

2000
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Gas Safety Bill 2000

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Treasurer
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Background

The *Utilities Bill 2000* was introduced in the Assembly in February. That Bill consolidates the regulation of all utility services into one piece of legislation, and as a result the provisions of the *Gas Supply Act 1998* relating to utility network operations are obsolete. The remaining provisions relating to consumer piping systems have been carried over to the new gas safety legislation and in addition, an enhanced regulatory scheme for gas appliances has been developed.

The *Gas Supply Act* is to be repealed under the *Utilities Bill*. The regulations in force under that Act are to be amended for consistency with the *Gas Safety Act 2000*, and are to be remade under this legislation.

Outline

This Act establishes a framework to ensure, through an enhanced regulatory regime, the safety of gas appliances and consumer piping systems and in turn enhanced public safety. Obligations for safety are placed on owners, occupiers, gasfitters or other accredited workers, and industry.

Owners of premises are to have responsibility for the safety of their gas piping systems and appliances. Users are to be responsible for the safe use of appliances. Owners, for example, must take reasonable steps to ensure the piping systems are in good condition and repair. The Act establishes a defence to an accusation of unsafe practices in the case where an owner has relied on the advice of a worker qualified to work on the system or appliance.

Responsible gasfitters and other accredited persons have responsibility to ensure piping systems and appliances they work on are safe. The Act provides, for example, that only qualified people can work on gas systems and appliances and that such work must comply with standards specified in the regulations and relevant codes of practice.

Safety of appliances is to be regulated through a cooperative effort between the Chief Executive of Urban Services, industry and appliance retailers. Each participant is to have some responsibilities. For example, the Act provides that the Chief Executive may approve appliances and classes of appliances approved through industry schemes, may prohibit retailers from selling unsafe appliances, and may prohibit the installation of unsafe appliances.

While the Act seeks to mitigate the risk of serious gas accidents, it establishes a framework for dealing with them. The Act contains reporting requirement provisions, and provisions preventing interference at accident sites.

This Act establishes the Chief Executive of Urban Services as the regulator. Some of the functions of the regulator have been detailed above. Other functions include the ability to test gas appliances, to cancel approvals of unsafe appliances, to ensure traders only sell approved appliances and to direct traders to take certain actions in relation to unsafe appliances.

The enforcement provisions contained in this Act parallel those in the *Utilities Bill*, and Bills introduced to regulate similar associated activities such as the *Electricity Amendment Bill 2000* and the *Water and Sewerage Bill 2000*. These provisions deal with matters such as entry powers and warrants.

CLAUSE NOTES

PART 1 - PRELIMINARY

Clause 1

Name of Act

States the name of the legislation. The title will assist quick location of the Act having regard to the matters with which it deals.

Clause 2

Commencement

Sets the date of commencement of the Act and details those provisions which are to start after the majority of the Act's provisions have commenced. The Act will commence on a day fixed by the Minister by notice in the Gazette. Division 2.2 and Part 4 are to apply 12 months after the rest of the provisions or such earlier date as set by the Minister. This will allow for extensive consultation with industry and the development of a comprehensive accreditation scheme for appliance workers to be specified through regulations.

Clause 3

Dictionary

Provides that the dictionary attached at the end of the Act is part of the Act.

Clause 4

Notes

Explains that a note included in the Act is for clarification of certain clauses and is not part of the Act.

Clause 5

Meaning of gas safety legislation

This clause establishes that references throughout the Act to gas safety legislation include references to this Act, regulations under this Act, and a code made under this Act. This means, for example, in the case where a gasfitter's obligations are split across instruments, there is no need to list each one throughout the Act.

Clause 6

References to parts of gas safety legislation

The clause provides further details about the use of "gas safety legislation" in the Act. For example, it clarifies what is meant by references to the Act and regulations included in the meaning of "gas safety legislation". A reference to an Act includes a reference to the regulations made under that Act and a publication applied under those regulations.

PART 2 – WORK SAFETY AND STANDARDS

Division 2.1 - Gasfitting work

Clause 7

Work to be done by qualified persons

Provides that a person must not do gasfitting work unless they are a licensed gasfitter or they hold a Licence under the *Plumbers Drainers and Gasfitters Board Act 1982* and are supervised by a gasfitter. Licensed gasfitter in this clause includes a person holding an advanced gasfitter's licence. This clause also ensures that only advanced gasfitters may work on high-pressure consumer piping systems.

