

Gas and Electricity Safety Legislation Amendment Bill 2003

CONTENTS

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Electricity Act 1945</i> amended		
3.	The Act amended by this Part	3
4.	Part III repealed	3
Part 3 — <i>Energy Coordination Act 1994</i> amended		
5.	The Act amended by this Part	4
6.	Section 3 amended	4
7.	Section 7 amended	5
8.	Section 12 amended	6
9.	Section 14 amended	6
10.	Sections 18A to 18C inserted	7
11.	Section 19 amended	12
12.	Sections 19A and 19B inserted	12
13.	Section 20 amended	16
14.	Sections 24B and 24C inserted	17
15.	Section 26 amended	18
Part 4 — <i>Gas Standards Act 1972</i> amended		
16.	The Act amended by this Part	20
17.	Section 4 amended	20
18.	Section 8 amended	21
19.	Section 10 amended	21

Contents

20.	Section 12 repealed	21
21.	Section 13 replaced	21
22.	Section 13D replaced	22
23.	Section 13E amended	23
24.	Section 13F amended	24
25.	Section 13G amended	24
26.	Section 13H amended	24
27.	Sections 13I to 13N inserted	24
28.	Section 14 amended	33
29.	Section 15 amended	33

Western Australia

LEGISLATIVE ASSEMBLY

**Gas and Electricity Safety Legislation
Amendment Bill 2003**

A Bill for

An Act to amend —

- **the *Electricity Act 1945*;**
- **the *Energy Coordination Act 1994*; and**
- **the *Gas Standards Act 1972*.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Gas and Electricity Safety Legislation Amendment Act 2003*.

5 **2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

Part 2 — *Electricity Act 1945* amended

3. The Act amended by this Part

The amendment in this Part is to the *Electricity Act 1945**.

[* *Reprint 5 as at 6 June 2003.*]

5 **4. Part III repealed**

Part III is repealed.

Part 3 — Energy Coordination Act 1994 amended

5. The Act amended by this Part

The amendments in this Part are to the *Energy Coordination Act 1994**

5 [* Reprinted as at 5 May 2000.
For subsequent amendments see Act No. 10 of 2001.]

6. Section 3 amended

- (1) Section 3 is amended by inserting, in the appropriate alphabetical positions, the following definitions —

10

“

“commercial information” means —

15

- (a) any knowledge or information relating to technology, marketing or energy used in a person’s business and that might reasonably be expected adversely to affect the business or interests of that person if disclosed to another person; or

- (b) other information that has commercial value;

20

“component” means a component of a distribution system or distribution or transmission works;

“distribution works” has the same meaning as it has in the *Electricity Act 1945*;

“network operator” means —

25

- (a) in relation to gas —
(i) the holder of a distribution licence for a distribution system and includes a person who operates the system on behalf of that holder; and

5 (ii) a person granted an exemption under section 11H from holding a distribution licence for a distribution system and includes a person who operates the system on behalf of that person;

or

10 (b) in relation to electricity —
(i) a supply authority and for the purposes of this Act includes Western Power Corporation; and
(ii) any other person lawfully operating transmission or distribution works;

15 “**supply authority**” has the same meaning as it has in the *Electricity Act 1945*;

“**transmission works**” has the same meaning as it has in the *Electricity Act 1945*;

“**Western Power Corporation**” has the same meaning as it has in the *Electricity Act 1945*.

”.

20 (2) Section 3 is amended by deleting the full stop after the definition of “trading licence” and inserting a semicolon instead.

7. Section 7 amended

Section 7(a) is amended by inserting after subparagraph (i) the following subparagraph —

25 “
(ia) this Act;

”.

s. 8

8. Section 12 amended

Section 12(2) is repealed and the following subsection is inserted instead —

“

- 5 (2) The Director may designate persons to be inspectors for the purposes of —
- (a) this Act;
 - (b) the *Electricity Act 1945*; or
 - (c) the *Gas Standards Act 1972*,
- 10 or all or any of those Acts.

