

# TASMANIA

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## GAS INDUSTRY BILL 2018

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**SCHEDULE 1 – LEGISLATION REPEALED**

# **GAS INDUSTRY BILL 2018**

*(Brought in by the Minister for Energy, the Honourable Guy Barnett)*

## **A BILL FOR**

**An Act to regulate gas activities, to repeal the *Gas Act 2000* and the *Gas Pipelines Act 2000*, and for related purposes**

Be it enacted by Her 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**

### **1. Short title**

This Act may be cited as the *Gas Industry Act 2018*.

### **2. Commencement**

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

### **3. Interpretation**

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

*affected gas infrastructure* means the gas infrastructure in respect of which a gas

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THIS BILL IS COGNATE WITH THE GAS SAFETY BILL 2018 AND THE GAS  
(CONSEQUENTIAL PROVISIONS) BILL 2018

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infrastructure planning corridor has been declared under section 49;

***approved form*** means a form approved by the Regulator;

***AS 2885*** means *AS 2885 Pipelines – Gas and Liquid Petroleum* published by the Standards Association of Australia, as in force from time to time, and includes any code or standard having effect under that standard;

***AS 4645*** means *AS 4645 Gas Distribution Networks* published by the Standards Association of Australia, as in force from time to time, and includes any code or standard having effect under that standard;

***authorised officer*** means a person appointed to be an authorised officer under section 65(1);

***available for supply*** – see subsection (3);

***business day*** means any day other than a Saturday, Sunday or statutory holiday within the meaning of the *Statutory Holidays Act 2000*;

***condition*** includes a limitation or restriction;

***customer*** means a person to whom gas is available for supply for consumption in a place, and includes the following:



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- (a) the occupier for the time being of a place to which gas is supplied for consumption in the place;
  - (b) a person to whom gas is available for such supply and who seeks such supply;
  - (c) a person whose supply of gas has been disconnected;

***Director of Gas Safety*** means the Director of Gas Safety appointed under the *Gas Safety Act 2018*;

***disconnect***, in relation to a gas supply, includes to interrupt or discontinue the gas supply;

***discretionary development*** means a development or use to which section 57 of the *Land Use Planning and Approvals Act 1993* applies;

***distribution system*** means the whole or part of a pipe, or of a system of pipes and equipment, with an operating pressure not exceeding 1050 kPa, for use in, or in connection with, the distribution and delivery of gas to persons for consumption, but does not include the following:

- (a) a transmission pipeline;
- (b) a system of pipes and equipment –

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- (i) installed in a place for the conveyance and use of gas from a pressurised vessel situated in that place; and
- (ii) not extending to, or connected to, pipes in some other place in separate occupation;
- (c) pipes or equipment declared by the regulations not to be, or not to form part of, a distribution system;

***function*** includes duty;

***gas*** means the following:

- (a) natural gas;
- (b) liquefied petroleum gas;
- (c) any other substance declared by the regulations to be gas for the purposes of this Act;

***gas activity*** – see section 6;

***gas infrastructure*** means any part of a distribution system or a transmission pipeline but does not include a pipe, or system of pipes, that –

- (a) is used to convey gas; and

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(b) is not connected to some other place in separate occupation;

***gas infrastructure activities*** means the activities referred to in section 6(2);

***gas infrastructure land*** means land to which a gas infrastructure land interest relates;

***gas infrastructure land interest*** means an interest in land, including an easement, acquired for the construction, maintenance or operation of gas infrastructure;

***gas infrastructure licence*** means a licence that authorises the carrying out of gas infrastructure activities;

***gas infrastructure licensee*** means a person who holds a gas infrastructure licence;

***gas infrastructure planning corridor*** means a gas infrastructure planning corridor declared by an order in force under section 49;

***gas officer*** means a person appointed to be a gas officer under section 54;

***gas retail licence*** means a licence that authorises the carrying out of the activity of selling of gas by retail;

***gas retailer*** means a person who holds a gas retail licence;

***land*** includes –

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- (a) an estate or interest in land (including an easement); and
- (b) a right or power over, or in respect of, land;

***licence*** means a licence granted and in force under this Act;

***licensee*** means a person who holds or has held a licence, authorising the carrying out of a gas activity, and includes such a licence that is or has been suspended, has been cancelled or has expired;

***liquefied petroleum gas*** means a hydrocarbon composed predominantly of one or more of the following hydrocarbons:

- (a) propane (C<sub>3</sub>H<sub>8</sub>);
- (b) propene (propylene)(C<sub>3</sub>H<sub>6</sub>);
- (c) butane (C<sub>4</sub>H<sub>10</sub>);
- (d) butane (butylene)(C<sub>4</sub>H<sub>8</sub>);

***natural gas*** means a substance which –

- (a) is in a gaseous state at standard temperature and pressure; and
- (b) consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane –

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and includes processed natural gas but does not include anything declared by the regulations not to be natural gas;

***occupier*** of land or a place means a person who has, or is entitled to, possession or control of the land or place;

***operational work***, in relation to gas infrastructure, means –

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

***owner*** of land means –

- (a) if the land has been alienated from the Crown by the grant of an estate in fee simple or another estate or interest conferring a right to possession of the land – the person who holds the relevant estate or interest; or
- (b) in any other case – the Regulator or an authority or other person responsible for the management of the land;

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***permitted development*** means a development or use to which section 58 of the *Land Use Planning and Approvals Act 1993* applies;

***person*** includes –

- (a) any body of persons, corporate or unincorporate; and
- (b) any government department or other government body;

***planning authority*** means a planning authority within the meaning of the *Land Use Planning and Approvals Act 1993*;

***processed natural gas*** means a natural gas that has been processed to be suitable for consumption but does not include anything declared by the regulations not to be processed natural gas;

***protective work***, in relation to gas infrastructure, means –

- (a) work that is necessary or expedient for the protection of the infrastructure or public safety; and
- (b) excavating land in order to carry out work of the kind referred to in paragraph (a);

***public land*** means land owned by –

- (a) the Crown; or

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(b) an instrumentality or agent of the Crown; or

(c) a council or other local government body;

***record*** includes –

(a) a record in the form of a book or document, or in the form of a map; and

(b) a record in the form of electronic data;

***regulated substance*** means –

(a) gas; and

(b) any other substance declared by the regulations to be a substance to which this Act applies;

***regulations*** means regulations made and in force under this Act;

***Regulator*** means the Tasmanian Economic Regulator appointed under section 9 of the *Economic Regulator Act 2009*;

***safety condition*** means a condition, imposed on a permit for a permitted or discretionary development, in order to apply, adopt or otherwise give effect to a safety requirement contained in AS 2885 or AS 4645;

***sell*** includes –

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- (a) to barter or exchange; and
- (b) to let on hire; and
- (c) to advertise for sale or hire; and
- (d) to offer or expose for sale or hire;

***supply*** means the delivery of gas, by means of gas infrastructure, to a customer;

***transmission pipeline*** means –

- (a) the whole or any part of a pipeline, with an operating pressure in excess of 1050kPa, for conveying a regulated substance from a point at or near the place of its production to any other place; and
- (b) the whole or any part of a pipeline that forms part of a system of pipelines for that purpose; and
- (c) tanks, machinery and equipment necessary for, or associated with, the operation of such a pipeline or system of pipelines –

but does not include the following:

- (d) a pipeline located wholly within the site of an industrial plant;
- (e) a pipeline that forms part of a gas distribution system;



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- (f) a system of pipes and equipment –
    - (i) installed in a place for the conveyance and use of gas from a pressurised vessel situated in that place; and
    - (ii) not extending to, or connected to, pipes in some other place in separate occupation;
  - (g) pipes or equipment declared by the regulations not to be, or not to form part of, a transmission pipeline;
  - (h) any part of a pipeline referred to in paragraph (d) or (e) for which a licence is required under the *Petroleum (Submerged Lands) Act 1982* of Tasmania or the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth;

***Tribunal*** means the Resource Management and Planning Appeal Tribunal established under the *Resource Management and Planning Appeal Tribunal Act 1993*;

***upgrading***, in relation to gas infrastructure, includes the insertion of a new pipe inside any existing pipe that forms part of the infrastructure.

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- (2) In this Act, a reference to retailing or the selling of gas by retail –
- (a) is a reference to the sale of gas by a licensee to a person for consumption if –
    - (i) the gas is to be conveyed (whether or not by the seller) to the person by gas infrastructure; and
    - (ii) the person consumes, or is expected to consume, less than one terajoule of gas per year; but
  - (b) does not include an activity declared by the regulations not to be selling of gas by retail.
- (3) For the purposes of this Act, gas is available for supply to a person if the gas infrastructure is technically suitable to meet the gas supply requirements of the person.
- (4) For the purposes of this Act, a person is related to another person if –
- (a) they are both bodies corporate and they are related bodies corporate within the meaning of the Corporations Act; or
  - (b) where one of the persons is a natural person and the other is a private company – the natural person is a majority shareholder or director of the company or of another private company that is a related body corporate of the

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company within the meaning of the  
Corporations Act.

**4. Act binds Crown**

This Act binds the Crown not only in right of  
Tasmania but also, so far as the legislative power  
of Parliament permits, the Crown in all its other  
capacities.

**5. Act does not derogate from certain Acts**

This Act is in addition to, and does not derogate  
from, the *Gas Safety Act 2018*.

**6. Gas activities and gas infrastructure activities**

(1) For the purposes of this Act, the following are  
gas activities:

- (a) gas infrastructure activities;
- (b) the selling of gas by retail;
- (c) an activity prescribed in the regulations  
for the purposes of this section.

(2) For the purposes of this Act –

***gas infrastructure activities*** includes the  
following:

- (a) constructing or installing gas  
infrastructure;

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- (b) maintaining or altering gas infrastructure;
- (c) operating gas infrastructure.

## **PART 2 – ADMINISTRATION**

### ***Division 1 – Functions and powers of Regulator***

#### **7. Functions of Regulator**

- (1) The Regulator has the following functions under this Act:
  - (a) the administration of the licensing system, for gas licensees, established by this Act;
  - (b) the establishment, monitoring and publication of standards and codes in respect of gas activities provided by gas licensees or arising from any functions performed for the purposes of this Act;
  - (c) any other functions assigned to the Regulator under this Act.
- (2) The Regulator must, in performing any functions of a discretionary nature, endeavour to act in a fair and equitable manner, taking proper account of –
  - (a) the interests of licensees; and
  - (b) the interests of customers.
- (3) Nothing in subsection (1) or (2) gives rise to, or can be taken into account in, any civil cause of action.

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**8. Delegation**

The Regulator may, by instrument in writing, delegate to any person who, in the Regulator's opinion, is competent and suitable, the exercise of the powers of the Regulator under this Act (other than this power of delegation) that are specified in the instrument of delegation.

**9. Regulator may require information to be provided**

(1) The Regulator may, by notice in writing given to a person, require the person to give the Regulator, within a reasonable time stated in the notice, information in the person's possession that the Regulator reasonably requires for the administration of this Act.

(2) A person required to give information by a notice under subsection (1) must provide the information within the time stated in the notice.

Penalty: Fine not exceeding 100 penalty units.

(3) A person may not be compelled to give information in accordance with a notice under subsection (1) if the information might tend to incriminate the person.

(4) A decision to impose a requirement under this section is not a reviewable decision under Division 1 of Part 7.

**10. Regulator may give directions**

- (1) The Regulator may, by notice in writing given to a licensee, direct the licensee –
  - (a) to carry out, within a period specified in the notice, obligations under this Act, or the licence, that are specified in the notice; or
  - (b) to cease activities, specified in the notice, that constitute, or are likely to constitute, a contravention of this Act or the licence.
- (2) A licensee must comply with a direction given to the licensee in a notice under subsection (1).

Penalty: Fine not exceeding 1 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 500 penalty units for each day during which the offence continues.

- (3) If the licensee fails to comply with a direction given to the licensee in a notice under subsection (1), the Regulator may –
  - (a) take the action required to be taken for the direction to be complied with or arrange for the action, required for the direction to be complied with, to be taken; and
  - (b) recover from the licensee in any court of competent jurisdiction, as a debt due to the Crown, the cost of the taking of the action.

## **11. Regulator may carry out surveys and inspections**

The Regulator may –

- (a) undertake surveys, and inspections, for the purpose of determining whether the terms and conditions of a licence are being complied with; and
- (b) enter land for the purpose of undertaking such a survey or inspection.

## **12. Mediation of disputes**

- (1) Subject to subsection (5), if a dispute arises as to the activities of a licensee under a licence, a party to the dispute may request the Regulator to mediate in the dispute.
- (2) If the Regulator has been requested under subsection (1) to mediate in a dispute, the Regulator –
  - (a) may mediate, or decline to mediate, in the dispute; and
  - (b) may give, to the parties to the dispute, directions to assist in the resolution of the matters to which the dispute relates; and
  - (c) must make a reasonable attempt to assist the parties to agree to a settlement, of the dispute, that is negotiated between the parties.



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- (3) If the parties to a dispute in which the Regulator has mediated agree to a settlement of the dispute, the parties and the Regulator must sign a document setting out the terms of the settlement.
- (4) The terms of a settlement of a dispute signed under subsection (3) are binding on the parties to the dispute.
- (5) This section does not apply to a dispute between a licensee and a customer to whom gas is retailed.

