



AUSTRALIAN CAPITAL TERRITORY

Gas Supply Act 1998

No. 16 of 1998

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AUSTRALIAN CAPITAL TERRITORY

Gas Supply Act 1998

No. 16 of 1998

An Act to provide for the supply of natural gas and certain other kinds of gas, and for related purposes

[Notified in ACT Gazette S180: 30 June 1998]

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

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Gas Supply Act 1998*.

2. Commencement

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) 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*, that provision, by force of this subsection, commences on the first day after the end of that period.

3. Interpretation

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

- “Australian Standard” means a standard published by Standards Australia in the form of an Australian or an Australian/New Zealand Standard;
- “authorisation” means an authorisation issued under Part II;
- “authorised distributor” means a person holding a distribution authorisation;
- “authorised supplier” means a person holding a supplier authorisation;
- “authorised transporter” means a person holding a transmission authorisation;
- “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;
- “Code of Practice” means a Code of Practice published by—
- (a) The Australian Gas Association;
 - (b) the Australian Pipeline Industry Association Inc.; or
 - (c) a body prescribed for the purposes of this definition;
- “commercial premises” means premises used for the purposes of any business, trade, occupation, calling or profession, other than any part of such premises used for residential purposes;
- “consumer” means a person to whom gas is supplied (otherwise than in the person’s capacity as the holder of an authorisation);
- “consumer connecting service” means the pipework connecting a distribution pipeline, operated by an authorised distributor, to the inlet of a gas meter;
- “consumer piping system” means a system of pipes, fittings, flexible hoses, components and equipment that convey gas from the outlet of a consumer meter installation to the inlet of an appliance;
- “damage”, in relation to any fixture or moveable property, includes destroy;
- “distribution”, in relation to natural gas, means distribution through a distribution pipeline, and “distribute” has a corresponding meaning;
- “distribution authorisation” means an authorisation of the kind referred to in subsection 7 (2);

“equipment” includes items of the following kinds:

- (a) pressure control devices;
- (b) excess flow valves;
- (c) control valves;
- (d) actuators;
- (e) electrical equipment;
- (f) telemetry equipment;

“fee”, except in the expression “annual fee”, means a fee determined by the Minister in accordance with section 60;

“gas” means—

- (a) natural gas; or
- (b) any other kind or form of gas that the regulations declare to be a gas for the purposes of this Act;

“gas appliance” means an appliance as defined in Code of Practice AG 601—Gas Installation Code published by The Australian Gas Association;

“gasfitter” means a person holding a gasfitting licence under section 25 of the *Plumbers, Drainers and Gasfitters Board Act 1982*;

“gasfitting” includes—

- (a) any work carried out on any part of a consumer piping system up to and including the appliance; and
- (b) in relation to a consumer piping system—installation, connection to supply, interruption or discontinuance of supply, maintenance, disconnection and removal;

“gas pipeline” means a distribution pipeline or a transmission pipeline;

“gas pipeline operator” means an authorised distributor or an authorised transporter;

“Gas Technical Regulator” means the person holding an appointment under section 36, or acting under section 38, as the Gas Technical Regulator;

“hire” means letting for hire on a commercial basis, and includes advertisement, offer or exposure for hire on a commercial basis;

“infrastructure” means—

- (a) a transmission pipeline;

- (b) a distribution pipeline;
- (c) a consumer connecting service;
- (d) meters;
- (e) consumer piping system up to, but not including, appliances;
or
- (f) any equipment (including pressure control devices, excess flow valves, control valves, actuators, electrical equipment, telemetry equipment, cathodic protection installations, compounds, pits, buildings, signs and fences) that is associated with, or ancillary to, an item of a kind mentioned in paragraph (a), (b), (c), (d) or (e);

where used, or intended for use, in relation to natural gas in a gaseous state;

“inspector” means an inspector appointed under subsection 41 (2);

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

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

“meter” means a meter of a kind prescribed for the purposes of this definition;

“occupier”, in relation to land or premises, includes a person in charge, or apparently in charge, of the land or premises;

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

“prescribed” means prescribed by the regulations;

“sale” means sale on a commercial basis, and includes—

- (a) barter or exchange on a commercial basis; and
- (b) advertisement, offer or exposure for sale on a commercial basis;

“supplier authorisation” means an authorisation of the kind referred to in subsection 7 (3);

“this Act” includes the regulations;

“transmission”, in relation to gas, means transportation of high pressure natural gas in a gaseous state through a pipeline, and “transmit” has a corresponding meaning;

“transmission authorisation” means an authorisation of the kind referred to in subsection 7 (1).

(2) In this Act, unless the contrary intention appears, an expression—

- (a) that is not defined in subsection (1); and
- (b) that is defined in—
 - (i) the *Gas Pipelines Access Act 1998*; or
 - (ii) the *Gas Pipelines Access (A.C.T.) Law*;

has the same meaning as in that Act or Law (as amended from time to time).

(3) A reference in a provision of this Act to a Code of Practice or an Australian Standard is a reference to that Code or Standard as in force or existing at the date of commencement of the provision.

(4) Subsection (3) does not affect the operation of subsection 61 (4).

PART II—AUTHORISATIONS

4. Kinds of authorisation

The kinds of authorisation that, for the purposes of this Act, may be issued are as follows:

- (a) a transmission authorisation;
- (b) a distribution authorisation;
- (c) a supplier authorisation.

5. Applications

(1) A person may apply to the Minister, in the form approved in writing by the Minister, for the issue to the person of an authorisation.

(2) An application shall be accompanied by the applicable fee.

6. Issue etc. of authorisations

(1) Within 2 months after the day on which the Minister receives the application and the applicable fee, the Minister shall—

- (a) issue an authorisation of the kind applied for; or
- (b) make a decision not to issue such an authorisation.

(2) An authorisation—

- (a) shall specify—
 - (i) the terms on which, and the period for which, it is issued;
 - (ii) the amount of the annual fee for the authorisation; and

- (iii) the form of the annual report to be submitted by the holder in accordance with section 11; and
- (b) may specify conditions to which the authorisation is subject.

7. Authorised activities

- (1) A transmission authorisation authorises the holder, and any additional persons specified in it, to construct, own or operate a transmission pipeline, in accordance with the authorisation, for the purpose of conveying natural gas.
- (2) A distribution authorisation authorises the holder, and any additional persons specified in it, to construct, own or operate a distribution pipeline, in accordance with the authorisation, for the purpose of conveying natural gas to other persons.
- (3) A supplier authorisation authorises the holder, and any additional persons specified in it, to supply natural gas to other persons by means of a distribution pipeline, in accordance with the authorisation, for the purpose of sale of the natural gas.
- (4) For the purposes of this Act, if a person engages in an activity in contravention of a term or condition of an authorisation, the person is taken not to be authorised by the authorisation to engage in the activity.

8. Variation of terms or conditions

- (1) A holder of an authorisation may lodge with the Minister an application in writing for a variation, as specified in the application, of the terms or conditions of the authorisation.
- (2) The Minister may, by notice in writing given to the holder of an authorisation, propose a variation, as specified in the notice, of the terms or conditions of the authorisation.
- (3) An application under subsection (1) or a notice under subsection (2) shall set out the reasons for the variation that it specifies.
- (4) A holder who receives a notice given under subsection (2) may, within 28 days after the day on which the holder receives it, or such longer period as the Minister may allow, lodge with the Minister a notice in writing specifying the grounds of any objection to the proposal.
- (5) The Minister shall consider any objection specified in a notice lodged in accordance with subsection (4).
- (6) Within 2 months after the day on which the Minister receives an application lodged under subsection (1), the Minister shall—

- (a) vary the terms or conditions of the authorisation in accordance with the proposed variation specified in the application or in any other way to which the applicant has agreed in writing; or
 - (b) refuse the application.
- (7) Where the Minister has given a notice under subsection (2)—the Minister may vary the terms or conditions of the authorisation—
- (a) in accordance with the proposed variation specified in the notice; or
 - (b) in another way that is not less favourable to the holder than that proposed variation.
- (8) The Minister shall not make a variation under subsection (7) unless he or she is satisfied—
- (a) in the case of a transmission authorisation or distribution authorisation—that the variation will not prejudice—
 - (i) the conveyance of gas by the holder of the authorisation; or
 - (ii) the ability of the holder to meet the holder’s contractual obligations; or
 - (b) in the case of a supplier authorisation—that the variation will not prejudice—
 - (i) the supply of gas by the holder of the authorisation to the holder’s customers; or
 - (ii) the ability of the holder to meet the holder’s contractual obligations.

