

# Gas (Amendment) Bill

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**Bill No. 18/2007.**

*Read the first time on 10th April 2007.*

A BILL

*intituled*

An Act to amend the Gas Act (Chapter 116A of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### Short title and commencement

1. This Act may be cited as the Gas (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2 of the Gas Act is amended —

(a) by inserting, immediately after the definition of “check meter”, the following definition:

10 “ “code of practice” means a code of practice issued or modified by the Authority under section 62;”;

(b) by deleting the words “the gas pipeline network of that gas transporter” in paragraph (a) of the definition of “direct access customer” and substituting the words “a gas pipeline network owned by, or under the management or control of, that gas transporter”;

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(c) by inserting, immediately after the definition of “direct access customer”, the following definition:

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

(d) by inserting, immediately after the definition of “document”, the following definition:

“ “earthworks” means —

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

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(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;

30 (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;
- 5 (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;”;
- 10 (e) by inserting, immediately after the word “person” in the definition of “exempt gas transporter”, the words “carrying out any activity specified in section 6(1)(a)”;
- (f) by inserting, immediately after the definition of “gas fitting”, the following definitions:
- 15 “ “gas importer” means a person holding a gas importer’s licence;
- “gas importer’s licence” means a licence granted under section 7(3)(h);”;
- (g) by deleting the definitions of “gas licence” and “gas licensee” and substituting the following definitions:
- 20 “ “gas licence” means a licence granted under section 7(3);
- “gas licensee” means a person holding a gas licence;”;
- (h) by inserting, immediately after the definition of “gas mains network”, the following definitions:
- 25 “ “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;”;
- (i) by deleting the words “, and “gas pipeline” shall be construed accordingly” in the definition of “gas pipeline network”;
- 30 (j) by deleting the words “section 7(3)(b)” in the definition of “gas retailer’s licence” and substituting the words “section 7(3)(d)”;

(k) by inserting, immediately after the words “owned by” in the definition of “gas service pipe”, the words “, or under the management or control of,”;

(l) by inserting, immediately after the definition of “gas service worker”, the following definitions:

““gas shipper” means a person holding a gas shipper’s licence;

“gas shipper’s licence” means a licence granted under section 7(3)(c);”;

(m) by deleting the words “or operated by” in the definition of “gas supply system” and substituting the words “by, or under the management or control of,”;

(n) by deleting the words “gas reception facilities,” in the definition of “gas transmission pipeline”;

(o) by deleting the words “directly connected consumer” in the definition of “gas transmission pipeline” and substituting the words “direct access customer”;

(p) by inserting, immediately after the definition of “gas transmission pipeline”, the following definitions:

““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);”;

(q) by inserting, immediately after the definition of “hotwork”, the following definition:

““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;”;

(r) by inserting, immediately after the definition of “licensed gas service worker”, the following definitions:

““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);”;

(s) by inserting, immediately after the definition of “natural gas”, the following definition:

““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;”;

(t) by inserting, immediately after the definition of “occupier”, the following definitions:

““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;

5 “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);”;

(u) by deleting the definition of “relevant gas retailer” and substituting the following definitions:

10 ““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;

15 “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;”;

(v) by deleting the words “shipping and” in the definition of “retail”;

20 (w) by deleting the definition of “shipping” and substituting the following definitions:

25 ““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;”;

30 (x) by inserting, immediately after the words “petrochemical feedstock” in the definition of “town gas”, the words “or natural gas”; and

- (y) by deleting the full-stop at the end of the definition of “town gas” and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

5 “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);

10 “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 —

15 (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.”.

20 **Amendment of section 4**

**3. Section 4 of the Gas Act is amended —**

- (a) by inserting, immediately after subsection (1), the following subsection:

25 “(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;

30 (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.”; and

(b) by inserting, immediately after subsection (6), the following subsection:

“(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).”.

#### 10 **Amendment of section 5**

**4.** Section 5 of the Gas Act is amended by deleting subsections (3) and (4) and substituting the following subsections:

“(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.”.

#### **New sections 6 and 7**

**5.** The Gas Act is amended by inserting, immediately before section 8, the following sections:

#### **“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;
- 5 (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;
- 10 (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
  - 15 (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
- 20 (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 —
  - 25 (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.
- 30 (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

5 (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,  
10 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).

15 (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;

20 (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

25 (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 \$1 million 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  
30 offence continues after conviction.

### **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.

5 (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  
10 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 —

15 (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;

20 (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

25 (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;

30 (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;
- 5 (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;
- 10 (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.

15 (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.

20 (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
- 25 (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.

30 (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.

5 (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.”.

### **Amendment of section 9**

**6.** Section 9 of the Gas Act is amended —

10 (a) by inserting, immediately after paragraph (j) of subsection (2), the following paragraphs:

“(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;

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(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;

20 (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

25 (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.”;

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(b) by inserting, immediately before paragraph (b) of subsection (3), the following paragraph:

35 “(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

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

on such terms as may be approved by the Authority;";

(c) by inserting, immediately after paragraph (f) of subsection (3), the following paragraph:

10 "(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";

15 (d) by inserting, immediately before paragraph (b) of subsection (4), the following paragraph:

20 "(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;"; and

25 (e) by inserting, immediately after subsection (4), the following subsections:

"(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 —

30 (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

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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 —

- 5 (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
  - 10 (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
  - 15 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.

