

Western Australia

Gas Standards Act 1972

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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*², and for incidental and other purposes.

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

1. Short title

This Act may be cited as the *Gas Standards Act 1972*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

[3. Omitted under the Reprints Act 1984 s. 7(4)(f).]

4. Interpretation

In this Act unless the contrary intention appears —

“commercial information” means —

- (a) any knowledge or information relating to technology, marketing or energy used in a person’s business and that might reasonably be expected adversely to affect the business or interests of that person if disclosed to another person; or
- (b) other information that has commercial value;

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

“Director” means the Director of Energy Safety referred to in section 5 of the *Energy Coordination Act 1994*;

“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 designated under section 12 of the *Energy Coordination Act 1994*;

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

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

“Type A gas appliance” means a gas appliance of a prescribed class or type;

“Type B gas appliance” means a gas appliance that has a maximum hourly input rate exceeding 10 megajoules that is neither a Type A gas appliance nor a gas-fuelled engine that —

- (a) is mounted in or on any vehicle, craft or portable appliance; and
- (b) is supplied by fuel from a cylinder or tank mounted on or in the vehicle, craft or portable appliance;

“undertaker” means any licensee within the meaning of the *Energy Coordination Act 1994* and any local government, regional local government, 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; No. 89 of 1994 s. 86; No. 14 of 1996 s. 4; No. 58 of 1999 s. 84 and 98; No. 5 of 2007 s. 22.]

5. Exemptions

- (1) Nothing in this Act applies to or in relation to —
 - [(a) deleted]*
 - (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 and Geothermal Energy Resources Act 1967, 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 1 000 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 —

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- (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; No. 74 of 2003 s. 10(5); No. 35 of 2007 s. 95.]

[6. Repealed by No. 89 of 1994 s. 87.]

7. Act to prevail over other Acts

- (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.

8. Heating standard of gas to be approved

- (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: \$250 000.

- (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* 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 1% 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, \$40 000 and for a second or subsequent offence, \$250 000.
- (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

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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 1% 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, \$20 000 and for a second or subsequent offence, \$250 000.

[Section 8 amended by No. 87 of 1979 s. 6; No. 63 of 1985 s. 5; No. 5 of 2007 s. 23.]

9. Requirements as to change in gas

- (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.

10. Testing of gas

- (1) The Director 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 Director 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 Director 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 Director may, for that purpose, from time to time require the undertaker to install, operate and maintain such measuring and recording devices or apparatus as are specified in a notice in writing served by the Director on the undertaker.
- (3) The results of any tests carried out by the Director 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

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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 Director any fault occurring in or any breakdown or failure of any apparatus or device installed pursuant to subsection (2).

Penalty: \$250 000.

[Section 10 amended by No. 63 of 1985 s. 6; No. 89 of 1994 s. 93; No. 5 of 2007 s. 24.]

11. Defences against certain proceedings

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 Director forthwith upon his becoming aware of those circumstances.

[Section 11 amended by No. 89 of 1994 s. 93.]

[12. Repealed by No. 5 of 2007 s. 25.]

13. Consumers' installations

- (1) If an undertaker or a pipeline licensee does not have an Inspection Policy Statement and Plan approved by the Director under section 13J, the undertaker or pipeline licensee —
 - (a) may commence to supply gas to a newly installed consumer gas installation; or
 - (b) supply gas to a consumer gas installation that has been altered by the installation of a Type B gas appliance,

if, and only if, the installation has been inspected by an inspector and complies with the requirements, if any, prescribed in respect of that installation.

Penalty: \$250 000.

- (2) If an undertaker or a pipeline licensee has an Inspection Policy Statement and Plan approved by the Director under section 13J, the undertaker or pipeline licensee may commence to supply gas to a consumer gas installation if, and only if, the installation has been inspected in accordance with that plan and complies with the requirements, if any, prescribed in respect of that installation.