Clause 8

Standard of work

Places obligations on responsible gasfitters when undertaking gasfitting work. It ensures, for example, that the work is done safely and in accordance with the gas safety legislation. Additionally, it ensures that gasfitters undertake and complete testing of piping systems in accordance with the gas safety legislation.

Clause 9

Compliance indicators and certificates

This clause relates to the affixing of compliance indicators to consumer piping systems by responsible gasfitters to indicate the system and the work complies with the gas safety legislation.

Subclause 9 (1)

Ensures that responsible gasfitters must, as soon as practicable after completing work, attach a compliance indicator to the piping system. It must be attached in accordance with the regulations. Gasfitters must also provide a certificate of compliance to those persons listed in the regulations. This will include the owner and the chief executive.

Subclause 9 (2)

Provides a description of compliance indicators and states such indicators must be attached according to gas safety legislation and that they are to be used to indicate that the system is safe and compliant.

Subclause 9 (3)

Provides a description of a certificate of compliance. Such a certificate is written evidence that a responsible gasfitter believes the work completed complies with gas safety legislation and the system and appliances are safe.

Clause 10**Misuse of compliance indicators etc**

This clause provides that a compliance indicator must only be attached to a consumer piping system in accordance with clause 9. For example, it is an offence for a gasfitter to attach a compliance indicator if the system is unsafe. Additionally, this clause establishes that it is an offence to attach anything that falsely purports to be a compliance indicator.

Clause 11**False certificates of compliance**

Establishes that it is an offence for a person to provide the owner of a consumer piping system with a certificate that falsely purports to be a certificate of compliance. For example, a certificate should not be provided if a piping system is unsafe.

Clause 12**Unsafe Systems**

Provides that a responsible gasfitter may, if he or she believes the system is unsafe, act to ensure the safety of the system. This action could include fixing the system in accordance with the regulations or giving a notice to persons prescribed in the regulations detailing the problem. Should a gasfitter fail to make the system safe or issue a notice, they are liable for a fine.

Division 2.2 - Appliance work**Clause 13****Work to be done by accredited people**

This clause provides that only accredited persons can do particular work on appliances. An accreditation scheme will be detailed in the regulations once there has been consultation with industry.

Clause 14**Standard of work**

Places obligations on accredited persons when undertaking work on appliances. It ensures, for example, that persons work safely and in accordance with the gas safety legislation. It also ensures that such workers undertake testing of the appliance when required by the regulations and that such testing is completed in accordance with the gas safety legislation.

PART 3 – RESPONSIBILITIES OF OWNERS AND USERS

Clause 15

Consumer piping system – owner's responsibility

This clause details the responsibilities of owners of premises to ensure their piping system is in good condition and is safe to use. Subclause 15 (2) establishes a defence for owners in that it is reasonable if they have relied on and acted in accordance with the advice of a gasfitter. Advice of gasfitter includes a compliance indicator attached to the piping system and a certificate of compliance.

Clause 16

Appliances - owner's responsibility

Places obligations on owner's of appliances to take reasonable steps to ensure the appliance is in good condition and is safe to use. An owner is deemed to have complied with these obligations if they rely on, or act in accordance with, the manufacture's instructions relating to the appliance or the advice of a gasfitter or a person accredited to do appliance work.

Clause 17

Appliances – user's responsibility

Establishes that users of an appliance must take reasonable steps to ensure the appliance is used safely. Subclause 17 (2) establishes a defence for owners as being reasonable if they have relied on, and acted in accordance with, the manufacturer's instructions or the advice of a gasfitter or an accredited person. This clause will ensure that users following manufacturers' instructions regarding the cleaning of appliances are not deemed to have interfered or used the appliance improperly.

PART 4 – REGULATION OF APPLIANCES

Division 4.1 - General

Clause 18

Definitions for pt 4

This clause defines terms used only in Part Four of the Act. For example, it identifies and defines "trader" as being a person who sells appliances in the course of a trade or business.

