a distribution network code; and
 - (b) the contravention or likely contravention is, or is likely to be, a material contravention of the code; and
 - (c) particulars of the contravention or likely contravention.
- (3) Subsection (4) applies if the warning notice was given on the basis of a contravention of the distribution network code and the distributor—
 - (a) has taken steps reasonably necessary to remedy the contravention; but
 - (b) has not given the conduct assurance required under the warning notice.
- (4) QCA may give the code contravention notice on the basis that the distributor is still involved in an activity that is, or is likely to result in, a material contravention of the distribution network code.

Note—

Under section 307A, a certified copy of a conduct notice is, for a proceeding under or relating to this Act, amongst other things, evidence of the contravention or other things stated in it.

270V Duration of code contravention notice

The code contravention notice—

- (a) comes into effect—
 - (i) when it is made; or
 - (ii) if it states a later time—at the later time; and
- (b) ends—
 - (i) on the day stated in the notice; or

- (ii) if it is cancelled before that day—when it is cancelled.

Division 2 Proceedings

270W Proceeding for civil penalty order

- (1) This section applies if, on the application of QCA, the Supreme Court is satisfied a distributor has—
 - (a) committed a material contravention of a distribution network code; or
 - (b) attempted to commit a material contravention of a distribution network code; or
 - (c) been involved in a material contravention of a distribution network code.
- (2) The court may order the distributor to pay the State as a civil penalty an amount of no more than—
 - (a) for an individual—\$100000; or
 - (b) for a corporation—\$500000.
- (3) In fixing the penalty, the court must consider—
 - (a) the nature and extent of—
 - (i) the contravention; and
 - (ii) loss or damage suffered because of the contravention; and
 - (b) the circumstances in which the contravention took place; and
 - (c) whether the distributor has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.
- (4) For subsection (1)(c), a distributor is involved in a contravention if the distributor—

[s 270X]

- (a) has aided, abetted, counselled or procured the contravention; or
- (b) has induced the contravention, whether through threats, promises or in another way; or
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

Note—

See also chapter 6, part 3, division 3 (Provisions for civil penalty proceedings).

270X How order enforced

If the Supreme Court orders payment of an amount under section 270W(2), the State may enforce the order as a judgment of the court for a debt of that amount.

270Y Injunctions

- (1) The Supreme Court may, on the application of QCA, grant an injunction if satisfied a distributor has engaged, or is proposing to engage, in conduct that constitutes, or would constitute, any of the following—
 - (a) a contravention of a distribution network code;
 - (b) attempting to contravene a distribution network code;
 - (c) aiding, abetting, counselling or procuring a distributor to contravene a distribution network code;
 - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a distributor to contravene a distribution network code;
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a distributor of a distribution network code;
 - (f) conspiring with others to contravene a distribution network code.

-
- (2) An injunction may be granted on conditions.
 - (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied a distributor has engaged, or is proposing to engage, in conduct of a type mentioned in subsection (1).
 - (4) The court may grant an interim injunction pending its decision on the application.
 - (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
 - (6) The court may amend an injunction or interim injunction.
 - (7) An injunction or interim injunction restraining a distributor from engaging in conduct may be granted whether or not—
 - (a) it appears to the court that the distributor intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) the distributor has previously engaged in conduct of that kind; or
 - (c) there is an imminent danger of substantial damage to another person if the person engages in conduct of that kind.
 - (8) An injunction or interim injunction requiring a distributor to do an act or thing may be granted whether or not—
 - (a) it appears to the court that the distributor intends to fail again, or to continue to fail, to do that act or thing; or
 - (b) the distributor has previously failed to do the act or thing; or
 - (c) there is an imminent danger of substantial damage to another person if the distributor does not do the act or thing.

270Z Conduct by directors, servants or agents

- (1) This section applies to a proceeding under this division.
- (2) If—

- (a) the proceeding concerns alleged conduct engaged in by a distributor to which a distribution network code applies; and
 - (b) it is necessary to prove the distributor's state of mind;
it is enough to prove that a director, servant or agent (a **representative**) of the distributor, acting within the scope of the representative's actual or apparent authority, had the state of mind.
- (3) Conduct engaged in for a distributor by the following persons is taken to have been engaged in by the distributor—
- (a) a representative of the distributor, acting within the scope of the representative's actual or apparent authority;
 - (b) another person at the direction, or with the consent or agreement, of a representative of the distributor, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority.
- (4) Conduct engaged in for a distributor (the **principal**) by the following persons is taken to have been engaged in by the principal—
- (a) a servant or agent of the principal, acting within the scope of the servant's or agent's actual or apparent authority;
 - (b) another person at the direction or with the consent or agreement, of a servant or agent of the principal, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority.
- (5) In this section—
- consent or agreement** includes an implied consent or agreement.
- state of mind**, of a person, may include—

-
- (a) knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the person's intention, opinion, belief or purpose.

Division 3 Referrals to regulator

270ZA When QCA must refer material contravention

If the Supreme Court decides a contravention of a distribution network code by a distributor is a material contravention of the code, QCA must refer the matter to the regulator.

270ZB When QCA may refer material contravention

- (1) If QCA has given a distributor a warning notice for a material contravention or likely material contravention of a distribution network code, QCA may refer the matter to the regulator.
- (2) The referral may be made whether or not a code contravention notice has been given for, or a proceeding started under this division about, the contravention or likely contravention.

Note—

If QCA has applied for a civil penalty order under section 270W, section 270ZK prevents the regulator from imposing a similar penalty.

- (3) However, the matter can not be referred before the giving of the warning notice.

270ZC Guidelines for exercise of QCA powers for civil penalties

- (1) QCA must publish on its website guidelines about when it will do each of the following—
 - (a) under section 270W, apply for a civil penalty order;
 - (b) under section 270ZB, refer matters to the regulator.
- (2) Before publishing the guidelines, QCA must take steps it considers appropriate to consult with distributors and retailers.

[s 270ZD]

- (3) The guidelines are not legally binding on QCA and are non-justiciable.
- (4) The guidelines must include information to the effect of subsection (3).

270ZD How regulator deals with referral

If, under this subdivision, QCA refers a matter to the regulator, the regulator may take either or both of the following actions against the relevant distributor—

- (a) for a distributor—impose a civil penalty, under chapter 6, part 1A;
- (b) for a distributor—action under chapter 2, part 1, division 3.

Division 4 Production of documents or information

270ZE Notice to produce documents or information

- (1) This section applies if QCA is conducting an investigation to find out whether a distributor is complying with a distribution network code.
- (2) QCA may, by notice to the distributor, require the distributor to give QCA all or any of the following things QCA believes, on reasonable grounds, are relevant to the investigation—
 - (a) information within the distributor’s knowledge or possession;
 - (b) documents in the distributor’s custody, possession or power.
- (3) The notice must state—
 - (a) the information or documents required; and
 - (b) a period in which the documents or information are to be given of no less than 7 days; and

- (c) a reasonable place at which the documents or information are to be given.
- (4) The distributor must comply with the notice, unless it has a reasonable excuse.
Maximum penalty—500 penalty units.
- (5) A distributor is not required to comply with the notice if the distributor claims, on the ground of self-incrimination, a privilege the distributor would be entitled to claim against giving the information were the distributor a witness in a prosecution for an offence in the Supreme Court.
- (6) If the distributor claims that complying with the notice may tend to incriminate it, QCA or the distributor may make an application to the Supreme Court to decide the validity of the claim.

270ZF Protection of confidential information given for investigation

- (1) This section applies if—
 - (a) QCA is conducting an investigation to find out whether a distributor is complying with a distribution network code; and
 - (b) the distributor gives QCA information for the purpose of the investigation, whether or not the giving of the information was required under section 270ZE.
- (2) The QCA Act, section 187 applies as if the information had been made available for an investigation under that Act.
- (3) In this section—
information includes a document.

