

2000
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Gas Safety Bill 2000

CONTENTS

Section		Page
PART 1—PRELIMINARY		
1	Name of Act.....	1
2	Commencement	1
3	Dictionary	2
4	Notes.....	2
5	Meaning of <i>gas safety legislation</i>	2
6	References to parts of gas safety legislation	2
PART 2—WORK SAFETY AND STANDARDS		
<i>Division 2.1—Gasfitting work</i>		
7	Work to be done by qualified people	4
8	Standard of work.....	4
9	Compliance indicators and certificates	4
10	Misuse of compliance indicators etc	5
11	False certificates of compliance.....	5
12	Unsafe systems	5

CONTENTS—continued

Section		Page
	<i>Division 2.2—Appliance work</i>	
13	Work to be done by accredited people.....	6
14	Standard of work.....	6
	PART 3—RESPONSIBILITIES OF OWNERS AND USERS	
15	Consumer piping system—owner’s responsibility	7
16	Appliances—owner’s responsibility	7
17	Appliances—user’s responsibility	8
	PART 4—REGULATION OF APPLIANCES	
	<i>Division 4.1—General</i>	
18	Definitions for pt 4.....	9
19	Public access to records of approved appliances etc.....	9
	<i>Division 4.2—Approved appliances</i>	
20	Approval declared by regulations	9
21	Approval by chief executive	9
22	Applications for approval.....	10
23	Cancellation etc.....	10
24	Unapproved appliances not to be sold or used.....	11
25	Compliance indicators to be attached	11
26	Misuse of compliance indicators etc	12
	<i>Division 4.3—Prohibited and unsafe appliances</i>	
27	Prohibited appliances	12
28	Prohibited appliances not to be sold or used.....	12
29	Directions about unsafe appliances.....	13
30	Publication of safety warnings.....	13
	PART 5—SERIOUS GAS ACCIDENTS	
31	Meaning of <i>relevant utility</i>	15
32	Reporting by occupiers and gasfitters etc	15
33	Reporting by relevant utility	15
34	Interference with site of serious gas accident.....	16
35	Publication of report of serious gas accident	16
	PART 6—ENFORCEMENT	
	<i>Division 6.1—General</i>	
36	Definitions for pt 6.....	17
37	Things connected with offences.....	17
38	Chief executive may require information and documents.....	17
39	Contravention of requirement by chief executive	18
40	Appointment of inspectors	18
41	Identity cards.....	19

CONTENTS—continued

Section		Page
	<i>Division 6.2—Inspectors' powers</i>	
42	General power to enter premises.....	19
43	Production of identity card.....	19
44	Consent to entry.....	19
45	Warrants.....	20
46	Warrants—application made other than in person.....	21
47	General powers on entry to premises.....	22
48	Powers in relation to serious gas accidents.....	23
49	Power to inspect gasfitting work and appliance work.....	23
50	Powers in relation to consumer piping systems.....	24
51	Powers in relation to appliances.....	24
52	Defective equipment—disconnection etc.....	25
53	Power to require name and address.....	25
54	Power to seize evidence.....	26
55	Receipt for things seized.....	27
56	Access to things seized.....	27
57	Return of things seized.....	27
	<i>Division 6.3—Miscellaneous</i>	
58	Selfincrimination etc.....	28
59	Legal professional privilege.....	28
60	Providing false or misleading information.....	28
61	Providing false or misleading documents.....	28
62	Obstruction of inspectors.....	29
63	Damage etc to be minimised.....	29
64	Compensation.....	29
	PART 7—FEES	
65	Determination of fees, charges and other amounts.....	30
66	Determined fees payable to Territory etc.....	30
67	Recovery of unpaid fees etc.....	31
68	Regulations may make provision about fees etc.....	31
	PART 8—MISCELLANEOUS	
69	Codes of practice.....	33
70	Review of decisions.....	33
71	Approved forms.....	34
72	Regulation-making power.....	34
	DICTIONARY.....	36

2000
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Gas Safety Bill 2000

A BILL

FOR

**An Act about safety in relation to the use of gas and for
other purposes**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

5

This Act is the *Gas Safety Act 2000*.

2 Commencement

(1) Subject to subsection (2), this Act commences on a single day fixed by the Minister by notice in the Gazette.

(2) If Division 2.2 and Part 4 have not commenced within 12 months beginning on the day this Act is notified in the Gazette, they commence automatically on the first day after that period.

5 (3) Section 10E of the *Interpretation Act 1967* does not apply to Division 2.2 or Part 4.

Note 1 The provisions of this Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

10 *Note 2* If a provision of this Act (other than Division 2.2 or Part 4)) has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

Note 3 The *Interpretation Act 1967*, section 10E applies to an Act unless the Act expressly states it does not apply. Subsection (3) would disapply section 10E in relation to Division 2.2 and Part 4 to allow their commencement in accordance with subsection (2).

15 3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary defines certain words and expressions, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in another Act.

20 For example, the signpost definition ‘gas—see *Utilities Act 2000*, section 8 (Gas—terminology)’ means that the expression ‘gas’ is defined in section 8 of that Act and the definition applies to this Act.

25 *Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Interpretation Act 1967*, s 11F and s 11G).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See *Interpretation Act 1967*, ss 12 (1), (4) and (5) for the legal status of notes.

5 Meaning of gas safety legislation

30 In this Act, the *gas safety legislation* means the following:

- (a) this Act;
- (b) regulations under this Act;
- (c) a code made under this Act.

