

WESTERN AUSTRALIA

**GAS STANDARDS ACT 1972**

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ARRANGEMENT

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WESTERN AUSTRALIA

## GAS STANDARDS ACT 1972

AN ACT to regulate the standards of quality, pressure, purity and safety of gas supplied and the standards and safety of gas installations and gas appliances; to provide for the supervision and control of persons concerned in, and to regulate the practice of, gasfitting; to repeal the *Gas (Standards) Act 1947-1956*, and for incidental and other purposes.

[*Long title amended by No. 87 of 1979 s. 3; No. 63 of 1985 s. 3.*]

### Short title

1. This Act may be cited as the *Gas Standards Act 1972*<sup>1</sup>.

### Commencement

2. This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

### Repeal

3. [*Section 3 omitted under Reprints Act 1984 s. 7 (4) (f).*]

### Interpretation

4. In this Act unless the contrary intention appears—  
“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*;

"consumer" means any person (not being an undertaker) to whom gas is supplied by an undertaker or a pipeline licensee;

"council" has the meaning ascribed thereto by section 6 of the *Local Government Act 1960*, and includes a county council and a regional council within the meaning of that Act and a commissioner of a municipality appointed under that Act;

"gas" means any gas or mixture of gases intended for use as fuel for gas appliances or for use in any chemical process;

"gas appliance" means any appliance that consumes gas as fuel;

"gas installation" means any appliance, pipes, fittings or other apparatus installed or to be installed for or for purposes incidental to the conveyance, control, supply or use of gas;

"inspector" means a person appointed under section 12;

"pipeline licensee" means the holder of a pipeline licence granted under the *Petroleum Pipelines Act 1969*;

"section" means section of this Act;

"supply", in relation to gas, includes to have in possession with intent to supply any consumer or consumers;

"undertaker" means the Commission and any council, body corporate, firm or person making or supplying gas other than solely for its or his own use.

[Section 4 amended by No. 87 of 1979 s. 4; No. 63 of 1985 s. 4.]

## Exemptions

5. (1) Nothing in this Act applies to or in relation to—

- (a) the manufacture of liquid petroleum gas as defined by section 4 of the *Liquid Petroleum Gas Act 1956*;
- (b) the acts of transmitting gas through a pipeline where and to the extent that those acts are performed by a pipeline licensee under the authority of the pipeline licence granted to him;
- (c) the acts of gathering gas through a pipeline within the land comprised in an exploration permit or a production licence granted under the *Petroleum Act 1967*, where and to the extent that those acts are performed under the authority of that exploration permit or production licence; or
- (d) liquid petroleum gas storage facilities—
  - (i) in tanks having a water capacity exceeding 500 litres; or
  - (ii) in cylinders having an aggregate water capacity exceeding 1000 litres.

(2) The provisions of sections 8, 9, 10 and 11 do not apply to or in relation to gas supplied directly by a pipeline licensee to a consumer for industrial purposes in any case where the gas is not supplied by means of a reticulation system generally serving consumers in the same locality.

(3) The Governor may from time to time, by proclamation, declare that all or any of the provisions of this Act do not apply to or in relation to the manufacture or supply of any gas which is not ordinarily used as a fuel by consumers generally and which is specified in the proclamation.

(4) A proclamation made under subsection (3) may—

- (a) be expressed to apply generally to the manufacture or supply of the gas or gases therein specified; or
- (b) be expressed to apply only to the manufacture or the supply of the gas in specified areas or when the gas is to be used for specified purposes.

(5) A proclamation made under subsection (3) may be varied or revoked by a subsequent proclamation.

*[Section 5 amended by No. 87 of 1979 s. 5.]*

## **Administration of Act**

6. Subject to the Minister, this Act shall be administered by the Commission.

## **Act to prevail over other Acts**

7. (1) Any provisions of this Act with respect to the heating value of gas or the testing of the heating value of gas shall have effect in lieu of any provisions relating to the calorific value or illuminating power of gas, or the testing of the calorific value of gas, whether to the same effect or inconsistent therewith, in any other Act relating or applying to any undertaker, and any such other Act shall, so far as applicable and with all necessary adaptations, be read and construed accordingly.