Clause 19**Public access to records of approved appliances etc**

Provides that the chief executive must keep a record of appliances approved, cancellations of approvals, and any appliances prohibited. This record must be made available for public inspection during ordinary office hours at the office of the chief executive or any other place determined by the chief executive.

Division 4.2 – Approved appliances**Clause 20****Approval declared by regulations**

Provides that the regulations may declare a class of appliances to be approved. This is designed to ensure, for example, that every day appliances available at department stores can all be approved at once. Subclause 20 (2) provides that the regulations may approve appliances that have been approved under other schemes such as industry based schemes administered by the Australian Gas Association. The Association has codes of practice and procedures covering appliances that are readily available to the public.

Clause 21**Approval by chief executive**

This clause seeks to provide for appliances or classes of appliances that could be described as 'one-off' appliances or appliances that are not readily available for purchase at retail outlets. These appliances cannot automatically be approved through the blanket approval process detailed in Clause 20. Such an appliance could be an Olympic torch. The chief executive may approve these types of appliances if satisfied that they comply with the gas safety legislation, and the relevant tests have been completed. This clause also ensures that the chief executive may not approve appliances that are prohibited under this Act, another law of the Territory or a corresponding law.

Clause 22**Applications for approval**

This clause provides that a person may apply to the chief executive for the approval of certain appliances or classes of appliances. The application must be in the approved form. Upon receipt and review of an application, the chief executive may, by written notice to the applicant, require further details about the appliance. This information could include the provision of documents or an appliance.

Clause 23**Cancellation etc**

Provides that the chief executive may cancel an approval of an appliance under clause 21 if satisfied the information provided in an application was false or misleading. Also, an approval can be cancelled if the appliance is found to not comply with the gas safety legislation or found to be unsafe in use. The chief executive must provide the applicant for approval written notice of the cancellation. Such notice must detail the reasons for the cancellation. Additionally, an approval under clause 21 is rescinded if the appliance subsequently becomes prohibited or the chief executive issues a direction under subclause 29 (2).

Clause 24**Unapproved appliances not to be sold or used**

Establishes three offences in relation to the sale or use of unapproved appliances. It is an offence for a person to knowingly sell an unapproved appliance, or to, without reasonable excuse, connect an unapproved appliance to a consumer piping system. Further, it is an offence for a person to use an unapproved appliance for purposes that involve the use of gas.

Clause 25**Compliance indicators to be attached****Subclause 25 (1)**

Provides that it is an offence for a trader, without reasonable excuse, to sell an appliance that does not display a compliance indicator that has been attached in accordance with the regulations.

Subclause 25 (2)

Ensures compliance indicators are attached in accordance with, for example, the gas safety legislation. They are to indicate the appliance complies with the legislation and that the appliance is safe.

Subclause 25 (3)

States that subclause 25 (1) does not apply if the trader believed, on reasonable grounds, that the appliance was not capable of being used or that the appliance could not be used as an appliance.

Subclause 25 (4)

Ensures that the affixing of compliance indicators is not required for second hand goods or for an appliance within six months after it has become an approved appliance.

Clause 26**Misuse of compliance indicators etc**

Establishes a range of offences in relation to the inappropriate use of compliance indicators. It is an offence to attach a compliance indicator in a manner different to that specified in the regulations, and to attach an indicator to an unapproved appliance. Additionally, it is an offence to attach something that falsely purports to be a compliance indicator.

Division 4.3 - Prohibited and unsafe appliances

Clause 27

Prohibited appliances

Provides that the chief executive may, by notice in the Gazette, prohibit the sale or installation of appliances of a stated class. This clause describes circumstances under which the chief executive may act to prohibit certain classes of appliances. This includes if the chief executive believes on reasonable grounds that the appliances are, or are likely to become, unsafe to use. The chief executive must publish notice of each prohibition in a daily newspaper. Subclause 27 (4) provides that the chief executive may prohibit appliances approved under regulations or approved by the chief executive. This will ensure that if there is an urgent situation involving serious risk to life, there is a process whereby expeditious action can be taken to protect the public.

Clause 28

Prohibited appliances not to be sold or used

This clause establishes a range of offences in relation to prohibited appliances. It is an offence for a person without reasonable excuse, to sell or connect to a consumer piping system, a prohibited appliance. It is also an offence for a person to use a prohibited appliance for a purpose that involves the use of gas. Subclause 28 (4) provides that the regulations may specify circumstances under which the above would not be offences.

