

# PART I PRELIMINARY

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### 1 Short title and commencement

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1.

This Act may be cited as the Gas Act and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint\*.

\* No date has yet been appointed for the coming into operation of this Act as at 30th June 2002.

### 2 Interpretation

Interpretation

2.

In this Act, unless the context otherwise requires —

"Appeal Panel" means a panel established by the Minister under section 83;

"appointed day" means —

(a) in relation to this Act, the date of commencement of this Act; and

(b) in relation to a particular provision of this Act, the date of commencement of that provision;

"authorised officer" means any person authorised by the Authority under section 3 (2);

"Authority" means the Energy Market Authority of Singapore established under the Energy Market Authority of Singapore Act (Cap. 92B);

"check meter" means any subsidiary device used to verify the readings taken by a meter;

"code of practice" means a code of practice issued or modified by the Authority under section 62;

"connect", in relation to any premises, means connect to a gas main of a gas transporter, whether directly or by means of a gas service pipe, and

"disconnect" and "re-connect" have corresponding meanings except that they also include discontinuing or restoring, as the case may be, the conveyance of gas to the premises;

"consumer" means a person —

(a) to whose premises gas is shipped; or

(b) whose premises are connected to a gas pipeline network for the purpose of obtaining a supply of gas;

"convey" means the transmission or distribution of gas by means of gas pipes, and "conveying", "conveyed", and "conveyance" shall be construed accordingly;

"direct access customer" means a person who has an arrangement with —

(a) a gas transporter for the conveyance of gas to his premises through a gas pipeline network owned by, or under the management or control of, that gas transporter; or

(b) a person other than a gas transporter for the shipping of gas to his premises and has the benefit, under the arrangement, of identifiable rights for the conveyance of gas to his premises through the gas pipeline network to which his premises are connected;

"director" has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

"document" includes electronic records;

"earthworks" means —

(a) any act of excavating earth, rock, or other material (by whatever means) in connection with —

(i) any work for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, road, railway, bridge, viaduct, flyover, sewer or sewage works;

(ii) any work for or relating to the laying, inspecting, repairing or renewing of any main, pipe, cable, fitting or other apparatus;

(iii) any soil investigation work; or

(iv) such other works as are usually undertaken by a person carrying on business as a contractor in the construction industry or as a professional civil or structural engineer;

(b) any act of boring, dredging, jacking, levelling, piling or tunnelling on or under any premises or street by any mechanical means; or

(c) the driving or sinking of any earth rod, casing or tube into the ground;

"electronic records" has the same meaning as in the Electronic Transactions Act (Cap. 88);

"exempt gas transporter" means a person carrying out any activity specified in section 6 (1) (a) who is granted an exemption under section 8;

"gas" means natural gas and town gas, but does not include liquefied petroleum gas;

"gas appliance" means any appliance in which gas is consumed, either for domestic requirements (including for cooking, heating or cooling purposes) or for industrial or commercial requirements (including for powering a gas engine or as feedstock in a chemical process);

"gas fitting" includes any pipe, valve, meter, regulator or other device for the control, measurement and use of gas;

"gas importer" means a person holding a gas importer's licence;

"gas importer's licence" means a licence granted under section 7 (3) (h);

"gas installation" means a discrete grouping of gas fittings linking a gas service pipe to a gas appliance;

"gas licence" means a licence granted under section 7 (3);

"gas licensee" means a person holding a gas licence;

"gas main" means any gas pipe used for the distribution of gas from a gas transmission pipeline to a consumer but does not include a gas service pipe or an internal pipe;

"gas mains network" means a network of interconnected gas mains and related equipment;

"Gas Network Code" means a code issued by the Authority or modified under section 61B;

"gas pipeline" means a gas transmission pipeline, a gas main or a gas service pipe;

"gas pipeline network" means a gas transmission network, a gas mains network and gas service pipes;

"gas plant" means any valve, regulator, plant, pipe, equipment or apparatus used for, or for purposes connected with, the production, processing, conveyance, storage or shipping of gas;

"gas retailer" means a person holding a gas retailer's licence;

"gas retailer's licence" means a licence granted under section 7 (3) (d);

"gas service isolation valve" means a valve, located at or near the boundary line of any property or the apron of any building, used by a gas transporter to isolate the supply of gas to that property or building;

"gas service pipe" means a pipe or any part thereof, other than a gas main, used for the purpose of conveying gas from a gas main to a gas service isolation valve, and includes any pipe owned by, or under the management or control of, a gas transporter which is used for the purpose of conveying gas from the gas service isolation valve to the meter at a consumer's premises;

"gas service work" means any work carried out on any gas installation or gas appliance, in whole or in part, including any design, construction, installation, commissioning, erection, testing, repair, addition, alteration or maintenance work;

"gas service worker" means a person carrying on the activities referred to in section 11 (1);

"gas shipper" means a person holding a gas shipper's licence;

"gas shipper' s licence" means a licence granted under section 7 (3) (c);

"gas supply system" means all gas pipeline networks, gas plants and other related equipment owned by, or under the management or control of, all gas transporters for the purpose of supplying gas to consumers;

"gas tightness" means the freedom from leak when a gas pipeline network, gas installation or gas fitting is tested at the appropriate test pressure;

"gas transmission pipeline" means a bulk transmission pipeline or interconnected transmission pipeline, together with equipment (including pressure regulating and control valves) used for the conveyance of gas to a direct access customer or a gas mains network, and "gas transmission network" shall be construed accordingly;

"gas transport agent" means a person holding a gas transport agent' s licence;

"gas transport agent' s licence" means a licence granted under section 7 (3) (b);

"gas transporter" means a person holding a gas transporter' s licence;

"gas transporter' s licence" means a licence granted under section 7 (3) (a);

"hotwork" means any work on a non-isolated gas pipeline network involving the use of a local source of ignition and includes welding, gas-cutting, grinding, chipping, and any process capable of generating heat, sparks or both, which may be capable of igniting flammable vapour or any other combustible material;

"import" , in relation to natural gas or LNG, means to bring or cause to be brought into Singapore by any means, the natural gas or LNG from any place outside Singapore, other than any such natural gas or LNG in transit or to be transhipped; but does not include the actual conveyance of such natural gas in connection therewith;

"information" includes information contained in electronic records;

"internal pipe" means any pipe, not being a gas pipeline, used for the purpose of conveying gas from a gas service pipe to a gas appliance, including a gas fitting inserted therein but excluding a meter;

"licensed gas business" means the business of a gas licensee in carrying on the activity in respect of which it holds a gas licence;

"licensed gas service worker" means a person who is licensed under section 12 (3);

"liquefied natural gas" or "LNG" means natural gas in its liquefied state;

"LNG terminal" means a facility located onshore or in Singapore waters which is used to receive, store or gasify LNG that is imported into Singapore and at which any or all of the following activities are carried out in relation to any LNG received at the facility (including after it has been gasified thereat):

(a) adjustment of pressure or flow rate;

(b) adjustment of temperature;

(c) filtering;

(d) metering;

"LNG terminal operator" means a person holding an LNG terminal operator's licence;

"LNG terminal operator's licence" means a licence granted under section 7 (3) (f);

"meter" means any device for computing the volume of gas supplied or amount of energy supplied, for charging purposes, but does not include a check meter;

"natural gas" means any mixture of gaseous hydrocarbons which is conveyed by gas pipes and is composed of —

(a) predominantly methane; and

(b) as to the remainder, varying amounts of other hydrocarbons and other combustible and non-combustible gases;

"natural gas or LNG in transit" means any natural gas or LNG that is brought into Singapore by any means solely for the purpose of being taken out of Singapore by the same or any other means, without such natural gas or LNG being brought into an onshore receiving facility or LNG terminal, or kept at any place in Singapore, pending its being taken out of Singapore;

"occupier" means the person in occupation of any premises and includes the person having the charge, management or control of the premises either on his own account or as agent for another person, but does not include a lodger;

"onshore receiving facility" means a facility located in Singapore upstream of an onshore gas transmission network owned by, or under the management or control of, a gas transporter, and at which any or all of the following activities are carried out in relation to any gas received at the facility:

- (a) adjustment of pressure or flow rate;
- (b) adjustment of temperature;
- (c) filtering;
- (d) metering;

"onshore receiving facility operator" means a person holding an onshore receiving facility operator' s licence;

"onshore receiving facility operator' s licence" means a licence granted under section 7 (3) (e);

"premises" means any building, structure or other place to which gas is, or is to be, conveyed;

"production" means the production of gas from a production well or a manufacturing plant;

"public safety" means the obviation of danger to the general public and to any public place or public property;

"regulations" means regulations made under this Act;

"relevant gas main" , in relation to a gas transporter, means a gas main under the control of that gas transporter which is in the area specified in its gas transporter' s licence and is used for conveying gas to any premises;

"relevant gas retailer" means, in relation to a consumer other than a direct access customer, the gas retailer who supplies that consumer with gas conveyed to his premises;

"relevant gas shipper" means, in relation to a consumer who is a direct access customer, the gas shipper who makes arrangements with a gas transporter for gas to be conveyed to the premises of that consumer;

"retail" means the supply of gas to a consumer other than a direct access

customer, and “retailer and retailing” shall be construed accordingly;

“shipping” , in relation to gas, means arranging with a gas transporter for gas to be introduced into, conveyed by and taken out of a gas pipeline network owned by, or under the management or control of, the gas transporter for purposes connected with the supply of gas to any premises, and “ship” shall be construed accordingly;

"standard of performance" means a standard of performance issued or modified by the Authority under section 62;

"street" includes any road, highway, square, footway or passage, whether a thoroughfare or not, over which the public has a right of way, the way over any public bridge, and any road, footway or passage, open court or open alley, used or intended to be used as a means of access to 2 or more holdings, whether the public has a right of way thereover or not; and all channels, sewers, drains, tunnels, ditches and reserves at the side of any street shall be deemed to be part of the street;

"supply" , in relation to gas, means the physical delivery of gas to a consumer' s premises;

"town gas" means any substance in a gaseous state which is conveyed in gas pipes and is manufactured from petrochemical feedstock or natural gas, and has hydrogen as one of its main constituents;

"town gas producer" means a person holding a town gas producer"s licence;

"town gas producer' s licence" means a licence granted under section 7 (3) (g );

"tranship" , in relation to natural gas or LNG, means to bring or cause to be brought into Singapore the natural gas or LNG by any means solely for the purpose of taking it out of Singapore by the same or any other means —

(a) where such natural gas or LNG is brought into an onshore receiving facility or LNG terminal, or kept at any place in Singapore, pending its being taken out of Singapore; and

(b) whether or not such natural gas or LNG is subject to any processing pending its being taken out of Singapore.

## **PART II ADMINISTRATION**



### 3 Authority to administer Act

#### Authority to administer Act

3.

—(1) The Authority shall be charged with the general administration of this Act and the exercise of the functions and duties imposed on the Authority by this Act.

(2) The Authority may authorise any person to assist it in the exercise of its functions and duties under this Act, either generally or in a particular case.

(3) Subject to the provisions of this Act, it shall be the function and duty of the Authority —

(a) to protect the interests of consumers with regard to —

(i) the prices and other terms for the supply of gas;

(ii) the reliability, availability and continuity of the supply of gas; and

(iii) the quality of gas supply services provided;

(b) to protect the public from dangers arising from the production, processing, storage, conveyance, shipping, supply or use of gas;

(c) to secure that gas licensees whose prices are controlled by the Authority are able to provide an efficient service and maintain financial viability;

(d) to promote the efficient use of gas by consumers;

(e) to promote competition in the supply of natural gas;

(f) to perform the functions of economic, technical and safety regulator for the gas industry in Singapore;

(g) to advise the Government on all matters relating to the production, processing, storage, conveyance, shipping, supply or use of gas; and

(h) to do such other things as are required under this Act and to take such steps as are necessary or expedient for the effective discharge of its functions and duties under this Act.

(4) In performing its functions and exercising its powers, the Authority shall —

(a) use its reasonable endeavours to apply principles and methodologies to gas licensees who conduct similar activities within a particular sector of the gas industry in a non-discriminatory manner; and

(b) act in a reasonable manner in all circumstances.

(5) Nothing in this section shall be construed as imposing on the Authority, directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

(6) For the purposes of this section, “consumers” includes both existing and future consumers of gas.

## 4 Power to obtain information

Power to obtain information

4.

— (1) The Authority or any authorised officer may by notice require any person to furnish, within a reasonable period specified in the notice, all information and documents relating to all such matters as may reasonably be required by the Authority to carry out the functions or duties assigned to the Authority by or under this Act, which are within the knowledge of that person or in his custody or under his control.

(1A) The power to require a person to furnish any information or document under subsection (1) includes the power —

(a) to require that person, or any person who is or was an officer or employee of his, to provide an explanation of the information or document;

(b) if the information or document is not furnished, to require that person to state, to the best of his knowledge and belief, where it is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the Authority in legible form.

(2) Any person who fails, without reasonable excuse, to do anything required of him by notice under subsection (1) shall be guilty of an offence.

(3) Any person who —

(a) intentionally alters, suppresses or destroys any information or document which he has been required by any notice under subsection (1) to furnish; or

(b) in furnishing any information or document required by any notice under subsection (1), makes any statement which he knows to be false in a material particular or recklessly makes such a statement,

shall be guilty of an offence.

(4) If any person fails to comply with a notice under subsection (1), the court may, on the application of the Authority, make such order as the court thinks fit to secure compliance with such notice.

(5) Any order referred to in subsection (4) may provide that all the costs and expenses of and incidental to the application shall be borne by such person or by any officer of a company or other association who is responsible for the failure.

(6) The Authority through an authorised officer may, at any time after the expiry of the period specified in the notice referred to in subsection (1), enter any building or place where the Authority has reason to believe that any information or document in respect of which it has given the notice may be found, and seize or take extracts or copies of any such information or document.

(6A) The Authority shall be entitled without payment to keep any information or document, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (6).

(7) Except in the performance of his functions or duties or when required to do so by any court or under any written law, no person who is or has been a member, an officer, an employee or an agent of the Authority or a member of a committee of the Authority shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his functions or duties.

(8) Any person who contravenes subsection (7) shall be guilty of an offence

and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

## 5 Restriction on disclosure of confidential information

Restriction on disclosure of confidential information

5.

— (1) This section shall apply if —

(a) any information or document is given by a person to the Authority under this Act (other than Part IX); and

(b) at the time such information or document is given, the person giving it notifies the Authority in writing that it is of a confidential or commercially sensitive nature.

(2) The Authority shall not disclose to any person the information or the contents of a document to which this section applies unless —

(a) the Authority is of the opinion that —

(i) the disclosure of the information or the contents of the document would not cause detriment to the person supplying it or to any other person who is aware of the information or document; or

(ii) although the disclosure of the information or the contents of the document would cause detriment to the person supplying it or to any other person who is aware of the information or the contents of the document, the public benefit in disclosing outweighs that detriment;

(b) the Authority gives written notice to —

(i) the person who supplied the information or document; and

(ii) any other person whom the Authority is aware has supplied the information or document to the person referred to in sub-paragraph (i), where the identity of such other person is known to the Authority,

stating that the Authority wishes to disclose the information or contents of

the document, specifying the nature of the intended disclosure and detailed reasons why the Authority wishes to make the disclosure and setting out a copy of this section; and

(c) no appeal is made to the Minister under subsection (3) within 7 days of the date of the giving of the notice.

(3) A person aggrieved by a notice under subsection (2) (b) may appeal to the Minister under section 93 (1) (a) within 7 days of the date of the giving of the notice.

(4) Subsection (2) shall not prevent the Authority from disclosing any information or the contents of any document —

(a) to any member, officer or employee of the Authority or any agent, consultant, committee or panel acting for or under the direction of the Authority;

(b) to the Minister or any agent, consultant, committee or panel acting for or under the direction of the Minister;

(c) to an Appeal Panel;

(d) when required to do so by any court or under this Act or any other written law; or

(e) for the purposes of any criminal proceedings.

(5) For the purposes of this section, the disclosure of any information or the contents of a document already in the public domain at the time the Authority wishes to disclose it cannot cause detriment to any person referred to in subsection (2) (a).

## **PART III LICENSING OF ACTIVITIES RELATING TO GAS**

### **PART III LICENSING OF ACTIVITIES RELATING TO GAS**

#### **6 Prohibition on unauthorised activities relating to gas**

## Prohibition on unauthorised activities relating to gas

6.

— (1) Subject to subsections (2), (3) and (4), no person shall —

(a) convey gas —

(i) through a gas pipeline or gas pipeline network to any premises; or

(ii) to a gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter;

(b) convey gas for or on behalf of a gas transporter (other than as an employee of the gas transporter);

(c) ship gas on or after such date as the Minister may, by order published in the *Gazette*, specify;

(d) retail gas on or after such date as the Minister may, by order published in the *Gazette*, specify;

(e) manage or operate any onshore receiving facility, whether—

(i) for himself; or

(ii) as principal, or for or on behalf of any other person (other than as an employee);

(f) manage or operate any LNG terminal;

(g) produce town gas on or after such date as the Minister may, by order published in the *Gazette*, specify;

(h) import natural gas or liquefied natural gas; or

(i) carry on such other activity relating to gas as the Minister may, by order published in the *Gazette*, specify,

unless he is authorised to do so by a gas licence or is exempted under section 8.

(2) A person may, without a licence —

- (a) convey, in any premises or part thereof in which that person has an interest, gas supplied for use in the premises; or
- (b) sell, for use in any premises or part thereof in which that person has an interest, gas retailed for use in the premises by a gas retailer.
- (3) A person who is not incorporated in Singapore and does not have a place of business in Singapore may, without a licence, manage or operate an onshore receiving facility as principal if —
- (a) he appoints a person who is incorporated in Singapore or has a place of business in Singapore to manage or operate the onshore receiving facility on his behalf (other than as an employee); and
- (b) that person is licensed for the purpose of subsection(1) (e) (ii).
- (4) A person may, without a licence, manage or operate an onshore receiving facility on behalf of a principal, whether or not he is incorporated in Singapore or has a place of business in Singapore, if—
- (a) his principal is incorporated in Singapore or has a place of business in Singapore; and
- (b) his principal is licensed for the purpose of subsection(1) (e) (ii).
- (5) An order under subsection (1) (i) may provide for —
- (a) the application of the provisions of this Act to the activity specified in the order subject to such exceptions or modifications as may be specified in the order;
- (b) matters relating to the regulation of the activity specified, including the prescribing of fees and charges;
- (c) the conditions which may be included in a licence authorising the carrying on of the activity specified in the order; and
- (d) generally for giving full effect to or for carrying out the purposes of the order.
- (6) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1million and, in the case of a continuing offence, to a further fine not exceeding \$25,000 for

every day or part thereof during which the offence continues after conviction.

