



AUSTRALIAN CAPITAL TERRITORY

Gas Act 1992

No. 41 of 1992

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Reticulation of gas
5. Act binds Crown
6. Objectives

PART II—GAS AUTHORITY

Division 1—Establishment, functions and powers

7. Establishment
8. Functions
9. Directions from Minister
10. Power to require information
11. Powers generally
12. Annual report

Division 2—Constitution and meetings

13. Membership
14. Term of office
15. Remuneration and allowances
16. Leave of absence
17. Resignation

TABLE OF PROVISIONS—continued

Section

- 18. Deputies of members
- 19. Termination of appointment
- 20. Meetings
- 21. Disclosure of interests where Authority constituted by 3 members
- 22. Disclosure of interests where Authority constituted by 1 member
- 23. Pecuniary interests

PART III—REVIEW PANELS

- 24. Interpretation
- 25. Establishment
- 26. Powers
- 27. Membership
- 28. Deputies of members
- 29. Qualifications of members and deputies of members
- 30. Remuneration and expenses
- 31. Termination of appointment
- 32. Conduct of business
- 33. Recovery of costs of investigations

PART IV—AUTHORISATION TO RETICULATE GAS

- 34. Authorisation required to reticulate gas
- 35. Application
- 36. Grant
- 37. Condition as to price for tariff customers
- 38. Other kinds of conditions
- 39. Amendment of conditions
- 40. Minister may amend certain conditions
- 41. Revocation
- 42. Surrender

**PART V—ENERGY RESEARCH AND DEVELOPMENT
LEVY**

- 43. Liability for levy
- 44. Amount payable
- 45. Method of payment
- 46. Cessation as authorised distributor
- 47. Returns
- 48. Recovery of levy
- 49. Payments into Trust Account
- 50. Expenditure of moneys in Trust Account

**PART VI—GAS TECHNICAL CONTROLLER AND
INSPECTORS***Division 1—General*

- 51. Appointment of Controller

TABLE OF PROVISIONS—continued

Section

- 52. Functions of Controller
 - 53. Acting Controller
 - 54. General powers
 - 55. Delegation
 - 56. Appointment of inspectors
 - 57. Identity cards
 - 58. Obstruction of Controller or inspectors
- Division 2—Gas reticulation systems*
- 59. Notice to comply with Act and Manual
 - 60. Authorised distributors may be required to perform tests
 - 61. Directions to cut off gas supply
 - 62. Emergency powers
 - 63. Inspectors may inspect and perform tests
 - 64. Authorised distributors to assist inspectors
 - 65. Controller and inspectors may obtain information

Division 3—Premises

- 66. Interpretation
- 67. Entry and inspection
- 68. Consent to entry and inspection
- 69. Search warrants

PART VII—GAS MANUAL

- 70. Preparation and amendment
- 71. Publication
- 72. Disallowance
- 73. Inspection
- 74. Compliance with Manual
- 75. Evidence

**PART VIII—CONSTRUCTION AND MAINTENANCE
OF WORKS**

- 76. Controlled activity
- 77. Entry and survey of land
- 78. Construction of gas reticulation systems
- 79. Removal of vegetation
- 80. Compensation for damage
- 81. Protection of underground lines and pipes
- 82. Removal of authorised distributor's property and waste
- 83. Maintenance of gas reticulation systems
- 84. Plans to be available

PART IX—SUPPLY AND CONSUMPTION OF GAS

- 85. Requests to connect land to gas reticulation systems
- 86. Requests to supply gas to premises
- 87. Gas supply to be metered

TABLE OF PROVISIONS—continued

Section

- 88. Meters
- 89. Installation of pipes etc.
- 90. Testing meters for consumers
- 91. Testing meters for authorised distributors
- 92. Faulty meters—adjustment of accounts
- PART X—GASFITTING**
- 93. Interpretation
- 94. Gasfitting work
- 95. Advanced gasfitting work
- PART XI—INTERFERENCE WITH GAS RETICULATION SYSTEMS**
- 96. Unauthorised connection to gas reticulation system
- 97. Interference with works
- 98. Excavation near gas reticulation system
- 99. Intentional interference or damage
- 100. Interference with markers, lights, fences or barricades
- PART XII—MISCELLANEOUS**
- 101. Investigation of leakages
- 102. Notification of leakages
- 103. Notification of death, injury or damage
- 104. Interference with gas reticulation systems
- 105. Rights of authorised distributors
- 106. Meters not to be taken in execution etc.
- 107. Notification of changes to public streets
- 108. Changes to public streets etc.
- 109. Approval of secondary gas activities
- 110. Review of decisions
- 111. Determined fees etc.
- 112. Regulations



AUSTRALIAN CAPITAL TERRITORY

Gas Act 1992

No. 41 of 1992

An Act to make provision with respect to the reticulation and consumption of gas, the regulation of authorised distributors, the imposition of an energy research and development levy and for related purposes

[Notified in ACT Gazette S103: 8 July 1992]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Gas Act 1992*.

Commencement

2. (1) This Act commences on a day fixed by the Minister by notice in the *Gazette*.
- (2) If this Act has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, this Act, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“acceptable percentage” means +2% or -3%;

“apparatus” includes any installation or appliance;

“authorisation” means an authorisation to reticulate gas granted under section 36;

“authorised distributor” means a person authorised to reticulate gas under section 36;

“Authority” means the Gas Authority established by section 7;

“business day” means a day other than—

- (a) a Saturday;
- (b) a Sunday; or
- (c) a day that is a public holiday in the Territory;

“Chairperson” means the Chairperson of the Authority appointed under paragraph 13 (1) (b);

“clear”, in relation to vegetation, means remove, fell, lop, prune or trim the vegetation;

“commercial premises” means premises in which a business, trade, profession or calling is carried on, excluding any part of the premises that is used for residential purposes;

“consumer” means a person (other than a person who reticulates gas) to whom gas is reticulated by an authorised distributor;

“Controller” means the Gas Technical Controller appointed under section 51;

“determined fee” means the fee determined under paragraph 111 (1) (a) for the purposes of the provision in which the expression occurs;

“gas” means—

- (a) a combustible gas capable of being used to supply lighting, heating or motive power and includes town gas, manufactured gas, natural gas, tempered natural gas, simulated natural gas, processed natural gas, methane gas and mine gas;
- (b) liquefied petroleum gas within the meaning of Australian Standard 1596-1989; or

- (c) a substance that is prescribed for the purposes of this definition;

“gas activity” means a primary or secondary gas activity;

“gas reticulation system”—

- (a) means a system comprised of pipes, fittings, apparatus and equipment that is used, or capable of being used, in connection with the manufacture, production, storage or supply of gas and includes a part of such a system; and
- (b) in relation to an authorised distributor, means a gas reticulation system used, or to be used, by the distributor and includes a part of the system;

“identity card” means an identity card issued under section 57;

“inspector” means an inspector appointed under section 56;

“land” includes land owned or occupied by the Commonwealth or the Territory;

“Land Act” means the *Land (Planning and Environment) Act 1991*;

“Manual” means the Gas Manual prepared under section 70, as amended and in effect from time to time;

“member” means a member of the Authority and includes the Chairperson;

“owner”, in relation to land, includes a person who holds a lease of land granted by or on behalf of the Commonwealth for a term exceeding 5 years;

“Planning Authority” means the Australian Capital Territory Planning Authority;

“primary gas activity” means an activity carried on in connection with the manufacture, production, distribution or supply of gas, including the storage of gas and the drainage of methane gas from coal seams, but does not include a secondary gas activity;

“related body corporate”, in relation to a body corporate, has the same meaning as in the Corporations Law;

“secondary gas activity” means—

- (a) the development of technology for the efficient distribution and supply of gas;
- (b) an activity approved by the Minister as a secondary gas activity under section 109;

- (c) an activity prescribed as a secondary gas activity; or
- (d) the investment of funds in connection with a primary gas activity or an activity of a kind referred to in paragraph (a), (b) or (c);

“tariff customer” means a consumer to whom less than 10 terajoules of gas per annum is reticulated;

“Tribunal” means the Administrative Appeals Tribunal;

“vegetation” includes a tree, shrub or other natural growth.

(2) For the purposes of this Act, a pipe, fitting or apparatus shall be taken to be connected to a gas reticulation system if it is connected to the system directly or by means of any other pipes, fittings or apparatus that do not form part of the gas reticulation system.

Reticulation of gas

4. (1) For the purposes of this Act, a person reticulates gas if the person—

- (a) supplies or distributes gas to another person by means of a gas reticulation system; and
- (b) is not exempt.

(2) For the purposes of paragraph (1) (b), a person is exempt if the person—

- (a) supplies or distributes gas on behalf of the Crown;
- (b) supplies or distributes gas to not more than 5 other persons;
- (c) only supplies or distributes gas to other persons who supply or distribute gas;
- (d) only supplies or distributes gas that is a by-product of an industrial manufacturing process the primary purpose of which is not the production of gas; or
- (e) only supplies or distributes gas by means of a gas reticulation system that is located wholly on a parcel of leased land.

Act binds Crown

5. This Act binds the Crown.

Objectives

6. (1) In the performance of any function under this Act, the Authority and each Review Panel shall have regard to the following objectives:

- (a) to ensure that authorised distributors satisfy, so far as it is economical to do so, all reasonable demands for gas;
- (b) to ensure that authorised distributors are able to finance the provision of gas supply services;
- (c) to protect the interests of consumers in relation to prices charged for the supply of gas, other terms on which gas is supplied, the continuity of the supply of gas and the quality of services connected with the supply of gas that are provided by authorised distributors;
- (d) to protect the public from dangers arising from the transmission, distribution or use of gas;
- (e) to protect the interests of consumers in relation to the development, extraction, provision, allocation, transportation, distribution, pricing, conservation, utilisation and conditions of supply, of gas;
- (f) subject to paragraphs (a) to (e) (inclusive)—to promote efficiency and productivity of authorised distributors in reticulating gas and the efficient use of gas by consumers;
- (g) subject to paragraphs (a) to (e) (inclusive)—to promote effective competition in the interests of consumers.

