

## GAS STANDARDS.

No. 87 of 1979.

**AN ACT to amend the Gas Standards Act, 1972.**

[Assented to 11th December, 1979.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Gas Standards Act Amendment Act, 1979.* Short title and citation.

(2) In this Act the Gas Standards Act, 1972 is referred to as the principal Act. Act No. 15 of 1972.

(3) The principal Act as amended by this Act may be cited as the Gas Standards Act, 1972-1979.

Commence-  
ment.

2. The several provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by proclamation.

Long title  
amended.

3. The long title to the principal Act is amended—

- (a) by deleting the words “to consumers”, in lines two and three;
- (b) by deleting the words “undertakers’ and consumers’” in line four, and inserting in lieu thereof the word “gas”; and
- (c) by inserting after the passage “installations;”, in line four, the passage “to provide for the supervision and control of persons concerned in, and to regulate the practice of, gasfitting;”.

Section 4  
amended.

4. Section 4 of the principal Act is amended—

- (a) by deleting the interpretation of the term “Commission” and inserting in lieu thereof a new interpretation as follows—

“Commission” means the body corporate known as the State Electricity Commission of Western Australia constituted under the State Electricity Commission Act, 1945, and preserved and continued under the name “The State Energy Commission of Western Australia” pursuant to section 7 of the State Energy Commission Act, 1979;

- (b) by deleting the interpretation of the term “consumer’s installation”;
- (c) as to the interpretation of the term “gas”, by deleting the words “which is supplied to consumers through a piping system”, in lines two and three of that interpretation, and inserting in lieu thereof the words “for gas appliances or for use in any chemical process”;

- (d) by inserting after the interpretation of the term "gas" a further interpretation as follows—

"gas installation" in relation to a consumer includes all pipes, cylinders, meters, gas fittings, apparatus, appliances, and flues, of whatsoever nature installed or to be installed in connection with the use of gas;

- (e) by deleting the interpretation of the term "Minister"; ; and
- (f) as to the interpretation of the term "supply", by deleting the passage commencing with the word "consumers", in line three of that interpretation, and ending with the word "consumers", being the last word of that interpretation, and inserting in lieu thereof the word "consumers".

5. Section 5 of the principal Act is amended—

Section 5  
amended.

- (a) by deleting paragraph (a) of subsection (1) and inserting in lieu thereof a new paragraph as follows—

(a) the manufacture of liquid petroleum gas as defined by section 4 of the Liquid Petroleum Gas Act, 1956; ;

- (b) by deleting the word "or", being the last word in paragraph (b) of subsection (1);
- (c) by deleting the passage "licence.", at the end of paragraph (c) of subsection (1), and inserting in lieu thereof the passage "licence; or"; and

(d) by adding a new paragraph, to stand as paragraph (d) of subsection (1), as follows—

(d) liquid petroleum gas storage facilities—

(i) in tanks having a water capacity exceeding five hundred litres; or

(ii) in cylinders having an aggregate water capacity exceeding one thousand litres.

Section 8  
amended.

6. Section 8 of the principal Act is amended by deleting all the words in subsection (3) following the word “heating”, where it occurs in line two of that subsection, and inserting in lieu thereof the words “values in respect of the type of gas distributed by an undertaker in different areas”.

Section 12  
amended.

7. Section 12 of the principal Act is amended—

(a) as to subsection (2)—

(i) by deleting the passage “premises,” in lines one and two, and inserting in lieu thereof the passage “land, premises, or thing, on, over, under, or in which are situate the”; and

(ii) by deleting the word “thereon”, in line three, and inserting in lieu thereof the word “there”; and

(b) as to subsection (6), by deleting the passage “whose premises, works or installations”, in line two, and inserting in lieu thereof the passage “apparently having the charge of any land, premises, or thing”.

Section 13  
amended.