”.

9. Section 14 amended

Section 14 is amended as follows:

- 15 (a) in paragraph (a), by deleting “apparatus or installation used for any of those purposes is or may be situated” and inserting instead —

“

20 installation, component or activity used or undertaken for any of those purposes is or may be situated or undertaken

”;

- (b) in paragraph (c), by deleting “apparatus or installation used or intended to be used” and inserting instead —

“

25 installation, component or activity used or undertaken or intended to be used or undertaken

”;

- 30 (c) in subparagraph (d)(iii), by deleting “apparatus or installation” and inserting instead —

“ installation, component or activity ”.

10. Sections 18A to 18C inserted

After section 18 the following sections are inserted —

“

18A. Orders as to dangerous things in relation to electricity or gas

(1) If an inspector is of the opinion, having inspected any thing in relation to electricity or gas which that inspector is authorised to inspect, that —

(a) the thing is dangerous; or

(b) the thing has been rendered dangerous, having regard to its actual or possible use, by —

(i) the introduction of any other object into the proximity of that thing;

(ii) the use of any other object in conjunction with or in relation to that thing; or

(iii) any other circumstance,

the inspector may make an order under subsection (2).

(2) An inspector may by order, in writing, specifying the reason for the opinion referred to in subsection (1), require —

(a) the person who has apparently caused the danger;

(b) the person who has apparent control of the thing; or

(c) the person who is responsible under a written law for the control of the thing,

to take immediate steps to remove or mitigate the danger in such manner, if any, as the order may specify.

s. 10

- 5 (3) If the inspector is of the further opinion that any immediate steps taken or to be taken under an order made under subsection (2) may not remove the danger, or are in the nature of a temporary expedient, the inspector may make an order under subsection (4).
- (4) The inspector may by order, in writing, specifying the reason for the opinion referred to in subsection (3), require —
- 10 (a) the person having apparent control of the thing;
- (b) the person who is responsible under a written law for the control of the thing;
- (c) the person having apparent control of an object, specified in the order, which may render the thing dangerous; or
- 15 (d) the person who is responsible for the circumstances, specified in the order, which may render the thing dangerous,
- to —
- (e) modify, dismantle or remove the thing giving rise to the danger;
- 20 (f) deal with or remove a specified object the introduction of which may render the thing dangerous; or
- (g) deal with or remove the specified
- 25 circumstances which may render that thing dangerous,
- within a period of not less than 28 days specified in the order and in such manner, if any, as the order may specify.

18B. Orders as to unsafe work practices in relation to electricity or gas

- 5
- (1) If an inspector is of the opinion on reasonable grounds that any work practice related to safety used in, or in relation to, the construction, repair, maintenance or operation of any thing the inspector is authorised to inspect may give rise to any danger from electricity or gas or does not conform with any Act to which the inspector's powers extend the inspector may make an order under subsection (2).
- 10
- (2) The inspector may, by order in writing, require the person appearing to be responsible for the carrying out of the work practice —
- 15
- (a) to modify that work practice, in such manner, if any, as the order may specify, within a period of not less than 28 days specified in the order; and
- 20
- (b) meanwhile, to carry out the work practice in accordance with any condition, restriction or limitation specified in the order until the modification required under paragraph (a) has taken effect,
- or may prohibit the carrying out of the work practice absolutely.
- 25
- (3) An order under subsection (2) is to specify the work practice in question and the reason why it is unsafe or does not comply with the relevant Act.