## 7 Application for gas licence etc.

Application for gas licence, etc.

7.

— (1) An application for a licence, an extension to a licence or an exemption under this Part shall —

(a) be made in writing to the Authority and shall be in such form as may be determined by the Authority; and

(b) be accompanied by such information, document and fee as may be determined by the Authority.

(2) In determining whether to grant or extend a licence to or for a particular person, the Authority shall consider the following:

(a) the ability of that person to finance the carrying on of the particular activity;

(b) the experience of that person in carrying on the activity, and his ability to perform the duties which would be imposed on him under this Act and the licence;

(c) in the case of a gas retailer's licence, in relation to that person —

(i) the quantities of gas available, or which are anticipated to be available, to that person for retail purposes; and

(ii) the sufficiency of rights held, or which are anticipated to be held, by that person to ship gas to premises for retail purposes;

(d) in the case of a gas importer's licence, in relation to that person, the quantities of natural gas or liquefied natural gas available, or which are anticipated to be available, to that person for import;

(e) whether or not that person is related to any gas licensee or any person exempted under section 8; and



(f) the functions and duties of the Authority under section 3.

(3) The Authority may, with the approval of the Minister, grant or extend —

(a) for any or all of the purposes referred to in section 6 (1) (a), a gas transporter' s licence;

(b) for the purpose referred to in section 6 (1) (b), a gas transport agent' s licence;

(c) for the purpose referred to in section 6 (1) (c), a gas shipper' s licence;

(d) for the purpose referred to in section 6 (1) (d), a gas retailer' s licence;

(e) for any or all of the purposes referred to in section 6 (1) (e), an onshore receiving facility operator' s licence;

(f) for any or all of the purposes referred to in section 6 (1) (f), an LNG terminal operator' s licence;

(g) for the purpose referred to in section 6 (1) (g), a town gas producer' s licence;

(h) for any or all of the purposes referred to in section 6 (1) (h), a gas importer' s licence; and

(i) for the purpose referred to in paragraph (i) of section 6 (1), a licence for such activity as may be specified in any order made under that paragraph.

(4) A gas transporter' s licence granted or extended for the purpose referred to in section 6 (1) (a) (i) shall specify the area to which the licence relates, which area may include any part of an area specified in an existing licence granted to another person under this section.

(5) A gas licence shall not be granted to any person, if the grant of the licence may, in the opinion of the Authority, give rise to a conflict of interest in the discharge of any duty imposed on the person under this Act, the Electricity Act (Cap. 89A) or any other licence granted to him under this section.

(6) A gas transporter' s licence shall not be granted to —

(a) a gas retailer, gas shipper or town gas producer; or

(b) a person who is the holder of a licence under section 9 (1) (a), (c), (d) or (f) of the Electricity Act.

(7) A gas transport agent's licence shall not be granted to a gas retailer, gas shipper or town gas producer.

(8) A gas shipper's licence shall not be granted to a gas transporter or gas transport agent.

(9) A gas retailer's licence shall not be granted to a gas transporter or gas transport agent.

(10) Without prejudice to the application of section 6 (3) and (4), an onshore receiving facility operator's licence shall not be granted to any person who is not incorporated in Singapore and does not have a place of business in Singapore.

(11) A town gas producer's licence shall not be granted to a gas transporter or gas transport agent.

(12) Every licence granted or extended under this Part shall continue in force, unless it is revoked or suspended, for such period as may be specified in the licence.

## 8 Exemption

### Exemption

8.

—(1) The Authority may, with the approval of the Minister, by order published in the *Gazette*, exempt any person or class of persons from complying with section 6 (1) for any specified period —

(a) generally or to such an extent as may be specified in the order; and

(b) unconditionally or subject to such conditions as may be specified in the order.

(2) Without prejudice to the generality of subsection (1) (b), the conditions of an exemption may require any person carrying on any activity in pursuance

of the exemption —

(a) to comply with any direction given by the Authority as to such matters as are specified in the exemption order or are of a description so specified;

(b) to do or not to do such things as are specified in the exemption order or are of a description so specified, except in so far as the Authority consents to his doing or not doing them; and

(c) to refer for determination by the Authority such questions arising under the exemption as are specified in the exemption order or are of a description so specified.

(3) If any condition of an exemption granted to a class of persons is not complied with by any person of that class, the Authority may give to that person a direction declaring that the exemption is revoked, in so far as it relates to that person, to such extent and from such date as may be specified in the direction.

(4) An exemption order shall continue in force, unless it is revoked, for such period as may be specified in the order.

(5) In granting an exemption under this section, the Authority shall act in a manner so as not to discriminate between members of a particular class.

## 9 Conditions of gas licences

Conditions of gas licences

9.

— (1) A gas licence may include such restrictions or conditions (whether or not relating to the activities authorised by the gas licence) as appear to the Authority to be requisite or expedient having regard to the functions and duties of the Authority under section 3.

(2) Without prejudice to the generality of subsection (1), a gas licence may include conditions —

(a) restricting the activities which the gas licensee is permitted to carry out;

- (b) requiring payments to be made to the Authority on the grant, or during the currency, of a gas licence or both, of such amount as may be determined by or under the gas licence;
- (c) requiring the gas licensee to furnish specified persons or the Authority in such manner and at such times as may be specified with such information as appears to the Authority to be requisite or expedient for the purpose of facilitating the exercise by those persons or the Authority of the functions or duties assigned to them or as may be reasonably required for that purpose;
- (d) requiring the gas licensee to furnish to the Authority financial information including regulatory accounts in respect of such period and on such basis as may be specified;
- (e) controlling, limiting or restricting —
- (i) the ownership or control, directly or indirectly, of the gas licensee;
- (ii) the creation, holding or disposal of any interest in shares in the gas licensee or in any person holding shares in the gas licensee; or
- (iii) any other interest in the licensed gas business or undertaking of the gas licensee or any part thereof;
- (f) requiring the gas licensee to comply with any direction, determination, order or decision of the Authority as to such matters specified in its gas licence or are of a description so specified;
- (g) requiring the gas licensee to do or not to do such things as are specified in its gas licence or are of a description so specified, except in so far as the Authority consents to its doing or not doing them, as the case may be;
- (h) requiring the gas licensee to comply with any code of practice and standard of performance applicable to the gas licensee;
- (i) providing for the determination by the Authority of such questions arising under the gas licence, or under any document specified or described in the gas licence;
- (j) imposing requirements by reference to designation, acceptance or approval by the Authority;
- (k) providing for references in the conditions of the gas licence to any document specified or described in the gas licence to operate as references to that document as revised or re-issued from time to time;

(l) providing that the conditions of the gas licence shall have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions;

(m) requiring the gas licensee to provide a performance bond, guarantee or any other form of security on such terms and conditions as the Authority may determine; and

(n) where the gas licensee is not incorporated or does not have a place of business in Singapore, requiring the gas licensee to appoint, and notify the Authority of, a person who has a residential address or a place of business in Singapore to accept service on behalf of the gas licensee of any notice, order or document required or authorised by this Act to be given or served on the gas licensee.

(3) Without prejudice to the generality of subsection (1), a gas transporter' s licence may include conditions —

(a) requiring the gas transporter to enter into an arrangement with any person for —

(i) the conveyance of gas through a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter; and

(ii) such other purposes as may be specified in the gas transporter' s licence,

on such terms as may be approved by the Authority;

(b) identifying specified agreements or classes of agreements which the gas transporter may only enter into on such terms as may be approved by the Authority;

(c) pertaining to the transmission and distribution of gas;

(d) requiring the gas transporter to have in place procedures to be followed in the event of a public emergency and requiring it to maintain a national gas emergency service for the gas supply system;

(e) requiring the gas transporter to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in any such condition;

(f) requiring the gas transporter to interconnect one or more gas pipelines or gas pipeline networks or to convert a gas pipeline network to allow for the conveyance of natural gas through that gas pipeline network;

(g) pertaining to the prices to be charged by the gas transporter for use of a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter and the methods by which such charges are to be determined; and

(h) requiring the gas transporter to establish and maintain arrangements with respect to the provision of special services for meeting the needs of consumers who are chronically sick, disabled or elderly or as appear to the Authority to be requisite or expedient having regard to those duties.

(4) Without prejudice to the generality of subsection (1), a gas retailer's licence may include conditions —

(a) requiring the gas retailer to secure such rights for the conveyance of gas through a gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter as are necessary for the purposes of complying with obligations owed by the gas retailer to consumers connected to such gas pipeline or gas pipeline network;

(b) requiring the gas retailer to establish and maintain arrangements with respect to the provision of special services for meeting the needs of consumers who are chronically sick, disabled or elderly or as appear to the Authority to be requisite or expedient having regard to those duties;

(c) requiring the gas retailer to act as a retailer of last resort in the event of the failure or default of another gas retailer;

(d) pertaining to converting a gas pipeline network to allow for the conveyance of natural gas through a gas pipeline network; and

(e) pertaining to the prices to be charged by the gas retailer for the retailing of gas and the methods by which such charges are determined.

(5) Without prejudice to the generality of subsection (1), an onshore receiving facility operator's licence may include conditions —

(a) requiring the onshore receiving facility operator to —

(i) have in place procedures for compliance by the operator in the event of a public emergency; and

(ii) have emergency response capabilities; and

(b) requiring the onshore receiving facility operator to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in any such condition.

(6) Without prejudice to the generality of subsection (1), an LNG terminal operator's licence may include conditions —

(a) pertaining to the type, specifications and use of the LNG terminal;

(b) requiring the LNG terminal operator to —

(i) have in place procedures for compliance by the operator in the event of a public emergency; and

(ii) have emergency response capabilities;

(c) pertaining to the quantities of natural gas or liquefied natural gas which may be received, stored or processed at the LNG terminal;

(d) regulating the terms and conditions of any service provided at the LNG terminal; and

(e) requiring the LNG terminal operator to appoint, at such intervals and on such terms as the Authority may direct, an independent technical auditor for the purposes specified in any such condition.

(7) Without prejudice to the generality of subsection (1), a gas importer's licence may include a condition controlling the quantities of natural gas or liquefied natural gas to be imported.

## 10 Prohibition on transfer of gas licence without consent of Authority

Prohibition on transfer of gas licence without consent of Authority

10.

—(1) No gas licence shall be transferred without the prior consent in writing of the Authority.

(2) Any purported transfer of a gas licence shall be void.

## 11 Licensing of gas service worker

Licensing of gas service worker

11.

— (1) No person shall —

(a) carry out or offer or undertake to carry out any gas service work; or

(b) advertise or otherwise hold himself out or conduct himself in any way or by any means as a gas service worker or as a person who carries out or who is qualified by any written law to carry out gas service work,

unless he is registered as a professional engineer and has a valid practising certificate under the Professional Engineers Act (Cap. 253), or holds a valid gas service worker licence in respect of the specific class of work being carried out or to be carried out.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) This section shall not apply to a gas transporter, a gas transport agent, or an employee of a gas transporter or gas transport agent.

## 12 Application for gas service worker licence

Application for gas service worker licence

12.

— (1) Any person who wishes to be a licensed gas service worker shall apply to the Authority.

(2) An application under subsection (1) shall be made in such manner or form as the Authority may determine and shall be accompanied by the prescribed fee and such documents and particulars as the Authority may determine.

(3) The Authority may, in its discretion, license a gas service worker either



unconditionally or subject to such conditions as it thinks fit, or may refuse to license him.

(4) The Authority may at any time vary or revoke any of the existing conditions of a gas service worker licence or impose new conditions or suspend or cancel such licence.

(5) The Authority may license gas service workers under different classes for different types of gas service work.

(6) Any person holding a gas service worker licence granted under section 100 of the Public Utilities Act (Cap. 261, 1996 Ed.) in force immediately before the appointed day shall, unless the Authority directs otherwise, be deemed to be a licensed gas service worker under this Act.

## **13 Engagement of unlicensed gas service worker prohibited**

Engagement of unlicensed gas service worker prohibited

13.

Any person who employs or instructs any person who is not a licensed gas service worker to carry out or cause to be carried out any gas service work shall be guilty of an offence.

# **PART IV MODIFICATION AND ENFORCEMENT OF GAS LICENCES**

PART IV  
MODIFICATION AND ENFORCEMENT OF GAS LICENCES

## **14 Power to modify gas licences**

Power to modify gas licences

14.

— (1) The Authority may modify any condition of any gas licence in accordance with this Part.

(2) The Authority shall not modify any condition of a gas licence unless the Authority is satisfied that the modification is requisite or expedient having regard to the functions and duties of the Authority under section 3.

## 15 Notice of proposal to modify

Notice of proposal to modify

15.

— (1) Where the Authority proposes to modify any condition of a gas licence, the Authority shall give notice to the gas licensee and other gas licensees likely to be affected by the proposed modification —

(a) stating that the Authority proposes to make a modification to the condition of the gas licence;

(b) setting out the nature and effect of the modification;

(c) stating the reasons why the Authority proposes to make the modification, including whether the need for the modification was the subject of a prior representation made by a third party or the affected gas licensee; and

(d) specifying the period (not being less than 28 days from the date of the service of the notice on the gas licensee) within which representations with respect to the proposed modification may be made.

(2) Where the Authority receives any written representation under subsection (1), the Authority shall consider such representation and may —

(a) reject the representation; or

(b) withdraw or amend the proposed modification in accordance with the representation or otherwise.

## 16 Modification

Modification

16.

—(1) Upon the expiry of the period referred to in paragraph (d) of section 15 (1) and upon the consideration of any representation received under that paragraph, the Authority may, by issuing a direction in writing to the gas licensee, modify the condition of the gas licence, and, subject to subsection (2), the modification shall be effective from such date as the Authority may specify in the direction.

(2) A modification made in accordance with this Part may not be effective earlier than —

(a) the end of the period referred to in section 15 (1) (d) unless the gas licensee consents to the modification being effective prior to the end of such period; or

(b) the date of the end of the period referred to in section 17 or the date on which the Appeal Panel directs under section 85 (8) that the modification should be made, whichever is later.

## 17 Appeal against modification

Appeal against modification

17.

Any gas licensee aggrieved by a decision of the Authority to modify its gas licence may, within 14 days of receipt of a direction made under section 16 (1), appeal to the Appeal Panel under Part X.

## 18 Power to revoke or suspend gas licence

Power to revoke or suspend gas licence

18.

—(1) If the Authority is satisfied that —

- (a) a gas licensee has gone into compulsory liquidation or voluntary liquidation other than for the purpose of amalgamation or reconstruction;
  - (b) a gas licensee has made any arrangement, compromise or composition with any of its creditors;
  - (c) any circumstance specified in a gas licensee's gas licence giving rise to the Authority's power to revoke or suspend the licence exists;
  - (d) a gas licensee has not complied with any direction or requirement issued by the Authority under section 19; or
  - (e) the public interest or security of Singapore requires,
- the Authority may, by notice in writing and without payment of any compensation, revoke or suspend the gas licence for such period as the Authority thinks fit.

(2) In the case of subsection (1) (c) or (d), the Authority may further require the payment by the gas licensee of a financial penalty, in addition to any sanction imposed under section 19, of an amount not exceeding 10% of the annual turnover of the gas licensee's licensed gas business ascertained from its latest audited accounts, or an amount not exceeding \$1 million, whichever is higher.

## 19 Enforcement

### Enforcement

19.

If the Authority is satisfied that a gas licensee is contravening, is likely to contravene or has contravened any condition of its gas licence, any provision of any code of practice or standard of performance applicable to the gas licensee, any provision of this Act, or any direction (including a direction under paragraph (a)) issued by the Minister or the Authority to, or applicable to, the gas licensee, the Authority may by notice in writing to the gas licensee do one or more of the following:

- (a) direct the gas licensee to do or not to do such things as are specified in such direction;

(b) require the gas licensee to provide a performance bond, guarantee or other form of security on such terms and conditions as the Authority may determine; and

(c) where the gas licensee is contravening or has so contravened such condition, provision or direction, require the payment of a financial penalty of an amount not exceeding 10% of the annual turnover of the gas licensee's licensed gas business ascertained from its latest audited accounts, or an amount not exceeding \$1 million, whichever is the higher.

## 20

20. Deleted by Act 24/2007, wef 08/06/2007.

# PART V GAS TRANSPORTERS

## PART V GAS TRANSPORTERS

### 21 General duties of gas transporter

#### General duties of gas transporter

21. —(1) It shall be the duty of a gas transporter —

(a) to develop and maintain a safe, efficient, reliable and economical gas pipeline or gas pipeline network for the conveyance of gas;

(b) subject to paragraph (a), to comply, so far as it is economical to do so, with any reasonable request to connect to that gas pipeline or gas pipeline network, and convey gas by means of that gas pipeline or gas pipeline network to, any premises; and

(c) to carry on its licensed gas business at all times in such a manner so as not to prevent, restrict or otherwise hinder the development of competition in any gas market in Singapore.

(2) It shall also be the duty of a gas transporter to avoid undue preference or undue discrimination —

- (a) in the terms on which it undertakes the conveyance of gas by any gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter; or
- (b) in the connection of premises to such a gas pipeline or gas pipeline network.

## 22 Duty to connect

Duty to connect

22.

—(1) Subject to the provisions of this Act, a gas transporter shall, on the request of the owner or occupier of any premises, provide and install a gas service isolation valve, provide and lay a gas service pipe from the relevant gas main to the gas service isolation valve and connect such premises to the relevant gas main.

(2) Where any connection is made under subsection (1), the costs of providing and installing the gas service isolation valve, providing and laying the gas service pipe and making the connection shall only be recovered by the gas transporter from the owner or occupier of the premises, as the case may be, to the extent that the costs have not been previously recovered from any other person.

