

Version No. 013
Gas Safety Act 1997

Act No. 99/1997

Version incorporating amendments as at 31 December 2001

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The Parliament of Victoria therefore enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The main purpose of this Act is to make provision for the safe conveyance, sale, supply, measurement, control and use of gas and to generally regulate gas safety.

2. Commencement

- (1) Part 1 of this Act comes into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation before 31 December 1999, it comes into operation on that day.

3. Definitions

- (1) In this Act—

"acceptance scheme" includes any approval, certification or endorsement scheme, however described;

"accepted safety case" means—

- (a) a safety case or provisional safety case accepted under Division 2 or 3 of Part 3; or

S. 3
amended by
No. 91/2000
s. 16 (ILA
s. 39B(1)).

(b) if a revised safety case has been accepted or provisionally accepted under Division 2 or 3 of Part 3, that revised safety case—

but does not include a safety case that has lapsed under Division 3 of Part 3;

"apparatus and works" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "apparatus and works" amended by No. 32/2001 s. 34(1)(a).

"appliance" means a device which uses gas to produce flame, heat, light, power or special atmosphere;

"complex gas installation" means a gas installation which is not a standard gas installation;

S. 3(1) def. of "complex gas installation" inserted by No. 91/1998 s. 26(3).

"component" means a component of an appliance or gas installation;

"construction" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "construction" amended by No. 32/2001 s. 34(1)(b).

"convey", in relation to gas, means to transmit, distribute or otherwise convey by pipeline;

"Director" means the Director of Gas Safety appointed under Part 2;

"distribute" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "distribute" amended by No. 32/2001 s. 34(1)(c).

S. 3(1) def. of
"distribution
pipeline"
amended by
No. 32/2001
s. 34(1)(d).

"distribution pipeline" has the same meaning as it has in the **Gas Industry Act 2001**;

"facility" means—

- (a) a pipeline; or
- (b) a facility or service for the control of the conveyance of gas; or
- (c) a facility for the measurement of gas where the facility is connected to a transmission pipeline; or
- (d) a service for the sale by retail of gas (other than liquefied petroleum gas used or intended to be used for automotive purposes); or
- (e) a service which controls the quality of liquefied petroleum gas provided for supply or sale (other than liquefied petroleum gas used or intended to be used for automotive purposes); or
- (f) a tempered liquefied petroleum gas plant;

"gas" means any gaseous fuel but does not include any gaseous fuel that is declared under section 4 not to be gas for the purposes of this Act or any provision of this Act;

"gaseous fuel" includes petrochemical feed stock;

"gasfitting work" means work carried out in connection with the installation, renewal, commissioning, replacement, modification, relocation, repair or maintenance of any gas

installation or any part of any gas installation;

"gas company" means—

- (a) a gas transmission company within the meaning of the **Gas Industry Act 2001**; or
- (b) a gas distribution company within the meaning of the **Gas Industry Act 2001**; or
- (c) a gas retailer within the meaning of the **Gas Industry Act 2001**; or
- (d) a person who is an owner or operator of a facility or service for the control of the conveyance of gas, being a person declared under section 5 to be a gas company for the purposes of this Act; or
- (e) a person who is an owner or operator of a facility for the measurement of gas connected to a transmission pipeline; or
- (f) a person who is an owner or operator of a pipeline, being a person declared under section 5 to be a gas company for the purposes of this Act; or
- (g) a person who is an owner or operator of a service for the sale by retail of gas (other than liquefied petroleum gas used or intended to be used for automotive purposes), being a person declared under section 5 to be a gas company for the purposes of this Act;
- (h) a person who is an owner or operator of a service for the supply of liquefied petroleum gas (other than liquefied petroleum gas used or intended to be

S. 3(1) def. of "gas company" amended by Nos 91/1998 s. 26(1), 32/2001 s. 34(1)(e).

used for automotive purposes), being a person declared under section 5 to be a gas company for the purposes of this Act;

"gas incident" means any incident or event relating to the conveyance, supply or use of gas which causes or has the potential to cause—

- (a) the death of or injury to a person; or
- (b) significant damage to property; or
- (c) an explosion;

"gas installation" means, in respect of the use or intended use of gas, a combination of—

- (a) any pipe or system of pipes for or incidental to the conveyance of gas and components or fittings associated with the pipe or pipes which are downstream of the gas supply point; and
 - (b) any one or more of the following—
 - (i) any liquefied petroleum gas storage vessels with an aggregate capacity not exceeding 500 litres;
 - (ii) any appliance and associated components or fittings which are downstream of the gas supply point;
 - (iii) any meter which is downstream of the gas supply point;
 - (iv) any means of ventilation or system for the removal of combustion products which is downstream of the gas supply point;
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"gas supply point" means—

- (a) the outlet of a gas company's meter assembly; or
- (b) the outlet of the primary shut-off valve of a liquefied petroleum gas storage vessel; or
- (c) if paragraph (a) or (b) does not apply, the point of supply of gas;

"gas work" means gasfitting work and upstream gas work;

"inspector" means a person appointed as an inspector under Part 5;

"meter" means an instrument that measures the quantity of gas passing through it;

"meter assembly" means a system that includes a meter and any associated pipes, fittings, components, equipment or instruments;

"Office" means the Office of Gas Safety established under Part 2;

"operation" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "operation" amended by No. 32/2001 s. 34(1)(f).

"person" includes an unincorporated body or association and a partnership;

"pipeline" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "pipeline" amended by No. 32/2001 s. 34(1)(g).

"practicable" in sections 32, 33, 61, 62 and 63, means practicable having regard to—

- (a) in sections 32, 61, 62 and 63 the severity of the hazard or risk in question; and
- (b) in section 33, the severity of the hazard or risk involved in not meeting a prescribed standard or requirement; and
- (c) the state of knowledge about the hazard or risk and any ways of removing or mitigating the hazard or risk; and
- (d) the availability and suitability of ways to remove or mitigate the hazard or risk; and
- (e) the cost of removing or mitigating the hazard or risk;

"premises" includes caravan, mobile home and vessel;

"quality", in relation to gas, includes odourisation, purity, temperature, pressure and composition;

"standard gas installation" means—

- (a) a gas installation—
 - (i) which contains only Type A appliances; and
 - (ii) which is located in residential premises of a prescribed class or on land associated with such premises; or
- (b) a gas installation—

S. 3(1) def. of "standard gas installation" inserted by No. 91/1998 s. 26(3).

-
- (i) which contains only Type A appliances; and
 - (ii) which is located in commercial premises of a prescribed class or on land associated with such premises; and
 - (iii) in which the total gas consumption of the appliances does not exceed the relevant prescribed amount per hour; and
 - (iv) in which the length of pipe from the gas supply point to the furthest appliance does not exceed the relevant prescribed length;

"tempered liquefied petroleum gas" means a mixture of vaporised liquefied petroleum gas and air;

"transmission pipeline" means—

- (a) a transmission pipeline within the meaning of the **Gas Industry Act 2001**; or
- (b) a pipeline that is declared under section 6 to be a transmission pipeline;

S. 3(1) def. of "transmission pipeline" amended by No. 32/2001 s. 34(1)(h).

"transmit" has the same meaning as it has in the **Gas Industry Act 2001**;

S. 3(1) def. of "transmit" amended by No. 32/2001 s. 34(1)(i).

"Type A appliance" means—

- (a) an appliance (including a second-hand appliance) for which an acceptance scheme has been authorised by the Office in accordance with section 68; or
- (b) an appliance which has been accepted under section 69;

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s. 3

S. 3(1) def. of
"Type A gas
installation"
repealed by
No. 91/1998
s. 26(2).

* * * * *

"Type B appliance" means an appliance
(including a second-hand appliance) with a
gas consumption in excess of 10 megajoules
per hour including any components and
fittings of that appliance downstream of and
including the appliance manual shut-off
valve but does not include a Type A
appliance;

S. 3(1) def. of
"Type B gas
installation"
repealed by
No. 91/1998
s. 26(2).

* * * * *

"upstream gas work" means work carried out
between the outlet point of a gas processing
plant and the outlet of a gas distribution
company's meter assembly in connection
with the construction, commissioning,
renewal, operation, control, replacement,
modification, repair, maintenance or testing
of—

- (a) transmission and distribution systems
and related apparatus and works; or
- (b) any other thing used for the
conveyance, supply, control or
measurement of gas.

S. 3(2)
inserted by
No. 91/2000
s. 16.

- (2) In the definition of "gas installation", a reference
to gas includes, in relation to liquefied petroleum
gas, that gas in its liquid phase.

4. *Declaration of gaseous fuel*

The Governor in Council, by Order published in the Government Gazette, may declare any gaseous fuel not to be gas for the purposes of this Act or any provision of this Act.

5. *Declaration of gas company*

The Governor in Council, by Order published in the Government Gazette, may declare any of the following to be a gas company for the purposes of this Act—

- (a) a person who is an owner or operator of a pipeline;
- (b) a person who is an owner or operator of a facility or service for the control of the conveyance of gas;
- (c) a person who is an owner or operator of a service for the sale by retail of gas (other than liquefied petroleum gas which is used or intended to be used for automotive purposes).

6. *Declaration of pipeline to be a transmission line*

The Governor in Council, by Order published in the Government Gazette, may declare a pipeline or class of pipeline to be a transmission pipeline.

7. *Exemptions*

- (1) The Governor in Council, by Order published in the Government Gazette, and on the recommendation of the Office, may declare that the provisions of this Act, or such of the provisions of this Act as are specified in the Order—
 - (a) do not have effect in relation to a specified person or class of persons or do not have effect to such extent as is specified; or

- (b) do not have effect in relation to a specified facility or class of facilities or do not have effect to such extent as is specified; or
 - (c) do not have effect in relation to specified appliances or a class of appliances or do not have effect to such extent as is specified; or
 - (d) do not have effect in relation to specified gas installations or a class of gas installations or do not have effect to such extent as is specified; or
 - (e) do not have effect in relation to specified gas work or a class of gas work or do not have effect to such extent as is specified.
- (2) An Order under sub-section (1)—
- (a) may specify the period during which the Order is to remain in force; and
 - (b) may provide that its operation is subject to such terms and conditions as are specified in the Order.
- (3) A person to whom an Order under this section applies must comply with the terms and conditions (if any) to which the operation of the Order is subject.
- Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

8. *Crown to be bound*

This Act binds the Crown, not only in right of Victoria but also, as far as the legislative power of

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the Parliament permits, the Crown in all its other capacities.

PART 2—OFFICE OF GAS SAFETY

9. *Establishment*

- (1) There is established a body by the name "Office of Gas Safety".
- (2) The Office—
 - (a) is a body corporate with perpetual succession;
 - (b) has an official seal;
 - (c) may sue and be sued;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of the Office affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of the Office must be kept in such custody as the Office directs and must not be used except as authorised by the Office.

10. *Objectives of the Office*

The objectives of the Office are—

- (a) to ensure the safety of the conveyance, sale, supply, measurement, control and use of gas; and
- (b) to control the safety standards of gas work; and
- (c) to maintain public and industry awareness of gas safety requirements; and

S. 10(c)
amended by
No. 91/2000
s. 17.

- (d) to promote awareness of energy efficiency through energy efficiency labelling of gas installations, appliances and components and energy efficiency regulation of gas installations, appliances and components.

S. 10(d)
inserted by
No. 91/2000
s. 17.

11. Functions

The functions of the Office are—

- (a) to issue guidelines specifying minimum safety standards for appliances, gas equipment, gas components, gas installations, gas related services and the conveyance, sale, supply, measurement, control and use of gas;
- (b) to issue guidelines in relation to the preparation of safety cases;
- (c) to monitor compliance of appliances, gas equipment, gas components, gas installations, gas related services and the conveyance, sale, supply, measurement, control and use of gas with the specified safety standards;
- (ca) to monitor compliance of gas companies with accepted safety cases;
- (cb) to audit accepted safety cases to determine the adequacy and effectiveness of those safety cases;
- (cc) to administer the prescribed minimum standards for energy efficiency of gas installations, appliances and components;
- (cd) to inspect and test gas installations, appliances and components for compliance with the specified minimum standards for energy efficiency;

S. 11(ca)
inserted by
No. 91/2000
s. 18.

S. 11(cb)
inserted by
No. 91/2000
s. 18.

S. 11(cc)
inserted by
No. 91/2000
s. 18.

S. 11(cd)
inserted by
No. 91/2000
s. 18.

- (d) to investigate events or incidents which have implications for gas safety;
- (e) to provide advisory and consultative services in relation to gas safety;
- (f) to consult with and advise industry and the community in relation to gas safety;
- (g) such other functions as are conferred on the Office by or under this Act or any other Act or the regulations under this Act.

