Gas and Electricity Safety Legislation Amendment Bill 2006

Explanatory Memorandum

Introduction and Overview

This Bill seeks to amend the *Energy Coordination Act 1994*, the *Gas Standards Act 1972* and the *Electricity Act 1945* to improve the technical and safety regulation provisions in the energy industry legislation.

Amendments are required to the legislation to ensure there is an effective technical and safety regulatory framework for the now fully privatised and competitive gas supply industry, as well as the increasingly competitive electricity supply industry. This is necessary for the protection of the community.

The technical and safety regulatory regime established by the *Energy Coordination Act 1994*, the *Gas Standards Act 1972* and the *Electricity Act 1945* and the various regulations under these Acts are administered by the Director of Energy Safety, a public officer established by s.5 of the *Energy Coordination Act 1994* on 1 January 1995.

Initially this position was administratively located within the Office of Energy, however on July 1 2002 the Director and all support staff transferred from the Office of Energy to the Department of Consumer and Employment Protection (DOCEP), as part of restructuring of the Public Service of WA. The Director and staff are now known as Energy*Safety*, a Division of DOCEP.

The regulatory functions of the Director of Energy Safety and the supporting Energy*Safety* Division can be summarised as covering the technical and safety regulation of:

- ❖ electricity production;
- ❖ electricity transmission and distribution;
- ❖ electricity utilisation (consumers' installations and appliances);
- ❖ gas distribution (and gas production plants connected to gas distribution systems); and
- ❖ gas utilisation (consumers' installations and appliances),

for the purpose of ensuring, in Western Australia –

- the safety of people (the public, energy workers and consumers) in respect of electricity and gas utility infrastructure;
- that residential and business consumers receive electricity and gas supplies that are metered accurately and meet minimum standards of reliability and quality so that appliances function correctly;
- that consumers have safe electrical and gas installations at their premises;
- that electrical and gas appliances are safe to use; and
- that common household appliances and certain types of electrical equipment perform and are labelled to satisfy energy efficiency standards.

Part 1 - Preliminary

Clause 1 – Short Title

States the short title of the proposed Act

Clause 2 – Commencement

The Act will commence on a day to be fixed by proclamation. It is envisaged that this would be shortly after the Bill is passed by the Legislative Assembly and the Legislative Council. However, different days may be fixed for different provisions if required.

Part 2 - *Electricity Act 1945* amended

Clause 3 – The Act amended by this Part

The amendment covered in this Part amends the *Electricity Act 1945*.

Clause 4 – Part 3 repealed

Part 3 contains only Section 30, which deals with certain powers of electrical inspectors.

It provides for an electrical inspector to issue an order on a person in relation to anything that is dangerous, so as to mitigate a potentially dangerous situation such as a person building a structure too close to a power line or excavating near a high voltage cable or near a power pole. Another power within Section 30 is that the inspector may inspect work practices related to electrical safety and if they are unsafe or non-compliant, to require corrective action to be taken.

This Part (and thus Section 30) of the *Electricity Act 1945* is being repealed as the powers it contains are being transferred to the *Energy Coordination Act 1994* in order to consolidate inspectors' functions and powers within that Act. Part 3 Clause 10 of the Bill deals with the re-establishment of these powers in the *Energy Coordination Act 1994*, whilst at the same time making those powers applicable also in relation to gas safety.

Clause 5 – Section 32 amended

Section 32 provides the principal regulation-making powers under the Act. These deal with utility network safety and performance, as well as the licensing of electrical contractors and electrical workers and the safety of consumers' electric installations.

The existing penalties are listed as $5,000 maximum for an individual and $20,000 maximum for a body corporate. These penalties are considered inadequate for today's industry environment particularly when the Director is dealing with large corporations that are major businesses at State or national level (as was highlighted during a recent successful prosecution of Western Power in relation to the electrocution of two children in Wyndham). The fines are therefore proposed to be increased to $50,000 and $250,000 maximum respectively.