Clause 29

Directions about unsafe appliances

This clause provides that the chief executive may act against a person who sells, or may have sold, a prohibited, unsafe or uncompliant appliance or appliances. This may include the giving of a direction in writing to the trader to advertise warnings approved by the chief executive about the risks associated with the use of the prohibited appliances. In addition the chief executive may direct the trader to refrain from selling the appliances and to recall any appliances sold. For an appliance recalled, the trader may be directed to make the appliance safe and compliant, or to refund to the purchaser, the purchase price. The trader must not, without reasonable excuse, ignore a direction by the chief executive.

Clause 30**Publication of safety warnings**

Provides that the chief executive may seek to raise public awareness about the risks associated with the use of certain appliances. The chief executive may, for example, publish information relating to a prohibited appliance or a direction issued under clause 29. Additionally, subclause 30 (3) establishes that no personal liability attaches to a person for an act of omission, in good faith, under this clause. Subclause 30 (4) states that subclause 30 (3) does not affect any liability that the Territory would have, but for the operation of subclause 30 (3) in relation to the act or omission.

PART 5 – SERIOUS GAS ACCIDENTS**Clause 31****Meaning of relevant utility**

This clause defines a term that is only used, and is only relevant, to this part of the Act.

Clause 32**Reporting by occupiers and gasfitters etc**

Provides that the occupier of premises where there is a serious gas accident must immediately notify their relevant utility. Additionally, it provides that a person working on a piping system or appliance when there is a gas accident must immediately notify the relevant utility. It is an offence for an owner or person undertaking work, without reasonable excuse, to fail to notify the relevant utility. Without limiting the operation of this clause, it is a reasonable excuse for non-compliance with these notification procedures if a person believes the relevant utility has been notified.

Clause 33**Reporting by relevant utility**

Provides that it is an offence for a relevant utility that becomes aware of a serious gas accident to fail, without reasonable excuse, to advise the chief executive immediately after becoming aware of that accident.

Clause 34**Interference with site of serious gas accident**

Establishes that it is an offence for a person, without reasonable excuse such as making the site safe, to interfere with the site of a serious gas accident prior to it being inspected by an inspector. This clause also provides that the requirement to not interfere with the site ceases to apply after 24 hours except where the chief executive extends the period of non-interference. Such an extension will only apply if the person is so advised. This is to ensure, for example, that when there is a criminal investigation and the site is closed for more than 24 hours, inspectors still have access to a site that has not been unduly interfered with.

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

Provides that the chief executive may publish a report on a gas accident in the interests of public safety. Subclause 35 (2) establishes that no personal liability attaches to a person for an act or omission, in good faith, in relation to fulfilling functions under this clause. Further, subclause 35 (3) provides that the operation of subclause 35 (2) does not affect any liability that the Territory would have assumed in relation to the act or omission.

PART 6 – ENFORCEMENT**Division 6.1 - General****Clause 36****Definitions for pt 6**

This clause defines terms only used in this Part of the Act. For example, it defines "business premises" as being premises in which a business, trade, profession or calling is carried on, other than a part that is used for residential purposes.

Clause 37**Things connected with offences**

Establishes things connected to an offence. For example, if a thing was used, is being used, or is intended to be used for committing an offence, it is connected to an offence.

Clause 38

Chief executive may require information and documents

Subclause 38 (1)

Provides that if the chief executive is satisfied that a person is capable of providing information or a document required for purposes under the gas safety legislation, the chief executive may, by written notice, request the information. This requirement may specify that the information be provided in writing and signed by the person or that the relevant document be produced.

Subclause 38 (2)

Details the content of the written notice. It must, for example, state that the place and the time at which the information is to be given or produced.

Subclause 38 (3)

Provides that the chief executive may take possession, or copies of, or take extracts from, the document. The chief executive may also retain possession of the document for such a period as is necessary. Additionally, this subclause provides that a person normally entitled to have access to the document can inspect the document at any reasonable time.

Clause 39

Contravention of requirement by chief executive

Establishes that it is an offence for a person to contravene, without reasonable excuse, a requirement of the chief executive under clause 38.