18C. Orders as to distribution systems or distribution or transmission works

- 30
- (1) If an inspector is of the opinion that a component that the inspector is authorised to inspect —
- (a) does not conform with any Act to which his or her powers extend; or

s. 10

- (b) is unsafe,
the inspector may make an order under subsection (2).
- 5 (2) The inspector may, by order in writing served on the network operator of the distribution system or distribution or transmission works, require work to be done, or other measures to be taken, by the network operator within the period specified in the order to ensure that each component specified in the order conforms with the relevant Act or is rendered safe.
- 10 (3) In making an order under subsection (2), the inspector may extend the scope and operation of the order to other components that are similar to a component that has been inspected under section 14 either generally or in relation to a specified type of component.
- 15 (4) Subsection (3) does not apply unless the Director approves of the terms of the order before it is made.
- (5) Before the Director approves the terms of the order, the Director must —
- 20 (a) consult with the relevant network operator; and
(b) consider the effect of the terms of the order on work or other measures being undertaken or proposed to be undertaken by the network operator on the distribution system or distribution or transmission works.
- 25 (6) An order under subsection (3) is not to be served on the network operator unless —
- 30 (a) the inspector has given the network operator an opportunity to assess the extent to which the other components of the distribution system or distribution or transmission works conform with the relevant Act or need to be rendered safe;

- 5
- (b) the inspector has made a reasonable effort to consult with the network operator about means of ensuring that the component or type of component conforms with the relevant Act or is rendered safe; and
- (c) the inspector and the network operator cannot within a reasonable time reach an agreement in writing on —
- 10
- (i) the work to be done, or other measures to be taken, to ensure that the component or type of component conforms with the relevant Act or is rendered safe; and
- 15
- (ii) the time within which the work is to be done or the measures are to be taken.
- (7) If the inspector and the network operator reach an agreement of the kind described in subsection (6)(c), the agreement does not take effect until it is approved by the Director.
- 20
- (8) If the Director approves an agreement between an inspector and the network operator on —
- 25
- (a) the work to be done, or other measures to be taken, to ensure that the component or type of component conforms with the relevant Act or is rendered safe; and
- (b) the time within which the work is to be done or the measures are to be taken,
- 30
- the network operator must carry out that work or take those measures in the agreed time or within such further time as the Director may specify.
- (9) If a network operator does not carry out the work or take the measures referred to in subsection (8) in the agreed time or within such further time as the Director

s. 11

may specify, the inspector may, by order in writing served on the network operator, require the work to be done or the measures taken, by the network operator within the period specified in the order.

5

”.

11. Section 19 amended

Section 19(1) is amended by inserting after “section 18” —
“ , 18A(2) or (4) or 18B(2) ”.

12. Sections 19A and 19B inserted

10

After section 19 the following sections are inserted —

“

19A. Review of certain orders of inspectors on the application of a network operator

15

(1) A network operator who is aggrieved by an order under section 18A(2) or (4), 18B(2), or 18C(2), or an order extended by an inspector under section 18C(3) may apply in writing to the Director for a review of the decision.

20

(2) The application is to be made within 14 days after the applicant receives notice of the order or within such further period as the Director in a particular case allows.

25

(3) The Director must give the applicant a reasonable opportunity to make submissions in relation to the application.

(4) An application stays the operation of an order until the review is completed unless the Director determines on the ground of safety that the operation of the order is not affected by the application.

- 5
- (5) The Director, after considering submissions (if any) made under subsection (3), may determine the application by —
- (a) confirming the order;
 - (b) varying the order; or
 - (c) reversing the order.
- 10
- (6) The Director must give the applicant written notice of his or her determination and the reasons for the determination.
- (7) Subject to subsection (8), the Director may publicise his or her determination and any submission made under subsection (3) in such manner as the Director thinks fit.
- 15
- (8) If —
- (a) a submission contains a statement that information provided in and identified in the submission is commercial information relating to the applicant or another person; and
 - (b) the Director is satisfied that the information is commercial information relating to the applicant or another person,
- 20
- the Director is not to publicise the determination or submission in such a manner as to disclose that information unless the Director is of the opinion that the disclosure of the information would not be unduly harmful to the legitimate business interests of the applicant or the other person, as the case may be.
- 25

s. 12

19B. Appeal from determinations of Director in relation to orders by inspectors against a network operator