(3) Where any premises have been connected to a relevant gas main under —

(a) this Act;

(b) any written law which has been repealed; or

(c) any arrangement entered into by the owner or occupier of the premises prior to the date of commencement of section 10 of the Gas (Amendment) Act 2007,

the gas transporter shall maintain the connection until such time as it is no longer required by the owner or occupier of the premises at that time.

(4) Nothing in subsection (1) or (3) shall require the gas transporter to connect, or maintain a connection of, a relevant gas main to any premises, if —

(a) the gas transporter is unable to do so by circumstances beyond its control; or

(b) there exist circumstances, which by reason of the gas transporter doing so, would involve a danger to the public.

(5) If the connection, or the maintenance of the connection, of any premises to a relevant gas main under this section —

(a) will result in a new or an increased supply of gas to those premises; and

(b) the new or increased supply of gas cannot be made without the laying of a new, or the enlargement of an existing, gas main or the undertaking of other works related to the conveyance of gas to those premises,

the gas transporter may refuse to make or maintain the connection until such time as the owner or occupier of those premises when the new or increased supply is being required enters into an agreement with the gas transporter for the payment of a reasonable amount to the gas transporter having regard to —

(i) the costs to be incurred by the gas transporter in laying or enlarging the relevant gas main or undertaking other works related to the conveyance of gas to those premises; and

(ii) the extent to which such costs can be recovered from other persons.

(6) The owner or occupier of any premises shall grant the gas transporter rights of access to lay, install, maintain, repair, alter or remove any gas service isolation valve or gas service pipe in his premises.

## 23 Power to require security

Power to require security

23.

— (1) Where any person requires a connection to be made under section 22 (1), a gas transporter may require the person to give it reasonable security for the payment to it of all costs which may become due to it in respect of the provision and installation of the gas service isolation valve, the provision and laying of the gas service pipe and the making of the connection.

(2) If the person fails to give such security, or the security given has become invalid or insufficient, the gas transporter may refuse to provide and install the gas service isolation valve, provide and lay the gas service pipe or make the connection for so long as the failure or insufficiency continues.

## 24 Power to recover expenditure

Power to recover expenditure

24.

Except as otherwise provided in section 22, where any gas main or gas plant is procured or provided by a gas transporter, the gas transporter may require any expenses reasonably incurred in procuring or providing such gas main or gas plant to be defrayed by any person requiring the connection to be made to such extent as is reasonable in all the circumstances.

## 25 Prices

Prices

25.

— (1) Without prejudice to section 38, the prices to be charged by a gas transporter and to be paid by gas shippers for the conveyance of gas through a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter shall be in accordance with such rates as may be established from time to time by the gas transporter in accordance with the conditions of its gas transporter's licence.

(2) The prices established by a gas transporter under subsection (1) shall be published in such manner as will secure adequate publicity.

(3) In establishing prices under subsection (1), a gas transporter shall not show undue preference or exercise undue discrimination as between gas shippers similarly situated and having gas conveyed, or wishing to have gas conveyed, through a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter.



## 26 Power to fell trees etc.

Power to fell trees, etc.

26.

— (1) Where, in the opinion of a gas transporter, any tree or vegetation near any part of a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, the gas transporter or any internal pipe causes or is likely to cause damage to such pipeline, pipeline network, plant or pipe, the gas transporter may cause the tree or vegetation to be felled, lopped, cleared or dealt with in such manner as will, in its opinion, prevent the damage.

(2) A gas transporter shall, in the exercise of its powers under subsection (1), be subject to the provisions of the National Parks Board Act (Cap. 198A) and the Parks and Trees Act (Cap. 216).

(3) Where any tree or vegetation which has been felled, lopped, cleared or otherwise dealt with under subsection (1) was in existence before the gas pipeline, gas pipeline network or gas plant was placed, erected or installed, the gas transporter shall, subject to subsections (4) and (5), pay to any person adversely affected such sum of money as may be agreed between the gas transporter and the person by way of compensation.

(4) No further compensation shall be paid for the felling, lopping or clearing of any tree or vegetation where the action is necessary for the maintenance of a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter and the tree or vegetation has grown or has been allowed to grow since the payment of compensation under subsection (3).

(5) No compensation shall be payable by a gas transporter under subsection (3) in respect of any tree or vegetation within 20 metres of the centre line of any road constructed or maintained by the Government or by any public authority unless it is proved that the tree or vegetation was in existence prior to the construction of the road.

(6) The owner or occupier of any land shall, before felling, lopping or clearing any tree or vegetation adjacent to a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter, give the gas transporter 14 days' notice in writing of his intention to do so and shall take such reasonable precautions as the gas

transporter may require for the protection of such pipeline, pipeline network or plant.

(7) If any such owner or occupier fails to give notice under subsection (6), or having given notice fails to take any such reasonable precautions as the gas transporter may have required, the owner or occupier shall be liable to pay the gas transporter the reasonable cost and expense incurred by the gas transporter in respect of any damage caused to any such gas pipeline, gas pipeline network or gas plant, subject to the Authority's approval as to the amount of the cost or expense in the case of any dispute.

(8) If any tree or vegetation is felled, lopped or cleared upon any land adjacent to a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter, it shall be presumed until the contrary is proved that the tree or vegetation was felled, lopped or cleared by the owner or occupier of the land or by his employees or agents acting as such.

## 27 Works

Works

27.

—(1) Subject to the provisions of this Act, a gas transporter may, in order to carry out the activities which it is authorised by its gas transporter's licence to carry out —

(a) install in, on, over, under, upon, along or across any land, premises, street or waters and inspect, maintain, adjust, repair, alter, restore, replace or remove any gas pipeline, gas plant or gas fitting which is or is to be part of its gas pipeline network; and

(b) carry out such activities as are necessary or incidental to the activities falling within subsection (1) (a), including —

(i) excavating any land, street or drain;

(ii) tunnelling or boring under any land, street, sewer or drain;

(iii) removing or using all earth and materials in or under any land, street, sewer or drain;

(iv) erecting or placing any gas plant in or under any land or street; and

(v) such other action as may be necessary to render all such pipes, plant and apparatus safe and efficient,

and shall pay to any person who has suffered damage or loss of value to his property that may be caused by such activity such sum as may be agreed by between the gas transporter and the person by way of compensation.

(2) Any compensation payable under subsection (1) may include an annual payment for land or any immovable property used for the gas transporter's purpose.

(3) All works referred to in subsection (1), including the upper surface or covering, shall be constructed of such materials and shall be maintained by the gas transporter in such a manner as not to be a source of danger, whether by reason of inequality of surface or otherwise.

(4) A gas transporter shall not acquire any right other than that of a user only in respect of any land or premises in, on, over, under, upon, along or across which the gas transporter places any gas pipeline, gas pipeline network or gas plant under this section.

(5) Except in the case of an emergency arising from any fault in any gas main, gas service pipe or gas plant, no works referred to in subsection (1) shall be executed without the giving of 14 days notice to the owner or occupier of the land stating as fully and accurately as possible the nature and extent of the acts intended to be done.

(6) The owner or occupier of the land may, within 14 days of the receipt of the notice referred to in subsection (5), lodge a written objection with the Authority and the Authority shall specify a date to inquire into any such objection.

(7) If no objection is lodged within the period specified in subsection (6), the gas transporter may on expiry of the period enter on the land and do all or any of the acts specified in the notice given under subsection (5).

(8) If an objection is lodged and is not withdrawn before the date fixed for the inquiry referred to in subsection (6), the Authority shall hold the inquiry, giving each party an opportunity to be heard.

(9) Subject to subsection (10), upon the conclusion of the inquiry, the Authority may, either unconditionally or subject to such terms and conditions

as it thinks fit, authorise any of the acts mentioned in the notice given under subsection (5) to be carried out.

(10) Any person aggrieved by any decision of the Authority under this section may, within 14 days of the conclusion of the inquiry, appeal to the Minister whose decision shall be final.

(11) A gas transporter shall do as little damage as possible in the exercise of the powers conferred by subsection (1) and shall make good any damage done in the exercise of those powers.

(12) Where any dispute arises as to whether a gas transporter has sufficiently made good any damage done in the exercise of the powers conferred by subsection (1), the dispute —

(a) may be referred to the Authority by either party; and

(b) shall, on such a reference, be determined by the Authority, whose decision shall be final and conclusive between the parties.

(13) A gas transporter shall exercise the powers conferred by subsection (1) in such manner as will secure that nothing which it installs or keeps installed in, on, over, under, upon, along or across any land, premises, street or waters becomes a source of danger to the public.

(14) A gas transporter shall not, when exercising the powers conferred by subsection (1), be liable for or required to pay any person any fee, charge or expense for the right to enter or use any land or premises.

(15) A gas transporter shall not, without the prior consent in writing of a statutory board or Government authority, authorise any person to enter or use any land belonging to the statutory board or Government authority for the purpose of exercising the powers conferred by subsection (1).

## 28 Provision of convenient ways etc.

Provision of convenient ways, etc.

28.

— (1) A gas transporter shall, in executing any works under section 27, provide and make a sufficient number of convenient ways, watercourses, drains

and channels to replace those that are interrupted, damaged or rendered useless by reason of the execution of the works.

(2) A gas transporter shall pay to any person who suffers damage or loss of value to his property as a result of the gas transporter's actions under subsection (1), such sum as may be agreed by between the gas transporter and the person by way of compensation.

## 29 Maintenance etc. of gas service pipes and gas installations

Maintenance, etc., of gas service pipes and gas installations

29.

— (1) A gas transporter shall carry out any necessary work of maintenance, repair or renewal of —

(a) any part of a gas service pipe from a gas main up to a gas service isolation valve; and

(b) that gas service isolation valve,

by which gas is conveyed to a consumer's premises, whether or not the gas service pipe was supplied and laid at the gas transporter's expense.

(2) The cost of any work carried out under subsection (1) shall be paid as follows:

(a) in the case of work made necessary by any intentional or negligent act of the consumer, by the consumer if the gas transporter requires the consumer to pay; and

(b) in any other case, by the gas transporter.

(3) The Authority may, from time to time, prescribe such person or class of persons to be responsible for the inspection, maintenance, repair or renewal of any part of a gas installation or any part of a gas service pipe linking a gas service isolation valve to the gas installation.

(4) The gas transporter shall —

(a) establish and implement a programme for the carrying out of regular and periodic inspections, by the gas transporter or the person prescribed under subsection (3) as being responsible for such inspections, of any part of a gas installation or any part of a gas service pipe linking a gas service isolation valve to the gas installation; and

(b) notify the person prescribed under subsection (3) as being responsible for the maintenance, repair or renewal of that part of the gas installation or that part of the gas service pipe linking the gas service isolation valve to the gas installation, if any such work of maintenance, repair or renewal is necessary following such inspections; and such work shall be carried out at the expense of that person.

### **30 Relocation of gas main or gas service pipe**

Relocation of gas main or gas service pipe

30.

—(1) Where a gas main or gas service pipe has been laid in, on, over, under, upon, along or across any land by a gas transporter and the owner or occupier of the land desires to use the land in a manner which renders it necessary or convenient that such gas main or gas service pipe should be moved, he may request the gas transporter to move the pipe accordingly.

(2) A gas transporter shall, at the request of the owner or occupier under subsection (1), relocate the gas service pipe if it is satisfied that such relocation is reasonable and the owner or occupier complies with such terms and conditions as the gas transporter may impose, including terms and conditions relating to the payment by the owner or occupier of all reasonable costs and expenses necessary for the relocation.

(3) Where a gas main or gas service pipe has been laid in, on, over, under, upon, along or across any land by a gas transporter and the gas main or gas service pipe is no longer in use by the occupier or any other person for the purposes of the supply of gas, or by the gas transporter for the conveyance of gas, the gas transporter may of its own volition or shall at the reasonable request of the owner, remove the gas main or gas service pipe from the land at its own expense.

(4) For the purposes of subsection (3), “owner” includes any person having a leasehold interest with an unexpired term of not less than 7 years.

## 31 Removal of obstruction over existing gas main etc.

Removal of obstruction over existing gas main, etc.

31.

— (1) No person shall build, erect or construct anything over any existing gas transmission pipeline, gas main or gas service pipe owned by, or under the management or control of, a gas transporter without the approval of the gas transporter.

(2) Any owner or occupier whose premises are found to have any building or structure built, erected or constructed over an existing gas main or gas service pipe shall have the gas main or gas service pipe relocated or diverted away by the gas transporter from under the building or structure.

(3) The costs arising from such relocation or diversion shall be borne —

(a) by the owner or occupier to the extent that he benefits from such diversion or relocation or where the building or structure was built, erected or constructed by him in contravention of subsection (1); and

(b) by the gas transporter in all other circumstances.

(4) Any person who contravenes subsection (1) shall be guilty of an offence.

## 32 Carrying out of earthworks within vicinity of gas plant or gas pipe

Carrying out of earthworks within vicinity of gas plant or gas pipe

32.

— (1) Subject to this section, no person other than a gas transporter shall commence or carry out, or cause or permit the commencement or carrying out of, any earthworks within the vicinity of any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, the gas transporter unless the person —

(a) has given to the gas transporter not less than 7 days' notice in writing of the date on which it is proposed to commence the earthworks;

(b) has obtained from the gas transporter the necessary information on the location of the gas plant or gas pipe; and

(c) has consulted the gas transporter on the steps to be taken to prevent the gas plant or gas pipe from being damaged while the earthworks are being carried out.

(2) The Authority may, if it thinks fit in any particular case, modify the period for which a notice under subsection (1) (a) is to be given to a gas transporter.

(3) It shall be the duty of the person who commences or carries out, or causes or permits the commencement or carrying out of, any earthworks referred to in subsection (1) —

(a) to comply with all reasonable requirements of the gas transporter for the prevention of damage to the gas plant or gas pipe;

(b) to ensure that reasonable precautions are taken when such earthworks are being carried out to prevent any damage to the gas plant or gas pipe; and

(c) to allow the gas transporter reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the gas plant or gas pipe.

(4) It shall be the duty of the gas transporter to whom a notice under subsection (1) (a) has been given —

(a) to promptly inform the person giving the notice of the location of the gas plant or gas pipe, and to provide the person with such other information as may be necessary to enable him to ascertain the exact location of the gas plant or gas pipe;

(b) to advise the person on the precautions to be taken to prevent damage to the gas plant or gas pipe; and

(c) to take all such measures at the work site as may be reasonable and necessary for the protection of the gas plant or gas pipe and, in so doing, the gas transporter shall have regard to the potential risks and dangers that can arise from any damage to the gas plant or gas pipe.



(5) Nothing in subsection (1) shall prohibit a person from commencing or carrying out, or causing or permitting the commencement or carrying out of, any earthworks where he has reasonable cause to believe that it is necessary to do so in the interest of public or private safety.

(6) The person referred to in subsection (5) shall, as soon as practicable but not more than 24 hours after the earthworks have been commenced or carried out, give to the gas transporter notice in writing stating the nature and extent of those earthworks.

(7) Any person who contravenes subsection (1), (3) or (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(8) Subject to subsection (9), in any proceedings for an offence under subsection (7), it shall be a defence for the person charged to prove —

(a) that he took all reasonable steps to discharge his duty under subsection (1) or (3), as the case may be; or

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(9) If, in any proceedings for an offence under subsection (7), the defence involves acting on information supplied by a gas transporter, the person charged shall not, without leave of the court, be entitled to rely on that defence unless he has, within 14 clear days before the hearing, served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

## **32A Damage to gas plant or gas pipe**

Damage to gas plant or gas pipe

32A.

— (1) Any person who wilfully or recklessly removes, destroys, damages or suffers to be damaged any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter or hinders or prevents the gas plant or gas pipe from being used or operated in the manner in which it is intended to be used or operated shall be guilty of an

offence and shall be liable on conviction to a fine not exceeding \$1 million or to imprisonment for a term not exceeding 5 years or to both.

(2) Notwithstanding subsection (1), any person who, in the course of carrying out any earthworks, damages or suffers to be damaged any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million or to imprisonment for a term not exceeding 5 years or to both.

(3) Where an offence under subsection (2) is committed by any person acting as the agent or servant of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable under that subsection in the same manner and to the same extent as if he had personally committed the offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part.

(4) In any proceedings for an offence under subsection (2), it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) If in any proceedings for an offence under subsection (2), the defence involves acting on information supplied by a gas transporter, the person charged shall not, without leave of the court, be entitled to rely on that defence unless he has, within 14 clear days before the hearing, served on the prosecutor a notice in writing giving such information as was then in his possession identifying or assisting in the identification of the person who supplied him with the information.

(6) Any person may apprehend any other person if the other person within his view commits an offence under this section and shall, on such apprehension, hand over the person so apprehended to a police officer without unreasonable delay.

## **33 Special administration order**

Special administration order

—(1) A special administration order is an order of the Minister made under section 34 (1) in relation to a gas transporter or an LNG terminal operator directing that, during the period for which the order is in force, the affairs, business and property of that gas transporter or LNG terminal operator shall be managed directly or indirectly by the Authority —

(a) for securing one or more of the purposes of such an order set out in subsection (2); and

(b) in a manner which protects the respective interests of the shareholders and creditors of the gas transporter and relevant gas shippers, or of the LNG terminal operator, as the case may be.

(2) The purposes referred to in subsection (1) (a) are —

(a) the security or reliability —

(i) in the case of a gas transporter, of the conveyance of gas by the gas transporter to consumers' premises; or

(ii) in the case of an LNG terminal operator, of the services provided by the LNG terminal operator;

(b) the survival of the gas transporter or LNG terminal operator, or the whole or part of its licensed gas business, as a going concern;

(c) the transfer to another company, or (with respect to different parts of any undertaking of the gas transporter or LNG terminal operator) to 2 or more different companies, as a going concern, of so much of any undertaking of the gas transporter or LNG terminal operator as is necessary to transfer in order to ensure that the functions and duties which have been vested in the gas transporter or LNG terminal operator by virtue of its licence may be properly carried out; or

(d) the carrying out of the functions and duties which have been vested in the gas transporter or LNG terminal operator pending the making of the transfer and the vesting of those functions and duties in the other company or companies.

(3) The Minister may make regulations for giving effect to this section and section 34, including regulations governing any undertaking referred to in subsection (2) (c), and making provision for applying, omitting or modifying provisions of Part VIIIA of the Companies Act (Cap.50) where a special

administration order is made.