Division 5 Audits

270ZG QCA's powers concerning audit of compliance with distribution network code

- (1) QCA may, by notice to a distributor, require the distributor to—
 - (a) carry out an internal audit of all or any of the following—
 - (i) the distributor's compliance with a distribution network code, either generally or about a stated particular matter or matters;
 - (ii) the reliability and quality of information given by the distributor to QCA, under this Act; or
 - (b) appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in paragraph (a).
- (2) The notice may state terms of reference QCA requires for carrying out the audit.
- (3) QCA may appoint a person as an independent auditor to carry out an audit of all or any of the things mentioned in subsection (1)(a) concerning the distributor, if—
 - (a) the distributor does not comply with a notice given to it under the subsection; or
 - (b) QCA reasonably considers that a person appointed under subsection (1) does not have appropriate qualifications or experience for carrying out the audit.
- (4) A person may be appointed as an independent auditor under subsection (1)(b) or (3) only if the appointer reasonably considers the person has the appropriate qualifications or experience for carrying out the audit.

270ZH Responsibility for cost of audit

- (1) A distributor required under section 270ZG(1) to carry out, or appoint an independent auditor to carry out, an audit is responsible for the cost of the audit.
- (2) If QCA appoints an independent auditor to carry out an audit concerning a distributor, the distributor must reimburse QCA for the cost of the audit if required to do so by QCA.

270ZI Independent auditor may require reasonable help or information

- (1) An independent auditor appointed under section 270ZG to carry out an audit concerning a distributor may require the distributor to give the auditor—
 - (a) reasonable help to carry out the audit; or
Examples—
 - access to the distributor’s premises and records
 - help from the distributor’s employees
 - (b) information, in a form reasonably required by the auditor, to help the auditor carry out the audit.
- (2) A distributor required to give reasonable help under subsection (1)(a), or information under subsection (1)(b), must comply with the requirement unless the distributor has a reasonable excuse.

Maximum penalty—1000 penalty units.

- (3) If the distributor is an individual, it is a reasonable excuse for the individual not to comply with the requirement if complying with the requirement might tend to incriminate the individual.

270ZJ Audit report and submissions on report

- (1) A distributor required under section 270ZG(1) to carry out, or appoint an independent auditor to carry out, an audit must give a copy of the audit report to QCA.

- (2) The copy must be given as soon as practicable after the audit is completed.
- (3) If QCA appoints an independent auditor to carry out an audit concerning a distributor, QCA must give the distributor—
 - (a) a copy of the draft audit report and an opportunity to make submissions to QCA on the draft report; and
 - (b) a copy of the final audit report and an opportunity to make further submissions to QCA on the final report.

Part 6 Miscellaneous provisions

270ZJA Relationship with Fair Trading Act 1989

To remove any doubt, it is declared that a distribution network code does not limit or otherwise affect the operation of the *Fair Trading Act 1989*, including the Australian Consumer Law (Queensland) forming part of that Act.

Chapter 6 Miscellaneous provisions

Part 1A Civil penalty for particular contraventions

270ZK Application of pt 1A

- (1) This part applies if—
 - (a) any of the following are referred to the regulator in relation to a distributor—
 - (i) a material contravention of a distribution network code, referred under section 270ZA or 270ZB;

-
- (ii) a contravention of a compliance direction under the *Energy and Water Ombudsman Act 2006*, referred under section 46 of that Act; or
 - (b) a distributor does not comply with a condition of the distributor's authority under this Act in relation to the *Energy and Water Ombudsman Act 2006*.
- (2) However, if the contravention is a contravention of a distribution network code, this part applies only if QCA has not applied for a civil penalty order under section 270W.
 - (3) To remove any doubt, it is declared that this part does not limit or otherwise affect the taking of action or proposed action under chapter 2, part 1, division 3 concerning an authority under this Act held by the distributor.

270ZL Regulator may impose civil penalty

- (1) The regulator may, for the State, impose a civil penalty on the distributor of no more than the monetary value of 1333 penalty units.
- (2) However, the power under subsection (1) may be exercised only if—
 - (a) the regulator has given the distributor a notice stating each of the following—
 - (i) that the regulator proposes to impose the penalty;
 - (ii) the grounds for imposing the proposed penalty;
 - (iii) the facts and circumstances that are the basis for the grounds;
 - (iv) that the distributor may, within a stated period of at least 20 business days, make written submissions to show why the penalty should not be imposed; and

Note—

See also chapter 6, part 3, division 3 (Provisions for civil penalty proceedings).

- (b) the regulator has considered any written submissions made under paragraph (a)(iv) within the period stated in the notice.

270ZM Information notice about and taking effect of decision

- (1) If the regulator decides to impose the civil penalty, the regulator must, as soon as practicable after making the decision, give the distributor a QCAT information notice about the decision.
- (2) The decision takes effect on the later of the following days—
 - (a) the day the QCAT information notice is given;
 - (b) a later day of effect stated in the notice.

270ZN Civil penalty recoverable as a debt

If the regulator imposes the civil penalty, the State may recover the amount of the penalty as a debt.

Part 1B Enforcing section 175A against retailers

Division 1 Contravention notices

Subdivision 1 Preliminary

271AA Application of pt 1B

This part applies if the regulator suspects—

- (a) a retailer has contravened, or is contravening, section 175A; and
- (b) the contravention is likely to be a material contravention of section 175A.

271AB Criteria for deciding material contravention

- (1) This section applies to the making of any decision under this Act about whether a contravention of section 175A is a material contravention of the section.
- (2) The regulator must have regard to the objects of the Act.
- (3) Subsection (2) does not limit or otherwise affect what may be considered in making the decision.

Subdivision 2 Warning notices

271AC Warning notice may be given

- (1) The regulator may give the retailer a notice (the *warning notice*), warning the retailer that the regulator proposes to give the retailer a further notice about the contravention (a *contravention notice*).
- (2) The regulator must make the decision about whether to give the warning notice as soon as practicable after forming the suspicion.
- (3) However, a failure to comply with subsection (2) does not affect the validity of the warning notice or any subsequent contravention notice.
- (4) Despite subsections (2) and (3), if the regulator proposes to give a warning notice for a contravention, it can only be given within 2 years after the day on which the contravention happened.

271AD Requirements for warning notice

- (1) The warning notice must state each of the following—
 - (a) particulars of the contravention;
 - (b) that the regulator proposes to give the retailer a contravention notice unless the retailer—

- (i) takes steps reasonably necessary to remedy the contravention; and
 - (ii) gives the regulator a written assurance, in the terms stated in the warning notice, that the retailer will—
 - (A) avoid any similar future contravention; and
 - (B) take steps reasonably necessary to avoid a future recurrence of the contravention;
 - (c) a period (the *warning period*) after which the contravention notice may be given unless the warning notice is complied with;
 - (d) that the retailer may make, within the warning period, written submissions to show why the proposed contravention notice should not be given.
- (2) The warning period must be—
- (a) if the warning notice is given because the regulator considers the contravention is of a type that requires urgent action—a period that the regulator considers is reasonable in the circumstances; or
 - (b) otherwise—at least 20 business days.
- (3) The warning notice may also state the steps the regulator reasonably believes are necessary to remedy the contravention or avoid its future recurrence.

Example of a step that may remedy a contravention—

paying compensation to someone who has suffered damage, injury or loss because of the contravention

271AE Considering submissions on warning notice

- (1) The regulator must consider any written submission made under section 271AD(1)(d) by the retailer within the warning period stated in the warning notice.
- (2) If the regulator at any time decides not to give the proposed contravention notice, it must, as soon as practicable, give the distributor or retailer notice of the decision.

Subdivision 3 Action after warning notice

271AF Giving of contravention notice

- (1) The regulator may give the proposed contravention notice if—
 - (a) the retailer has not complied with the warning notice; and
 - (b) after complying with section 271AE, the regulator still believes the contravention notice ought to be given.
- (2) The contravention notice must state—
 - (a) that the retailer has contravened, or is contravening, section 175A; or
 - (b) the contravention is likely to be a material contravention of the section.