(2) In making a decision under subsection 36 (1), paragraph 36 (5) (b) or subsection 39 (3), 40 (1) or 41 (1), the Minister shall have regard to the objectives listed in subsection (1).

PART II—GAS AUTHORITY***Division 1—Establishment, functions and powers*****Establishment**

7. A Gas Authority is established.

Functions

8. The Authority has the following functions:

- (a) to monitor compliance by authorised distributors with this Act and the conditions of their authorisations;

- (b) to monitor the need for change in the conditions of the authorisations of authorised distributors that the Authority has the power to vary and to take any necessary action under this Act to implement any changes to those conditions it considers necessary or desirable;
- (c) to give assistance and advice to the Minister in respect of matters relevant to this Act;
- (d) to investigate, report on and, as appropriate, propose remedies for complaints regarding the reticulation of gas if the complaints concern matters that are within the scope of this Act and not within the scope of laws concerning the investigation and remedying of consumer complaints;
- (e) such other functions as are conferred on the Authority by or under this Act.

Directions from Minister

9. (1) The Minister may, in writing, direct the Authority to investigate any matter relevant to the functions of the Authority and report its findings to the Minister.

(2) The Authority shall comply with a direction given to it under subsection (1).

Power to require information

10. (1) The Authority may require an authorised distributor—

- (a) to disclose to the Authority specified information relating to the operations of the authorised distributor;
- (b) to forward to the Authority specified records, including accounting records, or copies or extracts from specified records, required to be kept by the authorised distributor under this Act or any other law in force in the Territory, a State or another Territory; or
- (c) where the authorised distributor is a body corporate—to disclose to the Authority specified information relating to the relationship and interaction between the authorised distributor and any of its related bodies corporate.

(2) If an authorised distributor is a body corporate, the Authority may require a body corporate that is a related body corporate of the authorised distributor to disclose to the Authority specified information relating to the relationship and interaction between the related body corporate and the authorised distributor.

(3) A requirement under this section shall be made in writing served on the authorised distributor or body corporate on whom the requirement is to be imposed and shall specify the manner in which and the time within which the requirement is to be complied with.

(4) An authorised distributor or corporation who, without reasonable excuse, fails to comply with a requirement under this section is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000.

Powers generally

11. The Authority has power to do all things necessary or convenient to be done in connection with the performance of its functions.

Annual report

12. The Authority shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the activities of the Authority during each financial year.

Division 2—Constitution and meetings

Membership

13. (1) The Authority shall consist of—

- (a) 1 member; or
- (b) a Chairperson and 2 other members;

appointed, in writing, by the Minister.

(2) A member shall be a person having appropriate qualifications and expertise having regard to the functions of the Authority.

(3) A person is not eligible to be appointed as a member if he or she is—

- (a) a public servant;
- (b) an officer or employee of an authorised distributor; or
- (c) an officer or employee of a related body corporate of an authorised distributor.

(4) A member shall be appointed as a part-time member.

(5) The appointment of a member is not invalid because of any defect or irregularity in connection with the member's appointment.

(6) A member holds office on such terms and conditions in respect of matters not provided for by this Act as are determined in writing by the Minister.

Term of office

14. (1) A member holds office for the period (not exceeding 5 years) specified in the instrument of appointment.

(2) Where the Authority is constituted for the first time by 3 members, of the members who are not the Chairperson—

- (a) one is to hold office for a term not exceeding 4 years; and
- (b) the other is to hold office for a term not exceeding 3 years.

(3) A member is eligible for re-appointment.

Remuneration and allowances

15. (1) A member shall be paid such remuneration and allowances as are prescribed.

(2) Subsection (1) does not apply—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the member; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the member.

(3) In subsection (2)—

“determination” means a determination of the Remuneration Tribunal of the Commonwealth.

Leave of absence

16. The Minister may grant a member leave of absence on such terms and conditions as to remuneration and otherwise as the Minister determines.

Resignation

17. (1) A member may resign the office of member or Chairperson by writing signed by the member and delivered to the Minister.

(2) The resignation of a member takes effect on the day on which it is delivered to the Minister or, if a later day is specified in the resignation, that later day.

(3) If a member resigns as Chairperson—

- (a) that member continues to hold office as a member for the remainder of the period during which the member would, but for his or her resignation, have held office as Chairperson; and
- (b) the Minister shall appoint one of the remaining members to be the Chairperson for the period during which that remaining member would, but for his or her appointment, have held office as a member.

Deputies of members

18. (1) The Minister may, by instrument, appoint a person to be the deputy of a member.

(2) A person shall not be appointed under subsection (1) unless the person is eligible for appointment as a member.

(3) In the absence of a member, the member's deputy may act in the office of the member.

(4) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

Termination of appointment

19. (1) The Minister may terminate the appointment of a member or deputy of a member because of the misbehaviour or physical or mental incapacity of the member or deputy.

(2) If a member or deputy of a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
- (b) contravenes section 21 or 22 without reasonable excuse;

the Minister shall terminate the appointment of that member or deputy.

(3) If a member fails, without reasonable excuse, to attend at the times and places respectively appointed for 2 consecutive meetings of the Authority, the Minister shall terminate the appointment of that member.

Meetings

20. (1) The Chairperson—

- (a) shall convene such meetings of the Authority as are necessary for the efficient conduct of its functions; and
- (b) shall, on receipt of a written request signed by each other member of the Authority, convene a meeting of the Authority.

(2) The Minister may convene a meeting of the Authority.

(3) The Chairperson shall preside at all meetings of the Authority at which he or she is present.

(4) In the event of the absence of the Chairperson from a meeting of the Authority, the members present shall elect one of their number to preside at that meeting.

(5) At a meeting of the Authority where it is constituted by 3 members, 2 members shall constitute a quorum.

(6) Subject to subsection (7), all questions arising at a meeting of the Authority shall be decided by a majority of the votes of the members present and voting, including the member presiding.

(7) In the event of an equality of votes on a resolution proposed at a meeting of the Authority, the resolution shall be taken not to be passed.

(8) The Authority may regulate the conduct of proceedings at its meetings as it thinks fit.

(9) The Authority shall keep minutes of proceedings at its meetings.

Disclosure of interests where Authority constituted by 3 members

21. (1) Where—

- (a) the Authority is constituted by 3 members; and
- (b) a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Authority;

that member shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Authority and the member who made the disclosure shall not, unless the Minister or the Authority otherwise determines—

- (a) be present during any deliberation of the Authority with respect to the matter; or
- (b) take part in any decision of the Authority with respect to the matter.

(3) For the purpose of the Authority making a determination under subsection (2), the member referred to in that subsection shall not—

- (a) be present during any deliberation of the Authority for the purpose of making the determination; or
- (b) take part in making the determination.

Disclosure of interests where Authority constituted by 1 member

22. (1) Where—

- (a) the Authority is constituted by 1 member; and
- (b) that member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Authority;

he or she shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the Minister.

(2) A member who makes a disclosure under subsection (1) (in this section called the "initial member") shall not, unless the Minister otherwise determines, make a decision with respect to the matter.

(3) If the Minister determines that the initial member should not make a decision with respect to the matter—

- (a) the Minister shall, by instrument, appoint another member (in this section called the "extra member") for such period as is necessary and reasonable for the Authority to make a decision with respect to the matter; and
- (b) for the purpose of making that decision, the Authority shall consist of the extra member.

Pecuniary interests

23. For the purposes of section 21 and 22, a member is not to be taken to have a pecuniary interest in a matter because the member is a consumer.

PART III—REVIEW PANELS

Interpretation

24. In this Part, unless the contrary intention appears—

“Chairperson” means a member appointed under paragraph 27 (1) (a);

“member” means a member of a Review Panel and includes the Chairperson.

Establishment

25. The Minister may, by instrument, establish a Review Panel to conduct an investigation and make recommendations for the purposes of section 39.

Powers

26. A Review Panel has power to do all things necessary and convenient to be done in connection with the conduct of its investigation.

Membership

27. (1) A Review Panel shall consist of—

- (a) 1 member appointed in writing by the Minister; and
- (b) where that member considers that it is necessary or desirable to have the assistance of other members—such number of other members (not exceeding 4) as are appointed in writing by the Chairperson.

(2) A member holds office on such terms and conditions in respect of matters not provided for by this Act as are determined in writing by the Minister.

Deputies of members

28. (1) The Minister may, by instrument, appoint a person to be the deputy of a Chairperson.

(2) A Chairperson may, by instrument, appoint a person to be the deputy of a member appointed by him or her under paragraph 27 (1) (b).

(3) In the absence of a member, the member’s deputy may act in the office of the member.

(4) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- (a) there is a defect or irregularity in connection with the person’s appointment;

- (b) the person's appointment had ceased to have effect; or
- (c) the occasion for the person to act had not arisen or had ceased.

Qualifications of members and deputies of members

29. (1) A member or deputy of a member shall be a person having knowledge and experience relevant to the matter to be determined by the Review Panel.

(2) A person is not eligible to be a member or deputy of a member if he or she is—

- (a) a member of the Authority;
- (b) an officer or employee of an authorised distributor;
- (c) an officer or employee of a body corporate that is a related body corporate of an authorised distributor; or
- (d) a public servant.

Remuneration and expenses

30. (1) A member shall be paid—

- (a) such remuneration as is determined, in writing, by the Minister; and
- (b) the expenses reasonably incurred by the member in the course of the Review Panel's investigation.

(2) A determination under paragraph (1) (a) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Termination of appointment

31. (1) The Minister may terminate the appointment of a member or deputy of a member because of the misbehaviour or physical or mental incapacity of the member or deputy.

(2) If a member or deputy of a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit, the Minister shall terminate the appointment of that member or deputy.

(3) If a member fails, without reasonable excuse, to attend at the times and places respectively fixed for 2 consecutive meetings of the Review Panel, the Minister shall terminate the appointment of that member.

Conduct of business

32. (1) The procedure for—

- (a) the conduct of business at meetings of a Review Panel; and
- (b) the conduct of investigations by a Review Panel;

is, subject to this Act, as determined by the Review Panel.