(4) In this section, “relevant gas shipper” means a gas shipper who ships gas by means of a gas pipeline network owned by, or under the management or control of, a gas transporter in relation to whom a special administration order is made under section 34 (1).

## **34 Power to make special administration order etc.**

Power to make special administration order, etc.

34.

— (1) If, on an application made to the Minister by the Authority, the Minister is satisfied that any one or more of the grounds specified in subsection (2) are satisfied in relation to a gas transporter or an LNG terminal operator, the Minister may make any one or more of the following orders:

(a) a special administration order in relation to the gas transporter or LNG terminal operator;

(b) an order requiring the gas transporter or LNG terminal operator to immediately take any action or do or not do any act or thing in relation to its licensed gas business as the Minister may consider necessary;

(c) an order appointing a person to advise the gas transporter or LNG terminal operator on the proper conduct of its licensed gas business.

(2) The grounds referred to in subsection (1) are —

(a) the gas transporter or LNG terminal operator is or is likely to be unable to pay its debts;

(b) the occurrence of a public emergency;

(c) the Minister considers it in the interest of the security or reliability

—  
(i) in the case of a gas transporter, of the conveyance of gas by the gas transporter to consumers’ premises; or

(ii) in the case of an LNG terminal operator, of the services provided by the LNG terminal operator; or

(d) the Minister otherwise considers it in the public interest.

(3) Notice of any application under subsection (1) shall be given immediately by the Authority to such persons and in such manner as may be determined by the Authority.

(4) Any decision of the Minister under subsection (1) shall be final.

(5) For the purposes of this section, a gas transporter or an LNG terminal operator, being a company, is unable to pay its debts if it is deemed to be so unable under section 254 (2) of the Companies Act (Cap. 50).

(6) Notwithstanding any written law —

(a) a gas transporter or an LNG terminal operator shall not be wound up voluntarily without the consent of the Authority;

(b) no judicial management order under Part VIIIA of the Companies Act shall be made in relation to a gas transporter or an LNG terminal operator;

(c) no step shall be taken by any person to enforce any security over a gas transporter's or an LNG terminal operator's property except where that person has served 14 days' notice in writing of his intention to take that step on the Authority; and

(d) no step shall be taken by any person to execute or enforce a judgment or order of court obtained against a gas transporter or an LNG terminal operator, except where that person has served 14 days' notice in writing of his intention to take that step on the Authority.

(7) The Authority shall be a party to any proceedings under the Companies Act relating to the winding up of the affairs of a gas transporter or an LNG terminal operator.

## **35 Remuneration and expenses of Authority and others**

Remuneration and expenses of Authority and others

— (1) Where a special administration order has been made under section 34 (1) (a), the Authority may, at any time, whether or not the order is still in force, fix the remuneration and expenses to be paid by the gas transporter or LNG terminal operator to the Authority.

(2) The Authority may at any time (whether or not the appointment of the person has terminated) fix the remuneration and expenses to be paid by a gas transporter or an LNG terminal operator to any person appointed by the Minister under section 34 (1) (c) to advise the gas transporter or LNG terminal operator on the proper conduct of its licensed gas business.

## 36 Savings of wayleaves or easements

Savings of wayleaves or easements

36.

Nothing in this Part shall —

(a) affect the right of a gas transporter to enter into an agreement, commonly known as a wayleave agreement, or obtain a grant of an easement with or from the owner or occupier of any land for the purpose of laying, placing, carrying or erecting any gas pipeline or gas pipeline network or gas plant;

(b) affect any such wayleave agreement or easement subsisting immediately before the date of commencement of this Act; or

(c) affect the right of a gas transporter to negotiate the use of land or facilities belonging to the State or any other person.

# PART VI GAS RETAILERS AND GENERAL PROVISIONS

PART VI  
GAS RETAILERS AND GENERAL PROVISIONS

## 37 General duties of gas retailer

General duties of gas retailer

37.

It shall be the duty of a gas retailer —

(a) to develop and maintain a safe, efficient, reliable and economical service for the retailing of gas; and

(b) to carry on its licensed gas business at all times in such manner so as not to prevent, restrict or otherwise hinder the development of competition in any gas market in Singapore.

## 38 Rights of access to relevant facility

Rights of access to relevant facility

38.

— (1) Subject to subsection (7), an owner of a relevant facility shall provide access to the relevant facility without undue discrimination.

(2) If a person is unable to negotiate access to a relevant facility, he may, after giving the owner of the facility not less than 28 days notice, apply to the Authority for directions under this section in order to secure rights of access to that facility.

(3) Where an application is made under subsection (2), it shall be the duty of the Authority —

(a) to decide whether the application should be adjourned to enable negotiations or further negotiations to take place;

(b) to decide whether the application should be considered further or rejected;

(c) to give the applicant and the owner of the relevant facility or any other person whom the Authority considers has an interest an opportunity to be heard; and

(d) to inform such persons of its decision.

(4) Where, after considering an application under subsection (2), the

Authority is satisfied that the efficient operation of the relevant facility or compliance by the owner of the relevant facility with this Act or the conditions of a gas licence would not be prejudiced by the giving of directions, the Authority may give directions —

(a) specifying the terms on which the Authority considers the owner of the relevant facility should enter into an access agreement with the applicant in order to —

(i) secure to the applicant an appropriate access right for the quantities and quality of gas specified in the directions for the duration specified in the directions;

(ii) secure that the exercise of that access right is not prevented or impeded;

(iii) regulate the charges which may be imposed by the owner of the relevant facility for that access right; and

(iv) secure to the applicant any ancillary or incidental rights that the Authority considers necessary or expedient, including connections rights;

(b) specifying the sums or the method of determining the sums which the Authority considers should be paid by the applicant to the owner of the relevant facility in consideration of that access right;

(c) requiring the owner of the relevant facility, if the applicant pays or agrees to pay those sums within a period specified in the directions, to enter into an agreement with him on the terms so specified; and

(d) requiring the owner of the relevant facility to make such adjustments to charges imposed by the owner on existing users of the relevant facility, as the Authority considers appropriate.

(4A) For the avoidance of doubt, the Authority may give directions under subsection (4) notwithstanding that such directions may prejudice the performance of any contractual obligation of the owner of the relevant facility, whether such obligation relates to a contract made before, on or after the appointed day.

(5) In giving any directions under this section, the Authority shall apply the principle that the owner of the relevant facility providing access to the facility should be entitled to receive —



(a) the appropriate proportion of its capital value and operating costs incurred in respect of the facility; and

(b) a reasonable rate of return on the appropriate proportion of the capital value of the facility.

(6) The Authority may require any person who requires access to a gas pipeline or gas pipeline network or who is undertaking the trading of gas at any point (whether actual or notional) in a gas pipeline or gas pipeline network to enter into any agreement designated by the Authority for the purposes of this section.

(7) The Authority may exempt a relevant facility from the requirements set out in this section unconditionally or subject to such conditions as may be specified.

(8) Any person who fails to comply with a direction of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(9) Any person who does any act which has or is likely to have the effect of obstructing, hindering or otherwise preventing any other person from complying with a direction of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(10) No action, suit or other legal proceedings shall lie against any party to a contract made before the appointed day for, or in relation to, any breach of that contract, where such breach is solely attributable to, or occasioned by, the compliance by that party with any direction of the Authority under this section.

(11) Nothing in subsection (10) shall affect the operation of the Frustrated Contracts Act (Cap. 115).

(12) In this section —

"appointed day" means the date of commencement of section 16 of the Gas (Amendment) Act 2007;

"appropriate proportion" means a proportion which properly —

(a) reflects the use made of the relevant facility by virtue of the access right as compared with the use made of that facility for other purposes; and

(b) takes into account sums paid previously in consideration for the access right;

"owner" , in relation to a relevant facility, means any person legally occupying or having control of the relevant facility;

"relevant facility" means any one or all of the following:

(a) a gas pipeline or a gas pipeline network;

(b) a gas processing or production facility which carries out any of the following operations:

(i) synthesising, manufacturing, purifying, blending, odourising or compressing gas for the purpose of enabling it to be introduced into or conveyed through a gas pipeline network owned by, or under the management or control of, a gas transporter or an exempt gas transporter;

(ii) removing from gas for that purpose any of its constituent gas, or separating from gas for that purpose any liquids; and

(iii) determining the quantity or quality of gas which is or is to be introduced, or so conveyed; or

(c) such onshore receiving facility, LNG terminal, gas storage or landing facility (other than a gas pipeline), as may be designated by the Authority to be a relevant facility for the purposes of this section for such time as the Authority considers appropriate.

## **38A Arrangements by Authority for allocation of gas**

Arrangements by Authority for allocation of gas

38A.

— (1) Upon the application of any person who is unable to enter into an arrangement for the allocation of gas in any offshore gas pipeline, the Authority may give directions to —

(a) the applicant; and

(b) every person whose gas is being conveyed through the offshore gas pipeline,

requiring the persons referred to in paragraphs (a) and (b) to enter into such arrangement for the allocation of gas in the offshore gas pipeline on such terms, and to take such steps to ensure that the arrangement is given effect to, as the Authority may specify.

(2) Where the Authority has given directions for an arrangement for the allocation of gas in an offshore gas pipeline under subsection (1) as between the persons referred to in paragraphs (a) and (b) of that subsection —

(a) so much of any arrangement as between the persons referred to in subsection (1) (b) for the allocation of gas in that offshore gas pipeline in force immediately prior to the arrangement so directed by the Authority shall thereupon cease to apply; and

(b) the arrangement directed by the Authority shall cease to apply as between the persons referred to in paragraphs (a) and (b) of subsection (1) upon those persons thereafter entering into an arrangement as between themselves for the allocation of gas in the offshore gas pipeline.

(3) Any person who fails to comply with a direction of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(4) Any person who does any act which has or is likely to have the effect of obstructing, hindering or otherwise preventing any other person from complying with a direction of the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(5) No action, suit or other legal proceedings shall lie against any party to a contract made before the date of commencement of section 17 of the Gas (Amendment) Act 2007 for, or in relation to, any breach of that contract, where such breach is solely attributable to, or occasioned by, the compliance by that party with any direction of the Authority under this section.

(6) Nothing in subsection (5) shall affect the operation of the Frustrated Contracts Act (Cap. 115).

(7) In this section, “offshore gas pipeline” means any gas pipeline in Singapore waters used for the conveyance of gas to any onshore receiving facility.

## **39 Notice of obstruction of gas main or other apparatus**

Notice of obstruction of gas main or other apparatus

39.

— (1) Where any gas pipeline, internal pipe or other apparatus placed in, on, over, under, upon, along or across any premises becomes obstructed or in any way damaged, the occupier of the premises shall, immediately on the obstruction or damage coming to his knowledge, give notice thereof to the gas transporter, relevant gas shipper or relevant gas retailer.

(2) Any occupier who neglects to give notice under subsection (1) after acquiring such knowledge shall be guilty of an offence and his premises may be disconnected by the gas transporter or the supply of gas to his premises may be discontinued by the relevant gas shipper or relevant gas retailer until the necessary repairs are effected or the obstruction is removed.

## **40 Obstructing gas licensee in performance of duties**

Obstructing gas licensee in performance of duties

40.

Any person who at any time molests, or without cause, hinders or obstructs, any employee, agent or contractor of a gas licensee in the performance of his duties or anything which he is respectively authorised, empowered or required to do under this Act shall be guilty of an offence.

## **41 Making of false statements**

## Making of false statements

41.

— (1) Any person who —

(a) when giving any information to the Authority or when making any application under or for the purposes of any provision of this Act, makes any statement which he knows to be false in a material particular; or

(b) when giving any information to the Authority or a gas licensee, recklessly makes any statement which is false in a material particular the effect of which is to endanger the safety of any gas pipeline or gas pipeline network, shall be guilty of an offence.

(2) Any person who —

(a) wilfully or fraudulently procures or attempts to procure for himself or for any other person any gas licence under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration verbally or in writing; or

(b) knowingly aids or assists therein, shall be guilty of an offence.

## 42 Falsely pretending to be employee of Authority or gas licensee

Falsely pretending to be employee of Authority or gas licensee

42.

Any person who seeks to obtain entry to any premises by falsely pretending to be an employee of the Authority or a gas licensee shall be guilty of an offence.

## 43 Gas plant and gas fittings not to be subject to

# distress

Gas plant and gas fittings not to be subject to distress

43.

Any gas fitting which is connected to a gas service pipe, and any gas plant in a consumer's premises which is owned by a gas licensee and is marked or impressed with a sufficient mark, plate or brand indicating its owner —

(a) shall continue to remain the property of its owner and shall be deemed not to be a fixture, notwithstanding that it may be fixed or fastened to any part of the premises in which it may be situated; and

(b) shall not be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession it may be.

# 44 Meters

Meters

44.

— (1) Every consumer shall take his supply of gas through a meter the use of which does not contravene the regulations.

(2) In default of the consumer doing so —

(a) the gas transporter may disconnect or refuse to connect his premises; or

(b) the relevant gas shipper or relevant gas retailer may authorise the supply of gas to his premises to be discontinued and any gas shipper or gas retailer may refuse to supply gas to his premises.

(3) Any meter —

(a) owned by, or under the management or control of, a gas transporter or owned by a relevant gas shipper; and

(b) lent or hired to a consumer by the gas transporter or relevant gas shipper, as the case may be,

shall, at all times and without charge to that consumer, be kept by the gas transporter or relevant gas shipper, as the case may be, in proper order for correctly registering the quantity of gas supplied to that consumer.

(4) A consumer shall at all times keep a meter which belongs to him in proper order for correctly registering the quantity of gas supplied to him.

(5) Subject to the regulations, where a consumer is supplied with gas through a meter, the index of the meter shall be prima facie evidence of the quantity of gas supplied to the consumer.

## 45 Prices of gas retailer

Prices of gas retailer

45.

—(1) The prices to be charged by a gas retailer and to be paid by a person to whom the gas retailer retails gas shall be in accordance with such rates as may be established from time to time by the gas retailer in accordance with the conditions of its gas retailer's licence.

(2) The prices established by a gas retailer under subsection (1) shall be published in such manner as to ensure adequate publicity unless the Authority otherwise directs.

(3) In establishing prices under subsection (1), a gas retailer shall neither show undue preference as between persons or any class of persons nor exercise undue discrimination as between persons or any class of persons.

## 46 Power to recover gas charges etc.

Power to recover gas charges, etc.

46.

—(1) Where —

(a) a demand in writing is made by a gas retailer for the payment of any of the charges due to it from a consumer in respect of the supply of gas to his premises; and

(b) the consumer does not pay those charges within 28 days after the making of the demand,

subsections (3) and (4) shall apply.

(2) Where —

(a) a request in writing is made by a gas retailer for the provision of a deposit by way of reasonable security for the payment of the charges due to it from a consumer in respect of the supply of gas to his premises; and

(b) the consumer does not provide such a deposit within 7 days after the making of the request,

subsection (3) shall apply.

(3) If the gas retailer is a relevant gas retailer, it may, after giving not less than 7 days notice of its intention —

(a) discontinue the supply to the consumer's premises or any other premises occupied by the consumer; and

(b) recover any expenses incurred in so doing from the consumer.

(4) If —

(a) the gas retailer is not a relevant gas retailer but another gas retailer (the new gas retailer) is such a gas retailer; and

(b) the gas retailer has assigned to the new gas retailer its right to recover any of the charges due to it from the consumer,

subsection (3) shall apply as if any reference to the gas retailer were a reference to the new gas retailer.

(5) The powers conferred by subsections (3) and (4) shall not be exercisable in respect of any charges or deposit the amount of which is genuinely in dispute.



# 47 Unauthorised connection with gas pipeline network etc.

Unauthorised connection with gas pipeline network, etc.

47.

— (1) Any person who —

(a) intentionally lays or causes to be laid a pipe or a gas fitting to connect with any gas pipeline or gas pipeline network belonging to or under the management or control of a gas transporter without the consent of the gas transporter;

(b) dishonestly or fraudulently abstracts, uses or consumes any supply of gas; or

(c) intentionally alters or tampers with any meter through which gas is supplied,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

(2) Where any person is prosecuted for an offence under subsection (1) (c) —

(a) the possession by him of any device for altering the index of any meter or for preventing any meter from duly registering the quantity of gas supplied;

(b) the existence of any hole on the meter cover of any meter supplied by a gas licensee;

(c) the existence of any damage to, removal of or change to the chemical composition of any paint or other chemical compound applied by a licensee over any screw, or other component or mechanism of any meter; or

(d) the existence of any damage to the seal which is fastened to the outer cover of any meter to ensure that the cover is not removed, opened, dislodged or otherwise tampered with,

when the meter is in the custody or under the control of the person, shall be prima facie evidence that the person has altered or tampered with the meter.

(3) In the case of any offence under subsection (1), the gas transporter may disconnect the premises of, or the relevant gas shipper or relevant gas retailer may discontinue the supply of gas to the premises of, the person referred to in that subsection.

## 48 Supply of gas illegally taken

Supply of gas illegally taken

48.

— (1) Where any person is guilty of an offence under section 47 or otherwise takes a supply of gas which is in the course of being conveyed by a gas transporter, the gas transporter shall be entitled to recover from that person the value of gas so taken.

(2) Where —

(a) any person at premises which have been re-connected in contravention of section 49 (1) takes a supply of gas which has been conveyed to those premises by the gas transporter; and

(b) the supply is taken otherwise than in pursuance of a contract,

the gas transporter shall be entitled to recover from that person the value of the gas so taken.

(3) A gas transporter shall make, and from time to time revise, a scheme providing for the manner in which the quantity of gas taken in such circumstances as are mentioned in subsection (1) or (2) is to be determined.

(4) A scheme under this section may make different provisions for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme.

(5) As soon as practicable after a gas transporter makes a scheme under this section or a revision of such a scheme it shall —

(a) publish, in such manner as it considers appropriate for bringing it to the

attention of persons likely to be affected by it, a notice stating the effect of the scheme or revision;

(b) send a copy of the scheme or revision to the Authority; and

(c) if so requested by any other person, send such a copy to that person without charge to him.

(6) For the purposes of subsections (1) and (2), “value”, in relation to any gas taken in the circumstances referred to in those subsections, means the amount which could reasonably be expected to have been payable by a consumer in respect of the gas.