6 References to parts of gas safety legislation

35 (1) In the gas safety legislation—

- (a) a reference to this Act includes a reference to—
- (i) the regulations and any code made under the Act; and
 - (ii) an instrument applied under the Act, or under regulations or a code made under the Act; and
- 5 (b) a reference to a provision of this Act includes a reference to—
- (i) the regulations or a code made under the Act for the provision; and
 - (ii) an instrument applied under the Act, or regulations or a code made under the Act, for the provision.
- 10 (2) In the gas safety legislation—
- (a) a reference to the regulations made under this Act includes a reference to an instrument applied under the regulations; and
 - (b) a reference to a provision of the regulations made under this Act includes a reference to an instrument applied under the regulations for the provision.
- 15 (3) In the gas safety legislation—
- (a) a reference to a code made under this Act includes a reference to an instrument applied under the code; and
 - (b) a reference to a provision of a code made under this Act includes a reference to an instrument applied under the code for the provision.
- 20 (4) In this section—
- (a) a reference to something is a reference to the thing whether the reference is made generally or specifically; and
 - 25 (b) a reference to an instrument applied under regulations or a code is a reference to an instrument applied whether entirely or in part and whether with or without changes; and
 - (c) a reference to regulations made, or an instrument applied under regulations or a code, for a provision is a reference to regulations made, or an instrument applied under regulations or a code, for the provision whether expressly or otherwise.
- 30 (5) In this section:
- applied*** includes adopted and incorporated.

PART 2—WORK SAFETY AND STANDARDS

Division 2.1—Gasfitting work

7 Work to be done by qualified people

(1) A person must not do gasfitting work unless—

- 5 (a) the person is a gasfitter; or
(b) the person holds a licence under the *Plumbers, Drainers and Gasfitters Board Act 1982* that is prescribed under the regulations and the work is done under the general supervision of a gasfitter.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

10 (2) A person must not do gasfitting work on a high pressure consumer piping system unless—

- (a) the person is an advanced gasfitter; or
(b) the person holds a licence under the *Plumbers, Drainers and Gasfitters Board Act 1982* that is prescribed under the regulations
15 and the work is done under the general supervision of an advanced gasfitter.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

8 Standard of work

The responsible gasfitter must ensure that—

- 20 (a) the gasfitting work is done safely and in accordance with the gas safety legislation; and
(b) the examinations and tests required under the gas safety legislation are done in accordance with the legislation.

Maximum penalty: 50 penalty units.

25 9 Compliance indicators and certificates

(1) As soon as practicable after gasfitting work is completed in accordance with section 8, the responsible gasfitter must, in accordance with the regulations—

- 30 (a) attach a compliance indicator to the relevant consumer piping system; and
(b) give a certificate of compliance for the work to each person prescribed under the regulations.

Maximum penalty: 50 penalty units.

(2) For the gas safety legislation, a *compliance indicator* for gasfitting work is a plate, label, badge or mark that, when attached to the relevant consumer piping system—

- (a) complies with the gas safety legislation; and
- 5 (b) indicates that the system is safe to use and complies with the gas safety legislation.

(3) For the gas safety legislation, a *certificate of compliance* for gasfitting work is a written statement by the responsible gasfitter that, when given in relation to the relevant consumer piping system—

- 10 (a) complies with the gas safety legislation; and
- (b) certifies that—
 - (i) the work complies with the gas safety legislation; and
 - (ii) the system, including appliances, is safe to use and complies with the gas safety legislation.

15 10 Misuse of compliance indicators etc

(1) A person must not attach a compliance indicator to a consumer piping system except in accordance with section 9.

Maximum penalty: 50 penalty units.

20 (2) A person must not attach to a consumer piping system anything that falsely purports to be a compliance indicator.

Maximum penalty: 50 penalty units.

11 False certificates of compliance

A person must not give a certificate that falsely purports to be a certificate of compliance.

25 Maximum penalty: 50 penalty units.

12 Unsafe systems

(1) This section applies if gasfitting work is done in accordance with section 7 (Work to be done by qualified people) and there are reasonable grounds for believing that—

- 30 (a) the relevant consumer piping system is unsafe; and
- (b) action under this section is necessary to ensure the safety of the system.

(2) The responsible gasfitter must, as soon as practicable and in accordance with the regulations—

- (a) deal with the system to ensure its safety; and
- (b) give notice of the circumstances to each person prescribed under the regulations.

Maximum penalty: 50 penalty units.

Division 2.2—Appliance work

13 Work to be done by accredited people

A person must not do appliance work of a particular kind unless accredited to do work of that kind.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

14 Standard of work

A person who does appliance work for which the person is accredited must ensure that—

- (a) the work is done safely and in accordance with the gas safety legislation; and
- (b) the examinations and tests required under the gas safety legislation are done in accordance with the legislation.

Maximum penalty: 50 penalty units.

PART 3—RESPONSIBILITIES OF OWNERS AND USERS

15 Consumer piping system—owner’s responsibility

(1) The owner of premises on which there is a consumer piping system must take reasonable steps to ensure that the system is—

- 5 (a) in good condition and repair; and
(b) safe to use.

Maximum penalty: 20 penalty units.

(2) Without limiting the operation of subsection (1), a person complies with that subsection if—

- 10 (a) the person relies on, and acts in accordance with, the advice of a gasfitter; and
(b) it is reasonable in the circumstances to do so.

(3) For this section, the advice of a gasfitter includes—

- 15 (a) a compliance indicator attached to the consumer piping system by the gasfitter; and
(b) a certificate of compliance given by the gasfitter in relation to the consumer piping system.

16 Appliances—owner’s responsibility

(1) The owner of an appliance must take reasonable steps to ensure that the appliance is—

- 20 (a) in good condition and repair; and
(b) safe to use.

Maximum penalty: 20 penalty units.

(2) Without limiting the operation of subsection (1), a person complies with that subsection if—

- 25 (a) the person relies on, and acts in accordance with—
(i) the manufacturer’s instructions; or
(ii) the advice of a gasfitter or a person accredited to do appliance work; and
30 (b) it is reasonable in the circumstances to do so.