(2) The Chairperson shall convene such meetings of the Review Panel as are necessary for the efficient conduct of its functions.

(3) The Chairperson shall preside at all meetings of the Review Panel.

(4) A quorum for a meeting of a Review Panel constituted by more than 1 member is—

- (a) in the case of a panel constituted by 2 or 3 members—2 members;
or
- (b) in the case of a panel constituted by 4 or 5 members—3 members.

(5) Subject to subsection (6), all questions arising at a meeting of a Review Panel shall be decided by a majority of the votes of the members present and voting, including the member presiding.

(6) In the event of an equality of votes in relation to a question arising at a meeting of a Review Panel, the member presiding at the meeting has a casting vote.

Recovery of costs of investigations

33. The amounts referred to in subsection 30 (1) and any other reasonable costs of and incidental to a Review Panel's investigation incurred by the Territory (other than the costs of the representation of the Territory) are recoverable as debts due to the Territory by the authorised distributor whose authorisation is the subject of the investigation.

PART IV—AUTHORISATION TO RETICULATE GAS**Authorisation required to reticulate gas**

34. A person shall not reticulate gas except under an authorisation granted to the person.

Penalty:

- (a) in the case of a natural person—\$15,000;
- (b) in the case of a body corporate—\$75,000.

Application

35. (1) An application for an authorisation shall be in a form approved by the Minister.

- (2)** Within 14 days after making the application, the applicant shall—
- (a) give notice of the application to any authorised distributor who reticulates gas in any area to which the application relates; and
 - (b) cause to be published in a daily newspaper circulating in the Territory a copy of that notice on 2 consecutive business days.

Grant

36. (1) The Minister shall, on receipt of an application, by instrument—

- (a) grant an authorisation to reticulate gas in the Territory—
 - (i) during the period, being not less than 20 years; and
 - (ii) subject to the conditions, if any; specified in the instrument; or
- (b) refuse to grant an authorisation.

(2) The Minister may only grant an authorisation for a period of less than 20 years in order to ensure the continued supply of gas to consumers during any period when disruption to that supply is otherwise likely to occur.

(3) The Minister shall not grant an authorisation unless he or she has—

- (a) consulted with the Authority on the question of whether the authorisation should be granted;
- (b) caused to be published in a daily newspaper circulating in the Territory notice of the proposal to grant the authorisation specifying the reasons for the proposed grant and inviting submissions in relation to the proposal to be made on or before the day (being a day not less than 3 months after the day of publication of the notice) specified in the notice; and
- (c) considered any submissions received on or before the day so specified.

(4) If the Minister refuses to grant an authorisation, the Minister shall, within 15 sitting days after the refusal, lay before the Legislative Assembly a statement setting out his or her reasons for the refusal.

(5) By virtue of the operation of this subsection, AGL Canberra Limited is granted an authorisation to reticulate gas in the Territory—

- (a) for a period of 20 years beginning on the day on which this subsection commences; and
- (b) subject to such conditions as the Minister may, by instrument, determine.

(6) An instrument under paragraph (1) (a) or (5) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Condition as to price for tariff customers

37. (1) An authorisation to reticulate gas to tariff customers shall be subject to a condition relating to the price that may be charged for gas supplied to those customers.

(2) Without limiting the generality of subsection (1), such a condition may provide for a maximum price to be calculated in accordance with a formula specified in the condition.

Other kinds of conditions

38. (1) The kinds of conditions to which an authorisation may be subject include, but are not limited to, the following:

- (a) conditions relating to the price that may be charged for gas supplied to consumers, including by reference to a maximum price calculated in accordance with a specified formula or in some other manner;
- (b) conditions relating to prices and charges for other gas supply services (including haulage) provided by the authorised distributor;
- (c) conditions imposing restrictions on the conditions that may be imposed by the authorised distributor in respect of the supply of gas to consumers and imposing restrictions on the types and level of charges that may be made in connection with that supply;
- (d) conditions imposing restrictions on the types of gas activities that the authorised distributor may engage in and restrictions on the manner in which those activities may be engaged in;
- (e) conditions as to the area in which gas is to be supplied under the authorisation, including conditions requiring gas to be supplied to specific areas;
- (f) conditions imposing duties in connection with the reticulation, and maintenance of the supply, of gas;

- (g) conditions that require or make provision for the measures to be taken by the authorised distributor for the protection of the environment in connection with the activities engaged in under the authorisation;
- (h) where the authorised distributor is a body corporate—conditions as to the ownership of the distributor;
- (j) conditions as to the type of gas to be supplied, the method of supply, the metering of supply and the method of charging and billing for supply;
- (k) conditions requiring the authorised distributor to keep specified records and to make specified records and information available to the Authority or the Minister and requiring the publication of information;
- (m) conditions requiring the authorised distributor to permit specified persons access to and use of the gas reticulation system, including conditions—
 - (i) specifying the terms and conditions on which the access or use is to be permitted; and
 - (ii) relating to the fees or charges that are to be payable to the authorised distributor in respect of that access or use.

(2) If an authorisation is subject to a condition of a kind referred to in paragraph (1) (m), such compensation as the Minister determines is payable to the authorised distributor.

Amendment of conditions

39. (1) An authorised distributor or the Authority may, by notice in writing, propose that the authorisation be amended by varying, removing or adding 1 or more conditions.

(2) A notice under subsection (1)—

- (a) shall set out particulars of the proposal; and
- (b) shall be given—
 - (i) in the case of a proposal by an authorised distributor—to the Minister and the Authority; or
 - (ii) in the case of a proposal by the Authority—to the Minister and the authorised distributor.

(3) A person who receives notice under paragraph (2) (b) may lodge in writing with the Authority any objection to the proposal—

- (a) in the case of a proposal by an authorised distributor—within 3 months after the receipt; or
 - (b) in the case of a proposal by the Authority—within 1 month after the receipt.
- (4)** The Authority shall give a copy of any objection received—
- (a) where the objection relates to a proposal by an authorised distributor—
 - (i) to the authorised distributor; and
 - (ii) if the objection is made by the Authority—to the Minister; or
 - (b) where the objection relates to a proposal by the Authority—
 - (i) if the objection is made by the Minister—to the authorised distributor; or
 - (ii) if the objection is made by the authorised distributor—to the Minister.
- (5)** Where—
- (a) an objection is lodged in accordance with subsection (3)—the Authority shall refer the proposal to a Review Panel for investigation and recommendation; or
 - (b) no such objection is lodged—the Authority shall amend the authorisation in accordance with the proposal.
- (6)** A Review Panel shall conduct its investigation in accordance with the terms of reference—
- (a) where the Minister has lodged an objection—determined by the Minister; or
 - (b) in any other case—
 - (i) agreed between the Authority and the authorised distributor; or
 - (ii) if the Authority and the authorised distributor are unable to agree—determined by the Minister.
- (7)** A Review Panel shall endeavour to conduct its investigation and make its recommendation within 3 months after it is established.
- (8)** The Authority shall, if requested to do so by a Review Panel, make available to the Panel any information in the Authority's possession that is relevant to the matter being investigated.

(9) After completing its investigation, a Review Panel shall—

- (a) prepare a report setting out its recommendation and the reasons for that recommendation; and
- (b) submit the report to the Authority.

(10) A Review Panel may recommend that a proposal should—

- (a) be adopted;
- (b) be adopted subject to specified amendments that, if made, would not take the proposal outside the terms of reference of the Review Panel's investigation; or
- (c) not be adopted.

(11) The Authority shall give a copy of a report submitted by a Review Panel to the Minister and to the authorised distributor.

(12) Subject to subsection (13), the Authority shall amend an authorisation in accordance with the Review Panel's recommendation.

(13) The Authority shall not amend an authorisation by varying, removing or adding a condition of a kind referred to in paragraph 38 (1) (m) unless the Minister has consented in writing to the amendment.

(14) If the Minister refuses to consent to an amendment, the Minister shall, within 15 sitting days after the refusal, lay before the Legislative Assembly a statement setting out his or her reasons for the refusal.

(15) An amendment of an authorisation takes effect immediately after the authorised distributor receives notice in writing from the Authority that the amendment has been made.

(16) The person who put forward a proposal may withdraw it at any time by notice in writing given to the persons to whom notice of the proposal was given under paragraph (2) (b).

Minister may amend certain conditions

40. (1) Notwithstanding section 39, the Minister may, by instrument, amend an authorisation by varying, removing or adding a condition of a kind referred to in paragraph 38 (1) (m).

(2) The Minister shall not amend an authorisation under subsection (1) unless satisfied that the amendment would—

- (a) be in the interests of consumers likely to be affected by the amendment;

- (b) be likely to promote competition in respect of the sale of wellhead gas and the transportation of gas; and
 - (c) not prejudice the conveyance of gas required by the authorised distributor to supply its consumers or meet its contractual obligations.
- (3) An amendment under subsection (1)—
- (a) takes effect when a copy of the amendment is given to the authorised distributor; and
 - (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Revocation

41. (1) The Minister may, by instrument, revoke an authorisation—

- (a) if—
 - (i) the authorisation has been in effect for a period of not less than 10 years; and
 - (ii) the Minister has given the authorised distributor not less than 10 years notice of his or her intention to do so; or
- (b) if the authorised distributor—
 - (i) consents to the revocation;
 - (ii) is declared bankrupt;
 - (iii) fails to comply with a condition of the authorisation;
 - (iv) contravenes this Act or the Manual; or
 - (v) fails to pay an amount under the *Gas Levy Act 1991* on or before the last day on which the amount is required to be paid under that Act.