8. Section 13 of the principal Act is amended—

(a) as to subsection (1)—

(i) by inserting after the word “consumer’s”, in line two, the word “gas”; and

- (ii) by deleting the words “prescribed requirements”, in line four, and inserting in lieu thereof the passage “requirements, if any, prescribed in respect of that installation”;
- (b) as to subsection (2)—
  - (i) by inserting after the word “consumer’s”, in line one and again in line three, the word “gas”; and
  - (ii) by deleting the words “the General Manager of the Commission or other”, in lines eleven and twelve, and inserting in lieu thereof the word “an”;
- (c) as to subsection (3), by inserting after the word “consumer’s”, where it occurs in line three and again in line nine, the word “gas”; and
- (d) as to subsection (4)—
  - (i) by deleting the words “General Manager of the”, in line four; and
  - (ii) by deleting the words “other officer”, in line five, and inserting in lieu thereof the words “to such person as is”.

9. The principal Act is amended by inserting after section 13 three new sections, to stand as sections 13A, 13B, and 13C as follows—

New sections  
13A, 13B and  
13C added.

13A. (1) Where provision is made by regulation or by-law pursuant to paragraph (b) of subsection (9) of section 27 of the State Energy Commission Act, 1979, that provision shall have effect notwithstanding any certificate of competency, permit or authorisation granted pursuant to this Act and any such certificate, permit or authorisation shall, to the extent that it is inconsistent with such a provision, be deemed to be suspended and shall not take effect.

Gasfitting  
works and  
workers.

(2) A person who, otherwise than in a prescribed capacity, engages in any operation or carries out any work or process of a kind that is prescribed pursuant to this Act as being an operation, or work or process, of the nature of gasfitting, to which the regulations apply commits an offence unless he holds a certificate of competency, permit or authorisation granted under this Act and relevant to that operation or such work or process authorising him so to do.

(3) Regulations made under this Act may make provision—

- (a) for the administration of a Scheme to control and supervise the practice of gasfitting;
- (b) for the grant of certificates of competency, permits, or authorisations by or on behalf of the Commission which, subject to any restriction, limitation, condition or extension endorsed thereon pursuant to the regulations, shall authorise the holder to engage in such operations, or carry out such work or processes, of the nature of gasfitting as are by those regulations specified as being matters that can be engaged in or carried out by the holder of a certificate, permit or authorisation of that grade or kind or as are specifically referred to therein;
- (c) prescribing the kinds of operation, work or processes that shall be taken to be of the nature of gasfitting, specifying whether and to what extent and in what circumstances the regulations shall apply to and in relation to any such operation, work or process, classifying different grades of certificate and different kinds of permit or authorisation, prescribing that different classes of operations, work or processes may be

engaged in or carried on only by the holder of an appropriate grade of certificate or kind of permit or authorisation, and that a permit or authorisation may have effect only in relation to a specified place, period, employer, or circumstance;

- (d) as to the examinations and qualifications required of a person desiring to obtain a certificate, permit or authorisation, and for the conduct of examinations (including the practical testing of applicants) for, and the issue, suspension, cancellation, or surrender of, specified grades of certificates of competency or kinds of permit or authorisation, and for the duration and renewal of such permits or authorisations and the grounds upon which renewal may be refused;
- (e) authorising the Commission to delegate its powers to a person or body of persons appointed by the Commission, and the exercise by that person or body of persons of such powers as are so delegated or as are prescribed including the issue of certificates, permits and authorisations, and the conduct of inquiries and other proceedings, in the name of the Commission;
- (f) for the establishment of systems of inspection, inquiry, and supervision, including the appointment of persons as inspectors and specifying their duties and powers, and as to the hearing of inquiries, disciplinary proceedings, and appeal procedures;
- (g) creating offences, and providing for the payment, enforcement and recovery of penalties, fees and charges;
- (h) adopting, by reference to the text as from time to time amended and for

the time being in force, unless a particular text is specified at the time of such adoption,—

(i) such rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act, or under any Act of the Parliament of the Commonwealth or of the Parliament of the United Kingdom; or

(ii) such standards, rules, codes or specifications issued by the Standards Association of Australia, the Australian Gas Association, the British Standards Institution, or other specified body,

either wholly or in part or with modifications, as are specified;

(i) that where by reason of unavailability of materials or other reason that the Commission considers valid any requirement imposed by the Commission cannot be conformed to, the Commission may dispense with that requirement and in lieu authorise in writing in any particular case the use of materials or any other matters which it considers to be appropriate;

(j) that, in a specified case or a specified class of case, whether on specified conditions or unconditionally, a person or thing or a class of persons or things, may be exempted from the provisions of those regulations either wholly or to such extent as is specified or that the regulations, or any of them, shall, by Order of the Minister published in the *Government Gazette*, not apply in or in relation to specified parts of the State or circumstances;

- (k) requiring a matter affected by them to be in accordance with a specified standard, specification or requirement or to be as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body, or so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and
- (l) as to any other matter that the Governor thinks necessary for safeguarding persons and the public interest in relation to gasfitting,

and in this subsection, "specified" means specified in the regulation in relation to which the term is used.