17 Appliances—user’s responsibility

(1) A person who uses an appliance must take reasonable steps to ensure that the appliance is used safely.

Maximum penalty: 20 penalty units.

5 (2) Without limiting the operation of subsection (1), a person complies with that subsection if—

(a) the person relies on, and acts in accordance with—

(i) the manufacturer’s instructions for safe use; or

(ii) the advice of a gasfitter or a person accredited to do
10 appliance work; and

(b) it is reasonable in the circumstances to do so.

PART 4—REGULATION OF APPLIANCES

Division 4.1—General

18 Definitions for pt 4

In this Part:

5 *sell* includes—

- (a) barter or exchange; and
- (b) let on hire; and
- (c) offer, expose or advertise for sale, barter, exchange or letting on hire.

10 *trader* means a person who sells appliances in the course of a trade or business.

19 Public access to records of approved appliances etc

(1) For this section, the chief executive must keep a record of—

- 15 (a) the appliances approved; and
- (b) any cancellations of approvals; and
- (c) any appliances prohibited;

under this Part.

(2) The chief executive must make the record available for public inspection during ordinary office hours at the office of the chief executive and any other place decided by the chief executive.

Division 4.2—Approved appliances

20 Approval declared by regulations

(1) The regulations may declare appliances of a stated kind to be approved.

25 (2) For subsection (1), the regulations may apply, adopt or incorporate matter contained in any document published and in force at a particular time or from time to time.

21 Approval by chief executive

30 (1) The chief executive may, on application, approve appliances of a stated kind if satisfied that—

- (a) the relevant examinations and tests required under the gas safety legislation have been done; and
- (b) appliances of that kind comply with the relevant requirements of the gas safety legislation.

5 (2) The chief executive may not approve appliances of a kind prohibited under this Act, another law of the Territory or a corresponding law.

22 Applications for approval

(1) An application for approval must be in the approved form.

10 (2) The chief executive may, by written notice given to an applicant, require the applicant to—

(a) give the chief executive further stated information or documents;
or

(b) make available to the chief executive stated material, including an appliance typical of the kind to which the application relates;

15 that the chief executive reasonably requires to decide the application.

23 Cancellation etc

(1) The chief executive may cancel an approval under section 21 (Approval by chief executive) for appliances of a particular kind if satisfied that—

20 (a) information supplied with the application for approval was false or misleading in a material particular; or

(b) appliances of that kind have been found—

(i) not to comply with the gas safety legislation; or

(ii) to be unsafe to use.

25 (2) The chief executive must give the applicant for approval written notice of the cancellation, setting out the reasons for the cancellation.

(3) An approval under section 21 for appliances of a particular kind ceases to have effect if—

(a) appliances of that kind become prohibited; or

30 (b) a direction under subsection 29 (2) (Directions about unsafe appliances) is in force in respect of appliances of that kind.

24 Unapproved appliances not to be sold or used

(1) A person must not, without reasonable excuse, sell an appliance that is not approved.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

5 (2) A person must not (whether directly or by an agent), without reasonable excuse, connect an appliance that is not approved to a consumer piping system.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person must not, without reasonable excuse, use an appliance that
10 is not approved for a purpose that involves the use of gas.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(4) This section does not apply in circumstances prescribed under the regulations.

25 Compliance indicators to be attached

15 (1) A trader must not, without reasonable excuse, sell an appliance if a compliance indicator is not attached to the appliance in accordance with the regulations.

Maximum penalty: 50 penalty units.

(2) For the gas safety legislation, a *compliance indicator* for an
20 appliance is a plate, label, badge or mark that, when attached to an appliance—

(a) complies with the gas safety legislation or a corresponding law;
and

(b) indicates that the appliance is safe to use and complies with the
25 gas safety legislation or a corresponding law.

(3) Subsection (1) does not apply if—

(a) the trader believed on reasonable grounds that the appliance was
not capable of being used as an appliance; and

(b) the sale was made on the basis that the appliance could not be
30 used as an appliance.

(4) Subsection (1) does not apply to—

(a) a second-hand appliance; or

(b) an appliance within 6 months after it becomes an approved
appliance.

26 Misuse of compliance indicators etc

(1) A person must not attach a compliance indicator to an appliance except in accordance with the regulations.

Maximum penalty: 50 penalty units.

5 (2) A person must not attach a compliance indicator to an appliance that is not approved.

Maximum penalty: 50 penalty units.

(3) A person must not attach to an appliance anything that falsely purports to be a compliance indicator.

10 Maximum penalty: 50 penalty units.

Division 4.3—Prohibited and unsafe appliances

27 Prohibited appliances

(1) The chief executive may, by notice in the Gazette, prohibit the sale or installation of appliances of a stated kind.

15 (2) The chief executive may act under subsection (1) only if satisfied that—

(a) appliances of that kind are, or are likely to become, unsafe to use because of their design or construction; and

20 (b) the use of an appliance of that kind involves, or would involve, a risk of death or injury to a person or damage to property.

(3) The chief executive must publish notice of each prohibition in a daily newspaper.

25 (4) If an appliance approved under section 20 (Approval declared by regulations) or 21 (Approval by chief executive) becomes prohibited, the approval ceases to have effect when the prohibition takes effect.

28 Prohibited appliances not to be sold or used

(1) A person must not, without reasonable excuse, sell an appliance that is prohibited.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

30 (2) A person must not (whether directly or by an agent), without reasonable excuse, connect an appliance that is prohibited to a consumer piping system.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) A person must not, without reasonable excuse, use an appliance that is prohibited for a purpose that involves the use of gas.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(4) This section does not apply in circumstances prescribed under the regulations.

29 Directions about unsafe appliances

(1) This section applies if the chief executive is satisfied that—

- (a) a trader has for sale, or may have sold, an appliance; and
- (b) the appliance is prohibited, does not comply with the gas safety legislation or is, for any reason, unsafe.

