

[Act 1996 No 38]



New South Wales

Gas Supply Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are as follows:

- (a) to encourage the development of a competitive market in gas, so as to promote efficient use of gas and to deliver a safe and reliable supply of gas,
- (b) to regulate gas reticulation and gas supply, so as to facilitate open access to gas reticulation systems and promote customer choice in relation to gas supply,
- (c) to provide for the adoption of an access code in accordance with which the reticulation and supply of natural gas are to be regulated.

The Bill also amends various Acts and instruments and contains provisions of a savings and transitional nature.

* Amended in committee—see table at end of volume.

Outline of provisions

Part 1 Preliminary

This Part contains provisions for the name (also called the short title) of the proposed Act, the commencement of the proposed Act, the objects of the proposed Act and the definition of words and expressions used in the proposed Act (clauses 1–4).

Part 2 Natural gas

This Part deals with the reticulation and supply of natural gas.

Division 1 Authorisations

This Division prohibits persons from reticulating or supplying natural gas (which are regarded by the proposed Act as separate activities) except under the authority of an authorisation (clause 5), establishes the procedure by which authorisations are to be granted, amended, transferred and cancelled (clauses 6–14), provides for the payment of annual authorisation fees (clause 15), allows the regulations to provide for the “ring fencing” of gas reticulation and gas supply activities (clause 16), provides a right of appeal to the Supreme Court from certain decisions of the Minister in relation to authorisations (clause 17) and requires the maintenance of a public register of authorisations (clause 18).

Division 2 Third party access

This Division provides for the declaration of distribution systems as systems that are to become open to third party access (clause 19), provides for the establishment of access undertakings by gas reticulators (clause 20) or, alternatively, the making of access orders by the Tribunal (clause 21), provides for the opening of declared distribution systems to third party access (clause 23), provides for the resolution of disputes between gas reticulators and parties seeking third party access rights (clause 23), provides for the regulation of access agreements between associated parties (clause 24), provides for the registration of access agreements generally (clause 25) and provides for the review by a review panel of certain decisions of the Tribunal (clause 26). For the purposes of the proposed Act, the Tribunal is the Independent Pricing and Regulatory Tribunal.

Division 3 Gas pricing orders

This Division empowers the Tribunal to make gas pricing orders in relation to the charges that may be made for the supply of gas to tariff customers (currently, persons consuming less than 10 terajoules of gas per year) (clause 27) and provides for the review by a review panel of gas pricing orders made by the Tribunal (clause 28).

Division 4 Review panels

This Division provides for the establishment of a review panel to review matters in respect of which an application has been made to the Minister (clause 29) and provides for the procedure to be adopted by a review panel in conducting such a review (clause 30).

Division 5 General

This Division provides for the establishment of an access code to govern the administration of the proposed Act in relation to third party access under Division 2 (clause 31), provides for the making of third party access guidelines by the Tribunal (clause 32), confers certain powers of investigation on the Tribunal (clause 33) and provides for the maintenance of records by holders of authorisations (clause 34).

Part 3 liquefied petroleum gas and other gases

This Part deals with the reticulation and supply of liquefied petroleum gas and other gases (other than natural gas). It prohibits persons from reticulating gas or supplying liquefied petroleum gas or any other gas prescribed by the regulations (which, unlike the reticulation and supply of natural gas, are not regarded by the proposed Act as separate activities) except under the authority of a licence (clause 39, establishes the procedure by which licences are to be granted, amended, transferred and cancelled (clauses 36-44), provides for the payment of annual licence fees (clause 45), provides a right of appeal to the Supreme Court from certain decisions of the Minister in relation to licences (clause 46) and requires the maintenance of a public register of licences (clause 47).

Part 4 Gas works

This Part deals with the powers and duties of network operators in connection with the installation, operation and maintenance of their distribution systems.

Division 1 Powers and duties relating to gas works

This Division empowers network operators to carry out certain works in connection with their distribution systems (clause 48), requires them to make good any damage they cause in so doing (clause 49), empowers them to move conduits (clause 50), and remove obstructions (clause 51), exempts them from payments of charges in relation to gas works situated in public roads or public reserves (clause 52), ensures that they retain ownership over their gas works, wherever situated (clause 53), allows them to interrupt the supply of gas for maintenance purposes (clause 54) and exempts them from liability for failures in gas supply due to uncontrollable causes (clause 55).

Division 2 Powers of entry

This Division sets out the powers and duties of network operators in relation to entry to private land. The Division confers a power of entry in certain circumstances (clause 56), requires notice to be given (clause 57), allows the use of force in specified situations (clause 58), requires the use of force or urgent entry to be reported (clause 59), requires care to be taken (clause 60), provides for the recovery of the costs of entry in certain circumstances (clause 61), provides for the payment of compensation (clause 62), requires possession of an appropriate certificate of authority (clause 63), regulates entry onto residential premises (clause 64) and provides for warrants of entry (clause 65).

Part 5 Offences

Division 1 Offences

This Division creates offences with respect to theft of gas (clause 66), interference with gas works (clause 67), interference with gas meters (clause 68), interference with network operators' seals (clause 69), unauthorised connections (clause 70), unauthorised increase in capacity of connections (clause 71), unauthorised alterations and additions to gas installations (clause 72) and obstruction of inspectors (clause 73).

Division 2 General

This Division empowers a court to order disconnection and discontinuance of gas supply (clause 74) and to order payment for stolen gas (clause 75) and provides that any such order may be enforced as a civil debt (clause 76).

Part 6 Miscellaneous

This Part contains the following provisions:

- (a) a provision binding the Crown (clause 77),
- (b) a provision with respect to the appointment of inspectors (clause 78),
- (c) a provision with respect to the service of documents (clause 79),
- (d) a provision excluding certain persons from personal liability in connection with the administration of the proposed Act (clause 80),
- (e) a provision making directors and managers liable for offences committed by corporations (clause 81),
- (f) a provision with respect to proceedings for offences (clause 82),
- (g) a provision with respect to the recovery of certain monetary penalties (clause 83),
- (h) a provision authorising the making of regulations (clause 84),
- (i) a provision repealing certain Acts (clause 85),
- (j) a provision giving effect to Schedule 1, which contains amendments to various Acts and instruments (clause 86),
- (k) a provision giving effect to Schedule 2, which contains savings and transitional provisions (clause 87),
- (l) a provision requiring the proposed Act to be reviewed at the end of 5 years (clause 88).

Schedules

Schedule 1 amends the following Acts and instruments:

- *Building Services Corporation Act 1989 No 147*
- *Building Services Corporation Regulation 1990*
- *Dangerous Goods (Gas Installations) Regulation 1982*
- Energy Administration Act 1987 No 103
- *Energy Administration (General) Regulation 1995*
- *Freedom of Information (General) Regulation 1995*
- Gas Act 1986 No 213
- *Gas Regulation 1991*

Gas Supply Bill 1996 [Act 1996 No 38]

Explanatory note

- *Land Tax Management Act 1956 No 26*
- *Pipelines Act 1967 No 90*
- *Roads Act 1993 No 33*
- *Search Warrants Act 1985 No 37*

Schedule 2 contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Dictionary defines various words and expressions used in the proposed Act.