Penalty: \$250 000.

- (3) In proceedings for an offence against subsection (2) it is a defence for the accused to show that an inspection was carried out after the gas was supplied to the consumer's gas installation under section 13K(2).

- (4) If, on an inspection under subsection (1), the inspector makes an order under section 18(2)(a) of the *Energy Coordination Act 1994* or issues a notice under this Act, the undertaker or pipeline licensee must send a copy of the order or notice to the Director within 28 days of the completion of the inspection.

Penalty: \$100 000.

- (5) If an accident involving gas occurs at an installation referred to in subsection (1), the undertaker or pipeline licensee who supplies gas to the installation must give the Director a report, in a form approved by the Director, on the accident within 3 days of the accident.

Penalty: \$100 000.

[Section 13 inserted by No. 5 of 2007 s. 26.]

13A. Gasfitting works and workers

[(1) repealed]

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- (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 Director 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 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 Director to delegate his or her powers to a person or body of persons appointed by the Director, 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, in the name of the Director;
- (f) for the establishment of systems of inspection, inquiry, and supervision, including the appointment of persons as inspectors and specifying their duties and powers;
- (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 Standards Australia, the Australian Gas Association, the British Standards Institution, or other specified body,

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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 Director considers valid any requirement imposed by the Director cannot be conformed to, the Director may dispense with that requirement and in lieu authorise in writing in any particular case the use of materials or any other matters which he or she 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 Director 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 Director 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 Director in the prescribed manner and shall pay the prescribed application fee.
- (7) The Director 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 Director 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 Director 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 Director satisfactory evidence of competence, makes application to the Director for a certificate in respect of the same or a similar subject matter the Director may issue to him a temporary permit.
- (9) A permit issued under subsection (8) —
 - (a) shall be returned to the Director at any time the Director, 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

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- (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 Director 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 Director, 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 Director 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 Director by this Act, has been at any time, and in the opinion of the Director 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 Director may allege to the State Administrative Tribunal that there is proper cause for disciplinary action and, pending the holding of any proceedings commenced by the allegation, the Director may by order suspend any person, either generally or to a specified extent, for a period not exceeding 3 months, from acting under any authorisation or exercising any privilege conferred by any such document, but if the Director considers that the matter does not require that any disqualification or suspension be imposed on a person against whom an allegation could be made to the State Administrative Tribunal, the Director, 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 making an allegation to the State Administrative Tribunal under the provisions of this subsection.

- (12) For the purposes of investigating or dealing with a person referred to in subsection (11) (the “**holder**”), the Director —

[(a), (b) deleted]

- (c) may by a summons in the prescribed form require the attendance before the Director of the holder, and may also require the attendance of any other person that the Director considers is likely to be able to give evidence or

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- produce documents touching the matter in question, or who the holder desires to call as a witness;
- (d) may administer an oath or affirmation to a person attending 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 by a witness is not, except in proceedings before the State Administrative Tribunal commenced by an allegation under this Act or in proceedings for giving false testimony, 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 Director, in the same manner as a subpoena to the effect issued by the Supreme Court in a civil action.
- (14) A witness in proceedings before the Director 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 is entitled to receive such fees and allowances as may be allowed in accordance with the prescribed scale.
- (15) The Director may determine that it is in the public interest that proceedings before the Director under this section, or any part of them, should be heard in camera and the proceedings shall thereupon be conducted accordingly but any question as to whether any proceedings should or should not be heard in

camera may be referred to the State Administrative Tribunal, and the State Administrative Tribunal may reverse the decision of the Director 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 State Administrative Tribunal thinks fit.

- (16) The State Administrative Tribunal dealing with an allegation against a person made under subsection (11) may by order —
- (a) disqualify that person and order that the certificate of competency, permit or authorisation be returned to the Director 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 12 months;
 - (c) censure him; or
 - (d) impose or vary any limitation, restriction or condition,

and the Director dealing with a matter under that subsection may do anything referred to in paragraph (c) or (d) and the Director is required to endorse the relevant document accordingly.