(2) Any provisions of this Act with respect to the purity, quality, composition or pressure of gas or the testing of gas or with respect to any other matter for which provision is made in this Act shall have effect in lieu of any provisions whether to the same effect or inconsistent therewith in any other Act relating or applying to any undertaker, and any such other Act shall, so far as applicable and with all necessary adaptations, be read and construed accordingly.

### Heating standard of gas to be approved

8. (1) Subject to the provisions of subsection (5), an undertaker shall not, after the coming into operation of this Act, distribute gas unless he has first obtained the written approval of the Minister of the minimum standard of heating value of the gas to be distributed by that undertaker.

Penalty: \$5 000.

(2) Subject to section 9, the Minister may upon application by an undertaker approve any alteration of the minimum standard of heating value of gas previously approved or deemed to have been approved pursuant to subsection (1).

(3) The Minister may approve different minimum standards of heating values in respect of the type of gas distributed by an undertaker in different areas.

(4) Any approval given by the Minister pursuant to this section may be given subject to such conditions as the Minister determines, and notice of any approval so given shall be published in the *Government Gazette*.

(5) Where on the day immediately preceding the date of the coming into operation of this Act, an undertaker was supplying gas, the declared standard under the *Gas Standards Act 1947-1956*, of the undertaker on that day shall be deemed to be the minimum standard of heating value approved for that undertaker under subsection (1), until that standard is altered in accordance with subsection (2).

(6) An undertaker who has been directed under section 10 to keep a continuous record of the heating value of gas supplied by him, shall not supply gas of which the average heating value, measured in accordance with subsection (7) over any continuous period of 28 days, is less by more than one per centum than the minimum standard of heating value for the time being approved under this section in respect of the gas.

Penalty: For a first offence, \$4000 and for a second or subsequent offence, \$10 000.

(7) For the purposes of subsection (6), the average heating value of gas supplied by an undertaker over any period of 28 days shall be measured by obtaining the aggregate of the mean heating values of gas supplied in each period of one hour during that period of 28 days, and dividing the aggregate so obtained by 672.

(8) Where—

- (a) an undertaker has not been directed under section 10 to keep a continuous record of the heating value of gas supplied by him; and

- (b) the average heating value of gas supplied by that undertaker, as ascertained by the taking of 3 tests of that gas during any period of 2 hours, is less by more than one per centum than the minimum standard of heating value for the time being approved under this section in respect of that gas,

the undertaker is guilty of an offence.

Penalty: For a first offence, \$2000 and for a second or subsequent offence, \$5000.

[Section 8 amended by No. 87 of 1979 s. 6; No. 63 of 1985 s. 5.]

### **Requirements as to change in gas**

9. (1) An undertaker shall not cause or permit any alteration to be made in the specific gravity, flame speed or other prescribed characteristic of gas supplied by him unless he has first applied for, and obtained, the written approval of the Minister to the alteration.

(2) Where the Minister—

- (a) has received from an undertaker an application under section 8 (2) or subsection (1) for his approval to the alteration of the heating value or other characteristic of the gas supplied by the undertaker; and
- (b) is of opinion that if the alteration is effected, all or any of the consumers' installations to which the gas is supplied will require modification or replacement by reason of the alteration,

the Minister shall not approve of the alteration until he is satisfied that the undertaker has satisfactorily undertaken, at his own expense, the modification or replacement, as the case requires, of those consumers' installations.

### **Testing of gas**

10. (1) The Commission may at any time test gas supplied by an undertaker to determine its heating value, pressure, purity and odour and for such other purposes as in the opinion of the Commission are necessary or expedient for the proper administration and enforcement of this Act, and shall furnish the undertaker with the result of any test carried out under this subsection.

(2) The Commission may from time to time by notice in writing served on an undertaker, direct the undertaker to keep a continuous record of the heating value of all or any of the gas supplied by that undertaker, and the Commission may, for that purpose, from time to time require the undertaker to instal, operate and maintain such measuring and recording devices or apparatus as are specified in a notice in writing served by the Commission on the undertaker.

(3) The results of any tests carried out by the Commission under subsection (1) and any records kept by an undertaker pursuant to subsection (2) are admissible in evidence in any proceedings instituted under this Act, as evidence of the matters therein stated.