271AG Duration of contravention notice

The contravention notice—

- (a) comes into effect—
 - (i) when it is made; or
 - (ii) if it states a later time—at the later time; and
- (b) ends—
 - (i) on the day stated in the notice; or
 - (ii) if it is cancelled before that day—when it is cancelled.

Division 2 Proceedings

271AH Proceeding for civil penalty order

- (1) This section applies if, on the application of the regulator, the Supreme Court is satisfied the retailer has—

- (a) committed a material contravention of section 175A; or
 - (b) attempted to commit a material contravention of section 175A; or
 - (c) been involved in a material contravention of section 175A.
- (2) The court may order the retailer to pay the State as a civil penalty an amount of no more than—
- (a) for an individual—\$100,000; or
 - (b) for a corporation—\$500,000.
- (3) In fixing the penalty, the court must consider—
- (a) the nature and extent of—
 - (i) the contravention; and
 - (ii) loss or damage suffered because of the contravention; and
 - (b) the circumstances in which the contravention took place; and
 - (c) whether the retailer has previously been found by the court in proceedings under this Act to have engaged in any similar conduct.
- (4) For subsection (1)(c), a distributor or retailer is involved in a contravention if the distributor or retailer—
- (a) has aided, abetted, counselled or procured the contravention; or
 - (b) has induced the contravention, whether through threats, promises or in another way; or
 - (c) has been in any way, directly or indirectly, knowingly concerned in, or a party to, the contravention; or
 - (d) has conspired with others to effect the contravention.

271AI How order enforced

If the Supreme Court orders payment of an amount under section 271AH(2), the State may enforce the order as a judgment of the court for a debt of that amount.

271AJ Injunctions

- (1) The Supreme Court may, on the application of the regulator, grant an injunction if satisfied the retailer has engaged, or is proposing to engage, in conduct that constitutes, or would constitute any of the following—
 - (a) a contravention of section 175A;
 - (b) attempting to contravene section 175A.
- (2) An injunction may be granted on conditions.
- (3) The court may also grant an injunction by consent of all parties to the application, whether or not the court is satisfied the retailer has engaged, or is proposing to engage, in conduct of a kind mentioned in subsection (1).
- (4) The court may grant an interim injunction pending its decision on the application.
- (5) The court must not require anyone, as a condition of granting an interim injunction, to give an undertaking as to damages.
- (6) The court may amend an injunction or interim injunction.
- (7) An injunction or interim injunction restraining the retailer from engaging in conduct may be granted whether or not—
 - (a) it appears to the court that the retailer intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) the retailer has previously engaged in conduct of that kind; or
 - (c) there is an imminent danger of substantial damage to another person if the retailer engages in conduct of that kind.

- (8) An injunction or interim injunction requiring the retailer to do an act or thing may be granted whether or not—
 - (a) it appears to the court that the retailer intends to fail again, or to continue to fail, to do that act or thing; or
 - (b) the retailer has previously failed to do the act or thing; or
 - (c) there is an imminent danger of substantial damage to another person if the retailer does not do the act or thing.

271AK Conduct by directors, servants or agents

- (1) This section applies to a proceeding for a civil penalty, an interim injunction or an injunction under this division.
- (2) If—
 - (a) the proceeding concerns alleged conduct engaged in by the retailer; and
 - (b) it is necessary to prove the retailer's state of mind;
it is enough to prove that a director, servant or agent (a **representative**) of the distributor or retailer, acting within the scope of the representative's actual or apparent authority, had the state of mind.
- (3) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the retailer—
 - (a) a representative of the retailer, acting within the scope of the representative's actual or apparent authority;
 - (b) another person at the direction, or with the consent or agreement, of a representative of the retailer, if the giving of the direction, consent or agreement was within the scope of the representative's actual or apparent authority.
- (4) Conduct engaged in for a retailer by the following persons is taken to have been engaged in by the principal—
 - (a) a servant or agent of the retailer, acting within the scope of the servant's or agent's actual or apparent authority;

-
- (b) another person at the direction or with the consent or agreement, of a servant or agent of the retailer, if the giving of the direction, consent or agreement was within the scope of the servant's or agent's actual or apparent authority.
- (5) In this section—
- consent or agreement* includes an implied consent or agreement.
- state of mind*, of a person, may include—
- (a) knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the person's intention, opinion, belief or purpose.

Division 3 Production of documents or information

271AL Notice to produce documents or information

- (1) This section applies if the regulator is conducting an investigation to find out whether the retailer is complying with section 175A.
- (2) The regulator may, by written notice to the retailer, require the retailer to give the regulator all or any the following things the regulator believes, on reasonable grounds, are relevant to the investigation—
- (a) information within the retailer's knowledge or possession;
- (b) documents in the retailer's custody, possession or power.
- (3) The notice must state—
- (a) the information or documents required; and
- (b) a period in which the information or documents must be given of no less than 7 days; and

- (c) a reasonable place at which the information or documents must be given.
- (4) The retailer must comply with the notice, unless it has a reasonable excuse.
Maximum penalty—500 penalty units.
- (5) The retailer is not required to comply with the notice if the retailer claims, on the ground of self-incrimination, a privilege the retailer would be entitled to claim against giving the information or documents were the retailer a witness in a prosecution for an offence in the Supreme Court.
- (6) If the retailer claims that complying with the notice may tend to incriminate it, the regulator or retailer may make an application to the Supreme Court to decide the validity of the claim.

Part 1 Reviews

Division 1 Internal reviews

271 Who may apply for internal review

- (1) A person who has been given, or is entitled to be given, an information notice about a decision under this Act mentioned in schedule 1 (an *original decision*) may apply for an internal review of the decision (an *internal review application*).
- (2) An internal review application may be made only to the following person (the *reviewer*)—
 - (a) if the original decision to which the application relates was made by the regulator—the Minister;
 - (b) otherwise—the regulator.

272 Requirements for making internal review application

- (1) An internal review application must be—

- (a) made within 20 business days after—
 - (i) if the person has been given an information notice about the original decision to which the application relates—the day the person is given the notice; or
 - (ii) if subparagraph (i) does not apply—the day the person otherwise becomes aware of the original decision; and
 - (b) made in the approved form; and
 - (c) accompanied by a statement of the grounds on which the applicant seeks the review of the decision; and
 - (d) supported by enough information to enable the decision to be reviewed.
- (2) However, the reviewer may extend the period for making the application.

273 Stay of operation of original decision

- (1) The reviewer may grant a stay of the original decision to secure the effectiveness of the internal review.
- (2) A stay—
 - (a) may be given on the conditions the reviewer considers appropriate; and
 - (b) operates for the period fixed by the reviewer; and
 - (c) may be amended or cancelled by the reviewer.
- (3) The period of a stay under this section must not extend past the time when the reviewer decides the internal review.
- (4) The internal review affects the decision, or carrying out of the decision, only if it is stayed.

274 Internal review decision

- (1) The reviewer must, within 20 business days after the internal review application is made—

[s 275]

- (a) review the original decision; and
 - (b) make a decision (the *internal review decision*) to—
 - (i) confirm the original decision; or
 - (ii) amend the original decision; or
 - (iii) substitute another decision for the original decision.
- (2) If the internal review decision confirms the original decision, for the purpose of an application for external review, the original decision is taken to be the internal review decision.
- (3) If the internal review decision amends the original decision, for the purpose of an application for external review, the original decision as amended is taken to be the internal review decision.

275 Internal review procedure

- (1) An internal review application for an original decision, other than an original decision made by the reviewer personally, must not be dealt with by—
- (a) the person who made the decision; or
 - (b) a person in a less senior office than the person who made the decision.
- (2) Subsection (1) applies despite the *Acts Interpretation Act 1954*, section 27A(7).
- (3) The reviewer may, in making the internal review decision, seek and take into account advice or information from any other person, including, for example, a review panel established by the reviewer.