- (17) The Director may, in dealing with a matter under subsection (11) instead of making an allegation to the State Administrative Tribunal, 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 Director 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 Director.
- (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

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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 Director may, by notice in writing, revoke an order for suspension made by the Director, 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 Director may be construed as a reference to a person or body lawfully acting pursuant to a power delegated by the Director under the regulations.

[Section 13A inserted by No. 87 of 1979 s. 9; amended by No. 89 of 1994 s. 90 and 93; No. 74 of 2003 s. 60; No. 55 of 2004 s. 410.]

13B. Application for review

- (1) Any person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.

- (2) In subsection (1) —

“person aggrieved” means —

- (a) the holder of a certificate of competency, permit or authorisation; or
- (b) a person who has applied for a certificate of competency, permit or authorisation;

“reviewable decision” means a decision made under this Act in relation to a certificate of competency, permit or authorisation, including a decision made in dealing with a person referred to in section 13A(11) but not including a decision to make an allegation to the State Administrative Tribunal.

[Section 13B inserted by No. 55 of 2004 s. 411.]

13C. Surrender of licence

Despite the surrender by a person of the person's licence, this Act applies, for the purpose of enabling the person to be investigated or otherwise dealt with for a matter arising before the surrender, as if the licence had not been surrendered.

[Section 13C inserted by No. 55 of 2004 s. 412.]

13CA. Annual reporting

The annual report under Part 5 of the *Financial Management Act 2006* of the department of the Public Service in which the Director is employed is to include details of —

- (a) the number, nature, and outcome, of —
 - (i) investigations and inquiries undertaken under this Act by, or at the direction of, the Director; and
 - (ii) matters that have been brought before the State Administrative Tribunal under this Act by the Director;
- (b) the number and nature of matters referred to in paragraph (a) that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Director in performing functions under this Act in the year after the year to which the report relates; and
- (e) any proposals for improving the performance of the Director's functions under this Act.

[Section 13CA inserted by No. 55 of 2004 s. 412; amended by No. 77 of 2006 s. 17.]

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13D. Approval of gas appliances

- (1) A person shall not sell, hire, advertise for sale or install a Type A gas appliance unless the appliance —
- (a) is a gas appliance that is approved by the Director or is of a class or type of gas appliance that is approved by the Director; and
 - (b) is marked, stamped or labelled in the manner approved by the Director.

Penalty: \$250 000.

- (2) A consumer shall not use a Type B gas appliance unless the appliance —
- (a) has been approved by the Director; and
 - (b) is marked, stamped or labelled in the manner approved by the Director.

Penalty: \$250 000.

- (3) The Director may by instrument in writing delegate to an inspector the power to give approval for the purposes of subsection (1)(a) or (2)(a).

[Section 13D inserted by No. 5 of 2007 s. 27.]

13E. Application for approval

- (1) A person who desires to submit a gas appliance or class or type of gas appliance for approval by the Director shall apply in writing in the form approved by the Director.
- (2) The Director may require that a gas appliance, or a gas appliance of the kind to which the application relates, be tested or approved, or tested and approved, by a person recognised by the Director as a competent authority for that purpose and carry a mark recognised by the Director.
- (2a) The Director may, by notice published in the *Gazette*, specify the persons and the marks which are recognised by the Director for the purposes of subsection (2).