Clause 40

Appointment of inspectors

This clause provides that the chief executive may, in writing, appoint an inspector for purposes under this Act. It states that inspectors must perform functions in accordance with conditions of appointment. Additionally, it places some conditions on the appointment of inspectors. For example, an inspector must be an Australian citizen or a permanent resident of Australia. The chief executive must also be satisfied that the person has completed adequate training and is competent.

Clause 41

Identity cards

Provides that the chief executive must give each inspector an identity card detailing the name of the inspector. The card must display a recent photograph of the inspector. Further, this clause establishes that it is an offence if a person does not return their identity card to the chief executive within seven days of ceasing to be an inspector.

Division 6.2 – Inspectors’ powers

Clause 42 General power to enter premises

Sets out the conditions under which an inspector may enter premises. For example, an inspector may enter any premises at any time if the occupier agrees. Further, an inspector may enter premises when it is open to the public, business premises during business hours, or any premises with a warrant. It also establishes that this clause does not prevent an inspector entering premises to request permission of the occupier to enter.

Clause 43 Production of identity card

States that an inspector must leave premises if, on the request of the occupier, the inspector does not produce their identity card.

Clause 44 Consent to entry

Subclause 44 (1) Sets out the procedure inspectors must follow in seeking the consent of the occupier to remain on the premises. Inspectors must, for example, produce their identity card and advise the occupier of the purpose of the inspection. They must also advise the occupier that they have the option of refusing entry.

Subclause 44 (2) Provides that the inspector, upon consent being provided, must ask the occupier to sign a written acknowledgment that the inspector followed the procedures detailed in subclause 43 (1). This signed acknowledgment must specify the date and time when consent was provided.

Subclause 44 (3) States that the inspector must immediately provide the occupier with a signed copy of the acknowledgment.

Subclause 44 (4) Provides that courts will presume that the occupier did not agree to entry if the issue arises, and a signed acknowledgment can not be produced and it is not otherwise proved the occupier consented to entry.

Clause 45 Warrants

Subclause 45 (1) Establishes that an inspector may apply to a magistrate for a warrant to enter a premises.

Subclause 45 (2) An application must be sworn and must state the grounds for the application.

Subclause 45 (3) Provides that a magistrate may refuse to consider an application unless the inspector provides all the information the magistrate requires.

- Subclause 45 (4)** States that a magistrate may issue a warrant if satisfied that there are reasonable grounds for suspecting there is evidence connected with an offence against the gas safety legislation or that evidence is, or may be within 14 days, at the premises.
- Subclause 45 (5)** Details information which the warrant must provide. This includes that an inspector may, with necessary help and force, enter the premises and exercise powers under the Act. Warrant must also provide details of the suspected offence, evidence that may be seized and the hours when the premises may be entered.
- Clause 46** **Warrants – application made other than in person**
- Subclause 46 (1)** Provides that an inspector may apply for a warrant by phone, fax, radio or other form of communication during urgent or special circumstances.
- Subclause 46 (2)** States that the inspector, before applying for a warrant, must prepare an application specifying the grounds on which the warrant is sought.
- Subclause 46 (3)** Provides that an inspector may apply for a warrant before the application is sworn.
- Subclause 46 (4)** States that the magistrate must immediately fax a copy of the warrant to the inspector if it is reasonably practicable to do so.
- Subclause 46 (5)** Details the procedures a magistrate must follow if it is not practicable to fax a copy of a warrant to an inspector. For example, the magistrate must tell the inspector about the terms of the warrant and the date and time the warrant was issued. In turn, the inspector must complete a warrant form detailing the magistrate's name, the date and time the warrant was issued and the terms.
- Subclause 46 (6)** States that the warrant issued by facsimile or the warrant form under subclause 46 (5), authorises the entry and powers of inspectors under this Part of the Act.
- Subclause 46 (7)** Provides that an inspector must, at the first opportunity, send to the magistrate the sworn application and if a warrant form was completed, the form.
- Subclause 46 (8)** States that the magistrate must attached documents received under subclause 46 (7) to the warrant.
- Subclause 46 (9)** Provides that the courts will assume that a warrant did not authorise an inspector to exercise powers under the Act if the issue arises and the warrant is not produced.