276 Reviewer may seek advice or information

- (1) To help the reviewer make the internal review decision, the reviewer may seek advice or information from any other person.

-
- (2) The matters the reviewer may take into account in making the internal review decision include any advice or information obtained under subsection (1) for the decision or another internal review decision the reviewer has been asked to make.
 - (3) If the reviewer obtains advice or information under subsection (1) for the internal review decision or, in making the decision, takes into account advice or information the reviewer obtained for another internal review decision, the reviewer must—
 - (a) if the advice or information is written—give a copy to the parties to the internal review; or
 - (b) if the advice or information is oral—disclose the substance of the advice to the parties.

277 Offence about disclosure of advice or information

- (1) This section applies if, under section 276, the reviewer gives a copy of advice or information, or discloses the substance of advice or information, to a party to the internal review.
- (2) The party must not disclose the advice or information to another person unless the party has a reasonable excuse.
Maximum penalty—20 penalty units.
- (3) It is a reasonable excuse for the party to make the disclosure if the disclosure is for the internal review or an external review of the internal review decision.

278 Notice of internal review decision

- (1) The reviewer must, within 10 business days after making an internal review decision, give the applicant notice (an *internal review notice*) for the decision.
- (2) If the internal review decision is not the decision sought by the applicant, the internal review notice must also include, or be accompanied by, a QCAT information notice for the decision.

- (3) If the reviewer does not give the internal review notice within the 10 business days, the reviewer is taken to have made an internal review decision confirming the original decision.

Division 2 External reviews by QCAT

279 External review of internal review decision

- (1) A person who has been given, or is entitled to be given, an internal review notice for an internal review decision may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.
- (2) A person who has been given, or is entitled to be given, a QCAT information notice for a decision under section 233 may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.
- (3) A distributor who, under section 270ZM, has been given, or is entitled to be given, a QCAT information notice for a decision under section 270ZL to impose a civil penalty may apply, as provided under the QCAT Act, to QCAT for an external review of the decision.

Part 2 General offences

286 Unlawfully operating distribution pipeline

- (1) A person must not unlawfully operate a distribution pipeline.
Maximum penalty—500 penalty units.
- (2) A person unlawfully operates a distribution pipeline if the person transports a covered gas through the pipeline or provides customer connection services to premises in relation to the pipeline, unless—
 - (a) a distribution authority authorising the transportation or customer connection services is in force and the person holds, or is acting under, the authority; or

- (b) the pipeline is completely within a lot, or contiguous lots, owned by the same person; or

Example—

a pipeline in a shopping centre on a lot or lots owned by the same person

- (c) the pipeline is completely within contiguous lots if the covered gas is only transported to 1 other person; or
- (d) the person is, or is acting for, an on-supplier and the transport or customer connection services complies with chapter 3, part 3; or
- (e) the transport or customer connection services is carried out under an insufficiency of supply direction.

287 Unlawful tampering with gas infrastructure

A person must not wilfully tamper with a distributor's or LPG distributor's gas infrastructure unless the person has a lawful excuse.

Maximum penalty—500 penalty units.

Note—

See also section 295.

289 Unlawfully taking covered gas or LPG

- (1) A person must not unlawfully take a covered gas or LPG.

Maximum penalty—500 penalty units.

- (2) A person unlawfully takes a covered gas or LPG if the person takes the covered gas or LPG from any of the following, unless the person has a lawful excuse—
- (a) a distribution pipeline;
- (b) an LPG distribution pipeline;
- (c) a pipeline connected from the exit point of a meter installed for a customer's premises.

Note—

See also section 297.

289A Restriction on providing gas retail market services

- (1) A person other than the following must not provide gas retail market services to someone else—
 - (a) AEMO;
 - (b) a director or other officer of AEMO acting within the scope of the person’s directorship or other office with AEMO;
 - (c) an employee of AEMO acting within the course of the employee’s employment with AEMO.

Maximum penalty—500 penalty units.

- (2) In this section—

gas retail market services means services provided by AEMO to others as the operator of the gas retail market.

290 False or misleading information

- (1) A person must not make an entry in a document required to be kept under this Act knowing the entry to be false or misleading in a material particular.

Maximum penalty—60 penalty units.

- (2) A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

Note—

See also section 294.

291 Attempts to commit offences

- (1) A person who attempts to commit an offence against this Act commits an offence.

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

- (2) The Criminal Code, section 4 applies to subsection (1).

Part 3 Offence proceedings

Division 1 General provisions

292 Offences under Act are summary

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
- (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

293 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

294 Allegations of false or misleading matters

- (1) This section applies to a proceeding for an offence against this Act described as involving—
- (a) false or misleading information; or

(b) a false or misleading document or statement.

Note—

See section 290.

- (2) It is enough for the complaint starting the proceeding to state the document, information or statement was ‘false or misleading’ to the defendant’s knowledge, without specifying which.
- (3) In the proceeding, evidence that the document, information or statement was given or made recklessly is evidence that it was given or made so as to be false or misleading.

295 Evidence of tampering with gas infrastructure

If—

- (a) on, or in association with, a customer’s covered gas or LPG installation there exists a way to change or tamper with a distributor’s or LPG distributor’s gas infrastructure; and
- (b) the gas infrastructure is in the control or custody of the customer; and
- (c) there is a change to or tampering with the gas infrastructure;

evidence of the existence of the way is evidence that the change or tampering has been caused by the customer.

Note—

See section 287.

296 Conduct of representatives

- (1) This section applies to a proceeding for an offence against this Act if it is relevant to prove a person’s state of mind about particular conduct.
- (2) It is enough to show—

-
- (a) the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—
- (a) if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or
 - (b) the person was not in a position to influence the representative in relation to the conduct.

- (4) In this section—

engaging in conduct includes failing to engage in conduct.

representative means—

- (a) for a corporation—an agent, employee or executive officer of the corporation; or
- (b) for an individual—an agent or employee of the individual.

state of mind of a person includes the person's—

- (a) belief, intention, knowledge, opinion or purpose; and
- (b) reasons for the belief, intention, opinion or purpose.

Division 2 Provisions for proceedings for unlawfully taking covered gases or LPG

297 Evidence of unlawful taking of covered gases or LPG

If—

[s 298]

- (a) on, or in association with, a customer's installation for a covered gas or LPG there exists a way to unlawfully take the covered gas or LPG; and
- (b) the covered gas or LPG is unlawfully taken from the installation;

evidence of the existence of the way is evidence that the customer has unlawfully taken the covered gas or LPG.

298 Proceeding may be for a period

If the day or days on which a person is alleged to have been unlawfully taking a covered gas or LPG can not be established, the person may—

- (a) be charged with 1 offence of unlawfully taking the covered gas or LPG over, or at some unknown time during, a stated period; and
- (b) be convicted and punished accordingly.

299 Ownership of covered gases or LPG for proceeding

- (1) This section applies in a proceeding for an offence against this or another Act in which it is claimed a covered gas or LPG has been unlawfully taken.
- (2) The covered gas or LPG is taken to belong to any person through whose distribution or other pipeline the covered gas or LPG was being transported when it was unlawfully taken.

Division 3 Provisions for civil penalty proceedings

299A Relationship with criminal proceedings

- (1) This section applies if—
 - (a) action (a *civil penalty proceeding*) is taken against or in relation to a person, consisting of—

-
- (i) an application under section 270W for a civil penalty order; or
 - (ii) a referral under section 270ZB to the regulator and any decision in relation to the referral that involves the imposition of a civil penalty; and
- (b) a criminal proceeding has been started, or has already been started, against the person for an offence; and
 - (c) the conduct that constitutes the offence is the same, or substantially the same, as the conduct the subject of the civil penalty proceeding.
- (2) The civil penalty proceeding must be stayed or not continued.
 - (3) However, the civil penalty proceeding may be resumed if, at the end of the criminal proceeding, there is no conviction for the offence.
 - (4) Evidence in the civil penalty proceeding of information given, or documents produced, by a person is not admissible in evidence in the criminal proceeding.
 - (5) In this section—

conduct includes an omission.

conviction includes a finding of guilt, or the acceptance of a plea of guilt, by a court whether or not a conviction is recorded.