- (3) The Director may approve of an application made under this section or refuse to approve of the application or may defer approval.
- (3a) The Director may refuse to approve of an application in respect of —
- (a) a Type A gas appliance; or
 - (b) a class or type of Type A gas appliance; or
 - (c) a Type B gas appliance; or
 - (d) a class or type of Type B gas appliance,
- if the Director is satisfied that the appliance or class or type of appliance does not comply with —
- (e) a standard or requirement specified by the Director by notice published in the *Gazette*; or
 - (f) a prescribed standard or requirement.
- (4) A person who applies for the approval of a gas appliance under subsection (1) shall pay to the Director such fee or charge as is determined by the Director having regard to the cost of processing the application and determining the suitability of the gas appliance for approval.
- (5) The Director may withhold approval of a gas appliance until the applicant for the approval pays to the Director the fee or charge fixed by the Director under subsection (4).
- (6) The Director may impose conditions and restrictions in relation to any gas appliance or class or type of gas appliance in relation to which the Director has given approval.
- (7) Where the Director 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 Director.
- Penalty: \$250 000.

s. 13F

[Section 13E inserted by No. 63 of 1985 s. 8; amended by No. 89 of 1994 s. 91 and 93; No. 5 of 2007 s. 28.]

13F. Approval by other bodies

- (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 Director 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 Director may impose.
- (2) Where the Director adopts an approval under subsection (1), the Director 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 Director 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: \$50 000.

[Section 13F inserted by No. 63 of 1985 s. 8; amended by No. 89 of 1994 s. 93; No. 5 of 2007 s. 29.]

13G. Notice of approved gas appliances

- (1) The Director 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 classes or types of gas appliances that are approved by the Director 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 class or type of gas appliance referred to in the notice.

[Section 13G inserted by No. 63 of 1985 s. 8; amended by No. 89 of 1994 s. 93; No. 5 of 2007 s. 30.]

13H. Power to prohibit sale and use of gas appliances and components

- (1) Notwithstanding anything in sections 13D to 13G, where the Director 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 Director 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 Director 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 Director 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: \$250 000.

[Section 13H inserted by No. 63 of 1985 s. 8; amended by No. 89 of 1994 s. 93; No. 5 of 2007 s. 31.]

13I. Guidelines for gasfitting work

- (1) In this section —

s. 13J

“gasfitting work” means an operation, or a work or a process on or in relation to a gas installation, whether of an undertaker, a pipeline licensee or a consumer.

- (2) The Director may from time to time formulate and publish guidelines that are not mandatory for safe practices and technical standards in relation to gasfitting work.
- (3) Before completing the formulation of guidelines the Director must consult interested groups and persons in relation to the proposed guidelines to such an extent as the Director considers appropriate.
- (4) Guidelines under subsection (2) may specify —
 - (a) standards to be observed, practices and procedures to be followed, and measures to be taken with respect to gasfitting work; or
 - (b) practices and procedures to be followed, and measures to be taken, to promote the safety of the public and persons engaged in gasfitting work.
- (5) Guidelines under subsection (2) may incorporate or adopt guidelines, standards, or codes of practice made, formulated, published or issued under any law of another State or the Commonwealth, or by Standards Australia, the Australian Gas Association or any other body with such variations and modifications, if any, as the Director specifies.

[Section 13I inserted by No. 5 of 2007 s. 32.]

13J. Inspection Policy Statement and Plan

- (1) An undertaker or pipeline licensee may prepare and submit an Inspection Policy Statement and Plan (the **“Plan”**) to the Director for the purpose of —
 - (a) ensuring the safety of a consumer’s gas installations and gas appliances; and
 - (b) monitoring the work of those who carry out any operation, work or process of the nature of gasfitting on

the gas installation of a consumer supplied with gas (“**gasfitters**”) from the undertaker or pipeline licensee’s distribution system, cylinders, tanks, gas plant or pipeline.