Clause 6 – Section 33B amended

Section 33B deals with the safety of electrical appliances and the standards that they shall satisfy, including the power to make regulations for this purpose. Per s.33B(6)(d) the current maximum penalties allowed to be imposed by the regulations are $5,000 and $20,000 for an

individual and body corporate, respectively. This is an inadequate deterrent in today's business environment and hence it is proposed to raise the maximums to $50,000 and $250,000 respectively.

Clause 7 – Section 33D amended

This section provides the general penalty for a breach of electrical appliance safety requirements and in line with the changes outlined in Clause 6 above, the maximum levels are to be raised from $5,000 and $20,000 to $50,000 and $250,000 for an individual and body corporate, respectively.

Clause 8 – Section 33F amended

Section 33F deals with offences related to the energy efficiency labelling of electrical appliances.

In line with the changes outlined in Clause 6 above, the maximum levels are to be raised from $5,000 and $20,000 to $50,000 and $250,000 for an individual and body corporate, respectively.

Clause 9 – Section 52 amended

Section 52 provides the general penalty for a breach of the *Electricity Act*, to deal with those requirements where no specific penalty is specified.

In line with the changes outlined in Clause 6 above, the maximum levels are to be raised from $5,000 and $20,000 to $50,000 and $250,000 for an individual and body corporate, respectively.

Part 3 - *Energy Coordination Act 1994* amended

Clause 10 – The Act amended by this Part

The *Energy Coordination Act 1994* (referred to as the principal Act, in this Part) is amended by the clauses that follow in this Part.

Clause 11 – Section 3 amended

Section 3 of the principal Act deals with definitions and further definitions are added as listed, to facilitate the various amendments in this Part of the Bill.

The key definition shown is that of "network operator" which is the entity that –

- has the authority to operate an electricity transmission or distribution system, such as through a licence (or an exemption from the need to hold a licence) under the *Electricity Industry Act 2004*; or
- holds a licence for a gas distribution system (or holds or an exemption from the need to hold a licence for a gas distribution system).

The definition of network operator thus includes the utility network businesses and any other organisation that has approval to transport electricity via an electricity transmission system or distribution system, to one or more customers.

Similarly, a gas supplier will be a network operator if it holds a licence to operate a gas distribution system at a pressure of less than 1.9 megapascals, for the transportation of gas to consumers. Gas pipelines operating in excess of this pressure are referred to as gas transmission pipelines and these come under the provisions of the *Petroleum Pipelines Act 1969*, which is administered by the Resources Safety Division of the Department of Consumer and Employment Protection (DOCEP).

Clause 12 – Section 7 amended

Section 7 of the principal Act lists the function of the Director in relation to the *Electricity Act 1945*, *Gas Standards Act 1972*, *Liquid Petroleum Gas Act 1956*, and this clause provides for the list of the Director's functions to be amended to include a reference to the *Energy Coordination Act 1994* (the principal Act) itself, as a number of specific functions are being inserted into the Act by this Bill.

Clause 13 – Section 12 amended

This clause repeals Section 12(2) of the principal Act and replaces it with an amended list, which specifies the Acts for which the Director may designate persons as inspectors. The *Energy Coordination Act 1994* (principal Act) has been added to this list, to reflect the amendments being made to the Act by this Bill.

Clause 14 – Section 14 amended

Section 14 sets out general powers of electricity and gas inspectors, such as to enter premises, to be provided access for inspections and related matters, as well as to investigate cases of failure, death, injury or damage to property.

The amendments to this section made by this clause are designed to improve the applicability of the words used in the sub-sections (a), (c) and (d), in respect of the inspection of electricity and gas networks.

The background to this is that the powers presently listed in Section 14 were originally written primarily for dealing with inspections of consumers' electrical and gas installations rather than electricity and gas networks. Thus the amendment is to make the inspectors' powers more relevant to the inspection of networks whilst retaining their relevance to consumers' installations.