20 (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.”.

### **New section 11**

25 **7.** The Gas Act is amended by inserting, immediately after section 10, the following section:

#### **“Licensing of gas service worker**

**11.—(1)** No person shall —

- 30 (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.”.

### **New section 19**

**8.** The Gas Act is amended by inserting, immediately after section 18, the following section:

#### **“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.”.



### **Amendment of section 21**

**9.** Section 21 of the Gas Act is amended by inserting, immediately after subsection (1), the following subsection:

5 “(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

10 (b) in the connection of premises to such a gas pipeline or gas pipeline network.”.

### **New sections 22 and 23**

**10.** The Gas Act is amended by inserting, immediately after section 21, the following sections:

#### **“Duty to connect**

15 **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.

20 (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  
25 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

30 (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.

5 (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

10 (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

15 (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,

20 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 —

25 (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.

30 (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.

### **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.”.

### **New sections 25 and 26**

11. The Gas Act is amended by inserting, immediately after section 24, the following sections:

#### **“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.

#### **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.”.

### **New section 29**

**12.** The Gas Act is amended by inserting, immediately after section 28, the following section:

#### **“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.”.

#### **Amendment of section 31**

**13.** Section 31 of the Gas Act is amended by inserting, immediately before subsection (2), the following subsection:

“(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.”.

#### **New sections 32 and 32A**

**14.** The Gas Act is amended by inserting, immediately after section 31, the following sections:

#### **“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 (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.

10 (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.

15 (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 —

20 (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.

25 (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.

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

35 **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.

5 (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  
10 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  
15 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  
20 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.

25 (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  
30 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  
35 such apprehension, hand over the person so apprehended to a police officer without unreasonable delay.”.

### **New sections 33, 34 and 35**

**15.** The Gas Act is amended by inserting, immediately before section 36, the following sections:

#### **“Special administration order**

5       **33.**—(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 —

- 10                   (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
- 15                   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
- 20                   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
- 25                   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
- 30                   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.

5 (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  
10 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).

15 **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  
20 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  
25 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.

30 (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  
35 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

5           (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.

10          (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 —

15           (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;

20           (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

25           (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.

30          (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.

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

5 **35.**—(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.

10 (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.”.

### **Amendment of section 38**

**16.** Section 38 of the Gas Act is amended —

15 (a) by inserting, immediately after subsection (3), the following subsections:

“(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 —

25 (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;

30 (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;

5 (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;

10 (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

15 (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.

20 (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.”; and

(b) by inserting, immediately after subsection (7), the following subsections:

25 “(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 \$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.

30 (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 \$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.

35

(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.”.

10 **New sections 38A and 39**

17. The Gas Act is amended by inserting, immediately after section 38, the following sections:

**“Arrangements by Authority for allocation of gas**

15 **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,

20 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.

25 (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 —

30 (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.

5 (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.

10 (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  
15 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,  
20 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).

25 (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.

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

30 **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.

35 (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.”.

5 **Amendment of section 44**

**18.** Section 44 of the Gas Act is amended by inserting, immediately after subsection (1), the following subsections:

“(2) In default of the consumer doing so —

10 (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.

15 (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,

20 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.”.

**Amendment of section 47**

25 **19.** Section 47 of the Gas Act is amended by inserting, immediately after subsection (2), the following subsection:

30 “(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.”.

**New sections 49 to 52**

**20.** The Gas Act is amended by inserting, immediately after section 48, the following sections:

**“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 —

- 5           (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
- 10           (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 —

- 15           (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
- 20           (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.

**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
- 30           (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 —

5 (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 —

10 (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  
 15 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.

20 (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 —

25 (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.

30 (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.

### **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) —

- 5           (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.

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

**52.**—(1) This section applies where —

- 10           (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 —

- 15           (a) the consumer is no longer the owner or occupier of the premises; or
- 20           (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
  - 25           (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.”.

### **Amendment of section 54**

30   **21.** Section 54 of the Gas Act is amended by inserting, immediately after subsection (1), the following subsection:

“(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

5 (b) ascertaining the quantity of gas supplied or conveyed to the premises.”.

### **New sections 55 and 56**

22. The Gas Act is amended by inserting, immediately after section 54, the following sections:

#### 10 **“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;

15 (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.

20 (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 —

25 (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;

30 (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.

### **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.”.

### **Amendment of section 60**

**23.** Section 60 of the Gas Act is amended by inserting, immediately before subsection (3), the following subsections:

“(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.”

### **Amendment of section 61**

**24.** Section 61 of the Gas Act is amended by inserting, immediately before subsection (4), the following subsections:

“(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.

5 (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).”.

### **New Parts VII, VIIA and VIIB**

10 **25.** The Gas Act is amended by inserting, immediately after section 61, the following Parts:

#### **“PART VII**

#### **GAS NETWORK CODE**

##### **Interpretation of this Part**

15 **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;

20 “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.

##### **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:

30 (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 —

- 5           (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.

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

### **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.

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

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

20           **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.

25

### **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
- 30           (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.

### **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**

#### **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.

5 (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.

10 (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.

15 (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.

20 (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.

25 (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.

### **Directions by Authority**

30 **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.

