

TASMANIA

**GAS INFRASTRUCTURE (MISCELLANEOUS
AMENDMENTS) BILL 2002**

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GAS INFRASTRUCTURE (MISCELLANEOUS AMENDMENTS) BILL 2002

*(Brought in by the Minister for Economic Development,
Energy and Resources, the Honourable Paul Anthony
Lennon)*

A BILL FOR

An Act to amend the *Gas Act 2000*, *Gas Pipelines Act 2000* and *Local Government (Highways) Act 1982*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Gas Infrastructure (Miscellaneous Amendments) Act 2002*.

Commencement

2. The provisions of this Act commence on a day or days to be proclaimed.

PART 2 – GAS ACT 2000 AMENDED**Principal Act**

3. In this Part, the *Gas Act 2000** is referred to as the Principal Act.

Section 83A inserted

4. Before section 84 of the Principal Act, the following section is inserted in Division 2:

Interpretation of Division

83A. In this Division –

“operational work”, on gas infrastructure,
means –

- (a) locating, inspecting, testing, operating, maintaining, repairing, altering, adding to, upgrading, replacing or removing the gas infrastructure; or
- (b) excavating land in order to carry out work of a kind referred to in paragraph (a);

“protective work”, on gas infrastructure,
means –

- (a) work that is necessary or expedient for the protection of the infrastructure or public safety; or

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- (b) excavating land in order to carry out work of the kind referred to in paragraph (a);

“upgrading”, of gas infrastructure, includes the insertion of a new pipe inside any existing pipe that forms part of the infrastructure.

Section 84 amended (Power to carry out work on public land)

5. Section 84 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “operate, maintain, repair, alter, add to, remove and replace” and substituting “carry out operational work or protective work on”;
- (b) by omitting from subsection (1)(c) “supply of gas –” and substituting “supply of gas.”;
- (c) by omitting from subsection (1) “and may excavate the land for any such purpose.”;
- (d) by omitting from subsection (2) “a gas entity” and substituting “the gas entity”;
- (e) by omitting from subsection (2)(a) “public land” and substituting “the public land”;
- (f) by omitting from subsection (3) “An agreement under subsection (2)(b) may contain” and substituting “The agreement under subsection (2)(b) may include”;
- (g) by omitting subsection (6) and substituting the following subsection:

(6) If the responsible authority, on being given notice under subsection (2), decides to –

- (a) include, in the agreement under that subsection, conditions that the gas entity considers unreasonable; or
- (b) dispute that the gas entity is entitled to carry out the proposed work –

the gas entity may appeal to the Tribunal.

- (h) by omitting from subsection (7) “to a dispute where” and substituting “if”;
- (i) by omitting subsections (8) and (9) and substituting the following subsections:

(8) Except as provided by subsection (9), the Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.

(9) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Tribunal must not, under that section, allow any person other than the gas entity and the responsible authority to be a party to the appeal.

- (j) by omitting subsections (10) and (11);
- (k) by omitting from subsection (13) “a gas entity” and substituting “the gas entity”;
- (l) by inserting in subsection (13)(a) “within the meaning of the *Magistrates Court (Small Claims Division) Act 1989*” after “claim”.

Section 85 amended (Power to enter land for purposes related to gas infrastructure)

6. Section 85 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “inspect, operate, maintain, repair, alter, add to, remove or replace the infrastructure or to carry out work for the protection of the infrastructure or the protection of public safety.” and substituting “carry out operational work or protective work on the infrastructure.”;
- (b) by omitting from subsection (6)(b) “functions” and substituting “work”;
- (c) by inserting the following subsection after subsection (8):

(9) If the occupier of the land and the gas entity do not agree as to the extent of compensation, the claim for compensation is to be determined –

- (a) if it is a small claim within the meaning of the *Magistrates Court (Small Claims Division) Act 1989*, by the small claims division of the Magistrates Court; or
- (b) in any other case, as if it were a disputed claim for compensation under the *Land Acquisition Act 1993*.