Clause 15 – Section 18A to 18C inserted

The proposed Section 18A "Orders as to dangerous things in relation to electricity or gas" replicates the first part of the repealed Section 30 of the *Electricity Act 1945*, and also makes it applicable to gas related safety concerns, such as unauthorised excavations or potential interference with high pressure gas mains or other gas infrastructure.

The proposed Section 18B "Orders as to unsafe work practices in relation to electricity or gas" replicates the second part of repealed Section 30 of the *Electricity Act 1945* and makes it applicable also to gas, so that inspectors may inspect gasfitting work practices (whether on networks or consumers installations) and take action to improve safety or compliance, as appropriate.

The proposed Section 18C "Orders as to distribution systems or distribution or transmission works" provides for the issue of orders to require remedial work, where an inspector has found a part of a gas distribution system or an electricity distribution or transmission system

(all generally referred to as networks) to be either non-compliant with prescribed requirements or unsafe.

This new order making power is required because the existing order making power under Section 18 of the principal Act is not suitable in most cases for application to networks and is written to apply effectively only to consumers' electrical or gas installations.

Sub-section 3 of the proposed Section 18C provides for an extension of the primary order making power, by allowing the inspector to extend the scope and operation of the order to other parts of the network where similar problems can be expected to exist. By this means it avoids the inspector having to personally and individually locate on a network where a repeated problem may be occurring (such as a faulty design of a pole structure, or an unsafe underground cable pit construction), something that would be extremely impractical, costly and unworkable.

An example that can be given is one whereby a network operator's electricity sub-station in a particular location has been found to have serious safety defects and once that situation has been identified it is relatively simple for the inspector to issue an order for rectifying that problem on that sub-station. However, it is likely that the safety problem will also exist in a number of other sub-stations that were built to a similar design. The person best placed to identify whether those other problems exist and if they do, to deal with them as at the first sub-station, is the network operator and not an inspector. This example is a realistic one based on what took place in the follow-up to the unfortunate electrocution of a young electrical engineer employee of Western Power, at a Coolgardie sub-station. Subsequently 95 other sub-stations were found to have the same major safety defect and Western Power did not wish to reveal their locations to the Director of Energy Safety.

Thus sub-section 3 of proposed Section 18C provides for the inspector to require, if appropriate, the network operator to assess whether similar remedial action will be required elsewhere on the network. Follow-up inspections will then be possible.

A number of safeguards are built into these order making powers and the remainder of proposed Section 18C deals with these. The first is that an inspector may not extend the scope of an order to any part of a network that he or she has not inspected without the prior approval of the Director of Energy Safety. The Director is required to consult with the network operator before giving such approval. Before proposing to issue an extended order the inspector is also required to give the network operator the opportunity to assess the issue of concern and reach agreement with the inspector about the means to rectify the problem. The clause provides for such an agreement between the network operator and the inspector to be enforceable, subject to the Director approving the agreement.

Clause 16 – Section 19 amended

Section 19 of the principal Act provides for a person aggrieved by an inspector's order to appeal to the Director (who designates and oversees all inspectors).

This section in the principal Act is amended to ensure that the new order making powers listed in Clause 10 of the Bill are also subject to appeal. The existing mechanism of appeal has worked quite well since 1995, although it needs to be recognised that the appeal mechanism lacks independence in cases where the inspector is from the Director's own office (the Energy*Safety* Division of the Department of Consumer and Employment Protection). Thus in the case of an order relating to remedial work on a consumer's electric or gas installation, there is no problem in principle in the Director reviewing an inspector's order, because the order has generally been issued by an inspector designated by the Director but employed by one of the utilities such as Western Power or AlintaGas. However,

in the case of an inspector issuing an order on a network operator, the inspector will almost certainly be an inspector from the Director's own office and for this reason additional review mechanisms are provided by the following clause of the Bill.