5

## PART VIIB

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

#### **Interpretation of this Part**

**63A.**—(1) In this Part, unless the context otherwise requires —

10 “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

15 (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;

20 “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,

25 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;

30 “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

5 (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;

10 “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;

15 “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;

20 “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;

25 “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;

30 (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.

5 (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  
10 entity or designated business trust.

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

- 15 (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*;
- 20 (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*;
- 25 (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*;
- 30 (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*;
- 35 (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
- 5 (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
- 10 relation to, a designated gas licensee, designated entity or designated business trust.

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

15 **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.

20 (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.

25 (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
- 30 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
- 35 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.

5 (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.

10 (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.

### **Approval of applications under section 63B**

15 **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 —
  - 20 (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
- 25 (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 —

- 30 (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.

### **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.

### **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
- 5 (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
- 10 (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
- 15 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
- 20 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);
- 25 (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
- 30 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
- 35 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.

### Effect of directions

5 **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.

10 (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;

15 (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

20 (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,

25 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.

### Offences, penalties and defences

30 **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 —

35 (a) in the case of an individual, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding 3 years 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).

#### **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.”.

#### **Amendment of section 65**

**26.** Section 65 of the Gas Act is amended —

- (a) by inserting, immediately before subsection (3), the following subsections:

“(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.”; and

- (b) by inserting, immediately after subsection (4), the following subsections:

“(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.

5 (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.”.

#### **Amendment of section 67**

10 **27.** Section 67(1) of the Gas Act is amended by inserting, immediately after paragraph (a), the following paragraph:

“(b) in order to repair damaged gas pipelines;”.

#### **Amendment of section 78**

15 **28.** Section 78 of the Gas Act is amended by inserting, immediately after subsection (5), the following subsection:

“(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

20 (b) the appeal is against the imposition or the amount of a financial penalty.”.

#### **Amendment of section 84**

**29.** Section 84 of the Gas Act is amended —

25 (a) by inserting, immediately after the words “An Appeal Panel” in subsection (1), the words “established by the Minister under section 83(3) or 93(4)”; and

(b) by inserting, immediately after the words “section 83(3)” in subsection (2), the words “or 93(4)”.

#### **Amendment of section 85**

**30.** Section 85 of the Gas Act is amended —

30 (a) by deleting the word “and” at the end of subsection (3)(a);

(b) by deleting the full-stop at the end of paragraph (b) of subsection (3) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) the award of costs and expenses of and incidental to any proceedings before the Appeal Panel.”; and

(c) by inserting, immediately after subsection (9), the following subsection:

“(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.”.

#### **New sections 93 and 94**

**31.** The Gas Act is amended by inserting, immediately after section 92, the following sections:

#### **“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.

5 (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  
10 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  
15 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
- 20 (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  
25 the hearing of any appeal by, the Minister under this section.

### **General exemption**

30 **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.”.

### **Amendment of section 96**

**32.** Section 96(2) of the Gas Act is amended —

(a) by inserting, immediately after paragraph (a), the following paragraph:

“(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;”;

(b) by inserting, immediately after paragraph (n), the following paragraph:

“(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;”;

(c) by inserting, immediately after paragraph (p), the following paragraphs:

“(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;”;

(d) by inserting, immediately after sub-paragraph (iii) of paragraph (w), the following sub-paragraph:

5 “(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;”;

10 (e) by inserting, immediately after sub-paragraph (ii) of paragraph (x), the following sub-paragraph:

“(iii) the prohibition of the use, sale or hire of gas appliances and other associated equipment and materials;” and

15 (f) by inserting, immediately after paragraph (x), the following paragraphs:

“(y) the safety, technical or economic regulation of any LNG terminal or onshore receiving facility;

20 (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.”.

### **Amendment of section 98**

**33.** Section 98 of the Gas Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

25 “(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

30 (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.”; and

(b) by inserting, immediately after subsection (7), the following subsection:

“(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.”.

### **Amendment of section 99**

**34.** Section 99 of the Gas Act is amended —

(a) by deleting the word “All” in subsection (1) and substituting the words “Except as may be prescribed by the Minister, all”;

(b) by inserting, immediately after subsection (1), the following subsection:

“(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.”; and

(c) by deleting subsection (2) and substituting the following subsection:

“(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.”.

### **Amendment of section 101**

**35.** Section 101 of the Gas Act is amended by inserting, immediately after subsection (2), the following subsections:

“(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).”.

### Miscellaneous amendments

**36.** The Gas Act is amended —

(a) by repealing sections 6, 7, 11, 19, 20, 22, 23, 25, 26, 29, 32, 33, 34, 35, 39, 49, 50, 51, 52, 55, 56, 57, 93 and 94 and Part VII; and

(b) by deleting the following provisions:

Sections 9(2)(k) and (l), (3)(a) and (g) and (4)(a), 21(2), 31(1), 38(4), (8) and (9), 44(2) and (3), 47(3), 54(2), 60(1) and (2), 61(1), (2) and (3), 65(1), (2), (5) and (6), 67(1)(b) and 96(2)(b), (o), (q), (r), (w)(iv) and (x)(iii).