299B Avoidance of multiple penalties

If—

- (a) a civil penalty proceeding under section 299A is taken; and
- (b) conduct, or substantially the same conduct, the subject of the civil penalty proceeding constitutes a contravention of 2 or more distribution network code provisions;

a civil penalty must not be imposed or ordered in the civil penalty proceeding more than once for that conduct.

Part 4 General remedies

Note—

See also sections 101 and 145.

300 Forfeiture and costs of remedial work

- (1) If a court convicts a person for an offence against this Act, it may—
 - (a) order the forfeiture to the State of—
 - (i) anything used to commit the offence; or
 - (ii) anything else the subject of the offence; and
 - (b) make any order to enforce the forfeiture it considers appropriate; and
 - (c) order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.
- (2) Forfeiture of a thing may be ordered—
 - (a) whether or not it has been seized under another Act; and
 - (b) if it has been seized, whether or not it has been returned to its owner.

301 Additional consequences of unlawfully operating distribution pipe

- (1) This section applies if, under section 286, a person unlawfully transports a covered gas or provides customer connection services.
- (2) The person can not recover from anyone else an amount for—
 - (a) the covered gas; or
 - (b) the transportation; or
 - (c) the services.

- (3) Subsection (2) applies whether or not the person has been convicted for an offence against section 286.
- (4) If a court convicts a person for an offence against section 286 relating to the transportation or services, the court, or another court of competent jurisdiction, may order the person to pay the State the amount of any profits the person made because of the transportation or services.

303 Recovery of unlawful profits

If a court convicts a distributor for an offence against this Act, the court or another court of competent jurisdiction, may order the distributor to pay the State the amount of any profits the distributor made because of the commission of the offence.

Part 5 Evidentiary provisions

304 Application of pt 5

This part applies to a proceeding under or in relation to this Act.

305 Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of a distribution officer;
- (b) the power of the Minister or the regulator to do anything under this Act.

306 Signatures

A signature purporting to be the signature of the Minister or the regulator is evidence of the signature it purports to be.

307 Other evidentiary aids

A certificate purporting to be signed by the regulator stating any of the following matters is evidence of the matter—

- (a) a stated document is a thing as follows given, issued, kept or made under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a declaration, direction, notice or requirement;
 - (iii) a distribution authority;
 - (iv) the register of authorities;
 - (v) another record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (d) that, on a stated day—
 - (i) a stated person was given a stated decision, direction or notice under this Act; or
 - (ii) a stated requirement under this Act was made of a stated person;
- (e) on a stated day, or during a stated period, a distribution authority—
 - (i) was, or was not, in force; or
 - (ii) was, or was not, subject to a stated condition; or
 - (iii) was, or was not, cancelled;
- (f) a stated amount is payable under this Act by a stated person and has not been paid.

307A Evidentiary effect of code contravention notice

- (1) A document purporting to be a certified copy of a code contravention notice is evidence—

-
- (a) that the notice was a code contravention notice given under chapter 5A, part 5, division 1; and
 - (b) of the contravention or other matters stated in it; and
 - (c) that the notice has been given to the distributor stated in the notice.
- (2) In this section—

certified copy means a copy with a certificate purporting to be signed by a member of QCA stating the copy is a true copy of the document it purports to be.

Part 6 Registers

308 Register of authorities

The regulator must keep a register of—

- (a) details about distribution authorities; and
- (b) other documents relating to this Act the regulator considers appropriate.

309 Keeping of register of authorities

- (1) The regulator must include in the register of authorities information about the distribution area mentioned in section 28(a) for a distribution authority.
- (2) If an authority is cancelled, suspended or surrendered, the regulator must record in the register of authorities—
 - (a) the cancellation, surrender or suspension, and when it took effect; and
 - (b) for a suspension—when the suspension started and, if it is for a period, when it is to end.
- (3) The regulator may include in the register of authorities other details about distribution authorities.

- (4) If under this Act there is a change relating to information kept in the register of authorities the regulator must—
 - (a) amend the register of authorities to reflect the change; and
 - (b) record in the register of authorities when the information was amended.
- (5) For subsection (4), the change is made on the later of the following—
 - (a) if the change requires approval under this Act—when it was approved;
 - (b) when it takes effect.

310 Access to register of authorities

- (1) The regulator must—
 - (a) keep the register of authorities open for inspection by the public during office hours on business days at—
 - (i) the department’s head office; and
 - (ii) other places the regulator considers appropriate; and
 - (b) allow a person to take extracts, free of charge, from the register of authorities; and
 - (c) if a person asks for a copy of the register of authorities, or a part of it—give the person the copy on payment of an appropriate fee for the copy.
- (2) This section does not apply to any part of the register of authorities that is RTI excluded information.
- (3) In this section—

appropriate fee, for a copy of the register of authorities, or a part of it, means a fee that is no more than the reasonable costs incurred in making and giving the copy.

310A Registers QCA must keep

QCA must keep a register of each of the following—

- (a) distribution network codes;
- (b) warning notices, including expired warning notices;
- (c) conduct assurances;
- (d) code contravention notices, including expired code contravention notices.

Note—

For access to the registers, see the QCA Act, sections 227A to 227C.

Part 7 Additional provisions for applications

311 Substantial compliance with application requirements may be accepted

If—

- (a) a person has made, or purported to make, an application under this Act; and
- (b) the requirements under this Act for making the application have not been complied with; and
- (c) the person who must decide the application is reasonably satisfied the information provided in or with the application is enough to allow the person to decide the application in the way required under this Act;

the person may decide to allow the application to proceed as if it did comply with the requirements.

312 Additional information may be required about application

- (1) If a person (the *decision maker*) is deciding, or is required to decide, an application under this Act, the decision maker may,

by notice, require the applicant to give the decision maker within a stated reasonable period—

- (a) additional information about, or a document relevant to, the application; or
 - (b) a statutory declaration verifying any information included in the application or any additional information required under paragraph (a).
- (2) If the applicant does not give the decision maker the additional information or declaration by the stated day, the decision maker may refuse the application.
 - (3) The applicant must pay any costs incurred in complying with the notice.

313 Power to refund application fee on withdrawal

- (1) If an application under this Act is withdrawn, the person who must decide the application may refund the whole or part of any fee paid for the application.
- (2) In deciding whether to refund, the person must have regard to—
 - (a) when the application was made; and
 - (b) when it was withdrawn; and
 - (c) the extent to which the application was decided before the withdrawal.

Part 8 Other miscellaneous provisions

314 Replacement of authority

- (1) If an authority under this Act has been lost, stolen or destroyed, its holder may apply to the regulator who may issue the authority to replace it.
- (2) The regulator must decide to grant or refuse the application.

- (3) If the regulator is reasonably satisfied the authority has been lost, stolen or destroyed, the regulator must grant the application and replace it.
- (4) If the regulator decides to refuse the application, the regulator must, as soon as practicable, give the holder an information notice about the decision.

315 Protection from civil liability for particular persons

- (1) This section applies to each of the following persons (a *relevant person*)—
 - (a) the Minister;
 - (b) the regulator;
 - (c) a person to whom an insufficiency of supply direction has been given and who is complying with the direction;
 - (d) an industry participant to whom a notice under section 245 has been given and who is complying with the notice;
 - (e) QCA.
- (2) A relevant person is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to a relevant person, the liability attaches instead to the State.
- (4) In this section—

civil liability includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.

