

South Australia



ANNO QUADRAGESIMO NONO
ELIZABETHAE II REGINAE
A.D. 2000

GAS (MISCELLANEOUS) AMENDMENT ACT 2000

No. 29 of 2000

[Assented to 29 June 2000]

An Act to amend the Gas Act 1997.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 24—Licence fees and returns
4. Amendment of s. 33—Gas pricing
5. Amendment of s. 37—Temporary gas rationing
6. Insertion of ss. 37A, 37B and 37C
 - 37A. Minister's power to require information
 - 37B. Manner in which notices may be given
 - 37C. Minister's power to delegate
7. Amendment of s. 56—Certain gas fitting work
8. Substitution of s. 91
 91. Recovery of financial benefits gained from contravention

SCHEDULE*Transitional Provision*

The Parliament of South Australia enacts as follows:**Short title**

1. (1) This Act may be cited as the *Gas (Miscellaneous) Amendment Act 2000*.

(2) The *Gas Act 1997* is referred to in this Act as "the principal Act".

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.

(2) Section 3 and the schedule will come into operation on 1 July 2001.

Amendment of s. 24—Licence fees and returns

3. Section 24 of the principal Act is amended by striking out subsections (3), (4), (5) and (6) and substituting the following subsections:

(3) The annual licence fee is a fee fixed by the Minister of an amount that the Minister considers appropriate as a reasonable contribution towards the costs of administration of this Act and the *Gas Pipelines Access (South Australia) Act 1997* having regard to the nature and scale of the operations that are authorised by the licence.

(4) The annual licence fee may, if the Technical Regulator so determines, be paid in equal instalments at intervals fixed by the Technical Regulator.

Amendment of s. 33—Gas pricing

4. Section 33 of the principal Act is amended—

(a) by inserting in subsection (1) "or prescribed consumers" after "non-contestable consumers";

(b) by inserting in subsection (5) "or prescribed consumers" after "non-contestable consumers";

(c) by inserting after subsection (5) the following subsections:

(6) For the purposes of this section, if the actual consumption of gas at a single site during the previous financial year was less than 10 terajoules, the consumer at that site is a prescribed consumer in respect of that site.

(7) The Governor may, by proclamation, fix a day on which this section expires.

Amendment of s. 37—Temporary gas rationing

5. Section 37 of the principal Act is amended—

(a) by striking out from subsection (1) "is insufficient to meet the requirements of all" and substituting "is, in the opinion of the Minister, insufficient or likely to become insufficient to meet the requirements of";

(b) by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) the Minister may give directions to—

- (i) the gas entity or other body by which the system, or part of the system, is operated; or
- (ii) a person who sells gas by retail or otherwise (whether or not the person is required to hold a licence under this Act),

to ensure the most efficient and appropriate use of the available gas; and;

(c) by inserting in paragraph (b) of subsection (2) ", or specified consumers," after "consumers";

(d) by striking out subsection (2) and substituting the following subsections:

(2) A direction under subsection (1)(a) may (without limitation) relate to the quantity of gas that may be supplied through a distribution system or to the quality of that gas.

(2a) A direction under this section—

- (a) operates for a period (which may be defined by reference to specified days or to the happening of specified events) specified in the direction; and
- (b) may be varied or revoked (with effect at a specified time or on the happening of a specified event) by a subsequent direction under this section.;

(e) by inserting after subsection (4) the following subsection:

(5) In this section—

"**distribution system**" has the meaning otherwise assigned to the term under this Act, and includes a pipeline in respect of which a licence has been granted or is required under Part 2B of the *Petroleum Act 1940*.

Insertion of ss. 37A, 37B and 37C

6. The following sections are inserted in Division 5 of Part 3 of the principal Act after section 37:

Minister's power to require information

37A. (1) The Minister may require a person to give the Minister, within a time specified by the Minister (which must be reasonable), information in the person's possession that the Minister reasonably requires for the purposes of this Division.

(2) A person required to give information under this section must provide the information within the time specified by the Minister.

Maximum penalty: \$10 000.

Manner in which notices may be given

37B. Except as otherwise provided, a direction or requirement to be given to or made of a person or body under this Division may—

- (a) be given or made by notice in writing served on the person or body; or
- (b) if the Minister is of the opinion that good reason exists for doing so, be given or made by telephone, facsimile transmission, E-mail or some other form of electronic transmission (however, in such a case, a written record of the direction or requirement must be served on the person or body in accordance with section 94 as soon as is reasonably practicable).

Minister's power to delegate

37C. (1) The Minister may delegate powers or functions under this Division—

- (a) to a particular person; or
- (b) to the person for the time being occupying a particular office or position.

(2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

- (a) may be absolute or conditional; and
- (b) does not derogate from the power of the delegator to act in a matter; and
- (c) is revocable at will by the delegator.

(4) In any legal proceedings an apparently genuine certificate, purportedly signed by the Minister, containing particulars of a delegation under this section, will, in the absence of proof to the contrary, be accepted as proof that the delegation was made in accordance with the particulars.

Amendment of s. 56—Certain gas fitting work

7. Section 56 of the principal Act is amended—

- (a) by inserting in subsection (1) "to whom this section applies" after "A person";
- (b) by striking out paragraph (c) of subsection (1);
- (c) by striking out subsections (2) and (3) and substituting the following subsections:

(2) If work on a gas installation or proposed gas installation is personally carried out by a registered gas fitting worker, the person to whom this section applies must ensure that the requirements of the regulations as to notification and certificates of compliance are complied with.

Maximum penalty: \$5 000.
Expiation fee: \$315.

(3) This section applies—

- (a) if a licensed gas fitting contractor or licensed building work contractor has been engaged to carry out the work (whether personally or not)—to the licensed gas fitting contractor or licensed building work contractor; or
- (b) in any other case—to the person who personally carries out the work.

(4) A prosecution for an offence against this section may be brought at any time within the period of two years after the date on which the offence is alleged to have been committed.

Substitution of s. 91

8. Section 91 of the principal Act is repealed and the following section is substituted:

Recovery of financial benefits gained from contravention

91. If a person gains a financial benefit from a contravention of this Act, the Technical Regulator may recover an amount equal to the financial benefit from the person—

- (a) on application to a court convicting the person of an offence in respect of the contravention; or
- (b) by action in a court of competent jurisdiction.

SCHEDULE
Transitional Provision

Licence fees to remain payable

1. Nothing in this Act affects the liability of the holder of a licence issued under Part 3 of the principal Act to pay instalments (whether payable before or after the commencement of this schedule) of an annual licence fee the first instalment of which has become payable before the commencement of this schedule.