12. Powers

For the purpose of performing its functions, the Office—

- (a) has such powers as are conferred on it by this Act or any other Act; and
- (b) may do all other things necessary or convenient to be done for or in connection with, or as incidental to, the achievement of its objectives or the performance of its functions.

13. Committees

- (1) The Office may establish such committees as it determines.
- (2) A committee established under sub-section (1) shall consist of—
 - (a) such officers or employees of the Office; and
 - (b) such other persons—as the Office determines.
- (3) The Office must appoint one of the members of the committee as chairperson.
- (4) Except as otherwise provided by the regulations, the procedure of a committee is in its discretion.

14. Delegation

The Office may, by instrument under its official seal, delegate any function or power of the Office, other than this power of delegation, to—

- (a) an officer or employee of the Office;
- (b) a member of a committee appointed in accordance with this Part;
- (c) with the consent of the Minister, another person.

15. *Office consists of Director*

The Office consists of the Director of Gas Safety.

16. *Appointment of Director*

- (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to be the Director.
- (2) The **Public Sector Management and Employment Act 1998** does not apply to the Director in respect of the office of Director.

S. 16(2)
amended by
No. 46/1998
s. 7(Sch. 1).

17. *Terms and conditions of appointment*

- (1) The Director shall be appointed for such term, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (2) The Director holds office, subject to this Act, on such terms and conditions as are determined by the Minister.

18. *Vacancies, resignations and removal from office*

- (1) The Director ceases to hold office if he or she becomes bankrupt.
- (2) The Director may resign by writing delivered to the Minister.
- (3) The Governor in Council may remove the Director from office.

19. *Acting appointments*

- (1) The Governor in Council, on the recommendation of the Minister, may appoint a person to act as Director—
 - (a) during a vacancy in the office of the Director; or
 - (b) during any period, or during all periods, when the Director is absent or, for any other reason, is unable to perform the functions of Director—

but a person appointed to act during a vacancy must not continue so to act for more than 6 months, unless re-appointed.
- (2) An acting appointment shall be for the term and on the conditions determined by the Minister.
- (3) The Governor in Council may at any time terminate an acting appointment.
- (4) A person appointed under this section has all the powers, and may perform all the functions, of the person for whom he or she is acting.

20. *Validity of decisions*

- (1) An act or decision of the Office is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of the Director.
- (2) Anything done by or in relation to a person purporting to act as Director is not invalid merely because—
 - (a) the occasion for the appointment has not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment has ceased to have effect; or

- (d) the occasion for the person to act had not arisen or had ceased.

21. Disclosure of interests

- (1) If the Director has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Office, he or she must, as soon as practicable after the relevant facts come to his or her knowledge, disclose the nature of the interest to the Minister.
- (2) Sub-section (1) does not apply if the interest is as a result of the supply of goods or services that are available to members of the public on the same terms and conditions.
- (3) A failure to comply with this section does not affect the validity of any act or decision of the Office or the Director.

22. Corporate plan

- (1) The Office must prepare a corporate plan each year.
- (2) The Office must give a copy of the proposed plan to the Minister on or before 31 May in each year.
- (3) The proposed corporate plan must be in or to the effect of a form approved by the Minister and must include—
- (a) a statement of corporate intent in accordance with section 23;
- (b) a business plan containing such information as the Minister requires;
- (c) financial statements containing such information as the Minister requires.

S. 22(2)
amended by
No. 91/2000
s. 19(1).

S. 22(3)
amended by
No. 91/2000
s. 19(2)(a).

S. 22(3)(b)
amended by
No. 91/2000
s. 19(2)(b).
S. 22(3)(c)
amended by
No. 91/2000
s. 19(2)(c).

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s. 22

S. 22(4)
substituted by
No. 91/2000
s. 19(3).

(4) The Office must consider any comments on the proposed plan that are made to it by the Minister within 2 months after the plan was submitted to the Minister.

S. 22(5)(a)
amended by
No. 91/2000
s. 19(4)(a).

(5) The Office must—

(a) consult in good faith with the Minister following communication to it of the comments; and

S. 22(5)(b)
amended by
No. 91/2000
s. 19(4)(b).

(b) make such changes to the plan as are agreed between the Minister and the Office; and

S. 22(5)(c)
amended by
No. 91/2000
s. 19(4)(a).

(c) deliver the completed plan to the Minister within 2 months after the commencement of the financial year.

S. 22(6)
amended by
No. 91/2000
s. 19(5).

(6) The plan, or any part of the plan, must not be published or made available except for the purposes of this Part without the prior approval of the Office and the Minister.

S. 22(7)
amended by
No. 91/2000
s. 19(6).

(7) The plan may be modified at any time by the Office with the agreement of the Minister.

S. 22(8)
substituted by
No. 91/2000
s. 19(7).

(8) If the Office, by written notice to the Minister, proposes a modification of the plan, the Office may, within 14 days, make the modification unless the Minister, by written notice to the Office, directs the Office not to make it.

S. 22(9)
amended by
No. 91/2000
s. 19(8).

(9) The Minister may, from time to time, by written notice to the Office, direct the Office to include in, or omit from, a statement of corporate intent, a business plan or a financial statement of a specified kind, any specified matters.

S. 22(10)
amended by
No. 91/2000
s. 19(6).

(10) Before giving a direction under this section, the Minister must consult with the Office as to the matters to be referred to in the notice.

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- (11) The Office must comply with a direction under this section.
 - (12) At any particular time, the statement of corporate intent, the business plan or the financial statements for the Office are the statements and plan last completed, with any modifications or deletions made in accordance with this Part.

23. *Statement of corporate intent: contents*

Each statement of corporate intent must specify for the Office, in respect of the financial year to which it relates and each of the 2 following financial years, the following information—

- (a) the objectives of the Office;
- (b) the nature and scope of the activities to be undertaken by the Office;
- (c) the accounting policies to be applied in the accounts;
- (d) the performance targets and other measures by which the performance of the Office may be judged in relation to its stated objectives;
- (e) the kind of information to be provided to the Minister by the Office during the course of those financial years;
- (f) such other matters as may be agreed on by the Minister and the Office from time to time.

S. 23(e)
amended by
No. 91/2000
s. 20(a).

S. 23(f)
amended by
No. 91/2000
s. 20(b).

24. *Office to act in accordance with corporate plan*

The Office must act only in accordance with its corporate plan, as existing from time to time, unless it has first obtained the written approval of the Minister to do otherwise.

S. 24
amended by
No. 91/2000
s. 21.

25. Nothing void merely because of non-compliance

Nothing done by the Office is void or unenforceable merely because the Office has failed to comply with this Part.

26. Protection from liability

- (1) The Director is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a power or the performance of a function of the Office; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function of the Office.
- (2) Any liability resulting from an act or omission that, but for sub-section (1), would attach to the Director attaches instead to the Office.

27. Appointment of persons to assist Office

- (1) The Office may appoint or engage such employees or other persons as are necessary for the performance of its functions.
- (2) The terms and conditions of appointment or engagement are as determined by the Office.

28. Improper use of information

A person who is, or has been, Director or an employee, agent or contractor of the Office, must not make improper use of any information acquired only in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 100 penalty units.

29. Costs of Office

A gas company must pay to the Office at such time or times as the Minister determines such annual amount (if any) as the Minister determines to be payable by that gas company in respect of the remuneration and reasonable costs and expenses of the Office.

30. *Borrowing and investment by Office*

The Office has the powers conferred on it by the **Borrowing and Investment Powers Act 1987**.

31. *General Account*

- (1) The Office must keep an account called the General Account.
- (2) The Office must ensure that there is paid into the General Account—
 - (a) all fees and charges received or recovered under this Act; and
 - (b) all other money received by it or on its behalf.
- (3) The Office may pay money out of the General Account—
 - (a) to meet any costs or expenses incurred in carrying out its functions or powers;
 - (b) in paying remuneration, allowances or expenses to which the Director, any acting Director or employees of the Office are entitled;
 - (c) for any other purpose authorised by this Act.

PART 3—GAS SAFETY

Division 1—General duties of gas companies

32. *General duties of gas companies*

A gas company must manage and operate each of its facilities to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public and customers arising from gas; and
- (b) the hazards and risks of damage to property of the public and customers arising from gas; and
- (c) the hazards and risks to the safety of the public and customers arising from—
 - (i) interruptions to the conveyance or supply of gas; and
 - (ii) the reinstatement of an interrupted gas supply.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

33. *Gas quality*

- (1) A gas company must ensure that, as far as practicable, the gas which it conveys—
 - (a) meets the prescribed standards of quality; and
 - (b) complies with any other prescribed requirements.

Penalty: In the case of a natural person,
300 penalty units;

In the case of a body corporate,
1500 penalty units.

- (2) A gas company which supplies or sells gas to a customer for use in a gas installation must ensure that, as far as practicable, the gas supplied or sold—
- (a) meets the prescribed standards of quality;
and
 - (b) complies with any other prescribed requirements.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

34. *Offence to supply or sell gas for unsafe gas installation*

- (1) A gas company must not knowingly supply or sell gas for use in a gas installation which is unsafe.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A gas company must not knowingly supply or sell gas for use in a gas installation which does not comply with this Act or the regulations except in the prescribed circumstances.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

35. *Offence to supply or sell gas where emergency plumbing order applies*

A gas company must not knowingly supply or sell gas for use in a gas installation to which an emergency plumbing order under section 221ZZF of the **Building Act 1993** applies.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

36. *Mandatory reporting of gas incidents*

(1) A gas company must report to the Office in accordance with the regulations any gas incident which occurs in relation to a facility of that gas company.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

(2) A gas company must report to the Office in accordance with the regulations any gas incident of which it is aware and which occurs in relation to a gas installation to which it supplies or sells gas.

Penalty: In the case of a natural person,
2 penalty units;
In the case of a body corporate,
10 penalty units.

(3) The Chief Officer of the Metropolitan Fire and Emergency Services and the Chief Officer under the **Country Fire Authority Act 1958** must report to the Office any fire or explosion in which

he or she suspects gas was a cause or contributing factor.

Division 2—Safety case for facility

37. Safety case

- (1) A gas company must submit a safety case to the Office for each of its facilities in accordance with this section.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A safety case for a facility must—
- (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed by the gas company—
 - (i) to comply with the gas company's duties under Division 1; and
 - (ii) in relation to any other matters relating to the safe conveyance, supply, sale, measurement or control of gas that are prescribed.
- (3) The safety case for a facility which is in operation immediately before the commencement of this section must be submitted within 6 months after that commencement.
- (4) The safety case for any other facility must be submitted to the Office before the facility commences operation.
- (5) A safety case may be submitted in stages.

(6) A safety case may apply to more than one facility.

(7) A gas company which has submitted a safety case for a facility under section 138 of the **Gas Industry Act 1994** before the commencement of this section is deemed to have complied with this section in relation to that facility.

38. *Validation of safety case for a facility*

- (1) If a safety case has been submitted for a facility, the Office may require the gas company to obtain an independent validation of that safety case or any part of that safety case.
- (2) The Office may require the validation to assess the design, construction, commissioning or operation of the facility or the required part of the facility or all or any of those matters to determine if the facility or part will be fit for the purpose.
- (3) The gas company must establish to the satisfaction of the Office that each person undertaking the validation of a matter has the necessary competence and ability and access to information on the matter to arrive at an independent opinion on the matter.
- (4) If the Office requires a gas company to provide an independent validation of a safety case or part of a safety case, the costs of that validation must be borne by the gas company.
- (5) The Office is not required to proceed with the consideration of a safety case until the independent validation is provided.

39. *Additional information*

- (1) The Office may require a gas company to provide any additional information that the Office thinks
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fit in relation to a safety case submitted by the gas company under this Division.

- (2) The Office is not required to proceed with the consideration of a safety case until the additional information is provided.

40. *Acceptance of safety case*

- (1) The Office must consider a safety case submitted under this Division with as much expedition as the requirements of this Act and the regulations and the proper consideration of the safety case permit.
- (2) The Office must accept a safety case submitted under this Division if it is satisfied that the safety case is appropriate for the facility to which it applies and complies with this Act and the regulations.
- (3) The Office must notify the gas company in writing of its decision to accept a safety case.

41. *Provisional acceptance of safety case*

- (1) The Office may provisionally accept a safety case if it is satisfied that it will provide for the safe operation of the facility.
- (2) The Office must notify the gas company in writing of its decision to provisionally accept a safety case.
- (3) The notice of acceptance must state—
 - (a) the period that the provisional acceptance will be in force; and
 - (b) the extent to which the safety case has been accepted; and
 - (c) any limitations or conditions which will apply in respect of the use or operation of the facility while the provisional acceptance is in force.