9. Surrender

- (1) The holder of an authorisation may lodge with the Minister an application in writing for approval to surrender the authorisation.
- (2) Within 2 months after the day on which the Minister receives the application, the Minister shall—
- (a) grant an approval, subject to such conditions (if any) as are specified in the approval, to surrender the authorisation with effect on and from the date specified in the approval; or
 - (b) refuse to grant an approval to surrender the authorisation.

10. Revocation

- (1) Subject to this section, the Minister may revoke an authorisation if the holder of the authorisation—
- (a) has consented in writing to the revocation;

- (b) has contravened a term or condition of the authorisation;
 - (c) where the holder is a company or other body corporate—
 - (i) is the subject of a winding up order; or
 - (ii) has ceased to be registered or incorporated as a company or other body corporate; or
 - (d) has been convicted of an offence under section 15.
- (2)** The Minister shall not give notice under paragraph (3) (a) of proposed revocation on the ground specified in paragraph (1) (b) unless—
- (a) the Minister—
 - (i) has given notice in writing to the holder requiring the holder to rectify the relevant contravention within 14 days after the day on which the person receives the notice or such longer period as may be specified in the notice; and
 - (ii) is satisfied that the holder has failed to comply with the notice; or
 - (b) the Minister is satisfied that the contravention is incapable, or not reasonably capable, of being rectified.
- (3)** The Minister shall not revoke an authorisation, otherwise than on a ground specified in paragraph (1) (a) or subparagraph (1) (c) (ii), unless—
- (a) the Minister has given the holder not less than 30 days' notice in writing of the proposed revocation;
 - (b) the notice—
 - (i) specifies the ground on which the Minister proposes to revoke the authorisation; and
 - (ii) contains a statement to the effect that the holder may, within 28 days after the day on which the holder receives it, or such longer period as the Minister may allow, lodge with the Minister a notice in writing specifying the grounds of any objection to the proposal; and
 - (c) the Minister has considered any objection specified in a notice lodged in accordance with subparagraph (b) (ii).
- (4)** The Minister shall not revoke an authorisation unless the Minister is satisfied, on reasonable grounds—
- (a) in the case of revocation on the ground specified in paragraph (1) (b)—that the relevant contravention is sufficiently serious to warrant the revocation;

- (b) in the case of revocation on the ground specified in paragraph (1) (d)—that the relevant offence is sufficiently serious to warrant the revocation; and
- (c) in any case—that the ground for the revocation has arisen.

11. Annual report

A gas pipeline operator shall, on or before 31 March in each calendar year, give to the Gas Technical Regulator a report, in the prescribed form, in respect of each gas pipeline operated by the operator throughout, or in any part of, the previous calendar year.

Penalty:

- (a) if the offender is a natural person—20 penalty units;
- (b) if the offender is a body corporate—100 penalty units.

12. Duty to keep and produce records

A person holding an authorisation shall keep all such records and other documents as are necessary to enable the person to meet any reporting requirement, or any requirement to produce a record or other document, arising under this Act or under any term or condition of the authorisation.

Penalty:

- (a) if the offender is a natural person—20 penalty units;
- (b) if the offender is a body corporate—100 penalty units.

13. Time limit for making certain decisions

Where—

- (a) an application is made under a provision of this Act; and
- (b) this Act does not specify a time within which the person to whom the application is made shall make a decision in relation to the application;

the person shall make a decision in relation to the application within a reasonable time after receiving it, or within such further time as the applicant may agree to in writing.

14. Authorisation generally to extend to employees and agents

An authorisation issued to, or in respect of, a person under this Part is taken, subject to any term or condition for the time being in force in relation to it, to extend to—

- (a) an employee of the person acting within the scope of his or her employment; and

- (b) an agent of the person acting within the scope of his or her agency.

15. Offences

- (1) This section applies subject to section 14.
- (2) A person shall not engage in an activity specified in subsection 7 (1) unless the person is authorised by a transmission authorisation to do so.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 12 months, or both;
- (b) if the offender is a body corporate—500 penalty units.
- (3) A person shall not engage in an activity specified in subsection 7 (2) unless the person is authorised by a distribution authorisation to do so.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 12 months, or both;
- (b) if the offender is a body corporate—500 penalty units.
- (4) A person shall not engage in an activity specified in subsection 7 (3) unless the person is authorised by a supplier authorisation to do so.

Penalty for contravention of subsection (4):

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

PART III—SUPPLY

16. Gas supply to be metered

- (1) An authorised transporter shall ensure that any gas leaving the possession, custody or control of the transporter to—

- (a) another authorised transporter; or
- (b) an authorised distributor;

passes through a meter on so leaving.

- (2) An authorised supplier shall ensure that any gas supplied by the supplier to another person by means of a distribution pipeline passes through a meter on being so supplied.

Penalty:

- (a) if the offender is a natural person—50 penalty units;

- (b) if the offender is a body corporate—250 penalty units.

17. Requests to connect premises—authorised distributors

(1) The owner of premises may, by notice in writing given to an authorised distributor, require the distributor to connect the premises, being premises specified in the notice, to a distribution pipeline.

(2) An authorised distributor shall, as soon as reasonably practicable after receiving a notice under subsection (1), connect the premises to a distribution pipeline.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
 - (b) if the offender is a body corporate—50 penalty units.
- (3) It is a defence to a prosecution under subsection (2) to show—
- (a) that the distributor's non-compliance with the relevant requirement was due to 1 or more of the following circumstances:
 - (i) connecting the premises to a distribution pipeline would have contravened a provision of this Act or another law of the Territory;
 - (ii) at all material times, the owner had not paid to the distributor the amount required by the distributor, by notice in writing given to the owner as soon as reasonably practicable after receiving notice under subsection (1), as security for costs of the kinds referred to in subsection (4);
 - (iii) there was no distribution pipeline operated by the distributor that carried gas at a pressure not exceeding 210 kilopascals and to which it was reasonably practicable to make the connection;
 - (iv) the distributor had ceased, at the time when the distributor received the notice under subsection (1), to be an authorised distributor;
 - (v) the distributor had good reason, on economic or practical grounds, for not complying with the notice;
 - (vi) the refusal or discontinuance was due to circumstances beyond the control of the distributor;
 - (vii) the owner withdrew the notice under subsection (1) or otherwise instructed or authorised the distributor not to make the connection; and

- (b) except where subparagraph (a) (vii) applies—that the distributor gave notice in writing to the owner, as soon as reasonably practicable after receiving a notice under subsection (1), setting out the reason for the non-compliance.
- (4) An owner of premises who requires the premises to be connected to a distribution pipeline is liable to pay to the distributor—
 - (a) the reasonable cost of laying pipes on the premises for the purpose of supplying gas to the premises; and
 - (b) the reasonable cost of laying pipes that are not on the premises for the purpose of connecting the premises to the distribution pipeline, excluding the cost of laying the first 10 metres of those pipes.

18. Supply of gas to premises—authorised suppliers

- (1) The occupier of premises that are connected to a distribution pipeline may, by notice in writing given to an authorised supplier, require the supplier to supply gas to the premises, being premises specified in the notice.
- (2) An authorised supplier shall begin to supply gas to the premises within the period of 5 business days commencing on the day that, under subsection (6), is the relevant day.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.
- (3) It is a defence to a prosecution under subsection (2) to show that—
 - (a) it was not reasonably practicable for the supplier to begin to supply gas to the premises within the period applying under that subsection; and
 - (b) the supplier began to do so as soon as reasonably practicable after the end of that period.
- (4) An authorised supplier who has begun to supply gas to premises in accordance with subsection (2) shall continue to supply gas to the premises.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.
- (5) It is a defence to a prosecution under subsection (2) or (4) to show—
 - (a) that the supplier's non-compliance with the relevant requirement was due to 1 or more of the following circumstances:

- (i) at all material times, the occupier had not paid an amount for the supply of gas that is due and payable to the supplier by the occupier;
 - (ii) the supply of gas to the premises would have contravened a provision of this Act or another law of the Territory;
 - (iii) the supply of gas to the premises would have contravened a provision of a Code of Practice;
 - (iv) the supplier had ceased, at the time when the supplier received the notice under subsection (1), to be an authorised supplier;
 - (v) the refusal or discontinuance was due to circumstances beyond the control of the supplier;
 - (vi) the occupier withdrew the notice under subsection (1) or otherwise instructed or authorised the supplier not to supply gas to the premises; and
 - (b) except where subparagraph (a) (vi) applies—that the supplier gave notice in writing to the owner, as soon as reasonably practicable after receiving a notice under subsection (1), setting out the reason for the non-compliance.
- (6) For the purposes of subsection (2), the relevant day is the later of—
- (a) the day on which the supplier receives from the occupier a notice in accordance with subsection (1); or
 - (b) if the supplier proves that the supplier had, before that day, given to the occupier a notice in writing requiring payment of an amount specified in the notice as security for the cost of gas to be supplied to the premises—the day on which that amount is paid to the supplier by, or on behalf of, the occupier.