- (1) In this section —
“**decision**” means —
- 5 (a) a determination of the Director under section 19A(5); or
(b) a refusal of the Director to approve an agreement reached under section 18C(6).
- (2) A network operator aggrieved by a decision may —
- 10 (a) if a question of law is involved, appeal to the District Court in the manner prescribed by rules of court; or
(b) in any other case, appeal in the prescribed manner to a technical review panel appointed
- 15 under the regulations.
- (3) The District Court has jurisdiction to hear and determine an appeal made under subsection (2)(a) and on hearing an appeal, may, according to the nature of the case do any of the following —
- 20 (a) confirm, reverse or vary the decision;
(b) remit the subject matter of the appeal to the Director for further consideration;
(c) make any further order, as to costs or otherwise, as it thinks fit.
- 25 (4) On an appeal made under subsection (2)(b) the technical review panel may confirm, reverse or vary the decision and the decision of the technical review panel is final.
- 30 (5) If an appeal has been made under subsection (2) in relation to a decision, the District Court or the technical review panel, as the case may be —

- (a) may suspend the operation of the decision until the determination of the appeal; and
- (b) may revoke any suspension under paragraph (a).
- 5 (6) A decision is not to be suspended under subsection (5)(a) if failure to comply with the decision would endanger the safety of a person or result in a risk of damage to property.
- 10 (7) Subject to subsections (8) and (9), the Director may publicise —
- (a) any submission made to the technical review panel by a party to an appeal; and
- (b) the technical review panel's decision on an appeal,
- 15 in such manner as the Director thinks fit and, for that purpose, the panel is to make submissions made to it and its decision available to the Director.
- (8) Before the Director publicises a submission or decision containing commercial information relating to the appellant or another party to the appeal, the Director must consult with the appellant or the other party.
- 20 (9) If a submission or a decision contains commercial information, the Director may publicise the submission or decision in such a manner as the Director thinks fit so as to avoid the disclosure of commercial information relating to the appellant or the other party.
- 25 (10) If the technical review panel confirms a decision under subsection (4), the appellant is liable to pay the reasonable costs of the review.
- 30 (11) Any costs payable by the appellant under subsection (10) are recoverable by the Director in a

s. 13

court of competent jurisdiction as a debt due to the State.

”.

13. Section 20 amended

- 5 (1) Section 20(1) is amended as follows:
- (a) by deleting “\$5 000” and inserting instead —
“ \$10 000 ”;
 - (b) by deleting “\$20 000” and inserting instead —
“ \$100 000 ”.
- 10 (2) Section 20(2) is amended as follows:
- (a) by deleting “\$5 000” and inserting instead —
“ \$10 000 ”;
 - (b) by deleting “\$20 000” and inserting instead —
“ \$100 000 ”.
- 15 (3) Section 20(3) is amended as follows:
- (a) by deleting “\$5 000” and inserting instead —
“ \$10 000 ”;
 - (b) by deleting “\$20 000” and inserting instead —
“ \$100 000 ”.
- 20 (4) Section 20(4) is amended as follows:
- (a) by inserting after “section 18” —
“ , 18A, 18B, or 18C ”;
 - (b) by deleting “\$5 000” and inserting instead —
“ \$10 000 ”;
 - 25 (c) by deleting “\$20 000” and inserting instead —
“ \$100 000 ”.

14. Sections 24B and 24C inserted

After section 24A the following sections are inserted —

“

24B. Disclosure of information for promotion of safety and compliance purposes

5

(1) Without limiting section 24(1)(b) but subject to subsection (2), information obtained in the course of a duty relating to inspection for compliance or safety purposes may be recorded, disclosed and used by, or with the approval of, the Director for the purposes of —

10

(a) increasing public awareness of any matter to do with safety related to the use of energy; and

15

(b) increasing levels of compliance with the *Electricity Act 1945* and the *Gas Standards Act 1972*.

(2) The Director is not to record, disclose or use information, or approve of information being recorded, disclosed or used for a purpose described in subsection (1)(a) or (b) unless —

20

(a) in the case of commercial information or information that is confidential, the Director has consulted any person he or she believes may be affected by the recording, disclosure or use; and

25

(b) in any case, the Director is of the opinion that the public benefit from the recording, disclosure or use will outweigh any detriment that may be caused to any person, and that there is no other way to achieve the purposes described in subsection (1)(a) and (b).