42. *Non-acceptance of safety case*

- (1) If the Office does not accept or provisionally accept a safety case it must—
 - (a) notify the gas company in writing of the non-acceptance; and
 - (b) give the gas company an opportunity to modify and re-submit the safety case.
- (2) A modified safety case must be submitted to the Office within 28 days after the notice is given under sub-section (1).
- (3) If, after considering any modified safety case submitted under this section, the Office decides not to accept a safety case the Office must give notice in writing of that decision to the gas company.
- (4) A notice under this section must be accompanied by a statement of the reasons for the decision.

43. *Office may determine safety case*

- (1) The Office may determine the safety case which is to apply in respect of a facility which is in operation at the time of the determination if—
 - (a) the gas company fails to submit a safety case for the facility in accordance with this Division; or
 - (b) the Office has decided not to accept a safety case for the facility.
- (2) If the Office determines the safety case to apply to a facility under this section, the Office must give notice in writing to the gas company of that determination.

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- (3) On notice being given to the gas company under sub-section (2), the safety case determined by the Office is deemed for the purposes of this Act to be the accepted safety case for the facility to which it applies.
 - (4) Nothing in sub-section (3) prevents a gas company from submitting a safety case or a revised safety case for a facility to the Office for acceptance under this Division.

44. *Compliance with safety case*

- (1) A gas company must not commission or commence to operate a facility of the gas company unless a safety case for that facility has been accepted or provisionally accepted under this Division.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (2) A gas company must comply with the accepted safety case for a facility in relation to the management and operation of the facility.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (3) A gas company must comply with the accepted safety case for a facility in relation to the removal, dismantling or decommissioning of the facility.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

- (4) A gas company must not—

- (a) undertake or permit a modification of a facility that has the potential to significantly increase the overall levels of risk in relation to a facility; or
- (b) undertake or permit a modification that has the potential to significantly influence the level of a specific risk or the ranking of risk contributing factors; or
- (c) make or permit a significant change to the safety management system in relation to the facility—

unless the Office has accepted a revision of the safety case in relation to that matter for that facility.

Penalty: In the case of a natural person,
300 penalty units;
In the case of a body corporate,
1500 penalty units.

45. *Revision of safety case—change*

A gas company must submit a revised safety case to the Office if—

- (a) developments in technical knowledge or the assessment of hazards relevant to the facility make it appropriate to revise the safety case; or
 - (b) proposed modifications of the facility will result in a significant increase in the overall levels of risk in relation to the facility; or
 - (c) a proposed modification of the facility may significantly influence the level of a specific risk or the ranking of risk contributing factors; or
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- (d) the gas company proposes to make a significant change to the safety management system in relation to the facility; or
 - (e) the gas company proposes to dismantle, decommission or remove the facility or part of the facility in a different manner from the procedures set out in the safety case for the facility.

46. Revision of safety case—each 5 years

A gas company must submit a revised safety case to the Office at the end of each period of 5 years commencing on the later of—

- (a) the date when the safety case is first accepted; or
- (b) the date of the most recent acceptance of a revision of the safety case submitted under this section.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

47. Office may request submission of revised safety case

- (1) The Office may at any time request a gas company to submit a revised safety case for a facility of the gas company.
- (2) The request must—
 - (a) be in writing; and
 - (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and

- (iii) the grounds for the request.
- (3) The gas company to whom the request is given may make a submission to the Office on all or any of the following grounds—
 - (a) that the revision should not occur;
 - (b) that the revision should be in different terms from the proposed terms;
 - (c) that the revision should take effect on a later date than the proposed date of effect.
- (4) The submission must—
 - (a) be in writing; and
 - (b) state the gas company's reasons for the submission; and
 - (c) be made within 21 days, or such later period as the Office in writing allows, after the request is received.
- (5) If a gas company makes a submission under this section, the Office must decide—
 - (a) to accept the submission or part of the submission and vary or withdraw the request accordingly; or
 - (b) to reject the submission.
- (6) The Office must give the gas company notice in writing of its decision on the submission and the reasons for that decision.

48. *Offence to fail to submit revised safety case on request*

If the Office requests the revision of a safety case in accordance with section 47, the gas company must submit a revised safety case for a facility to the Office—

- (a) if the gas company does not make a submission under that section, within the
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time (being not less than 60 days) specified by the Office in the request; or

- (b) if the gas company has made a submission under that section and the Office has not withdrawn the request, within the time (being not less than 60 days) specified by the Office in the decision on the submission.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

49. Application of provision to revised safety case

Sections 38 to 43 apply to the revision of a safety case in the same manner as they apply to a safety case.

50. Compliance with safety case is defence

It is a defence to a prosecution of a person for an offence relating to a breach of a duty or obligation set out in Division 1 if the person has complied with the accepted safety case in relation to that duty or obligation.

Division 3—Safety case for gas installation

51. Definitions

In this Division—

"manufacturer" in relation to a class of appliances or gas installations, means a person who manufactures that class of appliances or installations;

"operator" in relation to a gas installation or proposed gas installation, means the person who owns or operates or is to own or operate the gas installation.

52. Safety case for complex gas installation in manufacturing or industrial premises

S. 52(1)
amended by
No. 91/1998
s. 27(1).

- (1) The Office may permit the operator of a complex gas installation or proposed complex gas installation which is or is to be located in manufacturing or industrial premises to submit a safety case for that gas installation.
- (2) A safety case submitted under this section must—
 - (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safe installation and operation of the gas installation.
- (3) Sections 38 to 42 apply to a safety case under this section as if—

S. 52(3)(a)
amended by
No. 91/1998
s. 27(1).

- (a) any reference to a facility were a reference to the complex gas installation; and

S. 52(3)(b)
amended by
No. 91/1998
s. 27(1).

- (b) any reference to a gas company were a reference to the operator of the complex gas installation.

53. Safety case for supply and installation of Type B appliances in manufacturing or industrial premises

- (1) The Office may permit a manufacturer of a class of Type B appliances intended for use in manufacturing or industrial premises to submit a safety case in relation to the supply and installation of those appliances.
 - (2) A safety case submitted under this section must—
 - (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being
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followed or to be followed in respect of the safe supply and installation of the class of Type B appliances.

- (3) Sections 38 to 42 apply to a safety case under this section as if—
- (a) any reference to a facility were a reference to the supply and installation of the Type B appliances; and
 - (b) any reference to a gas company were a reference to the manufacturer of the Type B appliances.

54. *Safety case for manufacture of complex gas installations*

- (1) The Office may permit a manufacturer of a class of complex gas installations to submit a safety case for the manufacture of that class of gas installations.
- (2) A safety case submitted under this section must—
 - (a) be in writing; and
 - (b) in accordance with the regulations, specify the safety management system being followed or to be followed in respect of the safety of the class of gas installations.
- (3) Sections 38 to 42 apply to a safety case under this section as if—
 - (a) any reference to a facility were a reference to the manufacture of the complex gas installations; and
 - (b) any reference to a gas company were a reference to the manufacturer of the complex gas installations.

S. 54(1)
amended by
No. 91/1998
s. 27(2).

S. 54(3)(a)
amended by
No. 91/1998
s. 27(2).

S. 54(3)(b)
amended by
No. 91/1998
s. 27(2).

- (4) This section does not apply to the manufacture of a gas installation at the site at which it is intended to be used.

55. Exemption from regulations

S. 55(1)
amended by
No. 91/1998
s. 27(1).

- (1) If the Office accepts a safety case submitted under section 52, the Office may exempt the operator of the complex gas installation from compliance with any of the regulations relating to the installation and operation of gas installations.
- (2) If the Office accepts a safety case submitted under section 53, the Office may exempt the manufacturer of the Type B appliances from compliance with any of the regulations relating to the installation of appliances.

S. 55(3)
amended by
No. 91/1998
s. 27(2).

- (3) If the Office accepts a safety case submitted under section 54, the Office may exempt the manufacturer of the complex gas installations from compliance with any of the regulations relating to the installation of gas installations.
- (4) If the Office accepts a safety case submitted under this Division, the Office may exempt any person authorised under the safety case to carry out a class or type of gasfitting work from compliance with any of the regulations relating to the carrying out of that class or type of gasfitting work.
- (5) The Office must not grant an exemption under this section from compliance with a regulation unless the Office is satisfied that the level of safety to be provided if the exemption is given is not less than the level of safety which would be required to be provided under the regulation.
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56. Compliance with safety case

- (1) An operator of a complex gas installation for which there is an accepted safety case under this Division must comply with that safety case in respect of that gas installation.

S. 56(1)
amended by
No. 91/1998
s. 27(1).

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

- (2) A manufacturer of a class of Type B appliances for which there is an accepted safety case under this Division must comply with that safety case in respect of the supply and installation of those appliances.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

- (3) A manufacturer of a class of complex gas installations for which there is an accepted safety case under this Division must comply with that safety case in respect of the manufacture of those gas installations.

S. 56(3)
amended by
No. 91/1998
s. 27(2).

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

57. Revision of safety case—each 5 years

An operator of a complex gas installation or a manufacturer of a class of Type B appliances or of a class of complex gas installations in respect of which an accepted safety case applies under this Division must submit a revised safety case to the Office at the end of each period of 5 years commencing on the later of—

S. 57
amended by
No. 91/1998
s. 27(1)(2).

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- (a) the date when the relevant safety case is first accepted; or
 - (b) the date of the most recent acceptance of a revision of the safety case submitted under this section.

Penalty: In the case of a natural person,
50 penalty units;
In the case of a body corporate,
250 penalty units.

58. Office may request submission of revised safety case

(1) The Office may at any time request—

S. 58(1)(a)
amended by
No. 91/1998
s. 27(1).

- (a) an operator of a complex gas installation to which an accepted safety case applies to submit a revised safety case for that installation; or
- (b) a manufacturer of a class of Type B appliances to which an accepted safety case applies to submit a revised safety case for that class of appliances; or

S. 58(1)(c)
amended by
No. 91/1998
s. 27(2).

- (c) a manufacturer of a class of complex gas installations to which an accepted safety case applies to submit a revised safety case for that class of gas installations.

(2) The request must—

- (a) be in writing; and
- (b) set out—
 - (i) the matters to be addressed by the required revision; and
 - (ii) the proposed date of effect of the revision; and
 - (iii) the grounds for the request.

59. Compliance with request

An operator or manufacturer must comply with a request under section 58 within the time (being not less than 60 days) specified by the Office in the request.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

60. Lapsing of safety case

- (1) If an operator of a complex gas installation or manufacturer of a class of Type B appliances or a class of complex gas installations fails to comply with section 57 or 58, the Office, by notice in writing to the operator or manufacturer, may determine that the accepted safety case applying to that gas installation or class of appliances or class of gas installations has lapsed.
- (2) An operator of a complex gas installation or a manufacturer of a class of Type B appliances or a class of complex gas installations may, by notice in writing to the Office, withdraw an accepted safety case applying to that gas installation or class of appliances or class of gas installations.
- (3) If an accepted safety case has lapsed or been withdrawn, any exemption granted under section 55 in respect of that safety case lapses.

S. 60(1)
amended by
No. 91/1998
s. 27(1)(2).

S. 60(2)
amended by
No. 91/1998
s. 27(1)(2).

61. Duty of operator of complex gas installation

The operator of a complex gas installation to which an accepted safety case applies must manage and operate that gas installation to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the use of the gas installation; and

S. 61
amended by
No. 91/1998
s. 27(1).

- (b) the hazards and risks to property arising from the use of the gas installation.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

62. Duty of manufacturer of Type B appliances

A manufacturer of a class of Type B appliances in respect of which an accepted safety case applies must ensure that those appliances are manufactured and installed in such a manner to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the gas installation; and
- (b) the hazards and risks to property arising from the gas installation.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

63. Duty of manufacturer of complex gas installations

A manufacturer of a class of complex gas installations to which an accepted safety case applies must ensure that those gas installations are manufactured in such a manner to minimise as far as practicable—

- (a) the hazards and risks to the safety of the public arising from the gas installations; and

- (b) the hazards and risks to property arising from the gas installations.

S. 63
amended by
No. 91/1998
s. 27(2).

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

64. *Compliance with safety case is a defence*

It is a defence to a prosecution of a person for an offence relating to a breach of a duty set out in section 61, 62 or 63 if the person has complied with the accepted safety case in relation to that duty.