19. Delivery of gas to premises—authorised distributors

- (1) An authorised supplier may, by notice in writing given to an authorised distributor, require the distributor to deliver gas to premises.
- (2) A notice under subsection (1) shall specify—
- (a) the address of the premises;
 - (b) the name of the occupier of the premises and, if different from the address of the premises, the postal address of the occupier; and
 - (c) the date on which the delivery is to commence, being on the earliest practicable day or on a later day.

(3) An authorised distributor shall begin to deliver gas to the premises on the earliest practicable day after receiving the notice or on such later day as is specified in the notice.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

(4) An authorised distributor who has begun to deliver gas to premises in accordance with subsection (2) shall continue to deliver gas to the premises.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

(5) It is a defence to a prosecution under subsection (3) or (4) to show that—

- (a) the distributor believed, on reasonable grounds, that—
 - (i) the delivery or continued delivery (as the case may be) of gas to the premises was, or would have been, dangerous to human life or health, or to property;
 - (ii) a gas installation to which the gas was supplied, or was to be supplied, was not installed, connected or operated in accordance with any relevant requirement of this Act; or
 - (iii) any gas appliance connected to such a gas appliance was not installed, connected or operated in accordance with any such requirement;
- (b) at all material times, the distributor had not been paid an amount for the connection of gas to the premises that is due and payable to the distributor;
- (c) delivery or continued delivery (as the case may be) of gas to the premises would have contravened a provision of this Act or another law of the Territory;
- (d) the distributor acted in accordance with an instruction or request from the occupier of the premises or from the authorised supplier that requested the gas to be supplied to the premises;
- (e) there was no agreement between the distributor and the supplier, at the time when the distributor received the notice under subsection (1), for the distributor to transport gas for the supplier;

- (f) the distributor had ceased, at the time when the distributor received the notice under subsection (1), to be an authorised distributor; or
- (g) the refusal or discontinuance was due to circumstances beyond the control of the distributor.

(6) Where an authorised distributor discontinues the delivery of gas to premises, the authorised distributor shall isolate the gas installation.

Penalty:

- (a) if the offender is a natural person—30 penalty units;
- (b) if the offender is a body corporate—150 penalty units.

(7) Where an authorised distributor—

- (a) fails to deliver gas to premises after receiving a request in writing to do so from the authorised supplier that requested the gas to be supplied to the premises; or
- (b) discontinues the delivery of gas to premises;

the authorised distributor shall, within 14 days after the day when the distributor received the request or discontinued such delivery, as the case may be, give notice in writing, specifying the reason for the failure or discontinuance, to each of the following persons:

- (c) the occupier of the premises;
- (d) the authorised supplier;
- (e) the Gas Technical Regulator.

(8) An authorised distributor shall not, without reasonable excuse, fail to comply with subsection (7).

Penalty for contravention of subsection (8):

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

PART IV—INFRASTRUCTURE

20. Infrastructure to be kept in good condition and repair

A person who owns or operates infrastructure shall keep the infrastructure in good condition and repair.

Penalty:

- (a) if the offender is a natural person—100 penalty units;
- (b) if the offender is a body corporate—500 penalty units.

21. Investigation of leakages from infrastructure

- (1) A gas pipeline operator shall—
- (a) investigate any report, received by the operator, of a leakage of gas from infrastructure owned or operated by the operator; and
 - (b) make the investigation immediately on receiving the report unless the operator is satisfied, on reasonable grounds, that the leakage does not constitute a hazard to any person or property.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

- (2) A gas pipeline operator shall, on becoming aware of a leakage of gas from such infrastructure—

- (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, and damage occurring to any property, as a result of the leakage.

Penalty for contravention of subsection (2):

- (a) if the offender is a natural person—100 penalty units;
- (b) if the offender is a body corporate—500 penalty units.

22. Notification of death, injury or damage caused by leakage, fire or explosion

- (1) Where a leakage from, or an explosion or fire connected with, infrastructure owned or operated by a gas pipeline operator causes—

- (a) the death of a person;
- (b) injury to a person that is treated at a hospital (whether in the Territory or elsewhere);
- (c) the destruction of property having a value that is not less than the prescribed amount; or
- (d) damage to property that would cost not less than the prescribed amount to repair;

the gas pipeline operator shall give notice to the Gas Technical Regulator in accordance with subsection (2).

Penalty:

- (a) if the offender is a natural person—50 penalty units;

- (b) if the offender is a body corporate—250 penalty units.
- (2) Notice under subsection (1) shall be given as follows:
 - (a) as soon as reasonably practicable—notice by telephone, electronic mail or facsimile transmission concerning the relevant incident, including such information about the incident as is then available to the gas pipeline operator;
 - (b) within 14 days after the day on which the incident occurs—a full report in writing about the incident, including all information about the incident that the gas pipeline operator possesses or can reasonably obtain.
- (3) Where the occurrence of a leakage, explosion or fire of a kind mentioned in subsection (1) is responded to by a fire service, notice of the incident is to be given to the Gas Technical Regulator, in accordance with subsection (4), as follows:
 - (a) where the response was by the Fire Brigade—by the Fire Commissioner;
 - (b) where the response was by the Rural Firefighting Service—by the Chief Fire Control Officer.
- (4) Notice under subsection (3) shall be given as follows:
 - (a) as soon as reasonably practicable—notice by telephone, electronic mail or facsimile transmission concerning the relevant incident, including such information about the incident as is then available to the fire service;
 - (b) within 14 days after the day on which the fire service responded to the incident—a full report in writing about the incident, including all information about the incident that the fire service possesses or can reasonably obtain.
- (5) In this section—
 - “Chief Fire Control Officer” has the same meaning as in the *Bushfire Act 1936*, and includes a person acting as the Chief Fire Control Officer;
 - “Fire Brigade” means the Fire Brigade established by the *Fire Brigade (Administration) Act 1974*;
 - “Fire Commissioner” means the person holding an appointment under section 4 of the *Fire Brigade (Administration) Act 1974*, and includes a person acting as the Fire Commissioner;
 - “fire service” means the Fire Brigade or the Rural Firefighting Service;

“Rural Firefighting Service” means the Rural Firefighting Service established by the *Bushfire Act 1936*.

23. Work carried out in relation to infrastructure

(1) Any work carried out in relation to the design, construction, operation or maintenance of infrastructure shall be carried out in accordance with any applicable provisions of the relevant Australian Standards and Codes of Practice as in force or existing at the time the work is carried out.

(2) For the purposes of subsection (1)—

- (a) the relevant Australian Standards include, but are not limited to, the following:
 - (i) AS 1697: Gas Pipeline Code;
 - (ii) AS 2885: Pipelines Gas and Liquid Petroleum;
 - (iii) AS 3723: Installation and Maintenance of Plastic Pipe Systems;
 - (iv) any other prescribed Australian Standards; and
- (b) the relevant Codes of Practice include, but are not limited to, the following:
 - (i) AG 501: Code for Industrial and Commercial Gas Fired Appliances;
 - (ii) AG 601: Gas Installation Code;
 - (iii) AG 603: Gas Distribution Code;
 - (iv) AG 606: Code of Practice for the Preparation of a Safety Case for Gas Networks;
 - (v) AG 750: Environmental Code of Practice;
 - (vi) any other prescribed Codes of Practice.

24. Information to be available

(1) The Chief Executive may give notice in writing to the holder of an authorisation to provide to the Chief Executive information in writing, of the kind specified in the notice, in relation to a gas pipeline.

(2) A notice shall not specify information of a particular kind if the Chief Executive has reason to believe that, under the *Gas Pipelines Access (A.C.T.) Law*, the local Regulator (within the meaning of that Law) has required, or is likely to require, the holder to provide information of that kind to the local Regulator.