### Transitional provisions

**37.**—(1) Any person who immediately before the date on which section 5 of this Act comes into operation has been carrying out any activity specified in section 6(1)(a), (b), (e), (f) or (h) of the Gas Act (Cap. 116A) as amended by this Act, may continue to do so as if section 5 of this Act had not come into operation —

(a) for a period of 14 days (or such further period as the Authority may determine) from that date; or

(b) if, before the expiration of that period, that person applies for a licence in respect of that activity under section 7 of the Gas Act as amended by this Act, until the date on which the licence is granted or the application is refused or withdrawn.

(2) Any person who —

(a) has been carrying out the activity specified in paragraph (c) of section 6(1) of the Gas Act as amended by this Act, immediately before the date specified by the Minister in an order referred to in that paragraph;

(b) has been carrying out the activity specified in paragraph (d) of section 6(1) of the Gas Act as amended by this Act, immediately

before the date specified by the Minister in an order referred to in that paragraph; or

- (c) has been carrying out the activity specified in paragraph (g) of section 6(1) of the Gas Act as amended by this Act, immediately before the date specified by the Minister in an order referred to in that paragraph,

may continue to do so as if that date had not been so specified —

- (i) for a period of 14 days (or such further period as the Authority may determine) from that date; or

- (ii) if, before the expiration of that period, that person applies for a licence in respect of that activity under section 7 of the Gas Act as amended by this Act, until the date on which the licence is granted or the application is refused or withdrawn.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Gas Act (Cap. 116A) for the following main purposes:

- (a) to extend the regulatory oversight of the Energy Market Authority of Singapore (the Authority) to cover the shipping of gas, the retailing of gas, the management and operation of onshore receiving facilities and liquefied natural gas terminals, the production of town gas, and the importation of natural gas and liquefied natural gas (LNG);
- (b) to enhance the powers of the Authority under section 38 with regard to the provision of rights of access to a relevant facility;
- (c) to provide for arrangements for allocation of gas in offshore gas pipelines;
- (d) to provide for a gas network code by which designated gas transporters and relevant gas shippers must abide;
- (e) to provide for the control of —
- (i) the acquisition of equity interests in a gas transporter, a gas transport agent, a designated entity that owns a gas pipeline network and a designated business trust established in respect of a gas pipeline network;
- (ii) the acquisition of the business of a gas transporter, a gas transport agent, a designated entity that owns a gas pipeline network and a designated business trust established in respect of a gas pipeline network; and

- (iii) the appointments of officers of a gas transporter and a gas transport agent;
- (f) to make amendments to the provisions in Part XII to clarify various matters therein, and to provide for the sanctions and courses of action available in the event a person fails to comply with any direction issued by the Minister, or contravenes any regulation made by the Minister, under that Part;
- (g) to repeal or delete certain provisions in the Act which have not come into force, in order to make amendments to these provisions; and
- (h) to make consequential amendments in connection with the above purposes.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 —

- (a) by inserting new definitions for “code of practice”, “director”, “earthworks”, “gas importer”, “gas importer’s licence”, “Gas Network Code”, “gas pipeline”, “gas shipper”, “gas shipper’s licence”, “gas transport agent”, “gas transport agent’s licence”, “import”, “liquefied natural gas” or “LNG”, “LNG terminal”, “LNG terminal operator”, “LNG terminal operator’s licence”, “natural gas or LNG in transit”, “onshore receiving facility”, “onshore receiving facility operator”, “onshore receiving facility operator’s licence”, “relevant gas shipper”, “standard of performance”, “town gas producer”, “town gas producer’s licence” and “tranship”;
- (b) by making consequential amendments to various existing definitions in light of the various new definitions inserted by the clause; and
- (c) by amending various existing definitions to clarify the same.

Clause 3 amends section 4 to expand the scope of the Authority’s power requiring a person to furnish any information or document to the Authority and also to allow the Authority to retain the information or document without making any payment to any person.

Clause 4 amends section 5 (under which the Authority is required to maintain the confidentiality of certain information and documents received by it) —

- (a) to clarify that an appeal to the Minister under section 5(3) is to be made under section 93(1)(a) (inserted by clause 31); and
- (b) to expand the list of persons to whom the Authority may disclose the information or contents of any document.

Clause 5 re-enacts sections 6 and 7 (to be repealed by clause 36).

The new section 6 —

- (a) expands the list of gas-related activities which a person is prohibited from carrying on without a licence;
- (b) provides, in relation to an onshore receiving facility, that —

- (i) a person (principal) who is not incorporated in Singapore and does not have a place of business in Singapore and is therefore ineligible for an onshore receiving facility operator's licence (under the new section 7 inserted by clause 5) may nevertheless manage or operate the facility without a licence if the principal appoints an agent who is incorporated in Singapore or has a place of business in Singapore to manage or operate the facility on the principal's behalf and the agent obtains an onshore receiving operator's licence; and
- (ii) a principal who is incorporated in Singapore or has a place of business in Singapore must obtain an onshore receiving facility operator's licence before the principal may manage or operate the facility and where the principal has obtained such a licence, the agent of the principal may, without a licence, manage or operate the facility on the principal's behalf regardless of whether or not the agent is incorporated in Singapore or has a place of business in Singapore (and notwithstanding that the agent would, if he is not incorporated in Singapore or does not have a place of business in Singapore, be ineligible for an onshore receiving facility operator's licence under the new section 7 inserted by clause 5); and
- (c) increases the maximum fine, on being convicted of an offence of carrying on any licensable activity without a licence, from \$500,000 to \$1 million, and provides for a further fine of up to \$25,000 for each day or part thereof if a person continues to commit the offence of engaging in the activity without a licence.