Division 4—Approval or authorisation to undertake certain gas work

65. *Approval of persons to carry out upstream gas work*

- (1) Any person may apply to the Office for approval to carry out upstream gas work in relation to a particular facility or class of facility.
- (2) An application under sub-section (1) must—
 - (a) be in writing; and
 - (b) contain the prescribed information; and
 - (c) be accompanied by the relevant prescribed fee.
- (3) The Office may grant an approval under this section to a person to undertake upstream gas work or a particular class of upstream gas work in relation to a particular facility or class of facility if the Office is satisfied that the applicant has the appropriate qualifications and experience to undertake that work.
- (4) An approval under this section is granted subject to—

- (a) any terms, conditions or limitations specified in the approval; and
 - (b) any terms, conditions or limitations which are prescribed.
- (5) The Office may at any time suspend or cancel an approval given under this section.

66. *Offence to carry out upstream gas work without approval or authorisation*

A person must not carry out upstream gas work in relation to any facility unless the person—

- (a) is approved under section 65 to carry out that work; or
- (b) is authorised under an accepted safety case to carry out that work.

Penalty: In the case of a natural person,
50 penalty units;
In the case of a body corporate,
250 penalty units.

67. *Standard of gas work*

A person who carries out gas work in relation to a facility must carry out that work competently and with due regard to safety.

Division 5—Appliances and gas installations

68. *Authorisation of acceptance scheme*

The Office, by notice published in the Government Gazette, may declare any acceptance scheme for appliances or any part of the scheme specified in the notice to be authorised for the purposes of this Act.

69. *Acceptance of appliance by Office*

Gas Safety Act 1997

Act No. 99/1997

- (1) The Office, on the application of any person, may accept an appliance or class of appliances for the purposes of this Act.
- (2) An application must—
 - (a) be in writing; and
 - (b) contain or be accompanied by the prescribed information; and
 - (c) be made in accordance with the regulations; and
 - (d) be accompanied by the relevant prescribed fee.
- (3) The Office must notify the applicant in writing of its decision—
 - (a) to accept an appliance or class of appliances; or
 - (b) to accept an appliance or class of appliances subject to the conditions specified by the Office; or
 - (c) not to accept an appliance or class of appliances.
- (4) The conditions specified by the Office in respect of an appliance or class of appliances may include—
 - (a) requirements for the testing of the appliance or appliances in accordance with the regulations by a person or body approved by the Office; and
 - (b) requirements for modifications to be made to the appliance or appliances; and
 - (c) requirements for the affixing of compliance plates to the appliance or appliances in accordance with the regulations.

- (5) Without limiting sub-section (3), the Office may decide not to accept an application under this section if an acceptance scheme authorised under this Division exists for the appliance.
- (6) If the Office decides not to accept an appliance or class of appliance under this section it must notify the applicant in writing of the reasons for the decision.
- (7) If the Office accepts an appliance or class of appliance subject to conditions, the acceptance takes effect in respect of an appliance when the conditions are complied with.

S. 69A
inserted by
No. 91/2000
s. 22.

69A. Declaration of non-acceptance of appliance

- (1) The Office may, by notice published in the Government Gazette, declare that an appliance or class of appliances is no longer accepted for the purposes of this Act.
- (2) If a notice under this section relates to a class of appliances, the Office must also publish that notice in a newspaper circulating generally in the State.
- (3) If a notice under this section relates to a particular appliance, the Office must also notify, in writing, the owner of the appliance or the occupier of the premises in which that appliance is installed of that notice.
- (4) The Office may make a declaration under this section only if it appears to the Office that the appliance or class of appliances is, or is likely to be, unsafe to use.
- (5) On publication of the notice in the Government Gazette, the appliance or class of appliances is, while the notice is in force, deemed as the case requires—

- (a) not to be accepted under an acceptance scheme authorised under this Division; or
- (b) not to be accepted by the Office under this Division.

70. Offence to install certain Type A appliances

- (1) A person must not knowingly install a Type A appliance unless the appliance has been—
 - (a) accepted under an acceptance scheme authorised under this Division; or
 - (b) accepted by the Office under this Division.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) Sub-section (1) does not apply to a person who installs a Type A appliance of a prescribed class after an application is made for acceptance of the appliance—
 - (a) under an acceptance scheme authorised under this Division; or
 - (b) by the Office under this Division.

- (3) A person must not commission for use a Type A appliance that is installed in accordance with sub-section (2) unless the appliance has been accepted—
 - (a) under an acceptance scheme authorised under this Division; or
 - (b) by the Office under this Division.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

S. 70
amended by
No. 91/2000
s. 23 (ILA
s. 39B(1)).

S. 70(2)
inserted by
No. 91/2000
s. 23.

S. 70(3)
inserted by
No. 91/2000
s. 23.

S. 71
amended by
No. 91/2000
s. 24 (ILA
s. 39B(1)).

71. Offence to supply or sell unaccepted appliances

(1) A person must not supply or offer to supply or sell or offer to sell a Type A appliance unless the appliance has been—

- (a) accepted under an acceptance scheme authorised under this Division; or
- (b) accepted by the Office under this Division.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

S. 71(2)
inserted by
No. 91/2000
s. 24.

(2) Sub-section (1) does not apply to a person who supplies or offers to supply or sells or offers to sell a Type A appliance of a class prescribed for the purposes of section 70(2) if an application for acceptance—

- (a) under an acceptance scheme authorised under this Division; or
- (b) by the Office under this Division—

has been made for that appliance before that appliance is supplied or sold or offered for supply or sale.

S. 71(3)
inserted by
No. 91/2000
s. 24.

(3) If sub-section (2) applies to an appliance, a person must not supply or offer to supply or sell or offer to sell that appliance unless the person first informs the person to whom the supply or sale or offer is to be made of the requirements of sections 70 and 72.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

71A. Offence to sell unsafe appliances

S. 71A
inserted by
No. 91/2000
s. 25.

- (1) A person must not knowingly, recklessly or negligently supply or offer to supply or sell or offer to sell an appliance that is unsafe.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) Sub-section (1) does not apply to a person who—

- (a) supplies or offers to supply or sells or offers to sell the appliance to an appliance refurbisher and repairer; and
(b) the person informs the appliance refurbisher and repairer, before the appliance is supplied or sold or offered for supply or sale, that the appliance is unsafe.

- (3) In this section—

"appliance refurbisher and repairer" means a person who carries on the business of repairing, rebuilding or refurbishing appliances.

71B. False labelling in relation to Type A appliances

S. 71B
inserted by
No. 91/2000
s. 25.

A person must not, in connection with the supply or possible supply or sale of a Type A appliance, affix a label or compliance plate to the appliance that falsely represents that the appliance has been, and continues to be—

- (a) accepted under an acceptance scheme authorised under this Division; or

(b) accepted by the Office under this Division.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

S. 71C
inserted by
No. 91/2000
s. 25.

71C. *Unsafe modifications to Type A appliances*

(1) A person must not knowingly, recklessly or negligently make a modification to a Type A appliance that would make the appliance unsafe to use if the appliance were used for its intended purpose.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

(2) This section does not apply to a temporary modification made by a person in the course of—

(a) a process of manufacture or assembly of an appliance; or

(b) carrying out repair or maintenance work on an appliance; or

(c) rebuilding or refurbishing an appliance—

provided the appliance is safe to use for its intended purpose at the end of the process of manufacture or assembly, the carrying out of the repair or maintenance work or the rebuilding or refurbishment of the appliance (as the case requires).

72. *Compliance with prescribed standards and requirements for work on gas installation*

(1) A person carrying out gasfitting work must ensure that that work complies with—

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- (a) the prescribed standards and requirements in relation to that work; or
 - (b) the standards determined by the Office under the regulations in relation to that work.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) A person carrying out gasfitting work on an appliance or gas installation must ensure that the appliance or gas installation complies with—
 - (a) the prescribed standards and requirements in relation to that appliance or gas installation; or
 - (b) the standards determined by the Office under the regulations in relation to that work.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (3) A person may apply to the Office in accordance with the regulations for an exemption from all or any of the standards or requirements referred to in this section.
- (4) The Office may grant the exemption if the Office is satisfied that—
 - (a) compliance with the standard or requirement does not warrant the cost of compliance; and
 - (b) the degree of safety attained by other means is acceptable.
- (5) An exemption may be granted on such conditions as are specified in the exemption.

- (6) A person to whom an exemption applies must comply with any conditions specified in the exemption.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

73. Acceptance of gas installation

S. 73(1)
substituted by
No. 91/1998
s. 28(1).

- (1) A person who carries out work on a complex gas installation or on a standard gas installation of a prescribed class must apply to the Office for acceptance of the gas installation before the gas installation is commissioned.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) An application must—
- (a) be in writing; and
 - (b) contain or be accompanied by the prescribed information; and
 - (c) contain or be accompanied by a statement of compliance in the prescribed form made and signed by a prescribed person or a person in a prescribed class of persons; and
 - (d) be made in accordance with the regulations; and
 - (e) be accompanied by the relevant prescribed fee.
- (3) The Office must notify the applicant in writing of its decision—
- (a) to accept the gas installation; or
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- (b) to accept the gas installation subject to the conditions specified by the Office; or
 - (c) not to accept the gas installation.
- (4) The conditions specified by the Office in respect of a gas installation may include—
- (a) requirements for the testing of the gas installation in accordance with the regulations by a person or body approved by the Office; and
 - (b) requirements for modifications to be made to the gas installation; and
 - (c) requirements for the affixing of compliance plates to the gas installation or to any appliance forming part of the gas installation in accordance with the regulations.
- (5) If the Office decides not to accept a gas installation under this section it must notify the applicant in writing of the reasons for the decision.
- (6) If the Office accepts a gas installation subject to certain conditions, the acceptance takes effect when the conditions are complied with.
- (7) This section does not apply to a gas installation if an accepted safety case applies in relation to the gas installation.
- (8) This section does not apply to repair or maintenance work on a gas installation.
- (9) In this section "**gas installation**" includes part of a gas installation.

S. 73(4)(c)
amended by
No. 91/1998
s. 28(2).

S. 73(9)
inserted by
No. 91/1998
s. 28(3).

74. *Offence to use Type B appliance*

Except in the prescribed circumstances, a person must not use a Type B appliance unless the gas installation of which that appliance forms part—

- (a) has been accepted by the Office in accordance with this Division; or
- (b) has been installed in accordance with an accepted safety case.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

75. *Offence to supply or sell certain appliances without giving required information*

If section 74 applies to a Type B appliance, a person must not supply or offer to supply or sell or offer to sell a Type B appliance unless the person first informs the person to whom the supply or sale or offer is to be made of the requirements of section 74.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

76. *Prohibition of supply or sale of gas installations, appliances and components*

- (1) The Office, by notice published in the Government Gazette and in a newspaper circulating generally in the State, may prohibit the supply or sale of—
 - (a) a gas installation or gas installations of a specified class; or

S. 76
substituted by
No. 91/2000
s. 26.

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- (b) an appliance or appliances of a specified class; or
 - (c) a component or components of a specified class.
- (2) A prohibition under sub-section (1) operates from the date of publication of the notice in the Government Gazette or from such later date as is specified in that notice.
- (3) The Office, by notice in writing given to a person, may prohibit that person from supplying or selling—
- (a) a gas installation or gas installations of a specified class; or
 - (b) an appliance or appliances of a specified class; or
 - (c) a component or components of a specified class.
- (4) A notice given under sub-section (3) operates from the date of the notice or such later date as is specified in that notice.
- (5) The Office may exercise a power of prohibition under this section only if it appears to the Office that—
- (a) the gas installation, appliance or component, or a gas installation, appliance or component of that class is, or is likely to become, by reason of its design or construction, unsafe to use; and
 - (b) prohibition of the supply or sale of the gas installation, appliance or component, or of all gas installations, appliances or components of that class, is warranted because of the risk of death or injury to any person or damage to any property arising out
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of the use of that gas installation, appliance or component or gas installations, appliances or components of that class.

- (6) The Office may withdraw a prohibition made under sub-section (1) by notice published in the Government Gazette and in a newspaper circulating generally in the State.
- (7) The Office may withdraw a prohibition made under sub-section (3) by notice given to the person to whom the prohibition was given.
- (8) This section applies whether or not the gas installation, appliance or component, or class of gas installations, appliances or components was accepted by the Office or accepted under an acceptance scheme authorised under this Division.

77. Offence to disobey prohibition

- (1) A person must not, while a prohibition under section 76(1) remains in force, do anything prohibited by that prohibition.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

- (2) A person must not, while a prohibition under section 76(3) remains in force, do anything prohibited by that prohibition.

Penalty: In the case of a natural person,
200 penalty units or 2 years
imprisonment or both;
In the case of a body corporate,
1000 penalty units.