(3) A person to whom a notice is given shall comply with the request to the best of the person's knowledge, information and belief within 14 days after the day on which the person receives the notice or such longer period as may be specified in the notice or otherwise allowed by the person giving the notice.

Penalty for contravention of subsection (3):

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

25. Powers of gas pipeline operators

(1) Subject to this section, any other provision of this Act and any provision of another law of the Territory, a gas pipeline operator may undertake any of the following activities:

- (a) for the purpose of ascertaining the suitability of any land that is being considered as the site of a gas pipeline—
 - (i) inspect the land; and
 - (ii) undertake any activity on, or in relation to, the land that is reasonably necessary for that purpose;
- (b) construct a gas pipeline on or beneath the surface of any land or beneath the surface of any water;
- (c) replace, repair or maintain a gas pipeline.

(2) For purposes connected with the exercise of a power under subsection (1), a gas pipeline operator may enter and occupy any land for so long as is reasonably necessary and may undertake any of the following activities on any land:

- (a) construct, install or place any gas pipeline, plant, machinery, equipment or goods;
- (b) clear vegetation that—
 - (i) impedes, or is likely to impede, any activity under paragraph (a); or
 - (ii) causes, or is likely to cause, damage to a gas pipeline or to associated plant, machinery, equipment or other goods;
- (c) make cuttings and excavations in the land;
- (d) erect temporary offices, workshops, sheds or other buildings;

- (e) remove, or erect a gate or space in, any fence or wall (not being a wall of a building) that is preventing or hindering an activity under this section;
- (f) level the surface of the land and make roads and tracks;
- (g) if an activity under this section is being, or is to be, carried out on a public street or in another public place—temporarily stop or divert traffic in that street or place;
- (h) demolish, destroy or remove any—
 - (i) gas pipeline, plant, machinery, equipment or goods;
 - (ii) office, workshop, shed or other building; or
 - (iii) road or track;constructed, installed, placed or erected by the gas pipeline operator on the land;
- (i) reinstate the surface of the land and, if the land is a public street or other 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) remove and dispose of any clay, earth, gravel, sand, soil, stone, timber, cleared vegetation or other material or things.

(3) Except—

- (a) in the case of an emergency; or
- (b) for the purpose of installing a consumer connecting service;

a gas pipeline operator shall not exercise any of the gas pipeline operator's powers under subsection (1) or (2) in relation to land that is not part of a public street or other public place unless the gas pipeline operator has given, at least 28 days before the exercise of any such power, a notice in writing in accordance with subsection (4) to the owner and any occupier of the land of the gas pipeline operator's intention to do so.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

(4) A notice under subsection (3) shall specify, so far as practicable—

- (a) the purposes for which the gas pipeline operator intends to enter the land;

- (b) the nature of the activities which the gas pipeline operator proposes to carry out on the land;
- (c) the precise parts of the land where it is intended that the activities should be carried out; and
- (d) the days during which it is intended that the activities should be carried out.

(5) In this section—

“emergency” means a situation involving the death of or injury to a person, the destruction of or damage to property, or the imminent risk of such death, injury, destruction or damage;

“vegetation” includes—

- (a) a tree, shrub or other plant growth; and
- (b) dead vegetation.

26. Protection of underground utility services

(1) A gas pipeline operator shall not excavate ground in an area where an underground part of any utility service is situated unless the gas pipeline operator has—

- (a) except in the case of an emergency, taken all reasonable steps to ascertain from the relevant utility the place and depth at which the part of the utility service in that area has been laid; and
- (b) taken all reasonable steps to protect the utility service from damage.

Penalty:

- (a) if the offender is a natural person—30 penalty units;
- (b) if the offender is a body corporate—150 penalty units.

(2) A gas pipeline operator shall not alter the position of an underground part of any utility service unless the gas pipeline operator has obtained the consent of the relevant utility.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

(3) In this section—

“relevant utility”, in relation to a utility service, means the utility or undertaking that owns the utility service;

“utility service” means a pipe, duct, cable or line installed or used in relation to water, sewerage, stormwater, electricity, gas or telecommunications services.

27. Notification of changes to public streets etc.

(1) Where a gas pipeline operator—

- (a) proposes to install infrastructure that will, when installed, form part of a gas pipeline under any public street or other public place; and
- (b) by notice in writing, informs the Minister of that proposal and requests the Minister to advise the relevant gas pipeline operator whether the Territory proposes to change the level or design of the public street or other public place;

the Minister shall, within 14 days after receiving the notice, give to the operator notice in writing stating 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, setting out particulars of the changes to be made.

(2) If—

- (a) a gas pipeline operator has applied for, or has been given, approval under Part VI of the Land Act in relation to a proposal to install infrastructure under the surface of any public street or other public place; and
- (b) a decision has been made on behalf of the Territory to change the level or design of the public street or other public place;

the Minister shall, as soon as reasonably practicable after the decision is made, give to the operator notice in writing informing the operator of the decision and setting out particulars of the changes to be made.

(3) Where—

- (a) a gas pipeline operator has installed, under any public street or other public place, infrastructure that forms part of a gas pipeline 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 other public place under which the infrastructure is installed;

the Minister shall, as soon as reasonably practicable after the decision is made, give to the operator notice in writing informing the operator of the decision and setting out particulars of the changes to be made.

28. Costs of removing infrastructure from public street etc. in certain cases

(1) A gas pipeline operator may recover, as a debt due from the Territory, the costs reasonably incurred in relocating, in consequence of a change or proposed change by or on behalf of the Territory of the level or design of a public street or other public place, any infrastructure that—

- (a) is owned by the operator; and
- (b) forms part of, or is connected to, a gas pipeline installed, in accordance with an approval granted under—
 - (i) Part VI of the Land Act; or
 - (ii) a law of the Territory in force at any time before the date of commencement of the Land Act;

under the public street or other public place.

(2) Subsection (1) does not apply if, when the gas pipeline was installed, the person who installed it knew or ought reasonably to have known of a decision to make the change or proposed change.

29. Removal of gas pipeline operator's property and waste

(1) Where a gas pipeline operator carries out any activity on any land in the exercise of a power under section 25, the gas pipeline operator shall, as soon as practicable after completing the activity, remove from the land—

- (a) all—
 - (i) goods, including items of plant, machinery and equipment;
 - (ii) offices, workshops, sheds and other buildings; and
 - (iii) roads and tracks;that the operator constructed, installed or placed on the land and that do not form part of, or are not to be used in the operation of, the gas pipeline on which the activity was carried out; and
- (b) all spoil, waste and rubbish and cleared vegetation resulting from the carrying out of the activity.

(2) A gas pipeline operator shall, within 7 business days after being directed in writing by the Gas Technical Regulator to do so, or within such longer period as may be specified in the notice or otherwise allowed by the Gas Technical Regulator, remove from land, specified in the notice, on which the gas pipeline operator is or was carrying out any such activity—

- (a) to the extent specified in the notice, any—
 - (i) goods, including items of plant, machinery and equipment;
 - (ii) offices, workshops, sheds and other buildings; and

- (iii) roads and tracks;
that the operator constructed, installed or placed on the land and that do not form part of, or are not to be used in the operation of, the gas pipeline on which the activity was carried out; and
- (b) if the notice so specifies—any spoil, waste, rubbish or cleared vegetation resulting from the carrying out of the activity.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

30. Compensation for damage

(1) In exercising a power (in this section called a “relevant power”) under section 25, a gas pipeline operator, and any person acting for or on behalf of a gas pipeline operator, shall cause as little detriment and inconvenience and do as little damage as possible.

(2) If the owner or occupier of land is injuriously affected—

- (a) by the exercise by a gas pipeline operator or any person acting for or on behalf of a gas pipeline operator, in relation to the land, of a relevant power; or
- (b) by the contravention, by a gas pipeline operator or any person acting for or on behalf of a gas pipeline operator, of subsection (1) or section 26 or 29;

the gas pipeline operator is liable to pay compensation to the owner or occupier (or both) in respect of the injury.

(3) Where a gas pipeline operator enters or occupies land under this Part, the gas pipeline operator is liable to pay compensation to the owner of the land or the occupier of the land (or both) in respect of any loss or damage sustained by the owner or occupier by reason of, or arising out of, the entry or occupation.

(4) Compensation is not payable under this section by a gas pipeline operator to an owner or occupier of land if, and to the extent that, any injury, loss or damage sustained by the owner or occupier was caused by, or arose out of, an act or omission of the operator where—

- (a) in the case of an act—the operator acted reasonably and in consequence of an act of the owner or occupier; or
- (b) in the case of an omission—the omission was brought about by an act of the owner or occupier.