(2) The Minister shall not revoke an authorisation on a ground specified in paragraph (1) (b) unless—

- (a) the Minister has given the authorised distributor not less than 30 days written notice of the proposed revocation;
- (b) the notice specifies—
 - (i) the ground on which the Minister proposes to revoke the authorisation; and
 - (ii) a day (being not less than 7 and not more than 14 days after the day of service of the notice) on or before which the authorised distributor may submit to the Minister in

writing any matters that the authorised distributor wishes to be considered in relation to the proposed revocation;

- (c) the Minister has caused to be published in a daily newspaper circulating in the Territory notice of the proposal to revoke the authorisation on the ground specified in the notice referred to in paragraph (a) and has, in the notice in the newspaper, specified a day (being not less than 7 and not more than 14 days after the day of publication of the notice) on or before which any person having an interest in land in the Territory may submit to the Minister in writing any matters that the person wishes to be considered in relation to the proposed revocation; and
- (d) the Minister has taken into account—
 - (i) any action taken by the authorised distributor to remove the ground specified in the notice referred to in paragraph (a) or to prevent the recurrence of that ground or similar grounds;
 - (ii) any matters submitted in writing to the Minister by the authorised distributor or a person served under subsection (4) on or before the day specified in the notice referred to in paragraph (a);
 - (iii) any matters submitted in writing to the Minister by a person having an interest in any land in the Territory on or before the day specified in the notice in the newspaper referred to in paragraph (c); and
 - (iv) any recommendation of the Authority.

(3) The Minister shall not give an authorised distributor notice that he or she proposes to revoke the authorisation on the ground specified in subparagraph (1) (b) (iii) or (iv) unless—

- (a) the Authority has given the authorised distributor written notice requesting the distributor to—
 - (i) rectify the failure; or
 - (ii) comply with this Act or the Manual;as the case may be, within such reasonable time (being not less than 30 days) as is specified in the notice;
- (b) the authorised distributor has failed to comply with the notice; and
- (c) the Authority recommends that the authorisation be revoked on that ground.

(4) The Minister may cause a copy of the notice referred to in paragraph (2) (a) to be served on any other person.

(5) If the Minister revokes an authorisation under paragraph (1) (a), such compensation as the Minister determines is payable to the person whose authorisation was revoked.

(6) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Surrender

42. (1) An authorised distributor may, by notice in writing given to the Minister, apply for consent to surrender the authorisation.

(2) The Minister shall not consent to the surrender of an authorisation unless the authorised distributor—

- (a) has complied with this Act and the conditions of the authorisation;
- (b) if required to do so by the Minister, has rendered the gas reticulation system safe to the satisfaction of the Controller by removing—
 - (i) gas from the system; and
 - (ii) above ground installations that form part of the system; and
- (c) has made arrangements satisfactory to the Minister for the continued supply of gas to consumers.

(3) If an authorised distributor has failed to comply with this Act or a condition of an authorisation, the Minister may, notwithstanding that failure, consent to the surrender of the authorisation if satisfied that special circumstances exist that justify giving consent.

(4) Where the Minister consents to the surrender of an authorisation, the authorised distributor may—

- (a) surrender the authorisation to the Minister; and
- (b) abandon so much of the gas reticulation system as is not removed in accordance with subparagraph (2) (b) (ii).

PART V—ENERGY RESEARCH AND DEVELOPMENT LEVY

Liability for levy

43. An authorised distributor is liable to pay to the Territory levy in accordance with this Part.

Amount payable

44. (1) The levy payable by an authorised distributor is an amount equal to the determined percentage of the gross revenue derived by the authorised distributor from the sale of gas, disregarding revenue from—

- (a) any gas sold by the authorised distributor for delivery outside the Territory; and
- (b) any gas sold by the authorised distributor to another authorised distributor.

(2) In subsection (1)—

“determined percentage” means 0.5% or the percentage determined by the Minister under paragraph 111 (1) (b) for the purposes of subsection (1).

Method of payment

45. An authorised distributor shall—

- (a) on or before 28 February in each year, lodge a return in relation to the previous calendar year; and
- (b) on or before 31 March in each year, pay the levy in respect of the gross revenue derived by the authorised distributor from the sale of gas during the previous calendar year.

Cessation as authorised distributor

46. (1) Within 1 month after ceasing to be an authorised distributor, a person shall—

- (a) lodge a return in relation to the period beginning on 1 January immediately preceding the cessation date and ending on the cessation date; and
- (b) pay the levy in respect of the gross revenue derived by the person from the sale of gas during that period.

(2) In subsection (1)—

“cessation date”, in relation to a person, means the date on which the person ceased to be an authorised distributor.

Returns

47. A return shall—

- (a) specify—
 - (i) the quantity of gas sold by the authorised distributor;

- (ii) the revenue derived from the sale of gas by the authorised distributor;
 - (iii) the revenue derived from gas sold by the authorised distributor for delivery outside the Territory; and
 - (iv) the revenue derived from gas sold by the authorised distributor to other authorised distributors;
- during the period to which the return relates; and
- (b) be lodged with the Minister.

Recovery of levy

48. Levy due and payable under this Part is a debt due to the Territory from the person liable to pay the levy.

Payments into Trust Account

49. The following amounts shall be paid into the Energy Research and Development Trust Account established under subsection 85 (2) of the *Audit Act 1989*:

- (a) levy paid under sections 45 and 46;
- (b) levy, and interest on unpaid levy, recovered under section 48;
- (c) interest earned from the investment of money in that Trust Account.

Expenditure of moneys in Trust Account

50. Moneys standing to the credit of the Energy Research and Development Trust Account may not be expended under subsection 85 (10) of the *Audit Act 1989* unless all authorised distributors have been consulted about the expenditure.

PART VI—GAS TECHNICAL CONTROLLER AND INSPECTORS***Division 1—General*****Appointment of Controller**

51. (1) The Minister may appoint a public servant to be the Gas Technical Controller.

(2) The appointment ceases to have effect if the person ceases to be a public servant.

Functions of Controller

52. The Controller has the following functions:

- (a) to secure compliance with this Act and the Manual in relation to technical and safety matters associated with the handling and use of gas;
- (b) to assist and advise the Minister in relation to the preparation of the Manual and amendments of the Manual;
- (c) to promote safety in the handling and use of gas;
- (d) to supervise the inspectors;
- (e) any other function in connection with technical or safety matters associated with the handling or use of gas.

Acting Controller

53. (1) The Minister may appoint a public servant to act as the Controller—

- (a) during a vacancy in the office of the Controller, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Controller is absent from duty or from Australia or is, for any other reason, unable to perform the functions of his or her office.

(2) An appointment ceases to have effect if the person ceases to be a public servant.

(3) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- (a) the occasion for the person's appointment had not arisen;
- (b) there is a defect or irregularity in connection with the person's appointment;
- (c) the person's appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

General powers

54. The Controller has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.

Delegation

55. The Controller may, by instrument, delegate the performance or exercise of any of his or her functions or powers under this Act to an inspector.

Appointment of inspectors

56. The Controller may, by instrument, appoint persons to be inspectors for the purposes of this Act.

Identity cards

57. (1) The Controller shall cause to be issued to each inspector an identity card that specifies the name and appointment of the inspector and bears a recent photograph of the inspector.

(2) A person appointed to be an inspector shall, on ceasing to be an inspector, return his or her identity card to the Controller.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) is guilty of an offence punishable, on conviction, by a fine not exceeding \$100.

Obstruction of Controller or inspectors

58. A person shall not, without reasonable excuse, obstruct or hinder the Controller or an inspector in the performance or exercise of a function or power under this Act.

Penalty:

- (a) if the offender is a natural person—\$5,000 or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—\$25,000.

Division 2—Gas reticulation systems**Notice to comply with Act and Manual**

59. (1) Where a gas reticulation system does not comply with this Act or the Manual, the Controller may serve on the authorised distributor notice in writing requiring the distributor—

- (a) to repair or modify the system so that it complies with the requirements of this Act or the Manual specified in the notice; and
- (b) to reinstate any area of ground opened by an inspector under subsection 63 (1);

before the day specified in the notice.

(2) An authorised distributor who, without reasonable excuse, fails to comply with a notice under subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding \$75,000.

(3) If the authorised distributor fails to perform the work, or any part of the work, specified in the notice before the day specified in the notice, the Territory may—

- (a) perform such work as is necessary and reasonable to repair or modify the system and reinstate the ground; and
- (b) recover the reasonable cost of doing so as a debt due to the Territory from the authorised distributor.

(4) The Controller shall not give an authorised distributor a notice under subsection (1) if the only reason for the failure is—

- (a) that the system was installed before the Manual came into operation; or
- (b) that the system complied with the Manual at the time it was installed and the Manual has been amended subsequently.

Authorised distributors may be required to perform tests

60. (1) The Controller may, by notice in writing served on an authorised distributor, require the distributor to—

- (a) perform a test prescribed by the Manual for the purposes of this section on—
 - (i) a gas reticulation system; or
 - (ii) gas in a gas reticulation system; and
- (b) advise the Controller of the results of the test by a day not earlier than 7 days after the day on which the notice is given.

(2) An authorised distributor who, without reasonable excuse, fails to comply with a notice under subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000.

Directions to cut off gas supply

61. (1) The Controller may, by notice in writing served on an authorised distributor, require the distributor to cease reticulating gas to premises if any pipe, fitting or apparatus used in connection with the supply or consumption of gas on the premises does not comply with the Manual.

(2) An authorised distributor who, without reasonable excuse, fails to comply with a notice under subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding \$15,000.

(3) The Controller may, by notice in writing served on an authorised distributor, require the distributor to cease supplying gas to premises if the Controller has reasonable grounds for believing that continuation of the supply of gas to the premises would or would be likely to—

- (a) endanger the safety or health of any person; or
- (b) involve a risk of damage to property.

(4) An authorised distributor who, without reasonable excuse, fails to comply with a notice under subsection (3) is guilty of an offence punishable, on conviction, by a fine not exceeding \$15,000.

(5) A notice served on an authorised distributor under subsection (1) or (3) remains in force until it is revoked by notice in writing signed by the Controller and served on the distributor.

Emergency powers

62. (1) Subject to subsection (3), the Controller may take any action in relation to a gas reticulation system that he or she considers on reasonable grounds to be necessary to protect any person from injury or any property from damage.

(2) For the purpose of exercising his or her powers under subsection (1), the Controller may enter any land or premises at any time with such assistance and by such force as is necessary and reasonable.

(3) The Controller shall exercise his or her powers under subsection (1) in accordance with the provisions (if any) of the Manual relating to the exercise of those powers.