(4) An undertaker shall not knowingly—

- (a) fail to comply with any direction served on him pursuant to subsection (2);
- (b) cause or permit any false entry to be made in any record kept pursuant to subsection (2);
- (c) do, or cause or permit to be done, or fail to do, any act or thing with intent to cause any measuring or recording device or apparatus installed pursuant to subsection (2) to incorrectly record the heating value of the gas supplied by that undertaker; or
- (d) fail to report forthwith to the Commission any fault occurring in or any breakdown or failure of any apparatus or device installed pursuant to subsection (2).

Penalty: \$5000.

[Section 10 amended by No. 63 of 1985 s. 6.]

### **Defences against certain proceedings**

11. In any proceedings instituted against an undertaker for an offence against section 8 (6) or (8), it is a defence for the undertaker to prove that—

- (a) the supplying of gas at less than the relevant approved minimum heating value which gave rise to the proceedings was caused by circumstances over which the undertaker had no control and could not reasonably have been expected to have exercised control; and
- (b) he notified the Commission forthwith upon his becoming aware of those circumstances.

### **Inspection**

12. (1) The Commission may appoint persons to be inspectors for the purposes of this Act, and shall furnish to each person so appointed a certificate stating that that person is an inspector for the purposes of this Act.

(2) An inspector may at any time enter any land, premises, or thing, on, over, under, or in which are situate the works or installations of any undertaker or consumer and may there conduct such tests, inspections and examinations and take such samples of gas, as are necessary for the purposes of ascertaining whether the provisions of this Act and the regulations are being complied with.



(3) Where in order to make a proper test, inspection or examination of any item of equipment forming part of an undertaker's works or installations it is necessary so to do, an inspector may remove and take away that item of equipment if the removal will not prevent the undertaker from continuing to supply gas.

(4) An undertaker shall afford any inspector such assistance as the inspector reasonably requires for the purpose of exercising his powers under subsection (2) or (3).

(5) A person shall not obstruct an inspector in the exercise of his powers under subsection (2) or (3).

(6) An inspector shall, when required so to do by any person apparently having the charge of any land, premises, or thing the inspector has entered or wishes to enter in the exercise of any of his powers under this Act, produce to that person his certificate of appointment issued under subsection (1).

*[Section 12 amended by No. 87 of 1979 s. 7.]*

### **Consumers' installations**

**13.** (1) An undertaker or pipeline licensee shall not commence to supply gas to a consumer's gas installation unless that installation meets the requirements, if any, prescribed in respect of that installation.

Penalty: \$5 000.

(2) Where, after inspecting a consumer's gas installation an inspector is satisfied that the consumer's gas installation does not meet the prescribed requirements, the inspector may direct the consumer to modify, alter, repair or replace the installation, within such reasonable time as the inspector specifies, so that the installation will meet the prescribed requirements, and where the consumer fails to comply with the direction of the inspector, the inspector may, with the prior consent of an officer authorized in that behalf by the Commission, disconnect the supply of gas to that installation until such time as his direction has been complied with.

(3) Notwithstanding the provisions of subsection (2), where an inspector is satisfied, after inspecting a consumer's gas installations, that it is necessary in the interests of safety to forthwith disconnect the supply of gas to that consumer, either wholly or to any particular installation or installations, the inspector may so disconnect the supply of gas until such time as he is satisfied that the consumer's gas installations meet the prescribed requirements.

(4) Where an inspector disconnects the supply of gas to a consumer under subsection (3), he shall as soon as possible thereafter, furnish to the Commission or to such person as is specified for the purpose by the Commission, a written report setting out all the relevant circumstances in which he so acted.

(5) A person shall not obstruct an inspector in the exercise of his powers under subsection (2) or subsection (3).

[Section 13 amended by No. 87 of 1979 s. 8; No. 63 of 1985 s. 7.]