- (2) The Plan is to —
- (a) relate to work on all types of consumers’ gas installations supplied with gas, whether new or by way of alteration or addition; and
 - (b) provide for —
 - (i) measures to prevent or provide protection from fire, explosion, and asphyxiation; and
 - (ii) the investigation of incidents of fire, explosion, or asphyxiation, including incidents related to gas appliances connected (whether or not permanently) to consumers’ gas installations, which may have been associated with gas supplied by the undertaker or pipeline licensee;
- and
- (c) set out a system of inspection to monitor —
 - (i) compliance by gasfitters with written laws applicable to gasfitting on a consumer’s gas installation; and
 - (ii) the safety of a consumer’s gas installation and gas appliances supplied with gas.
- (3) A system of inspection referred to in subsection (2)(c) must comply with such guidelines as are issued by the Director from time to time setting out the technical, investigative, reporting, administrative, and other requirements with which the system is to comply.
- (4) Within 20 working days after the submission of a Plan under subsection (1) or a revised Plan under section 13K(4)(b)(ii), the Director is to make a determination in respect of the Plan or revised Plan —

s. 13K

- (a) requiring further particulars to be supplied in relation to any matter, or that other matters specified by the Director be addressed, in a further submission; or
- (b) granting approval, or granting approval subject to any condition imposed relevant to the compliance by the undertaker or pipeline licensee with the matters referred to in subsection (1); or
- (c) rejecting the submission, wholly or in part, and requiring a further submission; or
- (d) rejecting the submission,

and is to notify the undertaker or pipeline licensee in writing of the determination.

- (5) If the Director does not make a determination under subsection (4) within 20 working days, the Director is to be taken to have approved the Plan or revised Plan.
- (6) If a Plan is approved, the Director may specify a period not exceeding 2 years during which the system of inspection is to operate.
- (7) An approved Plan, the approval of which has not been withdrawn by the Director, is to be made available for public inspection at the offices of the Director with any modifications that the Director considers necessary, after consultation with relevant persons, to protect commercial information.

[Section 13J inserted by No. 5 of 2007 s. 32.]

13K. Inspections under the Plan

- (1) Whether or not any inspection required to be carried out under a Plan approved under section 13J(4)(b) (the “**approved plan**”) is carried out at particular premises, and if it is carried out the nature and extent of it, is a matter within the discretion of an inspector unless —
 - (a) the approved plan provides that an inspector is not to have a discretion as to whether or not an inspection is

carried out or if it is carried out the nature and extent of the inspection; or

- (b) a written law otherwise specifically requires; or
- (c) the Director or a responsible officer of the undertaker or pipeline licensee otherwise directs, if the approved plan provides for such a direction to be given.

(2) Despite section 13 and subsection (1), an approved plan may provide for some or all inspections to be carried out —

- (a) after the installation has, or appliances have, been permanently supplied with gas; or
- (b) by way of the examination only of a sample of the work of gasfitters,

subject to the prior approval of the Director being obtained and to any condition, restriction or limitation imposed by the Director.

(3) If —

- (a) in good faith, an inspector decides not to carry out an inspection; or
- (b) in good faith, an inspector decides to carry out an inspection of a particular nature or to a particular extent; or
- (c) the undertaker or pipeline licensee, or the system of inspection established in accordance with the approved plan by the undertaker or pipeline licensee, does not require that an inspection be carried out; or
- (d) the approval of the Director has been given to an inspection not being carried out,

in any particular case or in relation to any class of case, the inspector, the undertaker or pipeline licensee, the Director or the State, as the case may be, is not liable, in civil or criminal proceedings, for any injury or damage arising from failure to carry out an inspection.

s. 13K

- (4) The Director may at any time audit and assess the inspection practices of an undertaker or pipeline licensee for conformity with the approved plan and the adequacy of the system of inspection and may by order in writing —
- (a) require the modification of any inspection practice of that undertaker or pipeline licensee if it is found by the Director not to conform with the approved plan; or
 - (b) require the gas undertaker or pipeline licensee —
 - (i) to review those practices, or such of those practices as are specified in the order; and
 - (ii) if in any respect the system of inspection set out in the approved plan is found to be inadequate to establish and maintain an effective system of inspection for the purposes referred to in section 13J(1), to submit a revised plan, within such time as is specified in the order; or
 - (c) withdraw approval of the Plan,
- and the undertaker or pipeline licensee must forthwith comply with requirements of the order.
- (5) The Director may exercise the powers conferred by subsection (4)(a), (b) and (c) at any time so far as that may be necessary in relation to any particular accident, or to any incident or other matter affecting the safety of a consumer's gas installation.
- (6) An undertaker or pipeline licensee that has an approved plan and fails to comply with a requirement of —
- (a) this section; or
 - (b) the plan including any condition to which the granting of the approved plan was subject,

commits an offence.