Inspectors may inspect and perform tests

63. (1) An inspector may inspect a gas reticulation system and, for the purpose of making an inspection, uncover any part of the system that is laid in the ground.

(2) An inspector may—

- (a) test the pressure of gas in a gas reticulation system; or
- (b) take samples of gas from a gas reticulation system for the purpose of determining the composition of the gas.

(3) Where, in the exercise of his or her powers under subsection (1), an inspector uncovers a gas reticulation system and finds that the system complies with this Act and the Manual, the Territory shall reinstate the area of ground opened by the inspector.

Authorised distributors to assist inspectors

64. An authorised distributor shall—

- (a) give an inspector reasonable assistance to enable the inspector to exercise his or her powers under section 63; and
- (b) allow the inspector to use the authorised distributor's equipment and facilities to test—
 - (i) the pressure of gas in a gas reticulation system; or
 - (ii) gas taken from a gas reticulation system.

Penalty: \$5,000.

Controller and inspectors may obtain information

65. (1) For the purpose of determining whether a gas reticulation system complies with, or is being operated in accordance with, this Act and the Manual, the Controller or an inspector may—

- (a) by notice in writing given to the authorised distributor, require the distributor, within 14 days after the day on which the notice is given and at a place specified in the notice—
 - (i) to furnish in writing such information relating to the system or its operation as is specified in the notice; or
 - (ii) to produce such documents or other records relating to the system or its operation as are specified in the notice; or
- (b) where the Controller or an inspector believes on reasonable grounds that an officer or employee of the authorised distributor is capable of providing information or producing documents or records relating to the system or its operation—by notice in writing given to the officer or employee, require him or her within 14 days after the day on which the notice is given and at a place specified in the notice—
 - (i) to furnish in writing such information relating to the system or its operation as is specified in the notice; or
 - (ii) to produce such documents or other records relating to the system or its operation as are specified in the notice.

(2) Where documents or other records are produced to the Controller or an inspector in accordance with subsection (1), the Controller or inspector—

- (a) may take possession of and make copies of, or take extracts from, the documents or other records; and

(b) shall not retain possession of the documents or other records for more than 90 days unless—

(i) it is necessary and reasonable to do so in order to complete the investigation to which the documents or records relate; or

(ii) a prosecution for an offence against this Act has been instituted within that period.

(3) A person served with a notice under paragraph (1) (a) or (b) shall not, without reasonable excuse, fail to comply with the notice.

Penalty:

(a) if the offender is a natural person—\$1,000;

(b) if the offender is a body corporate—\$5,000.

(4) A person shall not, in purported compliance with a notice under paragraph (1) (a) or (b), knowingly or recklessly—

(a) make a statement that is false or misleading in a material particular; or

(b) give the Controller or inspector a document or record containing information that is false or misleading in a material particular without—

(i) indicating to the Controller or inspector that the document or record is false or misleading and the respect in which it is false or misleading; and

(ii) providing correct information to the Controller or inspector if the person has, or can reasonably obtain, the correct information.

Penalty:

(a) if the offender is a natural person—\$1,000;

(b) if the offender is a body corporate—\$5,000.

(5) A person is not excused from providing any information or from producing a document or other record when requested to do so under subsection (1) on the ground that providing the information or producing the document or record might tend to incriminate the person, but the information or the production of the document is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against this Act.

Division 3—Premises**Interpretation**

66. (1) For the purposes of this Division, a thing shall be taken to be connected with an offence—

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

(2) A reference in this Division to an offence shall be read as including a reference to an offence that there are reasonable grounds for believing has been, or will be, committed.

Entry and inspection

67. (1) An inspector may enter commercial premises during normal business hours if the inspector has reasonable grounds for believing that—

- (a) the premises are used in connection with—
 - (i) the production, reticulation or storage of gas; or
 - (ii) the manufacture, supply or maintenance of any pipe, fitting, apparatus, equipment or other article that is used, or may be used, in the reticulation or consumption of gas; or
- (b) gas is consumed on the premises.

(2) An inspector may enter any premises and exercise any power specified in subsection (3)—

- (a) with the consent of the occupier of the premises; or
- (b) under a warrant issued under subsection 69 (1).

(3) An inspector who enters premises under subsection (1) or (2) may—

- (a) inspect and test any pipe, fitting, apparatus, equipment or other article on the premises that the inspector has reasonable grounds for believing is used, or is to be used, in the production, reticulation, storage or consumption of gas;
- (b) seize, and remove for the purpose of testing, any pipe, fitting, apparatus, equipment or other article of a kind referred to in paragraph (a) that the inspector has reasonable grounds for believing—
 - (i) does not comply with the Manual; or

- (ii) is, or is likely to become, unsafe to use;
- (c) direct the occupier of the premises, by notice in writing, not to supply, install or connect to a gas installation any pipe, fitting, apparatus, equipment or other article of a kind referred to in paragraph (b) unless—
 - (i) it has been altered or repaired so that it complies with the Manual, or has been made safe to use, as the case requires; and
 - (ii) it has been inspected or tested, and approved by, an inspector;
- (d) perform tests to determine the pressure and flow rate of any substance in any pipe, fitting, apparatus, equipment or other article on the premises that the inspector has reasonable grounds for believing is used in the production, reticulation, storage or consumption of gas;
- (e) take samples of any substance on the premises that the inspector has reasonable grounds for believing to be gas for the purpose of determining the composition or thermal qualities of the substance; or
- (f) seize any thing that the inspector has reasonable grounds for believing to be connected with an offence against this Act.

(4) An inspector who enters premises under subsection (1) is not authorised to remain on the premises if, on the request of the occupier of the premises, the inspector does not show his or her identity card to the occupier.

(5) A person who, without reasonable excuse, contravenes a direction given to the person under paragraph (3) (c) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) in the case of a natural person—\$1,000; or
- (b) in the case of a body corporate—\$5,000.

Consent to entry and inspection

68. (1) Before seeking the consent of the occupier of premises for the purposes of subsection 67 (2), an inspector shall inform the occupier that he or she may refuse to give that consent.

(2) If the inspector obtains the occupier's consent for those purposes, the inspector shall ask the occupier to sign a written acknowledgment—

- (a) that the occupier has been informed that he or she may refuse to give consent, for the purposes of subsection 67 (2), for the inspector to enter the occupier's premises and to exercise any power under subsection 67 (3);
- (b) that the occupier has given the inspector that consent; and
- (c) of the day on which, and the time at which, the consent was given.

(3) Where it is material, in any proceedings, for a court to be satisfied that an occupier has consented for the purposes of subsection 67 (2), and an acknowledgment, in accordance with subsection (2), signed by the occupier, is not produced in evidence, it shall be presumed that the occupier did not consent, but that presumption is rebuttable.

Search warrants

69. (1) Where an information on oath is laid before a magistrate alleging that an inspector has reasonable grounds for suspecting that there may be, on any premises—

- (a) a thing of a particular kind connected with a particular offence against this Act; or
- (b) any pipe, fitting, apparatus, equipment or other article, used in the production, reticulation, storage or consumption of gas, that—
 - (i) does not comply with this Act or the Manual; or
 - (ii) is, or is likely to become, unsafe to use;

and the information sets out those grounds, the magistrate may issue a search warrant authorising an inspector named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (c) to enter the premises;
 - (d) to search the premises for things of the kind referred to in paragraph (a) or for any pipe, fitting, apparatus, equipment or other article of a kind referred to in paragraph (b); and
 - (e) to exercise the powers of an inspector under subsection 67 (3) in relation to the premises.
- (2) A magistrate shall not issue a warrant unless—
- (a) the informant or another person has given the magistrate, either orally or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3) A warrant shall—

- (a) state the purpose for which it is issued;
- (b) specify the nature of the offence, or the lack of compliance or safety, in relation to which the entry and search are authorised;
- (c) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of the day or night; and
- (d) specify the date (being a date not later than 1 month after the date on which the warrant is issued) on which the warrant ceases to have effect.

(4) If, in the course of searching premises under a warrant issued under subsection (1), an inspector—

- (a) finds any pipe, fitting, apparatus, equipment or other article that is not of a kind specified in the warrant;
- (b) has reasonable grounds for believing that the pipe, fitting, apparatus, equipment or other article—
 - (i) is used in the production, reticulation, storage or consumption of gas; and
 - (ii) does not comply with the Manual, or is, or is likely to become, unsafe to use; and
- (c) has reasonable grounds for believing that it is necessary to seize the pipe, fitting, apparatus, equipment or other article in order to prevent its—
 - (i) concealment, loss or destruction;
 - (ii) sale or letting on hire;
 - (iii) being exposed or advertised for sale or hire; or
 - (iv) being installed in, or connected to, a gas reticulation system;

the inspector may seize it.

PART VII—GAS MANUAL

Preparation and amendment

70. (1) The Minister shall prepare and maintain a manual called the Gas Manual.

(2) Requirements in relation to the following matters may be specified in the Manual:

- (a) the manner in which gas reticulation systems are to be constructed, replaced, repaired, maintained, renewed and operated;
- (b) the quality and design of materials, pipes, fittings and apparatus that are to form part of a gas reticulation system;
- (c) the design and construction of any pipe, fitting or apparatus that is to be connected to a gas reticulation system;
- (d) the quality of the materials to be used in the construction of any pipe, fitting or apparatus that is to be connected to a gas reticulation system;
- (e) the installation, maintenance or operation of any pipe, fitting or apparatus that is, or is to be, connected to a gas reticulation system;
- (f) the composition and quality of gas reticulated by authorised distributors;
- (g) the pressure at which gas is to be reticulated;
- (h) the examination, testing and sealing of gas meters;
- (i) the testing of gas to determine its composition, qualities and characteristics;
- (j) the testing of the pressure of gas in a gas reticulation system and the determination of the volume of gas that a gas reticulation system is capable of supplying.

(3) The Minister may, by instrument, amend the Manual.

(4) The requirements specified in the Manual shall include—

- (a) any relevant standards of the Standards Association of Australia (in this section called “the SAA standards”);
- (b) any relevant standards of the Australian Gas Association (in this section called “the AGA standards”); and
- (c) any relevant standards of authorised distributors (in this section called “the distributors’ standards”).