Clause 17 – Sections 19A and 19B inserted

The proposed Section 19A of the principal Act "Review of certain orders of inspectors on the application of a network operator" provide for a network operator who is aggrieved by an inspector's order to apply in the first instance in writing to the Director for a review of the decision. The Director has powers to confirm, vary or reverse the order after receiving submissions, if any, and must give reasons for the Director's determination. It is provided for the Director to release information about the determination so that other industry parties may benefit from the information if the Director considers this to be useful (the Director is required to take into account the commercial sensitivity of related information). This is stage 1 of the review process.

The proposed Section 19B "Appeal from determinations of Director in relation to orders by inspectors against a network operator" of the principal Act deals with stage 2 of the appeal process, should it be required. It provides for decisions of the Director in relation to the first stage review, or a refusal to approve an agreement between an inspector and a network operator in relation to an order, to be reviewed as follows:

(a) If a question of law is involved, to appeal to the State Administrative Tribunal; or

(b) In any other case to appeal to a technical review panel to be appointed in accordance with regulations to be made. This technical review panel will be constituted of 3 independent senior engineers nominated by the President of the WA Division of the Institution of Engineers Australia, to provide for a technically expert group to review the Director's decision.

Under each avenue the decision may be confirmed, reversed or varied. The amendments also provide for the Director to publish for industry information the submission made by parties to an appeal and the technical panel's decision in regard to the appeal. Again, the Director is required to take into account the sensitivity of the commercial information before disclosing details of the appeal process and outcome to industry.

Clause 18 – Section 20 amended

Section 20 of the principal Act deals with fines and penalties in relation to the obstruction of inspectors, failing to comply with an order, etc. The existing penalties are listed as $5,000 maximum for an individual and $20,000 maximum for a body corporate. The penalties are considered inadequate for today's industry environment particularly when the Director is dealing with large corporations that are major businesses at State or national level. The fines are therefore proposed to be increased to $50,000 and $250,000 maximum respectively in each subsection of section 20.

Clause 19 – Sections 24B and 24 C inserted

Section 24B "Disclosure of information for promotion of safety and compliance purposes" is to be inserted into the principal Act to enable the Director to release information to industry and the public in relation to electricity and gas technical and safety regulation matters.

The existing Section 24 "Confidentiality" in the principal Act makes it difficult for the Director to make sensible use of information gathered through the course of inspection, such as to

perhaps identify problems with safe work practices or with equipment or facilities, particularly those used by network operators.

The provision in the current Section 24 were originally intended to have applied only to commercial information, during the original drafting phase in the *Energy Coordination Act 1994*. Thus Section 24 provides some undesirable constraint in relation to the release of information about technical and safety matters and it is for this reason that the proposed Section 24B is to be inserted. The new section will permit the Director to record, disclose or use information in a way that permits industry and public awareness in relation to the safe transmittal or use of energy and also to make other industry participants aware of issues and thus increase levels of compliance. As with other provisions in this Bill, the Director is required to carefully assess whether or not any information to be released is commercially sensitive or confidential, and to appropriately balance the public interest before making any disclosure.

Section 24C "Gas supply emergency plans" is to provide for the making of regulations that will ensure relevant gas transporters (network operators and certain gas pipeline licensees) prepare and submit to the Director gas supply system emergency management plans.

These plans are required to provide for the ongoing integrity of gas distribution systems in the event of a major disruption either in the upstream supply system (eg. the Dampier to Bunbury Natural Gas Pipeline) or due to major damage to a distribution system. The regulations will have a provision for exempting persons such as gas pipeline licensees that already have a gas supply emergency management plan under another law such as the *Petroleum Pipelines Act 1969*. In any case, the requirements for gas supply emergency plans are applicable only to network operators and those pipeline licensees that supply gas to a distribution system, meaning that pipeline licensees who for example are only providing gas direct to major customers are not required to have emergency plans under this statutory provision. Offshore pipelines are outside the jurisdiction of the *Energy Coordination Act 1994*.