Penalty: \$250 000.

[Section 13K inserted by No. 5 of 2007 s. 32.]

13L. Director's guidelines

- (1) Before completing the formulation of guidelines referred to in section 13J(3) the Director must consult relevant persons in relation to the proposed guidelines to such an extent as the Director considers appropriate.
- (2) Guidelines may specify policies or standards to be observed, methods, practices and procedures to be followed, and measures to be taken with respect to inspections.
- (3) Guidelines under section 13J(3) may incorporate or adopt guidelines, standards or codes of practice made, formulated, published or issued under any law of another State or the Commonwealth, or by Standards Australia, the Australian Gas Association or any other body with such variations and modifications, if any, as the Director specifies.

[Section 13L inserted by No. 5 of 2007 s. 32.]

13M. Review of certain decisions of the Director

- (1) An undertaker or pipeline licensee aggrieved by a determination of the Director under section 13J(4) may apply in writing to the Director for a review of the determination.
- (2) The application is to be made within 14 days after the applicant receives a notification of the determination or within such further period as the Director in a particular case allows.
- (3) The Director must give the applicant a reasonable opportunity to make submissions in relation to the application.
- (4) The Director, after considering submissions (if any) made under subsection (3), may determine the application by —
 - (a) confirming the determination; or
 - (b) varying the determination; or
 - (c) cancelling the determination and making a new determination under section 13J(4), which determination is not subject to review under this section.

s. 13N

- (5) The Director must give the applicant written notice of his or her determination.

[Section 13M inserted by No. 5 of 2007 s. 32.]

13N. Review of determinations of Director under section 13M

- (1) Any person aggrieved by a determination of the Director under section 13M(4) may —
- (a) if a question of law is involved, apply to the State Administrative Tribunal for a review of the decision; or
 - (b) in any other case, appeal in the prescribed manner to a technical review panel appointed under the regulations.
- (2) If a determination is sent back to the Director under section 29(3)(c)(ii) of the *State Administrative Tribunal Act 2004* for reconsideration —
- (a) the Director is to make a new determination under section 13J(4) in accordance with any directions or recommendations of the State Administrative Tribunal within 20 working days of the day on which the Director receives notice of the Tribunal's decision; and
 - (b) the new determination is not subject to review under section 13M; and
 - (c) section 29(4) of the *State Administrative Tribunal Act 2004* does not apply in relation to the new determination.
- (3) On an appeal made under subsection (1)(b) the technical review panel may confirm, cancel or vary the determination and the decision of the technical review panel is final.
- (4) If the technical review panel cancels a determination, the Director may make a new determination in accordance with the panel's decision under section 13J(4) within 20 working days of the day on which the Director receives notice of the panel's decision, which determination is not subject to review under section 13M.

- (5) If an application for review or an appeal has been made under subsection (1) in relation to a determination, the State Administrative Tribunal or the technical review panel, as the case may be, may suspend the operation or effect of the determination until the determination of the review or appeal.
- (6) If the technical review panel confirms a determination under subsection (3), the appellant is liable to pay the reasonable costs of the review.
- (7) Any costs payable by the appellant under subsection (6) are recoverable by the Director in a court of competent jurisdiction as a debt due to the State.

[Section 13N inserted by No. 5 of 2007 s. 32.]