30

24C. Gas supply emergency plans

- 5 (1) The holder of a pipeline licence under the *Petroleum Pipelines Act 1969* to convey a gaseous petroleum to a distribution system or a network operator must, if the regulations so require, have a supply system emergency management plan (an “**emergency plan**”).
- (2) Without limiting section 26(1), the regulations may provide for —
- 10 (a) the preparation and content of emergency plans;
- (b) the submission of emergency plans for assessment and review by the Director;
- (c) how emergency plans are to have effect and be complied with; and
- 15 (d) the exemption of persons from the requirement to have an emergency plan if the person has an emergency plan under another written law specified in the regulations.

”.

20 **15. Section 26 amended**

After section 26(2) the following subsection is inserted —

“

- 25 (2a) Without limiting the generality of subsection (1), the regulations may —
- (a) provide for the convening of a technical review panel of independent professional engineers;
- (b) provide for the procedure to be followed on a review by a technical review panel and the period of time within which a review is to be completed;
- 30

- (c) provide for the payment of remuneration to members of a technical review panel.

”.

Part 4 — Gas Standards Act 1972 amended

16. The Act amended by this Part

The amendments in this Part are to the *Gas Standards Act 1972**.

5 [* Reprinted as at 7 July 2000.]

17. Section 4 amended

Section 4 is amended as follows:

- (a) by inserting, in the appropriate alphabetical positions, the following definitions —

10

“

“**commercial information**” means —

15

- (a) any knowledge or information relating to technology, marketing or energy used in a person’s business and that might reasonably be expected adversely to affect the business or interests of that person if disclosed to another person; or

- (b) other information that has commercial value;

20

“**Type A gas appliance**” means a gas appliance of a prescribed class or type;

“**Type B gas appliance**” means a gas appliance that has a maximum hourly input rate exceeding 10 megajoules that is neither a Type A gas appliance nor a gas-fuelled engine that —

25

- (a) is mounted in or on any vehicle, craft or portable appliance; and
(b) is supplied by fuel from a cylinder or tank mounted on or in the vehicle, craft or portable appliance;

30

”;

(b) by deleting the definition of “section”.

18. Section 8 amended

(1) Section 8(1) is amended by deleting “\$5 000” and inserting instead —

5 “ \$100 000 ”.

(2) Section 8(6) is amended as follows:

(a) by deleting “\$4 000” and inserting instead —
“ \$40 000 ”;

10 (b) by deleting “\$10 000” and inserting instead —
“ \$100 000 ”.

(3) Section 8(8) is amended as follows:

(a) by deleting “\$2 000” and inserting instead —
“ \$20 000 ”;

15 (b) by deleting “\$5 000” and inserting instead —
“ \$100 000 ”.

19. Section 10 amended

Section 10(4) is amended by deleting “\$5 000” and inserting instead —

“ \$100 000 ”.

20 **20. Section 12 repealed**

Section 12 is repealed.

21. Section 13 replaced

Section 13 is repealed and the following section is inserted instead —

s. 22

“

13. Consumers’ installations

- 5 (1) An undertaker or a pipeline licensee may commence to supply gas to a consumer’s gas installation if, and only if —
- (a) the installation has been inspected and complies with the requirements, if any, prescribed in respect of that installation; or
- 10 (b) the undertaker or the pipeline licensee has an Inspection Policy Statement and Plan approved by the Director under section 13J and the installation has been inspected in accordance with that plan and complies with the requirements, if any, prescribed in respect of
- 15 that installation.

Penalty: \$100 000.

- 20 (2) In proceedings for an offence against subsection (1)(b) it is a defence for the defendant to show that an inspection was carried out after the gas was supplied to the consumer’s gas installation under section 13K(2).

”.