(2) The chief executive may give the trader a written direction to do any of the following:

- (a) advertise, in a manner specified in the direction, warnings approved by the chief executive about the risks associated with the use of the appliance;
- (b) refrain from selling the appliance;
- (c) recall an appliance sold and—
 - (i) take action stated in the direction to make the appliance safe to use and compliant with the gas safety legislation; or
 - (ii) if it is not practicable to act in compliance with subparagraph (i) or the trader chooses not to take such action—refund to the purchaser the purchase price of the appliance.

(3) A direction to recall an appliance may require the trader—

- (a) to give written notice of the recall to people to whom the trader sold, or may have sold, an appliance to which the direction relates; or
- (b) to publish a notice of the recall in a daily newspaper.

(4) A trader must not, without reasonable excuse, contravene a direction given to the trader under this section.

Maximum penalty: 200 penalty units.

30 Publication of safety warnings

(1) The chief executive may publish warnings or information to increase public awareness about risks associated with the use of appliances.

(2) Without limiting the operation of subsection (1), the chief executive may publish statements containing advice about the use of—

(a) a prohibited appliance; or

(b) an appliance to which a direction under section 29 applies.

5 **(3)** No personal liability attaches to a person for an act or omission in good faith in relation to the performance, or purported performance, of a function under this section.

10 **(4)** Subsection (3) does not affect any liability that the Territory would have, but for the operation of subsection (3), in relation to the act or omission.

PART 5—SERIOUS GAS ACCIDENTS

31 Meaning of *relevant utility*

In this Part:

relevant utility, in relation to a serious gas accident, means—

- 5
- (a) the utility licensed to supply gas to the premises at which the accident occurred; or
 - (b) the utility licensed to distribute gas for supply to the premises.

32 Reporting by occupiers and gasfitters etc

10 (1) The occupier of premises at which a serious gas accident occurs must tell each relevant utility about the accident, by telephone, immediately after becoming aware of it.

15 (2) If a serious gas accident occurs in relation to a consumer piping system, or an appliance, on which a person is working, the person must tell each relevant utility about the accident, by telephone, immediately after becoming aware of it.

(3) A person must not, without reasonable excuse, contravene subsection (1) or (2).

Maximum penalty: 50 penalty units.

20 (4) Without limiting the operation of subsection (3), it is a reasonable excuse for a contravention of subsection (1) or (2) to believe on reasonable grounds that the relevant utility had been told about the accident.

33 Reporting by relevant utility

25 A relevant utility that becomes aware of the occurrence of a serious gas accident must not fail, without reasonable excuse, to tell the chief executive about the accident, by telephone, immediately after becoming aware of it.

Maximum penalty: 500 penalty units.

34 Interference with site of serious gas accident

(1) A person must not, without reasonable excuse, disturb or interfere with the site of a serious gas accident before it has been inspected by an inspector, except—

- 5 (a) to make it safe; or
(b) with the permission of an inspector.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) Subsection (1) does not apply to disturbance or interference by the person—

- 10 (a) except where paragraph (b) applies—more than 24 hours after the accident; or
(b) if, within the 24 hours, the chief executive extends the period and tells the person of the extension—after the extended period expires.

15 **35 Publication of report of serious gas accident**

(1) The chief executive may publish a report about a serious gas accident in the interest of public safety.

20 (2) No personal liability attaches to a person for an act or omission in good faith in relation to the performance, or purported performance, of a function under this section.

(3) Subsection (2) does not affect any liability that the Territory would have, but for the operation of subsection (2), in relation to the act or omission.

PART 6—ENFORCEMENT

Division 6.1—General

36 Definitions for pt 6

In this Part:

5 **business premises** means premises in which a business, trade, profession or calling is carried on, other than a part used for residential purposes.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be committed.

10 37 Things connected with offences

For this Part, a thing is connected with a particular offence if—

- (a) the offence has been committed with respect to it; or
- (b) it will afford evidence of the commission of the offence; or
- 15 (c) it was used, is being used, or is intended to be used, for the purpose of committing the offence.

38 Chief executive may require information and documents

(1) If the chief executive is satisfied that a person is capable of providing information or producing a document that the chief executive reasonably requires for the gas safety legislation, the chief executive may, 20 by written notice given to the person, require the person—

- (a) to give the information to the chief executive in writing signed by the person or, in the case of a corporation, by an officer of the corporation; or
- (b) to produce the document to the chief executive.

25 (2) The notice must state—

- (a) the place at which the information or document is to be given or produced to the chief executive; and
- (b) the time at which, or the period within which, the information or document is to be given or produced.

30 (3) If a document is produced in accordance with a requirement under subsection (1), the chief executive—

- (a) may—
- (i) take possession of, and may make a copy of, or take extracts from, the document; and
 - (ii) retain possession of the document for such period as is necessary for the gas safety legislation; and
- (b) must, during that period, allow a person who would be entitled to inspect the document, if it were not in the possession of the chief executive, to inspect the document at any reasonable time.

39 **Contravention of requirement by chief executive**

A person must not, without reasonable excuse, contravene a requirement under section 38.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

40 **Appointment of inspectors**

(1) The chief executive may, in writing, appoint a person to be an inspector for the gas safety legislation.

(2) An inspector must perform his or her functions in accordance with the conditions of appointment.

(3) A person must not be appointed under subsection (1) unless—

(a) the person is an Australian citizen or a permanent resident of Australia; and

(b) the chief executive has certified in writing that, after appropriate inquiry, the chief executive is satisfied that the person is a suitable person to be appointed, having regard in particular to—

(i) whether the person has any criminal convictions; and

(ii) the person's employment record; and

(c) the chief executive has certified in writing that the chief executive is satisfied that the person—

(i) has satisfactorily completed adequate training; and

(ii) is competent;

to exercise the powers of an inspector proposed to be given to the person.