(4) The Commission shall cause to be maintained a register of the persons who are for the time being the holder of a certificate, permit or authorisation under regulations made pursuant to this section, and the register shall contain such particulars as are prescribed.

(5) A certificate signed by the Secretary to the Commission that any person is or is not, or on any particular date was or was not, the holder of a certificate, permit or authorisation pursuant to regulations made under this section for the class of operation, work or process therein specified shall be *prima facie* evidence of the facts therein contained.

(6) A person desiring to obtain a certificate of competency, permit or authorisation under regulations made pursuant to this section may make application therefor to the Commission in the prescribed manner and shall pay the prescribed application fee.

(7) The Commission has power, where the doing of any act would otherwise constitute a contravention of the regulations made under this section, to issue a permit or licence, which

may be made subject to such limitations, restrictions or conditions as the Commission endorses upon it, authorising the doing of that act in any case where for reasons of training, practice, unavoidable circumstances or public interest it appears to the Commission to be necessary or desirable notwithstanding that a certificate of competency might otherwise have been required.

(8) Where any person being the holder of a certificate of competency granted within the Commonwealth, or of such other qualification as is in the opinion of the Commission satisfactory evidence of competence, makes application to the Commission for a certificate in respect of the same or a similar subject matter the Commission may issue to him a temporary permit.

(9) A permit issued under subsection (8) of this section—

- (a) shall be returned to the Commission at any time the Commission, by notice in writing, so requires;
- (b) authorises that person to do any act specified therein that would otherwise constitute a contravention of the regulations made under this section, for the period therein specified or until its return is sooner required under this subsection; and
- (c) is subject to the limitations, restrictions or conditions endorsed thereon.

(10) A person who, whether for himself or on behalf of another person,—

- (a) makes, or causes to be made, any falsification in any matter relating to an application for, or the variation, grant or use of a certificate of competency, permit or authorisation or as to the renewal of a permit or authorisation;

- (b) knowingly presents, or causes to be presented, to the Commission any forged, false or fraudulent document, representation or other purported evidence as to his qualifications or experience;
- (c) personates, or wrongfully represents himself as being, the person referred to in any document presented to the Commission, or in any certificate, permit or other document granted under this Act;
- (d) makes any false statement upon any inquiry or examination held or conducted under this Act;
- (e) makes a false statement in any declaration required under this Act; or
- (f) gives a false testimonial to any person for the purposes of, or in relation to, any application made or to be made under this Act,

commits an offence.

(11) Where it appears to the Commission that a person who is the holder of a certificate of competency, permit or authorisation under this Act—

- (a) obtained that status by fraud or misrepresentation;
- (b) as the result of a finding of any other authority exercising outside the State powers similar to those conferred on the Commission by this Act, has been at any time, and in the opinion of the Commission should continue to be, disqualified from engaging in the operations, or carrying out the work or processes, authorised by a document of that kind;
- (c) is guilty of an offence against this Act;

- (d) is guilty of misconduct in relation to the requirements of safety as regards gasfitting, by reason of negligence, incompetence or otherwise;
- (e) is addicted to alcohol or any deleterious drug or suffers from any mental or physical disorder to a degree that renders him unfit to be trusted to perform his duties as such holder efficiently,

the Commission may call upon that person to return his certificate, permit or authorisation to the Commission, and appear before a prescribed person or body of persons authorised by the Commission to show cause why he should not be dealt with in accordance with the provisions of this Act, and pending the holding of the inquiry the Commission may by order suspend any person, either generally or to a specified extent, for a period not exceeding three months, from acting under any authorisation or exercising any privilege conferred by any such document, but if the Commission considers that the matter does not require that the person required to show cause should be disqualified or suspended, the Commission, after affording to that person an opportunity of giving an explanation either in person or in writing, may, if that person gives his consent in writing, deal with the matter summarily, without holding an inquiry under the provisions of this subsection.