**13. Regulator may take court action on behalf of customers**

If a customer or a class of customers could take any action in a court or tribunal to enforce a right under, or to enforce compliance with, this Act or a code made under this Act, the Regulator may take that action on behalf of the customer or class of customers.

**14. Enforcement of Act by Regulator**

- (1) If the Regulator is satisfied that a licensee has contravened this Act or a condition of the licence held by the licensee, the Regulator may impose on the licensee a monetary penalty not exceeding –
  - (a) 5 000 penalty units for the first day on which the contravention occurs; and

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- (b) a further fine not exceeding 200 penalty units for each subsequent day during which the contravention continues.
- (2) If there is more than one licensee that may be taken to have contravened this Act in respect of a single event, the Regulator may take any action under this section in respect of one or more such licensees as the Regulator thinks fit.

**15. State of the industry report**

- (1) The Regulator may prepare a report on the state of the industries involved in gas activities.
- (2) The Regulator is to prepare a state of the industry report –
  - (a) on the Regulator’s own initiative; or
  - (b) if directed to do so by the Minister responsible for energy and the Minister assigned the administration of the *Economic Regulator Act 2009*.
- (3) A direction under subsection (2)(b) to prepare a state of the industry report may include the terms of reference for that state of the industry report.
- (4) The Regulator is to cause a copy of the state of the industry report to be –
  - (a) laid before each House of Parliament within 7 sitting-days after preparing it; and

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- (b) made available to members of the public in the manner that the Regulator considers appropriate.

***Division 2 – Miscellaneous***

**16. Regulator to preserve confidentiality**

- (1) The Regulator must preserve the confidentiality of information gained in the course of administering this Act (including information gained by an authorised officer under Division 2 of Part 6) that –
  - (a) could affect the competitive position of a licensee or other person; or
  - (b) is commercially sensitive for some other reason.
- (2) Subsection (1) does not apply to the disclosure of information between persons engaged in the administration of this Act.
- (3) Information classified by the Regulator as confidential is not liable to disclosure under the *Right to Information Act 2009*.

**17. Annual report by Regulator**

The annual report made under the *Economic Regulator Act 2009* by the Regulator, within the meaning of that Act, is to include a report on the performance and exercise under this Act of the functions and powers of the Regulator within the meaning of this Act.

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**18. Advisory committees**

- (1) The Minister or the Regulator may establish an advisory committee to advise the Minister or the Regulator, respectively, on specified aspects of the administration of this Act.
- (2) The members of an advisory committee established under this section by the Minister are appointed and hold office on the terms and conditions that the Minister determines.
- (3) The members of an advisory committee established under this section by the Regulator are appointed and hold office on the terms and conditions that the Regulator determines.

**19. Exclusive franchise**

- (1) The Governor may, by order published in the *Gazette*, determine that a person has an exclusive franchise to carry out –
  - (a) a gas infrastructure activity specified in the order; or
  - (b) a gas infrastructure activity, specified in the order, in relation to an area of land specified in the order.
- (2) An order may only declare that a person has an exclusive franchise to carry out a gas infrastructure activity, or a gas infrastructure activity, specified in the order, in relation to an area of land specified in the order, if there is no other licence in respect of both the same gas

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infrastructure activity, and the same area of land, as the activity and areas land to which the order relates.

- (3) The franchise may be expressed to be exclusive to the extent that is specified in the order.
- (4) An order that declares a person to have an exclusive franchise in relation to a gas infrastructure activity may specify that the person also has an exclusive franchise in relation to gas retailing, to the extent necessary or desirable to ensure the commercial viability of the exclusive franchise in relation to a gas infrastructure activity.
- (5) The order –
  - (a) is to specify the person to whom the exclusive franchise is, if a licence is granted to the person in relation to the gas infrastructure activity, to be granted; and
  - (b) is to specify the area of land within which the exclusive franchise applies; and
  - (c) is to specify the period of the exclusive franchise; and
  - (d) is to contain any other conditions which the Minister requires the Regulator to include in the licence referred to in paragraph (a), if any, under which the exclusive franchise is to be granted.

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- (6) The Regulator must exercise its powers under this Act, including but not limited to the power to grant or renew a licence, so as to give effect to the order, if the licence may, in accordance with Division 2 of Part 3, be granted to the person or renewed, as the case may be.
- (7) The Minister may require the payment of a fee for the grant of an exclusive franchise and may direct the Regulator not to grant the proposed licence until the fee is paid.
- (8) The period of an exclusive franchise need not be the same as the period of the licence to which the exclusive franchise relates.
- (9) An exclusive franchise may be subject to conditions –
  - (a) requiring or relating to standard contractual terms and conditions to apply to the selling of gas by retail to customers or customers of a prescribed class; or
  - (b) requiring the licensee to comply with specified minimum standards of service in respect of the licensee's customers or customers of a prescribed class, and requiring monitoring and reporting of levels of compliance with those standards.
- (10) The Governor may, by order published in the *Gazette*, revoke or amend an order made under subsection (1).

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- (11) If the Governor revokes an order made under subsection (1), a licence granted or renewed in accordance with the order remains in force, but is no longer to be taken to grant an exclusive franchise.

## **PART 3 – LICENSING**

### ***Division 1 – Licences required for gas activities***

#### **20. Person not to carry out gas activities without a licence**

- (1) A person must not carry out a gas activity except under and in accordance with a licence authorising the carrying out of the gas activity.

Penalty: Fine not exceeding 1 200 penalty units.

- (2) Subsection (1) does not apply to a person carrying out a gas activity either –
- (a) in accordance with a direction under section 10; or
  - (b) as part of the carrying out of activities that the person has been appointed to take over under Part 8.

### ***Division 2 – Application, grant and renewal of licences***

#### **21. Application for grant of licence**

- (1) A body corporate, or a partnership of 2 or more bodies corporate, may apply to the Regulator for the grant of a licence.
- (2) An application for the grant of a licence –
- (a) must be made in an approved form; and



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- (b) must be accompanied by a statement as to –
- (i) the directors, secretary and public officer of the applicant or applicants; and
  - (ii) any other person who is able to control the affairs of the applicant or applicants; and
- (c) must be accompanied by a statement showing, to the satisfaction of the Regulator, the human, financial and technical resources available to the applicant or applicants; and
- (d) must be accompanied by the application fee determined under subsection (3) in relation to the application; and
- (e) must be accompanied by the information that the Regulator reasonably requires.
- (3) The Regulator may determine for the purposes of subsection (2)(d) an application fee of an amount that the Regulator considers is required to meet the reasonable costs of the Regulator in determining the application.
- (4) The Regulator may, as the Regulator considers appropriate, accept a single application, or may require separate applications, from an applicant in respect of –
- (a) different gas activities of the applicant; or

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- (b) different gas activities of the applicant at different locations.
- (5) The Regulator may require an applicant for a licence to provide any further relevant information that the Regulator thinks is required to enable the assessment and determination of the application.
- (6) If an applicant fails to comply with a requirement under subsection (5) within 30 business days, or a longer period allowed by the Regulator, the application lapses.
- (7) The Regulator must ensure that notice of an application for the grant of a licence is published, at least 30 business days before the application is determined by the Regulator, in the *Gazette* or in another manner that the Regulator considers appropriate.

**22. Grant of licence**

- (1) The Regulator, within 40 business days after the later of the following:
  - (a) receiving an application for the grant of a licence;
  - (b) the provision of any further relevant information required under section 21(5) in relation to an application for the grant of a licence –

must determine the application by –

- (c) granting the licence; or

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- (d) refusing to grant the licence.
- (2) The Regulator may only grant a licence if the Regulator is satisfied that –
- (a) the applicant is a body corporate or a partnership of 2 or more bodies corporate; and
  - (b) the applicant is suitable to hold the licence; and
  - (c) if the licence is to authorise the construction of, or alteration to, gas infrastructure – any other permit or other authority required by or under another Act of the State or the Commonwealth has been granted to the applicant or in relation to the gas infrastructure; and
  - (d) the applicant can demonstrate that the applicant has complied with, or intends to comply with, the requirements of this Act.
- (3) In deciding whether an applicant is a suitable person to hold a licence, the Regulator may consider –
- (a) the applicant’s previous commercial and other dealings and the standard of honesty and integrity shown in those dealings; and
  - (b) the financial, technical and human resources available to the applicant; and

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- (c) the officers and, if applicable, major shareholders, of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
  - (d) any other matters prescribed by the regulations.
- (4) The Regulator may only grant a gas infrastructure licence if the Regulator has been provided with a copy of a certificate issued under the *Gas Safety Act 2018* certifying that the gas infrastructure is, or the proposed gas infrastructure will be, able to safely convey, or safely process, the regulated substance intended to be processed or conveyed under the licence.
- (5) The Regulator may not grant a licence that authorises the carrying out of both the selling of gas by retail and gas infrastructure activities, but, where the holder of a licence holds, or may hold, both such licences, may include in either or both such licences terms or conditions necessary to ensure that the carrying out of operations and business under each of the licences is adequately separate from the carrying out of operations and business under each of the other licences.
- (6) As soon as practicable after determining under subsection (1) an application for the grant of a licence, the Regulator is to –

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- (a) notify of the determination the person who made the application and, if the determination was to refuse to grant the licence, the reasons for the determination; and
  - (b) publish notice of the determination in the *Gazette* or in another manner that the Regulator considers appropriate.

**23. Application for renewal of licence**

- (1) The licensee may apply to the Regulator for the renewal of the licence.
- (2) The licensee may apply to the Regulator for the renewal of so much of the licence as does not authorise the carrying out of an activity specified in the application.
- (3) An application under subsection (1) or (2) for renewal –
  - (a) must be made in an approved form; and
  - (b) must be accompanied by the application fee prescribed by the regulations; and
  - (c) must be accompanied by the information that the Regulator reasonably requires.
- (4) An application under subsection (1) or (2) in relation to a licence must be made at least 3 months, and not more than 6 months or a longer period authorised by the Regulator under subsection (5), before the end of the term of the licence.

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- (5) The Regulator may, by notice in writing to the licensee, extend the period of 6 months referred to in subsection (4).
- (6) The Regulator must ensure that notice of an application under subsection (1) or (2) in relation to a licence is published, at least 30 business days before the application is determined by the Regulator, in the *Gazette* or in another manner that the Regulator considers appropriate.
- (7) The Regulator may require an applicant under subsection (1) or (2) in relation to a licence to provide any further relevant information that the Regulator thinks is required to enable the assessment and determination of the application.
- (8) If an applicant fails to comply with a requirement under subsection (7) within 30 business days or a longer period allowed by the Regulator, the application lapses.
- (9) If the Regulator grants an application for renewal of so much of the licence as does not authorise the carrying out of an activity specified in the application, the Regulator is to revoke those terms and conditions that authorise the carrying out of the activity.

**24. Renewal of licence**

- (1) The Regulator, within 40 business days of –
  - (a) receiving an application under section 23(1) or (2) in relation to a licence; or

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- (b) the provision of any further relevant information required under section 23(7) in relation to an application under section 23(1) or (2) in relation to a licence –

whichever is the later, must determine the application by approving, or refusing to approve, the renewal of the licence or the renewal of so much of the licence as does not authorise the carrying out of an activity specified in the application, respectively.

- (2) The Regulator must determine under subsection (1) an application under section 23(1) or (2) in relation to a licence by renewing the licence, or so much of the licence as does not authorise the carrying out of an activity specified in the application, as the case may be, unless the Regulator is satisfied that –

- (a) the applicant has been guilty of a material contravention of a requirement imposed by or under this Act, or any other Act, in connection with the gas activities under this Act and is satisfied that the contravention is such that the licence ought not be renewed; or
- (b) if the application had been for the grant of a licence in respect of the operation to which the application relates, the Regulator would not have granted the licence.

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- (3) As soon as practicable after determining under subsection (1) an application under section 23(1) or (2) in relation to a licence, the Regulator is to –
- (a) notify of the determination the person who made the application and, if the determination was to refuse to renew the licence, the reasons for the determination; and
  - (b) publish notice of the determination in the *Gazette* or in another manner that the Regulator considers appropriate.

**25. Precondition to grant or renewal of licences**

- (1) If the Regulator intends to grant or renew a licence, or renew so much of the licence as does not authorise the carrying out of an activity, the Regulator may issue to the applicant a notice requiring security to be given in relation to the licence.
- (2) A notice requiring security to be given in relation to a licence is a notice specifying that the licence will only be granted or renewed, or so much of the licence as does not authorise the carrying out of an activity will be renewed, if the applicant gives, by the date specified in the notice, a security, in the amount and form decided by the Regulator and specified in the notice, for the due performance by the licensee of the obligations of the licensee under this Act or the licence.



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- (3) If the Regulator issues a notice under subsection (1) to an applicant for the grant or renewal of a licence, or so much of the licence as does not authorise the carrying out of an activity will be renewed, the Regulator may refuse to grant or renew the licence, or so much of the licence as does not authorise the carrying out of an activity will be renewed, respectively, until the applicant gives, by the date specified in the notice, a security, in the amount and form decided by the Regulator and specified in the notice, for the due performance by the licensee of the obligations of the licensee under this Act or the licence.