## 49 Restoration of supply without consent

Restoration of supply without consent

49.

—(1) Where any premises have been disconnected by a gas transporter in exercise of the powers under this Act or pursuant to a valid and enforceable contractual right —

(a) any person who, without the consent of the gas transporter, re-connects the supply of gas to those premises shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) the gas transporter may again disconnect the premises.

(2) Where the supply of gas to any premises has been discontinued by a gas shipper or gas retailer in exercise of the powers under this Act or pursuant to a valid and enforceable contractual right —

(a) any person who, without the consent of the gas shipper or gas retailer, as the case may be, restores the supply of gas to those premises shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both; and

(b) the gas transporter whose pipeline is connected to those premises (whether such pipeline is owned by, or under the management or control of, him) may disconnect the premises.

## 50 Failure to notify connection to or disconnection from gas pipeline etc.

Failure to notify connection to or disconnection from gas pipeline, etc.

50.

— (1) No person shall —

(a) connect —

(i) any meter with a gas pipeline;

(ii) any meter with an internal pipe connected to a gas pipeline; or

(iii) any internal pipe to a gas pipeline,

through which gas is conveyed to any premises by a gas transporter; or

(b) disconnect such meter or internal pipe,

unless he has given 48 hours' notice in the prescribed form of his intention to do so —

(A) in a case where gas is supplied to the premises by a relevant gas shipper or relevant gas retailer, to the gas shipper or gas retailer; and

(B) in any other case, to the gas transporter.

(2) Subject to subsection (3), a notice under subsection (1) shall contain —

(a) details of the time and place of the proposed connection or disconnection; and

(b) such other information as may be prescribed.

(3) In so far as it is not reasonably practicable for a notice under subsection (1) to contain any information required by subsection (2) (b), it shall be a sufficient compliance with that requirement under subsection (2) (b) if the information is given to the relevant gas shipper, relevant gas retailer or gas transporter, as the case may be, within 48 hours after the

connection or disconnection is effected.

(4) Where under this section any meter through which gas has been supplied to any premises is completely disconnected, that is to say, is disconnected both from the gas pipeline and from all other pipes within the premises, the person making the disconnection shall, except in so far as it is not reasonably practicable for him to do so —

(a) ascertain the name and address of the owner of the meter; and

(b) inform that owner of the disconnection and of the address at which the meter will be available for collection.

(5) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

## 51 Proper use of gas

Proper use of gas

51.

If any consumer supplied with gas improperly uses or deals with the gas so as to interfere with the efficient conveyance or supply of gas (whether to that person or to any other person) —

(a) his premises may be disconnected by the gas transporter; or

(b) the supply of gas to his premises may be discontinued by the relevant gas shipper or relevant gas retailer.

## 52 No obligation to restore supply where consumer in default

No obligation to restore supply where consumer in default

52.

— (1) This section applies where —

(a) a consumer' s premises have been disconnected by a gas transporter under this Act; or

(b) the supply of gas to a consumer' s premises has been discontinued by a gas shipper or gas retailer under this Act.

(2) The gas transporter shall not be under any obligation to re-connect the consumer' s premises, or the gas shipper or gas retailer shall not be under any obligation to restore the supply of gas to the consumer' s premises, as the case may be, until —

(a) the consumer is no longer the owner or occupier of the premises; or

(b) the consumer —

(i) has made good the default, or remedied the matter, in consequence of which the premises were disconnected or the supply of gas to such premises was discontinued; and

(ii) has paid the reasonable expenses of disconnecting and re-connecting the premises or of discontinuing and restoring the supply of gas to the premises, as the case may be.

## 53 Entry for preventing escapes of gas etc.

Entry for preventing escapes of gas, etc.

53.

— (1) Where a gas transporter has reasonable cause to suspect that —

(a) gas conveyed by it is escaping, or may escape, in any premises; or

(b) gas so conveyed which has escaped has entered, or may enter, any premises,

any person authorised by the gas transporter may immediately and without notice enter the premises, inspect the gas fittings or gas plant, carry out any work or other steps necessary to avert danger to life or property.

(2) Where a gas transporter has reasonable cause to suspect that —

(a) gas conveyed through gas mains by some other person is escaping, or may

escape, in any premises within the area specified in its gas transporter's licence; or

(b) gas so conveyed which has escaped has entered, or may enter, any premises in such an area,

any person authorised by the gas transporter may immediately and without notice enter the premises and take any steps necessary to avert danger to life or property.

## 54 Entry during supply

Entry during supply

54.

— (1) Subject to section 60, any person authorised by a gas — transporter may enter a consumer's premises for the purpose of —

- (a) exercising the gas transporter's rights under section 29;
- (b) ascertaining the quantity of gas conveyed to the premises; or
- (c) exercising such other powers as may be specified in the Act.

(2) Subject to section 60, any person authorised by a relevant gas shipper or relevant gas retailer may enter a consumer's premises for the purpose of —

- (a) inspecting gas fittings; or
- (b) ascertaining the quantity of gas supplied or conveyed to the premises.

## 55 Entry on discontinuance of supply

Entry on discontinuance of supply

55.

— (1) This section applies where —

(a) a gas transporter is authorised by this Act to disconnect any premises or a gas shipper or gas retailer is authorised by this Act to discontinue the supply of gas to any premises;

(b) a person occupying any premises supplied with gas by a gas shipper or gas retailer ceases to require a supply of gas; or

(c) a person entering into occupation of any premises previously supplied with gas by a gas shipper or gas retailer does not take a supply of gas.

(2) Subject to section 60 —

(a) any person authorised by a gas transporter may, after 7 days' notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter the premises for the purpose of —

(i) disconnecting the premises; or

(ii) removing any meter or other gas fitting owned by, or under the management or control of, the gas transporter;

(b) any person authorised by a gas shipper may, after 7 days' notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter the premises for the purpose of —

(i) discontinuing the supply of gas to the premises; or

(ii) removing any meter or other gas fitting owned by the gas shipper; and

(c) any person authorised by a gas retailer may, after 7 days' notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter the premises for the purpose of discontinuing the supply of gas to the premises.

## 56 Entry following discontinuance of supply

Entry following discontinuance of supply

56.

— (1) This section applies where a consumer's premises have been disconnected by a gas transporter, or the supply of gas to a consumer's premises has been



discontinued by a gas shipper or gas retailer, otherwise than in the exercise of a power conferred by section 53 or 65 or the regulations.

(2) Subject to section 60 —

(a) any person authorised by the gas transporter may enter the premises for the purpose of ascertaining whether the premises have been re-connected without the consent of the gas transporter; and

(b) any person authorised by the gas shipper or gas retailer may enter the premises for the purpose of ascertaining whether the supply of gas has been restored without the consent of the gas shipper or gas retailer, as the case may be.

## 57

57. Deleted by Act 24/2007, wef 08/06/2007.

## 58 Entry for replacing repairing or altering pipes

Entry for replacing, repairing or altering pipes

58.

— (1) Subject to section 60, any person authorised by a gas transporter may, after 7 days notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter the premises for the purpose of —

(a) placing a new gas plant in the place of any existing gas plant which has already been lawfully placed; or

(b) maintaining, inspecting, repairing, removing or altering any existing gas fitting.

(2) Notwithstanding subsection (1), in the case of an emergency arising from any defect in a gas plant or gas fitting, the person authorised by the gas transporter may immediately and without notice enter any premises for the purposes referred to in that subsection, but notice of the entry and the justification for it shall then be given as soon as possible after the occurrence of the emergency.

## 59 Entry into premises by gas transporter for purposes of inspection

Entry into premises by gas transporter for purposes of inspection

59.

Subject to section 60, a person authorised by a gas transporter may, after 7 days notice to the occupier of any premises, or to the owner of the premises if they are unoccupied, enter upon and survey the premises for the purpose of ascertaining whether the premises would be suitable for use for any purpose connected with the carrying on of the activities which the gas transporter is authorised by its gas transporter's licence to carry on.

## 60 Procedure for rights of entry on land

Procedure for rights of entry on land

60.

— (1) Except as otherwise provided in this Act and subject to the provisions of this section, a gas transporter, gas shipper or gas retailer authorised to enter upon any land or premises under this Act shall not do so unless —

(a) it has given the required notice in accordance with this Act, or where no particular requirement is made, 14 days' notice of the intended entry, such notice to be in accordance with subsection (3) and stating as fully and accurately as possible the acts intended to be done; and

(b) it, or any person authorised by it, has produced a duly authenticated document as evidence of its authority.

(2) Where a gas transporter, gas shipper or gas retailer is authorised to enter upon any land or premises under this Act, it shall do so at a reasonable time.

(3) Any notice referred to in subsection (1) (a) shall —

(a) where the land is occupied, be given to the occupier;

(b) where the land is not occupied, be given to the owner if his name and address are known or can with reasonable diligence be ascertained;

(c) where the land is not occupied and the name and address of the owner cannot be ascertained with reasonable diligence, be exhibited in some conspicuous part of the premises not less than 48 hours before the premises are entered; and

(d) where the land is used or reserved for any public purpose, be given to the officer or other person in charge of the execution of that purpose.

(4) For the purpose of giving a notice referred to in subsection (1) (a), the gas licensee or person authorised by the gas licensee shall be entitled to enter the premises.

(5) Where, in the exercise of any right of entry conferred by or under this Part, any damage is caused to any premises or to any movable property, any person interested in the premises or movable property may recover reasonable compensation as may be agreed in respect of that damage from the gas licensee on whose behalf the power is exercised.

(6) For the purposes of this Part, “premises”, where the context requires, includes a building or structure or other place in which gas is escaping or suspected to be escaping.

## 61 Provisions as to powers of entry

### Provisions as to powers of entry

61.

—(1) No person authorised by a gas transporter, gas shipper or gas retailer shall exercise any powers of entry conferred by this Part or the regulations and no licensed gas service worker shall exercise any powers of entry under the regulations unless —

(a) he is a fit and proper person to exercise those powers; or

(b) in cases of emergency, those powers are powers conferred by section 53.

(2) Where, in pursuance of any powers of entry conferred by this Part or the regulations, entry is made on any premises by a person authorised by a gas

transporter, gas shipper or gas retailer, or by a licensed gas service worker

(a) the person so authorised or the licensed gas service worker shall ensure that the premises are left no less secure by reason of the entry; and

(b) if, in taking any action therein authorised by this Part or the regulations, or in making the premises secure —

(i) the person so authorised or the licensed gas service worker; or

(ii) any person accompanying the person so authorised or the licensed gas service worker in entering the premises,

causes any damage to the premises or to any movable property, the gas transporter, gas shipper, gas retailer or licensed gas service worker, as the case may be, shall —

(A) make good that damage; or

(B) pay any person interested in the premises or movable property such reasonable compensation as may be agreed in respect of that damage.

(3) Any person authorised by a gas transporter, gas shipper or gas retailer or any licensed gas service worker exercising the powers of entry conferred by this Part or the regulations may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of subsection (2).

(4) If any person intentionally obstructs any other person exercising powers of entry conferred by this Part or the regulations, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both, or in a case where the obstruction endangers life or property, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both.

(5) The Authority may by regulations made under section 96 make provision for empowering a person authorised by a gas transporter —

(a) to enter any premises in which there is a gas service pipe connected with a gas main for the purpose of inspecting any gas fitting or gas appliance on the premises, any flue or means of ventilation used in connection with any such gas fitting or gas appliance or any part of the gas pipeline network on the premises, that is to say, any gas service pipe or other apparatus (not being a gas fitting) which is on the premises and is used for the conveyance

or supply of gas or is connected with a gas main; and

(b) where he so enters such premises, to examine or apply any test to any such object as is mentioned in paragraph (a) and, where the object is a gas fitting, to verify what supply of air is available for it.

## PART VII GAS NETWORK CODE

### PART VII

#### GAS NETWORK CODE

### 61A Interpretation of this Part

Interpretation of this Part

61A.

In this Part, unless the context otherwise requires

"designated gas transporter" means a gas transporter declared by the Authority, by notification in the *Gazette*, to be a designated gas transporter for the purposes of this Part;

"gas" means natural gas;

"gas pipeline network" means any gas pipeline network which is used by the designated gas transporter for the conveyance of gas from any onshore receiving facility;

"relevant gas shipper" means a gas shipper who ships gas by means of a gas pipeline network.

### 61B Gas Network Code

Gas Network Code

61B.

—(1) The Authority shall issue a Gas Network Code for the use and operation of a gas pipeline network, which shall include the following:

(a) the governing of arrangements between the designated gas transporter and the relevant gas shippers for the purpose of enabling or ensuring that —

(i) no person is prevented from gaining access to the gas pipeline network; and

(ii) there is no undue discrimination for or against —

(A) the designated gas transporter; or

(B) any person' s access to the gas pipeline network;

(b) the governing of the activities of the designated gas transporter and the relevant gas shippers;

(c) the establishing and governing of the principles and methodologies relating to the operation of the gas pipeline network; and

(d) the establishing and governing of the charges payable by, and other liabilities to be discharged by, the designated gas transporter and the relevant gas shippers.

(2) The designated gas transporter —

(a) may modify the Gas Network Code in such manner as is provided in the Gas Network Code; and

(b) shall modify the Gas Network Code if directed to do so by the Authority.

(3) Any modification to the Gas Network Code under subsection (2) is subject to approval by the Authority, which approval shall be granted unless the Authority determines that the modification—

(a) being a modification made under subsection (2) (a) —

(i) prevents any person from gaining access to any gas pipeline network; or

(ii) unduly discriminates in favour of or against —

(A) the designated gas transporter; or

(B) any person' s access to the gas pipeline network; or

(b) is inconsistent with any function or duty of the Authority under section 3 (3).

(4) The Gas Network Code issued or modified in accordance with this section shall be published by the designated gas transporter in such manner as will secure adequate publicity.

(5) The designated gas transporter or any relevant gas shipper shall not do any thing which, or shall not omit to do any thing the omission of which, has or is likely to have an adverse effect on or compromise—

(a) the safety or efficiency (including economic efficiency) of a gas pipeline network or any of its operations; or

(b) the security or reliability of the conveyance of gas by means of a gas pipeline network.

(6) The Gas Network Code shall be deemed not to be subsidiary legislation.

## **61C Implementation of Gas Network Code**

Implementation of Gas Network Code

61C.

— (1) The designated gas transporter shall devise such tests or trials as are required for the implementation of a Gas Network Code proposed to be issued by the Authority under section 61B.

(2) The designated gas transporter and every relevant gas shipper shall participate in any test or trial devised under subsection (1).

## **61D Gas Network Code has effect as contract**

Gas Network Code has effect as contract

61D.

— (1) The Gas Network Code shall be deemed to be, and shall operate as, a binding contract between the designated gas transporter and each relevant gas shipper.

(2) The designated gas transporter and each relevant gas shipper shall be deemed to have agreed to observe and perform the provisions of the Gas Network Code as far as they are applicable to the designated gas transporter or the relevant gas shipper, as the case may be.

## **61E Limitation of actions under Gas Network Code**

Limitation of actions under Gas Network Code

61E.

— (1) If the Gas Network Code —

(a) regulates the manner in which disputes under the Gas Network Code are to be resolved; and

(b) restricts recourse to the courts until such time as the dispute resolution process in the Gas Network Code has been exhausted,

recourse to the courts shall be limited in accordance with the Gas Network Code except in relation to matters of law and jurisdiction.

(2) Nothing in this section shall be construed as —

(a) sanctioning the absolute limitation of appeals to the courts except in relation to matters of facts; or

(b) limiting the right of any person to seek interim injunctive relief from the courts.

## **61F Directions in relation to Gas Network Code**

Directions in relation to Gas Network Code

61F.



— (1) The Authority may, on an application by any relevant gas shipper, direct any relevant direct access customer to do or not to do such things, including to pay to the relevant gas shipper such charges, as may be determined by the Authority —

(a) in relation to any obligation or liability of the relevant gas shipper under the Gas Network Code; and

(b) for the purpose of ensuring the security or reliability of the conveyance of gas by the designated gas transporter.

(2) An application under subsection (1) shall be made in such form and manner as the Authority may determine and shall be accompanied by such information and documents as the Authority may require.

(3) Any person who fails to comply with any direction given by the Authority under subsection (1) shall be guilty of an offence.

(4) In this section, “relevant direct access customer” means any direct access customer to whose premises a relevant gas shipper ships gas.

## PART VIIA CODES OF PRACTICE

### PART VIIA

#### CODES OF PRACTICE

### 62 Codes of practice

#### Codes of practice

62.

— (1) The Authority may issue one or more codes of practice for the regulation of activities and conduct in the gas industry.

(2) The Authority may at any time modify any code of practice issued under subsection (1) in such manner as may be specified in that code of practice.

(3) For the purposes of subsection (1) or (2), the Authority may require any gas licensee to prepare for its consideration such code of practice or such

modification to any code of practice as the Authority may determine.

(4) Any code of practice issued or modified by the Authority under this section shall be published by the Authority in such manner as will secure adequate publicity.

(5) If any provision in any code of practice issued by the Authority is inconsistent with any regulations made under this Act, such provision shall, to the extent of the inconsistency, either have effect subject to such regulations or, where appropriate, having regard to such regulations, shall not have effect.

(6) The Authority shall specify the codes of practice which are applicable to a gas licensee or a class of gas licensees and each gas licensee shall, subject to subsection (7), comply with such codes of practice as are applicable to it.

(7) The Authority may exempt, either generally or subject to such conditions as the Authority may determine, any gas licensee or class of gas licensees from any provision in any code of practice which is applicable to that gas licensee or class of gas licensees.

(8) Any code of practice issued by the Authority under this section shall be deemed not to be subsidiary legislation.

(9) In this section, a reference to a code of practice shall include a reference to a standard of performance.

## **63 Directions by Authority**

Directions by Authority

63.

— (1) The Authority may give directions to a gas licensee or any other person for or with respect to any code of practice, standard of performance or other procedures —

(a) to ensure the security or reliability of the conveyance of gas to consumers' premises;

(b) in the interests of public safety; or

(c) as may be necessary to enable the Authority to carry out its functions and duties under section 3 (3).

(2) Any person who fails to comply with any direction given by the Authority under subsection (1) shall be guilty of an offence.

