

Gas and Fuel Corporation (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 cites the purposes of the Act.

Clause 2 provides that the Act comes into operation on a day to be proclaimed.

Clause 3 provides that the Principal Act is the *Gas and Fuel Corporation Act 1958*.

Clause 4 provides for the repeal of the *Gas Act 1969*, *Gas Franchises Act 1970* and *Liquefied Petroleum Gas Subsidy Act 1980*.

Clause 5 inserts new definitions into the Act.

Clause 6 provides for the insertion in the Act of new Parts V and VI which add new sections to the Principal Act as follows:

PART V—GAS SUPPLY

Division 1—Responsibility for Gas Supply

Section 67 provides that the Corporation has the exclusive right to transmit and supply gas by reticulation in Victoria.

Section 68 (1) provides that the Governor in Council may authorise other persons to transmit and supply gas.

Section 68 (2) provides that any person authorised under sub-section (1) must abide by any conditions in the authorisation.

Section 68 (3) provides that the Governor in Council may specify that all or any part of the provisions of this Act may be applied with respect to an authority under sub-section (1) with the exception of the provisions of sections 86 and 87.

Section 68 (4) provides that if the Governor in Council applies any provision of this Act or the regulations in an authority then any reference in that provision to the Corporation will be read as a reference to the authorised person.

Section 68 (5) provides that the Governor in Council may amend or revoke an authority given under this section.

Section 68 (6) is a transitional provision.

Division 2—Terms and Conditions of Supply

Section 69 provides that the Corporation must supply gas to a person who demands supply provided the person is within 20 metres of a suitable mains and is not indebted to the Corporation at the time of the demand.

Section 70 (1) provides that the Corporation is not required to supply a person with gas or increase the supply of gas until it can provide adequate facilities to ensure the supply can be maintained without affecting other consumers.

Section 70 (2) provides that the Corporation is not required to supply gas to a fitting which does not conform with the regulations.

Section 70 (3) A person who is dissatisfied with a refusal under sub-section (1) may appeal to the Minister whose decision is final.

Section 71 provides that if the Corporation is to supply gas for commercial or industrial purposes the Corporation may charge for any alterations required, including the cost of installation of a meter or regulator.

Section 72 (1) provides that the Corporation may give notice of the tariffs and terms and conditions of supply of gas to the consumer.

Section 72 (2) provides that the Corporation may provide different tariffs and terms and conditions for different classes of consumers.

Section 72 (3) provides that consumers who are charged at a domestic tariff must all be supplied gas on uniform terms and conditions.

Section 72 (4) provides that the tariffs and conditions in a notice under this section apply from the day specified in the notice and are binding on the Corporation and the consumer.

Section 72 (5) provides that the Corporation may enter into contracts with consumers except domestic consumers for the supply of gas to the consumer on the terms and conditions of the contract.

Section 72 (6) provides that the terms and conditions fixed under this section are in addition to and must not conflict with any other terms or conditions in this Division of the Act or the regulations.

Section 73 provides that gas supplied by the Corporation must meet prescribed standards of quality.

Section 74 provides that the Corporation must calculate and render accounts for gas consumed in accordance with the regulations.

Section 75 (1) provides that a consumer must provide forty-eight hours notice before quitting premises for which a consumer receives a supply of gas.

Section 75 (2) provides that the consumer is liable to pay for gas consumed until the end of the current billing period or the date from which a subsequent occupier requires a supply of gas if notice of quitting is not given.

Section 76 provides that the Corporation must not disconnect a domestic supply of gas to any premises of a domestic consumer who has not paid an account if the failure to pay occurs through a lack of sufficient income until—

- (a) advice has been given as to optional methods of payment and assistance from government agencies; and
- (b) the consumer has refused to accept that advice.

Division 3—Meters

Section 77 provides that the Corporation must ensure that each meter it installs complies with the requirements prescribed, is tested in the manner and at the intervals prescribed, and is sealed and installed in the manner prescribed.