**26. Licence fees and returns**

- (1) An applicant for the grant or renewal of a licence, or so much of the licence as does not authorise the carrying out of an activity will be renewed, for a term of 2 years or more is not entitled to the grant or renewal of the licence, or so much of the licence as does not authorise the carrying out of an activity will be renewed, respectively, unless the applicant has paid to the Regulator, by the date notified by the Regulator, the relevant licence fee or the first instalment of that fee in relation to the licence.
- (2) A licensee issued with a licence for a term of 2 years or more must –
- (a) in each year lodge with the Regulator, before the date prescribed for that purpose, an annual return containing the

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information required by the Regulator as a condition of the licence or by written notice; and

- (b) in each year (other than a year in which the licence is due to expire) pay to the Regulator a fee in relation to the licence or the first instalment of that fee, by the date notified by the Regulator.

Penalty: Fine not exceeding 10 penalty units.

- (3) The licence fee in relation to a licence is the fee, determined by the Regulator, that represents the reasonable cost of administering this Act in relation to the licence.
- (4) The Regulator may determine that the licence fee in relation to any licence is to be paid in equal instalments at intervals fixed by the Regulator.
- (5) If a licensee fails to pay a licence fee in accordance with subsection (2)(b) –
  - (a) the amount in arrears, unless the Regulator determines otherwise, is to be increased by penalty interest at the prescribed rate; and
  - (b) the Regulator may impose on the licensee a fine of an amount fixed by the Regulator up to a limit of 10 penalty units or 10% of the outstanding fee, whichever is the greater.

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- (6) The Regulator may for any proper reason remit, in whole or in part, penalty interest or a fine imposed under subsection (5).
  - (7) A fee and any penalty interest or fine imposed by the Regulator under this section may be recovered from the licensee by the Regulator as a debt due and payable to the Crown in any court of competent jurisdiction.

***Division 3 – Rights and obligations under licences***

**27. Authority conferred by licence**

- (1) A licence authorises the licensee, and persons acting on behalf of the licensee, to carry out, in accordance with the terms and conditions of the licence, the gas activities that are specified on the licence as being authorised to be carried out under the licence.
- (2) The gas activities authorised by a licence to be carried out under the licence need not be all of the same character or at the same location but may consist of a combination of different gas activities or gas activities at different locations.
- (3) Despite subsection (2), a licence may not authorise the carrying out of both the gas activity consisting of the selling of gas by retail and the gas activity consisting of gas infrastructure activities.
- (4) A licence may be granted for the whole or a part of gas infrastructure.

***Division 4 – Terms and conditions of licences***

**28. Information to be included on licence**

A licence is to include the following information:

- (a) the name of the licensee;
- (b) the gas activity, or gas activities, the carrying out of which is authorised by the licence, including, if the gas activities are to be authorised to be carried out only in part of the State, the area of the State in which the gas activities may be carried out;
- (c) the terms of the licence;
- (d) the period for which the licence, subject to this Act, remains in force;
- (e) any conditions to which the licence is subject.

**29. Period for which licence remains in force**

Subject to this Act, a licence remains in force for a period, of not more than 25 years, specified in the licence.

**30. Conditions on licence**

- (1) The Regulator may, on the grant, renewal or transfer of a licence, or for the purposes of

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section 35(5) or section 38(8), specify on the licence a condition of the licence.

- (2) A condition may be specified on a licence when it is renewed or transferred, or for the purposes of section 35(5) or section 38(8), even though it was not previously specified on the licence.
- (3) Without limiting the generality of subsection (1), the Regulator may specify on a licence any one of more of the following conditions:
  - (a) a condition requiring that the licensee comply with any standards or codes specified in the licence, or any safety plan approved under the *Gas Safety Act 2018*, or both;
  - (b) conditions relating to the financial or other capacity of a licensee to continue gas activities under the licence for the term of the licence;
  - (c) a condition requiring the licensee to maintain insurance, on terms and conditions approved by the Regulator, insuring the licensee against liabilities arising from activities under the licence;
  - (d) a condition requiring that the licensee may not appoint gas officers or may only appoint gas officers for the purposes specified in the condition;
  - (e) a condition requiring the licensee to follow a specific process in resolving

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disputes between the licensee and customers as to the supply of gas;

(f) a condition to limit a licensee's activity to activity within a distribution system or a transmission pipeline.

(4) Without limiting the generality of subsection (1), if the same person, or related persons, hold both a gas retail licence and a gas infrastructure licence, the Regulator may place on one or more of the licences the conditions that the Regulator considers to be necessary to ensure that the carrying out of operations and business under each of the licences is adequately separate from the carrying out of operations and business under each of the other licences.

**31. Variation of terms and conditions of licences**

(1) A licensee may apply to the Regulator to vary a condition of the licence or to vary or revoke a term of the licence.

(2) The Regulator may, for the purposes of section 35(5) or section 38(8), by written notice to the licensee, revoke a condition of a licence.

(3) The Regulator may, by written notice to the licensee, add a condition to the conditions of the licence or vary a condition of the licence –

(a) if the Regulator has given the licensee reasonable notice of the proposed addition or variation and allowed the licensee a reasonable opportunity to

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- make representations in relation to the proposed addition or variation; or
- (b) on the agreement under section 34 of the Regulator to a transfer of the licence; or
  - (c) for the purposes of section 35(5) or section 38(8); or
  - (d) on application by the licensee under subsection (1); or
  - (e) with the agreement of the licensee.
- (4) The Regulator may, by written notice to the licensee, revoke a condition of the licence.
- (5) The Regulator may, by written notice to the licensee, vary or revoke a term of the licence –
- (a) if the Regulator has given the licensee reasonable notice of the proposed variation or revocation and allowed the licensee a reasonable opportunity to make representations in relation to the proposed variation or revocation; or
  - (b) on the agreement under section 34 of the Regulator to a transfer of the licence; or
  - (c) for the purposes of section 35(5) or section 38(8); or
  - (d) on application by the licensee under subsection (1); or
  - (e) with the agreement of the licensee.

**32. Contravention of licence conditions**

- (1) The licensee must comply with the conditions of the licence.

Penalty: Fine not exceeding 1 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day during which the offence continues.

- (2) A court that finds the licensee guilty of an offence against subsection (1) may, in addition to, or instead of, imposing a penalty under that subsection, make one or more of the following orders:
- (a) an order requiring the licensee to comply with any conditions of the licence;
  - (b) an order directing the licensee to do, or refrain from doing, anything;
  - (c) any other order that the court considers desirable to protect the interests of customers.

**33. Directions to comply with licence conditions**

- (1) The Regulator, if satisfied on reasonable grounds that the licensee has been or is failing to comply with the conditions of the licence, may give the licensee a direction requiring the licensee to take the action that the Regulator considers necessary to secure compliance with those conditions.



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- (2) A direction must be given by written notice or, if the Regulator is of the opinion that immediate action is required, it may be given orally.
  - (3) If a direction is given orally, it must be confirmed in writing as soon as practicable after being given.
  - (4) A direction must state the action required to be taken by the licensee and the time within which the action is required to be taken.
  - (5) A licensee that is given a direction under this section must comply with the direction.

Penalty: Fine not exceeding 1 200 penalty units and, in the case of a continuing offence, a further fine not exceeding 100 penalty units for each day during which the offence continues.

- (6) If a licensee fails to comply with a direction given to it under this section –
  - (a) the Regulator, or a person authorised in writing by the Regulator, may take any action that is reasonable and necessary to give effect to the direction; and
  - (b) the costs incurred in giving effect to the direction under paragraph (a) are recoverable from the licensee in any court of competent jurisdiction as a debt due to the Crown from the licensee; and
  - (c) for the purposes of giving effect to the direction, neither the Regulator nor a

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person authorised by the Regulator under paragraph (a) is required to hold a licence.

***Division 5 – Transfer***

**34. Transfer of licences**

- (1) A licence may be transferred with the agreement of the Regulator.
- (2) The Regulator may –
  - (a) impose conditions that are to be fulfilled before the licence may be transferred; and
  - (b) vary under and in accordance with section 31 the conditions or terms that are to be conditions or terms of the licence immediately after it is transferred.
- (3) It is a condition of the transfer of a licence that the person to whom the licence is transferred must –
  - (a) provide the Director of Gas Safety with a written commitment to comply with the existing safety case, for the relevant gas infrastructure, prepared under the *Gas Safety Act 2018*; or
  - (b) submit a new safety case, for the relevant gas infrastructure, under the *Gas Safety Act 2018*.

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**35. Transfer of certain authorities to carry out activities under licences**

- (1) A licensee may apply to the Regulator for approval to transfer to another person the authority to carry out an activity specified on the licensee's licence.
- (2) The Regulator may, on application from a licensee under subsection (1), approve –
  - (a) the transfer –
    - (i) to another person who holds a gas retail licence, of the authority to carry out the gas retail activities, specified on the applicant's licence, that are specified in the application; or
    - (ii) to another person who holds a gas infrastructure licence, of the authority to carry out the gas infrastructure activities, specified on the applicant's licence, that are specified in the application; or
    - (iii) to another person who holds a retail licence or gas infrastructure licence, of the authority to carry out the activities, referred to in section 6(1)(c) specified on the applicant's licence, that are specified in the application; or
  - (b) the transfer, to another person who does not hold a licence, of the authority to

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carry out the gas activities specified in the application.

- (3) The Regulator may impose conditions on the transfer of the authority to carry out an activity.
- (4) It is a condition of the transfer of the authority to carry out an activity in relation to a licence that the person to whom the authority is transferred must –
  - (a) provide the Director of Gas Safety with a written commitment to comply with the existing safety case, for the relevant gas infrastructure, prepared under the *Gas Safety Act 2018*; or
  - (b) submit a new safety case, for the relevant gas infrastructure, under the *Gas Safety Act 2018*.
- (5) If the Regulator approves the transfer to a licence holder of the authority to carry out a gas activity, the Regulator, under section 31, is to –
  - (a) vary, revoke or add to the terms and conditions of the licence held by the licence holder from whom the authority is to be transferred, so that the carrying out of the activity ceases to be authorised under the licence; and
  - (b) vary, revoke or add to the terms and conditions of the licence held by the licence holder to whom the authority is to be transferred so that the carrying out

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of the activity becomes authorised under the licence; and

- (c) vary, revoke or add to the terms and conditions of another licence held by the licence holder to whom the authority is to be transferred, as may be necessary to ensure that the carrying out of operations and business under each of the licences is adequately separate from the carrying out of operations and business under each of the other licences held by the licence holder.
- (6) If the Regulator approves the transfer from the holder of a licence, to a person who is not a licence holder, of the authority under the licence to carry out a gas activity –
- (a) the Regulator is to vary or revoke under section 31 terms and conditions of the licence of the person from whom authority to carry out the activity is to be transferred, so that the carrying out of the activity ceases to be authorised under the licence; and
  - (b) a licence may be granted under section 22, to the person to whom the authority to carry out the activity is transferred, on such terms and conditions, of the licence from which the authority is to be transferred, as will –

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- (i) enable the carrying out of the activity under the licence that is so granted; and
- (ii) ensure that the carrying out of operations and business under each of the licences is adequately separate from the carrying out of operations and business under each of the other licences.

***Division 6 – Surrender of licences or cessation of operations***

**36. Surrender of licence authorising selling of gas by retail**

- (1) A gas retailer may, by written notice to the Regulator, surrender his or her licence.
- (2) The surrender of a licence under subsection (1) takes effect from –
  - (a) a date specified in the notice under subsection (1) that is a date at least 6 months after the notice is given; or
  - (b) if it is a condition of the licence that a period of notice of longer than 6 months must be given before the licence may be surrendered – a date specified in the notice under subsection (1) that is a date that is after that longer period expires; or
  - (c) if the Regulator agrees – a date that is before the expiry of a period referred to in either paragraph (a) or (b).

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**37. Surrender of licence authorising gas infrastructure activities**

- (1) A gas infrastructure licensee may, in writing, apply to the Regulator to surrender the licence.
- (2) An application under subsection (1) in relation to a surrender is to be made to the Regulator –
  - (a) at least 6 months before the surrender is to take effect; or
  - (b) not before the beginning of a longer period, before the surrender is to take place, that is specified in a condition of the licence as the period of notice required to be given of such a surrender.
- (3) The Regulator may, by agreement with the licensee, shorten the period of notice referred to in subsection (2).
- (4) The Regulator may, in a notice of acceptance of the surrender given to the applicant, agree to a surrender to which an application under subsection (1) relates.
- (5) The Regulator may agree to a surrender to which an application under subsection (1) relates on any condition that the Regulator thinks fit, including, but not limited to including, a condition –
  - (a) that the applicant pay any monetary obligations incurred before the surrender; or

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- (b) that the applicant provide the Regulator with information that should have been, but has not been, provided before the surrender.
- (6) A surrender in relation to which a notice of acceptance of surrender has been given under subsection (4) takes effect from the date specified by the Regulator in the notice as the date on which the surrender is to take effect.
- (7) Notice of the surrender of a licence (including the written notice given under subsection (1)), or of part of the area specified in the licence, is to be published in the *Gazette* or in another manner that the Regulator considers appropriate.