22. Section 13D replaced

Section 13D is repealed and the following section is inserted instead —

25

“

13D. Approval of gas appliances

- (1) A person shall not sell, hire, advertise for sale or install a Type A gas appliance unless the appliance —
- 30 (a) is a gas appliance that is approved by the Director or is of a class or type of gas appliance that is approved by the Director; and

- (b) is marked, stamped or labelled in the manner approved by the Director.

Penalty: \$100 000.

- (2) A consumer shall not use a Type B gas appliance unless the appliance —

- (a) has been approved by the Director; and
- (b) is marked, stamped or labelled in the manner approved by the Director.

Penalty: \$100 000.

- (3) The Director may by instrument in writing delegate to an inspector the power to give approval for the purposes of subsection (1)(a) or (2)(a).

”.

23. Section 13E amended

- (1) Section 13E(1) is amended by inserting after “gas appliance” —
“ or class or type of gas appliance ”.

- (2) After section 13E(3) the following subsection is inserted —
“

- (3a) The Director may refuse to approve of an application in respect of —

- (a) a Type A gas appliance;
- (b) a class or type of Type A gas appliance;
- (c) a Type B gas appliance; or
- (d) a class or type of Type B gas appliance,

if the Director is satisfied that the appliance or class or type of appliance does not comply with —

- (e) a standard or requirement specified by the Director by notice published in the *Gazette*; or

s. 24

(f) a prescribed standard or requirement.

”.

(3) Section 13E(7) is amended by deleting “\$2 000 or imprisonment for 6 months or both” and inserting instead —

5 “ \$100 000 ”.

24. Section 13F amended

Section 13F(3) is amended by deleting “\$2 000 or imprisonment for 6 months or both” and inserting instead —

“ \$20 000 ”.

10 **25. Section 13G amended**

(1) Section 13G(1) is amended by deleting “gas appliances or”.

(2) Section 13G(2) is amended by deleting “any gas appliance or”.

26. Section 13H amended

15 Section 13H(4) is amended by deleting “\$2 000 or imprisonment for 6 months or both” and inserting instead —

“ \$100 000 ”.

27. Sections 13I to 13N inserted

After section 13H the following sections are inserted —

“

20 **13I. Guidelines for gasfitting work**

(1) In this section —

“**gasfitting work**” means an operation, or a work or a process on or in relation to a gas installation, whether of an undertaker, a pipeline licensee or a consumer.

25

(2) The Director may from time to time formulate and publish guidelines that are not mandatory for safe

practices and technical standards in relation to
gasfitting work.

- 5
- (3) Before completing the formulation of guidelines the
Director must consult interested groups and persons in
relation to the proposed guidelines to such an extent as
the Director considers appropriate.
- 10
- (4) Guidelines under subsection (2) may specify —
- (a) standards to be observed, practices and
procedures to be followed, and measures to be
taken with respect to gasfitting work; or
 - (b) practices and procedures to be followed, and
measures to be taken, to promote the safety of
the public and persons engaged in gasfitting
work.
- 15
- (5) Guidelines under subsection (2) may incorporate or
adopt guidelines, standards, or codes of practice made,
formulated, published or issued under any law of
another State or the Commonwealth, or by Standards
Australia, the Australian Gas Association or any other
20 body with such variations and modifications, if any, as
the Director specifies.

13J. Inspection Policy Statement and Plan

- 25
- (1) An undertaker or pipeline licensee may prepare and
submit an Inspection Policy Statement and Plan (the
“**Plan**”) to the Director for the purpose of —
- (a) ensuring the safety of a consumer’s gas
installations and gas appliances; and
 - (b) monitoring the work of those who carry out any
30 operation, work or process of the nature of
gasfitting on the gas installation of a consumer
supplied with gas (“**gasfitters**”) from the
undertaker or pipeline licensee’s distribution
system, cylinders, tanks, gas plant or pipeline.