41 Identity cards

(1) The chief executive must give to each inspector an identity card that specifies the inspector's name and appointment as an inspector, and on which appears a recent photograph of the inspector.

- 5 (2) A person must, within 7 days after ceasing to be an inspector, return the identity card to the chief executive.

Maximum penalty (subsection (2)): 1 penalty unit.

Division 6.2—Inspectors' powers

42 General power to enter premises

- 10 (1) For the gas safety legislation, an inspector may—

- (a) enter any premises at any time with the consent of the occupier; or
- (b) enter premises when open to the public; or
- (c) enter business premises during business hours at the premises; or
- (d) enter premises in accordance with a warrant under this Division.

- 15 (2) An inspector may, without the occupier's consent or a warrant, enter the land around premises to ask the occupier for consent to enter the premises.

43 Production of identity card

- 20 An inspector may not remain on premises entered under this Part if, on request by the occupier, the inspector does not produce his or her identity card.

44 Consent to entry

(1) When seeking the consent of an occupier for entering premises under this Part, an inspector must—

- 25 (a) produce his or her identity card; and
- (b) tell the occupier—
- (i) the purpose of the entry; and
 - (ii) that anything found and seized under this Part may be used in evidence in court; and
 - 30 (iii) that consent may be refused.

(2) If the occupier consents, the inspector must ask the occupier to sign a written acknowledgment—

- (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found and seized under this Part may be used in evidence in court; and
 - 5 (iii) that consent may be refused; and
- (b) that the occupier consented to the entry; and
- (c) stating the time, and day, when consent was given.

(3) If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.

10 (4) Unless the contrary is proven, a court must presume that an occupier of premises did not consent to an entry to the premises by an inspector under this Part if—

- (a) the question whether the occupier consented to the entry arises in proceedings in the court; and
- 15 (b) an acknowledgment under this section is not produced in evidence for the entry; and
- (c) it is not proved that the occupier consented to the entry.

45 Warrants

20 (1) An inspector may apply to a magistrate for a warrant to enter premises.

(2) The application must be sworn and state the grounds on which the warrant is sought.

25 (3) The magistrate may refuse to consider the application until the inspector gives to the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the *evidence*) connected with an offence against the gas safety legislation; and
- 30 (b) the evidence is, or may be within the next 14 days, at the premises.

(5) The warrant must state—

- (a) that an inspector may, with necessary help and force, enter the premises and exercise the inspector's powers under this Part; and

- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours when the premises may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

5

46 Warrants—application made other than in person

(1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances.

10

(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is sworn.

15

(4) After issuing the warrant, the magistrate must immediately fax a copy to the inspector if it is reasonably practicable to do so.

(5) If it is not reasonably practicable to fax a copy to the inspector—

20

- (a) the magistrate must—
 - (i) tell the inspector what the terms of the warrant are; and
 - (ii) tell the inspector the date and time the warrant was issued; and
- (b) the inspector must complete a form of warrant (*warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.

25

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the inspector's powers under this Part.

30

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

- (a) the sworn application; and
- (b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proven, a court must presume that a power exercised by an inspector was not authorised by a warrant under this section if—

- (a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and
- (b) the warrant is not produced in evidence.

47 General powers on entry to premises

(1) An inspector who enters premises under this Part may, for the gas safety legislation—

- (a) inspect, measure, photograph or film the premises or anything on the premises; or
- (b) copy a document on the premises; or
- (c) test or take samples of or from anything on the premises; or
- (d) take into the premises any people, equipment or material the inspector reasonably needs for exercising a power under the gas safety legislation; or
- (e) require the occupier, or a person on the premises, to give to the inspector reasonable help to exercise a power under the gas safety legislation.

(2) Without limiting the operation of subsection (1), an inspector who enters premises under this Part may—

- (a) check whether any consumer piping system or appliance on the premises—
 - (i) is safe; or
 - (ii) complies with the gas safety legislation; or
 - (iii) has a compliance indicator attached as required under the gas safety legislation; or
 - (iv) in the case of an appliance—is prohibited; or
- (b) check whether any work done on a consumer piping system or an appliance—
 - (i) is safe; or
 - (ii) has been, or is being, done in accordance with the gas safety legislation.

(3) A person must not, without reasonable excuse, contravene a requirement under paragraph (1) (e).

Maximum penalty: 50 penalty units.

48 Powers in relation to serious gas accidents

5 (1) This section applies if an inspector believes on reasonable grounds that a serious gas accident has occurred on premises.

(2) The inspector may enter the premises at any reasonable time to investigate the accident, ensure the premises are safe and prevent the concealment, loss or destruction of anything reasonably relevant to the investigation.

(3) The inspector may do anything necessary and reasonable for a purpose mentioned in subsection (2).

15 (4) If an inspector acts under this section in the absence of the occupier, the inspector must, when leaving the premises, leave a written notice, secured in a conspicuous place, setting out—

- (a) the inspector's name; and
- (b) the time and date of the entry; and
- (c) the purpose of the entry; and
- (d) particulars of how to contact the inspector.

20 (5) The power to enter premises under this section is additional to the powers under section 42 (General power to enter premises).

49 Power to inspect gasfitting work and appliance work

(1) An inspector may enter and remain on premises to conduct a test or inspection required in order to ascertain whether gasfitting work or appliance work has been done in accordance with Part 2 (Work safety and standards).

(2) An inspector may enter and remain on the premises under subsection (1)—

- (a) at any reasonable time; and
- 30 (b) with the people, equipment or material that the inspector reasonably needs to conduct the test or inspection.

(3) However, the inspector may not, under this section—

- (a) enter or remain on premises if, on request by the occupier, the inspector does not produce his or her identity card; or
- (b) without the consent of the occupier, enter or remain on any part of the premises used for residential purposes.