**38. Alteration to permit cessation of certain activities under licence**

- (1) A gas infrastructure licensee may, by notice in writing, apply to the Regulator for authority –
  - (a) to cease to carry out a gas infrastructure activity, specified in the application, that is authorised by the licence to be carried out; or
  - (b) to cease to carry out in an area of land a gas infrastructure activity authorised by the licence to be carried out.
- (2) An application under subsection (1) in relation to a gas infrastructure activity is to be made to the Regulator –



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- (a) at least 6 months before a cessation notice in relation to the application is to take effect; or
    - (b) not before the beginning of a longer period, before the licensee is to cease to carry out the activity, or to cease to carry out the activity in relation to the area of land, that is specified in a condition of the licence as the period of notice required in relation to a cessation notice.
  - (3) The Regulator may, by agreement with the licensee, shorten the period of notice referred to in subsection (2).
  - (4) The Regulator may, after receiving from a licensee an application under subsection (1), by notice to the licensee (a ***cessation notice***), authorise the licensee –
    - (a) to cease to carry out a gas infrastructure activity, specified in the application, that is authorised by the licence; or
    - (b) to cease to carry out on an area of land a gas infrastructure activity authorised by the licence.
  - (5) The Regulator may issue a cessation notice to which an application under subsection (1) relates on any condition that the Regulator thinks fit, including, but not limited to including, a condition –

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- (a) that the applicant pay any monetary obligations incurred before the cessation notice was issued; or
  - (b) that the applicant provide the Regulator with information that should have been, but has not been, provided before the cessation notice was issued.
- (6) A cessation notice given under subsection (4) takes effect from the date specified by the Regulator in the notice as the date on which the notice is to take effect.
- (7) Notice of a cessation notice (including the written notice given under subsection (1)), is to be published in the *Gazette* or in another manner that the Regulator considers appropriate.
- (8) If the Regulator issues a cessation notice under subsection (4) in relation to an activity, the Regulator, under section 31, is to do one or more of the following:
  - (a) vary, revoke or add to those terms and conditions of the licence of the person as required to ensure that the carrying out of the activity ceases to be authorised under the licence;
  - (b) vary, revoke or add to the terms and conditions of another licence held by the licence holder, as may be necessary to ensure that the carrying out of operations and business under each of the licences is adequately separate from the carrying out

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of operations and business under each of the other licences.

- (9) If a cessation notice authorises a licensee to cease to carry out on an area of land a gas infrastructure activity authorised by the licence, the licence continues in respect of the remainder of the licence area subject to any variation or revocation of its terms or conditions that is made by the Regulator under section 31.

***Division 7 – Suspension and cancellation of licences or activities***

**39. Suspension and cancellation of licences**

- (1) The Regulator must, by notice to the licensee, suspend or cancel the licence with effect from a specified date –
- (a) if satisfied that the licensee has failed to comply with this Act or the regulations or a requirement imposed by or under this Act, or any other Act, in connection with the activities authorised by the licence to be carried out, and in the Regulator’s opinion the failure is so serious that the licence ought to be suspended or cancelled, as the case may be; or
  - (b) on the recommendation of the Director of Gas Safety under subsection (5).

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- (2) The Regulator may, by notice to the licensee, suspend or cancel the licence with effect from a specified date, if satisfied that –
- (a) the licensee obtained the licence improperly; or
  - (b) the licensee has failed to comply with a reasonable requirement of the Regulator to provide to the Regulator information relating to the activities authorised by the licence to be carried out; or
  - (c) the licensee has failed to commence gas activities authorised by the licence to be carried out; or
  - (d) the licensee has ceased to carry on gas activities authorised by the licence to be carried out; or
  - (e) there has been any act or default such that the licensee would no longer be entitled to the grant of such a licence.
- (3) A suspension under this section may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Regulator.
- (4) Before the Regulator acts under this section, the Regulator must –
- (a) notify the licensee in writing of the proposed action and the reasons for the proposed action; and

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- (b) allow the licensee a reasonable period within which to make submissions to the Regulator in respect of the proposed action.
- (5) The Director of Gas Safety may, by notice in writing to the Regulator, recommend to the Regulator that the Regulator take the action set out in the notice, which action may include the preparation of a report.
- (6) The Director of Gas Safety may only make a recommendation under subsection (5) in relation to a licence if he or she is of the opinion that it is necessary or desirable to make the recommendation to ensure the safety of persons or property.
- (7) The Regulator may, with the agreement of a licensee, and after consultation with the Director of Gas Safety, suspend the licence, by notice in writing to the licensee.
- (8) A suspension under subsection (7) may be for a period, or until the fulfilment of conditions, or until further order of the Regulator, as specified in the notice suspending the order.
- (9) Notice of the suspension or cancellation of a licence is to be published in the *Gazette* or in another manner that the Regulator considers appropriate.

**40. Suspension and revocation of authority to conduct certain activities under licence**

- (1) The Regulator must suspend or revoke a term or condition, or the terms and conditions, of the licence, that authorise the carrying out of a gas activity –
- (a) if –
- (i) the Regulator is satisfied that the licensee has failed to comply with this Act or the regulations or a requirement imposed by or under this Act, or any other Act, in connection with the activity; and
  - (ii) in the Regulator’s opinion, the failure is so serious that the licence ought to cease to authorise the carrying out of the activity; and
  - (iii) in the Regulator’s opinion, the failure is not so serious that the licence ought to be suspended or cancelled; or
- (b) on the recommendation of the Director of Gas Safety under subsection (5).
- (2) The Regulator may, by notice to the licensee, suspend or revoke a term or condition, or the terms and conditions, of the licence, that authorise the carrying out of a gas activity with effect from a specified date, if satisfied that –

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- (a) the licensee has failed to comply with a reasonable requirement of the Regulator to provide to the Regulator information relating to the gas activity; or
    - (b) the licensee has failed to commence the gas activity; or
    - (c) the licensee has ceased to carry on the gas activity.
  - (3) A suspension under this section may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Regulator.
  - (4) Before the Regulator acts under this section, the Regulator must –
    - (a) notify the licensee in writing of the proposed action and the reasons for the proposed action; and
    - (b) allow the licensee a reasonable period within which to make submissions to the Regulator in respect of the proposed action.
  - (5) The Director of Gas Safety may, by notice in writing to the Regulator, recommend to the Regulator that the Regulator take the action set out in the notice.
  - (6) The Director of Gas Safety may only make a recommendation under subsection (5) in relation to a term or condition, or the terms and conditions, of a licence, that authorise the

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carrying out of a gas activity, if he or she is of the opinion that it is necessary or desirable to make the recommendation to ensure the safety of persons or property.

- (7) The Regulator may, with the agreement of a licensee, and after consultation with the Director of Gas Safety, suspend a term or condition, or the terms and conditions, of a licence, that authorise the carrying out of a gas activity, by notice in writing to the licensee.
- (8) A suspension under subsection (5) may be for a period, or until the fulfilment of conditions, or until further order of the Regulator, as specified in the notice suspending the order.
- (9) Notice of the suspension or revocation of a term or condition, or the terms and conditions, is to be published in the *Gazette* or in another manner that the Regulator considers appropriate.

***Division 8 – Miscellaneous***

**41. Regulator may use licence information**

The Regulator –

- (a) may use for the purposes of this Act any information or record provided by a licensee under this Act; and
- (b) may disclose, as authorised by the regulations, information and records provided by the licensee under this Act.



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**42. Register of licences**

- (1) The Regulator is to keep a register of licences granted under this Act.
- (2) A register kept under this section may be in the form, which may be an electronic form, determined by the Regulator.
- (3) A register kept under this section –
  - (a) is to include the terms and conditions of each licence; and
  - (b) is to include other information required under the regulations.
- (4) A person may, on payment of a fee fixed by the Regulator, inspect the register.

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*Division 1 – Entry on and use of land*

**43. Application of Division**

- (1) This Division applies in respect of all gas activities other than selling of gas by retail.
- (2) A licensee in respect of an activity to which this Division applies is authorised for the purposes of this Division.
- (3) A licensee in respect of an activity to which this Division applies may, in writing, authorise an agent of the licensee for the purposes of this Division.
- (4) The Regulator may, on the application of a body corporate, authorise the body corporate for the purposes of this Division if –
  - (a) the Regulator is satisfied that the body corporate proposes to apply for a licence authorising the carrying out of gas infrastructure activities; and
  - (b) the body corporate has demonstrated to the satisfaction of the Regulator its capacity to comply with the requirements of this Act.
- (5) A body corporate that is authorised under subsection (4) may, in writing, authorise an agent of the body corporate for the purposes of this Division.

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**44. Right of entry on land**

- (1) A person who is authorised for the purposes of this Division may, subject to this Part, enter on land with the agreement of the owner of the land or as authorised under subsection (2) –
  - (a) to conduct surveys or to assess the suitability of the land for the construction or installation of gas infrastructure; or
  - (b) for the purpose of gaining access to gas infrastructure land to carry out gas infrastructure activities on the land.
- (2) The Regulator may authorise a person to whom this Division applies to, without the agreement of the owner of the land, enter and remain on land under this section on the conditions that the Regulator considers appropriate.
- (3) If a person who is authorised under subsection (2) enters on land under that authority, that person must –
  - (a) comply with any conditions to which that authority is subject; and
  - (b) do as little damage as possible and act so as to minimise the impact of work carried out by the person on the activities of other persons on the land; and
  - (c) make good any damage caused to the land as a result of carrying out activities on the land.

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- (4) A person who is authorised under subsection (2) may use reasonable force to enter on land.
- (5) A person authorised under subsection (2) to enter on land to ascertain whether that land is suitable for the construction or installation of gas infrastructure or to obtain information in relation to that land may –
  - (a) enter and remain on that land with such assistants, vehicles, machinery and equipment as the person thinks fit; and
  - (b) make surveys, take levels, sink pits, examine the soil and do any other thing in relation to the land that is necessary for the purpose for which the land has been entered.
- (6) A person authorised under subsection (2) to enter on land –
  - (a) to ascertain whether other land is suitable for the construction or installation of gas infrastructure; or
  - (b) to obtain information in respect of other land –

may enter and remain on the first-mentioned land with the assistants, vehicles, machinery and equipment that the person thinks fit.

**45. Notice of proposed entry on land**

- (1) A licensee must give written notice to the owner or occupier of land –

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- (a) of the intention of the licensee, or a person, authorised under this Division, who is acting at the request of the licensee, to enter on the land; and
  - (b) if the licensee proposes to carry out, or to have a person authorised under this Division carry out on the licensee's behalf, activities on the land related to gas infrastructure activities, of the nature of the activities to be carried out on the land.

Penalty: Fine not exceeding 50 penalty units.

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

- (a) not less than 7 business days' notice is to be given to the owner or occupier, unless a shorter period of notice is agreed between the licensee or person authorised under this Division and the owner or occupier of the land; and
- (b) the notice may authorise entry on the days, specified in the notice, that occur during a period that is specified in the notice; and
- (c) a period specified in a notice under paragraph (b) may be extended by the licensee giving a further such notice to the owner or occupier not less than 2 business days before the expiration of that period.

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**46. Obstruction and hindering of person entering land under this Division**

A person must not obstruct, hinder, delay, threaten or assault a person who is –

- (a) authorised to enter on land under section 44; and
- (b) acting in accordance with that section.

Penalty: Fine not exceeding 10 penalty units.

**47. Power to carry out work on public land**

- (1) Subject to this section, a gas infrastructure licensee may carry out work, including installation, modification and repair work, on public land for the purpose of a gas infrastructure activity.
- (2) Subject to this section, the gas infrastructure licensee must –
  - (a) give the authority responsible for the management of the public land not less than 7 business days' notice of the licensee's intention to carry out work on the land; and
  - (b) before commencing the work, secure the authority's agreement as to how the work is to be carried out.
- (3) The agreement under subsection (2)(b) may include conditions that the responsible authority considers appropriate in the public interest.

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- (4) Prior notice is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.
  - (5) Agreement is not required under subsection (2) for work of a kind prescribed by the regulations for the purposes of this section.
  - (6) A gas infrastructure licensee must make good any damage caused by the exercise of powers under this section as soon as practicable or pay reasonable compensation for the damage.
  - (7) If the responsible authority and the gas infrastructure licensee do not agree as to the extent of compensation, the claim for compensation is to be determined –
    - (a) if it is a minor civil claim within the meaning of the *Magistrates Court (Civil Division) Act 1992* – by the civil division of the Magistrates Court; or
    - (b) in any other case – as if it were a disputed claim under the *Land Acquisition Act 1993*.
  - (8) This section does not derogate from an obligation to comply with any other Act.

**48. Appeal to Tribunal in relation to proposed work on public land**

- (1) If an authority, on being given notice under section 47(2), decides to –

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

the licensee may appeal to the Tribunal.

- (2) Subsection (1) does not apply if the authority is a Minister or a person or body to whom directions may be given by a Minister in respect of the matter in dispute.
- (3) Except as provided by subsection (4), the Tribunal is to hear and determine the appeal in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (4) Despite 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 licensee and the responsible authority to be a party to the appeal.