14. Offences

- (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, in the case of an individual, of \$50 000 and, in the case of a body corporate, of \$250 000.
- (2) A prosecution for an offence under this Act must be commenced within 2 years after the date on which the offence is alleged to have been committed.

[Section 14 amended by No. 87 of 1979 s. 10; No. 63 of 1985 s. 9; No. 59 of 2004 s. 141; No. 5 of 2007 s. 33.]

15. Regulations

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

s. 15

- (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 authorising 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; and
 - (b) requiring undertakers to furnish the Director with particulars in writing of the quantities of gas supplied by them; and
 - (c) prescribing fees to be paid by undertakers for tests conducted by or on behalf of the Director or the Minister for the purposes of this Act; and
 - (d) prescribing the standards of construction, installation, maintenance, operation and testing of pipelines and other equipment and installations used by undertakers for the conveyance, control, or supply of gas; and
 - (e) prescribing the standards of construction, installation, maintenance, operation and testing of consumers' gas installations; and
 - (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; and
 - (h) prohibiting the fraudulent or improper use of marks signifying the approval of the Director; and
 - (i) providing for —
 - (i) the convening of a technical review panel of independent professional engineers; and
 - (ii) the procedure to be followed on a review by a technical review panel and the period of time within which a review is to be completed; and

- (iii) the payment of remuneration to members of a technical review panel.
- (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; No. 89 of 1994 s. 92 and 93; No. 58 of 1999 s. 66 and 99; No. 5 of 2007 s. 34.]

16. Regulations for the commingling of gas in distribution systems

Regulations may be made under section 15 —

- (a) providing for and in relation to the entry and commingling of gas of different qualities in a distribution system (as defined in section 3 of the *Energy Coordination Act 1994*), including —
 - (i) control of the entry;
 - (ii) the standard of the heating value of the gas;
 - (iii) the maintenance of the required standard;
 - (iv) the monitoring of compliance with the required standard, including requirements for reporting matters to the Director; and
 - (v) the determination of the heating value of the gas;and
- (b) without limiting paragraph (a), requiring an undertaker or a pipeline operator —
 - (i) to set up, install and operate any plan, system or equipment; or
 - (ii) to take any other steps,for any purpose referred to in that paragraph.

s. 16

[Section 16 inserted by No. 53 of 2003 s. 41.]

Notes

- ¹ This is a compilation of the *Gas Standards Act 1972* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

| Short title | Number and year | Assent | Commencement |
|--|-----------------|-------------|--|
| <i>Gas Standards Act 1972</i> | 15 of 1972 | 26 May 1972 | 21 Jul 1972 (see s. 2 and <i>Gazette</i> 21 Jul 1972 p. 2645) |
| <i>Gas Standards Act Amendment Act 1979</i> | 87 of 1979 | 11 Dec 1979 | 1 Feb 1980 (see s. 2 and <i>Gazette</i> 1 Feb 1980 p. 284) |
| <i>Gas Standards Amendment Act 1985</i> | 63 of 1985 | 5 Nov 1985 | 1 Feb 1986 (see s. 2 and <i>Gazette</i> 3 Jan 1986 p. 9) |
| Reprint of the <i>Gas Standards Act 1972</i> as at 15 Feb 1989 (includes amendments listed above) | | | |
| <i>Energy Corporations (Transitional and Consequential Provisions) Act 1994</i> Pt. 5 | 89 of 1994 | 15 Dec 1994 | 1 Jan 1995 (see s. 2(2) and <i>Gazette</i> 23 Dec 1994 p. 7069) |
| <i>Local Government (Consequential Amendments) Act 1996</i> s. 4 | 14 of 1996 | 28 Jun 1996 | 1 Jul 1996 (see s. 2) |
| <i>Gas Corporation (Business Disposal) Act 1999</i> s. 66, 84, 98 and 99 | 58 of 1999 | 24 Dec 1999 | s 66: 24 Dec 1999 (see s. 2(1)); s. 84: 1 Jul 2000 (see s. 2(2) and <i>Gazette</i> 4 Jul 2000 p. 3545); s. 98 and 99: 16 Dec 2000 (see s. 2(5) and <i>Gazette</i> 15 Dec 2000 p. 7201) |
| Reprint of the <i>Gas Standards Act 1972</i> as at 7 Jul 2000 (includes amendments listed above except those in the <i>Gas Corporation (Business Disposal) Act 1999</i> s. 98 and 99) | | | |
| <i>Energy Legislation Amendment Act 2003</i> Pt. 3 Div. 10 | 53 of 2003 | 8 Oct 2003 | 8 Oct 2003 (see s. 2(1)) |
| <i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 10(5) and 60 | 74 of 2003 | 15 Dec 2003 | 15 Dec 2003 (see s. 2) |