S. 77(2)
amended by
No. 91/2000
s. 27.

78. Recall of gas installations, appliances or components

S. 78
substituted by
No. 91/2000
s. 28.

- (1) The Office may make a requirement under this section only if it appears to the Office that—
 - (a) a gas installation, appliance or component is, or is likely to become, by reason of its design or construction, unsafe to use; or
 - (b) specific action is necessary—
 - (i) to make the gas installation, appliance or component, or gas installations, appliances or components of that class safe to use; or
 - (ii) to render safe the use of the gas installation, appliance or component, or gas installations, appliances or components of that class.
- (2) The Office, by notice in writing served on a person whose business is or includes the supply or sale of gas installations, appliances or components and who has supplied or sold the gas installation, appliance or component, or other gas installations, appliances or components of the same class, may require the person to take, within the period specified in the notice, the action specified in the notice.
- (3) The action specified in the notice may consist of or include—
 - (a) sending a written request to the person to whom the gas installation, appliance or component, or a gas installation, appliance or component of the same class, was supplied or sold—
 - (i) to return the gas installation, appliance or component to the place at which it was supplied or sold; or

- (ii) if it is not practicable to return the gas installation, appliance or component, to contact the person who supplied or sold the gas installation, appliance or component;
 - (b) placing an advertisement in a form approved by the Office in a newspaper or newspapers specified by the Office for a period or periods specified by the Office, requesting all persons to whom a gas installation, appliance or component of that class was supplied or sold—
 - (i) to return the gas installation appliance or component to the place at which it was supplied or sold; or
 - (ii) if it is not practicable to return the gas installation, appliance or component, to contact the person who supplied or sold the gas installation, appliance or component;
 - (c) making the gas installation, appliance or component, or gas installations, appliances or components of that class safe to use or rendering safe the use of that gas installation, appliance or component in the manner specified in the notice.
- (4) The Office may alter or revoke a requirement under this section by notice given to the person of whom the requirement was made.
- (5) This section applies whether or not the gas installation, appliance or component or class of gas installations, appliances or components was accepted by the Office or accepted under an acceptance scheme authorised under this Division.

79. Offence to fail to comply with requirement

A person of whom a requirement is made under section 78 must comply with that requirement.

Penalty: In the case of a natural person,
200 penalty units or 2 years
imprisonment or both;
In the case of a body corporate,
1000 penalty units.

Division 6—Further offences relating to gas safety

79A. Supply or sale of certain types of liquefied petroleum gas

- (1) A person, other than a gas company, must not knowingly supply or offer to supply or sell or offer to sell any type of liquefied petroleum gas for use in an appliance unless—
 - (a) that gas meets the prescribed standards of quality; and
 - (b) the appliance is designed to be operated on that type of gas; and
 - (c) the person complies with the prescribed requirements in relation to the supply or sale of that gas.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.

- (2) This section does not apply to a prescribed appliance or class of appliances.

Pt 3 Div. 6
(Heading)
inserted by
No. 91/2000
s. 29.

S. 79A
inserted by
No. 91/1998
s. 29,
substituted by
No. 91/2000
s. 29.

S. 79B
inserted by
No. 91/2000
s. 29.

79B. *Interference with gas company pipelines*

A person must not carry out any excavation or boring or open any ground so as to uncover or expose any pipeline owned or operated by a gas company unless—

- (a) the person has the authority of that gas company to do so; or
- (b) if notice of the person's intention to do so is required to be given to that gas company under the regulations, the person gives that notice.

Penalty: In the case of a natural person,
20 penalty units;
In the case of a body corporate,
100 penalty units.

S. 79C
inserted by
No. 91/2000
s. 29.

79C. *Interference with transmission pipelines*

- (1) A person must not carry out any excavation or boring or open any ground within 3 metres of a transmission pipeline unless—

- (a) the person has the authority of the gas company which owns or operates the transmission pipeline to do so; or
- (b) if notice of the person's intention to do so is required to be given to that gas company under the regulations, the person gives that notice.

Penalty: In the case of a natural person,
20 penalty units;
In the case of a body corporate,
100 penalty units.

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- (2) This section does not apply to—
- (a) an owner or occupier of any land on or under which the transmission pipeline is situated or passes if the owner or occupier excavates or bores or opens ground to a depth of not more than 300 millimetres in that land; or
 - (b) a person who, on behalf of an owner or occupier of any land on or under which the transmission pipeline is situated or passes, excavates or bores or opens ground to a depth of not more than 300 millimetres in that land.

79D. *Interference with pipeline, gas installation or meter assembly*

S. 79D
inserted by
No. 91/2000
s. 29.

- (1) A person must not knowingly, recklessly or negligently break, injure, open or tamper with any pipeline, gas installation or meter assembly.
- Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.
- (2) This section does not apply to any person lawfully carrying out gas work in respect of the pipeline, gas installation or meter assembly.
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s. 79E

Pt 3A
(Heading and
ss 79E, 79F)
inserted by
No. 91/2000
s. 30.

PART 3A—ENERGY EFFICIENCY

S. 79E
inserted by
No. 91/2000
s. 30.

79E. *Proclaimed gas equipment*

The Governor in Council, by Order published in the Government Gazette, may declare that any class, description or type of gas installation, appliance or component is, from a date specified in the Order, proclaimed gas equipment for the purposes of this Part.

S. 79F
inserted by
No. 91/2000
s. 30.

79F. *Proclaimed gas equipment not to be supplied unless registered and labelled*

A person must not, after the date specified in the Order, supply or offer to supply proclaimed gas equipment unless the equipment is registered and labelled in accordance with the regulations relating to energy efficiency.

Penalty: 50 penalty units.

PART 4—GAS APPEALS BOARD

80. *Establishment*

- (1) There is established by this Act a Board to be called the Gas Appeals Board.
- (2) The members of the Gas Appeals Board are to be appointed by the Governor in Council on the recommendation of the Minister.
- (3) The Gas Appeals Board is to consist of—
 - (a) a person appointed to be chairperson of the Board; and
 - (b) as many other persons as the Minister considers necessary for the purposes of this Act, and who, in the Minister's opinion, have experience in the gas industry or in matters related to that industry or in law or public administration.
- (4) Schedule 1 has effect with respect to the membership and procedure of the Gas Appeals Board.

81. *Right of appeal*

- (1) A person who is aggrieved by a decision of the Office set out in sub-section (2) may appeal against the decision in accordance with this Part.
- (2) An appeal may be made to the Gas Appeals Board in relation to the following—
 - (a) a decision under section 65 not to approve a person to carry out upstream gas work;
 - (b) a decision under section 65 to cancel or suspend an approval given under that section;
 - (c) a refusal under section 69 to accept an appliance;

S. 81(2)(ca)
inserted by
No. 91/2000
s. 31(a).

- (ca) a declaration under section 69A that an appliance or class of appliances is no longer accepted;
- (d) a refusal under section 73 to accept a gas installation;
- (e) a condition on an acceptance under section 69 or 73;
- (f) a prohibition under section 76;
- (g) a requirement under section 78;
- (h) a decision of the Office under the regulations which is prescribed for the purposes of this section.

(3) A person to whom an improvement notice or prohibition notice is issued under Part 6 may appeal to the Gas Appeals Board against the notice.

(4) An appeal under sub-section (3) must be lodged with the Gas Appeals Board within 7 days after the notice is issued.

S. 81(5)
amended by
No. 91/2000
s. 31(b).

(5) Any other appeal under this section must be lodged with the Gas Appeals Board within the relevant prescribed time after notice of the decision, refusal, declaration, prohibition or requirement which is the subject of the appeal is received by the appellant.

82. *Effect of decisions under appeal*

An appeal under this Part does not stay the operation of the decision under appeal, unless the Gas Appeals Board otherwise determines.

83. *Nature of an appeal*

(1) An appeal under this Part is in the nature of a re-hearing.

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- (2) On an appeal the Gas Appeals Board may consider matters not raised before the decision under appeal was made.

84. *What action can be taken on appeal?*

- (1) The Gas Appeals Board must consider and determine an appeal and by its determination may—
- (a) affirm the decision under appeal; or
 - (b) quash the decision under appeal; or
 - (c) vary the decision under appeal; or
 - (d) set the decision under appeal aside and—
 - (i) substitute its own determination; or
 - (ii) remit the decision to the Office for reconsideration in accordance with any directions or recommendations that it considers appropriate.
- (2) In considering and determining an appeal, the Gas Appeals Board has in addition to its other powers all the powers of the Office and the Director in relation to the decision under appeal.
- (3) The Gas Appeals Board may make any ancillary or incidental orders that it considers necessary to give effect to its determination on an appeal.

85. *Duties of the Office*

- (1) The Office must give the Gas Appeals Board such assistance as the Board may require including the provision of all the information in relation to the appeal available to the Office.
- (2) The Office must take such action as is necessary to give effect to a determination of the Gas Appeals Board under this Part.
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PART 5—INSPECTION

Division 1—Appointment of inspectors

86. Inspectors

S. 86(1)
substituted by
No. 39/1999
s. 32(1),
amended by
No. 32/2001
s. 34(2).

- (1) The Director may appoint an officer or employee of the Office or an agent or contractor of the Office to be an inspector for the purposes of this Act and the **Gas Industry Act 2001**.

S. 86(2)
amended by
No. 39/1999
s. 32(2)(a).

- (2) The Director must give an identity card to each person who is appointed an inspector.

S. 86(3)(b)
amended by
No. 39/1999
s. 32(2)(b).

- (3) The identity card—
- (a) must be signed by the Director; and
 - (b) bear a photograph and the signature of the inspector.

S. 86(4)
amended by
No. 39/1999
s. 32(2)(c),
substituted by
No. 91/2000
s. 32.

- (4) An inspector must produce his or her identity card for inspection—

S. 86(4)(a)
amended by
No. 32/2001
s. 34(3).

- (a) before performing a function under this Act or the **Gas Industry Act 2001**; and

S. 86(4)(b)
amended by
No. 32/2001
s. 34(3).

- (b) at any time during the performance of a function under this Act or the **Gas Industry Act 2001**, if asked to do so.

Penalty: 10 penalty units.

- (5) The Director must not appoint an agent or contractor of the Office to be an inspector unless satisfied that the agent or contractor—
- (a) is competent to exercise the functions of an inspector; and
 - (b) is of good repute, having regard to character, honesty and integrity; and
 - (c) agrees in writing to carry out the functions of an inspector in accordance with such criteria as are established from time to time by the Office.

S. 86(5)
substituted by
No. 39/1999
s. 32(3).

Division 2—Powers of entry—general

87. Powers of entry—safety cases and gas incidents

- (1) An inspector may exercise powers under this section only to the extent that is reasonably necessary to do so for the purpose of—
- (a) investigating a gas incident; or
 - (b) determining compliance with a safety case;
or
 - (c) monitoring the safety of gas installations; or
 - (d) determining compliance with this Act or the regulations.
- (1A) An inspector must obtain the prior written consent of the Office before each exercise of a power under this section for a purpose set out in subsection (1)(c) or (d).

S. 87(1)(b)
amended by
No. 91/2000
s. 33(1).

S. 87(1)(c)
inserted by
No. 91/2000
s. 33(1).

S. 87(1)(d)
inserted by
No. 91/2000
s. 33(1).

S. 87(1A)
inserted by
No. 91/2000
s. 33(2).

Gas Safety Act 1997

Act No. 99/1997

s. 87

S. 87(2)
amended by
No. 91/2000
s. 33(3).

- (2) Subject to sub-section (2A), an inspector may enter any residence or the land on which a residence is situated if—
- (a) the inspector gives the occupier not less than 24 hours notice, or such other notice as may be agreed with the occupier, before the inspector enters the land or residence; and
 - (b) the occupier consents in writing to that entry; and
 - (c) the entry occurs only between 8 a.m. and 6 p.m., unless the occupier consents in writing to entry outside those hours.

S. 87(2A)
inserted by
No. 91/2000
s. 33(4).

- (2A) An inspector may not, for a purpose set out in sub-section (1)(c) or (d), enter—
- (a) a residence; or
 - (b) land (other than land that is used for a commercial or industrial purpose) on which a residence is situated.
- (3) An inspector may enter any other land or premises during normal business hours.
- (4) In carrying out an inspection under this section, an inspector must—
- (a) cause as little harm and inconvenience or damage as possible; and
 - (b) not remain on the land or premises any longer than is reasonably necessary; and
 - (c) leave the land or premises as nearly as possible in the same condition as it was found prior to the inspection being carried out.
- (5) An inspector may not exercise any powers under this section if the inspector fails to produce, on

request, his or her identity card for inspection by the occupier of the land or premises.

- (6) If an inspector exercises a power of entry under this section, without the owner or occupier being present, the inspector must—

S. 87(6)
inserted by
No. 91/2000
s. 33(5).

- (a) on leaving the land or premises, leave a notice setting out—
- (i) the time of entry; and
 - (ii) the purpose of entry; and
 - (iii) a description of all things done while on the land or premises; and
 - (iv) the time of departure; and
 - (v) the procedure for contacting the Office for further details of the entry; and
- (b) post a copy of that notice—
- (i) to the owner of the land or premises, if the identity and address of that owner are known to the inspector; and
 - (ii) to the occupier of the land or premises, if the identity and address of that occupier are known to the inspector.