***Division 2 – Gas infrastructure planning corridors***

**49. Declaration of gas infrastructure planning corridors**

- (1) The Minister, by order, may declare a gas infrastructure planning corridor in respect of any proposed gas infrastructure or any existing gas infrastructure.
- (2) The Minister may only declare a gas infrastructure planning corridor in respect of



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proposed gas infrastructure or existing gas infrastructure if he or she is of the opinion that it is desirable to do so to provide certainty to persons who have invested, or are intending to invest, in relation to the gas infrastructure or the proposed gas infrastructure.

- (3) The Minister may revoke an order under subsection (1) at any time.
- (4) The Minister must revoke under subsection (3) an order under subsection (1) without delay if he or she becomes aware that –
  - (a) if the order relates to a proposed gas infrastructure, the gas infrastructure will never be constructed or made operational; or
  - (b) if the order relates to an existing gas infrastructure, the gas infrastructure has been dismantled or has ceased permanently to be operational.
- (5) The Minister is to cause notice of the declaration of a gas infrastructure planning corridor to be given to the Minister to whom responsibility for the *Water Management Act 1999* is assigned.

**50. Effect, on permitted development applications, of declarations**

- (1) If an application is made under the *Land Use Planning and Approvals Act 1993* for a permit for a permitted development that is wholly or

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partly within a gas infrastructure planning corridor –

(a) a planning authority, in whose council area is situated in whole or in part the gas infrastructure planning corridor, must give to the gas infrastructure licensee –

(i) notice of the application; and

(ii) at least 14 days (which are to be within the period, in relation to the application, specified in section 58(2) of the *Land Use Planning and Approvals Act 1993*) in which to advise the authority on the proposed development; and

(b) the gas infrastructure licensee may, within that 14-day period –

(i) give the planning authority the advice, in relation to the application, that the gas infrastructure licensee thinks fit; and

(ii) recommend in that advice that the permit be granted subject to safety conditions specified in the advice.

(2) If a gas infrastructure licensee gives advice under subsection (1) in relation to an application, the planning authority –

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- 
- (a) may have regard to the advice in determining the application; and
    - (b) may, without limiting its discretion but subject to paragraph (c), grant the permit under the *Land Use Planning and Approvals Act 1993* subject to any safety condition recommended by the gas infrastructure licensee (with or without modification); and
    - (c) must not grant the permit under the *Land Use Planning and Approvals Act 1993* subject to a condition that conflicts with any condition contained in the safety case accepted under the *Gas Safety Act 2018* for the affected gas infrastructure.
  - (3) If the planning authority decides to grant the permit under the *Land Use Planning and Approvals Act 1993* subject to a safety condition and the applicant lodges an appeal under that Act against that decision –
    - (a) the planning authority must give the gas infrastructure licensee notice of the appeal; and
    - (b) the gas infrastructure licensee is, for the purposes of section 14 of the *Resource Management and Planning Appeal Tribunal Act 1993*, taken to be a person whose interests are affected by the decision and who has a proper interest in the subject matter of the appeal.

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- (4) If the Tribunal is satisfied, on hearing an appeal to which subsection (3) relates, that the safety condition –
- (a) was recommended to the planning authority by the gas infrastructure licensee; and
  - (b) is in the same or essentially the same terms as the gas infrastructure licensee recommended; and
  - (c) exceeds the requirements of AS 2885 and AS 4645 as in force when the affected gas infrastructure was constructed or installed; and
  - (d) has added to the cost of the development –

the Tribunal is (if it is appropriate to do so having regard to its decision on the appeal) to order that the gas infrastructure licensee reimburse the applicant for the additional cost or the part of the additional cost that the Tribunal determines is fair in the circumstances.

**51. Effect, on discretionary development applications, of declarations**

- (1) If an application is made under the *Land Use Planning and Approvals Act 1993* for a permit for a discretionary development that is wholly or partly within a gas infrastructure planning corridor –

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- (a) a planning authority in whose council area is situated in whole or in part the gas infrastructure planning corridor must, when notice of the application is given under section 57 of the *Land Use Planning and Approvals Act 1993*, refer the application to the gas infrastructure licensee; and
  - (b) the gas infrastructure licensee may, within the period in which, under section 57(5) of the *Land Use Planning and Approvals Act 1993*, representations may be made in relation to the application –
    - (i) give the planning authority the advice, in relation to the application, that the gas infrastructure licensee thinks fit; and
    - (ii) recommend in that advice that a permit granted in relation to the application should be subject to safety conditions specified in the advice.
- (2) If the gas infrastructure licensee does not give advice under subsection (1) in relation to an application, the planning authority may determine the application without further reference to the gas infrastructure licensee.
- (3) If the gas infrastructure licensee gives advice under subsection (1) in relation to an application –

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- (a) the planning authority is to have regard to the advice in determining the application; and
  - (b) the advice is taken to be a representation made under section 57(5) of the *Land Use Planning and Approvals Act 1993* in relation to the application; and
  - (c) the planning authority may, without limiting its discretion in the event that it approves the application but subject to paragraph (d), grant the permit under the *Land Use Planning and Approvals Act 1993* subject to any safety condition recommended by the gas infrastructure licensee (with or without modification); and
  - (d) the planning authority must not grant the permit under the *Land Use Planning and Approvals Act 1993* subject to a condition that conflicts with any condition contained in the safety case certified under the *Gas Safety Act 2018* for the affected gas infrastructure.
- (4) If the permit is granted under the *Land Use Planning and Approvals Act 1993* subject to a safety condition and the Tribunal is satisfied on an appeal to the Tribunal against that safety condition that the condition –
- (a) was recommended to the planning authority by the gas infrastructure licensee; and

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- (b) is in the same or essentially the same terms as the gas infrastructure licensee recommended; and
- (c) exceeds the requirements of AS 2885 and AS 4645 as in force when the affected gas infrastructure was constructed; and
- (d) has added to the cost of the development –

the Tribunal may (if it is appropriate to do so having regard to its decision on the appeal) order that the gas infrastructure licensee reimburse the applicant for the additional cost or the part of the additional cost that the Tribunal determines is fair in the circumstances.

- (5) Section 57(2) of the *Land Use Planning and Approvals Act 1993* does not apply to an application referred to in subsection (1).
- (6) When a planning authority complies with section 57(7) of the *Land Use Planning and Approvals Act 1993* for an application referred to in subsection (1), it must also serve notice of its decision on the gas infrastructure licensee whether or not the gas infrastructure licensee has given it advice on the application.
- (7) The failure of a planning authority to comply with subsection (1) for a development application does not invalidate a permit for the development but, in any such case, the gas infrastructure licensee has the same right of appeal against the grant of the permit as a person

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who made representations in relation to the application.

**52. Orders of Tribunal**

- (1) In making an order under section 50(4), or in determining whether to make an order under section 51(4) and in making any such order, the Tribunal is to have regard to –
  - (a) whether or not the future land use and development considerations applicable to gas infrastructure design and construction under AS 2885 and AS 4645, as in force when the affected gas infrastructure was designed, were taken into account in the design and construction of the affected gas infrastructure; and
  - (b) whether any compensation has been paid or awarded under the *Land Acquisition Act 1993* or *Major Infrastructure Development Approvals Act 1999* to the owners or former owners of land affected by the proposed development and, if so, the amount paid or awarded.
- (2) An order of the Tribunal under section 50(4) or section 51(4) is enforceable in the same manner as a judgment of a court of competent jurisdiction.
- (3) The power of the Tribunal to make an order under section 50(4) or section 51(4) on an appeal under the *Land Use Planning and Approvals Act*



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*1993* is in addition to any other power that it may exercise on the appeal.

**53. Minor amendment of permits after declaration made**

A planning authority, in making any determination under the *Land Use Planning and Approvals Act 1993* to amend a permit, or special permit, in relation to land within a gas infrastructure planning corridor, must have regard to the safety of any affected gas infrastructure.

***Division 3 – Gas officers***

**54. Appointment of gas officers**

- (1) A licensee may, subject to the conditions of the licence, appoint a person to be a gas officer for the licensee on the conditions, if any, specified in the instrument of appointment.
- (2) A person may be appointed under subsection (1) –
  - (a) to be a gas officer for a period specified in the officer's instrument of appointment; or
  - (b) to be a gas officer until the person ceases to hold the office specified in the officer's instrument of appointment.
- (3) A gas officer for a licensee may only exercise powers under this Act in accordance with –

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- (a) the conditions, if any, specified in the officer's instrument of appointment; and
  - (b) any directions given to the gas officer by the licensee.
- (4) A licensee, by instrument in writing, may revoke the appointment of a person to be a gas officer for the licensee.

**55. Gas officers' identity cards**

- (1) A licensee must give an identity card to each gas officer for the licensee.
- (2) The identity card –
  - (a) must contain a photograph of the gas officer taken for the purpose; and
  - (b) must be signed by the gas officer; and
  - (c) must identify the gas officer as a gas officer for a licensee specified on the card.
- (3) A gas officer, before exercising a power that may affect another person, must produce for inspection the officer's identity card at that person's request.

Penalty: Fine not exceeding 2.5 penalty units.

- (4) A person must, within 21 days after ceasing to be a gas officer for a licensee, return the identity card to the licensee.

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Penalty: Fine not exceeding 2.5 penalty units.

**56. Gas officers may enter land for certain purposes related to metering**

- (1) A gas officer for a licensee may, at any reasonable time, enter and remain in a place to which gas is, or is to be, supplied by the licensee –
  - (a) to read, or check the accuracy of, a meter for recording consumption of gas; or
  - (b) to install, repair or replace meters or control apparatus or any part of gas infrastructure; or
  - (c) to disconnect a gas supply –
    - (i) on the recommendation of an authorised officer under section 71; or
    - (ii) in accordance with a code issued under section 97; or
    - (iii) as may be prescribed by the regulations.
- (2) If a gas officer for a licensee seeks to enter a place under this section and entry is refused or obstructed, the licensee may, by written notice to the occupier of the place, ask for consent to entry by a gas officer.
- (3) The notice must state the reason for, and the date and time of, the proposed entry.

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- (4) If entry is refused, or obstructed, after a notice is given under subsection (2), the licensee may –
  - (a) if it is possible to do so, disconnect the gas supply to the place without entering the place; or
  - (b) if it is not possible to disconnect the gas supply to the place without entering the place, obtain a warrant under Division 3 of Part 6 to enter the place for the purpose of disconnecting the gas supply, enter the place as authorised and disconnect the gas supply.

**57. Entry of land for purposes related to gas infrastructure**

- (1) A gas officer for a licensee may, at any reasonable time –
  - (a) enter and remain on land to carry out preliminary investigations in connection with the proposed construction or installation of gas infrastructure; or
  - (b) enter and remain on land where the gas infrastructure of the licensee is situated to carry out operational work or protective work on the infrastructure.
- (2) Subject to this section, before a gas officer enters land under this section, the officer must give written notice to the occupier of the land stating the reason for, and the date and time of, the proposed entry.

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- (3) The period of notice of entry must be reasonable.
- (4) If the proposed entry is refused or obstructed, a gas officer may obtain a warrant under Division 3 of Part 6 to enter the land.

***Division 4 – Other***

**58. Alteration, extension or re-routing of gas infrastructure**

- (1) A licensee must not alter or modify in a material particular, or permit the alteration or any such modification of, the gas infrastructure to which the licence relates except as follows:
  - (a) as authorised by the licence;
  - (b) as may be authorised by the Regulator under subsection (2);
  - (c) as provided for by the *Gas Safety Act 2018*.

Penalty: Fine not exceeding 1 200 penalty units.

- (2) The Regulator may authorise a licensee to alter or modify in a material particular, or to permit the alteration or any such modification of, the gas infrastructure to which the licence relates.
- (3) A licensee must not extend or re-route gas infrastructure without the written approval of the Regulator.

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- (4) The Regulator may only grant an approval to extend or re-route a gas infrastructure if the licensee to which the approval relates can show that all permits and other approvals required by law have been granted.

**59. Licensee not liable for failure to supply gas**

- (1) A licensee is not liable to a penalty or damages for failing to supply gas only if –
  - (a) the failure arises out of any accident or cause beyond the control of the licensee;  
or
  - (b) the supply would, or is reasonably likely to, result in a risk to –
    - (i) a person’s safety; or
    - (ii) the operation or security of gas infrastructure.
- (2) A licensee may enter into, with a person, an agreement varying or excluding the operation of subsection (1).

**60. Certain gas infrastructure developments exempt from requiring planning approval**

- (1) In this section –
  - development*, of new gas infrastructure,  
includes –

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- 
- (a) the installation, construction, inspection and commissioning of that new gas infrastructure (and any co-located telecommunications infrastructure); and
- (b) if the new gas infrastructure (or any co-located telecommunications infrastructure) makes use of existing gas infrastructure – the upgrading of that existing gas infrastructure for the purposes of the new gas infrastructure (or co-located telecommunications infrastructure).
- (2) Despite the *Land Use Planning and Approvals Act 1993*, if –
- (a) a licensee proposes to carry out work on the development of 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 permit under the *Land Use Planning and Approvals Act 1993*.
- (3) Subsection (2) does not apply in respect of a transmission pipeline.