s. 27

- (2) The Plan is to —
- (a) relate to work on all types of consumers' gas installations supplied with gas, whether new or by way of alteration or addition;
 - 5 (b) provide for —
 - (i) measures to prevent or provide protection from fire, explosion, and asphyxiation; and
 - 10 (ii) the investigation of incidents of fire, explosion, or asphyxiation, including incidents related to gas appliances connected (whether or not permanently) to consumers' gas installations, which may have been associated with gas
 - 15 supplied by the undertaker or pipeline licensee;
- and
- (c) set out a system of inspection to monitor —
 - 20 (i) compliance by gasfitters with written laws applicable to gasfitting on a consumer's gas installation; and
 - (ii) the safety of a consumer's gas installation and gas appliances supplied with gas.
- 25 (3) A system of inspection referred to in subsection (2)(c) must comply with such guidelines as are issued by the Director from time to time setting out the technical, investigative, reporting, administrative, and other requirements with which the system is to comply.
- 30 (4) Within 20 working days after the submission of a Plan under subsection (1) or a revised Plan under section 13K(4)(b)(ii), the Director is to make a determination in respect of the Plan or revised Plan —

- (a) requiring further particulars to be supplied in relation to any matter, or that other matters specified by the Director be addressed, in a further submission;
- 5 (b) granting approval, or granting approval subject to any condition imposed relevant to the compliance by the undertaker or pipeline licensee with the matters referred to in subsection (1);
- 10 (c) rejecting the submission, wholly or in part, and requiring a further submission; or
- (d) rejecting the submission,
- and is to notify the undertaker or pipeline licensee in writing of the determination.
- 15 (5) If the Director does not make a determination under subsection (4) within 20 working days, the Director is to be taken to have approved the Plan or revised Plan.
- (6) If a Plan is approved, the Director may specify a period not exceeding 2 years during which the system of inspection is to operate.
- 20 (7) An approved Plan, the approval of which has not been withdrawn by the Director, is to be made available for public inspection at the offices of the Director with any modifications that the Director considers necessary, after consultation with relevant persons, to protect commercial information.
- 25

13K. Inspections under the Plan

- (1) Whether or not any inspection required to be carried out under a Plan approved under section 13J(4)(b) (the **“approved plan”**) is carried out at particular premises, and if it is carried out the nature and extent of it, is a matter within the discretion of an inspector unless —
- 30

s. 27

- (a) the approved plan provides that an inspector is not to have a discretion as to whether or not an inspection is carried out or if it is carried out the nature and extent of the inspection;
- 5 (b) a written law otherwise specifically requires; or
- (c) the Director or a responsible officer of the undertaker or pipeline licensee otherwise directs, if the approved plan provides for such a direction to be given.
- 10 (2) Despite section 13 and subsection (1), an approved plan may provide for some or all inspections to be carried out —
- (a) after the installation has, or appliances have, been permanently supplied with gas; or
- 15 (b) by way of the examination only of a sample of the work of gasfitters,
- subject to the prior approval of the Director being obtained and to any condition, restriction or limitation imposed by the Director.
- 20 (3) If —
- (a) in good faith, an inspector decides not to carry out an inspection;
- (b) in good faith, an inspector decides to carry out an inspection of a particular nature or to a particular extent;
- 25 (c) the undertaker or pipeline licensee, or the system of inspection established in accordance with the approved plan by the undertaker or pipeline licensee, does not require that an
- 30 inspection be carried out; or

- (d) the approval of the Director has been given to an inspection not being carried out,

in any particular case or in relation to any class of case, the inspector, the undertaker or pipeline licensee, the Director or the State, as the case may be, is not liable, in civil or criminal proceedings, for any injury or damage arising from failure to carry out an inspection.