### Gasfitting works and workers

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

(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 authorization granted under this Act and relevant to that operation or such work or process authorizing 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 authorizations by or on behalf of the Commission which, subject to any restriction, limitation, condition or extension endorsed thereon pursuant to the regulations, shall authorize 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 authorization 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 authorization, 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 authorization, and that a permit or authorization 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 authorization, 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 authorization, and for the duration and renewal of such permits or authorizations and the grounds upon which renewal may be refused;

- (e) authorizing 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 authorizations, 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 authorize 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 authorization 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 authorization 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 authorization 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, authorizing 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)—

- (a) shall be returned to the Commission at any time the Commission, by notice in writing, so requires;
- (b) authorizes 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 authorization or as to the renewal of a permit or authorization;
- (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 authorization 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, authorized 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 authorization to the Commission, and appear before a prescribed person or body of persons authorized 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 3 months, from acting under any authorization 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 authorization and appear before a prescribed person or body of persons authorized 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 authorized 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)—
- (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 authorization be returned to the Commission for cancellation;
- (b) suspend the operation of a certificate of competency, permit or authorization in relation to that person, either generally or to a specified extent, for a period not exceeding 12 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), 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 authorization is suspended generally during the period for which the suspension subsists the holder is not authorized 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 authorized to do any other act authorized 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.

*[Section 13A inserted by No. 87 of 1979 s. 9.]*

## Appeals

**13B.** (1) Where a person is aggrieved by any order made under this Act in relation to a certificate of competency, permit or authorization, he may, within 28 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.

*[Section 13B inserted by No. 87 of 1979 s. 9.]*

### **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 13C inserted by No. 87 of 1979 s. 9.]*

### Approval of gas appliances

**13D.** (1) A person shall not on or after the appointed day sell or hire any gas appliance or advertise any gas appliance for sale or hire unless the gas appliance—

- (a) is a gas appliance that is approved by the Commission or is of a class or type of gas appliance that is approved by the Commission; and
- (b) is marked, stamped or labelled in the manner approved by the Commission.

Penalty: \$2 000 or imprisonment for 6 months or both.

(2) The Commission may by instrument in writing delegate to an inspector the power conferred on the Commission by subsection (1) (a).

(3) In subsection (1) “appointed day” means the day fixed by the Minister by notice published in the *Government Gazette*<sup>2</sup> as the appointed day for the purposes of this section.

[Section 13D inserted by No. 63 of 1985 s. 8.]

### Application for approval

**13E.** (1) A person who desires to submit a gas appliance for approval by the Commission shall apply in writing in the form approved by the Commission.

(2) The Commission may require an applicant to submit to the Commission the gas appliance or a gas appliance of the class or type referred to in the application and to supply the Commission with such information with respect to the gas appliance as the Commission thinks is necessary.

(3) The Commission may approve of an application made under this section or refuse to approve of the application or may defer its approval.

(4) A person who applies for the approval of a gas appliance under subsection (1) shall pay to the Commission for the purposes of carrying out any test in relation to the approval such fee or charge as is fixed by the Commission having regard to the costs of carrying out such test.

(5) The Commission may withhold approval of a gas appliance until the applicant for the approval pays to the Commission the fee or charge fixed by the Commission under subsection (4).

(6) The Commission may impose conditions and restrictions in relation to any gas appliance or class or type of gas appliance in relation to which the Commission has given its approval.

(7) Where the Commission imposes any conditions or restrictions in relation to any gas appliance or any class or type of gas appliance under subsection (6) a person shall not sell or hire any gas appliance or

advertise any gas appliance for sale or hire unless the gas appliance conforms to the conditions and restrictions so imposed by the Commission.

Penalty: \$2 000 or imprisonment for 6 months or both.

[Section 13E inserted by No. 63 of 1985 s. 8.]

### **Approval by other bodies**

**13F.** (1) Where a gas appliance is approved or is of a class or type of gas appliance that is approved by a body or authority having among its objects or functions the duty of examining, testing or approving gas appliances the Commission may by notice adopt the approval given with respect to the gas appliance or class or type of gas appliance by that body or authority either generally or subject to such conditions and restrictions as the Commission may impose.

(2) Where the Commission adopts an approval under subsection (1), the Commission shall cause to be published in the *Government Gazette* a notice setting out the fact of the approval and the conditions and restrictions (if any) that apply in relation to the approval.

(3) Where the Commission imposes any conditions or restrictions in relation to a gas appliance under subsection (1) a person who sells or hires any gas appliance or advertises for sale or hire any gas appliance that does not conform to the conditions or restrictions so imposed commits an offence.

Penalty: \$2 000 or imprisonment for 6 months or both.

[Section 13F inserted by No. 63 of 1985 s. 8.]