## PART VIIB CONTROL OF GAS LICENSEES AND ENTITIES WITH INTEREST IN GAS PIPELINE NETWORK

### PART VIIB

#### CONTROL OF GAS LICENSEES AND ENTITIES WITH INTEREST IN GAS PIPELINE NETWORK

### 63A Interpretation of this Part

#### Interpretation of this Part

#### 63A.

— (1) In this Part, unless the context otherwise requires

"12% controller" , in relation to a designated gas licensee, designated entity or designated business trust, means a person, not being a 30% controller, who, alone or together with his associates —

(a) holds 12% or more of the total equity interests in; or

(b) is in a position to control 12% or more of the voting power in, the designated gas licensee, designated entity or designated business trust;

"30% controller" , in relation to a designated gas licensee, designated entity or designated business trust, means a person who, alone or together with his associates —

(a) holds 30% or more of the total equity interests in; or

(b) is in a position to control 30% or more of the voting power in,

the designated gas licensee, designated entity or designated business trust;

"arrangement" includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

"business trust" has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"chief executive officer" , in relation to a designated gas licensee, means any person, by whatever name described, who —

(a) is in the direct employment of, or acting for or by arrangement with, the designated gas licensee; and

(b) is principally responsible for the management and conduct of any type of business of the designated gas licensee,

and includes any person for the time being performing any or all of the functions or duties of a chief executive officer;

"company" has the same meaning as in section 4 (1) of the Companies Act (Cap. 50);

"corporation" has the same meaning as in section 4 (1) of the Companies Act;

"designated business trust" means a business trust that is established wholly or partly in respect of a gas pipeline network (or any part thereof) and which has been declared by the Authority, by notification in the *Gazette*, to be a designated business trust for the purposes of this Part;

"designated entity" means an entity, not being a designated gas licensee, which owns a gas pipeline network (or any part thereof) and which has been declared by the Authority, by notification in the *Gazette*, to be a designated entity for the purposes of this Part;

"designated gas licensee" means a gas transporter or a gas transport agent;

"entity" includes a corporation and a limited liability partnership;

"equity interest" means —

(a) in relation to a body corporate, a voting share in that body corporate;

(b) in relation to an entity other than a body corporate, any right or interest, whether legal or equitable, in that entity, by whatever name called, which gives the holder of that right or interest voting power in that entity; and

(c) in relation to a business trust, a unit in that business trust;

"indirect controller" , in relation to a designated gas licensee, designated entity or designated business trust, means any person, whether acting alone or together with any other person, and whether with or without holding equity interests or controlling the voting power in the designated gas licensee, designated entity or designated business trust —

(a) in accordance with whose directions, instructions or wishes the directors or other officers of the licensee, the entity or the trustee-manager of the business trust, as the case may be, are accustomed or under an obligation, whether formal or informal, to act; or

(b) who is in a position to determine the policy of the licensee, the entity or the trustee-manager of the business trust,

but does not include —

(i) in the case of the licensee, any person who is a director or other officer of the licensee and whose appointment as such has been approved by the Authority under section 63H; or

(ii) any person in accordance with whose directions, instructions or wishes the directors or other officers of the licensee, the entity or the trustee-manager of the business trust, as the case may be, are accustomed to act by reason only that they act on advice given by him in his professional capacity;

"limited liability partnership" has the same meaning as in section 2 (1) of the Limited Liability Partnerships Act (Cap.163A);

"related corporation" , in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act (Cap. 50);

"share" has the same meaning as in section 4 (1) of the Companies Act;

"substantial equity interest holder" means —

(a) in relation to a company, a substantial shareholder of that company;

(b) in relation to an entity other than a company, a person who has an interest or interests in equity interests in that entity representing 5% or more of the total voting rights of all the persons who hold equity interests in that entity; and

(c) in relation to a business trust, a person who has an interest or interests in units in that business trust representing 5% or more of the total voting rights of all the unitholders of the business trust;

"substantial shareholder" has the same meaning as in section 81 of the Companies Act (Cap. 50);

"treasury share" has the same meaning as in section 4 (1) of the Companies Act;

"trustee-manager" has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

"unit" has the same meaning as in section 2 of the Business Trusts Act;

"unitholder" has the same meaning as in section 2 of the Business Trusts Act;

"voting share" has the same meaning as in section 4 (1) of the Companies Act but does not include a treasury share;

"written law" means the Companies Act or the Business Trusts Act.

(2) In this Part, a person holds an equity interest if —

(a) he is deemed to have an interest in that equity interest in accordance with subsection (3); or

(b) he otherwise has a legal or an equitable interest in that equity interest except for such interest as is to be disregarded in accordance with subsection (3).

(3) In determining whether —

(a) a person is deemed to have an interest in an equity interest; or

(b) any interest is to be disregarded,

section 7 (6) to (10) of the Companies Act (Cap. 50) shall apply as if the reference to a share in those provisions of that section is a reference to an

equity interest.

(4) A reference in this Part to the control of a percentage of the voting power in a designated gas licensee, designated entity or designated business trust is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in a general meeting of the designated gas licensee, designated entity or designated business trust.

(5) In this Part, a person, *A*, is an associate of another person, *B*, if—

(a) *A* is the spouse, or a parent, step-parent or remoter lineal ancestor, or a son, step-son, daughter, step-daughter or remoter issue, or a brother or sister, of *B*;

(b) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B*, or, where *B* is a corporation, of the directors of *B*;

(c) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*

(d) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, where *B* is a corporation, of the directors of *B*;

(e) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, where *A* is a corporation, of the directors of *A*;

(f) *A* is a related corporation of *B*;

(g) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in paragraphs (b) to (f), is in a position to control not less than 20% of the voting power in *A*;

(h) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in paragraphs (b) to (f), is in a position to control not less than 20% of the voting power in *B*; or

(i) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of equity interests or other interests in, or

with respect to the exercise of their voting power in relation to, a designated gas licensee, designated entity or designated business trust.

## 63B Control of equity interests and voting power in and business of designated gas licensee designated entity and designated business trust

Control of equity interests and voting power in, and business of, designated gas licensee, designated entity and designated business trust

63B.

— (1) Any person who becomes a substantial equity interest holder of a designated gas licensee, designated entity or designated business trust shall give notice in writing to the Authority of that fact within 5 days after becoming a substantial equity interest holder of the licensee, entity or business trust.

(2) No person shall become a 12% controller, a 30% controller or an indirect controller of a designated gas licensee, designated entity or designated business trust unless the person obtains the prior written approval of the Authority.

(3) No person, whether or not he has obtained any approval of the Authority under subsection (2) or is exempted from subsection (2) under section 63D, shall acquire as a going concern —

(a) the business (or any part thereof) of a designated gas licensee conducted pursuant to its licence;

(b) the business (or any part thereof) of a designated entity relating to a gas pipeline network or any part thereof owned by the entity; or

(c) the business (or any part thereof) of a designated business trust relating to a gas pipeline network or any part thereof in respect of which, wholly or in part, the business trust is established,

unless the person, and the licensee, the entity or the trustee-manager of the business trust, as the case may be, obtain the prior written approval of the Authority.



(4) Subject to subsection (5), a notice under subsection (1) shall be given and an application for the Authority' s approval under subsection (2) or (3) shall be made in such form and manner as may be specified by the Authority.

(5) An application for the Authority' s approval under subsection (3) shall be made jointly by the person, and the designated gas licensee, the designated entity or the trustee-manager of the designated business trust, as the case may be.

## 63C Approval of applications under section 63B

Approval of applications under section 63B

63C.

— (1) The Authority may approve an application of a person for the Authority' s approval under section 63B (2) if the Authority is satisfied that —

- (a) the person is a fit and proper person;
- (b) having regard to the person' s likely influence —
  - (i) the designated gas licensee or designated entity, as the case may be, will continue to conduct its business prudently and comply with the provisions of this Act; or
  - (ii) the trustee-manager of the designated business trust will continue to conduct the business of the business trust prudently and comply with the provisions of this Act; and
- (c) it is in the public interest to do so.

(2) The Authority may approve an application for the Authority' s approval under section 63B (3) if the Authority is satisfied that —

- (a) the person acquiring the business is a fit and proper person;
- (b) the acquisition will not affect the security or reliability of the conveyance of gas to consumers' premises; and
- (c) it is in the public interest to do so.

(3) Any approval granted by the Authority under this section shall be without prejudice to the operation of Part IX.

(4) Any approval by the Authority under this section may be granted subject to such conditions as the Authority may determine, including but not limited to any condition —

(a) restricting the disposal or further acquisition of equity interests or voting power in the designated gas licensee, designated entity or designated business trust; or

(b) restricting the exercise of voting power in the designated gas licensee, designated entity or designated business trust.

(5) The Authority may at any time add to, vary or revoke any condition imposed under this section.

(6) Any condition imposed under this section shall have effect notwithstanding any written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the designated gas licensee, designated entity or designated business trust.

## 63D Power to exempt

Power to exempt

63D.

The Authority may, by order published in the *Gazette*, exempt—

(a) any person or class of persons; or

(b) any class or description of equity interests,

from section 63B (1), (2) or (3), subject to such conditions as may be specified in the order.

## 63E Power to issue directions

Power to issue directions

63E.

— (1) The Authority may issue any direction under subsection (2) or (3), as the case may be, to a person if the Authority is satisfied that —

(a) the person has contravened section 63B (2) or (3);

(b) in the case of a person who has obtained the Authority' s approval under section 63B (2) or who has been exempted from section 63B (2) under section 63D —

(i) the person is not or ceases to be a fit and proper person;

(ii) having regard to the person' s likely influence —

(A) the designated gas licensee or designated entity, as the case may be, is not, or is no longer, likely to conduct its business prudently or to comply with the provisions of this Act; or

(B) the trustee-manager of the designated business trust is not, or is no longer, likely to conduct the business of the business trust prudently or to comply with the provisions of this Act; or

(iii) it is not, or is no longer, in the public interest to allow the person to continue to be a 12% controller, a 30% controller or an indirect controller, as the case may be;

(c) in the case of a person who has obtained the Authority' s approval under section 63B (3) or who has been exempted from section 63B (3) under section 63D, and who has acquired as a going concern a business referred to in section 63B (3) —

(i) the person is not or ceases to be a fit and proper person; or

(ii) it is not, or is no longer, in the public interest to allow the person to continue to own or manage that business;

(d) the person has furnished false or misleading information or documents to the Authority in connection with the person' s application for the Authority' s approval under section 63B (2) or (3);

(e) the Authority would not have approved the person' s application for its approval under section 63B (2) or (3) had it been aware, at that time, of

circumstances relevant to the application; or

(f) any condition imposed on the person under section 63C or 63D has not been complied with.

(2) Where the person is a 12% controller, a 30% controller or an indirect controller of a designated gas licensee, designated entity or designated business trust, the Authority may, by notice in writing —

(a) direct the person to take such steps as are necessary, within such period as may be specified by the Authority, to ensure that he ceases to be a 12% controller, a 30% controller or an indirect controller of the licensee, entity or business trust;

(b) direct the person or any of his associates to transfer or dispose of any or all of the equity interests in the licensee, entity or business trust held by the person or his associate (referred to in this section and section 63F as the specified equity interests) within such time and subject to such conditions as the Authority considers appropriate;

(c) restrict the transfer or disposal of the specified equity interests; or

(d) make such other direction as the Authority considers appropriate.

(3) Where the person has acquired as a going concern a business referred to in section 63B (3), the Authority may, by notice in writing—

(a) direct the person to transfer or dispose of the business or any part thereof within such time and subject to such conditions as the Authority considers appropriate;

(b) restrict the transfer or disposal of the business or any part thereof; or

(c) make such other direction as the Authority considers appropriate.

(4) Before issuing any direction to any person under subsection (2) or (3), the Authority shall, unless the Authority decides that it is not practicable or desirable to do so, give to that person notice in writing of the Authority's intention to issue the direction and specifying a date by which the person may make written representations with regard to the proposed direction.

(5) Upon receipt of any written representation referred to in subsection (4), the Authority shall consider it for the purpose of determining whether to issue the direction.

(6) Any person to whom a direction is issued under this section shall comply with the direction.

(7) The Authority may at any time vary or revoke any direction issued under this section.

## 63F Effect of directions

### Effect of directions

63F.

— (1) Any direction issued by the Authority to any person under section 63E shall take effect notwithstanding any written law or anything contained in the memorandum or articles of association, trust deed or other constitution of the designated gas licensee, designated entity or designated business trust, as the case may be.

(2) Where any direction is issued under section 63E (2) (b) or (c), notwithstanding any written law or anything contained in the memorandum or articles of association, trust deed or other constitution, of the designated gas licensee, designated entity or designated business trust, as the case may be —

(a) no voting rights shall be exercisable in respect of the specified equity interests unless the Authority expressly permits such rights to be exercised;

(b) no equity interests in the licensee, entity or business trust shall be issued or offered (whether by way of rights, bonus or otherwise) in respect of the specified equity interests unless the Authority expressly permits such issue or offer; and

(c) except in a winding up of the licensee, entity or business trust, no payment shall be made by the licensee, entity or trustee-manager of the business trust of any amount (whether by way of dividends or otherwise) in respect of the specified equity interests unless the Authority expressly authorises such payment,

until the transfer or disposal is effected in accordance with the direction or until the restriction on the transfer or disposal is removed, as the case may be.

# 63G Offences penalties and defences

Offences, penalties and defences

63G.

—(1) Any person who contravenes section 63B (1), (2) or (3) or 63E (6) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3years or to both and, in the case of a continuing offence, to a further fine not exceeding \$50,000 for every day or part thereof during which the offence continues after conviction; or

(b) in any other case, to a fine not exceeding \$1 million and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(2) Where a person is charged with an offence in respect of a contravention of section 63B (1), it shall be a defence for the person to prove that —

(a) he was not aware that he had contravened section 63B (1); and

(b) he has, within 5 days after becoming aware that he had contravened section 63B (1), notified the Authority of the contravention.

(3) Where a person is charged with an offence in respect of a contravention of section 63B (2), it shall be a defence for the person to prove that —

(a) he was not aware that he had contravened section 63B (2); and

(b) he has, within 14 days of becoming aware that he had contravened section 63B (2), notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interests or control of the voting power in the designated gas licensee, designated entity or designated business trust as the Authority may direct.

(4) Where a person is charged with an offence in respect of a contravention of section 63B (2), it shall also be a defence for the person to prove that, even though he was aware of the contravention—

(a) the contravention occurred as a result of an increase in the holding of equity interests, or in the voting power controlled, by any of his associates described in section 63A (5) (a) in the designated gas licensee, designated entity or designated business trust;

(b) he has no agreement or arrangement, whether oral or in writing and whether express or implied, with that associate with respect to the acquisition, holding or disposal of equity interests or other interests in, or under which they act together in exercising their voting power in relation to, the designated gas licensee, designated entity or designated business trust; and

(c) he has, within 14 days of the date of the contravention, notified the Authority of the contravention and, within such time as may be determined by the Authority, taken such actions in relation to his holding of equity interests or control of the voting power in the designated gas licensee, designated entity or designated business trust as the Authority may direct.

(5) Except as provided in subsections (2), (3) and (4), it shall not be a defence for a person charged with an offence in respect of a contravention of section 63B (1) or (2) to prove that he did not intend to or did not knowingly contravene section 63B (1) or (2).

## **63H Appointment of chief executive officer director etc. of designated gas licensee**

Appointment of chief executive officer, director, etc., of designated gas licensee

63H.

—(1) No designated gas licensee shall appoint a person as its chief executive officer, its director or the chairman of its board of directors unless it has obtained the prior written approval of the Authority.

(2) Where a person has been appointed by a designated gas licensee as its chief executive officer, its director or the chairman of its board of directors in contravention of subsection (1), the Authority may issue a direction to the licensee to remove that person as its chief executive officer, its director or the chairman of its board of directors, as the case may be.

(3) This section shall have effect notwithstanding the Companies Act (Cap. 50)

or anything contained in the memorandum or articles of association, or other constitution, of the designated gas licensee.

## PART VIII SAFETY

### PART VIII SAFETY

## 64 Safety requirements in relation to gas

Safety requirements in relation to gas

64.

— (1) No person shall carry out any work in such a manner that allows gas to escape unless precautions are taken to prevent any such escape of gas from being a danger to any person or property.

(2) No person shall connect a gas installation to a source of gas without ensuring that every outlet is sealed with the appropriate gas fitting and the gas installation has been tested for gas tightness.

(3) Where a person carries out any work in relation to a gas fitting which might affect the gas tightness of a gas installation, a gas pipeline or gas pipeline network, he shall immediately thereafter test the system for gas tightness.

(4) Any person who disconnects a gas fitting shall, with the appropriate fitting, seal off every outlet of every pipe to which it is connected.

(5) No person carrying out work in relation to a gas fitting which involves exposing any part of the gas installation which contains or contained flammable gas shall smoke or use any source of ignition unless the gas installation has been purged so as to remove all such gas or has otherwise been made safe from risk of fire or explosion.

(6) No person searching for an escape of gas from a gas fitting shall use any source of ignition unless the source of ignition is incorporated as part of an instrument designed for the detection of gas.

(7) No person shall use any naked flame or carry out any hotwork in the vicinity where gas is known to be leaking.



(8) Any person who contravenes any provision of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 5 years or to both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

## 65 Notified escapes of gas

Notified escapes of gas

65.

— (1) Where any gas escapes from any gas pipeline owned by, or under the management or control of a gas transporter, or from any internal pipe, gas fitting or gas appliance used by a consumer to whose premises gas is conveyed by the gas transporter, the gas transporter shall —

(a) immediately take steps necessary to prevent the gas from escaping (whether by disconnecting any premises or otherwise); and

(b) take any other steps necessary to avert danger to life or property.

(2) If a gas transporter —

(a) fails within a reasonable time to effectively prevent the gas from escaping; or

(b) fails to comply with subsection (1) (b),

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(3) In any proceedings for an offence under subsection (2) (a), it shall be a defence for the gas transporter to prove that —

(a) it was not reasonably practicable for it to effectively prevent the gas from escaping; and

(b) it did effectively prevent the escape as soon as it was reasonably

practicable for him to do so.

(4) In any proceedings for an offence under subsection (2) (b), it shall be a defence for the gas transporter to prove that it took all such steps to avert danger to life or property as were reasonably practicable.