316 Limitation of liability of distributors

- (1) This section applies if a person incurs a cost, damage or loss because—
 - (a) of a partial or total failure to supply a covered gas; or

- (b) a defective reticulated covered gas was supplied to the person.
- (2) This section applies to a distributor only in relation to the distributor's gas infrastructure that is not a distribution system under the NERL (Qld).
- (3) A distributor is not civilly liable for the cost, damage or loss if—
 - (a) the failure or defect was caused by a circumstance beyond the distributor's control; and
 - (b) in relation to the supply of the covered gas, the distributor—
 - (i) complied with this Act and the conditions of any relevant distribution authority; and
 - (ii) acted in good faith and without negligence.
- (4) Subsection (3)—
 - (a) is subject to any agreement between the person and the distributor; and
 - (b) does not limit section 6(3).

316A Protection from liability of member or employee of QCA

- (1) A member or employee of QCA is not civilly liable for an act done, or omission made, in good faith under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member or employee, the liability attaches instead to QCA.

317 Power to require additional information

- (1) This section applies if—
 - (a) a person is required under this Act to give the Minister or the regulator a notice or copy of a document or information (the *advice*); and
 - (b) the person gives the advice.

-
- (2) The Minister or the regulator may, by notice, require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.
 - (3) The person must comply with the notice.
Maximum penalty for subsection (3)—300 penalty units.

318 Confidentiality of particular information

- (1) This section applies if—
 - (a) a person gives information in response to—
 - (i) a direction under section 233; or
 - (ii) a requirement under section 245; or
 - (iii) a requirement under section 317 that relates to information given under section 233 or 245; and
 - (b) the information is RTI excluded information.
- (2) If an official acquires the information in the official's capacity as an official the official must not disclose the information to anyone else, unless the disclosure is—
 - (a) made with the person's consent; or
 - (b) expressly permitted or required under another Act.Maximum penalty—100 penalty units.

- (3) In this section—

official means—

 - (a) the Minister; or
 - (b) the regulator; or
 - (c) a person who is, or has been, a public service employee.

319 Application of provisions

- (1) This section applies if a provision of this Act applies any of the following (the *applied law*) for a purpose—

- (a) another provision of this Act;
 - (b) another law;
 - (c) a provision of another law.
- (2) The applied law and any definition relevant to it apply with necessary changes.
- (3) Subsection (2) is not limited merely because a provision states how the applied law is to apply.

320 Delegation by Minister

- (1) The Minister may delegate the Minister's powers under this Act to an appropriately qualified public service officer or employee.
- (2) However, the Minister can not delegate the power to make an insufficiency of supply declaration.
- (3) The Minister may delegate the Minister's powers under chapter 3, part 4, division 2 to QCA.

321 Delegation by regulator

The regulator may delegate the regulator's powers under this Act to an appropriately qualified public service officer or employee.

321B Reporting to Minister by QCA

- (1) QCA must, on or before each 31 December and 30 June, give the Minister a written report about the performance of—
- (a) its functions under this Act; and
 - (b) any of the Minister's functions under this Act that have been delegated to QCA.
- (2) QCA may, from time to time, give the Minister reports about any significant events in the State's covered gas market of which it considers the Minister ought to be aware, including, for example, systemic issues materially affecting consumers.

- (3) In this section a reference to the performance of a function includes the exercise of a power.

322 Approved forms

The regulator may approve forms for use under this Act.

323 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about any of the following—
- (a) any matter that may, under the *National Gas (Queensland) Law*, be prescribed under jurisdictional gas legislation;
 - (b) the fees payable under this Act, including late payment fees;
 - (c) imposing a penalty of no more than 20 penalty units for a contravention of a provision of a regulation.

Chapter 7 Transitional provisions

Part 1 Transitional provisions for Electricity and Other Legislation Amendment Act 2006

324 Definitions for pt 1

In this part—

amendment Act means the *Electricity and Other Legislation Amendment Act 2006*.

former, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the pre-amended Act.

FRC day means the day the amendment Act, section 114 commences.

new, for a provision mentioned in this part, means the provision to which the reference relates is a provision of the post-amended Act, as affected by any relevant definitions under the post-amended Act.

post-amended Act means this Act as in force from the FRC day.

pre-amended Act means this Act as in force before the FRC day.

325 Conversion of customer retail contracts for particular small customers to standard contracts

- (1) This section applies on the FRC day if—
 - (a) immediately before that day, a customer retail contract under the pre-amended Act (the *existing contract*) was in force between a customer and a retailer for the provision of customer retail services to premises; and
 - (b) under the post-amended Act the customer is a small customer for the premises; and
 - (c) notified prices applied to the customer for the provision of the services to the premises.
- (2) The existing contract ends.
- (3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- (4) The customer and the retailer are, under new section 204, taken to have entered into a standard retail contract for the provision of the services to the premises.
- (5) New sections 204 and 207 apply to the standard retail contract as if it were a contract taken to have been entered into under that section.

326 Small customer may enter into negotiated retail contract before FRC day

- (1) This section applies if—
 - (a) under the pre-amended Act, a customer is a non-contestable customer for premises; and
 - (b) the customer would, under the post-amended Act, be a small customer for the premises.
- (2) Despite former section 169, the customer may enter into a negotiated retail contract under the post-amended Act for the provision of customer retail services to the premises even though this Act is not in force in the form of the post-amended Act.
- (3) However, until the FRC day—
 - (a) customer retail services can not be provided under the negotiated retail contract; and
 - (b) any customer retail contract under the pre-amended Act continues to apply for the provision of the services.
- (4) Also, it is taken to be a term of the negotiated contract that the customer may, by written notice to the relevant retailer given within 10 business days after the FRC day, terminate the contract without penalty.
- (5) The notice need not state a ground for the termination.

327 Transitional retail contracts

- (1) This section applies on the FRC day if—
 - (a) immediately before that day, a customer retail contract under the pre-amended Act (the *existing contract*) was in force between a customer and a retailer for the provision of customer retail services to premises; and
 - (b) in the 12 months before the FRC day, the customer at the premises consumed more than 1TJ, but less than 10TJ, of processed natural gas; and

- (c) notified prices applied to the customer for the provision of the services to the premises.
- (2) The existing contract ends.
- (3) The ending of the existing contract does not affect rights or obligations accrued under it before the FRC day.
- (4) The customer and the retailer are taken to have entered into a new retail contract (the *transitional retail contract*) for the provision of the services to the premises.
- (5) The terms of the transitional retail contract are the retailer's terms for retail contracts of the type to which this section applies, as published on the area retailer's website and given to QCA no later than 5 days before the FRC day.
- (6) The retailer must, as soon as practicable after publishing the terms under subsection (5), give the customer a notice that the terms of the retailer's transitional retail contracts may be inspected on its website.
- (7) The customer and the retailer are taken to have agreed to comply with the terms and to have entered into the transitional retail contract as a deed.
- (8) New section 207 applies to the transitional retail contract as if a reference in the section to a standard retail contract were a reference to the transitional retail contract.
- (9) This section is subject to the retailer of last resort scheme.

328 References to other particular contracts under pre-amended Act

- (1) In an Act or document, a reference to a contract of a following type (the *old type*) under the pre-amended Act is taken to be a reference to a type of contract under the post-amended Act stated opposite the old type—
 - (a) a customer connection contract—a connection contract;
 - (b) a customer retail contract—a retail contract.
- (2) Subsection (1) applies subject to new sections 325 to 327.

329 Price publication requirements of area retailers for FRC

- (1) Each area retailer must, before the following day, publish and give the Minister and QCA a list of the indicative prices that it proposes to charge its small customers under a standard retail contract for the provision of customer retail services on the FRC day—
 - (a) if, before 31 March 2007, a day is prescribed under a regulation—the prescribed day;
 - (b) otherwise—31 March 2007.

Maximum penalty—500 penalty units.

- (2) For subsection (1), the indicative prices are the prices that the retailer reasonably estimates that it will be charging the customers for the services, other than for the following anticipated charges that it will pass on to them—
 - (a) network use of system charges;
 - (b) network FRC charges passed on to the area retailer from distributors;
 - (c) charges from the GRMO.