(5) To the extent of any inconsistency between—

- (a) the SAA standards and the AGA standards or distributors' standards—only the SAA standards shall be included in the Manual; and
- (b) the AGA standards and the distributors' standards—only the AGA standards shall be included in the Manual.

(6) A standard is to be taken to be consistent with another standard if it is capable of applying concurrently with that other standard.

Publication

71. The Minister shall publish in the *Gazette* and in a daily newspaper circulating in the Territory notice of the preparation of the Manual and each amendment.

Disallowance

72. The Manual and each amendment of the Manual is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Inspection

73. (1) The Controller shall keep a copy of the Manual at his or her office at all times.

(2) Any person may, on request, at any time at which the Controller's office is open for business, inspect the copy of the Manual kept by the Controller.

Compliance with Manual

74. (1) An authorised distributor shall not reticulate gas that has a heating value that is outside the range of heating values prescribed by the Manual.

Penalty: \$1,000.

(2) An authorised distributor shall not reticulate gas that has a Wobbe index number that is outside the range of Wobbe index numbers prescribed by the Manual.

Penalty: \$1,000.

(3) An authorised distributor shall not reticulate gas at a pressure that differs from the pressure prescribed by the Manual.

Penalty: \$5,000.

(4) An authorised distributor shall not reticulate gas with an odour that does not comply with the Manual.

Penalty: \$1,000.

(5) An authorised distributor shall not reticulate gas containing an impurity in a concentration exceeding the concentration prescribed by the Manual.

Penalty: \$1,000.

(6) A person shall not, without reasonable excuse, connect an apparatus to a gas reticulation system unless the apparatus complies with the Manual.

Penalty:

- (a) if the offender is a natural person—\$3,000;
- (b) if the offender is a body corporate—\$15,000.

(7) A person shall not, in trade or commerce, supply an appliance that is intended, or is likely, to be used with gas unless the appliance complies with the Manual.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

(8) Only one penalty may be imposed on an authorised distributor in respect of all contraventions of subsection (1), (2) or (3) on any one day.

(9) In subsection (7)—

“supply” includes supply by way of sale, exchange, lease or hire.

Evidence

75. In any proceedings before a court, evidence of the Manual as in force on a specified day or during a specified period may be given by the production of a book purporting to be a copy of the Manual and purporting to bear a certificate signed by the Controller stating that the book is a true copy of the Manual as in force on that day or during that period.

PART VIII—CONSTRUCTION AND MAINTENANCE OF WORKS

Controlled activity

76. (1) Gas system construction is a controlled activity for the purposes of Schedule 4 to the Land Act.

(2) Schedule 4 to the Land Act shall be read as if a reference to gas system construction appeared as an item in Column 2 of that Schedule and corresponding references to the Planning Authority and to the sum of \$20,000 appeared in Columns 3 and 4 (respectively) of that Schedule in relation to that item.

(3) In this section—

“gas system construction” means the construction of a gas reticulation system above, on or beneath the surface of a public street or public place but does not include pipes laid for the purpose of connecting land or premises to a main.

Entry and survey of land

77. (1) For the purpose of ascertaining the suitability of any land that is being considered as the site of a gas reticulation system, an authorised distributor may—

- (a) enter and inspect the land; and
- (b) make surveys, take levels, sink bores, dig pits and examine the soil or do anything else on the land that is necessary for that purpose.

(2) Before entering the land the authorised distributor shall give 2 business days notice in writing of its intention to do so to the owner and to the occupier of the land.

Penalty: \$5,000.

(3) If, in the course of doing anything under paragraph (1) (b), an authorised distributor causes damage to the land, the distributor shall, so far as practicable, restore the land to the condition it was in immediately before the damage was caused.

Construction of gas reticulation systems

78. (1) Subject to this section and any other law of the Territory, an authorised distributor may—

- (a) construct a gas reticulation system above, on or beneath the surface of any land or beneath the surface of any water; and
- (b) replace, repair or maintain a gas reticulation system.

(2) Without limiting the generality of, and for purposes connected with, subsection (1), an authorised distributor may enter and occupy any land and on that land may do any of the following:

- (a) construct, build or place any pipeline, apparatus, plant, machinery, equipment or goods;
- (b) clear vegetation;
- (c) make cuttings or excavations;
- (d) erect temporary workshops, sheds or other buildings;
- (e) remove, or erect a gate in, any fence hindering the work being carried out;
- (f) level the surface of the land and make roads;
- (g) if the work is being carried out on a public street or public place—temporarily stop traffic in that street or place;
- (h) demolish, destroy or remove any pipeline, apparatus, plant, machinery, equipment, goods, workshop, shed, building or road constructed, built, placed or erected by the authorised distributor on the land;
- (i) reinstate the surface of the land and, if the land is a public street or public place, reinstate the street or place (including any pavement) to a safe and reasonable standard that is consistent with adjacent areas of the street or place;
- (j) for the purposes of paragraph (i), remove and dispose of any clay, earth, gravel, sand, soil, stone, timber or other material or things or any vegetation cleared.

(3) Except in cases of emergency, an authorised distributor shall not exercise any of its powers under this section in relation to land that is not part of a public street or public place unless the authorised distributor has given 28 days notice in writing to the owner and to the occupier of the land of its intention to do so.

Penalty: \$500.

(4) A notice under subsection (3) shall specify—

- (a) the purpose for which the authorised distributor intends to enter the land;
- (b) the nature of the work which the authorised distributor proposes to carry out on the land;
- (c) the precise parts of the land where it is intended that the work should be carried out; and
- (d) the days during which it is intended that the work should be carried out.

Removal of vegetation

79. (1) Where vegetation on any land causes damage to, or is likely to cause damage to, a gas reticulation system, the authorised distributor may, by notice in writing, request the owner or occupier to clear the vegetation—

- (a) to the extent; and
- (b) within the period, being not less than 7 days after the date of service of the notice;

specified in the notice.

(2) If the owner or occupier fails to comply with the request, the authorised distributor may enter on the land and clear the vegetation to the extent specified in the notice.

Compensation for damage

80. (1) In exercising a power conferred on him or her by or under this Act—

- (a) an authorised distributor;
- (b) an employee of an authorised distributor;
- (c) a person acting for or on behalf of an authorised distributor under a contract; or
- (d) the employee of a person referred to in paragraph (c);

shall cause as little detriment and inconvenience and do as little damage as possible.

(2) If the owner of land is injuriously affected by the exercise, in relation to the land, of any of the powers conferred by this Part, the authorised distributor exercising the powers shall pay compensation to the owner.

(3) Where land is entered or occupied by an authorised distributor under this Part, the distributor is liable to pay compensation to the owner or occupier of the land, or both, as the case requires, including compensation in respect of any damage, whether of a temporary or permanent character.

(4) The amount of compensation payable to a person under this section shall be determined by agreement between the person and the authorised distributor or, in the absence of agreement, shall be determined by a court of competent jurisdiction.

(5) Nothing in this section shall be construed as excluding or limiting the liability of an authorised distributor apart from this section in respect of

a matter in relation to which compensation is not payable under this section.

Protection of underground lines and pipes

81. (1) An authorised distributor shall not excavate ground in an area where any underground part of a water, sewerage, stormwater, electricity or telecommunications system is situated unless the authorised distributor has—

- (a) ascertained from the authority responsible for the system the place and depth at which the part of the system that is in that area has been laid; and
- (b) taken all reasonable steps to protect the system from damage.

Penalty: \$500.

(2) An authorised distributor shall not alter—

- (a) the position of a pipe that is a main, water pipe, sewer or drain; or
- (b) the position of any cable used in connection with a telecommunications service or for the supply of electricity;

unless the authorised distributor has obtained the consent of the authority responsible for the pipe or cable.

Penalty for contravention of subsection (2): \$5,000.

Removal of authorised distributor's property and waste

82. (1) An authorised distributor shall, as soon as practicable after completing work on land owned by another person, remove from that land—

- (a) all plant, machinery, equipment, articles, workshops, sheds, buildings and roads that do not form part of, or are not to be used in the operation of, the gas reticulation system on which the work was carried out; and
- (b) all spoil, waste and rubbish and cleared vegetation resulting from the performance of the work.

(2) An authorised distributor shall, within 7 business days after being directed in writing by the Controller to do so, remove from land owned by another person on which the authorised distributor was carrying out work—

- (a) any plant, machinery, equipment, article, workshop, shed, building or road that does not form part of, or is not to be used in the operation of, the gas reticulation system on which the work was carried out; and

- (b) any spoil, waste, rubbish or cleared vegetation resulting from the performance of the work.

Penalty: \$5,000.

Maintenance of gas reticulation systems

83. An authorised distributor shall keep a gas reticulation system in good condition and repair.

Penalty: \$10,000.

Plans to be available

84. (1) An authorised distributor shall keep at its principal office in the Territory full particulars of, and complete plans showing, each gas reticulation system.

Penalty: \$500.

(2) An authorised distributor shall, within a reasonable time after being requested to do so by the administrative head or by a public servant authorised by the administrative head, give to the person who made the request full particulars of, and complete plans showing, a gas reticulation system.

Penalty: \$2,500.

(3) An authorised distributor shall, on being requested to do so by any person and without charge, make the particulars and plans referred to in subsection (1) available for inspection by the person at that office at any time when the office is open for business.

Penalty: \$500.

(4) In this section—

“gas reticulation system” includes any pipe laid on land or premises for the purpose of supplying gas to the land or premises.

PART IX—SUPPLY AND CONSUMPTION OF GAS

Requests to connect land to gas reticulation systems

85. (1) The owner of land or premises that have a boundary or wall not more than 30 metres from an appropriate gas main may, by notice in writing given to an authorised distributor, require the distributor to connect the land or premises to a gas reticulation system.

(2) Subject to this section and any other law of the Territory, an authorised distributor shall, within a reasonable time after receiving notice in accordance with subsection (1), connect the land or premises to a gas reticulation system.

Penalty: \$1,000.