Clause 20 – Section 26 amended

Section 26 of the principal Act is a general regulation-making section and its is proposed to add to these powers the ability to make regulations to provide for appeals against decisions of the Director, by a panel of independent professional engineers. This appeal process relates to the review of the Director's decisions, in line with Clause 17 of the Bill.

Part 4 - *Gas Standards Act 1972* amended

Clause 21 – The Act amended by this Part

All the amendments in this Part are to the *Gas Standards Act 1972* (referred to as the principal Act in the text below), which deals with the technical and safety regulation of both gas distribution systems (used to transport gas at 1.9 megapascals or less pressure, to consumers' installations) and consumers' gas installation themselves.

Clause 22 – Section 4 amended

Section 4 of the principal Act deals with definitions and the key amendments are to define Type A gas appliances, meaning gas appliances that are primarily for domestic or commercial purposes and that are usually mass produced, and Type B gas appliances which are industrial gas appliances such as gas kilns, gas turbines, gas-fired boilers and the like. The objective here and in the amendments to Section 13D of the Act (refer Clause 27)

are to recognise the different safety approval requirements for these types of gas appliances.

Clause 23 – Section 8 amended

Section 8 of the principal Act deals with the heating standard of gas. This section of the Act provides for a gas undertaker (a term of the Act that includes gas network operators and LPG suppliers) to obtain the Minister's approval for the minimum standard of heating value of gas to be supplied, or any variation proposed to the standard. The significance of this section is not so much as to promote variations but rather to ensure that existing gas suppliers do not vary permissible gas supply standards. The general specification for both natural and liquefied petroleum gas is prescribed in the regulations, although gas of other specification could be supplied directly to industrial users under the provision of this section.

The existing penalties to deal with various types of offences under this Section are considered inadequate for today's industry environment and hence they are proposed to be significantly upgraded as follows, to encourage compliance:

- Section 8(1): failure to obtain Minister's approval for the heating value of gas, before commencing distribution – to be raised from $5,000 to $250,000 maximum.
- Section 8(6) : failure to supply gas of heating value as approved – first offence to be $40,000 maximum, subsequent offences $250,000 maximum.
- Section 8(8): failure to supply gas of heating value as approved (system not continuously monitored) – first offence to be $20,000 maximum, subsequent offences $250,000 maximum.

Clause 24 – Section 10 amended

Section 20 of the principal Act deals with requirements for gas undertakers (a term of the Act that includes gas network operators and LPG suppliers) to monitor the heating value of gas supplied, in addition to providing for the Director to test any gas supplied. The current maximum penalty of $5,000 for the failure of an undertaker to comply is considered inadequate for today's industry environment and is therefore to be raised to $250,000.

Clause 25 – Section 12 repealed

Section 12 of the principal Act includes a remnant of some general gas inspection powers, the earlier parts of the gas inspection regime that were once in the Act having already been repealed. The remaining provision in this section is now redundant, given the provisions in Section 14 of the *Energy Coordination Act 1994*. Hence it is proposed to repeal Section 12.

Clause 26 – Section 13 replaced

Section 13 of the principal Act exists to require any person physically supplying gas to a consumer's installation to first inspect that consumer's installation to ensure its compliance with prescribed technical and safety requirements, before supplying gas to that installation.

Since 1995 the principal gas suppliers in the State have operated their consumer installation inspection regimes under a scheme administratively established under sub-section 2 of existing Section 13. This sub-section 2 provides for the Minister to exempt a person from what is in effect a mandatory inspection of each installation under sub-section 1 subject to conditions. These conditions were on the recommendations of the Director of Energy Safety and recognise that not all consumers' installations should or need to be inspected, and that it is preferable to inspect a sample of installations rather than each and every one, as this

provides for efficiency and also puts the onus on the licensed gas fitter who certifies the installation as safe and compliant, to ensure that indeed it meets those requirements.