Clause 47**General powers on entry to premises**

- Subclause 47 (1)** This clause lists the actions that inspectors may carry out on the premises. For example, inspectors may inspect, measure, photograph or film the premises or anything on the premises. They may also take any people, equipment or material onto the premises for the purposes of exercising their powers under the gas safety legislation.
- Subclause 47 (2)** Details specific actions an inspector may take in relation to consumer piping systems and gas appliances without limiting subclause 47 (1). For example, the inspector may check any appliance to ensure it is safe, complies with the gas safety legislation, and that it displays the required compliance indicator. The inspector may also check any work that has been undertaken on the gas system or appliance.
- Subclause 47 (3)** Establishes that it is an offence for a person, without reasonable excuse, to deny the inspector reasonable assistance in exercising their power under the gas safety legislation.

Clause 48**Powers in relation to serious gas accidents**

- Subclause 48 (1)** States that this clause applies when an inspector suspects a serious gas accident has occurred on the premises.
- Subclause 48 (2)** Provides that an inspector may enter a premises at any reasonable time to investigate an accident, to ensure safety and to prevent interference with the site if such interference is likely to impede a thorough investigation.
- Subclause 48 (3)** Ensures inspectors have the power to make premises safe.
- Subclause 48 (4)** Provides that if an inspector enters the premises where there is a suspected or actual gas accident without the presence of the occupier, the inspector must leave a written notice for the occupier. The written notice must be left in a place where it will be seen by the occupier and must feature the inspector's name, the time, date and purpose of entry, and contact details for the inspector.
- Subclause 48 (5)** Ensures that the powers in this clause are additional to entry powers under clause 42.

- Clause 49** **Powers to inspect gasfitting work and appliance work**
- Subclause 49 (1) States that inspectors may enter and remain on premises to test or inspect gasfitting work or appliance work to determine whether such work complies with the requirements of Part 2.
- Subclause 49 (2) Provides that an inspector may enter and remain on a premises for testing and inspecting purposes at any reasonable time and with the people or equipment necessary to conduct the test or inspection.
- Subclause 49 (3) This subclause ensures that an inspector may only remain on the premises if they produce their identity card upon request. In relation to residential premises, the inspector may only enter or remain on the premises with the consent of the occupier.
- Clause 50** **Powers in relation to consumer piping systems**
- Subclause 50 (1) States that this clause applies if an inspector is satisfied that a consumer piping system does not comply with the gas safety legislation or is unsafe, or the gasfitting work completed is not compliant.
- Subclause 50 (2) Provides that an inspector may give a written direction to the occupier to desist from using an appliance connected to an unsafe system. This direction is to apply until the system is safe and compliant with the gas safety legislation.
- Subclause 50 (3) An inspector may give a written direction to the owner of the piping system to arrange for the system to be isolated or disconnected until the system is made safe and compliant with the gas safety legislation.
- Subclause 50 (4) This subclause provides that if an inspector is satisfied that a consumer piping system is unsafe because of work completed or supervised by a gasfitter, the inspector may give a written direction to the worker. Such a direction should specify action required to make the system safe and compliant.
- Subclause 50 (5) Establishes that it is an offence to contravene a direction issued by an inspector without reasonable excuse under this clause.

Clause 51**Powers in relation to appliances**

This clause applies if an inspector is satisfied that a person has an appliance that is connected to a system or is for sale, which does not comply with the gas safety legislation or is unsafe. In this case, an inspector may issue a written direction to a person to desist from using the appliance or to arrange for it to be disconnected from the system, or to refrain from selling the appliance. The direction remains in force until the appliance is safe and complies with the gas safety legislation. If the inspector is satisfied that an appliance is unsafe because of work completed by an accredited person, the inspector may give a written direction to that person to make the appliance safe and compliant. This clause also establishes that it is an offence, without reasonable excuse, to ignore an inspector's direction.

Clause 52**Defective equipment – disconnection etc**

Ensures inspectors have powers to make premises safe. Inspectors may, for example, isolate or disconnect a consumer piping system if they believe that it is unsafe. Inspectors may also label an unsafe appliance to indicate danger. They can disconnect an unsafe appliance from the system and prohibit the use of the appliance until it has been repaired. Subclause 52 (2) establishes that it is an offence to use a labelled appliance.