88. *Occupier to be given copy of consent*

- (1) An occupier who consents in writing to entry of his or her residence or the land on which the residence is situated under section 87 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry under section 87.

89. Emergency access

- (1) An inspector may enter any land or premises at any time in an emergency if there is a threat to the safety of persons or property arising from a situation relating to gas.
- (2) If an inspector exercises a power of entry under this section, without the owner or occupier being present, the inspector must, on leaving the land or premises, leave a notice setting out—
 - (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of all things done while on the land or premises; and
 - (d) the time of departure; and
 - (e) the procedure for contacting the Office for further details of the entry.

90. Powers on entry

- (1) On exercising a power of entry under this Division, an inspector may for the purpose for which the power of entry was exercised—
 - (a) search the land or premises and anything found at the land or premises;
 - (b) inspect and take photographs (including video recordings), or make sketches, of the land or premises or anything on the land or at the premises;
 - (c) inspect, and make copies of, or take extracts from, any document kept on the land or at the premises;
 - (d) seize anything on the land or at the premises the inspector believes on reasonable grounds

that it is necessary to seize in order to prevent its concealment, loss or destruction;

- (e) examine, test and, if necessary, disconnect, seize and remove or otherwise make safe any appliance, gas installation, gas pipe, gas fitting, apparatus or equipment that the inspector considers unsafe or does not comply with this Act or the regulations or was involved in a gas incident.
- (2) If an inspector is unable to ascertain the identity of the owner or custodian of anything seized, the inspector must—
- (a) leave a receipt with, or post it to, the owner of the land or premises from which the thing was seized; and
 - (b) if a document is seized, leave a copy of the document, if practicable, with, or post it to, the owner of the land or premises from which the document was seized.

91. *Return of things seized*

- (1) If an inspector seizes a thing under section 90, the inspector must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned within 14 days after it is seized, the inspector must take reasonable steps to return it unless—
 - (a) proceedings have commenced and those proceedings (including any appeal) have not been completed; or
 - (b) a court makes an order under section 92 extending the period of 14 days.

92. *Magistrates' Court may extend period*

- (1) An inspector may apply to the Magistrates' Court before the expiration of the period referred to in section 90 or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.

93. *Entry to be reported to Gas Appeals Board*

- (1) If an inspector exercises a power of entry under this Division, the inspector must report the exercise of the power to the Gas Appeals Board in accordance with the regulations.
- (2) The Gas Appeals Board must keep a register containing the prescribed particulars of all matters reported to it under this section.

Division 3—Powers of entry—enforcement

94. *Powers of entry—enforcement*

- (1) If an inspector has reasonable grounds for suspecting that there is on any land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations, the inspector may—
 - (a) enter the land or premises; and
 - (b) search for the thing.

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- (2) An inspector must not enter land or premises under this Division except—
- (a) with the written consent of the occupier of the land or premises; or
 - (b) under the authority of a search warrant.

95. *Occupier to be given copy of consent*

- (1) An occupier who consents in writing to entry of his or her land or premises under section 94 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

96. *Search warrant*

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to particular land or premises if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (2) A magistrate may issue a search warrant under this section if the magistrate is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on land or premises a particular thing that may be evidence of the commission of an offence against this Act or the regulations.
- (3) The search warrant may authorise an inspector named in the warrant and any assistants the inspector considers necessary—

- (a) to enter the land or premises, or part of the land or premises, named or described in the warrant; and
 - (b) to search for the thing named or described in the warrant.
- (4) In addition to any other requirement, a search warrant issued under this section must state—
- (a) the offence suspected; and
 - (b) the land or premises to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (5) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (6) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

97. *Announcement before entry*

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector named in the warrant must—
- (a) announce that he or she is authorised by the warrant to enter the land or premises; and

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- (b) give any person at the land or premises an opportunity to allow entry to the land or premises.
 - (2) The inspector or a person assisting the inspector need not comply with sub-section (1) if he or she believes on reasonable grounds that immediate entry to the land or premises is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated.

98. Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the land or premises when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

Division 4—General

99. Power of inspector to require information or documents

- (1) An inspector may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of—
 - (a) investigating a gas incident; or
 - (b) investigating an emergency where there is a threat to the safety of persons or property arising from a situation relating to gas; or
 - (c) determining compliance with a safety case.

- (2) An inspector may require a person to give information to the inspector, to produce documents to the inspector and to give reasonable assistance to the inspector.
- (3) A person must not refuse or fail, without reasonable excuse, to comply with a requirement made under sub-section (2).

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

100. *Offence to give false information to inspector*

A person must not—

- (a) give information to an inspector under this Part that the person knows to be false or misleading in a material particular; or
- (b) produce a document to an inspector under this Part that the person knows to be false or misleading in a material particular without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person,
200 penalty units;
In the case of a body corporate,
1000 penalty units.

101. *Copying of documents*

If a person produces a document to an inspector in accordance with a requirement under section 99, the inspector may make copies of, or take extracts from, the document.

102. Protection against self-incrimination

A natural person may refuse or fail to give information, produce a document or do any other thing that the person is required to do by or under this Part if the giving of the information, the production of the document or the doing of that other thing would tend to incriminate the person.

103. Offence to obstruct inspector

A person must not without reasonable excuse obstruct or hinder an inspector exercising functions under this Act or the **Gas Industry Act 2001**.

S. 103
amended by
Nos 39/1999
s. 32(4),
32/2001
s. 34(4).

Penalty: In the case of a natural person,
300 penalty units or 3 years
imprisonment or both;
In the case of a body corporate,
1500 penalty units.

104. Police to assist inspectors

An inspector may request the assistance of a member of the police force and a member of the police force may assist an inspector to take any action authorised by this Part or the **Gas Industry Act 2001**.

S. 104
amended by
Nos 39/1999
s. 32(5),
32/2001
s. 34(5).

105. Impersonation of inspector

A person must not impersonate an inspector.

Penalty: 100 penalty units.

PART 6—ENFORCEMENT

Division 1—Directions

106. *Director may give directions*

- (1) The Director may, in writing, direct any person—
- (a) to cease the supply of gas to a facility, gas installation or appliance; or
 - (b) to make adjustments to the gas flow or to pressure in a pipeline; or
 - (c) to disconnect a gas installation from the gas supply—

if the Director considers that it is necessary to do so for safety reasons.

- (2) The Director may, in writing, direct a person—
- (a) to cease to use a particular facility, gas installation or appliance; or
 - (b) to make safe a facility, gas installation or appliance; or
 - (c) to do any other thing necessary to make an unsafe gas situation safe—

if the Director considers that it is necessary to do so for safety reasons.

- (3) A person must comply with a direction under this section that applies to the person.

Penalty: In the case of a natural person,
300 penalty units or 3 years
imprisonment or both;
In the case of a body corporate,
1500 penalty units.

107. *Additional powers in emergencies*

Gas Safety Act 1997

Act No. 99/1997

(1) In addition to the powers under section 106, the Director may do anything or give any direction that the Director considers necessary to make a gas emergency situation safe.

(1A) In addition to the powers under section 106 and sub-section (1), the Director may in a gas emergency situation give any directions the Director considers necessary—

S. 107(1A)
inserted by
No. 39/1999
s. 33(1).

(a) to regulate the use of the available supply of gas having regard to the needs of the community; or

(b) to facilitate the reliability of the supply of gas; or

(c) to facilitate the security of the systems for the transmission or distribution of gas.

(2) A person must comply with a direction under this section that applies to the person.

S. 107(2)
amended by
No. 39/1999
s. 33(2).

Penalty: In the case of a natural person,
500 penalty units or 5 years
imprisonment or both;
In the case of a body corporate,
10 000 penalty units.

(3) An offence under sub-section (2) is an indictable offence.

S. 107(3)
inserted by
No. 39/1999
s. 33(3).

(4) The Office must include in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, a statement setting out details of each direction given by the Director under this section during that financial year.

S. 107(4)
inserted by
No. 39/1999
s. 33(3).

S. 107A
inserted by
No. 91/1998
s. 30.

107A. Power of Minister

- (1) The Minister, at the request of the Director, may, at any time, make a direction in writing amending a direction made, or purportedly made, by the Director under section 106 or 107 for the purpose of correcting a defect, mistake or omission in such a direction.
- (2) If a direction of the Minister under sub-section (1) amending a direction of the Director—
 - (a) includes a statement that the direction of the Director is deemed to have been made as so amended; and
 - (b) is made not later than 3 months after the direction of the Director was made—the direction of the Director is deemed to have been made as so amended.

S. 107B
inserted by
No. 91/1998
s. 30.

107B. Delegation by Director

The Director may, with the consent of the Minister, by instrument, delegate any function or power of the Director under section 106 or 107 to an officer or employee of the Office.

108. Defence to certain offences if complying with Director's directions

It is a defence to a prosecution for a breach of an accepted safety case if the person who breached the safety case acted in accordance with the direction of the Director under this Division.

S. 109
substituted by
No. 91/1998
s. 31,
amended by
No. 39/1999
s. 34(1)(a)(2)
(ILA s. 39B(1)).

109. Protection from liability

- (1) A person to whom this section applies is not liable to any action, claim or demand on account of any damage, loss or injury sustained or alleged to be sustained because of anything done or omitted to be done in good faith—

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- (a) in or in connection with or incidental to the exercise of a power under, or purportedly under, section 107; or
- (b) in the reasonable belief that the act or omission was in or in connection with or incidental to the exercise of such a power.
- (2) This section applies to the Director, the Office and the servants of the Office.

S. 109(a)
amended by
No. 39/1999
s. 34(1)(b).

S. 109(2)
inserted by
No. 39/1999
s. 34(2).

109A. Protection of persons executing directions

S. 109A
inserted by
No. 91/1998
s. 31.

A person is not liable to any action, claim or demand on account of any damage, loss or injury sustained or alleged to be sustained because of anything done or omitted to be done in good faith—

- (a) in the execution of any direction under, or purportedly under, section 107; or
- (b) in the reasonable belief that the act or omission was in the execution of such a direction.

S. 109A(a)
amended by
No. 39/1999
s. 34(3).

Division 2—Improvement and prohibition notices

110. Director or inspector may issue improvement notice

- (1) The Director or an inspector may issue an improvement notice to a person if the Director or inspector is of the opinion that the person—
- (a) is contravening any provision of this Act or the regulations; or
- (b) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated.

- (2) The improvement notice may require the person to whom it is issued to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.
- (3) An improvement notice must—
- (a) state that the Director or inspector is of the opinion that the person—
 - (i) is contravening a provision of this Act or the regulations; or
 - (ii) has contravened such a provision in circumstances that make it likely that the contravention will be continued or repeated; and
 - (b) state the reasons for that opinion; and
 - (c) specify the provision of this Act or the regulations in respect of which that opinion is held; and
 - (d) specify the day (being a day more than 7 days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

111. *Offence not to comply with improvement notice*

- (1) A person to whom an improvement notice is issued must comply with the improvement notice.

Penalty: In the case of a natural person,
80 penalty units;
In the case of a body corporate,
400 penalty units.

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- (2) Sub-section (1) does not apply during any period that the operation of the improvement notice is stayed by the Gas Appeals Board.

112. Director or inspector may issue prohibition notice

- (1) If the Director or an inspector is of the opinion that at any place there is occurring or may occur any activity which involves or will involve immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas, the Director or inspector may issue a prohibition notice to the person who has or may be reasonably presumed to have control over the activity.
- (2) The prohibition notice may prohibit the carrying on of the activity until the Director or an inspector certifies in writing that the matters which give or will give rise to the risk are remedied.
- (3) A prohibition notice must—
- (a) state that the Director or inspector is of the opinion that at the place there is occurring or may occur any activity which involves or will involve immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas; and
 - (b) state the reasons for that opinion; and
 - (c) specify the activity which in the Director's or the inspector's opinion involves or will involve an immediate risk to the safe conveyance, sale, supply, measurement, control or use of gas; and
 - (d) if in the Director's or the inspector's opinion the activity involves a contravention or likely contravention of any provision of this Act or the regulations, specify that provision and state the reasons for that opinion.

113. Offence not to comply with prohibition notice

- (1) A person to whom a prohibition notice is issued must comply with the prohibition notice.

Penalty: In the case of a natural person,
500 penalty units or 5 years
imprisonment or both;
In the case of a body corporate,
2500 penalty units.