The current conditions for an exemption require that a gas supplier must have an Inspection Policy Statement and Plan that embraces these principles and sets out how inspections will be conducted. These Plans in effect provide for general surveillance of the gasfitting industry and require also the reporting to the Director of non-compliance by gas fitters so that follow-up action including prosecution and disciplinary proceedings can be considered by the Director's office. This scheme has worked well.

The new Section 13 formalises this administrative arrangement that has applied under the exemption since 1995 to gas suppliers such as Alinta, Kleenheat Gas, BOC Gases and Origin Energy.

This inspection regime is an important part of the regulatory framework administered by the Director of Energy Safety and it was reviewed by the Joint Standing Committee on Delegated Legislation, when amendments were made to the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999*, in late 2001. This Committee was supportive of the regime and recommended that it be formalised within the Act so it does not rely on an administrative exemption.

The new Section 13 has been designed so that a gas undertaker (network operator and LPG distributor) or gas pipeline licensee is required to inspect either every consumer's installation before connecting it to gas supply, or to inspect consumers' installations in accordance with an approved Gas Inspection Policy Statement and Plan before connecting those installations to gas supply. In the case of the latter it means that the gas undertaker is able to use sample inspection techniques as may be provided for in the Plan and this means that the Gas Inspection Plan approach offers advantages where many installations are involved.

Gas undertakers and pipeline licensees who may be only connecting a very small number of consumers' installations to their gas supply system or gas pipeline and therefore decide to not use an Inspection Plan will be required to inspect each individual consumer's gas installation for compliance. This will need to be carried out by a designated Inspector (Gas) both when the installation is new and when later additions/alterations involve a Type B gas appliance. The results of inspections are to be notified to the Director within 28 days. They will also be required to report immediately to the Director any gas related accidents of which they become aware at these installations.

Clause 27 – Section 13D replaced

Existing Section 13D of the principal Act deals with the approval of gas appliances and it was subject to recommendations for change by the Joint Standing Committee on Delegated Legislation when it conducted a review of amendments to the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999* in 2001. The principal problem identified was that Section 13D as it currently stands does not distinguish between the approval requirements of Type A (domestic/commercial) and Type B (industrial) gas appliances. The amendments will enable them to be treated differently in respect of appliance safety assessment and approval. This is important as Type A appliances are generally production line articles requiring safety "type testing" and certification to permit retail sales, whereas Type B gas appliances are mostly individually engineered products that require design safety approval and then on the job commissioning safety approval by an inspector specifically designated by the Director for that purpose. The changes to Section 13D are consistent with recommendations of the Joint Standing Committee on Delegated Legislation and the way that the appliance approval regime already operates.

The opportunity has also been taken to update the penalty provisions for failure to comply to $250,000 maximum, which is a level consistent with the current industry environment.

Clause 28 – Section 13E amended

Existing Section 13E of the principal Act provides for the approval of gas appliances and the amendments are designed to update the provisions in line with the changes made in Section 13D. The amendment also provides for the Director to declare technical and safety requirements that need to be satisfied in addition to any other requirements prescribed under the regulations, for the purposes of appliance approval. This information will be useful for industry and in particular will allow the Director to specify obligations on persons designated as competent authorities for gas appliance certification purposes, as covered in the existing sub-section (2) and (2a) of existing Section 13E. The penalty provisions have also been updated to delete a minor fine and/or imprisonment and to substitute instead a maximum penalty of $250,000 which is consistent with the current industry environment.

Clause 29 – Section 13F amended

The penalty provisions of this existing section, which deals with the approval of gas appliances by other bodies is also amended to delete a minor fine or imprisonment and instead substitute maximum fine of $50,000. This level of fine is less than that in Section 13E as in this case the enforcement is aimed at gas appliance retailers rather than gas appliance manufacturers or certification bodies.