The new section 7 —

- (a) provides for the matters to be considered by the Authority when considering an application for the grant or extension of a gas importer's licence;
- (b) expands the types of licences that may be granted or extended by the Authority in line with the expanded list of licensable activities under the new section 6; and
- (c) includes instances in which various licences referred to in that section will not be granted.

Clause 6 amends section 9 —

- (a) by inserting new paragraphs (m) and (n) in subsection (2) to provide for new conditions that gas licences in general may be subject to, and by inserting new subsections (5), (6) and (7) to provide for the conditions to which specific types of gas licences may be subject to;
- (b) by amending subsections (3)(a) and (g) and (4)(a) to include instances in which a gas pipeline or gas pipeline network is under the management or control of the gas transporter but is not owned by the gas transporter; and
- (c) by making consequential amendments to subsection (2)(k) and (l).

Clause 7 re-enacts section 11 (to be repealed by clause 36) —

- (a) to enable a person who is registered as a professional engineer and has a valid practising certificate under the Professional Engineers Act (Cap. 253) to carry out gas service work without a gas service worker licence; and
- (b) to exclude a gas transport agent and its employees from the application of that section.

Clause 8 re-enacts section 19 (to be repealed by clause 36) to clarify that the Authority may take one or more actions specified in that section and that a direction referred to in that section includes a direction issued under that section.

Clause 9 amends section 21(2) to include instances in which a gas pipeline is under the management or control of a gas transporter but is not owned by the gas transporter.

Clause 10 re-enacts sections 22 and 23 (to be repealed by clause 36).

The new section 22 —

- (a) requires a gas transporter to provide and install a gas service isolation valve and provide and lay a gas service pipe from the relevant gas main to the gas service isolation valve on the request of the owner or occupier of any premises;
- (b) provides for the instances in which the gas transporter may connect such premises to the relevant gas main and maintain the connection; and
- (c) provides for various matters relating thereto.

The new section 23 makes consequential amendments to that section arising from the repeal and re-enactment of section 22.

Clause 11 re-enacts sections 25 and 26 (to be repealed by clause 36).

The new section 25 —

- (a) refers to “gas shippers” in place of “shippers”, in light of the new definition of “gas shipper” inserted in section 2 (by clause 2); and
- (b) includes instances in which a gas pipeline or gas pipeline network is under the management or control of a gas transporter but is not owned by the gas transporter.

The new section 26 includes instances in which a gas pipeline, gas pipeline network or gas plant is under the management or control of a gas transporter but is not owned by the gas transporter.

Clause 12 re-enacts section 29 (to be repealed by clause 36) —

- (a) to clarify that a gas transporter will be responsible for the maintenance, repair and renewal of any gas service pipe from a gas main up to a gas service isolation valve, and the gas service isolation valve;
- (b) to empower the Authority to prescribe any 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; and

- (c) to require the gas transporter to —
- (i) establish and implement a programme for the carrying out of regular and periodic inspections, by the gas transporter or the person 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
  - (ii) notify the person 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, of any maintenance, repair or renewal required in respect thereof following such inspections, to be carried out at that person's expense.

Clause 13 amends section 31(1) to include instances in which a gas pipeline is under the management or control of a gas transporter but is not owned by the gas transporter.

Clause 14 introduces new sections 32 and 32A.

The new section 32 provides for instances in which, and the procedure by which, a person (other than a gas transporter) may commence or carry out, or cause or permit the commencement or carrying out of, 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. The new section also provides for the duties and liabilities of such person and the gas transporter in relation to the earthworks.

The new section 32A provides —

- (a) that 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 is guilty of an offence;
- (b) that 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, the gas transporter is guilty of an offence subject to defences specified in that section;
- (c) that any person supervising or instructing the person committing the offence is also guilty of an offence unless he can prove that the offence was committed without his consent or connivance or that it was not attributable to any neglect on his part;
- (d) for the penalties for offences committed under that section; and
- (e) that any person may apprehend any other person if the second-mentioned person commits an offence under that section within the view of the first-mentioned person, and that the first-mentioned person is to hand over the second-mentioned person so apprehended to a police officer without unreasonable delay.

Clause 15 re-enacts sections 33, 34 and 35 (to be repealed by clause 36).

The new section 33 expands the scope of that section to enable special administration orders to be made in relation to LNG terminal operators.

The new section 34 expands the scope of that section to enable special administration orders and other specified orders to be made in relation to LNG terminal operators.

The new section 35 makes consequential amendments to that section arising from the repeal and re-enactment of section 34.