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**61. Gas infrastructure licensee may acquire land, &c.**

(1) In this section –

*telecommunications carrier* means the holder of a carrier licence under the *Telecommunications Act 1997* of the Commonwealth;

*telecommunications infrastructure* means infrastructure that is necessary or convenient for the purposes of a telecommunications network within the meaning of the *Telecommunications Act 1997* of the Commonwealth.

(2) A gas infrastructure licensee is an acquiring authority under the *Land Acquisition Act 1993* and may acquire land under that Act for the purposes of the activities that the licensee is authorised to carry on under its gas infrastructure licence.

(3) Without limiting subsection (2), the gas infrastructure licensee is taken to be a public authority for the purposes of section 90A(1) of the *Conveyancing and Law of Property Act 1884* and, accordingly, may acquire by compulsory process under the *Land Acquisition Act 1993* an easement in gross within the meaning of section 90A(1) of the *Conveyancing and Law of Property Act 1884*.

(4) Despite subsections (2) and (3) –

(a) a gas infrastructure licensee may acquire land by compulsory process under the



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*Land Acquisition Act 1993* only if the acquisition is authorised under subsection (6); and

- (b) a gas infrastructure licensee may install and maintain telecommunications infrastructure on land that it has acquired under the *Land Acquisition Act 1993* or allow a telecommunications carrier to install and maintain such infrastructure on such land.
- (5) Regulations may be made under section 110 modifying the *Land Acquisition Act 1993* in its application to the acquisition of land by a licensee under that Act, but not so as to affect the monetary entitlements of persons from whom land is acquired.
- (6) The Minister, by instrument in writing, may authorise the acquisition, under the *Land Acquisition Act 1993*, of land specified in the instrument.

**62. Compensation and land acquisition**

- (1) Except for any costs or compensation that may be ordered to be paid pursuant to –
  - (a) section 50(4) or section 51(4); or
  - (b) section 279A(2) or (3) of the *Water Management Act 1999* –

the declaration of a gas infrastructure planning corridor does not entitle a person to claim or

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recover compensation under this or any other Act for any loss or detriment that the person may suffer in consequence of the declaration.

- (2) The declaration of a gas infrastructure planning corridor over any land does not constitute injurious affection of that land or any other land for the purposes of the *Land Acquisition Act 1993*, the *Major Infrastructure Development Approvals Act 1999* or any other Act.

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**PART 5 – PROPERTY RIGHTS IN RELATION TO  
GAS-RELATED PROPERTY**

**63. Gas infrastructure to be a chattel**

- (1) Gas infrastructure is a chattel and, subject to subsection (2), capable of being acquired, owned, dealt with and disposed of as such.
- (2) Unless the Regulator gives written consent –
  - (a) gas infrastructure cannot be transferred, mortgaged or otherwise dealt with separately from the gas infrastructure land or the gas infrastructure land interest, related to the gas infrastructure; and
  - (b) gas infrastructure land, or a gas infrastructure land interest, cannot be transferred, mortgaged or dealt with separately from the gas infrastructure to which it relates.
- (3) In the absence of an agreement in writing to the contrary, the ownership of gas infrastructure is not affected by the fact that it has been laid or installed in or under land.

**64. Seizure and dismantling of gas infrastructure**

- (1) Gas infrastructure may not be seized or dismantled in execution of a judgment.

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- (2) This section does not prevent the sale of gas infrastructure as a going concern in execution of a judgment.

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**PART 6 – ENFORCEMENT**

***Division 1 – Appointment, &c., of authorised officers***

**65. Appointment of authorised officers**

- (1) The Regulator may, by instrument of appointment, appoint a person to be an authorised officer.
- (2) An authorised officer may be, but is not required to be, a State Service officer or State Service employee.
- (3) An authorised officer is subject to control and direction by the Regulator.
- (4) An authorised officer may be appointed –
  - (a) for a term specified in his or her instrument of appointment; or
  - (b) for an indefinite term that continues while the officer holds an office, or position, specified in his or her instrument of appointment.
- (5) An authorised officer holds office on the conditions specified in his or her instrument of appointment.

**66. When person ceases to be authorised officer**

- (1) An authorised officer may resign by written notice given to the Regulator.

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- (2) The appointment of a person as an authorised officer may be revoked by the Regulator.

**67. Authorised officer's identity card**

- (1) The Regulator must provide each authorised officer with an identity card.
- (2) The identity card must –
  - (a) contain a photograph of the authorised officer taken for the purpose; and
  - (b) be signed by the authorised officer.
- (3) An authorised officer, before exercising a power that may affect another person, must produce for inspection the officer's identity card at that person's request.

Penalty: Fine not exceeding 2.5 penalty units.

- (4) A person must, when he or she ceases to be an authorised officer, return his or her identity card to the Regulator.

Penalty: Fine not exceeding 2.5 penalty units.

***Division 2 – Powers of authorised officers***

**68. Authorised investigations**

An investigation by an authorised officer is an authorised investigation if the purpose of the investigation is –

- (a) to monitor compliance with this Act; or

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- (b) to gather information about a suspected offence against this Act.

**69. Powers of entry**

- (1) An authorised officer may, as may be reasonably required for an authorised investigation, enter and remain in any place.
- (2) When an authorised officer enters a place under this section, the authorised officer –
  - (a) may be accompanied by the assistants whom the authorised officer considers necessary or appropriate; and
  - (b) may take any vehicles or equipment that the authorised officer considers necessary or appropriate for the functions that the authorised officer is to carry out in the place.
- (3) An authorised officer may use reasonable force to enter a place under this Part if the entry is authorised by a warrant under Division 3 of Part 6.
- (4) A person must not obstruct, hinder, delay, threaten or assault a person who is –
  - (a) authorised to enter land under this section; and
  - (b) acting in accordance with this section or section 70.

Penalty: Fine not exceeding 10 penalty units.

**70. General investigative powers of authorised officers**

- (1) An authorised officer who enters a place under this Part may exercise any one or more of the following powers:
  - (a) investigate whether the provisions of this Act are being, or have been, complied with;
  - (b) examine and test any gas infrastructure in the place to ascertain whether it complies with the requirements of this Act;
  - (c) investigate a suspected interference with any gas infrastructure;
  - (d) investigate a suspected theft or diversion of a regulated substance;
  - (e) search for, examine and copy, or take an extract from, a document or record of any kind as reasonably required for the purposes of the enforcement of this Act;
  - (f) take photographs or make films or other records of activities on the land or any gas infrastructure;
  - (g) take possession of any thing that may be evidence of an offence against this Act.
- (2) If an authorised officer takes possession of a thing that may be evidence of an offence against this Act –



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- (a) the authorised officer must give the occupier of the place a receipt for the thing; and
  - (b) the thing must be returned to its owner –
    - (i) if proceedings for an offence are not commenced within 6 months after the authorised officer takes possession of the thing – at the end of that period; or
    - (ii) if such proceedings are commenced within that period – on completion of the proceedings, unless the court, on application by the Regulator, orders confiscation of the thing.
- (3) A court may order the confiscation of a thing of which an authorised officer has taken possession under subsection (1) if of the opinion that the thing has been used for the purpose of committing an offence or that there is some other proper reason for ordering its confiscation.
- (4) If the court orders the confiscation of a thing –
- (a) the Regulator may dispose of the thing; and
  - (b) the person from whom the thing is confiscated is not entitled to be compensated for its loss.

**71. Disconnection of gas supply**

- (1) If an authorised officer finds that gas is being supplied or consumed in contravention of this Act, the authorised officer may recommend to a licensee that the gas supply be disconnected.
- (2) A licensee may, on the recommendation of an authorised officer, disconnect a gas supply.
- (3) If a gas supply is disconnected under this section by a licensee, the licensee must give written notice to the occupier of the relevant place –
  - (a) informing the occupier that the gas supply has been disconnected under this section; and
  - (b) directing that the gas supply must not be reconnected until arrangements have been made to the satisfaction of an authorised officer to ensure against any future contravention of this Act.
- (4) If a gas supply has been disconnected under this section, a person must not reconnect the gas supply, or have it reconnected, without the approval of an authorised officer.

Penalty: Fine not exceeding 500 penalty units.

**72. Power to require information**

- (1) An authorised officer may require a person to provide information in the person's possession that is relevant to an authorised investigation.

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- (2) An authorised officer may require a person to produce, for inspection by the authorised officer, documents in the person's possession that may be relevant to an authorised investigation.
  - (3) A person must not, without reasonable excuse, contravene a requirement under this section.

Penalty: Fine not exceeding 100 penalty units.

- (4) A person is not required to provide information, or produce a document under this section, if the information or the contents of the document would tend to incriminate the person.

***Division 3 – Warrants***

**73. Application and issue of warrants generally**

- (1) An authorised officer or a gas officer may apply to a justice of the peace for a warrant to enter a place specified in the application, for the purpose of enabling the officer to perform the officer's functions, or exercise the officer's powers, under this Act, in relation to the place.
- (2) A justice of the peace may, on the application of an authorised officer or gas officer under subsection (1), issue a warrant to the officer to enter a place for the purposes of performing the officer's functions, or exercising the officer's powers, under this Act, in relation to the place.
- (3) A warrant authorises the authorised officer, or gas officer, to whom it is issued, with any

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assistants and by any force reasonably necessary –

- (a) to enter the place specified in the warrant; and
  - (b) to do, at any time, or within any period, specified in the warrant, anything that the officer is authorised to do by this Act.
- (4) A warrant is to specify the date on which, and the time at which, the warrant ceases to have effect.

***Division 4 – Provisions relating to offences***

**74. General defence**

- (1) It is a defence in proceedings for an offence against a provision of this Act if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.
- (2) It is a defence in proceedings for an offence under a provision of this Act if the defendant proves that the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to any person or property.

**75. Offences by bodies corporate**

If a body corporate commits an offence against this Act, each person concerned in the

management of the body corporate is, subject to the general defences under section 74, guilty of an offence and liable to the same penalty as may be imposed for the offence committed by the body corporate.

**76. Recovery of profits from contravention**

If a licensee profits from a contravention of this Act, the Regulator may –

- (a) on application to the court that convicts the licensee of an offence in respect of the contravention; or
- (b) by action in a court of competent jurisdiction –

recover from the licensee an amount equal to the profit.

## **PART 7 – APPEALS AND ADMINISTRATIVE REVIEW OF DECISIONS**

### *Division 1 – Administrative review of decisions*

#### **77. Interpretation of Division**

- (1) In this Division –

*reviewable decision* means a decision by the Regulator or an authorised officer under this Act or the regulations, other than a decision in relation to entry to land or by the Regulator under this Division.

- (2) For the purposes of this Division, a person is not a person whose interests are affected by a decision to grant or to refuse to grant a licence unless the person was the applicant for the licence.

#### **78. Application for reasons for decision**

- (1) A person whose interests are affected by a reviewable decision may apply to the person who made the decision for a statement of the reasons for the decision.
- (2) An application may only be made by a person under subsection (1) in relation to a reviewable decision within 28 days after the person receives notice of the decision.
- (3) A person who receives under subsection (1) an application in relation to a reviewable decision must, as soon as practicable and in any case

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before 60 days after the application is received, give to the applicant a statement in writing of the reasons for the decision.

**79. Application for administrative review**

- (1) A person whose interests are affected by a reviewable decision may apply to the Regulator for an administrative review of the decision.
- (2) An application under subsection (1) for an administrative review of a reviewable decision must be in writing and set out in detail the grounds on which the person seeks the review.
- (3) An application under subsection (1) for an administrative review of a reviewable decision must be made –
  - (a) within 28 days after the date on which notice of the decision was given to the person; or
  - (b) if the person has requested under section 78 a statement of the reasons for the decision – within 28 days after those reasons are provided under that section.
- (4) An application under subsection (1) for an administrative review of a reviewable decision does not of itself affect the operation of the decision.

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**80. Stay of operation of decision**

- (1) The Regulator may stay the effect of a reviewable decision to which an application under section 79(1), or an appeal under section 82(1), relates.
- (2) The Regulator may not grant under subsection (1) a stay in relation to an application under section 79(1) or an appeal under section 82(1) if he or she, after seeking advice from the Director of Gas Safety, is of the opinion that the effect of the stay would be to create a risk to public safety or to allow a risk to public safety to continue.

**81. Decision on application for review of administrative decision**

- (1) The Regulator may, after taking any advice that the Regulator thinks fit, decide an application under section 79(1) for an administrative review of a reviewable decision by –
  - (a) confirming the decision; or
  - (b) amending the decision; or
  - (c) substituting another decision for the decision; or
  - (d) revoking the decision.
- (2) The Regulator must, within 45 business days after receiving from a person an application under section 79(1) for an administrative review of a reviewable decision, serve on the person a



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notice of the decision of the Regulator under subsection (1) in relation to the application.

- (3) The notice served on a person who made an application under section 79(1) for an administrative review of a decision, must include a statement of –
- (a) the decision made under subsection (1) in relation to the application; and
  - (b) the findings of the Regulator in relation to any material questions of fact; and
  - (c) the evidence or other material on which the findings are based; and
  - (d) the reasons for the decision made under subsection (1) in relation to the application.