- (4) The Director may at any time audit and assess the inspection practices of an undertaker or pipeline licensee for conformity with the approved plan and the adequacy of the system of inspection and may by order in writing —

- (a) require the modification of any inspection practice of that undertaker or pipeline licensee if it is found by the Director not to conform with the approved plan;

- (b) require the gas undertaker or pipeline licensee —

- (i) to review those practices, or such of those practices as are specified in the order; and

- (ii) if in any respect the system of inspection set out in the approved plan is found to be inadequate to establish and maintain an effective system of inspection for the purposes referred to in section 13J(1), to submit a revised plan,

within such time as is specified in the order; or

- (c) withdraw approval of the Plan,

and the undertaker or pipeline licensee must forthwith comply with requirements of the order.

- (5) The Director may exercise the powers conferred by subsection (4)(a), (b) and (c) at any time so far as that

s. 27

may be necessary in relation to any particular accident, or to any incident or other matter affecting the safety of a consumer's gas installation.

- 5 (6) An undertaker or pipeline licensee that has an approved plan and fails to comply with a requirement of —
- (a) this section; or
 - (b) the plan including any condition to which the granting of the approved plan was subject,
- 10 commits an offence.
Penalty: \$100 000.

13L. Director's guidelines

- 15 (1) Before completing the formulation of guidelines referred to in section 13J(3) the Director must consult relevant persons in relation to the proposed guidelines to such an extent as the Director considers appropriate.
- (2) Guidelines may specify policies or standards to be observed, methods, practices and procedures to be followed, and measures to be taken with respect to inspections.
- 20 (3) Guidelines under section 13J(3) may incorporate or adopt guidelines, standards or codes of practice made, formulated, published or issued under any law of another State or the Commonwealth, or by Standards Australia, the Australian Gas Association or any other
- 25 body with such variations and modifications, if any, as the Director specifies.

13M. Review of certain decisions of the Director

- 30 (1) An undertaker or pipeline licensee aggrieved by a determination of the Director under section 13J(4) may apply in writing to the Director for a review of the determination.

- 5
- (2) The application is to be made within 14 days after the applicant receives a notification of the determination or within such further period as the Director in a particular case allows.
- (3) The Director must give the applicant a reasonable opportunity to make submissions in relation to the application.
- 10
- (4) The Director, after considering submissions (if any) made under subsection (3), may determine the application by —
- 15
- (a) confirming the determination;
 - (b) varying the determination; or
 - (c) cancelling the determination and making a new determination under section 13J(4), which determination is not subject to review under this section.
- (5) The Director must give the applicant written notice of his or her determination.

20

13N. Appeal from determinations of Director under section 13M

- (1) Any person aggrieved by a determination of the Director under section 13M(4) may —
- 25
- (a) if a question of law is involved, appeal to the District Court in the manner prescribed by rules of court; or
 - (b) in any other case, appeal in the prescribed manner to a technical review panel appointed under the regulations.
- 30
- (2) The District Court has jurisdiction to hear and determine an appeal made under subsection (1)(a) and on hearing an appeal, may, according to the nature of the case do any of the following —

s. 27

- 5
- 10
- 15
- 20
- 25
- 30
- (a) confirm, cancel or vary the determination the subject of the appeal;
 - (b) remit the subject matter of the appeal to the Director for further consideration and the making of a new determination under section 13J(4) within 20 working days of the day on which the Director receives notice of the Court's decision, which determination is not subject to review under section 13M;
 - (c) make any further order, as to costs or otherwise, as it thinks fit.
- (3) On an appeal made under subsection (1)(b) the technical review panel may confirm, cancel or vary the determination and the decision of the technical review panel is final.
- (4) If the technical review panel cancels a determination, the Director may make a new determination in accordance with the panel's decision under section 13J(4) within 20 working days of the day on which the Director receives notice of the panel's decision, which determination is not subject to review under section 13M.
- (5) If an appeal has been made under subsection (1) in relation to a determination, the District Court or the technical review panel, as the case may be, may suspend the operation or effect of the determination until the determination of the appeal.
- (6) If the technical review panel confirms a determination under subsection (3), the appellant is liable to pay the reasonable costs of the review.
- (7) Any costs payable by the appellant under subsection (6) are recoverable by the Director in a court of competent jurisdiction as a debt due to the State.

”.