5 (4) The power to enter premises under this section is additional to the powers under section 42 (General power to enter premises).

50 Powers in relation to consumer piping systems

(1) This section applies if an inspector believes on reasonable grounds that—

- 10 (a) a consumer piping system does not comply with the gas safety legislation or is unsafe; or
- (b) gasfitting work has been done otherwise than in accordance with the gas safety legislation.

15 (2) The inspector may give the occupier of the premises where the consumer piping system is situated a written direction not to use any appliance connected to the system until the system is made safe and compliant with the gas safety legislation.

20 (3) The inspector may give the owner of the consumer piping system a written direction to arrange for the system to be isolated or disconnected until the system is made safe and compliant with the gas safety legislation.

25 (4) If the inspector believes on reasonable grounds that a consumer piping system is unsafe because work done or supervised by a gasfitter was not done in accordance with the gas safety legislation, the inspector may give the gasfitter a written direction to take stated action to make the system safe and compliant with the gas safety legislation.

(5) A person must not, without reasonable excuse, contravene a direction given to the person under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

51 Powers in relation to appliances

30 (1) This section applies if an inspector believes on reasonable grounds that—

- (a) a person has an appliance that is—
 - (i) connected to a consumer piping system; or
 - (ii) for sale; and

(b) the appliance is not safe or compliant with the gas safety legislation.

(2) The inspector may give the person a written direction—

(a) not to use the appliance; or

5 (b) to arrange for it to be disconnected from the consumer piping system; or

(c) not to sell the appliance;

unless it is made safe and compliant with the gas safety legislation.

10 (3) If the inspector believes on reasonable grounds that an appliance is unsafe because work done on it by an accredited person was not done in accordance with the gas safety legislation, the inspector may give the accredited person a written direction to take stated action to make the appliance safe and compliant with the gas safety legislation.

15 (4) A person must not, without reasonable excuse, contravene a direction given to the person under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

52 Defective equipment—disconnection etc

20 (1) If an inspector enters premises under this Part and finds a consumer piping system or an appliance that the inspector believes on reasonable grounds is unsafe, the inspector may—

(a) isolate or disconnect the consumer piping system and label it conspicuously to indicate the danger; or

(b) disconnect the appliance and label it conspicuously to indicate the danger.

25 (2) A person must not—

(a) use an appliance labelled under subsection (1) until it has been repaired or otherwise made safe to use; or

(b) without reasonable excuse, remove or interfere with a label mentioned in paragraph (1) (a) or (b).

30 Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

53 Power to require name and address

(1) An inspector may require a person to state the person's name and address if the inspector—

- (a) finds a person committing an offence against the gas safety legislation; or
- (b) has reasonable grounds for believing that a person has committed an offence against the gas safety legislation.

5 (2) In exercising a power under subsection (1), an inspector must—

- (a) inform the person of the reasons for the requirement; and
- (b) as soon as practicable thereafter, record those reasons.

(3) A person is not required to comply with a requirement under subsection (1) if, on request by the person, the inspector does not produce
10 his or her identity card.

(4) Subject to this section, a person must not, without reasonable excuse, contravene a requirement under subsection (1).

Maximum penalty (subsection (4)): 5 penalty units.

54 Power to seize evidence

15 (1) An inspector who enters premises under a warrant under this Part may seize the evidence for which the warrant was issued.

(2) An inspector who enters premises under this Part with the consent of the occupier may seize a thing on the premises if—

- 20 (a) the inspector is satisfied the thing is connected with an offence against the gas safety legislation; and
- (b) seizure of the thing is consistent with the purpose of the entry as told to the occupier when seeking the occupier's consent.

(3) An inspector may also seize anything on premises entered under this Part if the inspector is satisfied that—

- 25 (a) the thing is connected with an offence against the gas safety legislation; and
- (b) the seizure is necessary to prevent the thing from being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.

30 (4) Having seized a thing, an inspector may—

- (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
- (b) leave the thing at the place of seizure but restrict access to it.

(5) A person must not, without the chief executive's approval, interfere with a thing to which access has been restricted under subsection (4).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

55 Receipt for things seized

5 (1) As soon as practicable after a thing is seized by an inspector under this Part, the inspector must give a receipt for it to the person from whom it was seized.

10 (2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must leave the receipt, secured conspicuously at the place of seizure.

56 Access to things seized

A person who would, but for the seizure, be entitled to a thing seized under this Part may—

(a) inspect it; and

15 (b) if it is a document—take extracts from it or make copies of it.

57 Return of things seized

(1) A thing seized under this Part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

20 (a) a prosecution for an offence relating to the thing is not instituted within 90 days of the seizure; or

(b) the court does not find the offence proved in a prosecution for an offence relating to the thing.

25 (2) A thing seized under this Part is forfeited to the Territory if a court—

(a) finds an offence relating to the thing to be proved; and

(b) orders the forfeiture.

30 (3) If paragraph (2) (a) applies, but a court does not order forfeiture of the thing seized, the chief executive must return the thing to its owner or the Territory must pay reasonable compensation to the owner for the loss of the thing.

Division 6.3—Miscellaneous

58 Selfincrimination etc

(1) A person is not excused from providing information or producing a document when required to do so under this Part on the ground that the information or document may tend to incriminate the person.

(2) However—

- (a) the provision of the information or document; or
- (b) any other information, document or thing obtained as a direct or indirect consequence of providing the information or document;

is not admissible in evidence against the person in criminal proceedings.

(3) Subsection (2) does not apply to proceedings for—

- (a) an offence under this Part; or
- (b) any other offence in relation to the falsity of the information or document; or
- (c) an offence under or by virtue of Part 8 of the *Crimes Act 1900* that relates to an alleged offence mentioned in paragraph (a) or (b).