***Division 2 – Appeals***

**82. Appeal against decision made in respect of administrative review**

- (1) A person who is dissatisfied with a decision made under section 81 in relation to an application made by the person under section 79(1) may appeal to the Minister against the decision.
- (2) Subject to this Division, an appeal is to be commenced, heard and determined in accordance with the regulations.

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- (3) An appeal under subsection (1) in relation to a decision made under section 81 does not of itself affect the operation of the decision.

**83. Stay of operation of decision**

- (1) The Minister may stay the effect of a decision to which an appeal under section 82(1) relates.
- (2) The Minister may not grant under subsection (1) a stay in relation to an appeal under section 82(1) if he or she is, after seeking advice from the Director of Gas Safety, of the opinion that the effect of the stay would be to create a risk to public safety or to allow a risk to public safety to continue.

**84. Powers of Minister on appeal**

- (1) On an appeal under section 82(1) against a decision made under section 81, the Minister may –
  - (a) confirm the decision; or
  - (b) set aside the decision and substitute another decision; or
  - (c) set aside the decision and remit the matter to the Regulator with any directions that the Minister thinks fit.
- (2) The Minister may, on making a decision under subsection (1), issue the directions that he or she thinks are necessary or desirable to give effect to the decision.

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- (3) No appeal lies from the decision of the Minister on an appeal.

**85. Reference of decision to Tribunal**

- (1) The Minister may refer a decision under this Division on a technical or complex matter to the Tribunal, if the Minister considers it appropriate to do so.
- (2) The Tribunal must hear and determine the matter in accordance with the *Resource Management and Planning Appeal Tribunal Act 1993*.
- (3) For the purpose of an appeal referred to the Tribunal under this section, the Tribunal is to include one or more members whose appointment was on the ground that he or she has, in the opinion of the Minister, wide practical knowledge of, and experience in –
- (a) if the appeal relates to a gas infrastructure – the maintenance, alteration and operation of gas infrastructures; or
  - (b) in any other case – the gas industry.
- (4) The Minister is, by notice in writing to the Tribunal, to notify the Tribunal of the member who is to be appointed in accordance with subsection (3) in relation to an appeal.

**PART 8 – POWER OF REGULATOR TO TAKE OVER  
GAS ACTIVITIES**

**86. Reports by Regulator**

- (1) The Regulator may provide a report to the Minister into the gas activities of a licensee and, if so directed by the Minister, must provide such a report.
- (2) The Minister may from time to time direct the Regulator to provide a report on gas supply.
- (3) The Regulator, if recommended by the Director of Gas Safety under section 39(5), must provide to the Minister a report that relates to the matters to which the recommendation relates and that indicates that it is such a report.
- (4) A report under subsection (1) or (2) is to be in a form agreed by the Minister and the Regulator.

**87. Power to take over gas activities**

- (1) If the Minister receives a report from the Regulator under section 86, the Minister may recommend that the Governor make an order under this section, if –
  - (a) a licensee has contravened this Act and the contravention is, in the opinion of the Governor, of a sufficiently serious nature; or
  - (b) a licensee's licence has ceased, or is to cease, to be in force; or

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- (c) it is necessary, in the Minister’s opinion, to take over the licensee’s gas activities (or some of them) to ensure that the supply of gas is sufficient for the reasonable requirements of all customers; or
    - (d) if the report was recommended under section 39(5), it is necessary, in the Minister’s opinion, to take over the licensee’s gas activities (or some of them) to ensure public safety or to prevent damage to gas infrastructure.
  - (2) Before the Minister makes a recommendation under subsection (1), the Minister must give the licensee a reasonable opportunity to make written representations giving reasons why the order should not be made.
  - (3) The Governor, on receipt of a recommendation from the Minister, may make an order under this section.
  - (4) An order under this section –
    - (a) authorises the Regulator to take over the licensee’s gas activities, or a specified part of the licensee’s gas activities, or appoint an operator under section 88; and
    - (b) may contain ancillary directions including, without limitation, directions about how the costs of carrying on the gas activities, and revenue generated from the gas activities, are to be dealt with.

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- (5) A direction under subsection (4)(b) operates to the exclusion of rights that are inconsistent with it.

**88. Appointment of operator**

- (1) If an order is made under section 87, the Regulator must appoint a suitable person (the *operator*) who may, but need not, be a licensee, to take over the relevant gas activities on terms and conditions agreed between that person and the Regulator.
- (2) The licensee must facilitate the takeover of the relevant gas activities by the operator.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 25 penalty units.
- (3) The operator may have access to the gas infrastructure and other property of the licensee for the purposes of carrying on the relevant gas activities.
- (4) A person must not obstruct the operator's access to property or the exercise by the operator of the operator's responsibilities under this Part.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or

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- (b) a natural person, a fine not exceeding 100 penalty units, or imprisonment for a term not exceeding 3 months, or both.
- (5) A person must comply with reasonable directions given by the operator in the exercise of the operator’s responsibilities under this Part.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 500 penalty units; or
  - (b) a natural person, a fine not exceeding 100 penalty units, or imprisonment for a term not exceeding 3 months, or both.
- (6) It is a condition of the transfer of any relevant gas activities that the operator must –
  - (a) provide the Director of Gas Safety with a written commitment to comply with the existing safety case for the relevant gas infrastructure, prepared in accordance with the *Gas Safety Act 2018*; or
  - (b) submit a new safety case for the relevant gas infrastructure, prepared in accordance with that Act.

## **PART 9 – MINISTERIAL POWERS**

### **89. Minister may direct licensees and customers**

(1) If the Minister reasonably believes that the supply of gas being conveyed by gas infrastructure –

- (a) is, or is likely to be, disrupted; or
- (b) is, or is likely to become, insufficient for the reasonable requirements of all customers –

the Minister may do either or both of the following:

- (c) by notice to the holder of the licence under which the gas infrastructure is operated, give directions to ensure the most efficient, safe and appropriate use of the available gas;
  - (d) by notice published in the manner that the Minister thinks appropriate in the circumstances, direct customers not to draw gas from the gas infrastructure otherwise than in accordance with the notice.
- (2) Before a direction is given under subsection (1) –
- (a) the Minister must advise the Regulator of his or her intention to give the direction; and



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- (b) the Regulator must, as soon as practicable, request the Director of Gas Safety to advise the Regulator whether or not any safety issues are likely to arise from the direction; and
  - (c) if the Director of Gas Safety is requested to provide advice under paragraph (b) –
    - (i) the Director of Gas Safety must provide that advice to the Regulator as soon as practicable; and
    - (ii) the Regulator must advise the Minister of the details of that advice as soon as practicable after receiving it; and
  - (d) the Minister must consider any advice provided under paragraph (c)(i).
- (3) Before giving a licensee a direction under subsection (1), the Minister must, if it is practicable to do so, give the licensee an opportunity to provide advice about the proposed direction within a period specified in the direction.
- (4) A failure by the Minister to comply with subsection (3) does not invalidate or otherwise affect the direction.
- (5) A notice under subsection (1)(c) may be given by written notice or, if the Minister is of the opinion that immediate action is required, it may

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be given orally or by email to an officer of the licensee.

- (6) If a notice under subsection (1)(c) is given orally, it must be confirmed in writing as soon as practicable after being given.
- (7) A direction under subsection (1) operates for the period, of not more than 30 days, specified in the notice.
- (8) The Minister may revoke a direction given under subsection (1) before the end of the period specified in the notice.
- (9) No civil liability arises from a failure by a licensee to supply gas as a result of compliance with a direction under this section.

**90. Failure to comply with direction**

- (1) A licensee to whom a direction is given under section 89(1)(c) must comply with the direction unless the licensee has an excuse under subsection (3).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 5 000 penalty units and, in the case of a continuing offence, a further fine not exceeding 200 penalty units for each day during which the offence continues; or

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- (b) a natural person, a fine not exceeding 250 penalty units and, in the case of a continuing offence, a further fine not exceeding 20 penalty units for each day during which the offence continues.
- (2) A customer to whom a direction is given under section 89(1)(d) must comply with the direction unless the customer has an excuse under subsection (4).
- Penalty: In the case of –
- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 25 penalty units.
- (3) It is a reasonable excuse for a licensee to not comply with a direction under section 89(1)(c) if compliance would, or would be reasonably likely to, result in –
- (a) a risk to a person’s safety; or
- (b) a risk to the operation or security of gas infrastructure; or
- (c) insufficient gas within the gas infrastructure to allow for compliance with the direction.
- (4) It is a reasonable excuse for a customer to not comply with a direction under section 89(1)(d) if

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compliance would, or would be reasonably likely to, result in a risk to a person's safety.

**91. Minister may require gas retailer to offer gas for sale**

(1) In this section –

***appliance*** has the same meaning as in the *Gas Safety Act 2018*.

(2) The Minister, by notice to a gas retailer that sells natural gas to customers at residential premises, may require the gas retailer to offer to enter into a contract, approved by the Minister under subsection (5) with each person –

- (a) who is a member of a class of customers, specified in the notice, that is specified in an order under subsection (3); and
- (b) who resides at residential premises in respect of which there is an appliance; and
- (c) who requests the gas retailer to sell natural gas to the premises –

and to sell natural gas in accordance with such a contract that is entered into by such a person.

- (3) The Minister, by order, may determine a class of customers for the purposes of this section.
- (4) The Minister may only specify a class of customers in an order under subsection (3) if the Minister is satisfied that –

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- (a) it is unlikely that a gas retailer that sells natural gas will offer to enter into, with members of the class, contracts to sell, by retail, natural gas to members of the class at residential premises occupied by such members, on terms and conditions which are consistent with any code issued and in force under this Act; and
- (b) significant hardship may be caused to members of the class if no licensee offers to enter into, with members of the class, contracts to sell, by retail, natural gas to the members of the class on such terms and conditions.
- (5) The Minister, after consultation with a licensee, may approve, by order, a contract for sale of natural gas by retail –
- (a) to a class of customers determined under subsection (3); and
- (b) on terms and conditions which are consistent with any code issued and in force under this Act.
- (6) A licensee to which a notice under subsection (2) is issued, must comply with a requirement of the notice.
- Penalty: Fine not exceeding 500 penalty units.
- (7) It is a defence to a charge of failing to comply with a notice under subsection (6) in relation to a person who is a member of a class of customers

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to which a notice under subsection (2) relates if the licensee so charged establishes that –

- (a) the failure arises out of any accident or cause beyond the control of the licensee;  
or
- (b) compliance with the notice would, or would be reasonably likely to, result in a risk to –
  - (i) a person’s safety; or
  - (ii) the operation or security of gas infrastructure.

**92. Minister may direct Regulator**

- (1) The Minister may give directions to the Regulator with respect to the performance and exercise of its functions and powers under this Act, except functions and powers under section 22.
- (2) A direction under subsection (1) must not be inconsistent with an order made by the Governor under this Act.
- (3) The Regulator must comply with any direction given to the Regulator under subsection (1).
- (4) Nothing in subsection (1) or (3) gives rise to, or can be taken into account in, any civil cause of action.

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**PART 10 – OFFENCES**

**93. Unlawful interference with gas infrastructure or gas activities**

(1) A person must not, without proper authority –

- (a) attach any thing, or make any connection, to gas infrastructure; or
- (b) disconnect or interfere with a supply of gas from gas infrastructure; or
- (c) damage or interfere with gas infrastructure in any other way.

Penalty: Fine not exceeding 100 penalty units.

(2) A person must not, except as authorised under this Act, interfere with a gas activity carried out under a licence.

Penalty: Fine not exceeding 500 penalty units.

**94. Unlawful taking or diversion of gas**

(1) A person must not, without proper authority –

- (a) take or divert gas from gas infrastructure; or
- (b) interfere with a meter or other device for measuring the consumption of gas supplied by a licensee.

Penalty: Fine not exceeding 100 penalty units.

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- (2) A person must not construct or operate gas infrastructure that extends beyond the boundaries of property occupied by the person, if the infrastructure conveys gas or the infrastructure's main purpose is to convey gas.

Penalty: Fine not exceeding 100 penalty units.

- (3) It is a defence in proceedings for an offence under subsection (2) if the defendant establishes that –
- (a) the defendant is a gas infrastructure licensee; or
  - (b) the construction or operation of the gas infrastructure that extends beyond the boundaries of property occupied by the defendant is authorised under the regulations.
- (4) If, in proceedings for an offence under this section, it is proved that a device has been installed, or any other act done, without proper authority, the apparent purpose of which is –
- (a) to abstract or divert gas to any particular land or place; or
  - (b) to affect the proper measurement of gas supplied to any particular land or place –

it will be presumed, in the absence of proof to the contrary, that the occupier of the land or place installed the device or did the other act with that purpose.



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- (5) If a licensee suffers loss or damage as a result of a contravention of this section, the licensee may recover compensation for the loss or damage from a person guilty of the contravention –
- (a) on application to a court that convicts the person of an offence against this section; or
  - (b) by action in a court of competent jurisdiction.

**95. Impersonation, obstruction, &c., of officials**

- (1) A person must not impersonate an authorised officer, a gas officer or any other person who may exercise powers under this Act.

Penalty: Fine not exceeding 50 penalty units.

- (2) A person must not, without reasonable excuse, obstruct an authorised officer, a gas officer, or any other person, acting in the administration of this Act or exercising powers under it.