- (2) Sub-section (1) does not apply during any period that the operation of the prohibition notice is stayed by the Gas Appeals Board.

114. *Notices may include directions*

- (1) The Director or an inspector may include in an improvement notice or a prohibition notice directions as to the measures to be taken to remedy any contravention, likely contravention, risk, matters or activities to which the notice relates.
- (2) A direction under sub-section (1) may offer the person to whom it is issued a choice of ways in which to remedy the contravention, likely contravention, risk, matters or activities.

Division 3—Other matters

115. *Offences by bodies corporate*

- (1) If a body corporate commits an offence against this Act or the regulations, any officer of the body corporate who was in any way, by act or omission, directly or indirectly knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for it.
- (2) A person may be proceeded against and convicted under a provision in accordance with sub-section (1) whether or not the body corporate has

been proceeded against or convicted under that provision.

- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act or the regulations.
- (4) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a body corporate, it is sufficient to show that a servant or agent of the body corporate had that intention.
- (5) In sub-section (1), "**officer**", in relation to a body corporate, means—
 - (a) a director, secretary or executive officer of the body corporate; or
 - (b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
 - (c) a person concerned in the management of the body corporate.

116. *Offences by partnerships or unincorporated associations*

If this Act or a regulation made under this Act provides that a person is guilty of an offence, that reference to a person must—

- (a) in the case of a partnership, be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated body or association, be read as a reference to each member of the committee of management of the body or association.

117. *False or misleading information*

Gas Safety Act 1997

Act No. 99/1997

- (1) A person must not give information that is false or misleading in a material particular to the Office or to an officer or employee of the Office in connection with an application, notice or submission under this Act or the regulations.

Penalty: In the case of a natural person,
100 penalty units;
In the case of a body corporate,
500 penalty units.

- (2) In a proceeding for an offence against sub-section (1), it is a defence for the accused to prove that the accused believed on reasonable grounds—
- (a) in the case of false information, that the information was true; and
 - (b) in the case of misleading information, that the information was not misleading.

S. 117AA
inserted by
No. 91/2000
s. 34.

117AA. *Period within which proceedings for offences may be brought*

Despite anything to the contrary in any Act, proceedings for an offence against this Act or the regulations may be commenced within the period of 3 years after the commission of the alleged offence.

PART 6A—INFRINGEMENT NOTICES

Pt 6A
(Heading and
ss 117AB–
117AK)
inserted by
No. 91/2000
s. 35.

117AB. Definition

In this Part—

"prescribed offence" means an offence against section 71(1), 71(3), 71B, 72(1), 72(2), 79B or 79C(1).

S. 117AB
inserted by
No. 91/2000
s. 35.

117AC. Power to serve a notice

- (1) An inspector may serve an infringement notice on any person that he or she has reason to believe has committed a prescribed offence.
- (2) An infringement notice may be served on a person—
 - (a) by delivering it personally to the person; or
 - (b) by sending it by post addressed to the person's last known place of residence or business.

S. 117AC
inserted by
No. 91/2000
s. 35.

117AD. Form of notice

An infringement notice must state—

- (a) the date of the notice;
- (b) the provision of this Act that creates the offence;
- (c) the nature, and a brief description, of the alleged offence;
- (d) the date, time and place of the alleged offence;

S. 117AD
inserted by
No. 91/2000
s. 35.

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- (e) the infringement penalty for the alleged offence;
 - (f) the manner in which the infringement penalty may be paid;
 - (g) the time (being not less than 28 days after the date on which the notice is served) within which the infringement penalty must be paid;
 - (h) that, if the amount of the infringement penalty is paid before the end of the time specified in the notice, the matter will not be brought before the Magistrates' Court unless the notice is withdrawn within 28 days after the date on which it was served;
 - (i) that the person is entitled to disregard the notice and defend any proceedings in respect of the offence in the Magistrates' Court;
 - (j) any other prescribed particulars.

S. 117AE
inserted by
No. 91/2000
s. 35.

117AE. *Infringement penalties*

The infringement penalty for an offence against a provision of this Act is one-tenth of the maximum monetary penalty fixed by that provision.

S. 117AF
inserted by
No. 91/2000
s. 35.

117AF. *Late payment of penalty*

An inspector may accept payment of the infringement penalty even after the expiration of the time for payment stated in the infringement notice if—

- (a) neither a charge has been filed nor a courtesy letter served under Part 2 of Schedule 7 to the **Magistrates' Court Act 1989** in respect of the offence to which the infringement penalty relates; and
 - (b) the infringement notice has not been withdrawn.
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117AG. *Withdrawal of notice*

- (1) An inspector may withdraw an infringement notice at any time within 28 days after the date on which the notice was served by serving a withdrawal notice on the person served with the infringement notice.
- (2) A withdrawal notice may be served on a person—
 - (a) by delivering it personally to the person; or
 - (b) by sending it by post addressed to the person's last known place of residence or business.
- (3) An infringement notice may be withdrawn even if the infringement penalty has been paid.
- (4) If an infringement notice is withdrawn, the amount of any infringement penalty paid must be refunded and the Consolidated Fund is, to the necessary extent, appropriated accordingly.

S. 117AG
inserted by
No. 91/2000
s. 35.

117AH. *Payment expiates offence*

If an infringement notice is not withdrawn and the infringement penalty is paid within the time for payment stated in the notice or is accepted in accordance with section 117AF, then—

- (a) the person on whom the notice was served has expiated the offence by that payment; and
- (b) no proceedings may be taken against that person in respect of that offence; and
- (c) no conviction is to be taken to have been recorded against that person for that offence.

S. 117AH
inserted by
No. 91/2000
s. 35.

s. 117AI

S. 117AI
inserted by
No. 91/2000
s. 35.

117AI. *Payment not to have certain consequences*

- (1) The payment of an infringement penalty under this Part is not and must not be taken to be—
 - (a) an admission of guilt in relation to the offence; or
 - (b) an admission of liability for the purpose of any civil claim or proceeding arising out of the same occurrence and the payment does not in any way affect or prejudice any such claim or proceeding.
- (2) The payment of an infringement penalty under this Part must not be referred to in any report provided to a court for the purpose of determining sentence for an offence.

S. 117AJ
inserted by
No. 91/2000
s. 35.

117AJ. *Prosecution after service of infringement notice*

A charge may be filed in respect of an offence to which an infringement notice relates if—

- (a) the infringement penalty has not been paid within the time for payment stated in the notice or in accordance with section 117AF; or
- (b) the notice is withdrawn.

S. 117AK
inserted by
No. 91/2000
s. 35.

117AK. *Enforcement of infringement penalty*

Payment of the infringement penalty may be enforced in accordance with Part 2 of Schedule 7 to the **Magistrates' Court Act 1989** if—

- (a) the infringement notice is an infringement notice within the meaning of Schedule 7 to that Act; and
- (b) the infringement penalty has not been paid within the time stated in the notice or in accordance with section 117AF; and
- (c) the notice has not been withdrawn; and

(d) a charge has not been filed in accordance
with section 117AJ.

PART 7—GENERAL

S. 117A
inserted by
No. 91/1998
s. 32,
amended by
No. 39/1999
s. 35 (LA
s. 39B(1)).

117A. *Supreme Court—limitation of jurisdiction*

(1) It is the intention of sections 109 and 109A to alter or vary section 85 of the **Constitution Act 1975**.

S. 117A(2)
inserted by
No. 39/1999
s. 35.

(2) It is the intention of section 109, as amended by the **Gas Industry Acts (Further Amendment) Act 1999**, to alter or vary section 85 of the **Constitution Act 1975**.

118. *Regulations*

- (1) The Governor in Council may make regulations for or with respect to—
- (a) the safe conveyance, sale, supply, measurement, control and use of gas;
 - (b) prescribing the standards of quality of gas to be conveyed, supplied or sold and empowering the Office to exempt a gas company from those standards in prescribed circumstances;
 - (c) requiring the keeping of records of factors affecting gas quality;
 - (d) tempered liquefied petroleum gas plants;
 - (e) the safe storage of gas in vessels which have an aggregate capacity not exceeding 500 litres and which are connected to a gas installation;
 - (f) specifying the requirements and standards with which a safety case must comply;

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- (g) specifying procedures for acceptance and revision of safety cases;
 - (h) requiring a safety case to nominate the persons who are to carry out gas work or a class of gas work in any part of the facility or in relation to a gas installation to which the safety case applies;
 - (i) requiring a safety case to nominate an independent auditor to monitor compliance with a safety case;
 - (j) providing for the keeping of records in relation to safety cases;
 - (k) empowering the Office to exempt a safety case from all or any of the requirements of the regulations made in relation to safety cases;
 - (l) the safety and acceptance of gas installations and appliances and the standards and requirements to apply to them, including standards determined by the Office;
 - (m) prescribing or approving standards or requirements for the quality and design of materials, fittings and apparatus to be used in or in connection with gas installations and the methods to be followed in carrying out gas installations;
 - (n) requiring gas installations to be kept in proper repair;
 - (o) the safety and acceptance of gas installations, appliances and components;
 - (p) regulating and requiring tests to be carried out on appliances and gas installations before acceptance by the Office;

S. 118(1)(u)
amended by
No. 91/1998
s. 27(2).

S. 118(1)(w)
amended by
No. 91/1998
s. 33.

- (q) the information to be included in or to accompany an application for acceptance of an appliance or gas installation, including details of tests;
 - (r) regulating and requiring the fixing of compliance plates issued by the Office on gas installations, appliances and components;
 - (s) empowering an inspector to disconnect or order the disconnection of an appliance or gas installation from a gas supply;
 - (t) the supply or sale or offer of supply or sale of appliances and components;
 - (u) prescribing the qualifications and experience required for persons engaged in upstream gas work and gasfitting work on complex gas installations;
 - (v) notices to be given by persons proposing to carry out gas work and carrying out or completing the carrying out of any gas work;
 - (w) the testing of gas by the Office or an authorised officer of a gas company or any other person to ensure compliance with the prescribed standards and requirements, including—
 - (i) prescribing the apparatus with which and the methods by which tests are to be made for testing the quality of gas and the methods of recording those tests;
 - (ii) prescribing the method and frequency of checking the accuracy of that apparatus;
 - (iii) prescribing the places and times at which tests must be made;
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Gas Safety Act 1997

Act No. 99/1997

s. 118

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|--|--|
| (iv) requiring a gas company or an authorised officer of a gas company or any other person to certify that the tests have been carried out in accordance with the regulations; | S. 118(1)(w)(iv) amended by No. 91/1998 s. 33. |
| (x) the methods of recording the measurement of gas; | |
| (y) requiring or regulating the reporting of gas incidents to the Office or a gas company; | |
| (ya) the standards of energy efficiency and performance required for proclaimed gas equipment; | S. 118(1)(ya) inserted by No. 91/2000 s. 36. |
| (yb) prohibiting or regulating the supply or offer of supply of proclaimed gas equipment; | S. 118(1)(yb) inserted by No. 91/2000 s. 36. |
| (yc) the registration of proclaimed gas equipment, including— | S. 118(1)(yc) inserted by No. 91/2000 s. 36. |
| (i) applications for registration and the renewal, modification or transfer of registration and the information to accompany the applications (including details about tests); | |
| (ii) the granting of registration; | |
| (iii) conditions on registration; | |
| (iv) the transfer of registration; | |
| (v) variation of registration; | |
| (vi) the refusal and cancellation of registration; | |
| (vii) the renewal and duration of registration; | |
| (viii) the keeping of registers of proclaimed gas equipment and registration holders; | |
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Gas Safety Act 1997

Act No. 99/1997

s. 118

S. 118(1)(yd)
inserted by
No. 91/2000
s. 36.

(yd) the testing, marking and labelling of proclaimed gas equipment, including the provision of samples of that equipment and labels to the Office for testing and the disposal of those samples;

S. 118(1)(ye)
inserted by
No. 91/2000
s. 36.

(ye) reasonable fees and charges to be charged for or for the recovery of reasonable costs for—

- (i) the testing, examination, marking or labelling of proclaimed gas equipment;
- (ii) the preparation of reports about proclaimed gas equipment;
- (iii) the registration, renewal of registration, modification of registration or transfer of registration of proclaimed gas equipment;

S. 118(1)(yf)
inserted by
No. 91/2000
s. 36.

(yf) authorising or requiring the giving of public notices in relation to proclaimed gas equipment and the recovery of costs associated with those notices;

(z) the proceedings of the Gas Appeals Board and the procedure for appeals to that Board;

(aa) fixing fees and charges in respect of any function or service carried out by the Office including—

- (i) fees for the submission of safety cases with the Office;
- (ii) fees for the validation of safety cases by the Office;
- (iii) annual fees in relation to safety cases;
- (iv) fees for any other application made to or documents submitted to the Office under this Act or the regulations;

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- (bb) fixing fees for appeals to the Gas Appeals Board;
 - (cc) empowering the Office to waive or rebate the payment of a fee in specified circumstances;
 - (dd) prescribing penalties not exceeding 20 penalty units for breaches of the regulations;
 - (ee) prescribing any matter or thing authorised or required to be prescribed or necessary or convenient to be prescribed for carrying this Act into effect.
- (2) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or
 - (ii) throughout the whole of the State or in a specified part of the State;
 - (b) so as to require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or body;
 - (c) so as to incorporate, adopt or apply wholly or partially or as amended by the regulations, the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
 - (i) as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made; or
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- (ii) as amended from time to time;
 - (d) so as to confer a discretionary authority on or leave any matter to be determined by a specified person or body;
 - (e) so as to provide, in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to the extent specified.
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**PART 8—REPEALS, CONSEQUENTIAL AMENDMENTS AND
TRANSITIONAL PROVISIONS**

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Pt 8 Div. 1
(Heading and
ss 119–122)
repealed by
No. 91/2000
s. 37.