Clause 16 amends section 38 —

- (a) to empower the Authority to issue directions under that section to a relevant facility owner to grant access to the relevant facility to persons who require such access notwithstanding that such directions would prejudice the performance of any contractual obligation of the relevant facility owner, whether such obligation relates to any contract made before, on or after the date of commencement of section 16 of the Gas (Amendment) Act 2007;
- (b) to empower the Authority to direct a relevant facility owner to adjust the charges imposed by the owner on existing users of the relevant facility when the Authority directs the owner to grant another person access to the relevant facility;
- (c) to prescribe the penalties for the offence of not complying with any direction of the Authority under that section;
- (d) to provide that any person who does any act which has or is likely to have the effect of obstructing, hindering or preventing a relevant facility owner from complying with the Authority's directions under that section is guilty of an offence;
- (e) to confer immunity from legal proceedings on a party to a contract who complies with the Authority's directions under that section without affecting the operation of the Frustrated Contracts Act (Cap. 115), if the contract was made before the date of commencement of section 16 of the Gas (Amendment) Act 2007;
- (f) by deleting the definition of "LNG facility" as the definition is no longer required in light of the new definition of "LNG terminal" inserted in section 2 (by clause 2); and
- (g) by amending the definition of "relevant facility"—
  - (i) to include instances in which a gas pipeline network is under the management or control of the gas transporter but is not owned by the gas transporter; and
  - (ii) to include a reference to "onshore receiving facility" so as to extend the scope of that section to onshore receiving facilities.

Clause 17 introduces new section 38A and re-enacts section 39 (to be repealed by clause 36).

The new section 38A empowers the Authority to give directions requiring the persons specified in that section to enter into an arrangement for the allocation of gas in any 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. So much of any arrangement for the allocation of gas in that offshore gas pipeline in existence prior to any such directions by the Authority will cease to apply when the Authority issues the directions. The gas allocation arrangement imposed by the Authority under that section will however cease to apply once all the persons to whom the Authority's directions were given enter into a new arrangement as between themselves for the allocation of gas in that offshore gas pipeline. Failure to comply with the Authority's direction is an offence, and any person who does any act which has or is likely to have the effect of obstructing, hindering or preventing any person from complying with the Authority's directions under that section will also be guilty of an offence. The section confers immunity from legal proceedings on a party to a contract who complies with the Authority's directions under that section without affecting the operation of the Frustrated Contracts Act (Cap. 115), if the contract was made before the date of commencement of section 17 of the Gas (Amendment) Act 2007.

The new section 39 —

- (a) expands the scope of that section to include gas transmission pipelines; and
- (b) removes the requirement that a gas pipeline, internal pipe or other apparatus, referred to in that section in relation to any premises must be for the use by, or supply or conveyance of gas to, the occupier of the premises.

Clause 18 amends section 44 —

- (a) to provide that a relevant gas shipper may authorise the discontinuance of the supply of gas, and any gas shipper may refuse to supply gas, to a consumer's premises in certain circumstances (in addition to a relevant gas retailer authorising such discontinuance and any gas retailer refusing such supply);
- (b) to require a relevant gas shipper to whom a meter relates to keep that meter in proper order; and
- (c) to remove the reference to a relevant gas retailer in relation to the ownership of a meter as gas retailers will no longer own meters.

Clause 19 amends section 47 to empower a relevant gas shipper to discontinue the supply of gas to the premises of a person who commits an offence under section 47(1).

Clause 20 re-enacts sections 49 to 52 (to be repealed by clause 36).

The new section 49 expands the scope of that section (which, amongst other things, makes it an offence for any person to re-connect a supply of gas to any premises where the premises were disconnected by a gas transporter or the supply of gas to the premises was discontinued by a gas retailer in certain circumstances) to include instances in which the supply of gas to any premises was discontinued by a gas shipper. The new section further clarifies that upon the unauthorised restoration of the supply of gas

(which has been discontinued by a gas shipper or gas retailer), the gas transporter may disconnect the premises.

The new section 50 —

- (a) expands the scope of that section to require a person to notify, before making any connection to or disconnection from a gas pipeline through which gas is conveyed to any premises, a relevant gas shipper who supplies gas to the premises and whose name and address are known to that person;
- (b) removes the reference to “internal pipe” in subsection (4) as the reference is unnecessary in the context of that subsection; and
- (c) refers to “gas pipeline” in place of “gas service pipe”.

The new section 51 expands the scope of that section (which enables a gas transporter to disconnect premises and a gas retailer to discontinue the supply of gas to any consumer’s premises in certain circumstances) to include the discontinuance of the supply of gas to any consumer’s premises by a relevant gas shipper.

The new section 52 expands the scope of that section (which provides for matters relating to the obligation of a gas transporter to re-connect any consumer’s premises disconnected by him and the obligation of a gas retailer to restore the supply of gas, discontinued by him, to any consumer’s premises) to include matters relating to the obligation of a gas shipper to restore the supply of gas, discontinued by him, to any consumer’s premises discontinued by the gas shipper.

Clause 21 amends section 54 to expand the scope of that section to empower a person authorised by a relevant gas shipper to enter a consumer’s premises for the purpose of inspecting gas fittings or ascertaining the quantity of gas supplied to the premises.

Clause 22 re-enacts sections 55 and 56 (to be repealed by clause 36).

The new section 55 (which enables a person authorised by a gas transporter or gas retailer to enter any premises for the purpose of disconnecting the premises or discontinuing the supply of gas to the premises, and to remove any meter or other gas fitting owned by the gas transporter or gas retailer in certain circumstances) —

- (a) expands the scope of that section to include the entering of premises by a person authorised by a gas shipper;
- (b) includes instances in which a meter or other gas fitting is under the management or control of a gas transporter but is not owned by the gas transporter;
- (c) makes reference to meters or other gas fittings owned by gas shippers; and
- (d) removes the reference to gas retailers in relation to the ownership of meters or other gas fittings as gas retailers will no longer own meters or other gas fittings.