- (3) Each area retailer must, on the earlier of the following days, publish and give the Minister and QCA a list of its actual prices for the services—
 - (a) the day that is 20 days after the last of the charges mentioned in subsection (2) is fixed;
 - (b) the day that is 5 days before the FRC day.

Maximum penalty—500 penalty units.

- (4) A publication of actual prices under subsection (3) may be included in a publication of the area retailer's standard terms under new section 206, as that section applies because of new section 330.
- (5) In this section—

network FRC charges means charges for costs incurred by distributors in implementing the amendments to this Act

under the amendment Act that, under their approved access arrangements, may be passed on to customers.

network use of system charges means charges by the relevant distributor for customer connection services and the transportation of processed natural gas.

publish means publish on the area retailer's website.

330 Area retailer's obligations about standard terms apply 1 month before FRC day

- (1) New sections 160, 205 and 206 apply to each area retailer as if the sections had commenced 1 month before the FRC day.
- (2) However, subsection (1) does not apply for the retailer's standard terms to the extent the terms are its prices for customer retail services.
- (3) Also, if the retailer gives a list as required under new section 329(3), the retailer may amend its standard terms to include the prices without complying with new section 206.

331 Price publication requirements of general retailers for FRC

Each general retailer must, before the FRC day, publish on its website and give QCA a list of its prices on the FRC day for its charges to small customers under a standard retail contract for customer retail services.

332 Existing mediated agreements

Former section 264 continues to apply for a mediated agreement under the pre-amended Act as if the section were still in force.

333 Existing orders on arbitrated disputes

Former section 265 continues to apply for an order made under the section as if the section were still in force.

Part 2 Transitional provision for Mines and Energy Legislation Amendment Act 2009

334 Continued protection from civil liability for particular persons

- (1) This section applies to each of the following persons (a *relevant person*)—
 - (a) the GRMO;
 - (b) a director or other officer of the GRMO acting within the scope of the person’s directorship or other office with the GRMO;
 - (c) an employee of the GRMO acting within the course of the employee’s employment with the GRMO.
- (2) Section 315(2) to (4) continues to apply to a relevant person.
- (3) In this section—

GRMO means a body corporate—

 - (a) appointed by the Minister under section 257A, as in force immediately before the commencement of this section, to be the gas retail market operator; and
 - (b) in existence as the operator immediately before the commencement of this section.

Part 3 Transitional provisions for Electricity Competition and Protection Legislation Amendment Act 2014

335 Definition for pt 3

In this part—

commencement means the commencement of this section.

336 Continuation of cancellation or suspension of distribution authorities

- (1) This section applies if, before the commencement—
 - (a) an event mentioned in section 57(2) has happened; and
 - (b) the regulator had commenced procedures under section 58 or chapter 2, part 1, division 3, subdivision 5 in relation to the event for cancellation or suspension of a distribution authority.
- (2) This Act, as in force immediately before the commencement, continues to apply for the cancellation or suspension of the distribution authority.

337 Unfinished customer connection services

- (1) This section applies if—
 - (a) before the commencement, a customer and a distributor have entered into a connection contract under section 106; and
 - (b) at the commencement, the customer's premises are not physically connected to the distributor's distribution system.
- (2) Section 108 as in force immediately before the commencement, continues to apply to the construction of the connection under the connection contract.

338 Undecided retail authority applications

- (1) This section applies if, before the commencement, a person applied to the regulator for a retail authority but the application had not been decided.
- (2) The application lapses.

Note—

The person may be able to apply for a retailer authorisation under the NERL (Qld).

339 Existing retail authorities

- (1) This section applies if, immediately before the commencement, a person was the holder of a retail authority.
- (2) The retail authority ceases to have effect.

Note—

The retail sale of processed natural gas is regulated under the NERL (Qld) from the commencement.

340 Continuation of actions by QCA

- (1) This section applies if, before the commencement—
 - (a) QCA has given a warning notice under former section 270R to a distributor or retailer; or
 - (b) QCA has given a code contravention notice, under former section 270U, to a distributor or retailer; or
 - (c) QCA has, under former section 270W, applied to the Supreme Court for an order about the payment of a civil penalty by a distributor or retailer; or
 - (d) QCA has, under former chapter 5A, part 5, division 3, referred a matter to the regulator; or
 - (e) QCA has given a distributor or retailer a notice under former section 270ZE to produce documents or information; or
 - (f) QCA has, under former section 270ZG, required a distributor or retailer to carry out an internal audit or to appoint an independent auditor.
- (2) QCA may continue to take action under chapter 5A, part 5 as in force immediately before the commencement.
- (3) In this section—

former, for a provision mentioned in this section, means the provision as in force immediately before the commencement.

341 Regulator may continue to impose civil penalties

- (1) This section applies if, before the commencement—
 - (a) a matter mentioned in section 270ZK, as in force immediately before the commencement, was referred to the regulator; and
 - (b) the regulator has not yet exercised a power under section 270ZL in relation to the matter.
- (2) The regulator may exercise the power under section 270ZL in relation to the matter.

Part 4 Transitional provisions for Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Act 2023

342 Definitions for part

In this part—

amendment Act means the *Gas Supply and Other Legislation (Hydrogen Industry Development) Amendment Act 2023*.

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

343 Existing distribution authorities

- (1) This section applies to a distribution authority that was in effect immediately before the commencement.

- (2) Despite new section 21, on the commencement, the distribution authority does not authorise its holder to transport, or provide customer connection services relating to, a covered gas that is hydrogen or a gas blend.
- (3) However, subsection (2) does not apply to the extent the distribution authority is amended under chapter 2, part 1, division 3 so it applies in relation to a covered gas that is hydrogen or a gas blend.

344 Insufficiency of supply declarations

- (1) This section applies if, immediately before the commencement, an insufficiency of supply declaration under former section 251 was in effect.
- (2) On the commencement, former chapter 4, part 5, division 1 continues to apply in relation to the supply declaration.

345 Insufficiency of supply directions

- (1) This section applies if, immediately before the commencement, an insufficiency of supply direction under former section 254 was in effect.
- (2) On the commencement, former chapter 4, part 5, division 2 continues to apply in relation to the supply direction.

Schedule 1 **Decisions subject to internal review**

section 271(1)

Section reference	Description of decision
31 or 36	Refusal of distribution authority application
56	Refusal of amendment application
58	Giving of suspension notice for immediate suspension of distribution authority
58	Fixing of period of suspension for distribution authority
62	Amendment, cancellation or suspension of distribution authority
65	Refusal of renewal application for distribution authority
69	Refusal of transfer application for distribution authority or to impose a condition on the transfer, other than a condition mentioned in section 69(5)
73	Refusal of surrender application for distribution authority or to impose a condition on the surrender, other than a condition mentioned in section 73(5)
87	Giving of work direction by public entity to distributor
243	Amendment of contingency supply plan
245	Requirement of industry participant to give the regulator information

Section reference	Description of decision
268	Requirement of distributor, retailer or public entity to give the regulator information
314	Refusal of application to replace authority

Schedule 2 Dictionary

section 7

acceptance notice see section 35(1)(d).

AEMO has the meaning given under the *National Gas (Queensland) Law*.

appropriately qualified, for the performance of a function or exercise of a power, includes having the qualifications, experience and competence to perform the function or exercise the power.

approved access arrangement means an access arrangement approved by the relevant regulator under the National Gas Law.

approved form means the form approved by the regulator under section 322.

body corporate Act means any Act as follows—

- (a) *Body Corporate and Community Management Act 1997*;
- (b) *Building Units and Group Titles Act 1980*;
- (c) *Integrated Resort Development Act 1987*;
- (d) *Mixed Use Development Act 1993*;
- (e) *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*;
- (f) *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*.

code contravention notice see section 270R(1).

conduct assurance see section 270S(1)(b)(ii).

connection contract see section 106(1).

consequential work see section 92(1)(b).

consequential work requirement see section 92(2).

consumption, of a substance, includes using it to produce heat, light or power or for air-conditioning or refrigeration.

content requirements, for a contingency supply plan, see section 239(1).

contingency supply plan, of an industry participant, means the industry participant's contingency supply plan made under section 237, as amended from time to time under section 243.

contravention notice see section 271AC(1).

corresponding authority, for a distribution authority for a covered gas, means an authority or licence, however called, issued under any of the following that is similar to the distribution authority for the covered gas—

- (a) *Gas Supply Act 1996* (NSW);
- (b) *Gas Act 1997* (SA);
- (c) *Gas Industry Act 2001* (Vic);
- (d) *Gas Industry Act 2019* (Tas);
- (e) *Energy Coordination Act 1994* (WA);
- (f) *Energy Operators (Powers) Act 1979* (WA);
- (g) *Utilities Act 2000* (ACT);
- (h) another law of a State relating to the transport or supply of the covered gas.

covered gas see section 9.

covered pipeline means a pipeline that, under the *National Gas Law*, is a covered pipeline.