(5) The amount of compensation payable to an owner or occupier of land under this section, if not agreed between the owner or occupier and the gas pipeline operator, may be determined by the Supreme Court or the Magistrates Court.

(6) Except as stated in subsection (7), this section shall not be taken to exclude or limit any liability of a gas pipeline operator in respect of any loss, damage or injury not compensable under this section.

(7) No action lies against a gas pipeline operator, or any person acting on behalf of a gas pipeline operator, for trespass to land or nuisance by reason only of anything done by the gas pipeline operator or such other person in the exercise, reasonably and in good faith, and without contravention of any material provision of this Act, of a relevant power.

31. Unauthorised connection to gas pipeline or consumer connecting service

A person shall not connect a pipe or fitting to a gas pipeline or a consumer connecting service without the consent of the gas pipeline operator.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

32. Wilful excavation near gas pipeline

A person shall not wilfully excavate ground in an area where any underground part of a gas pipeline is situated unless the person has taken all reasonable steps—

- (a) to ascertain from the gas pipeline operator the places and depths at which all parts of the gas pipeline that are in that area have been laid; and
- (b) to ensure that the excavation work does not interfere with the gas pipeline.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

33. Wilful interference with or damage to gas pipelines etc.

(1) A person shall not wilfully interfere with or damage—

- (a) any pipe or equipment that forms part of a gas pipeline;

- (b) any meter connected to a gas pipeline; or
 - (c) any seal affixed by the gas pipeline operator to a gas pipeline or to a meter connected, or to be connected, to a gas pipeline.
- (2) A person shall not wilfully erect, construct or place any building, wall, fence or other structure over or adjacent to a gas pipeline so as to damage, or interfere with access to, the gas pipeline.
- (3) A person shall not wilfully interfere with or damage—
- (a) any fence or barricade erected by a gas pipeline operator around the site of any construction work being carried out by, or on behalf of, the operator in connection with the transmission, distribution or supply of gas;
 - (b) any stake or marker placed by a gas pipeline operator to mark the position of any pipe or equipment that forms part of a gas pipeline; or
 - (c) any light placed by a gas pipeline operator on or adjacent to the site of any construction work being carried out in connection with the transmission, distribution or supply of gas.
- (4) A person shall not wilfully interfere with or damage any seal affixed by the Gas Technical Regulator to a gas pipeline or to a meter connected, or to be connected, to a gas pipeline.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

34. Sections 32 and 33—defences

- (1) It is a defence to a prosecution for an offence against section 32 or subsection 33 (1), (2) or (3) to show that the person charged with the offence acted with the consent of the relevant gas pipeline operator.
- (2) It is a defence to a prosecution for an offence under subsection 33 (4) to show that the person charged with the offence acted with the consent of the Gas Technical Regulator.

35. Sections 31, 32 and 33—making good any damage etc.

- (1) This section applies where loss or damage is caused because a person (in this section called the “responsible person”) commits (whether wilfully or not) an act of a kind specified in section 31, 32 or 33.
- (2) Where this section applies, the following person, namely:

- (a) in the case of an act of a kind specified in subsection 33 (4)—the Gas Technical Regulator;
 - (b) in any other case—the relevant gas pipeline operator;
- may—
- (c) undertake any work necessary to rectify or repair any loss or damage; and
 - (d) recover from the responsible person the costs reasonably incurred in undertaking such work.
- (3) In an action under paragraph (2) (d), it is a defence for the responsible person to show that—
- (a) in the case of an act of a kind specified in subsection 33 (4)—the responsible person acted with the consent of the Gas Technical Regulator; or
 - (b) in any other case—the responsible person acted with the consent of the relevant gas pipeline operator.

PART V—GAS TECHNICAL REGULATOR AND INSPECTORS

Division 1—General

36. Appointment of Gas Technical Regulator

The Minister may appoint a public servant to the office of Gas Technical Regulator.

37. Functions of Gas Technical Regulator

- (1) The Gas Technical Regulator has, subject to this Act, the following functions:
- (a) to secure compliance with this Act and authorisations;
 - (b) to assist and advise the Minister in relation to matters arising under, or connected with, this Act;
 - (c) to develop gas technical policy in consultation with the appropriate authorities of other jurisdictions;
 - (d) to monitor and promote safety and technical standards in relation to gas installations and gas appliances;
 - (e) to monitor and promote safety and technical standards within the gas industry;
 - (f) to monitor and promote safety and technical standards in relation to the supply of gas to consumers;

(g) to issue a notice in writing as follows:

- (i) to a person whom the Gas Technical Regulator believes, on reasonable grounds, to be contravening a term or condition of an authorisation—to cease the contravention of the term or condition;
- (ii) to a person whom the Gas Technical Regulator believes, on reasonable grounds, to be constructing, operating or maintaining infrastructure in contravention of a provision of this Act—to cease the contravention of the provision;
- (iii) to a person whom the Gas Technical Regulator believes, on reasonable grounds, to be—

- (A) supplying gas to premises; or
- (B) operating infrastructure;

in circumstances where the supply or operation presents a danger to human life or health or a risk of damage to property—to cease such supply or operation (as the case may be) while circumstances of that kind continue;

- (iv) to a gas pipeline operator—to perform a prescribed test, or a test of a prescribed kind, with respect to the gas pressure or gas quality in any gas pipeline, and to inform the Gas Technical Regulator in writing, within 7 days after the day on which the person receives the notice, or such longer period as may be specified in the notice or otherwise allowed by the Gas Technical Regulator, of the results of the test;
- (h) in the case of an emergency that presents a danger to human life or health or a risk of damage to property—to take such action, and authorise in writing other persons to take such action, as appears reasonably necessary to prevent or reduce the danger or risk;
- (i) to produce an annual report in relation to the operation and administration of this Act, and related matters;
- (j) to provide technical advice to inspectors;
- (k) any other function conferred on the Gas Technical Regulator by this Act.

(2) A notice under paragraph (1) (g) shall specify under which provision of that paragraph it is given, but a failure to do so shall not invalidate the notice.

(3) A person shall not, without reasonable excuse, fail to comply with a notice under subparagraph (1) (g) (i), (ii) or (iii).

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 12 months, or both;
- (b) if the offender is a body corporate—500 penalty units.

(4) A person shall not, without reasonable excuse, fail to comply with a notice under subparagraph (1) (g) (iv).

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

(5) No action lies against—

- (a) the Gas Technical Regulator, the Territory or any other person—in respect of anything done by the Gas Technical Regulator, reasonably and in good faith, under paragraph (1) (h); or
- (b) against a person authorised under paragraph (1) (h)—in respect of anything done by the person, reasonably and in good faith, in accordance with the authorisation.

38. Acting Gas Technical Regulator

The Minister may appoint a public servant to act as the Gas Technical Regulator—

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

39. General powers

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

40. Delegation

(1) The Chief Executive may, by instrument, delegate the performance or exercise of any of his or her functions or powers under subsection 24 (1) or 41 (2).

(2) The Gas Technical Regulator may, by instrument, delegate the performance or exercise of any of his or her functions or powers under this Act to an inspector.

41. Appointment of inspectors

(1) The Gas Technical Regulator may, by instrument published in the *Gazette*, specify qualifications to be held by persons appointed as inspectors.

(2) The Chief Executive may, by instrument, appoint persons holding such qualifications as inspectors for the purposes of this Act.

42. Identity cards

(1) The Gas Technical Regulator 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 Gas Technical Regulator.

Penalty for contravention of subsection (2): 1 penalty unit.

43. Obstruction of Gas Technical Regulator, inspectors etc.

A person shall not, without reasonable excuse, obstruct or hinder—

- (a) the Gas Technical Regulator in the performance or exercise of a function or power of the Gas Technical Regulator under this Act;
- (b) an inspector in the performance or exercise of a function or power of an inspector under this Act; or
- (c) a person in the performance or exercise of a function or power that, under paragraph 37 (1) (h), the person is authorised to perform or exercise.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

44. Documents to be provided to Gas Technical Regulator

(1) Subject to subsection (3), the Gas Technical Regulator may, by notice in writing, require any person who has carried out, or is carrying out, work in relation to the design, construction, operation or maintenance of infrastructure to provide to the Gas Technical Regulator a copy of each document specified in the notice.