Section 78 (1) provides the definitions which apply to section 78.

Section 78 (2) provides that if the Corporation intends to maintain a meter family in service beyond its initial life it must notify the Director of Consumer Affairs three months before the end of the initial life and in the same manner annually thereafter.

Division 4—Disputes in Relation to Meters and Billing

Section 79 (1) provides that a domestic consumer may at any time in writing request the Director of Consumer Affairs to arrange a test of a meter installed at the consumer's premises.

Section 79 (2) provides that prior to arranging a test under sub-section (1) the Director of Consumer Affairs may request from the the Corporation details of the procedures it has followed in relation to the matter and request any further investigations in relation to the matter.

Section 79 (3) provides that the Director of Consumer Affairs may direct that the meter be tested.

Section 79 (4) provides that the consumer may demand a meter test if the Director of Consumer Affairs does not order a test to be carried out.

Section 79 (5) provides that the corporation may charge a fee for the test in accordance with the regulations.

Section 79 (6) provides that a test under sub-section (3) must be carried out and certified in the prescribed manner.

Section 79 (7) provides that the Director of Consumer Affairs must provide the results of a test under sub-section (3) to the consumer.

Section 80 provides that if a test shows the meter is inaccurate or failing to register the amount of gas consumed, the Corporation must notify the consumer of the period for which the Corporation considers the meter has been defective.

Section 81 (1) provides that the Corporation must refund any overcharge to the consumer.

Section 81 (2) provides that any charge for a meter test under section 79 must be refunded if the test reveals that the consumer has been overcharged.

Section 82 (1) provides that, if from the results of any prescribed test conducted on a meter, it appears that the consumer has been undercharged, the Corporation may issue the consumer with another account.

Section 82 (2) provides the maximum period for which an additional account may be issued.

Section 82 (3) provides that an additional account provided under sub-section (1) must include details of how the additional amount to be paid was calculated.

Section 83 (1) provides that if the Corporation determines that a consumer has been supplied gas at an incorrect tariff then the consumer is entitled to a refund if overcharged and may be issued with an additional account if undercharged.

Section 83 (2) provides that no refund can be made if the consumer has been placed on an incorrect tariff through no fault of the Corporation.

Section 83 (3) provides that no additional account can be issued if the consumer being placed on an incorrect tariff is the fault of the Corporation.

Section 84 (1) provides that a domestic consumer may appeal to the Director of Consumer Affairs if the consumer is dissatisfied with a determination of an adjustment of the consumer's accounts by the Corporation.

Section 84 (2) provides that on appeal under sub-section (1), the Director of Consumer Affairs must determine the amount to be paid by the Corporation or by the consumer.

Division 5—Powers of Officers and Employees

Section 85 (1) provides that the Corporation must give an identification card to any of its officers or employees who in the course of their duties may need to enter a consumer's premises.

Section 85 (2) provides that an identification card must bear the signature of the officer or employee and a prescribed officer of the Corporation.

Section 85 (3) provides that an identification card must be produced on demand to a consumer or other person whose premises an officer or employee wishes to enter.

Section 86 provides that an officer or employee of the Corporation may enter any premises to which the Corporation supplies gas to inspect a gas fitting or to find out the quantity of gas consumed.

Section 87 provides that in an emergency situation which, in the opinion of an officer or employee of the Corporation, might endanger life or property, the officer or employee may enter the premises to make gas fittings safe.

Section 88 provides that the Corporation may cut off gas to any premises if an officer or employee is refused admission, hindered from entering or considers a situation to be unsafe.

Division 6—Gas Supply Emergency Provisions

Section 89 (1) provides that the Governor in Council may proclaim an emergency situation to be in force if the available supply of gas is or is likely to become less than is sufficient for the reasonable requirements of the community.

Section 89 (2) provides that a proclamation under sub-section (1) must be published in the *Government Gazette*.

Section 89 (3) provides that the proclamation takes effect on publication.