(5) It shall be the duty of any gas transporter, gas shipper or gas retailer to take all steps necessary to ensure that, if it is informed by any person (the informant) or otherwise knows of an escape of gas (other than one, in the case of a gas transporter, that it is required by subsection (1) to prevent), it passes the information on, without avoidable delay —

(a) to a responsible person, that is to say, a person appearing to it —

(i) to be responsible (whether under this section or otherwise) for preventing the escape; or

(ii) to be the gas transporter from whose gas pipeline network the gas is escaping; or

(b) to a person nominated by a responsible person to receive information on his behalf about escaping of gas.

(6) For the purposes of subsection (5) (b), there shall be sufficient compliance if the gas transporter, gas shipper or gas retailer is reasonably satisfied that the informant has passed on the information, without avoidable delay, to the nominated person.

(7) For the purposes of subsections (5) and (6), references to the passing on of information to a nominated person are references to the passing on of information to that person in such manner, if any, as may be specified by the responsible person by whom that person was nominated.

## 66 Suspected escapes of gas

Suspected escapes of gas

66.

— (1) Where a gas transporter has reasonable cause to suspect that gas conveyed by him which has escaped, has entered, or may enter any premises, the gas transporter shall take all steps necessary to avert danger to life or

property.

(2) If a gas transporter fails to comply with subsection (1), it shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000.

(3) In any proceedings for an offence under subsection (2), it shall be a defence for the gas transporter to prove that it took all such steps to avert danger to life or property as were reasonably practicable.

## 67 Power to disconnect and interrupt supply of gas

Power to disconnect and interrupt supply of gas

67.

— (1) Where, on the occurrence of a fire or on the reasonable expectation or occurrence of an operational emergency, a gas transporter, a licensed gas service worker or an authorised officer is of the opinion that immediate action is necessary —

- (a) in the interests of public safety;
- (b) in order to repair damaged gas pipelines;
- (c) in order to avoid undue interference with the efficient conveyance of gas and shipping of gas to consumers;
- (d) for the construction of any new work, alteration to or the maintenance of any existing work;
- (e) for the installation, change or removal of any meter; or
- (f) for the conservation of the supply of gas,

the gas transporter or licensed gas service worker or authorised officer, as the case may be, may immediately disconnect or divert the supply of gas to any premises and shall immediately thereafter give notice in writing of the disconnection or diversion to the owner or occupier of the premises.

(2) A gas transporter, licensed gas service worker or authorised officer shall not be liable under this section in respect of any injury, loss or damage

suffered by any person by reason of —

(a) any failure to provide or delay in providing any supply of gas or any associated gas fitting or gas appliance; or

(b) any failure, interruption, suspension or restriction of any supply of gas which has not been caused by the negligence of the gas transporter, licensed gas service worker or authorised officer, as the case may be.

## 68 Power to reduce supply pressure

Power to reduce supply pressure

68.

A gas transporter may, for operational reasons without incurring any liability for so doing, reduce as it thinks fit the pressure of gas supplied in any case, if at any time it is of the opinion that its gas supply pressure is insufficient for the purposes of maintaining a normal supply of gas, and such pressure shall be restored as soon as reasonably practicable.

## PART IX COMPETITION

PART IX  
COMPETITION

### 69 Agreements etc. preventing restricting or distorting competition

Agreements, etc., preventing, restricting or distorting competition

69.

— (1) Subject to section 71, agreements, decisions or concerted practices by persons which have as their object or effect the prevention, restriction or distortion of competition in any gas market in Singapore are prohibited.

(2) Subsection (1) applies, in particular, to agreements, decisions or concerted practices which —

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions of gas in Singapore;
- (b) limit or control production, markets, technical development or investment in the gas industry in Singapore;
- (c) share markets or sources of supply of gas in Singapore;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts; or
- (f) provide for the acquisition, directly or indirectly, of shares in or the assets of a gas licensee.
- (3) Subsection (1) applies only if the agreement, decision or practice is, or is intended to be, implemented in Singapore.
- (4) Subject to section 71, an agreement or a decision which is prohibited by subsection (1) is void.
- (5) Unless the context otherwise requires, a provision of this Part which is expressed to apply to, or in relation to, an agreement is to be read as applying, with the necessary modifications, equally to, or in relation to, a decision by any person or a concerted practice.
- (6) Subsection (1) applies to agreements, decisions and concerted practices implemented before, on or after the appointed day.

## 70 Abuse of dominant position

Abuse of dominant position

70.

—(1) Subject to section 71, any conduct on the part of one or more persons which amounts to the abuse of a dominant position in any gas market in Singapore is prohibited if it may affect trade within Singapore.

- (2) Conduct may, in particular, constitute such an abuse if it consists in —
- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions of gas in Singapore;
  - (b) limiting production, markets or technical developments in the gas industry in Singapore to the prejudice of consumers;
  - (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
  - (d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts.
- (3) In this section, “dominant position” means a dominant position within Singapore.

## 71 Exemption

### Exemption

71.

- (1) The Authority may, with the approval of the Minister, on the application of any person or on its own initiative, grant an exemption from section 69 (1) or 70 (1) to any agreement or conduct.
- (2) An exemption under subsection (1) —
- (a) may be granted subject to such conditions or obligations as the Authority considers appropriate;
  - (b) shall have effect for such period as the Authority considers appropriate; and
  - (c) shall be in writing and sent by the Authority to the person to whom the exemption is granted.
- (3) The Authority shall notify any applicant in writing of its decision under subsection (1) not to grant an exemption.

(4) An exemption under this section shall, unless previously revoked in accordance with the terms of such exemption, continue in force for such period as is specified in such exemption.

(5) The Authority may, with the approval of the Minister, on the application of any person or on its own initiative —

(a) extend the period for which an exemption granted under subsection (1) has effect;

(b) vary or remove any condition or obligation specified in an exemption; or

(c) impose additional conditions or obligations in an exemption.

## **72 Request for Authority to examine agreement or to consider conduct etc.**

Request for Authority to examine agreement or to consider conduct, etc.

72.

The Authority may, with the approval of the Minister, make regulations —

(a) to provide for persons who are parties to any agreement or conduct to apply to the Authority for guidance as to whether or not the agreement or conduct is likely to infringe section 69 (1) or 70 (1);

(b) to provide for the procedure for an application under paragraph (a);

(c) to prescribe any decision which the Authority may make and the effect of the decision; and

(d) generally for giving full effect to the objective of this Part.

## **73 Power to investigate**

Power to investigate

73.

The Authority may conduct an investigation if there are reasonable grounds for suspecting that section 69 (1) or 70 (1) has been infringed.

## 74 Power when conducting investigation

### Power when conducting investigation

74.

— (1) For the purposes of an investigation under section 73, the Authority may, by notice in writing to any person, require that person to produce to the Authority a specified document, or to provide the Authority with specified information, which the Authority considers relates to any matter relevant to the investigation.

(2) A notice under subsection (1) shall indicate —

(a) the subject matter and purpose of the investigation; and

(b) the nature of the offences created by sections 80, 81 and 82.

(3) The Authority may also specify in the notice —

(a) the time and place at which any document is to be produced or any information is to be provided; and

(b) the manner and form in which it is to be produced or provided.

(4) The power under this section to require a person to produce a document includes the power —

(a) if the document is produced —

(i) to take copies of it or extracts from it; and

(ii) to require such person, or any person who is a present or past officer of his, or is or was at any time employed by him, to provide an explanation of the document; and

(b) if the document is not produced, to require such person to state, to the best of his knowledge and belief, where it is.



(5) In subsection (1), “specified” means —

(a) specified, or described, in the notice; or

(b) falling within a category which is specified, or described, in the notice.

## **75 Power to enter premises under warrant**

Power to enter premises under warrant

75.

— (1) The Authority may apply to a District Court for a warrant and the Court may issue such a warrant if it is satisfied that —

(a) there are reasonable grounds for suspecting that there are on any premises documents which are required to be produced under section 74; or

(b) there are reasonable grounds for suspecting that —

(i) there are on any premises documents which the Authority has power under section 74 to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

(2) A warrant under this section shall authorise a named officer of the Authority, and any other of its officers whom the Authority has authorised in writing to accompany the named officer —

(a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under subsection (1) was granted (the relevant kind);

(c) to take possession of any document appearing to be of the relevant kind if —

(i) such action appears to be necessary for preserving the document or preventing interference with it; or

(ii) it is not reasonably practicable to take copies of the document on the premises;

(d) to take any other steps which appear to be necessary for the purpose mentioned in paragraph (c) (i);

(e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found; and

(f) to require any information which is held in a computer and is accessible from the premises and which the named officer considers relates to any matter relevant to the investigation, to be produced in a form —

(i) in which it can be taken away; and

(ii) in which it is visible and legible.

(3) If, in the case of a warrant issued under subsection (1) (b), the District Court is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall also authorise the action mentioned in subsection (2) to be taken in relation to any such document.

(4) If there is no one at the premises when the named officer proposes to execute such a warrant, he must, before executing it —

(a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

(b) if the occupier is so informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.

(5) If the named officer is unable to inform the occupier of the intended entry, he must, when executing the warrant, leave a copy of it in a prominent place on the premises.

(6) On leaving any premises which he has entered by virtue of a warrant under this section, the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

(7) A warrant under this section continues in force until the end of the

period of one month beginning from the day on which it is issued.

(8) Any document of which possession is taken under subsection (2) (c) may be retained for a period of 3 months.

(9) In this section —

"named officer" means the officer named in the warrant;

"occupier" , in relation to any premises, means a person whom the named officer reasonably believes is the occupier of those premises.

## 76 Privileged communication

Privileged communication

76.

A person shall not be required, under any provision of this Part, to produce or disclose a communication —

(a) between a professional legal adviser and his client; or

(b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which in proceedings in a court would be protected from disclosure on grounds of privilege.

## 77 Decision following investigation

Decision following investigation

77.

Where, following an investigation conducted under section 73, the Authority considers that section 69 (1) or 70 (1) has been infringed and the Authority proposes to make a direction under section 78, the Authority shall —

(a) give written notice to the person likely to be affected by such direction;

and

(b) give such person an opportunity to make representations to the Authority.

## 78 Enforcement and appeal

### Enforcement and appeal

78.

— (1) Where the Authority has made a decision that section 69 (1) or 70 (1) has been infringed, the Authority may give directions to such person as the Authority considers appropriate to bring the infringement to an end.

(2) A direction referred to in subsection (1) may, in particular, include provisions —

(a) where the decision is that any agreement infringes section 69 (1) —

(i) requiring the person to modify or terminate the agreement; and

(ii) in the case of an agreement referred to in section 69 (2) (f), requiring the person to dispose of all or any of the relevant shares or assets, otherwise than to an associated person, within a period specified in the direction, being not less than 3 months after service of the direction; and

(b) where the decision is that any conduct infringes section 70 (1) —

(i) requiring the person to modify the conduct in question; or

(ii) requiring the person to cease that conduct; and

(c) in either case, requiring the person —

(i) to pay to the Authority a financial penalty in respect of the infringement of an amount not exceeding \$1 million or 10% of the annual turnover of such person's business in Singapore, ascertained from its latest audited accounts, whichever is the higher; and

(ii) to provide a performance bond, guarantee or other form of security on such terms and conditions as the Authority may determine.

(3) Where a person fails to comply with a direction referred to in subsection (2) (a) (ii), the shares last registered in the name of that person or the assets, as the case may be, that are the subject of the acquisition and specified by the Authority by notice in writing served on the person, shall be forfeited to the Government.

(4) Any shares or assets forfeited to the Government under subsection (3) shall be sold by the Government as soon as practicable and the proceeds of sale, after deduction of the reasonable costs of the forfeiture and sale, shall be paid to the person from whom the shares or assets were forfeited.

(5) Any person who is aggrieved by any decision or direction of the Authority under this Part may, within 14 days after receipt of the notice referred to in section 79, appeal to the Appeal Panel under Part X.

(5A) An appeal under subsection (5) shall not suspend the effect of a decision or direction to which the appeal relates unless —

(a) otherwise allowed by the Minister; or

(b) the appeal is against the imposition or the amount of a financial penalty.

(6) In this section —

"associated person" has the same meaning as in section 76D (14) of the Companies Act (Cap. 50);

"relevant shares or assets" means any shares or assets of a gas licensee held by the person that would need to be disposed of in order to cause the acquisition to cease to have the object or effect of preventing, restricting or distorting competition in the gas market in Singapore.

## 79 Notification

Notification

79.

The Authority shall, within 14 days of the Authority making any decision or direction under this Part, notify any person affected by such decision or direction.

# 80 Offences

## Offences

80.

— (1) A person who fails to comply with a requirement imposed on him under section 74 or 75 shall be guilty of an offence.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that —

(a) the document was not in his possession or under his control; and

(b) it was not reasonably practicable for him to comply with the requirement.

(3) If a person is charged with an offence under subsection (1) in respect of a requirement —

(a) to provide information;

(b) to provide an explanation of a document; or

(c) to state where a document is to be found,

it shall be a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) Failure to comply with a requirement imposed under section 74 is not an offence if the person imposing the requirement has failed to act in accordance with that section.

(5) Any person who intentionally obstructs an officer in the exercise of his powers under a warrant issued under section 75 shall be guilty of an offence.

# 81 Destroying or falsifying documents

## Destroying or falsifying documents

81.

Any person who, having been required to produce a document under section 74 or 75 —

(a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or

(b) causes or permits its destruction, disposal, falsification or concealment, shall be guilty of an offence.

## 82 False or misleading information

False or misleading information

82.

Any person who provides information to the Authority or an authorised officer in connection with any function or duty of the Authority under this Part which is false or misleading in a material particular shall be guilty of an offence.

# PART X APPEAL PANEL

PART X

APPEAL PANEL

## 83 Request to establish Appeal Panel

Request to establish Appeal Panel

83.

— (1) This section applies to —

(a) a gas licensee who wishes to appeal against a decision of the Authority to modify any condition of its gas licence under section 16; and

(b) any person who is aggrieved by a direction or decision of the Authority

under Part IX.

(2) A person to whom this section applies may, within 14 days —

(a) of the receipt of a direction under section 16 to modify any condition of a gas licence; or

(b) of the receipt of a notification by the Authority of a direction or decision under Part IX,

notify the Minister that he wishes to make an appeal, providing adequate details of the grounds for the appeal and requesting the Minister to establish an Appeal Panel under subsection (3).

(3) When requested to establish an Appeal Panel, the Minister shall, upon consultation with the Authority, unless the request is in the opinion of the Minister of a frivolous, trivial or vexatious nature, establish by direction, within 30 days of the request, an Appeal Panel to consider an appeal made under this section.

## 84 Composition and procedure of Appeal Panel

Composition and procedure of Appeal Panel

84.

— (1) An Appeal Panel established by the Minister under section 83 (3) or 93 (4) shall consist of at least 3 persons, one of whom shall be appointed by the Minister to be the chairman of the Appeal Panel.

(2) The Minister may, in the direction establishing the Appeal Panel under section 83 (3) or 93 (4), provide for —

(a) the terms and conditions of the membership of the Appeal Panel as the Minister considers appropriate;

(b) the procedure to be adopted by the Appeal Panel in considering any matter referred to it; and

(c) any other matters which the Minister considers incidental or expedient for the proper and efficient conduct of an appeal by the Appeal Panel.



(3) The remuneration and allowances, if any, of a member of an Appeal Panel shall be determined by the Minister and shall form part of the expenses of the Authority.

(4) An Appeal Panel shall be independent in the performance of its functions.

## 85 Powers of Appeal Panel

### Powers of Appeal Panel

85.

— (1) An Appeal Panel shall, by notice to the Authority and the appellant, specify the date on and the place at which the appeal shall be heard.

(2) An Appeal Panel shall have all the powers and duties of the Authority that are necessary to carry out its functions and duties under this Act.

(3) An Appeal Panel shall have the powers, rights and privileges vested in a District Court on the hearing of an action, including —

(a) the enforcement of the attendance of witnesses and their examination on oath or otherwise;

(b) the compelling of the production of documents; and

(c) the award of costs and expenses of and incidental to any proceedings before the Appeal Panel.

(4) A summons signed by any member of the Appeal Panel as may be authorised by the Appeal Panel shall be equivalent to any formal procedure capable of being issued in an action for enforcing the attendance of witnesses and compelling the production of documents.

(5) Where any person being duly summoned to attend before an Appeal Panel does not so attend, that person shall be guilty of an offence.

(6) A witness before an Appeal Panel shall be entitled to the same immunities and privileges as if he were a witness before a District Court.

(7) All appeals under this section shall be determined, having regard to the nature and complexity of the appeal, as soon as reasonably practicable.

(8) In the case of a modification of any condition of a gas licence, the Appeal Panel may either confirm the modification or direct the Authority not to make the modification, and the decision of the Appeal Panel shall be final.

(9) In the case of a direction or decision of the Authority under Part IX, the Appeal Panel may either confirm, vary or reverse the direction or decision of the Authority or direct the Authority to reconsider the direction or decision, and the Appeal Panel's decision shall be final.

(9A) An Appeal Panel established by the Minister to consider and determine an appeal under section 93 (4) may determine the appeal by —

(a) confirming, varying or reversing any decision or direction of the Authority; or

(b) directing the Authority to reconsider its decision or direction,

and the decision of the Appeal Panel shall be final.

(10) The Appeal Panel shall notify the appellant of its decision in respect of his appeal and the reasons for its decision.

## PART XI MISCELLANEOUS

### PART XI MISCELLANEOUS

#### 86 Keeping of register

Keeping of register

86.

— (1) The Authority shall, at such location and in such form as it may determine, maintain a register for the purposes of this section.

(2) Subject to any direction under subsection (3), the Authority shall cause to be entered in the register —

(a) the provisions of every licence or exemption granted to any person under Part III and the details of every licence or exemption revoked;

- (b) the details of a relevant facility in respect of which the Authority has granted an exemption under section 38 (7);
  - (c) the details of every licensed gas service worker;
  - (d) the provisions of an exemption granted under section 71 and the details of any exemption revoked;
  - (e) the provisions of an exemption granted under section 94;
  - (f) the details of every modification made to a gas licence; and
  - (g) any other matters as the Authority thinks fit.
- (3) If it appears to the Minister that the entry of any provision or detail in the register would be against the public interest, he may direct the Authority not to make the entry in the register.
- (4) The register shall be available for inspection by the public during such hours and subject to the payment of such fee as may be specified by the Authority.