Penalty: Fine not exceeding 50 penalty units.

- (3) A person must not use abusive or intimidatory language to, or engage in offensive or intimidatory behaviour towards, an authorised officer, a gas officer, or any other person, who is engaged in the administration of this Act or the exercise of powers under this Act.

Penalty: Fine not exceeding 50 penalty units.

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**96. Giving of false or misleading information**

A person must not make a statement or representation that the person knows or believes to be false or misleading in a material particular, whether by reason of the inclusion or omission of any particular, in any information provided under this Act.

Penalty: Fine not exceeding 50 penalty units.

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**PART 11 – MISCELLANEOUS**

***Division 1 – Gas codes***

**97. Issue of codes**

- (1) Either of the following persons may issue codes:
  - (a) the Minister;
  - (b) the Regulator.
- (2) A code may provide for any matter relating or incidental to the supply or selling of gas by retail.
- (3) A code must be consistent with this Act.
- (4) A code must be in the public interest.
- (5) If there is an inconsistency between a code and this Act, the code is invalid to the extent of the inconsistency.
- (6) A code may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the code.
- (7) A code may authorise any matter to be from time to time determined, applied or regulated by –
  - (a) the Regulator; or
  - (b) the Tribunal; or
  - (c) a tribunal established under the code.

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- (8) If the Minister issues a code, the Minister must notify the Regulator and provide a copy of the code to the Regulator.
- (9) If the Regulator issues a code, the Regulator must notify the Minister and provide a copy of the code to the Minister.

**98. Gas codes to be published and made available**

- (1) As soon as practicable after the Minister or the Regulator issues a code, the Regulator is to cause the code to be published in the *Gazette* or in another manner that the Regulator considers appropriate.
- (2) The Regulator must provide a person with an up to date copy of a code, or part of a code, if the person –
  - (a) requests it; and
  - (b) pays to the Regulator a reasonable fee determined by the Regulator.
- (3) The Regulator must allow a person to peruse a code, free of charge, at the office of the Regulator at any time within the hours during which that office is normally open.

**99. Review, amendment and replacement of gas codes**

- (1) In this section –

*issuing authority* means the Minister or the Regulator;

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***protected provision*** means a code provision that is identified, in the code, as a provision that is not to be omitted from the code, or amended, without the Minister's written approval.

- (2) An issuing authority may, on its own initiative or at the request of any person, review a code issued by that authority.
- (3) The Regulator is to review a code issued by the Regulator when required to do so by the Minister.
- (4) A code is to contain provisions providing for its amendment, rescission or substitution by the issuing authority.
- (5) Despite subsection (4), the Regulator must not do any of the following without first obtaining the written approval of the Minister:
  - (a) amend a protected provision of a code;
  - (b) amend a code by omitting a protected provision;
  - (c) rescind or substitute a code containing a protected provision.

***Division 2 – Other matters***

**100. Statutory declarations**

- (1) If a person is required by or under this Act to give information to the Regulator or Director of Gas Safety, the Regulator or Director of Gas

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Safety may require that the information be verified by statutory declaration.

- (2) If a person is required under subsection (1) by the Regulator or Director of Gas Safety to verify information by statutory declaration, the person is taken not to have given the information as required by or under this Act unless the information has been so verified.

**101. Immunity from personal liability**

- (1) The Minister, the Regulator, the Director of Gas Safety, a delegate of the Regulator or Director of Gas Safety, an authorised officer or any officer or employee of the Crown engaged in the administration or enforcement of this Act, is not personally liable for an act or omission in good faith in the performance or exercise, or purported performance or exercise, of a function or power under this Act.
- (2) A liability that would, but for subsection (1), lie against a person lies instead against the Crown.

**102. Evidence**

- (1) In any legal proceedings, an apparently genuine document signed by the Regulator stating that a person held a specified appointment under this Act at a specified time is admissible as evidence of that fact.
- (2) In any legal proceedings, an apparently genuine document signed by the Regulator certifying –

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- (a) that a person was or was not the licensee at a specified date or as to the particulars or conditions of a licence; or
- (b) as to the giving and contents of a delegation, exemption, approval or authorisation under this Act –

is admissible as evidence of the matters so certified.

**103. Service of notices, &c.**

- (1) A notice or other document may be given or served under this Act on a person if –
  - (a) in the case of a natural person, it is –
    - (i) given to the person; or
    - (ii) left, or sent by post to, the person's postal or residential address or address of business or employment last known to the server of the notice or other document; or
    - (iii) faxed to the person's fax number; or
    - (iv) emailed to the person's email address; and
  - (b) in the case of any other person, it is –
    - (i) left, or sent by post to, the person's principal or registered

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office or principal place of  
business; or

(ii) faxed to the person's fax number;  
or

(iii) emailed to the person's email  
address.

- (2) If a notice or other document is required or authorised to be given to or served on the licensee and the licence is held by 2 or more persons, it is sufficient for the purposes of this Act if the notice or other document is given to or served on any one of those persons.
- (3) If a notice is transmitted by fax or email, the notice is taken to have been given on the next day after it was transmitted.

**104. Extension of time limits**

- (1) The Regulator may extend a time limit fixed by or under this Act.
- (2) A time limit may be extended under this section even though it has, at the time of the extension, already expired.

**105. Confidentiality**

- (1) A person who is, or has been, employed in performing functions related to the administration of this Act must not disclose confidential information acquired in the course, or as a result, of performing those functions.



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Penalty: Fine not exceeding 200 penalty units.

- (2) It is a defence in proceedings for an offence under subsection (1) if the defendant establishes that the disclosure of information was authorised under this section.
- (3) A disclosure by a person who is, or has been, employed in performing functions related to the administration of this Act is authorised under this section if the disclosure –
  - (a) occurred in the course of performing functions under this Act; or
  - (b) was authorised by the person to whom the duty of confidentiality is owed; or
  - (c) was authorised by the regulations; or
  - (d) was required by a court or other lawfully constituted authority or, subject to subsection (5), under another Act; or
  - (e) was authorised by the Regulator after consultation, where practicable, with the person to whom the duty of confidentiality is owed.
- (4) No civil liability attaches to any person for a disclosure of confidential information that is authorised under this section.
- (5) Information that is classified by the Regulator as confidential is not liable to disclosure under the *Right to Information Act 2009*.

**106. Emergency legislation not affected**

Nothing in this Act affects the exercise of any power, or the obligation of a licensee to comply with any direction, order or requirement, under the *Emergency Management Act 2006* or any other law relating to emergencies.

**107. Exemptions**

- (1) The Governor, by order, may declare that the provisions of this Act, or the provisions of this Act specified in the order, do not have effect in respect of –
  - (a) a specified person or class of persons, or do not have effect to such extent as is specified; or
  - (b) specified gas infrastructure.
- (2) An order under subsection (1) –
  - (a) may specify the period during which the order is to remain in force; and
  - (b) may provide that its operation is subject to the terms and conditions specified in the order.
- (3) A person to whom an order under subsection (1) applies must comply with any terms and conditions to which the operation of the order is subject.

Penalty: In the case of –

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- (a) a body corporate, a fine not exceeding 500 penalty units; or
- (b) a natural person, a fine not exceeding 25 penalty units.

**108. Orders to be statutory rules**

An order made by the Governor or the Minister under this Act is a statutory rule within the meaning of the *Rules Publication Act 1953*.

**109. Notices not to be statutory rules**

A notice made under this Act is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

**110. Regulations**

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may do any or all of the following:
  - (a) provide for the construction, installation and positioning of gas infrastructure;
  - (b) provide for gas activities;
  - (c) provide for the testing, approval and installation of meters;

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- (d) require licensees generally to provide periodic returns of prescribed information certified, if the regulations so require, by declaration under this Act;
  - (e) provide for the procedure for administrative reviews and appeals;
  - (f) provide for the procedure for the reporting of incidents;
  - (g) prescribe and provide for the recovery of fees and charges in respect of the administration or operation of this Act and the waiver or refund of any such fees or charges;
  - (h) declare that a substance is or is not a gas for the purposes of this Act or a provision of this Act;
  - (i) apply, adopt or incorporate all or any of the provisions of a standard, code, guideline or rule relating to gas infrastructures and provide that those provisions may be applied, adopted or incorporated as they currently exist, as amended by the regulations or as amended from time to time.
- (3) A regulation may provide that a contravention of the regulation is an offence punishable by a fine not exceeding 500 penalty units.
- (4) The regulations may –

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- (a) be of general application or limited in application according to the persons, areas, times or circumstances to which they are expressed to apply; or
  - (b) provide that a matter or thing in respect of which regulations may be made is to be determined, regulated or prohibited according to the discretion of the Minister or the Regulator; or
  - (c) refer to or incorporate, wholly or partially and with or without modification, any standard or other document prepared or published by a body referred to in the regulations, as in force from time to time or as in force at a particular time.
- (5) The regulations may –
- (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
  - (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day specified is before, on or after the day on which the regulations are made.

**111. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Energy; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of State Growth.

**112. Savings and transitional provisions**

- (1) In this section –

***commencement day*** means the day on which Part 3 commences.

- (2) A licence or guideline issued under the *Gas Act 2000* or the *Gas Pipelines Act 2000* and in force immediately before the commencement day continues in force, on the same terms and conditions, as if it were issued under this Act.
- (3) A gas code issued under the *Gas Act 2000* or the *Gas Pipelines Act 2000* and in force immediately before the commencement day continues in force as if it were issued under this Act.
- (4) An exemption granted under the *Gas Act 2000* and in force immediately before the commencement day continues in force as if it were granted under this Act.

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- (5) Unless it is revoked under this Act, the appointment of an authorised officer or a gas officer under the *Gas Act 2000* or the *Gas Pipelines Act 2000* continues in force on the same terms and conditions as if it were an appointment of such an officer under this Act.
- (6) On and after the commencement day –
- (a) any legal or other proceeding instituted by or against the Regulator or a licensee before, and pending on, the commencement day may be continued by or against the Regulator or the licensee; and
  - (b) any judgment or order of a court obtained before the commencement day by or against the Regulator or a licensee and not executed or satisfied before the commencement day may be enforced by or against the Regulator or the licensee; and
  - (c) a document relating to any legal or other proceeding that has been served on or by the Regulator or a licensee before the commencement day is taken, where appropriate, to have been served on or by the Regulator or the licensee.
- (7) Any contract made or entered into by the Regulator or a licensee under the *Gas Act 2000* or the *Gas Pipelines Act 2000* but not performed or discharged on the commencement day is taken to have been made or entered into by the

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Regulator or the licensee on the commencement day.

- (8) Any non-contractual arrangement or undertaking made or given by the Regulator or a licensee under the *Gas Act 2000* or the *Gas Pipelines Act 2000* but not discharged, satisfied, honoured or otherwise terminated on the commencement day is taken to have been made or given by the Regulator or the licensee on the commencement day.
- (9) The following statutory rules may be revoked under this Act and continue in force as if they were made under this Act, until so revoked:
  - (a) the *Gas Infrastructure (Planning Permit Exemption) Regulations 2014* (S.R. 2014, No. 61);
  - (b) the *Gas (Distribution System) Order 2001* (S.R. 2001, No. 201);
  - (c) the *Gas (Exclusive Distribution Franchise) Order 2003* (S.R. 2003, No. 79);
  - (d) the *Gas (Exemption) Order 2005 (Expired)* (S.R. 2005, No. 46);
  - (e) the *Gas (Exemption) Order 2006* (S.R. 2006, No. 5);
  - (f) the *Gas (Foundation Customers) Order 2002* (S.R. 2002, No. 12);



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- (g) the *Gas (Pipeline Corridor) Bridgewater Order 2014* (S.R. 2014, No. 105);
  - (h) the *Gas (Pipeline Corridor) Devonport Order 2014* (S.R. 2014, No. 106);
  - (i) the *Gas (Pipeline Corridor) Hobart Order 2014* (S.R. 2014, No. 104);
  - (j) the *Gas (Pipeline Corridor) Launceston Order 2014* (S.R. 2014, No. 102);
  - (k) the *Gas (Pipeline Corridor) Quoiba Order 2014* (S.R. 2014, No. 107);
  - (l) the *Gas (Pipeline Corridor) South Esk Order 2014* (S.R. 2014, No. 103);
  - (m) the *Gas (Pipeline Corridor) Upper Burnie Order 2014* (S.R. 2014, No. 109);
  - (n) the *Gas Pipelines (Pipeline Corridor) Ulverstone Order 2014* (S.R. 2014, No. 108);
  - (o) the *Gas Pipelines (Pipeline Corridors) Order 2003* (S.R. 2003, No. 2);
  - (p) the *Gas Pipelines (Sensitive Developments) Revocation Order 2002* (S.R. 2002, No. 108);
  - (q) the *Gas Pipelines (Transmission Pipeline) Order 2001* (S.R. 2001, No. 202);

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- (r) the *Gas Pipelines (Transmission Pipeline) Order 2011* (S.R. 2011, No. 93).

**113. Legislation repealed**

The legislation specified in Schedule 1 is repealed.

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**SCHEDULE 1 – LEGISLATION REPEALED**

Section 113

*Gas Pipelines Act 2000* (No. 91 of 2000)

*Gas Act 2000* (No. 92 of 2000)