Section 89 (4) provides that the Governor in Council may revoke a proclamation.

Section 90 (1) provides that whilst a proclamation is in force the Minister may give directions to ensure the safe and sure supply of gas.

Section 90 (2) provides the persons and bodies to whom the Minister may give directions and the type of directions which the Minister may give.

Section 90 (3) provides that a direction, prohibition or requisition under sub-section (2) may apply to the whole or any part of Victoria.

Section 90 (4) provides that any direction, prohibition or requisition under sub-section (2) must be published in the *Government Gazette* as soon as possible after it is given.

Section 90 (5) provides that the Minister may revoke a direction, prohibition or requisition.

Section 90 (6) provides that the revocation or expiry of a direction, prohibition or requisition does not affect its previous operation or validity and that any penalty incurred still applies.

Section 91 (1) provides that any person or body given a direction, prohibition or requisition under this Division must comply with it.

Section 91 (2) provides that any direction, prohibition or requisition under this Division may be given by the Minister in any manner the Minister considers expedient.

Section 92 provides that the Minister may delegate powers under this Division except the power of delegation.

Section 93 provides that penalties which apply for not complying with a direction of the Minister.

Section 94 provides that courts must take judicial notice of all proclamations, directions, prohibitions or requisitions under this Division.

Section 95 provides that any person acting under this Division or person executing a direction, prohibition or requisition under the Division is not liable to prosecution for the actions directed.

Division 7—Offences and Legal Proceedings

Section 96 (1) provides the actions which constitute an offence under the Act.

Section 96 (2) provides the penalty for offences under sub-section (1).

Section 96 (3) provides that the Corporation may recover damages sustained by the Corporation in addition to a penalty under sub-section (2).

Section 96 (4) provides that the Corporation may discontinue supply to persons guilty of an offence under sub-section (1).

Section 96 (5) provides that if a meter is in the custody of a consumer, the existence of artificial means for interfering with, preventing proper working or extracting gas from a meter is evidence of the action being fraudulently and wilfully caused by the consumer.

Section 97 provides that it is an offence to retain or use Corporation property without the authority of the Corporation.

Section 98 provides for evidence in legal proceedings that a person is the occupier or owner of premises.

Section 99 provides that proof that a meter has been tested or sealed in the prescribed manner can be established by the production of a certificate to that effect signed by an authorised person.

Section 100 provides the manner by which service of notices is to be effected.

Division 8—Report to Minister

Section 101 provides for the submission of an annual report on gas supply to the Minister.

Division 9—Saving of Contracts

Section 102 provides that the coming into operation of Part V and the repeal of section 7 of the *Gas Franchise Act 1970* do not affect agreements saved by under section 7 of the *Gas Franchise Act 1970*.

PART VI—REGULATIONS AND BY-LAWS

Section 103 (1) provides for the matters with respect to which the Governor in Council may make regulations.

Section 103 (2) provides for the application of regulations under this section.

Section 104 (1) provides for the matters with respect to which the Corporation may make by-laws.

Section 104 (2) provides for publication of a by-law.

Section 104 (3) empowers the Governor in Council to revoke a by-law.

Clause 7 provides for a new section 26A to be inserted in the Principal Act to provide the power to the Corporation to establish bulk hot water installations and supply and bill consumers for water supplied from such installations.

Clause 8 provides for amendment of section 38 of the Principal Act to include the power to enter premises and amend the penalty provided.

Clause 9 provides for the insertion of a new section 38B in the Principal Act to exempt the Corporation from any action, liability claim or demand arising from its approval under the regulations of any gas installation or fitting.

Clause 10 provides for the insertion of a new section 40A in the Principal Act to allow for officers of bodies corporate to be charged with offences and that, should a body corporate be convicted, then a person who is an officer of that body corporate may also be charged.

Clause 11 provides for the consequential amendment of the Principal Act and the repeal of sections 42 and 43 of the Act.

Clause 12 provides for the consequential amendment of other Acts.