(2) A notice under subsection (1) may specify such documents by reference to a class or kind of document.

(3) The only documents, or classes or kinds of document, that may be specified in the notice are ones that the Gas Technical Regulator believes, on reasonable grounds—

- (a) to be in the possession, custody or power of the person to whom the notice is given;
- (b) to relate to work that the person has carried out, or is carrying out, in relation to the design, construction, operation or maintenance of infrastructure; and
- (c) to be, solely or mainly, in the nature of—
 - (i) completed plans;
 - (ii) construction records;
 - (iii) maintenance records; or
 - (iv) documents relating to policy or procedures concerning the operation or maintenance of infrastructure.

(4) The person shall comply with the notice within 7 days after the day on which the person receives it or such longer period as may be specified in the notice or otherwise allowed by the Gas Technical Regulator.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

(5) It is a defence to a prosecution under subsection (4) to show that, when the person received the notice, the documents, or class or kind of documents, specified in the notice were not in the possession, custody or power of the person.

(6) A person shall not, for the purpose of enabling the person or another person to avoid compliance with a notice that has been issued, or that the person believes is likely to be issued, under subsection (1)—

- (a) destroy or deface any document; or
- (b) remove any document, or cause or allow any document to be removed—
 - (i) from the possession, custody or power of the person or another person; or
 - (ii) from the Territory.

Penalty for contravention of subsection (6):

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

45. Powers of inspectors

(1) An inspector may—

- (a) inspect and test any pipe or equipment that the inspector believes on reasonable grounds is used, or is likely to be used, in the transmission, distribution, storage or consumption of gas or in the removal of products of combustion;
- (b) isolate, or seize and remove for the purpose of testing, any such pipe or equipment if the inspector believes on reasonable grounds that it—
 - (i) does not comply with this Act; or
 - (ii) is, or is likely to become, unsafe to use;
- (c) perform tests to determine the pressure and flow rate of any substance in any pipe, fitting, equipment or other article on the premises that the inspector believes on reasonable grounds is used in transmission, distribution, storage or consumption of gas;
- (d) take samples of—
 - (i) gas from a gas pipeline on the premises; or
 - (ii) any substance on the premises that the inspector believes on reasonable grounds to be gas;for the purpose of determining the quality and composition of the gas or substance;
- (e) take samples of the products of combustion from a gas appliance;
- (f) seize any material object that the inspector believes on reasonable grounds to be connected with an offence or intended offence against this Act;
- (g) test the pressure of gas in a gas pipeline; and
- (h) inspect a gas pipeline and, for the purpose of making such an inspection, may uncover any part of the gas pipeline that is laid in the ground.

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

(3) An inspector may, by notice in writing, direct the owner or occupier of premises not to—

- (a) install or operate any infrastructure specified in the notice; or
- (b) supply, install or connect to a gas appliance any pipe or equipment specified in the notice;

if the inspector believes on reasonable grounds that the relevant infrastructure, gas appliance, pipe or equipment—

- (c) does not comply with this Act; or
- (d) is, or is likely to become, unsafe to use.

(4) An inspector may, by notice in writing, revoke a direction given (whether by the inspector or another inspector) under subsection (3) if the inspector—

- (a) has, since the direction was given, inspected or tested the relevant infrastructure, gas appliance, pipe or equipment; and
- (b) is satisfied that it has been altered or repaired so that it complies with this Act, or has been made safe to use, as the case requires.

(5) A person shall not, without reasonable excuse, contravene a direction given to the person under subsection (3).

Penalty for contravention of subsection (5):

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

46. Provision of assistance to inspectors

A person holding an authorisation shall—

- (a) give an inspector reasonable assistance to enable the inspector to exercise his or her powers under this Act; and
- (b) allow the inspector to use equipment or facilities owned by the person—
 - (i) to test the pressure of gas in a pipeline; or
 - (ii) to test gas taken from a pipeline.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

47. Gas Technical Regulator and inspectors may obtain information

(1) For the purpose of determining whether a gas pipeline complies with, or is being operated in accordance with, this Act, the Gas Technical Regulator or an inspector may—

- (a) by notice in writing given to the gas pipeline operator, require the operator, within 14 days after the day on which the operator receives the notice or such longer period as may be specified in the notice or otherwise allowed by the Gas Technical Regulator, and at the place specified in the notice—
 - (i) to provide in writing such information relating to the gas pipeline or its operation as is specified in the notice; and
 - (ii) to produce such documents or other records relating to the gas pipeline or its operation as are specified in the notice; or
 - (b) where the Gas Technical Regulator or an inspector believes, on reasonable grounds, that an officer, employee or agent of the gas pipeline operator is capable of providing information or producing documents or records relating to the gas pipeline or its operation—by notice in writing given to the officer, employee or agent, require him or her within 14 days after the day on which he or she receives notice or such longer period as may be specified in the notice or otherwise allowed by the Gas Technical Regulator, and at the place specified in the notice—
 - (i) to provide in writing such information relating to the gas pipeline or its operation as is specified in the notice; and
 - (ii) to produce such documents or other records relating to the gas pipeline or its operation as are specified in the notice.
- (2) A notice under paragraph (1) (a) or (b) may specify such documents by reference to a class or kind of document.
- (3) Where documents or other records are produced to the Gas Technical Regulator or an inspector in accordance with subsection (1), the Gas Technical Regulator 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, being a offence to which the documents or other records are material, has been instituted within that period.

(4) 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—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

(5) It is a defence to a prosecution under subsection (4) to show that, when the person received the notice, the documents, or class or kind of documents, specified in the notice were not in the possession, custody or power of the person.

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

- (a) provide information that is false or misleading in any respect; or
- (b) produce to the Gas Technical Regulator or an inspector a document or record containing information that is false or misleading in any respect.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

(7) It is a defence to a prosecution under paragraph (6) (b) to show that the person—

- (a) informed the Gas Technical Regulator or the inspector as soon as practicable that the document or record was false or misleading in the relevant respect; and
- (b) unless the person shows that he or she did not have, and could reasonably have obtained, the correct information—provided correct information in that respect as soon as practicable to the Gas Technical Regulator or the inspector.

(8) A person shall not, for the purpose of enabling the person or another person to avoid compliance with a notice that has been issued, or that the person believes is likely to be issued, under paragraph (1) (a) or (b)—

- (a) destroy or deface any document; or
- (b) remove any document, or cause or allow any document to be removed—
 - (i) from the possession, custody or power of the person or another person; or

- (ii) from the Territory.

Penalty for contravention of subsection (8):

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

Division 2—Premises

48. Interpretation

- (1) For the purposes of this Division, a material object includes—
 - (a) gas;
 - (b) a gas pipeline; and
 - (c) a fixture or fitting to land or premises.
- (2) For the purposes of this Division—
 - (a) a material object shall be taken to be connected with an offence if—
 - (i) the offence has been, or may have been, committed with respect to the material object;
 - (ii) the material object will afford, or is likely to afford, evidence of the commission of the offence; or
 - (iii) the material object has been used, or may have been used, for the purpose of committing the offence; and
 - (b) a material object shall be taken to be connected with an offence if there are reasonable grounds for believing that the material object will or may be used in the commission of the intended offence.
- (3) For the purposes of this Division, the owner of a material object includes a person entitled to custody or possession of the material object.
- (4) In this Division—
 - “intended offence” means an offence that there are reasonable grounds for believing will or may be committed;
 - “offence” includes a suspected offence.

49. Entry and inspection

- (1) For the purpose of exercising his or her powers under paragraph 37 (1) (h), the Gas Technical Regulator and any person authorised under that paragraph may enter and remain on any land or premises at any time with such assistance and by such force as is necessary and reasonable in the circumstances.

(2) An inspector or other person who enters premises under subsection (1) shall not remain on the premises if, at the request (however expressed) of the occupier of the premises to show the person's authority to enter the premises, the inspector or other person does not show to the occupier—

- (a) in the case of an inspector—his or her identity card issued under section 42; or
- (b) in the case of any other person—his or her authority in writing under paragraph 37 (1) (h), or a clearly legible photocopy of it.

(3) Subject to subsection (4), an inspector may enter and remain on premises for the purposes of exercising a power under subsection (5) if the inspector believes on reasonable grounds that—

- (a) the transmission, distribution, storage or consumption of gas takes place, or may take place, on the premises; or
- (b) the manufacture, supply or maintenance of any item for use in connection with an activity or action mentioned in paragraph (a) takes place, or may take place, on the premises.