Section 86 substituted

7. Section 86 of the Principal Act is repealed and the following section is substituted:

**Certain gas infrastructure developments
exempt from planning approval**

86. (1) In this section, “**development**”, of new gas infrastructure, includes –

- (a) the installation, construction, inspection and commissioning of that new gas infrastructure; and
- (b) if the new gas infrastructure makes use of an existing distribution system, the upgrading of that system for the purposes of the new infrastructure.

(2) Where –

- (a) a gas entity proposes to carry out work on the development of new gas infrastructure, including any necessary excavation of land; and
- (b) the work is of a prescribed kind and meets prescribed criteria –

the work does not require a planning permit under the *Land Use Planning and Approvals Act 1993*.

(3) Any new gas infrastructure development work to which subsection (2) does not apply is taken to be a development which a planning authority has a discretion to refuse or permit in accordance with section 57 of the *Land Use Planning and Approvals Act 1993*.

PART 3 – GAS PIPELINES ACT 2000 AMENDED**Principal Act**

8. In this Part, the *Gas Pipelines Act 2000** is referred to as the Principal Act.

Section 32 amended (Landowner’s right to compensation)

9. Section 32(3)(a) of the Principal Act is amended by inserting “within the meaning of the *Magistrates Court (Small Claims Division) Act 1989*” after “claim”.

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**PART 4 – LOCAL GOVERNMENT (HIGHWAYS) ACT
1982 AMENDED**

Principal Act

10. In this Part, the *Local Government (Highways) Act 1982** is referred to as the Principal Act.

Section 46 amended (Permission to carry out various works in relation to highways)

11. Section 46 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

(1) A corporation may, in accordance with its by-laws, grant a person written permission to do any one or more of the following things on such conditions and for such consideration as the corporation, either generally or in a particular case, determines:

- (a) open or break up the soil or pavement of a local highway;
- (b) make a drain leading to a local highway;
- (c) put or place a pipe or make a drain leading into a sewer or drain or other work of the corporation in or under a local highway;
- (d) make an excavation, vault or cellar in or under a local highway;

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- (e) install, under a local highway, pipelines, pipe systems or other infrastructure required for the transmission, distribution or supply of natural gas or other gaseous fuels;
 - (f) erect a hoarding or scaffolding for building or any other purpose in or on a local highway.
- (b) by inserting the following subsections after subsection (2):
 - (2A)** The regulations may prescribe standard conditions that are taken to apply to every permission granted under subsection (1)(e) and, if any such standard conditions are so prescribed, the conditions that the corporation imposes on a permission granted by it under that subsection apply only in so far as they are not inconsistent with those standard conditions.
 - (2B)** The standard conditions may, without limiting the generality of subsection (2A), prescribe limitations or requirements in relation to the reinstatement of local highways following any excavations having to be carried out for the purposes of installation work referred to in subsection (1)(e).
- (c) by omitting from subsection (3) “permission has been given under this section” and substituting “a permission under subsection (1) has been granted”;
- (d) by omitting from subsection (4) “given” and substituting “granted”;

- (e) by inserting the following subsections after subsection (6):

(7) A person may appeal to the Tribunal if –

- (a) the person is aggrieved by the refusal of a corporation to grant the person a permission under subsection (1); or
- (b) a corporation has granted, or indicated that it is willing to grant, the person a permission under subsection (1)(e) but the person considers that the conditions or consideration applying to the permission are unreasonable; or
- (c) the person's permission under subsection (1)(e) has been revoked and the person is aggrieved by the revocation or the conditions of the revocation.

(8) Except as provided by subsections (9) and (10), the Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.

(9) Notwithstanding section 14(2) of the *Resource Management and Planning Appeal Tribunal Act 1993*, the Tribunal must not, under that section, allow any person other than the person entitled to appeal by virtue of subsection (7) and the relevant corporation to be a party to the appeal.

(10) For appeals under this section –

- (a) the Tribunal is to include a member whose appointment was on the ground that he or she has, in the opinion of the Governor, expertise or experience in road construction engineering; and
- (b) that member is to be designated as such by the Governor, by instrument in writing, for the purposes of the Tribunal's jurisdiction under this section.

(11) In this section, “**Tribunal**” means the Resource Management and Planning Appeal Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*.