Clause 53**Power to require name and address**

Provides that inspectors may request the name and address of a person they find committing an offence or a person they believe, on reasonable grounds, may commit an offence. When requesting a person's particulars, the inspector must inform them about the offence or the grounds for suspecting they are about to commit an offence, and why their name and address are required. Records must be kept detailing the name and address and the incident. A person does not have to comply with an inspector's request for their particulars if the inspector cannot produce an identity card. It is an offence for a person, without reasonable excuse, to withhold their name and address.

Clause 54**Power to seize evidence****Subclause 54 (1)**

States that an inspector who enters premises with a warrant must only seize evidence from premises as per the warrant.

Subclause 54 (2) Provides that an inspector who enters premises with the consent of the occupier may seize articles only if the inspector is satisfied they relate to the offence. Items seized must also be consistent with the purpose of the entry and the information provided to the occupier.

Subclause 54 (3) This subclause provides inspectors with additional seizure powers such as the inspector may seize evidence if they believe it is connected with an offence under the gas safety legislation, or that the evidence may be subsequently tampered with.

Subclause 54 (4) An inspector, having seized evidence under this clause, may remove the evidence from the premises or may leave it at the site and restrict access.

Subclause 54 (5) Establishes that it is an offence for a person to interfere with evidence to which an inspector has restricted access without the chief executive's approval.

Clause 55 Receipt for things seized

States that an inspector must as soon as practicable after seizing articles of evidence provide a receipt to a person for articles seized. Additionally, it provides that if an inspector is unable to give the receipt to the person, it must be left visibly at the place of seizure

Clause 56 Access to things seized

Provides that a person who would normally have access to the article seized, may inspect the article and if the article is a document take extracts or copies.

Clause 57 Return of things seized

Provides for the return of seized articles or compensation payable by the Territory for the loss of such articles. This can occur if a prosecution is not instituted within 90 days of seizure or the court does not find the offence proved in a prosecution for an offence relating to the article. Additionally, this clause states that an article of evidence seized under this Part of the Act is forfeited if the offence relating to the article is provided and the court orders the forfeiture. If an article seized under this Part is proved to relate to an offence and the court does not order the forfeiture, the Territory must return the article to its owner and must pay reasonable compensation for the loss incurred by the owner.

Division 6.3 – Miscellaneous

Clause 58

Self-incrimination etc

This clause provides that a person is not excused from providing information or documents under this Part because it may incriminate them. It establishes under subclause 58 (2) that any information or documents obtained, or any other information obtained as a direct or indirect consequence of that information or document is not admissible in evidence against the person in criminal proceedings. Further, it provides that subclause 58 (2) does not apply to proceedings under this Part, any other offence in relation to the falsity of information or documentation, or any offence under Part 8 of the *Crimes Act 1900* that relates to an alleged offence under this Part.

Clause 59

Legal professional privilege

Ensures that a person does not have to provide information, documents, or answer a question under this Part of the Act if the person is entitled to claim, and does claim, legal professional privilege.

Clause 60

Providing false or misleading information

Establishes that it is an offence under this Part for a person to knowingly provide information that is materially false or misleading.

Clause 61

Providing false or misleading documents

Establishes that it is an offence under this Part for a person to knowingly provide documents that are materially false or misleading.

Clause 62

Obstruction of inspectors

Establishes that it is an offence for a person, without reasonable excuse, to hinder or obstruct inspectors exercising powers under the gas safety legislation.

Clause 63

Damage etc to be minimised

This clause places obligations on inspectors, as part of their duties under this Part, to take all reasonable steps to ensure they, and any assistants, cause as little inconvenience or damage as practicable. Should an inspector cause damage they are obliged to give written notice detailing the damage to the person they believe is the owner of the damaged item. Ensures that if the damage occurs on a premises where entry occurred in the absence of the occupier, the inspector gives such notice by securing it in a visible place.

Clause 64**Compensation****Subclause 64 (1)**

States that a person may claim reasonable compensation from the Territory if they suffer loss or expense due to the actions of an inspector or person assisting an inspector fulfilling duties under this Part.

Subclause 64 (2)

Provides that such compensation may be claimed and ordered through proceedings in a court or through proceedings for an offence against the gas safety legislation brought against the person making the claim for compensation.