The new section 56 expands the scope of that section to provide for the entry of a consumer’s premises by a person authorised by a gas shipper who has discontinued the

supply of gas to the premises, to ascertain whether the supply of gas has been restored without the consent of the gas shipper.

Clause 23 amends section 60 (which provides for the procedures that must be complied with before the power to enter any land or premises under the Act is exercised) to expand the scope of that section to include gas shippers.

Clause 24 amends section 61 (which provides for matters relating to the exercise of the power to enter any premises under the Act) to expand the scope of that section to include gas shippers.

Clause 25 introduces new Parts VII and VIIB and re-enacts Part VII (to be repealed by clause 36) as Part VIIA.

The new Part VII (comprising new sections 61A to 61F) relates to the Gas Network Code (GNC).

The new section 61A defines certain terms used in the new Part VII.

The new section 61B empowers the Authority to issue a GNC for the use and operation of gas pipeline networks. The Authority will designate a gas transporter (designated gas transporter) for the purposes of the new Part VII. The new Part VII will apply in respect of any gas pipeline network which is used by the designated gas transporter for the conveyance of gas. The new Part VII will also apply to gas shippers (relevant gas shippers) who ship gas by means of such gas pipeline network. Under the new section 61B, the GNC may be modified by the designated gas transporter.

The new section 61C provides that the designated gas transporter is required to devise appropriate tests or trials for the implementation of the GNC before the GNC is issued by the Authority. The designated gas transporter and the relevant gas shippers must participate in such tests or trials.

The new section 61D provides that the GNC is deemed to be a binding contract between the designated gas transporter and each relevant gas shipper.

The new section 61E provides that recourse to the courts is limited to matters of law and jurisdiction if the GNC provides for the manner in which disputes under the GNC are to be resolved and restricts recourse to the courts until the dispute resolution process provided in the GNC has been exhausted.

The new section 61F provides that the Authority is empowered to issue directions, on the application of a relevant gas shipper, to any relevant direct access customer to whose premises the relevant gas shipper ships gas for the purpose of ensuring the security or reliability of the conveyance of gas by the designated gas transporter. Failure to comply with the Authority's directions is an offence.

The new Part VIIA (comprising new sections 62 and 63) relates to codes of practice and standards of performance.

The new section 62 empowers the Authority to issue and modify codes of practice and standards of performance for the regulation of activities and conduct in the gas industry. A gas licensee must comply with such codes of practice and standards of performance as the Authority may specify as being applicable to the gas licensee or a

class of gas licensees to which the gas licensee belongs. The Authority may exempt any gas licensee or class of gas licensees from any provision in any code of practice or any standard of performance which is applicable to the gas licensee or class of gas licensees.

The new section 63 empowers the Authority to give directions to gas licensees and other persons for or with respect to codes of practice, standards of performance and other procedures. Failure to comply with the Authority's directions is an offence.

The new Part VIIB (comprising new sections 63A to 63H) introduces a regime for the control of a designated gas licensee (that is, a gas transporter or gas transporter agent), an entity that owns a gas pipeline network and which is designated by the Authority (designated entity) and a business trust established in respect of a gas pipeline network and which is designated by the Authority (designated business trust).

The new section 63A defines certain terms used in the new Part VIIB.

The new section 63B imposes the following obligations:

- (a) under the new subsection (1), a person who becomes a substantial equity interest holder (as defined in the new section 63A) of a designated gas licensee, designated entity or designated business trust must notify the Authority within 5 days after becoming a substantial equity interest holder of the licensee, entity or business trust;
- (b) under the new subsection (2), a person must obtain the written approval of the Authority before becoming a 12% controller, a 30% controller or an indirect controller (as defined in the new section 63A) of a designated gas licensee, designated entity or designated business trust; and
- (c) under the new subsection (3), a person must obtain the written approval of the Authority before acquiring, as a going concern, the business of a designated gas licensee, designated entity or designated business trust, together with the designated gas licensee, the designated entity or the trustee-manager of the designated business trust (as the case may be).

These obligations will apply as of —

- (a) in the case of a designated gas licensee, the date on which the gas licensee is issued with the relevant gas licence under section 7 (inserted by clause 5);
- (b) in the case of a designated entity, the date on which the Authority declares the entity as such; and
- (c) in the case of a designated business trust, the date on which the Authority declares the business trust as such.

The new section 63C sets out the grounds for the Authority's approval under the new section 63B(2) or (3). The Authority's approval may be subject to conditions. The Authority is empowered to add to, vary or revoke the conditions at any time.

The new section 63D empowers the Authority to exempt any person or class of persons, or any class or description of equity interests from the requirements of the new section 63B(1), (2) or (3).

The new section 63E empowers the Authority to issue directions to a person to take remedial actions under certain circumstances, such as where there has been a contravention of the new section 63B(2) or (3) or where any person exempted under section 63D from the new section 63B(3) (which refers to the acquisition of the business of a designated gas licensee, designated entity or designated business trust) is not or ceases to be a fit and proper person to own or manage the business he has acquired.