59 Legal professional privilege

In response to a requirement under this Part, a person does not have to—

- (a) make available information or a document; or
- (b) answer a question;

if the person is entitled to claim, and does claim, legal professional privilege in relation to the requirement.

60 Providing false or misleading information

A person must not, in purported compliance with a requirement under this Part, knowingly give information that is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

61 Providing false or misleading documents

A person must not, in purported compliance with a requirement under this Part, produce a document (or a copy of a document) that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

62 Obstruction of inspectors

A person must not, without reasonable excuse, hinder or obstruct an inspector in the exercise of a function under the gas safety legislation.

5 Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

63 Damage etc to be minimised

(1) In the performance, or purported performance, of a function under this Part, an inspector must take all reasonable steps to ensure that the inspector, and any person assisting the inspector, causes as little
10 inconvenience, detriment and damage as is practicable.

(2) If an inspector, or a person assisting an inspector, damages anything in the performance or purported performance of a function under this Part, the inspector must give written notice of the particulars of the damage to the person whom the inspector believes on reasonable grounds is the owner
15 of the thing.

(3) If the damage occurs on premises entered under this Part in the absence of the occupier, the notice may be given by securing it in a conspicuous place on the premises.

64 Compensation

(1) A person may claim reasonable compensation from the Territory if
20 the person suffers loss or expense because of the performance, or purported performance, of a function under this Part by an inspector or a person assisting an inspector.

(2) Compensation may be claimed and ordered in a proceeding for—
25 (a) compensation brought in a court of competent jurisdiction; or
(b) an offence against the gas safety legislation brought against the person making the claim for compensation.

(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the
30 circumstances of the particular case.

(4) The regulations may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

PART 7—FEES

65 Determination of fees, charges and other amounts

(1) The Minister may, in writing, determine fees, charges and other amounts payable under the gas safety legislation.

5 (2) Without limiting subsection (1), a fee, charge or other amount may be determined—

(a) by specifying the amount; or

(b) by setting a rate, or providing a formula or other method, by which the amount is to be worked out.

10 (3) A determination—

(a) must provide who is liable to pay a fee, charge or other amount; and

15 (b) may make provision about when the fee, charge or other amount is payable and how it is to be paid (for example, as a lump sum or by instalments); and

(c) may make provision about anything else relating to the fee, charge or other amount.

(4) A determination under subsection (1) is a disallowable instrument.

20 (5) A reference in this Part to a fee, charge or other amount includes a reference to a fee, charge or other amount that is a tax.

66 Determined fees payable to Territory etc

25 (1) A fee, charge or other amount determined under section 65 is payable to the Territory, in relation to the relevant matter mentioned in the determination and in accordance with the determination, by the person liable to pay the fee, charge or other amount under the determination.

(2) A fee, charge or other amount determined under section 65 is payable in advance unless the determination provides otherwise.

30 (3) If a fee, charge or other amount determined under section 65 is payable in advance in relation to the exercise of a function and the amount has not been paid, the person who, apart from this section, would be required to exercise the function, is not obliged to exercise the function, or provide a service or facility, in relation to which the amount is payable.

67 Recovery of unpaid fees etc

Any unpaid fee, charge or other amount payable to the Territory by a person under the gas safety legislation is a debt payable to the Territory by the person and may be recovered in a proceeding brought against the person in the Magistrates Court.

68 Regulations may make provision about fees etc

(1) The regulations may make provision with respect to fees, charges and other amounts payable under the gas safety legislation, including, for example—

- (a) their collection and recovery; and
- (b) their refund, or part refund, including whether a person is entitled (or not entitled) to a refund, or part refund in cases where the effect of the exercise of a function in relation to which a fee, charge or other amount has been suspended, cancelled, revoked or surrendered or in any other circumstances prescribed under the regulations; and
- (c) their remission, waiver or postponement; and
- (d) anything about which provision may be made by determination under section 65 (Determination of fees, charges and other amounts).

(2) Without limiting subsection (1), the regulations may make provision with respect to the payment by cheque or credit card of fees, charges and other amounts, including, for example, the consequences of a cheque not being met on presentation or a credit card transaction not being honoured.

(3) Without limiting subsections (1) and (2), the regulations may make provision for or with respect to—

- (a) the suspension, cancellation or revocation of an approval, authority, certificate, exemption, licence, permission, or anything else issued or done, under the gas safety legislation if any fee, charge or other amount payable under that legislation for or in relation to it—
 - (i) is not paid when it is required to be paid; or
 - (ii) is paid by cheque and the cheque is not met on presentation; or
 - (iii) is paid by credit card and the credit card transaction is not honoured; or

- (b) the restoration (whether prospectively or during any past period of suspension, cancellation or revocation) of an approval, authority, certificate, exemption, licence, permission, registration or anything else so suspended, cancelled or revoked.

PART 8—MISCELLANEOUS

69 Codes of practice

(1) A code of practice may set out practices, standards and other matters about—

- 5 (a) the safe installation, connection, repair, maintenance or operation of consumer piping systems or appliances; or
(b) notifications and certifications on completion of any gasfitting work or appliance work.

10 (2) The Minister may, by notice in the Gazette, approve a code of practice or a variation of a code.

(3) Without limiting subsection (2), a code may apply all or part of an instrument made or published by any entity, whether or not under a corresponding law.

15 (4) An approval notice under subsection (2) is a disallowable instrument.

(5) For the gas safety legislation, a code is relevant to gasfitting or appliance work, a consumer piping system or an appliance if the code purports to apply to it.

20 (6) The chief executive must make a copy of each code available, and any instrument applied by the code, for public inspection and during ordinary office hours at the office of the chief executive and at any other place decided by the chief executive.

(7) In this section:

applied includes adopted and incorporated.

