

**GAS AND ELECTRICITY (INDUSTRY SAFETY)
AMENDMENT ACT 1986 No. 76**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 42, 1935

SCHEDULE 1—AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935

**GAS AND ELECTRICITY (INDUSTRY SAFETY) AMENDMENT ACT
1986 No. 76**

NEW SOUTH WALES



Act No. 76, 1986

**An Act to amend the Gas and Electricity Act 1935 to make further provision
for ensuring safety in the gas industry, and for other purposes.
[Assented to, 21 May 1986]**

See also Search Warrants (Gas and Electricity) Amendment Act 1986.

Gas and Electricity (Industry Safety) Amendment 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Gas and Electricity (Industry Safety) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 42, 1935

3. The Gas and Electricity Act 1935 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935**(1) Section 2 (Application of Act)—****Section 2 (1A)—**

Before section 2 (1), insert:

(1A) This Act applies only to and in respect of gas supplied by means of a pipe or system of pipes, other than gas declared by the regulations (whether by reference to the circumstances in which the gas is supplied or otherwise) to be exempt from the operation of this Act.

Gas and Electricity (Industry Safety) Amendment 1986

SCHEDULE 1—*continued*AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
continued

(2) Section 3 (Definitions)—

(a) Definition of “Authority”—

Before the definition of “Board”, insert:

“Authority” means the Energy Authority of New South Wales;

(b) Definition of “Gas”—

Omit the definition, insert instead:

“Gas” means—

- (a) a combustible gas capable of being used to supply lighting, heating or motive power, including such a gas which is known as town gas, manufactured gas, natural gas, tempered natural gas, simulated natural gas, processed natural gas, methane gas or mine gas;
- (b) liquefied petroleum gas, as defined in section 2 of the Liquefied Petroleum Gas Act 1961, including tempered liquefied petroleum gas; and
- (c) any other substance which the Minister, by order published in the Gazette, declares to be gas for the purposes of this Act;

(c) Definition of “Inspector”—

Before the definition of “Local authority”, insert:

“Inspector” means a person appointed under section 25 to carry out inspections for the purposes of this Act;

(3) Section 20A (Gas not to be supplied except with the approval of the Minister)—

Section 20A (8)—

Omit the subsection.

*Gas and Electricity (Industry Safety) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
continued

(4) Sections 25–25c—

Omit section 25, insert instead:

Inspectors

25. (1) The Minister administering section 31 (powers of inspectors) of the Dangerous Goods Act 1975 may appoint a person as an inspector to carry out inspections for the purposes of this Act.

(2) That Minister shall issue to an inspector a certificate of authority in the prescribed form.

(3) Where on or in any land, premises or place an inspector is about to exercise or is exercising any function under this Act and a person apparently in charge of the land, premises or place requests the inspector to produce the inspector's certificate of authority, the inspector is not entitled to exercise or to continue to exercise the function unless the inspector complies with the request.

Powers of inspection

25A. (1) An inspector may enter and remain on or in any land, premises or place which is or are, or which the inspector believes on reasonable grounds is or are, being used for the manufacture, production, distribution, supply, storage or consumption of gas and may, while in or on the land, premises or place—

(a) search for, and inspect and test, any apparatus, equipment, pipes, fittings and appliances used or capable of being used in connection with the manufacture, production, distribution, supply, storage or consumption of gas;

(b) take, without payment, samples of any substance which the inspector believes on reasonable grounds to be gas for the purpose of examining and testing the samples;

SCHEDULE 1—*continued***AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
*continued***

- (c) search for and inspect, or require a person found there to produce, any book, record, document, map or plan relating to the manufacture, production, distribution, supply, storage or consumption of gas and take copies of or extracts from any such book, record, document, map or plan;
- (d) require any person found there to furnish information and answer questions relating to the operation and maintenance of apparatus, equipment, pipes, fittings and appliances found there and used or capable of being used in connection with the manufacture, production, distribution, supply, storage or consumption of gas; and
- (e) where the inspector believes on reasonable grounds that it is necessary to do so to prevent the death of or injury to a person or damage to property, give a direction to a gas company concerning the operation of, or any work being carried out in connection with, any plant or equipment of the gas company.

(2) Where an inspector is satisfied on reasonable grounds that the death of or injury to a person, or damage to property, has occurred on or in any land, premises or place and that gas was involved in that death, injury or damage, the inspector may enter the land, premises or place and there make inquiries concerning that death, injury or damage.

(3) An inspector is not entitled to enter a dwelling-house or other residential premises pursuant to this section or to exercise any of an inspector's functions under this section in a dwelling-house or other residential premises unless—

- (a) the inspector does so with the consent of the occupier;
- (b) the inspector does so pursuant to a search warrant issued under section 25B; or
- (c) the inspector believes on reasonable grounds that there is an imminent danger of the death of or injury to a person or substantial damage to property.

*Gas and Electricity (Industry Safety) Amendment 1986***SCHEDULE 1—*continued*****AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—*continued***

(4) An inspector may give a direction to a gas company for the purposes of subsection (1) (e)—

- (a) by giving the direction by instrument in writing served on the gas company;
- (b) by giving the direction to a person nominated for the purpose by the gas company, being a nomination of which the Minister administering section 31 (powers of inspectors) of the Dangerous Goods Act 1975 has been informed in writing; or
- (c) where no such nomination is in force or it is not reasonably practicable for the inspector to give the direction to a person so nominated—by giving the direction to any officer or employee of the gas company apparently charged with the operation or maintenance of the plant or equipment to which the direction relates.