The new section 63F is consequential to and sets out the effect of directions issued by the Authority under the new section 63E.

The new section 63G provides that any person who contravenes the new section 63B(1), (2) or (3) or any direction issued by the Authority under the new section 63E is guilty of an offence. The section also sets out the defences that are available to a person charged with the offence of contravening the new section 63B(1) and (2).

The new section 63H requires a designated gas licensee to obtain the Authority's written approval before appointing any person as its chief executive officer, its director or the chairman of its board of directors and empowers the Authority to issue directions for the removal of a person from such an appointment if the licensee contravenes that section.

Clause 26 amends section 65 —

- (a) to expand the scope of that section to include a gas transmission pipeline by referring to “gas pipeline” in place of “gas main” and “gas service pipe”;
- (b) to include instances in which a gas pipeline is under the management or control of a gas transporter but is not owned by the gas transporter;
- (c) to clarify the responsibilities of a gas transporter in relation to a gas escape;
- (d) to provide for a continuing offence where a gas transporter fails to take steps in relation to a gas escape; and
- (e) to expand the scope of that section to include the responsibilities of a gas shipper in relation to a gas escape.

Clause 27 makes a consequential amendment to section 67(1)(b) in light of the new definition of “gas pipeline” inserted in section 2 (by clause 2).

Clause 28 amends section 78 to provide that the effect of any decision or direction appealed against under section 78(5) to an Appeal Panel will not be suspended by reason of the appeal unless the Minister allows otherwise or the appeal is against the imposition or the amount of a financial penalty.

Clause 29 makes consequential amendments to section 84 arising from the repeal (by clause 36) and re-enactment (by clause 31) of section 93.

Clause 30 amends section 85 to clarify that an Appeal Panel has the power to award costs and expenses of and incidental to any proceedings before an Appeal Panel. The clause also makes a consequential amendment to that section arising from the repeal (by clause 36) and re-enactment (by clause 31) of section 93.

Clause 31 re-enacts sections 93 and 94 (to be repealed by clause 36).

The new section 93 —

- (a) clarifies the matters in respect of which a person may appeal to the Minister;
- (b) provides that an appeal under that section must be made within 14 days unless otherwise provided in the Act;
- (c) clarifies that an appeal under that section does not suspend the decision or direction of the Authority unless otherwise provided in the Act or allowed by the Minister, or the appeal is against the imposition or the amount of a financial penalty;
- (d) empowers the Minister to establish an Appeal Panel, comprising one or more of persons with particular technical or specialised knowledge and any other person or persons as the Minister considers appropriate, to hear an appeal lodged under that section if he considers that the appeal should be determined by persons with particular technical or specialised knowledge in view of the nature or complexity of the issues in the appeal;
- (e) empowers the Minister to require an appellant to furnish information; and
- (f) empowers the Minister to make regulations in respect of the making of appeals to and the hearing of appeals by him.

The new section 94 provides that the Authority's power to exempt under that section shall also not apply in respect of 63B (inserted by clause 25).

Clause 32 amends section 96(2) —

- (a) to refer to “gas transporter” in place of “gas licensee” in paragraph (b);
- (b) to refer to “gas transporter or gas retailer” in place of “gas licensee” in paragraph (o);
- (c) to include in paragraph (q) instances in which a gas pipeline or gas pipeline network is under the management or control of a gas transporter but is not owned by the gas transporter and to make technical amendments to clarify the provision; and
- (d) to expand the scope of the regulation-making power of the Authority to include matters relating to LNG terminals and onshore receiving facilities (paragraphs (r)(i) and (y)), the inspection, maintenance, repair and renewal of gas service pipes (paragraph (r)(ii)), and the import of gas (paragraph (z)).

Clause 33 amends section 98 to provide for a transfer of property, rights, obligations and liabilities from one gas company (the transferor undertaking) to another gas company (the transferee undertaking), where the Government has an interest in any share in each of the transferor undertaking and the transferee undertaking, whether directly or through one or more other persons.



Clause 34 amends section 99 —

- (a) by amending subsection (1) to empower the Minister to prescribe which of those deeds, bonds, agreements and other arrangements section 99(1) will not apply to;
- (b) by inserting a new subsection (1A) to provide that rights, obligations and liabilities as may have accrued under any deed, bond, agreement or other arrangement prior to the date of transfer of the property, rights, obligations and liabilities under section 98(1) and to which section 99(1) applies will continue to be enforced by or against the transferor undertaking and not by or against the transferee undertaking; and
- (c) by deleting and substituting subsection (2) to make a consequential amendment arising from the new subsection (1A) and various technical amendments in order to clarify subsection (2).

Clause 35 amends section 101 —

- (a) to provide that any person who contravenes any direction issued by the Minister under section 101 is guilty of an offence, and that the Minister may provide, in regulations made by him, that any person who contravenes any such regulations will be guilty of an offence;
- (b) to provide the circumstances where one party has the right of action for relief in civil proceedings due to the actions of the another party; and
- (c) to provide that no contravention by any party of any regulations or directions made under Part XII will avoid the transfer of property, rights, obligations or liabilities under section 98(1).

Clause 36 repeals specified sections and deletes specified provisions which have not come into force, in order for amendments to be made to these provisions.

Clause 37 deals with transitional matters.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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