Division 2—Transitional provisions

123. Transitional provision—Office of Gas Safety

S. 123
amended by
No. 91/1998
s. 34 (ILA
s. 39B(1)).

- (1) The Office of Gas Safety established by this Act continues to be the same body as that established under section 116 of the **Gas Industry Act 1994**.
- (2) The person who held the office of Director of Gas Safety under the **Gas Industry Act 1994** immediately before the commencement of this section continues to hold that office under this Act on the same terms and conditions and with the same accrued and accruing entitlements as applied to the person immediately before that commencement.

S. 123(2)
inserted by
No. 91/1998
s. 34.

124. Transitional provisions—gas installations

- (1) Sections 34(2), 73 and 74 do not apply to a gas installation existing at the date of commencement of this section.
- (2) Sub-section (1) ceases to apply to a gas installation if a modification is made to the gas installation on or after the commencement of this section, other than a modification associated with the repair or maintenance of the gas installation.
- (3) Subject to sub-section (2), sub-section (1) ceases to apply to a liquefied petroleum gas installation at the end of 5 years after the commencement of this section.

125. Transitional provisions—existing gas installation work

- (1) In this section "**old regulations**" means the Gas and Fuel Corporation (Gas Installation) Regulations 1992.
- (2) On the commencement of this section—
 - (a) a notice of compliance sent under regulation 19(2) of the old regulations before that commencement in respect of a gas installation but not accepted before that commencement is deemed to be an application for acceptance under section 73 in respect of that gas installation;
 - (b) an acceptance under the old regulations before that commencement of a notice of compliance in respect of a gas installation is deemed to be an acceptance of the gas installation under section 73;
 - (c) a submission sent under regulation 21 of the old regulations before that commencement in respect of a gas installation but not accepted before that commencement is deemed to be an application for acceptance made under section 73 in respect of that gas installation;
 - (d) an acceptance under regulation 21 of the old regulations before that commencement of a submission in respect of a gas installation is deemed to be an acceptance of the gas installation under section 73.

126. Transitional provision—appliances

An appliance which was approved under an approval scheme of the Australian Gas Association A.C.N. 004 206 044 before the commencement of this section and was still approved at that commencement is deemed on that

commencement to be accepted under an
acceptance scheme declared under section 68.

SCHEDULE 1

**MEMBERSHIP AND PROCEDURE OF GAS APPEALS
BOARD**

PART 1—MEMBERSHIP

1. *Term of Appointment*

- (1) Subject to this clause, a member of the Gas Appeals Board holds office for a period, not exceeding 3 years, specified in the instrument of his or her appointment.
- (2) A member of the Gas Appeals Board is eligible for re-appointment.
- (3) The instrument of appointment of a member of the Gas Appeals Board may specify terms and conditions of appointment not inconsistent with this Act or the regulations.
- (4) The Governor in Council may at any time remove a member of the Gas Appeals Board from office.

2. *Remuneration and allowances*

A member of the Gas Appeals Board (including the chairperson) who is not an employee in the public service or the holder of a full-time statutory office is entitled to receive—

- (a) remuneration; and
- (b) travelling or other allowances—

from time to time fixed by the Minister in respect of that member.

3. *Vacancies*

- (1) A member of the Gas Appeals Board may resign from membership by letter signed by the member and delivered to the Minister.
- (2) The office of a member of the Gas Appeals Board becomes vacant if the member—
 - (a) becomes bankrupt; or
 - (b) is convicted in Victoria of an offence punishable on first conviction with imprisonment for a term of

Sch. 1 cl. 2
amended by
No. 46/1998
s. 7(Sch. 1).

12 months or more or is elsewhere convicted of an offence which, if committed in Victoria, would be so punishable.

4. *Application of Public Sector Management and Employment Act*

A member of the Gas Appeals Board, in respect of the office of member, is not subject to the **Public Sector Management and Employment Act 1998**.

Sch. 1 cl. 4
amended by
No. 46/1998
s. 7(Sch. 1).

5. *Decisions not affected by certain matters*

An act or decision of the Gas Appeals Board is not invalid only because—

- (a) of a defect or irregularity in the appointment of a member; or
- (b) of a vacancy in its membership.

PART 2—PROCEDURE

6. *Gas Appeals Board to sit in panels*

- (1) For the purposes of performing any of its functions, the Gas Appeals Board may be constituted by a panel of 3 of its members.
- (2) The chairperson of the Gas Appeals Board may determine which of its members are to constitute a panel for an appeal.
- (3) If a panel includes the chairperson of the Gas Appeals Board, he or she is the chairperson of the panel.
- (4) If a panel does not include the chairperson of the Gas Appeals Board, the members of the panel may elect the chairperson of the panel.
- (5) If, after an appeal has commenced before a panel, a member of the panel becomes unavailable—
 - (a) if the parties to the appeal agree, the appeal may be continued and completed before the remaining members of the panel; and
 - (b) if the member who is unavailable is the chairperson of the panel another chairperson of the panel must be chosen in accordance with this clause.
- (6) If the parties do not agree to continue an appeal under sub-clause (5) the chairperson of the Gas Appeals Board must arrange for the matter to be reconsidered by another panel,

and that other panel may have regard to the earlier appeal proceedings.

7. *How to commence a proceeding*

- (1) A person may commence an appeal before the Gas Appeals Board by serving a notice of appeal on the Board.
- (2) The notice of appeal—
 - (a) must specify—
 - (i) the nature of the appeal; and
 - (ii) the grounds for the appeal; and
 - (iii) the relief sought; and
 - (b) must be in accordance with the regulations (if any); and
 - (c) must be accompanied by the relevant prescribed fee.
- (3) The person who serves a notice of appeal must without delay serve a copy of that notice on the Office.

8. *Parties to a proceeding*

A person who, under clause 7, is entitled to be served with a copy of a notice of appeal is a party to that appeal.

9. *Conducting a proceeding*

- (1) The Gas Appeals Board must give the parties to the appeal reasonable opportunity to make—
 - (a) oral or written submissions at a hearing; or
 - (b) written submissions in the case of a proceeding that is not a hearing.
 - (2) Sections 14, 15, 16 and 21A of the **Evidence Act 1958** apply to the Gas Appeals Board in relation to a proceeding as if the Board were a Board appointed by the Governor in Council.
 - (3) The Gas Appeals Board—
 - (a) may proceed by accepting written submissions or by conducting a hearing; and
 - (b) may inform itself in any manner it thinks fits; and
 - (c) is bound by the rules of natural justice; and
 - (d) is not bound by any rule or practice as to evidence; and
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- (e) may conduct an appeal in private if it considers it in the public interest or the interest of justice to do so, but must otherwise hold its hearing in public; and
 - (f) must proceed with as little formality and technicality and with as much expedition as the requirements of this Act and the regulations and the proper consideration of the matter before it permit; and
 - (g) may proceed with the hearing in the absence of a party to the appeal if it is satisfied that the party has been given reasonable notice of the date, time and place of the hearing; and
 - (h) may at any time adjourn the appeal; and
 - (i) may deal with appeals or classes of appeals together if it is satisfied that they relate to the same parties or the same or related subject-matter; and
 - (j) may seek the independent advice of a person to assist it in dealing with the appeal.
- (4) A party to an appeal may appear at a hearing before the Gas Appeals Board or do anything else in relation to an appeal before that Board either personally or through an agent.
 - (5) The Gas Appeals Board must disclose to each party to an appeal any advice it receives under sub-clause (3)(j) and give each party a reasonable opportunity to make submissions about that advice before determining the appeal.

10. *Appeal may be dismissed if frivolous or vexatious*

The Gas Appeals Board may dismiss an appeal if it considers that the appeal is vexatious or frivolous.

11. *Determinations and reasons*

- (1) A determination of the Gas Appeals Board must be in writing.
 - (2) The determination may include any order as to costs that the Gas Appeals Board, on the application of a party to the appeal, considers is just.
 - (3) The determination may include any other incidental order or direction that the Gas Appeals Board considers is necessary.
 - (4) The Gas Appeals Board must without delay cause a copy of its determination in any appeal to be served on each party to the appeal.
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- (5) Within one month after being served with a copy of the Gas Appeals Board's determination, or within any further time allowed by the Board, a party to an appeal may request the Board to give to the party written reasons for its determination.
- (6) The Gas Appeals Board must comply with a request received under sub-clause (5) without delay after receiving it.
- (7) The Gas Appeals Board may make public any of its determinations in any manner it thinks fit.
- (8) The Gas Appeals Board is not bound by its earlier determinations.

12. *Costs*

Unless the Gas Appeals Board otherwise determines, a party to an appeal before the Board must bear his, her or its own costs.

13. *Correction of errors*

- (1) On its own initiative or at the request of a party to a proceeding, the Gas Appeals Board may make a determination correcting an earlier determination in which there is—
 - (a) a clerical error or accidental slip or omission; or
 - (b) an evident material miscalculation of figures; or
 - (c) an evident material mistake in the description of a person, property or thing.
- (2) The powers of the Gas Appeals Board under sub-clause (1) may also be exercised on behalf of the Board by—
 - (a) the chairperson of a panel; or
 - (b) the chairperson of the Gas Appeals Board, if the relevant panel or the chairperson of the panel is unavailable.

14. *Enforcement of determination*

A determination of the Gas Appeals Board may be enforced as if it were a judgment or order of a court of competent jurisdiction.

15. *Register*

The Registrar of the Gas Appeals Board must keep a Register of proceedings and determinations of the Board.

16. *Authentication of documents*

- (1) A document required or authorised to be prepared by the Gas Appeals Board must be taken to be authenticated by that Board if it is signed by the Registrar of the Gas Appeals Board and either the chairperson of the panel or the chairperson of the Gas Appeals Board.
 - (2) The production of a document purporting to be a copy of a record of an act or decision of the Gas Appeals Board and purporting to be signed by the Registrar is evidence and, in the absence of evidence to the contrary, is proof that a decision in those terms was duly made by the Board or that the stated act was duly done by the Board.
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 30 October 1997

Legislative Council: 19 November 1997

The long title for the Bill for this Act was "A Bill to provide for the safe conveyance, sale, supply, measurement, control and use of gas, to amend the **Gas Industry Act 1994** and other Acts and for other purposes."

The **Gas Safety Act 1997** was assented to on 16 December 1997 and came into operation as follows:

Part 1 (sections 1–8) on 16 December 1997: section 2(1); rest of Act on 1 February 1999: Government Gazette 21 January 1999 page 80.

2. Table of Amendments

This Version incorporates amendments made to the **Gas Safety Act 1997** by Acts and subordinate instruments.

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Amendment) Act 1998, No. 91/1998

Assent Date: 24.11.98
Commencement Date: S. 34 on 24.11.98: s. 2(1); ss 26(1), 28(2)(3), 29, 30, 33 on 1.12.98: s. 2(6); ss 31, 32 on 24.6.99: Government Gazette 24.6.99 p. 1465; ss 26(2)(3), 27, 28(1) on 1.9.99: Government Gazette 5.8.99 p. 1825
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Further Amendment) Act 1999, No. 39/1999

Assent Date: 8.6.99
Commencement Date: Ss 32, 33 on 8.6.99: s. 2(1); ss 34, 35 on 24.6.99: Government Gazette 24.6.99 p. 1465
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Acts (Amendment) Act 2000, No. 91/2000

Assent Date: 5.12.00
Commencement Date: Ss 16–22, 25–28, 30–37 on 12.4.01: Government Gazette 12.4.01 p. 643; ss 23, 24, 29 on 31.12.01: s. 2(4)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 34 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Gas Safety Act 1997**

3. Explanatory Details

No entries at date of publication.