(5) Such a direction may be given to a person orally or in writing and may be given by telephone, telex, radio or any other communication device.

Search warrants

25B. (1) In this section, “authorised justice” means—

- (a) a Magistrate; or
- (b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

(2) An inspector may apply to an authorised justice for the issue of a search warrant if the inspector believes on reasonable grounds that any apparatus, equipment, pipe, fitting or appliance in a dwelling-house or other residential premises which is used or capable of being used in connection with the distribution, supply, storage or consumption of gas is unsafe.

SCHEDULE 1—*continued***AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—*continued***

(3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector to enter the dwelling-house or premises and there to exercise any functions of the inspector under section 25A.

(4) Part III of the Search Warrants Act 1985 applies to a search warrant issued under this section.

Offences

25C. (1) A person shall not—

- (a) wilfully obstruct or delay an inspector who is exercising a function under this Act; or
- (b) fail without lawful excuse to comply with a requirement made or a direction given by an inspector under section 25A.

(2) Where an inspector enters any land, premises or place occupied by a gas company, the gas company shall provide the inspector with all reasonable assistance for the effective exercise of the inspector's functions under section 25A.

(5) Section 28A—

After section 28, insert:

Liability of gas companies—interference with supply

28A. (1) Where a gas company fails to maintain a supply of gas or the supply of gas by a gas company is otherwise interfered with and the failure or interference is caused by—

- (a) compliance by the gas company with a requirement made by or under this Act; or
- (b) anything not within the control of the gas company,

*Gas and Electricity (Industry Safety) Amendment 1986***SCHEDULE 1—continued****AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
*continued***

the gas company is not guilty of an offence against this Act or the regulations in respect of the failure or interference and is not liable to any person in respect of damage suffered by the person which was caused by the failure or interference.

(2) Where the failure or interference is caused by the maintenance (including the repair) of a gas company's gas manufacturing or distribution system as required by or under this Act, subsection (1) does not relieve the gas company from liability to a person in respect of the failure or interference unless, except in the case of an emergency, the gas company gives the person reasonable notice that the failure or interference will occur.

(6) Part IV, Division 4—

After section 34, insert:

DIVISION 4—*Standards and safety***Installation and maintenance standards**

34A. A person who carries out work in the course of installing, maintaining, altering or repairing any apparatus, equipment, pipe, fitting, appliance or other thing used, or designed or intended for use, in or in connection with the distribution, supply, storage or consumption of gas shall carry out that work—

- (a) in accordance with such of the provisions of this Act and the regulations under this Act as relate to the carrying out of that work; and
- (b) competently and with due regard to safety.

Maintenance of gas distribution system

34B. A gas company which operates a gas manufacturing and distribution system shall—

- (a) maintain engineering records of the system which are, in the opinion of the Authority, adequate;

*Gas and Electricity (Industry Safety) Amendment 1986***SCHEDULE 1—continued****AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
*continued***

- (b) carry out a comprehensive programme for the maintenance of the system and review that programme at least once every 12 months; and
- (c) ensure that the system is operated and maintained in accordance with the regulations under this Act.

Report as to maintenance and safety

34C. A gas company shall, before 31 March in each year, forward to the Authority a report in the prescribed form, relating to the period of 12 months ending on 31 December immediately preceding that 31 March, which reviews the activities of the gas company in relation to the maintenance of, and the safety practices carried out in relation to, plant and equipment used in the manufacture, production, distribution, supply or storage of gas by the company.

(7) Section 85 (Regulations)—**(a) Section 85 (1) (a)—**

Before section 85 (1) (b), insert:

- (a) for or with respect to the design, construction, operation, testing and maintenance of plant, apparatus, equipment, pipes and fittings used for the manufacture or distribution of gas;

(b) Section 85 (1) (g)—

After section 85 (1) (f), insert:

- (g) prescribing the fees payable in respect of the exercise of any functions of an inspector under this Act;

(c) Section 85 (1) (h)—

Omit “gas examiners”, insert instead “inspectors”.

(d) Section 85 (1) (l)—

Omit “and” where lastly occurring.

*Gas and Electricity (Industry Safety) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
continued

(e) Section 85 (1) (m), (n)—

At the end of section 85 (1) (m), insert:

; and

(n) prescribing the fee to accompany a report to the Authority under section 34C.

(f) Section 85 (4)—

After section 85 (3), insert:

(4) Regulations made for a purpose specified in subsection (1) (a) or (b) may—

(a) adopt, either wholly or in part or by reference—

(i) any of the standard rules, codes or specifications (whether or not as in force from time to time) of the bodies known as the Standards Association of Australia, the British Standards Institution, the Australian Gas Association and the Australian Liquefied Petroleum Gas Association, or a similar body identified in the regulations, and may authorise the adoption of additional rules, codes or specifications made and published by any specified person or body; or

(ii) any standards, rules, codes or specifications approved by the Minister and published in the Gazette (whether published before or after the commencement of this subsection) relating to the matter with which the regulations deal together with any amendments thereto (whether made or published before or after that commencement) that are so approved and published;

(b) provide for a standard approved by the Authority to be the standard applicable in respect of a particular matter; and

SCHEDULE 1—*continued***AMENDMENTS TO THE GAS AND ELECTRICITY ACT 1935—
*continued***

(c) provide that specified things shall not be done except by a person who is an employee of a gas company authorised by the gas company for the purpose or who holds a licence or qualification specified in the regulations which is appropriate to the type of work being performed, notwithstanding that a licence in force under any other Act may authorise the things to be done by another person or other persons.