(12) Where the Commission calls for any person to return his certificate, permit or authorisation and appear before a prescribed person or body of persons authorised by the Commission, the Commission—

- (a) shall give to that person notice of the time and place at which the inquiry is to be held and sufficient details of the matters to be inquired into to enable that person to show cause why he should not be dealt with in accordance with the provisions of this Act;

- (b) is not bound by rules of evidence or legal procedure but shall afford the person who is required to show cause an opportunity to be heard, either in person or by solicitor or counsel or by any other representative authorised by him, and to examine witnesses;
- (c) may by a summons in the prescribed form require the attendance at any inquiry held pursuant to this section of the person required to show cause, and may also require the attendance at those proceedings of any other person that the Commission considers is likely to be able to give evidence or produce documents touching the matter in question, or who the person required to show cause desires to call as a witness;
- (d) may administer an oath or affirmation to a person appearing to give evidence before him, whether the witness has been summoned or is voluntarily attending, and the witness may be examined accordingly (but a statement or disclosure made before an inquiry by a witness is not, except in an appeal under this Act or in proceedings for giving false testimony before an inquiry, admissible in evidence against him in any civil or criminal proceedings); and
- (e) may inspect documents or other exhibits produced, may retain them for such reasonable period as appears to be necessary, and may make copies of so much of them as is relevant to the matter.

(13) A summons issued under subsection (12) of this section—

- (a) may require the production of any document or other thing in the custody or control of the person summoned;

- (b) may be enforced by the Supreme Court or a Judge, on application by the Commission, in the same manner as a subpoena to the effect issued by the Supreme Court in a civil action.

(14) A witness at an inquiry held pursuant to this section has the same protection as a witness in a matter before the Supreme Court, and a person who attends for the purpose of giving evidence at the inquiry is entitled to receive such fees and allowances as may be allowed in accordance with the prescribed scale.

(15) The Commission may determine that it is in the public interest that an inquiry, or any part of an inquiry, should be heard in camera and the proceedings shall thereupon be conducted accordingly but any question as to whether any proceedings of the inquiry should or should not be heard in camera may be referred to a Judge and shall be heard in Chambers, and the Judge may reverse the decision of the Commission or may confirm it absolutely or upon conditions which may include conditions intended to protect the business or interest of any person, and may make such further or other order as the Judge thinks fit; and the decision of a Judge on any matter under this subsection is final.

(16) Where it appears to the Commission, as the result of an inquiry held pursuant to this section, that the person required to show cause why he should not be dealt with according to the provisions of this Act has failed so to show cause, or if that person fails to appear at the inquiry without reasonable excuse, the Commission may by order—

- (a) disqualify that person and order that the certificate of competency, permit or authorisation be returned to the Commission for cancellation;

- (b) suspend the operation of a certificate of competency, permit or authorisation in relation to that person, either generally or to a specified extent, for a period not exceeding twelve months;
- (c) censure him; or
- (d) impose or vary any limitation, restriction or condition,

and may endorse the relevant document accordingly.

(17) The Commission may, in any case, in addition to or in lieu of imposing any one or more of the penalties specified in subsection (16) of this section, order any person against whom an order is made to pay such costs and expenses of or incidental to the proceedings as the Commission thinks fit, and where any costs or expenses are ordered to be paid by any person under this subsection the amount ordered to be paid shall be recoverable from him in any court of competent jurisdiction as a debt due to the Commission.

(18) Where the operation of a certificate of competency, permit or authorisation is suspended generally during the period for which the suspension subsists the holder is not authorised to do any act that, if done by a person who was not such a holder, would constitute a contravention of the regulations made under this section, but if the operation of such a document is suspended only to a specified extent during the period for which the partial suspension subsists the holder is authorised to do any other act authorised by that document and in respect of which the document is not so suspended.

(19) The Commission may, by notice in writing, revoke an order for suspension, either generally or to a specified extent, and may direct in the notice that the revocation have effect from a date specified in the notice.