25 70 Review of decisions

(1) Application may be made to the administrative appeals tribunal for review of any of the following decisions:

- 30 (a) a decision by the chief executive—
(i) to refuse to approve appliances of a particular kind under subsection 21 (1) (Approval by chief executive); or
(ii) to cancel an approval in relation to appliances under section 23 (Cancellation etc); or

- (iii) to prohibit the sale or installation of appliances of a particular kind under section 27 (Prohibited appliances); or
- (iv) to give a direction under section 29 (Directions about unsafe appliances);

5 (b) a decision by an inspector—

- (i) to give a direction under section 50 (Powers in relation to consumer piping systems); or
- (ii) to give a direction under section 51 (Powers in relation to appliances).

10 (2) If a decision referred to in subsection (1) is made, the decision-maker must give written notice of the decision to the person affected by the decision.

(3) A notice under subsection (2) must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

15

71 Approved forms

(1) The chief executive may approve forms for the gas safety legislation.

(2) If the chief executive approves a form for a particular purpose, the form must be used for that purpose.

20

72 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) The regulations may make provision in relation to—

- (a) the construction, installation or positioning of consumer piping systems or appliances; and
 - (b) the safety of people who own, or are likely to be near, a consumer piping system or an appliance; and
 - (c) the doing, inspecting and testing of gasfitting work or appliance work, including requirements for related notices; and
 - (d) compliance indicators, including their attachment to consumer piping systems or appliances and their removal; and
 - (e) certificates of compliance, including their provision and safekeeping; and
 - (f) the accreditation of people for appliance work, including—
- 25
- 30

- (i) the qualifications and practical experience required for accreditation; and
 - (ii) the imposition of conditions on accreditation; and
 - (iii) the duration and renewal of accreditation; and
 - 5 (iv) the suspension or cancellation of accreditation; and
 - (g) meters.
- (3) The regulations may create offences punishable by maximum penalties of not more than 10 penalty units.
-

DICTIONARY

(See s 3)

accredited, in relation to appliance work of a particular kind, means accredited under the regulations for work of that kind.

5 **advanced gasfitter** means a person who holds an advanced gasfitter's licence under the *Plumbers, Drainers and Gasfitters Board Act 1982*.

appliance means a gas burning appliance that is manufactured, adapted or designed for connection to a consumer piping system, whether by means of a gas outlet, socket or otherwise.

10 **appliance work** means the maintenance, repair or service of an appliance other than—

(a) gasfitting work; or

(b) work done in accordance with the manufacturer's instructions for performance by an unaccredited person.

15 **approved**, in relation to an appliance—see sections 20 (Approval declared by regulations) and 21 (Approval by chief executive).

certificate of compliance, for gasfitting work—see section 9 (Compliance indicators and certificates).

20 **code** means a code of practice approved under section 69 (Codes of practice) as varied and in force from time to time.

compliance indicator—

(a) for gasfitting work or in relation to a consumer piping system—see section 9 (Compliance indicators and certificates); and

25 (b) for an appliance—see section 25 (Compliance indicators to be attached).

consumer piping system means a system of pipes, fittings, flexible hoses, components and equipment that conveys gas from the outlet of a meter to the inlet of an appliance.

30 **corresponding law** means a law of another jurisdiction declared by the regulations to be a corresponding law.

daily newspaper means a daily newspaper that circulates generally in the Territory.

DICTIONARY—continued

equipment includes items such as pressure control devices, excess flow valves, control valves and filters.

gas—see *Utilities Act 2000*, section 8 (Gas—terminology).

5 **gasfitter** means a person who holds a gasfitter's licence, or an advanced gasfitter's licence, under the *Plumbers, Drainers and Gasfitters Board Act 1982*.

gasfitting work means—

- 10 (a) work on a consumer piping system or a proposed system, including the connection or disconnection of an appliance other than an appliance designed to be portable by users; or
- (b) the inspection or testing of a consumer piping system and the connection of an appliance to which paragraph (a) applies; or
- 15 (c) work declared under the regulations to be gasfitting work; but does not include work declared by the regulations not to be gasfitting work.

gas network—see *Utilities Act 2000*, dictionary.

gas safety legislation—see section 5 (Meaning of *gas safety legislation*).

20 **high pressure consumer piping system** means a consumer piping system that conveys gas at a pressure greater than 21 kPa.

inspector means a person appointed under section 40 (Appointment of inspectors).

25 **meter** means a meter for measuring the quantity of gas supplied to premises from a gas network.

occupier, of premises, includes—

- 30 (a) a person who appears to be at least 18 years of age and is believed on reasonable grounds to be an occupier of the premises; and
- (b) a person apparently in charge of the premises.

owner, of premises, means—

DICTIONARY—continued

- (a) for premises where the land is held in fee simple—the person in whom the fee simple is vested for the time being; and
- (b) for leased premises—the lessor.

5 **premises** means a building, structure or place (whether built on or not and whether enclosed or not) and includes an aircraft, a vessel and a vehicle.

prohibited, in relation to an appliance—see section 27 (Prohibited appliances).

10 **responsible gasfitter** means—

- (a) for gasfitting work (other than gasfitting work on a high pressure consumer piping system)—the gasfitter who does the work, or supervises the work in accordance with subsection 7 (1); or
- 15 (b) for gasfitting work on a high pressure consumer piping system—the advanced gasfitter who does the work, or supervises the work in accordance with subsection 7 (2).

serious gas accident means an accident in which gas causes, or contributes to—

- 20 (a) the death of a person; or
- (b) injury to a person that requires medical attention; or
- (c) damage to property where the reasonable cost of repair or replacement exceeds the amount prescribed under the regulations for this definition; or
- 25 (d) a fire.

utility—see *Utilities Act 2000*, dictionary.

Endnote

Penalty units

Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.

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