## 87 Effect of direction

### Effect of direction

87.

- (1) The obligation to comply with any direction made by the Authority is a duty owed to any person who may be affected by a contravention of it.
- (2) Where a duty is owed by virtue of subsection (1) to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (3) In any proceedings brought against any person under subsection (2), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the relevant direction.
- (4) Without prejudice to any right which any person may have under subsection (2) to bring civil proceedings in respect of any contravention of any relevant direction, compliance with any such direction shall be enforceable by civil

proceedings by the Authority for an injunction or for any other appropriate relief.

## 88 Jurisdiction of court

Jurisdiction of court

88.

Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court and a Magistrate's Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of any offence under this Act.

## 89 Offences by body corporate

Offences by body corporate

89.

Where an offence under this Act has been committed by a company, firm, society or other body of persons, any person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in any such capacity, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that —

(a) the offence was committed without his consent or connivance; and

(b) he had exercised all such due diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

## 90 Fee or financial penalty recoverable

Fee or financial penalty recoverable

90.

Any fee or financial penalty required to be paid to the Authority under this Act may be recovered by it in any court of competent jurisdiction as if it were a simple contract debt.

## 91 General penalties

General penalties

91.

Any person guilty of an offence under this Act for which no penalty is expressly provided shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

## 92 Composition of offences

Composition of offences

92.

— (1) The Authority may, in its discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$3,000.

(2) The Authority may, with the approval of the Minister, make regulations to prescribe the offences which may be compounded.

(3) All sums collected under this section shall be paid to the Authority.

## 93 Appeal to Minister

Appeal to Minister

93.

— (1) A person aggrieved by —

(a) any decision of the Authority in the exercise of any discretion vested in it by or under this Act, except for section 27 (12); or

(b) any direction issued by the Authority under this Act,

may, except where provision has been made under this Act for an appeal to be made to an Appeal Panel, appeal to the Minister, together with adequate details of the grounds for the appeal.

(2) Unless otherwise provided in this Act, an appeal under subsection (1) shall be lodged within 14 days of the receipt of the decision or direction.

(3) An appeal under subsection (1) shall not suspend the effect of a decision or direction to which the appeal relates unless —

(a) otherwise provided in this Act or allowed by the Minister; or

(b) the appeal is against the imposition or the amount of a financial penalty.

(4) Where the Minister considers that an appeal lodged under subsection (1) involves issues of such nature or complexity that it ought to be considered and determined by persons with particular technical or other specialised knowledge, he may establish by direction an Appeal Panel, comprising one or more of such persons with particular technical or other specialised knowledge and such other persons as the Minister considers appropriate, to consider and determine the appeal.

(5) Any person who has lodged an appeal under subsection (1) shall provide such information and documents as may be required by the Minister (whether for the purpose of deciding if an Appeal Panel should be established or for determining the appeal) in such manner and within such period as may be specified by the Minister.

(6) The Minister may determine an appeal under this section by —

(a) confirming, varying or reversing any decision or direction of the Authority; or

(b) directing the Authority to reconsider its decision or direction,

and the decision of the Minister shall be final.

(7) The Minister may make regulations in respect of the manner in which an appeal may be made to, and the procedure to be adopted in the hearing of any appeal by, the Minister under this section.

## 94 General exemption

General exemption

94.

The Authority may, with the approval of the Minister and by order published in the *Gazette*, exempt any person or premises or any class of persons or premises, subject to such conditions or restrictions as may be specified in the order, from any or all of the provisions of this Act other than sections 6 to 10 and 63B.

## 95 Service of documents

Service of documents

95.

— (1) Any notice, order or document required or authorised by this Act to be given or served on any person, and any summons issued by a court in connection with any offence under this Act may be served on the person —

(a) by delivering it to him or to some adult member or employee of his family at his last known place of residence;

(b) by leaving it at his usual or last known place of residence or business in an envelope addressed to him;

(c) by affixing it to some conspicuous part of his last known place of residence;

(d) by sending it by registered post addressed to him at his usual or last known place of residence or business; or

(e) where the person to be served is a body corporate —

(i) by delivering it to the secretary or other like officer of the body corporate at its registered or principal office; or

(ii) by sending it by registered post addressed to the body corporate at its registered or principal office.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, document or summons would, in the ordinary course of post, be delivered and in proving service of the notice, order, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

## 96 Regulations

### Regulations

96.

—(1) The Authority may, with the approval of the Minister, make regulations for or in respect of every purpose which it considers necessary or convenient to be prescribed for carrying out its functions and duties under, and implementing the provisions of, this Act.

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Minister, make regulations for or in respect of all or any of the following matters:

(a) the prevention and suppression of pollution, contamination or waste of gas;

(b) the prevention of misuse of, or damage to, apparatus and works belonging to a gas transporter or used for the purposes of conveying or supplying gas;

(c) the prescribing of materials of which conduits, pipes, and other apparatus and fittings for use in connection with the supply of gas shall be made, and in respect of their size, shape, fitting, arrangement, connection, quality and workmanship, testing and inspection and cleaning;

(d) the protection of the public from dangers arising from the conveyance,



supply and use of gas or from any gas plant or gas appliance and the elimination, reduction or prevention of risks of personal injury, damage to property or the interference with the use thereof;

(e) the regulation of matters relating to the charging in of gas to the premises of consumers by any gas transporter;

(f) the release of a gas retailer from any obligation owed to a consumer;

(g) the prescribing of fees and charges for the purposes of this Act;

(h) the regulation of the construction, laying or placing of a gas pipeline in, on, over, upon, under, across or along any land and the submission and approval of plans relating thereto;

(i) the prescribing of standards of quality and pressure of gas to be complied with by a gas transporter conveying gas to premises and standards with respect to the properties, composition and other characteristics of gas, including the odourisation of gas so conveyed;

(j) the regulation of the appointment of independent and impartial persons to carry out tests of gas conveyed by a gas transporter, and all matters relating thereto;

(k) the regulation of the construction, pattern, type, specification and other characteristics of meters and the appointment of independent and impartial persons to examine meters and to carry out the stamping of meters where appropriate and all matters relating thereto;

(l) the prescribing of requirements regarding the maintenance, inspection, repair, removal and replacement and repositioning of a meter at a consumer's premises and for the keeping in proper order, for the purposes of recording the quantity of gas supplied, of a meter made available or owned by a gas licensee or belonging to a consumer or other person;

(m) the installation and use of meters, and the prohibition of interference with or damage to a meter or any seal or stamp affixed to or made to a meter;

(n) the prescribing of methods for determining the charges payable by a consumer in the event a meter is found to be defective or otherwise registering erroneously;

(o) the regulation of the conversion of a gas pipeline network and gas appliances so as to allow for the conveyance of natural gas in the gas pipeline network and for the interconnection of gas pipeline networks and the

conferring on any person authorised by a gas transporter or gas retailer of the power to enter the premises of a consumer to carry out any inspection or perform any work relating thereto;

(p) the regulation of the introduction of competition in the natural gas industry and the timing of such introduction;

(q) the regulation of the installation, use, maintenance and repair of any gas plant by a consumer where required for the purpose of —

(i) avoiding pressure fluctuation in a gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter; or

(ii) preventing the admission of gas into a gas main or gas service pipe, and for the removal, testing and replacing of any such gas plant by a gas transporter;

(r) the regulation of the inspection, maintenance, repair and renewal of —

(i) onshore receiving facilities or LNG terminals; or

(ii) gas installations or gas service pipes, and the recovery of costs incurred by a gas transporter in connection with such inspection, maintenance, repair and renewal;

(s) the prescribing of technical and standards of performance in connection with the provision of gas supply services by a gas retailer to consumers and the conveyance of gas by a gas transporter and for the publication of the levels of performance achieved;

(t) the prescribing of terms that will be held to apply as between a gas retailer and a consumer where the gas retailer supplies gas to a consumer other than in accordance with the terms of a contract and for such terms to be approved by the Authority;

(u) the safety, technical or economic regulation of any gas pipeline or gas pipeline network whether located onshore or offshore;

(v) the governing of the exercise of the power of the gas transporter to recover expenditure under section 24;

(w) the conferring on any authorised person of the relevant power, where it is in his opinion necessary to do so, for the purpose of averting danger to life

or property, and to disconnect and seal off any gas fitting or any part of the gas pipeline network on the premises, or disconnect the premises or, if the premises are not connected, to signify the refusal of the relevant person to convey gas or, as the case may be, allow gas to be conveyed to the premises and the making of provision for —

(i) securing that, where any such power is exercised, the consumer will be notified as to the cause of the exercise of power;

(ii) enabling any consumer so notified to appeal to the Authority on grounds that the exercise of the power was unjustified;

(iii) enabling the Authority to give such directions in consequence of any such appeal; and

(iv) prohibiting any person, subject to such conditions as the Authority may prescribe, from re-connecting any gas fitting or any part of any gas pipeline network or any premises which have been disconnected or causing gas from a gas main to be conveyed to any premises;

(x) the regulation of gas service work and the licensing of gas service workers, including —

(i) the approval and control of the standards and safety requirements for gas installations, gas fittings, gas appliances and any other associated equipment;

(ii) the regulation of the installation, removal and modification of gas appliances; and

(iii) the prohibition of the use, sale or hire of gas appliances and other associated equipment and materials;

(y) the safety, technical or economic regulation of any LNG terminal or onshore receiving facility;

(z) the regulation of matters relating to the import of gas, including the quantity of gas that may be imported and the mode of such import.

(3) The Authority may, in making any regulations, provide that any person who contravenes the regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part thereof during which the offence continues after conviction.

(4) All such regulations shall be presented to Parliament as soon as possible after publication in the *Gazette*.

(5) For the purpose of subsection (2) (w), “relevant person” means —

(a) in relation to dangers arising from the conveyance of gas by a gas transporter, or from the use of gas conveyed by such a gas transporter, that gas transporter; and

(b) in relation to dangers arising from the conveyance of gas by a person other than a gas transporter, or from the use of gas conveyed by such a person, the Authority.

## 97 Consequential amendments to other written laws

Consequential amendments to other written laws

97.

— (1) Item 9 of the First Schedule to the Criminal Law (Temporary Provisions) Act (Cap. 67) is amended —

(a) by deleting the words “public gas licensee” and substituting the words “gas licensee”; and

(b) by deleting the words “Public Utilities Act” and substituting the words “Gas Act (Cap. 116A)” .

(2) Section 2 of the Statutory Boards (Taxable Services) Act (Cap. 318) is amended by deleting the definition of “statutory board” and substituting the following definition:

"statutory board" includes a public telecommunication licensee referred to in the Telecommunications Act (Cap. 323), a gas licensee under the Gas Act (Cap, 116A) and a market support services licensee under the Electricity Act (Cap. 89A);

# PART XII TRANSITIONAL PROVISIONS

PART XII

## 98 Transfer of property rights obligations and liabilities for separation of gas transporting and retailing business

Transfer of property, rights, obligations and liabilities for separation of gas transporting and retailing business

98.

— (1) On such date as the Minister may determine, such property (whether movable or immovable and whether tangible or intangible), rights, obligations and liabilities comprised in any gas company specified by the Minister —

(a) in which the Government has an interest; and

(b) which is agreed to by the Minister for Finance for the purposes of this section,

(transferor undertaking) shall become, by virtue of this section and without further assurance, the property, rights, obligations and liabilities of such other gas company specified by the Minister —

(i) in which the Government has an interest; and

(ii) which is agreed to by the Minister for Finance for the purposes of this section,

(transferee undertaking) in such manner of distribution or allocation and on such terms as to compensation or otherwise, as determined by the Minister and agreed to by the Minister for Finance and set out in a scheme under regulations made by the Minister for the purposes of this section.

(2) Any immovable property to be transferred to a transferee undertaking under subsection (1) shall be held by such transferee undertaking upon such tenure and subject to such terms and conditions as the Minister may determine.

(3) If any question arises as to whether any particular property, right, obligation or liability of any transferor undertaking has been transferred to a transferee undertaking, a certificate signed by the Minister for Finance shall be conclusive evidence that the property, right, obligation or liability

was or was not so transferred.

(4) For the purposes of subsection (1) and section 99, the Minister may determine one or more dates on which the provisions of this Part may have effect and where the Minister does so determine, the provisions of this Part shall be construed accordingly and shall have effect on each such date.

(5) For the purpose of subsection (1) the Minister may direct that an undertaking be incorporated for such purposes as the Minister may determine for furthering the objectives of this Part.

(6) No claim for any loss shall be brought against the Government in relation to any act or thing done for the purposes of this Part.

(7) The Minister may at any time vary the terms of any transfer of property, rights, obligations or liabilities under this section.

(8) In this section, a reference to the Government having an interest in a gas company shall be read as a reference to the Government having an interest in any share in the gas company, whether directly or through one or more other persons.

## 99 Existing agreements etc.

Existing agreements, etc.

99.

—(1) Except as may be prescribed by the Minister, all deeds, bonds, agreements and other arrangements subsisting immediately prior to the date determined by the Minister under section 98 (1) affecting any property, rights, obligations and liabilities transferred under that section shall continue in full force and effect on and after that date and shall be enforceable by or against the transferee undertaking to which the transfer was made as if instead of the transferor undertaking the transferee undertaking was named therein or had been a party thereto.

(1A) Notwithstanding subsection (1), any right, obligation or liability as may have accrued under any deed, bond, agreement or other arrangement to which subsection (1) applies prior to the date determined by the Minister under section 98(1) shall continue to be enforceable by or against the transferor undertaking and not by or against the transferee undertaking.

(2) For the purpose of subsection (1A), any proceedings, or any cause of action, relating to property, rights, obligations or liabilities transferred under section 98 pending or existing prior to the date determined by the Minister under section 98 (1) by or against the transferor undertaking from which such property, rights, obligations or liabilities were transferred shall be continued, or shall be enforced, by or against the transferor undertaking, as the case may be.

## **100 Waiver of prohibition of transfer**

Waiver of prohibition of transfer

100.

— (1) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the transferor undertaking is a party or may be bound prohibiting or having the effect of prohibiting the transfer of the property, rights, obligations or liabilities under this Part shall be deemed by this Act to have been waived.

(2) Any provision in any existing contract, agreement, conveyance, deed, lease, guarantee, bond, indemnity and other instrument or undertaking to which the transferor undertaking is a party or may be bound conferring on the other party or parties thereto any right of first refusal or pre-emption rights in respect of any property, right, obligation or liability comprised in the undertakings to be transferred by reason of or arising from, or to the effect that a default shall occur or be deemed to occur as a result of, the transfer or intended transfer of the property, right, obligation or liability under this Part shall be deemed by this Act to have been waived.

## **101 Power to make regulations and issue directions etc.**

Power to make regulations and issue directions, etc.

101.

— (1) The Minister may make regulations and may issue directions for such purposes as the Minister may determine for the purposes of giving effect to,

or furthering the objectives of, this Part.

(2) The Minister may, in respect of the transfer of property, rights, obligations and liabilities under section 98 and the application of any legal requirement in relation to —

- (a) the payment of compensation in respect of such transfer;
- (b) the issue of shares by any undertaking specified under section 98;
- (c) the payment of any tax, duty or other levy; and
- (d) the preparation of statutory accounts,

make regulations making provision for applying, omitting or modifying the application of any provision of any written law for the purposes of giving effect to this Part.

(3) The Minister may, in making regulations —

(a) provide that any person who contravenes any regulations shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 10% of the annual turnover of the person's gas business ascertained from that person's latest audited accounts, or an amount not exceeding \$1 million, whichever is the higher, or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction;

(b) where any regulations require the transferor undertaking to do or not to do any thing, provide that the obligation of the transferor undertaking to comply with such regulations is a duty owed to the transferee undertaking and any breach of such duty shall be actionable at the suit or instance of the transferee undertaking who shall have a right of action for relief in civil proceedings in a court under the relevant regulation against the transferor undertaking, subject to such limitations as the Minister may prescribe; and

(c) where any regulations require the transferee undertaking to do or not to do any thing, provide that the obligation of the transferee undertaking to comply with such regulations is a duty owed to the transferor undertaking and any breach of such duty shall be actionable at the suit or instance of the transferor undertaking who shall have a right of action for relief in civil proceedings in a court under the relevant regulation against the transferee undertaking, subject to such limitations as the Minister may prescribe.



(4) Where the Minister issues any direction requiring any person to do or not to do any thing and the person contravenes such direction, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding 10% of the annual turnover of the person's gas business ascertained from that person's latest audited accounts, or an amount not exceeding \$1 million, whichever is the higher, or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part thereof during which the offence continues after conviction.

(5) Where the Minister issues any direction —

(a) requiring the transferor undertaking to provide to the transferee undertaking any information, warranty or other statement; or

(b) requiring the transferee undertaking to provide to the transferor undertaking any information, warranty or other statement,

the undertaking required to provide the information, warranty or other statement (the first-mentioned undertaking) shall be under an obligation to ensure that such information, warranty or other statement provided to the other undertaking (the second-mentioned undertaking) is not false, inaccurate, incomplete or misleading.

(6) The obligation of the first-mentioned undertaking referred to in subsection (5) is a duty owed to the second-mentioned undertaking and any breach of such duty which causes the second-mentioned undertaking to sustain any loss or damage shall be actionable at the suit or instance of the second-mentioned undertaking who shall have a right of action for relief in civil proceedings in a court under this subsection against the first-mentioned undertaking, subject to such limitations as the Minister may prescribe.

(7) The court may grant to the plaintiff in an action under the relevant regulation referred to in subsection (3) or under subsection(5), as the case may be, any or all of the following reliefs:

(a) relief by way of injunction or declaration;

(b) damages; and

(c) such other relief as the court thinks fit.

(8) No contravention by any party of any regulations or directions made under this Part shall avoid the transfer of any property, rights, obligations or

liabilities effected under section 98 (1).

#### LEGISLATION HISTORY

##### 1. Act 11 of 2001 — Gas Act 2001

Date of First Reading : 22.2.2001 (Bill No. 10/2001 published on 23.2.2001)

Date of Second and Third Readings : 16.3.2001

Date of commencement : Not in operation as at 30.6.2002.