Clause 30 – Section 13G amended

Existing Section 13G in the Act deals with notices in the Government Gazette and the two sub-sections are modified by this amendment to recognise that any notices in the Gazette will not be about individual gas appliances, but about the types and classes of gas appliances that have been approved by the Director.

Clause 31 – Section 13H amended

Existing Section 13H of the principal Act enables the Director to deal with gas appliances that are unsafe or dangerous, through the issue of an order to prohibit the use, sale or hire of such equipment or if appropriate, to impose conditions or restrictions on the sale, hire or use of such equipment. There is a penalty provision for a person who fails to comply with such an order and it has been updated by replacing the existing minor fine or imprisonment with a maximum penalty of $250,000, which is more relevant to today's industry environment.

Clause 32 – Sections 13I to 13N inserted

New Section 13I "Guidelines for gasfitting work" will formally allow the Director to issue non-mandatory guidelines to industry for safe work practices and technical standards in relation to gasfitting work. This provision already exists in the electrical legislation where it has been found to be most useful as it allows a rapid response to issues that arise from time to time in industry. Although the guidelines are not mandatory, the Director is required to consult with industry groups before finalising any such guidelines.

New Section 13J "Inspection Policy Statement and Plan" deals with administrative mechanisms that are effectively already in place under the existing exemption arrangements as discussed in relation to Clause 26 of the Bill. The general framework is well established and has also been used in the existing *Electricity Regulations 1947* with considerable success. Improvements have been made as requested by the Joint Standing Committee on Delegated Legislation, so that the approved Inspection Plan is available for public inspection

at the office of the Director, subject to protection of commercial information. Other improvements have been made as detailed in the following new sections.

New Section 13K "Inspections under the Plan" provides for certain limitations of liability in relation to the inspection obligations. In other words the inspection regime provided for under the Act is not intended to provide an absolute guarantee to any individual about the safety of a particular gas installation. Instead, it is designed to monitor the work of the gasfitting industry, to maintain the safety of gasfitting work carried out across the State and to provide for non-compliant gasfitting work to be identified where possible and if the breach of requirements is serious, to be referred to the Director's office for action. The primary responsibility for the compliance of any gasfitting work remains with the licensed gas fitter who certifies in writing to the gas undertaker (or Director's office as appropriate) and the consumer that the gas installation is safe and complies with prescribed requirements.

New Section 13L "Director's guidelines" provides for the Director to issue guidelines in relation to the development of an Inspection Policy Statement and Plan. The issue of such guidelines has been found useful as part of the overall inspection plan regime.

New Section 13M "Review of certain decisions of the Director" provides for the review of decisions by the Director in relation to the approval of the Inspection Policy Statement and Plan. This section provides for the first level review to be carried out by the Director himself or herself, following submissions from the gas undertaker.

New Section 13N "Appeal from determinations of Director under section13M" provides for a further stage of appeal so that if the gas undertaker is dissatisfied with the outcome under section 13M the matter can more formally be appealed to either the State Administrative Tribunal (SAT) on matters of law, or in the case of all other matters to a technical review panel constituted in accordance with the regulations. This review panel is proposed to consist of independent professional engineers as nominated by the President of the WA Division of the Institution of Engineers Australia. Both the SAT and technical panel will be able to confirm, cancel or vary the Director's determination and additionally SAT will be able to refer the matter back to the Director for further consideration.

Clause 33 – Section 14 amended

Existing Section 14 of the principal Act is the general penalty section of the Act which currently sets a limit of $2,000 for any breach except where otherwise specified. This amount is entirely inappropriate and is proposed to be upgraded to $50,000 maximum for an individual and $250,000 maximum for a corporation, which is more consistent with the current industry environment.

Clause 34 – Section 15 amended

This existing section of the principal Act provides the general regulation making powers of the Act. It is to be amended to provide for the independent technical review panel that will facilitate the appeal process described in relation to new Section 13N detailed in Clause 32.