Note—

See the *National Gas (Queensland) Law*, section 2, definition *covered pipeline*.

criminal history means history of convictions other than a spent conviction, for offences committed in the State or elsewhere.

customer see section 16.

customer connection services see section 19.

decision notice see section 35(1).

disconnect, for customer connection services, includes—

- (a) cessation, curtailment and interruption; and
- (b) a refusal to connect or reconnect.

distribution area see section 21(a).

distribution authority see section 21.

distribution network code means—

- (a) an initial distribution network code; or
- (b) a distribution network code made by QCA under chapter 5A and as amended from time to time under that chapter.

distribution officer, for a distributor, means a person appointed, under section 132, as a distribution officer for the distributor, whose appointment is still in force.

distribution pipeline see section 13.

distribution system see section 14.

distributor see section 22.

Electricity Act means the *Electricity Act 1994*.

energy and water ombudsman means the energy and water ombudsman under the *Energy and Water Ombudsman Act 2006*.

excluded customer see section 16(4).

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person's position is given the name of executive officer.

exempt seller means an exempt seller under the NERL (Qld), that sells gas to a customer in Queensland.

external review, for a decision, means a review of the decision by QCAT under the QCAT Act.

gas infrastructure see section 75(1).

gas infrastructure work see section 75(2).

gas retail market procedures means—

- (a) the retail market procedures made under the *National Gas (Queensland) Law*, section 294A, that regulate the Queensland retail gas market (the **initial procedures**); and
- (b) the retail market procedures made by AEMO under the *National Gas (Queensland) Law*, section 91M, that regulate the Queensland retail gas market, including procedures that amend—
 - (i) the initial procedures; or
 - (ii) other procedures made by AEMO.

holder, of an authority under this Act, means each person recorded in the register of authorities as its holder.

industry participant see section 236.

information notice, for a decision, means a notice stating each of the following—

- (a) the decision;
- (b) reasons for the decision;
- (c) the rights of—
 - (i) internal review under this Act for the decision; or
 - (ii) referral, under the *Energy and Water Ombudsman Act 2006*, for the decision;
- (d) the period within which any internal review or referral must be started or made;
- (e) how the rights of internal review or referral must be exercised;
- (f) for a right of internal review—that a stay of a decision the subject of internal review under this Act may be applied for under this Act.

initial distribution network code means an initial distribution network code made by the Minister under chapter 5A and as amended from time to time under that chapter.

insufficiency of supply declaration see section 251.

insufficiency of supply direction see section 254(1).

internal review application see section 271(1).

internal review decision see section 274(1)(b).

internal review notice see section 278(1).

lot includes a parcel of land.

LPG, also called ‘LP gas’ and ‘liquefied petroleum gas’, means a substance that—

- (a) is in a gaseous state at standard temperature and pressure; and
- (b) is more than half propane, propylene (also called propene) or butane, in any combination; and
- (c) has been processed to be suitable for consumption.

LPG distribution pipeline means a pipeline that—

- (a) only transports LPG; and
- (b) would, other than for the fact that it only transports LPG, be a distribution pipeline as defined under section 13.

LPG distribution system means a system of pipelines, meters and other equipment that—

- (a) is only for LPG; and
- (b) would, other than for the fact that the system is only for LPG, be a distribution system as defined under section 14.

LPG distributor means a person who—

- (a) owns or operates an LPG distribution pipeline or LPG distribution system; and
- (b) provides services to premises that—
 - (i) relate to the pipeline or system; and

- (ii) would, if the pipeline or system was a distribution pipeline or system, be customer connection services as defined under section 19.

meter means a device used to work out, by direct measurement, the energy, mass or volume of a covered gas transferred from one place to another.

MIRN means a meter identification registration number under the gas retail market procedures.

MIRN premises—

- 1 A **MIRN premises** is premises, a part of premises or a group of premises—
 - (a) that, under the gas retail market procedures, has an established metering installation with a MIRN; or
 - (b) for which, under the gas retail market procedures, a metering installation with a MIRN is to be established.
- 2 However, the term does not include a premises of an excluded customer.

national gas agreement means the ‘Natural Gas Pipelines Access Agreement’ relating to third party access to natural gas pipeline systems entered into by the Commonwealth and all of the States on 7 November 1997, or the agreement as amended.

Editor’s note—

A copy of the agreement is available for inspection free of charge at the department’s office at 61 Mary Street, Brisbane during office hours on business days.

National Gas Law means both of the following—

- (a) the *National Gas (Queensland) Act 2008*;
- (b) the *National Gas (Queensland) Law*.

NERL (Old) see the *National Energy Retail Law (Queensland) Act 2014*, section 3(1).

notice means a written notice.

notified prices see section 228(3).

on a publicly controlled or other place includes over or under the place.

on-supplier see section 213.

on-supplier's premises see section 213(3).

original decision see section 271(1).

Petroleum and Gas (Production and Safety) Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

premises, of a customer, means premises owned or occupied by the customer.

prevent includes each of the following—

- (a) hinder;
- (b) obstruct.

pricing investigation see section 227A(1)(a).

proposed action see section 60(1)(a).

public entity—

- (a) generally—see section 76; and
- (b) for a publicly controlled place—see also section 77(3).

public entity work see section 90.

publicly controlled place see section 77.

QCA means the Queensland Competition Authority established under the QCA Act.

QCA Act means the *Queensland Competition Authority Act 1997*.

QCA code objective see section 270F(1).

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

reasonably believes means to believe on grounds that are reasonable in the circumstances.

receiver, for an on-supplier, see section 213(4).

register of authorities means the register the regulator keeps under section 308.

regulator see section 8.

remedial action see section 96.

remedial action requirement see section 97.

retail contract means a negotiated retail contract or a standard retail contract.

retailer means a retailer under the NERL (Qld), that sells gas to a customer in Queensland.

retailer of last resort scheme means the RoLR scheme under the NERL (Qld), section 122.

reticulated, for a covered gas, see section 15.

reviewer see section 271(2).

RTI excluded information means information that is—

- (a) exempt information under the *Right to Information Act 2009*; or
- (b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4.

sell includes each of the following—

- (a) give or sell;
- (b) agree, attempt or offer to give or sell;
- (c) advertise to give or sell;
- (d) cause or permit to be given or sold;
- (e) give away for swap.

small customer see section 16(3).

standard temperature and pressure means an absolute pressure of 101.325kPa at a temperature of 15°C.

Statewide newspaper means a newspaper or other publication generally circulating in the State.

substantial shareholder, in a corporation, means a person who under the Corporations Act, has a substantial shareholding in the corporation.

suitability criteria see section 32(2).

supply, for a covered gas, includes the transportation or sale of the covered gas.

transmission pipeline see section 12.

transmission pipeline licence means a licence under the Petroleum and Gas (Production and Safety) Act for a transmission pipeline.

warning notice—

- (a) for chapter 5A, part 5—see section 270R(1); or
- (b) for chapter 6, part 1B, division 1—see section 271AC(1).

warning period see section 271AD(1)(c).

work direction see section 87(2).