| Short title | Number and year | Assent | Commencement |
|---|-----------------|-------------|---|
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141 | 59 of 2004 | 23 Nov 2004 | 1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128) |
| <i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 54 ⁴ | 55 of 2004 | 24 Nov 2004 | 1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130) |
| Reprint 3: The Gas Standards Act 1972 as at 7 Jul 2006 (includes amendments listed above) | | | |
| <i>Financial Legislation Amendment and Repeal Act 2006</i> s. 17 | 77 of 2006 | 21 Dec 2006 | 1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137) |
| <i>Gas and Electricity Safety Legislation Amendment Act 2007</i> Pt. 4 | 5 of 2007 | 18 Apr 2007 | 1 Dec 2007 (see s. 2 and <i>Gazette</i> 30 Nov 2007 p. 5927) |
| <i>Petroleum Amendment Act 2007</i> s. 95 | 35 of 2007 | 21 Dec 2007 | 19 Jan 2008 (see s. 2(b) and <i>Gazette</i> 18 Jan 2008 p. 147) |

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

| Short title | Number and year | Assent | Commencement |
|--|-----------------|-------------|-----------------------------|
| <i>Courts Legislation Amendment and Repeal Act 2004</i> s. 142 ⁵ | 59 of 2004 | 23 Nov 2004 | To be proclaimed (see s. 2) |
| <i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 82 ⁶ | 84 of 2004 | 16 Dec 2004 | To be proclaimed (see s. 2) |

² The provision in this Act repealing that Act has been omitted from this compilation under the *Reprints Act 1984* s. 7(4)(f).

³ The “appointed day” is 1 Sep 1986 (see *Gazette* 27 Jun 1986 p. 2202).

- ⁴ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ⁵ On the date as at which this compilation was prepared, the *Courts Legislation Amendment and Repeal Act 2004* s. 142, to the extent that it gives effect to Sch. 2 cl. 21, had not come into operation. It has not been, and will not be, proclaimed as the provisions to be amended by cl. 21 (being s. 13B(6)-(8) of this Act) were repealed by the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004*.
- ⁶ On the date as at which this compilation was prepared, the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 82, to the extent that it amends this Act, had not come into operation. It reads as follows:

“

82. References to “defendant” changed to “accused”

Each provision listed in Table 2, 3 or 4 to this section is amended by deleting any expression listed in Table 1 column 1 in each place it occurs (whether in ordinary type, italics, bold or capitals) and in each place inserting instead (in corresponding type) the expression opposite the deleted expression in Table 1 column 2.

Table 1

| Delete | Insert instead |
|-----------------|-----------------------|
| A defendant | An accused |
| a defendant | an accused |
| a defendant’s | an accused’s |
| defendant | accused |
| defendants | accused |
| Defendants’ | Accused’s |
| Defendants | Accused |
| the defendant | the accused |
| the defendant’s | the accused’s |

Table 2 — Various provisions

| | |
|-------------------------------|----------|
| <i>Gas Standards Act 1972</i> | s. 13(2) |
|-------------------------------|----------|

”.