(3) An authorised distributor is not required to connect land or premises to a gas reticulation system unless—

- (a) the owner has given the authorised distributor a written undertaking to have gas supplied to the land or premises for a period of 12 months beginning on the day on which supply commences and to pay for gas supplied during that period; and
- (b) the owner has paid to the authorised distributor the amount required by the distributor as security for the costs referred to in subsection (4).

(4) An owner who requires land or premises to be connected to a gas reticulation system is liable to pay to the authorised distributor—

- (a) the reasonable cost of laying pipes on the land or premises for the purpose of supplying gas to the land or premises; and
- (b) the reasonable cost of laying pipes that are not on the land or premises for the purpose of connecting the land or premises to the gas reticulation system, excluding the cost of laying the first 10 metres of those pipes.

(5) In subsection (1)—

“appropriate gas main” means a main prescribed by the Manual for the purposes of that subsection.

(6) In this section, a reference to connecting land or premises to a gas reticulation system shall be read as including a reference to laying pipes on the land or premises for the purpose of supplying gas to the land or premises.

Requests to supply gas to premises

86. (1) The occupier of land or premises that are connected to a gas reticulation system may, by notice in writing given to an authorised distributor, require the distributor to supply gas to the land or premises.

(2) An authorised distributor shall, within 7 days after receiving notice in accordance with subsection (1), begin to supply gas to the land or premises.

(3) An authorised distributor is not required to supply gas to land or premises if—

- (a) the occupier has not paid to the authorised distributor the amount required by the distributor as security for the cost of gas to be supplied to the land or premises;
- (b) the occupier has not paid an amount for the supply of gas that is due and payable to the authorised distributor by the occupier; or
- (c) the pipes, fittings, appliances or other apparatus to be used in connection with the supply of gas to, or the consumption of gas on, the land or premises are, in the opinion of the authorised distributor, unsafe.

(4) Nothing in this section is to be taken to affect any right of an authorised distributor to cease to supply gas to a person.

(5) For the purposes of this section, land or premises are not to be taken to be connected to a gas reticulation system unless pipes have been laid on the land or premises for the purpose of supplying gas to the land or premises.

Gas supply to be metered

87. (1) An authorised distributor shall not reticulate gas to another person unless the gas supplied is metered through a meter supplied and installed by the authorised distributor.

(2) A person shall not take gas from an authorised distributor unless the gas supplied is metered through a meter supplied and installed by the authorised distributor.

Penalty: \$1,000.

Meters

88. An authorised distributor shall not, without reasonable excuse, supply or install a meter for measuring the quantity of gas supplied to a consumer unless the meter complies with the Manual.

Penalty: \$5,000.

Installation of pipes etc.

89. A person who installs, repairs, maintains or replaces a pipe, fitting or apparatus that is, or is to be, connected to a gas reticulation system shall, when performing that work, comply with—

- (a) the Manual;

- (b) any directions given by the Controller or an inspector; and
- (c) any requirements of the authorised distributor.

Penalty:

- (a) if the offender is a natural person—\$2,000;
- (b) if the offender is a body corporate—\$10,000.

Testing meters for consumers

90. (1) If a consumer—

- (a) requests an authorised distributor to arrange for the accuracy of a meter through which the distributor reticulates gas to the consumer to be tested; and
- (b) pays the determined fee to the authorised distributor;

the distributor shall, as soon as practicable after receiving the request, inform the Controller of the request and give the Controller an amount equal to the determined fee.

Penalty: \$500.

(2) After being informed that a consumer has made such a request and on receiving that amount, the Controller shall test the accuracy of the meter in accordance with the Manual.

(3) Within 7 days after the day on which the test is completed the Controller shall advise the consumer and the authorised distributor of the results of the test.

(4) If a meter is found to be inaccurate by more than an acceptable percentage, the authorised distributor shall replace the meter at the distributor's expense.

Penalty: \$1,000.

(5) If a meter tested under subsection (2) is found to be inaccurate by more than 2% in favour of the authorised distributor, the distributor shall pay the consumer an amount equal to the fee paid under subsection (1).

Testing meters for authorised distributors

91. (1) Where an authorised distributor—

- (a) requests the Controller to arrange for the accuracy of a meter through which the authorised distributor reticulates gas to a consumer to be tested; and

- (b) pays to the Controller the determined fee;

the Controller shall, as soon as practicable, test the accuracy of the meter in accordance with the Manual.

(2) Within 7 days after the day on which the test is completed the Controller shall advise the authorised distributor of the results of the test.

Faulty meters—adjustment of accounts

92. (1) If a meter tested under section 90 or 91 is found—

- (a) to register the flow of gas inaccurately; or
- (b) not to register the flow of gas;

the meter shall, for the purposes of this section, be taken—

- (c) to have become inaccurate to the extent that it was found to be inaccurate during the test; or
- (d) to have ceased to register the flow of gas;

as the case requires, immediately after the meter was read at the beginning of the previous metered period.

(2) Where a meter tested under section 90 or 91 is found to register the flow of gas inaccurately to the extent of a certain percentage, the authorised distributor who reticulates gas through the meter shall estimate the amount of gas supplied to a consumer during the relevant period by decreasing or increasing (as the case requires) the amount of gas registered by the meter as having flowed through it during the relevant period (in this subsection called the “registered amount”) by an amount equal to that percentage of the registered amount.

(3) Where a meter tested under section 90 or 91 is found not to register the flow of gas, the authorised distributor who reticulates gas through the meter shall estimate the amount of gas supplied to a consumer during the relevant period—

- (a) if the consumer was supplied with gas by the authorised distributor during the period in the previous year corresponding to the relevant period—by reference to the amount of gas supplied to the consumer in that corresponding period;
- (b) if the consumer was not supplied with gas by the authorised distributor in that corresponding period but was supplied with gas during the previous metered period—by reference to the amount of gas supplied to the consumer in the previous metered period; or

- (c) if the consumer was not supplied with gas during that preceding period or month—by any method agreed on by the consumer and the authorised distributor.

(4) On estimating the amount of gas supplied to a consumer during the relevant period under subsection (2) or (3), the authorised distributor shall send the consumer a revised account of the amount payable by the consumer in respect of the gas supplied showing—

- (a) the method by which the amount was calculated; and
- (b) any credit due to the consumer, or any amount payable by the consumer, as a consequence of the adjustment of the account.

(5) A revised account given to a consumer shall be accompanied by a notice to the effect that the account is a revised account.

(6) An authorised distributor shall not send a revised account to a consumer in respect of a period that exceeds twice the number of days in the period in respect of which the authorised distributor ordinarily renders accounts to that consumer unless—

- (a) the consumer; or
- (b) by notice in writing given to the authorised distributor and the consumer, the Controller;

has agreed to the authorised distributor sending a revised account in respect of a specified period that exceeds that number of days.

(7) The Controller shall not agree to an authorised distributor sending a revised account under subsection (6) unless satisfied that it is reasonable for the authorised distributor to do so.

(8) An authorised distributor shall not send to a consumer a revised account for gas supplied to the consumer—

- (a) unless the meter through which the authorised distributor supplied the gas has been tested under section 90 or 91 and has been found to register the flow of gas inaccurately or to have ceased to register the flow of gas; and
- (b) except in accordance with this section.

Penalty: \$5,000.

(9) In this section—

“metered period”, in relation to a meter, means the period in respect of which an authorised distributor ordinarily renders an account for gas supplied to a consumer through the meter;

“previous metered period”, in relation to a test, means the metered period immediately preceding the metered period in which the test was conducted;

“relevant period” means the period beginning when a meter is to be taken to have become inaccurate, or to have ceased to register the flow of gas, under subsection (1) and ending when the meter is repaired or replaced.

PART X—GASFITTING

Interpretation

93. In this Part—

“advanced gasfitter’s licence” means an advanced gasfitter’s licence issued under section 25 of the *Plumbers, Drainers and Gasfitters Board Act 1982*;

“advanced gasfitting work” means—

- (a) the installation, construction, alteration, extension, disconnection, reconnection, removal, replacement, repair or maintenance of—
 - (i) any pipe or fitting that—
 - (A) is, or is to be, connected to a gas reticulation system; and
 - (B) is not, and is not to be, a part of a gas reticulation system; or
 - (ii) any pipe or fitting that is, or is to be, installed for the purpose of conveying flue gases from an appliance that consumes gas; or
- (b) the connection or disconnection of any appliance that—
 - (i) is, or is to be, connected to a gas reticulation system; and
 - (ii) is not, and is not to be, a part of a gas reticulation system;

“gasfitter’s licence” means a gasfitter’s licence issued under section 25 of the *Plumbers, Drainers and Gasfitters Board Act 1982*;

“gasfitting work” means—

- (a) the installation, construction, alteration, extension, disconnection, reconnection, removal, replacement, repair or maintenance of—
 - (i) any pipe or fitting that—
 - (A) is, or is to be, connected to a gas reticulation system;
 - (B) is not, and is not to be, a part of a gas reticulation system; and
 - (C) is not intended to hold, or be directly connected to a pipe or fitting that is intended to hold, gas at a pressure greater than 21 kilopascals; or
 - (ii) any pipe or fitting that is, or is to be, installed for the purpose of conveying flue gases from an appliance that consumes gas; or
- (b) the connection or disconnection of any appliance that—
 - (i) is, or is to be, connected to a gas reticulation system; and
 - (ii) is not, and is not to be, a part of a gas reticulation system;

“journeyman gasfitter’s licence” means a journeyman gasfitter’s licence issued under section 25 of the *Plumbers, Drainers and Gasfitters Board Act 1982*.

Gasfitting work

94. A person shall not carry out gasfitting work unless the person holds—

- (a) a gasfitter’s licence or advanced gasfitter’s licence; or
- (b) a journeyman gasfitter’s licence and carries out the work under the general supervision of a person who holds a gasfitter’s licence or advanced gasfitter’s licence.

Penalty: \$2,000.

Advanced gasfitting work

95. A person shall not carry out advanced gasfitting work unless the person holds—

- (a) an advanced gasfitter's licence; or
- (b) a journeyman gasfitter's licence or gasfitter's licence and, in either case, carries out the work under the general supervision of a person who holds an advanced gasfitter's licence.