(20) A reference in this section to the Commission may be construed as a reference to a person or body lawfully acting pursuant to a power delegated by the Commission under the regulations.

Appeals.

13B. (1) Where a person is aggrieved by any order made under this Act in relation to a certificate of competency, permit or authorisation, he may, within twenty-eight days after the order has been given, appeal against that order to the Minister.

(2) The operation of any order made under this Act shall not be suspended pending the determination of an appeal in respect of the matter.

(3) Notice of the appeal, in the prescribed form, shall be given to the Minister and a copy thereof to the Commission.

(4) The Minister—

(a) may determine the appeal himself; or

(b) if the parties to the appeal request the Minister in writing to refer the appeal for hearing to an arbitrator and the Minister is willing so to do, may refer the appeal to an arbitrator appointed under section 13C.

(5) The Minister or an arbitrator so appointed shall exercise and discharge the powers, authorities, duties and functions conferred and imposed by or under this Act, and in particular—

(a) shall hear, as soon as practicable, any appeal referred in accordance with this Act, at such time and place as the Minister causes to be notified to the appellant and to the inspector who is the respondent in the appeal and to such other party, if any, as the Minister or the arbitrator thinks fit;

- (b) may, on the hearing of the appeal, by order confirm, vary or set aside the order in respect of which the appeal is made and issue directions in respect to that order;
- (c) shall set forth in writing the reasons for the decision made on the appeal and forward a copy thereof to each party to the appeal.

(6) An appeal shall lie on a question of law from any decision of the Minister or an arbitrator to the Magistrate of the Local Court at Perth, but in all other respects the decision shall be final and shall be given effect according to its tenor by the parties to the appeal.

(7) The Magistrate of the Local Court at Perth—

- (a) may determine the appeal on the record of the appeal, or on hearing evidence and submissions anew, or partly on each as he thinks fit;
- (b) may confirm, vary or set aside the decision appealed against;
- (c) may make such order as to costs of and incidental to the appeal as he considers just,

and the decision of the Magistrate shall be final and shall be given effect according to its tenor.

(8) Where any costs or expenses arising out of an appeal under this section are ordered to be paid by any person the amount so ordered to be paid shall be recoverable from him in like manner to that in which a debt adjudged by the Local Court to be payable can be recovered.

**Arbitrators.**

13C. (1) The Minister may, for the purpose of hearing appeals under this Act, from time to time as he considers necessary either generally or in relation to any particular case, appoint a person to act as arbitrator.

(2) A person appointed an arbitrator to hear an appeal shall be a person who is technically qualified in relation to the matter the subject of the order appealed against.

(3) For the purpose of an appeal under section 13B the Minister or an arbitrator appointed by the Minister shall have the like powers to require the attendance of persons or the production of documents or other things, to administer oaths and affirmations, to examine persons and to inspect and retain exhibits, as are conferred on the Commission by section 13A, and the provisions of that section generally apply to the hearing by the Minister or an arbitrator of an appeal as they apply to an inquiry conducted by or on behalf of the Commission.

(4) An arbitrator appointed under this section shall be paid, out of funds to be provided by the Commission for the purpose, such fees or remuneration and such travelling and out of pocket expenses as the Minister, from time to time approves in writing.

**Section 14  
amended.**

10. Section 14 of the principal Act is amended—

- (a) by inserting after the section designation "14." the subsection designation "(1)"; and
- (b) by adding a new subsection, as follows—

(2) All proceedings for offences against this Act may be taken and dealt with summarily under the Justices Act, 1902, save that a complaint for an offence under this Act may be made at any time within two years from the time when the matter of complaint arose. .

**11.** Section 15 of the principal Act is amended— Section 15  
amended.

- (a) by deleting the word “and”, being the last word of paragraph (d) of subsection (2);
  - (b) by deleting the passage “consumers’ installations.”, in line three of paragraph (e) of subsection (2), and inserting in lieu thereof the passage “consumers gas installations;”;  
and
  - (c) by adding two new paragraphs as follows—
    - (f) securing the safety of the public from personal injury and the property of the public from damage by fire or otherwise; and
    - (g) as to gasfitters and gasfitting, and prohibiting interference with gas installations by unauthorised persons. .
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