(4) An inspector shall not enter or remain on premises under subsection (3) except—

- (a) with the consent of the occupier of the premises obtained in accordance with section 50; or
- (b) in accordance with a warrant, issued under subsection 51 (2), that the inspector shows to the occupier.

(5) An inspector may, while he or she remains on premises in accordance with this section—

- (a) if paragraph (4) (a) applies—
 - (i) inspect the premises; and
 - (ii) exercise any power conferred by section 45 or 52; or
- (b) if paragraph (4) (b) applies—exercise, in accordance with the warrant, the powers conferred by the warrant.

50. Consent to entry and inspection

(1) Before seeking the consent of the occupier of premises for the purposes of paragraph 49 (4) (a), an inspector shall—

- (a) show his or her identity card, issued under section 42, to the occupier; and

- (b) inform the occupier, orally or in writing, 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 inspector to enter the occupier's premises and to exercise any power under section 45; and
 - (b) that the occupier has given the inspector that consent on the day, and at the time, specified in the acknowledgment.
- (3) Where, in any proceedings under this Act before a court—
 - (a) it is material for the court to be satisfied that an occupier has consented for the purposes of paragraph 49 (4) (a); and
 - (b) an acknowledgment in accordance with subsection (2), signed by the occupier, is not produced in evidence;

it shall be presumed, in the absence of proof to the contrary, that the occupier did not so consent.

51. Search warrants

- (1) An inspector may lay an information on oath before a magistrate stating that the inspector believes on reasonable grounds that there is, or may be, on any premises—
 - (a) a material object of a particular kind, or particular kinds, connected with an offence or intended offence against this Act; or
 - (b) a material object used in the transmission, distribution, storage or consumption of gas, that—
 - (i) does not comply with this Act; or
 - (ii) is, or is likely to become, unsafe to use.
- (2) On such an information being laid before him or her, 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—
 - (a) to enter the premises;
 - (b) to inspect the premises for material objects of the kind, or kinds, specified in the warrant; and
 - (c) to exercise the powers of an inspector under section 45 or 52 in relation to the premises or such of those powers as are specified in the warrant.

- (3) A magistrate shall not issue a warrant unless—
- (a) the information sets out the grounds relied on;
 - (b) the informant or another person has given the magistrate, either orally on oath or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (4) A warrant shall—
- (a) state the purpose for which it is issued;
 - (b) specify the material object, or kind of material object, to which the warrant relates;
 - (c) specify the nature of the alleged—
 - (i) offence or intended offence;
 - (ii) lack of compliance with this Act;
 - (iii) lack of safety; or
 - (iv) likelihood of the material object or kind of material object becoming unsafe;
 - (d) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of day or night; and
 - (e) 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.

52. Seizure of material objects found in search under warrant

- (1) If, in the course of inspecting premises under subsection 49 (5), an inspector—
- (a) finds any material object;
 - (b) believes on reasonable grounds that the material object—
 - (i) is, or has been, used in the transmission, distribution, storage or consumption of gas; and
 - (ii) does not comply with this Act, or is, or is likely to become, unsafe to use; and
 - (c) believes on reasonable grounds that it is necessary to seize the material object in order to prevent its—

- (i) concealment, loss or destruction;
- (ii) disposal in any manner;
- (iii) being exposed, offered or advertised for hire or sale (whether on a commercial basis or otherwise);
- (iv) being or remaining installed in, or connected to, a gas pipeline; or
- (v) otherwise used in the transmission, distribution, storage or consumption of gas;

the inspector may, subject to subsection (2), do either or both of the following:

- (d) seize the material object;
- (e) take any other action that the inspector reasonably considers necessary in order to avert or reduce any danger to human life or health or risk of damage to property.

(2) A power conferred by subsection (1) may be exercised, in the case of an inspection in accordance with a warrant, only to the extent (if any) authorised by the warrant.

(3) Where the inspector seizes a material object under subsection (1), he or she shall, as soon as reasonably practicable—

- (a) return the material object to the premises on which it was seized or to any person who appears to the inspector to be—
 - (i) the owner or occupier of those premises; or
 - (ii) the owner of the material object;
- (b) arrange with any such person for the disposal of the material object; or
- (c) apply to the Magistrates Court, on notice to any person whom the inspector has reason to believe is—
 - (i) the owner or occupier of those premises; or
 - (ii) the owner of the material object;

for directions as to the disposal of the material object.

(4) On an application under paragraph (3) (c) the Magistrates Court may make an order, as the Court thinks just and proper, as follows:

- (a) if the Court is satisfied that there were proper grounds for the seizure of the material object—that the material object be forfeited to the Territory, or otherwise dealt with or disposed of;

- (b) in any other case—that the material object be handed over to any person who appears to the Court to be—
 - (i) the owner or occupier of those premises; or
 - (ii) the owner of the material object.

PART VI—MISCELLANEOUS

53. Development activities—Part VI of the Land Act

For the purposes of Part VI of the Land Act, each of the following activities is declared to be a development activity:

- (a) the construction of a transmission pipeline;
- (b) the construction of a distribution pipeline.

54. Privilege on ground of incrimination and admissibility in evidence of certain matters—restrictions to apply

(1) A person cannot claim to be relieved or absolved from any requirement under this Act to produce any document or provide any information on the ground that the document or information would tend to incriminate the person.

(2) Any—

- (a) document produced under such a requirement;
- (b) information provided under such a requirement; or
- (c) information, document or thing obtained as a direct or indirect consequence of the production of a document, or the provision of information, under such a requirement;

is not admissible in evidence against the person in any civil or criminal proceedings.

55. Injunctions

(1) The Supreme Court may, on the application of the Minister or the Gas Technical Regulator, issue an injunction to restrain a person from contravening, or causing or assisting another person to contravene, a provision of section 15, whether or not—

- (a) such a contravention has occurred; or
- (b) if such a contravention has occurred—criminal proceedings have been, or may be, brought in respect of the contravention.

(2) Subsection (1) does not affect any other power of the Supreme Court to issue an injunction.

56. Application of the *Independent Pricing and Regulatory Commission Act 1997*

(1) Subject to subsection (2), for the purposes of the *Independent Pricing and Regulatory Commission Act 1997*—

- (a) the Gas Technical Regulator is taken to be a referring authority; and
- (b) an industry engaged in the supply in the Territory of gas services is taken to be a regulated industry.

(2) The *Independent Pricing and Regulatory Commission Act 1997* applies, in relation to matters mentioned in subsection (1), subject to any provisions of—

- (a) this Act;
- (b) the *Gas Pipelines Access Act 1998*;
- (c) the *Gas Pipelines Access (A.C.T.) Law*; or
- (d) the *Gas Pipelines Access (A.C.T.) Regulations*.

57. Certain official documents—proof etc.

(1) In this section—

“notice” means a notice under this Act to a person, being a notice given by the Chief Executive, the Gas Technical Regulator or an inspector.

(2) A notice shall be signed by the person giving it, but a failure to comply with this requirement shall not invalidate the notice.

(3) Each of the following documents is admissible in evidence without being proved:

- (a) a document that—
 - (i) is, or purports to be, signed by the Minister; and
 - (ii) states that on a day, or during a period, specified in the document a person named in the document held office under this Act as the Gas Technical Regulator or acting Gas Technical Regulator;
- (b) a document that is, or purports to be—
 - (i) a notice, or a copy of a notice, under this Act; and
 - (ii) signed by the person giving it;
- (c) a document that—

- (i) is, or purports to be, signed by the Gas Technical Regulator;
and
- (ii) states that on a day, or during a period, specified in the document a person named in the document held office under this Act as an inspector.

(4) A document admitted in evidence under subsection (3) is evidence, in the absence of proof to the contrary, of its contents.

58. Appointments

(1) An appointment of a person as the Gas Technical Regulator under section 36, or as an acting Gas Technical Regulator under section 38, ceases to have effect if the person ceases to be a public servant.

(2) An appointment of a person as an inspector under section 41 ceases to have effect if the person ceases to hold a qualification of a kind specified by a notice in force under subsection 41 (1).

(3) Subsections (1) and (2) do not affect, by implication, the operation of any other law relating to the cessation or termination of an appointment.

(4) Nothing done, or purportedly done, under this Act by a person appointed, or purportedly appointed, under section 36 or 38 shall be challenged or set aside on the ground that, at any material time, the person was not a public servant.