### **Notice of approved gas appliances**

**13G.** (1) The Commission may from time to time, and shall whenever directed by the Minister so to do, cause to be published in the *Government Gazette* a notice setting out the gas appliances or classes or types of gas appliances that are approved by the Commission under this Act.

(2) A notice referred to in subsection (1) shall set out the conditions and restrictions (if any) that apply in relation to any gas appliance or any class or type of gas appliance referred to in the notice.

[Section 13G inserted by No. 63 of 1985 s. 8.]

### **Power to prohibit sale and use of gas appliances and components**

**13H.** (1) Notwithstanding anything in sections 13D to 13G, where the Commission is of the opinion that a gas appliance or a type or class of gas appliance or a component used or designed to be used in connection with a gas appliance or in connection with a gas installation is or is likely to become unsafe or dangerous in use the Commission may by order—

- (a) prohibit the sale, hire or use of the gas appliance or class or type of gas appliance or component or class or type of component referred to in the order;
- (b) impose conditions and restrictions on the sale, hire or use of any gas appliance or class or type of gas appliance or component or class or type of component referred to in the order.

(2) An order made under subsection (1) shall be published in the *Government Gazette* and in such other media as the Commission directs having regard to the gas appliance or class or type of gas appliance in question and the particular circumstances of the case.

(3) The Commission may by order published in the *Government Gazette* amend or revoke an order made under subsection (1).

(4) A person who fails to comply with an order made under subsection (1) commits an offence.

Penalty: \$2 000 or imprisonment for 6 months or both.

[Section 13H inserted by No. 63 of 1985 s. 8.]

### **Offences**

**14.** (1) Any person who contravenes or fails to comply with any provision of this Act or the regulations or of any notice, direction or other requirement made or given by or under this Act or the regulations commits an offence and is liable on conviction, except where a greater penalty is provided in this Act in respect of the offence, to a penalty of \$2 000.

(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 2 years from the time when the matter of complaint arose.

[Section 14 amended by No. 87 of 1979 s. 10; No. 63 of 1985 s. 9.]

### **Regulations**

**15.** (1) The Governor may make regulations prescribing all matters necessary or convenient to be prescribed for the purposes of the administration of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made—

- (a) generally as to the standards of gas to be supplied, and in particular authorizing the Minister to require undertakers to supply gas having such characteristics as to odour, pressure, specific gravity, flame speed, purity and other matters, as he specifies in each particular case;
- (b) requiring undertakers to furnish the Commission with particulars in writing of the quantities of gas supplied by them;
- (c) prescribing fees to be paid by undertakers for tests conducted by or on behalf of the Commission or the Minister for the purposes of this Act;
- (d) prescribing the standards of construction, installation, maintenance, operation and testing of pipelines and other equipment and installations used by undertakers for the supply of gas;
- (e) prescribing the standards of construction, installation, maintenance, operation and testing of consumers' gas installations;
- (f) securing the safety of the public from personal injury and the property of the public from damage by fire or otherwise;
- (g) as to gasfitters and gasfitting, and prohibiting interference with gas installations by unauthorized persons; and
- (h) prohibiting the fraudulent or improper use of marks signifying the approval of the Commission.

(3) Any regulation under this Act may be made so as to require a matter affected by it to be in accordance with a specified standard or specified requirement; or as approved by, or to the satisfaction of, a specified person or body; or so as to delegate to or confer upon a specified person or body a discretionary authority.

*[Section 15 amended by No. 87 of 1979 s. 11; No. 63 of 1985 s. 10.]*

## NOTES

<sup>1</sup>. This reprint is a compilation as at 15 February 1989 of the *Gas Standards Act 1972* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts.

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Gas Standards Act 1972</i>	15 of 1972	26 May 1972	21 July 1972 (see <i>Gazette</i> 21 July 1972 p. 2645)	
<i>Gas Standards Act Amendment Act 1979</i>	87 of 1979	11 December 1979	1 February 1980 (see <i>Gazette</i> 1 February 1980 p. 284)	
<i>Gas Standards Amendment Act 1985</i>	63 of 1985	5 November 1985	1 February 1986 (see <i>Gazette</i> 3 January 1986 p. 9)	

<sup>2</sup>. “appointed day” is 1 September 1986; see *Gazette* 27 June 1986 p. 2202.