Penalty: \$2,000.

PART XI—INTERFERENCE WITH GAS RETICULATION SYSTEMS**Unauthorised connection to gas reticulation system**

96. A person shall not connect a pipe, fitting or apparatus to a gas reticulation system without the consent of the authorised distributor.

Penalty:

- (a) if the offender is a natural person—\$3,000;
- (b) if the offender is a body corporate—\$15,000.

Interference with works

97. (1) A person shall not knowingly or recklessly break up ground to expose a gas reticulation system.

Penalty:

- (a) if the offender is a natural person—\$3,000;
- (b) if the offender is a body corporate—\$15,000.

(2) It is a defence to a prosecution for an offence against subsection (1) that the person charged with the offence acted with the consent of the authorised distributor.

(3) Subsection (1) does not apply to a person who is acting in the course of his or her duties as an employee or agent of the Territory or of a Territory authority.

Excavation near gas reticulation system

98. A person shall not knowingly or recklessly excavate ground in an area where any underground part of a gas reticulation system is situated unless the person has—

- (a) ascertained from the authorised distributor the places and depths at which all parts of the system that are in that area have been laid; and
- (b) taken reasonable steps to ensure that the excavation work does not interfere with the system.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Intentional interference or damage

99. (1) A person shall not intentionally interfere with or damage—

- (a) any pipe, fitting or apparatus that forms part of a gas reticulation system;
- (b) any meter connected to a gas reticulation system; or
- (c) any seal affixed by the authorised distributor to a gas reticulation system or to a meter connected, or to be connected, to such a system;

without the consent of the authorised distributor.

(2) A person shall not intentionally interfere with or damage any seal affixed by the Controller to a gas reticulation system or to a meter connected, or to be connected, to such a system without the consent of the Controller.

Penalty:

- (a) if the offender is a natural person—\$2,000;
- (b) if the offender is a body corporate—\$10,000.

Interference with markers, lights, fences or barricades

100. A person shall not, without reasonable excuse—

- (a) pull up, remove, damage or destroy any stake or marker placed by an authorised distributor to mark the position of any pipe, fitting or apparatus that forms part of a gas reticulation system;

- (b) extinguish or interfere with any light placed by an authorised distributor on or adjacent to the site of any construction work carried out by, or on behalf of, the authorised distributor in connection with the reticulation of gas; or
- (c) interfere with any fence or barricade erected by an authorised distributor around the site of any construction work carried out by, or on behalf of, the authorised distributor in connection with the reticulation of gas.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

PART XII—MISCELLANEOUS

Investigation of leakages

101. (1) An authorised distributor shall—

- (a) investigate any report of a leakage of gas from a gas reticulation system; and
- (b) make the investigation immediately on receiving the report unless the authorised distributor has reasonable grounds for believing that the leakage does not constitute a hazard to any person or property.

(2) An authorised distributor shall, on becoming aware of a leakage of gas from a gas reticulation system—

- (a) stop the leakage or take other appropriate action as soon as practicable; and
- (b) take all action that is reasonably practicable to prevent injury occurring to any person, or damage occurring to any property, as a result of the leakage.

Penalty: \$5,000.

Notification of leakages

102. An authorised distributor shall, on or before 31 March in each year, give the Controller a report, in the form prescribed by the Manual, in respect of leakages of gas from any gas reticulation system that occurred in the previous calendar year.

Penalty: \$2,500.

Notification of death, injury or damage

103. (1) Where an explosion or fire connected with a gas reticulation system, causes—

- (a) the death of a person;
- (b) injury to a person;
- (c) the destruction of property exceeding the value prescribed by the Manual; or
- (d) damage to property that would cost more than the value prescribed by the Manual to repair;

the authorised distributor shall, within 1 business day after becoming aware of the explosion or fire, give the Controller any information about the incident that can reasonably be obtained by the authorised distributor.

Penalty: \$2,500.

(2) In subsection (1)—

“injury” means an injury that is likely to incapacitate the person injured for more than 48 hours.

Interference with gas reticulation systems

104. (1) A person shall not erect, construct or place any building, wall, fence or other structure over or adjacent to a gas reticulation system so as to damage, or interfere with access to, the system.

(2) An authorised distributor may demolish and remove any building, wall, fence or other structure erected, constructed or placed over or adjacent to a gas reticulation system in contravention of subsection (1) and may recover any costs reasonably incurred in doing so as a debt due to the authorised distributor from the person who erected, constructed or placed the structure.

Rights of authorised distributors

105. (1) Subject to this Act and the Manual, an authorised distributor has an exclusive right to deal with—

- (a) a gas reticulation system; or
- (b) any meter associated with a gas reticulation system.

(2) In subsection (1)—

“meter” includes any filter, regulator or control line attached or fitted to the meter.

Meters not to be taken in execution etc.

106. (1) A meter installed by an authorised distributor to measure the quantity of gas supplied to a consumer shall not be subject to distress for rent, nor be attached or taken in execution under any process of any court or under any sequestration or other legal proceedings against, or affecting, the consumer or the owner or occupier of the premises on which the meter is installed or any other person in whose possession or care the meter may be.

(2) In subsection (1)—

“meter” includes any filter, regulator or control line attached or fitted to the meter.

Notification of changes to public streets

107. (1) Where an authorised distributor—

- (a) proposes to place a pipe, fitting or apparatus over, on or under any public street or public place; and
- (b) requests the Minister to advise the authorised distributor whether the Territory proposes to change the level or design of the public street or public place;

the Minister shall, within 14 days after receiving the request, advise the authorised distributor in writing whether a decision has been made to change the level or design of the street or place and, if such a decision has been made, give written particulars of the changes to be made.

(2) If—

- (a) an authorised distributor has applied for, or has been given, approval under Part VI of the Land Act in relation to a proposal to place a pipe, fitting or apparatus over, on or under the surface of any public street or public place; and
- (b) a decision has been, or is, made on behalf of the Territory to change the level or design of the public street or public place;

the Minister shall, as soon as possible, advise the authorised distributor in writing of the decision and give the distributor written particulars of the changes to be made in the level or design of the street or place.

(3) An authorised distributor may recover any costs reasonably incurred in relocating any pipe, fitting or apparatus in consequence of a failure by the Minister to comply with subsection (1) or (2) as a debt due to the authorised distributor from the Territory.

Changes to public streets etc.**108. (1) Where—**

- (a) an authorised distributor has installed over, on or under any public street or public place any pipe, fitting, or apparatus that forms part of a gas reticulation system in accordance with an approval under Part VI of the Land Act; and
- (b) a decision is made on behalf of the Territory to change the level or design of the part of the public street or public place over, on or under which the pipe, fitting or apparatus is installed;

the Minister shall, as soon as possible after the decision is made, advise the authorised distributor in writing of the decision and give the authorised distributor written particulars of the changes to be made.

(2) An authorised distributor may recover any costs reasonably incurred in relocating any pipe, fitting or apparatus installed over, on or under a public street or public place in accordance with an approval under Part VI of the Land Act before a change in the design or level of the street or place as a debt due to the authorised distributor from the Territory.

Approval of secondary gas activities

109. (1) The Minister may, on receipt of an application in writing by an authorised distributor, approve an activity as a secondary gas activity.

(2) For the purpose of subsection (1), an activity includes the exploration for gas in or outside the Territory.

Review of decisions

110. (1) Application may be made to the Tribunal for review of a decision of the Minister—

- (a) determining the amount of compensation payable to an authorised distributor under subsection 38 (2);
- (b) determining the amount of compensation payable to a person under subsection 41 (5);
- (c) refusing to consent to the surrender of an authorisation under section 42; or
- (d) refusing to approve an activity as a secondary gas activity under subsection 109 (1).

(2) Application may be made to the Tribunal for review of a decision of the Controller—

- (a) requiring an authorised distributor to take any action necessary to rectify a failure to comply with the Manual under subsection 59 (1);
- (b) requiring an authorised distributor to take the action referred to in paragraph (a) within a specified period under subsection 59 (1);
- (c) requiring an authorised distributor to cease reticulating gas to premises under subsection 61 (1);
- (d) agreeing to an authorised distributor sending a revised account to a consumer under subsection 92 (6); or
- (e) agreeing to an authorised distributor sending a revised account in respect of a specified period under subsection 92 (6).

(3) Application may be made to the Tribunal for review of a decision of an authorised distributor—

- (a) to exercise any of its powers under section 78 in relation to land that is not part of a public street or public place;
- (b) requesting an owner or occupier to clear vegetation under subsection 79 (1); or
- (c) requesting an owner or occupier to clear vegetation within a specified period under subsection 79 (1).

(4) Where a decision of the kind referred to in subsection (1) is made, the Minister shall, within 28 days after the date of the decision, give notice in writing of the decision—

- (a) in the case of a decision of the kind referred to in paragraph (1) (a)—to the authorised distributor;
- (b) in the case of a decision of the kind referred to in paragraph (1) (b)—to the person whose authorisation has been revoked; or
- (c) in the case of a decision of the kind referred to in paragraph (1) (c) or (d)—to the applicant.

(5) A notice under subsection 59 (1), 61 (1), 78 (3) or 79 (1), paragraph 92 (6) (b) or this section shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

(6) The validity of a decision referred to in subsection (1), (2) or (3) is not to be taken to be affected by a failure to comply with subsection (5).

(7) Where a person applies for review of a decision of a kind referred to in subsection (3), the operation of the decision is stayed from the date on which the application is made until—

- (a) the application is withdrawn; or
- (b) if it is not withdrawn—the Tribunal has disposed of the application.

(8) Subsection (7) does not apply in relation to a decision of the kind referred to in paragraph (3) (a) if the decision was made in an emergency.

Determined fees etc.

111. (1) The Minister may, by notice in the *Gazette*, determine—

- (a) fees for the purposes of this Act; or
- (b) a percentage less than 0.5% for the purposes of subsection 44 (1).

(2) A determination under paragraph (1) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Regulations

112. The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

[Presentation speech made in Assembly on 18 June 1992]

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