Subclause 64 (3)

Provides that a court may order payment of reasonable compensation only if it is satisfied it is just taking into account the circumstances of the particular case.

Subclause 64 (4)

States that the regulations may prescribe matters that may, must, or must not be taken into consideration by the court when considering a claim for compensation.

PART 7 – FEES**Clause 65****Determination of fees, charges and other amounts****Subclause 65 (1)**

Provides that the Minister may, in writing, determine fees, charges and other amounts payable under the gas safety legislation.

Subclause 65 (2)

Without limiting subclause 65 (1), this clause provides that such determinations of fees and charges could specify amounts, rates, or provide formulas or other methods by which an amount would be calculated.

Subclause 65 (3)

Provides that a determination under this clause must detail who is to pay the fee or charge, when and how it is to be paid and may make provision about anything else relating to the fee or charge.

Subclause 65 (4)

Establishes that determinations under this clause are disallowable instruments.

Subclause 65 (5)

Clarifies that a reference to fee, charge or other amount in this Part includes reference to a fee, charge or other amount that is a tax.

Clause 66**Determined fees payable to Territory etc**

States that a fee, charge or other amount determined under clause 65 is payable to the Territory in accordance with the details in the determination. Additionally, a fee, charge or other amount determined under clause 65 is payable in advance unless the determination specifies an alternative. If a fee, charge or other amount is payable in advance and relates to the exercise of a function, and that fee is not paid, the person required to exercise the function is not obliged to do so.

Clause 67**Recovery of unpaid fees etc**

Provides that a person's unpaid monies under the gas safety legislation are a debt payable to the Territory and may be recovered by proceedings in the Magistrates Court.

Clause 68**Regulations may make provision about fees etc****Subclause 68 (1)**

Lists matters regarding the payment of fees, charges and other amounts that may be specified under the regulations. These include fee collection and recovery, refund or part refund, and fee remission, waiver or postponement.

Subclause 68 (2)

Provides that the regulations may, without limiting subclause 68 (1), make provision for payment of amounts by cheque or credit card.

Subclause 68 (3)

Lists further matters, without limiting subclauses 68 (1) and 68 (2), which the regulations may make provision for such as the suspension, cancellation or revocation of an approval. This can occur if a fee is not paid, or a cheque is not met on presentation or a payment by credit card is not honoured.

PART 8 – MISCELLANEOUS**Clause 69****Codes of practice****Subclause 69 (1)**

Sets out the matters which codes of practice may deal with such as the safe installation, connection, repair, maintenance or operation of consumer piping systems or appliances.

Subclause 69 (2)

Provides that the Minister may, by notice in the Gazette, approve a code or a variation of a code.

- Subclause 69 (3) States that the Minister may adopt all or part of an instrument or document made or published by any entity. These may include instruments or documents from other jurisdictions. This would also include codes developed by industry currently being observed in the Territory. These codes are publicly available.
- Subclause 69 (4) Provides that the instrument approving a code is a disallowable instrument.
- Subclause 69 (5) Establishes that a code under the gas safety legislation is relevant to gasfitting or appliance work, a consumer piping system, a consumer installation or an appliance if the code purports to apply to it.
- Subclause 69 (6) Provides that the chief executive must make a copy of all codes available for copying or inspection by any person during office hours.

Clause 70 Review of decisions

- Subclause 70 (1) Establishes that applications may be made to the administrative appeals tribunal for review of decisions by the chief executive or inspectors. This subclause lists reviewable decisions. For example, a direction to refrain from using appliances connected to a consumer piping system is reviewable.
- Subclause 70 (2) Provides that when a decision is made under subclause 70 (1), the inspector must give notice of the decision to persons affected by the decision.
- Subclause 70 (3) States that a notice under 70 (2) is to be in accordance with the requirements of the code of practice in force under subclause 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

Clause 71 Approved forms

This clause provides that the chief executive may approve forms for the gas safety legislation and that such a form must be used for the purpose it was designed for.

Clause 72 Regulation-making power

This clause provides that the Executive may make regulations for this Act. It also lists the matters that the regulations may cover such as the construction, installation or positioning of consumer piping systems or appliances. Additionally, the regulations may prescribe an offence against the regulations.

Dictionary

The dictionary defines terms used in the Act by virtue of clause 3.