(5) Nothing done, or purportedly done, under this Act by a person appointed, or purportedly appointed, under section 38 shall be challenged or set aside on the ground that, at any material time, the occasion for the person to act had not arisen or had ceased.

(6) Nothing done, or purportedly done, under this Act by a person appointed, or purportedly appointed, under section 41 shall be challenged or set aside on the ground that, at any material time, the person was not qualified to be so appointed.

59. Review of decisions

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

- (a) under paragraph 6 (1) (b)—not to issue an authorisation;
- (b) under subsection 6 (2)—to specify particular terms or conditions in, or in relation to, an authorisation;

- (c) under paragraph 8 (6) (b)—to refuse an application for the variation of the terms or conditions in, or in relation to, an authorisation;
 - (d) under subsection 8 (7)—to vary such terms or conditions;
 - (e) under paragraph 9 (2) (b)—to refuse an application to surrender an authorisation; or
 - (f) under paragraph 10 (1) (b), (c) or (d)—to revoke an authorisation.
- (2) Application may be made to the Administrative Appeals Tribunal for review of a decision of—
- (a) the Chief Executive—to issue a notice under subsection 24 (1);
 - (b) the Gas Technical Regulator—to issue a notice under paragraph 37 (1) (g), subsection 44 (1) or paragraph 47 (1) (a) or (b);
 - (c) an inspector—to issue a notice under subsection 45 (3) or paragraph 47 (1) (a) or (b); or
 - (d) an inspector—to seize any object under paragraph 45 (1) (b) or (f) or subsection 52 (1).
- (3) Application may be made to the Administrative Appeals Tribunal for review of a decision of a gas pipeline operator to issue a notice under subsection 25 (3).
- (4) A notice under subsection 24 (1) or 25 (3), paragraph 37 (1) (g), subsection 44 (1) or 45 (3) or paragraph 47 (1) (a) or (b) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*, but a failure to comply with this subsection shall not invalidate the notice.
- (5) 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) the Administrative Appeals Tribunal—
 - (i) otherwise directs; or
 - (ii) has disposed of the application.
- (6) Despite subsection (5), the Supreme Court may, on good cause being shown, make such order in relation to the operation, or the cessation of the operation, of a decision of a kind referred to in subsection (3), as the Court thinks just and proper.

(7) The following persons may make an application, or make submissions in respect of an application, under subsection (6):

- (a) the person who made the relevant decision;
- (b) a person who, under section 25 of the *Administrative Appeals Tribunal Act 1989*, may make an application under subsection (3) in relation to the relevant decision;
- (c) the Minister;
- (d) the Gas Technical Regulator.

60. Determined fees

The Minister may, by notice in writing, determine fees (other than annual fees for authorisations) for the purposes of this Act.

61. Regulations

(1) 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.

(2) In particular, the regulations may make provision for or in relation to—

- (a) gasfitting or gasfitters;
- (b) gas meters or metering (including meter tests and meter testing equipment) in relation to natural gas;
- (c) the charging of fees for the testing, on the application of a person, of gas meters in relation to natural gas;
- (d) the payment of compensation to a person disadvantaged, or apparently disadvantaged, by the inaccuracy of gas meters in relation to natural gas;
- (e) safety and operating plans (including operating and testing standards and procedures, and provisions concerning emergencies, to be demonstrated by such plans) in relation to transmission pipelines or distribution pipelines;
- (f) gas quality and composition;
- (g) gas appliances and equipment (including installation and maintenance);
- (h) protection of consumers of gas;

- (i) the sale or hire of gas appliances and equipment;
 - (j) the conferring of functions, in addition to those conferred by this Act, on the Gas Technical Regulator; and
 - (k) forms of notice or application to be used for the purposes of this Act or the regulations.
- (3) The regulations may impose a penalty not exceeding—
- (a) if the offender is a natural person—10 penalty units;
 - (b) if the offender is a body corporate—50 penalty units.
- (4) Where—
- (a) a provision of this Act refers to a Code of Practice or an Australian Standard; and
 - (b) after the date of commencement of the provision the Code or Standard is varied, amended or replaced;
- the regulations may substitute from time to time, for the reference in the provision to the Code or Standard, a reference to the varied or amended Code or Standard or the replacement Code or Standard, as the case requires.
- (5) The regulations may make provision of a transitional nature in respect of, or consequent upon, the repeal of the *Gas Act 1992*.
- (6) In this section, “this Act” does not include the regulations.

62. Exclusion of double compensation or damages

- (1) Where—
- (a) an amount of compensation or damages is paid by a person to another person under a provision of this Act in respect of any loss or damage (however described); and
 - (b) the first-mentioned person has a liability to the other person under another provision of this Act, another law of the Territory or the common law in respect of that loss or damage;

the payment is to be taken to be a payment in satisfaction, or part satisfaction, of that liability.

- (2) Where—
- (a) an amount of compensation or damages is paid by a person to another person under another law of the Territory or the common law in respect of any loss or damage (however described); and
 - (b) the first-mentioned person has a liability to the other person under 1 or more provisions of this Act in respect of that loss or damage;

the payment is to be taken to be a payment in satisfaction, or part satisfaction, of that liability.

63. Conduct of directors, servants and agents

(1) Where, for the purposes of the prosecution of an offence against this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to prove that—

- (a) a director, servant or agent of the body corporate, or a servant or agent of the person—
 - (i) engaged in that conduct; and
 - (ii) had that state of mind; and
- (b) that conduct was within the scope of the actual or apparent authority of that director, servant or agent.

(2) In subsection (1), a reference to the state of mind of a body corporate or person includes a reference to—

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

(3) Any conduct engaged in—

- (a) on behalf of a body corporate by a director, servant or agent of the body corporate; or
- (b) on behalf of a natural person by a servant or agent of the person;

within the scope of the actual or apparent authority of that director, servant or agent, is taken, for the purposes of such a prosecution, to have been engaged in also by the body corporate or person.

(4) Subsection (3) does not apply if the body corporate or person proves that it, he or she took reasonable precautions, and exercised due diligence, to avoid the conduct.

(5) Where—

- (a) a natural person is convicted of an offence against this Act; and
- (b) the person would not have been convicted of the offence but for subsections (1) and (3);

the person is not liable to be punished by imprisonment for that offence.

(6) In this section, a reference to a director of a body corporate shall be read as including a reference to a member of a body corporate incorporated

for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.

(7) In this section, a reference to engaging in conduct shall be read as including a reference to failing or refusing to engage in conduct.

64. Amendment of the *Dangerous Goods Regulation*

(1) Clause 225 of the *Dangerous Goods Regulation*, in its application in the Territory, is amended by adding at the end the following subclause:

“(7) This clause does not apply to a gas pipeline within the meaning of the *Gas Supply Act 1998*.”.

(2) In subsection (1)—

“*Dangerous Goods Regulation*” has the same meaning as in the *Dangerous Goods Act 1984*.

65. Repeal of the *Gas Levy Act 1991* and the *Gas Act 1992*

The following Acts are repealed:

- (a) the *Gas Levy Act 1991*;
- (b) the *Gas Act 1992*.

66. Transitional

(1) Subject to this section, a Gas Act authorisation takes effect, in accordance with its terms and conditions, as an authorisation for the purposes of this Act.

(2) Subject to this section, the following provisions of the *Gas Act 1992* are taken, despite the repeal of that Act, to continue in operation:

- (a) Part VII;
- (b) sections 88, 89, 90, 91 and 92 of Part IX;
- (c) Part X;
- (d) to the extent that they apply to a Gas Act authorisation—sections 39, 40, 41 and 42;
- (e) to the extent that they apply to any of the above-mentioned provisions—
 - (i) section 3; and
 - (ii) any other provision that is capable of so applying.

(3) Subject to subsection (4), this section ceases to have effect at the end of the period of 1 year that begins on the commencement day.

(4) The regulations may, from time to time, declare that all or any of the provisions of subsections (1) and (2) cease to have effect on and from a specified day, being a day that occurs—

- (a) not earlier than the date on which the regulations containing such a declaration are notified in the *Gazette*; and
- (b) during the period specified in subsection (3);

and any such declaration shall take effect accordingly.

(5) Regulations made under subsection (4) may specify different days in respect of different provisions.

(6) In this section—

“commencement day” means the day on which this section commences;

“Gas Act authorisation” means an authorisation—

- (a) granted under Part IV of the *Gas Act 1992*; and
- (b) in force immediately before the commencement day.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 28 May 1998]