

Gas (Amendment) Bill

Bill No. 36/2018.

Read the first time on 10 September 2018.

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 is the Gas (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2 of the Gas Act is amended —

(a) by deleting the words “section 83” in the definition of “Appeal Panel” and substituting the words “section 84”;

10 (b) by deleting paragraph (a) of the definition of “earthworks” and substituting the following paragraphs:

“(a) any act of excavating earth, rock or other material (by whatever means);

(aa) any act done on, in or under the ground in connection with —

15 (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 sewerage works;

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

25 (iii) any soil investigation work; or

30 (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;”;

- (c) by deleting the words “earth rod” in paragraph (c) of the definition of “earthworks” and substituting the words “bar, rod, pole, picket”; and
- (d) by inserting, immediately after the definition of “meter”, the following definition:

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““meter installation” means any meter and its associated equipment and installation, including any associated pipework, filter, valve, pressure regulating equipment, seal, housing, mounting, telemetry equipment, gas chromatograph and flow computer;”.

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Amendment of section 3

3. Section 3(3) of the Gas Act is amended —

- (a) by deleting the words “dangers arising from the” in paragraph (b) and substituting the words “dangers (including to health) arising from the import,”; and
- (b) by inserting, immediately after paragraph (f), the following paragraph:

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“(fa) to ensure security of supply of gas to consumers and to arrange for the secure operation of the gas transmission network in accordance with the Gas Network Code or other codes of practice;”.

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Amendment of section 32

4. Section 32 of the Gas Act is amended —

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- (a) by deleting the words “other than a gas transporter” in subsection (1);
- (b) by deleting the words “control of, the gas transporter” in subsection (1) and substituting the words “control of, a gas transporter”; and
- (c) by inserting, immediately after subsection (5), the following subsection:

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“(5A) Subsection (1) does not prohibit a gas transporter from commencing or carrying out 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.”.

Amendment of section 32A

5. Section 32A of the Gas Act is amended —

(a) by deleting subsections (1), (2) and (3) and substituting the following subsection:

“(1) Any person who —

(a) removes, destroys or damages any gas plant or gas pipe which is part of a gas pipeline network owned by, or under the management or control of, a gas licensee;

(b) causes or permits the removal, destruction or damage of such gas plant or gas pipe; or

(c) in any way other than by paragraph (a) or (b), wilfully or recklessly hinders or prevents such 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.”; and

(b) by deleting the words “subsection (2)” in subsections (4) and (5) and substituting in each case the words “subsection (1)(a) or (b)”.

New section 32B

6. The Gas Act is amended by inserting, immediately after section 32A, the following section:

“Damage to submarine gas pipelines

32B. Any person who wilfully, recklessly or negligently —

(a) does any act, or permits or causes any act to be done, which damages or is likely to damage any submarine gas pipeline in the territorial waters of Singapore that is owned by, or under the management or control of, a gas licensee; or

(b) omits to do anything required to prevent any damage to such submarine gas pipeline,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2 million or to imprisonment for a term not exceeding 5 years or to both.”.

Amendment of section 47

7. Section 47 of the Gas Act is amended by deleting subsections (1) and (2) and substituting the following subsections:

“(1) Any person who —

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

(b) dishonestly or fraudulently abstracts, uses, consumes or diverts any gas supplied by a gas licensee;

(c) alters or tampers with any part of any meter or meter installation for registering the quantity of gas supplied to any person or premises;

(d) does any thing that compromises or adversely affects the ability or proper operation of any meter or meter installation in duly registering the quantity of gas supplied to any person or premises; or

(e) causes or permits any other person to engage in conduct mentioned in paragraph (b), (c) or (d),

shall be guilty of an offence.

(1A) A person who is guilty of an offence under subsection (1)(a), (b), (c), (d) or (e) shall be liable on conviction to one or both of the following:

(a) a fine that is the total of —

(i) an amount not exceeding \$50,000; and

(ii) an amount equal to 3 times the value of gas —

(A) diverted, abstracted, used or consumed in the commission of the offence under subsection (1)(a) or (b), or caused or permitted to be so diverted, abstracted, used or consumed in the commission of the offence under subsection (1)(e), as the case may be; or

(B) supplied as a result of the commission of the offence under subsection (1)(c), (d) or (e), as the case may be;

(b) imprisonment for a term not exceeding 5 years,

and, in the case of a continuing offence, to a further fine not exceeding \$250 for every day or part of a day during which the offence continues after conviction.

(1B) The value of the gas diverted, abstracted, used, consumed or supplied as mentioned in subsection (1A)(a)(ii), may be determined based on the amount of such gas fairly and reasonably estimated after comparing records (as are appropriate and available) of gas usage before, during and after the diversion, abstraction, use, consumption or supply.

(2) If, in any proceedings before a court for an offence under subsection (1)(c) or (e), it is alleged that a person altered or tampered with any part of any meter or meter installation mentioned in subsection (1)(c), and it is proved —

(a) that, at the time of the alleged conduct —

(i) a device was attached to, or was in the vicinity of, the meter or meter installation (or any part of the meter or meter installation) for the purpose of altering the index of the meter or meter installation or preventing the meter or meter installation from duly registering the quantity of gas supplied; 5

(ii) the covering of the meter or meter installation had a hole which is not a result of ordinary wear and tear; 10

(iii) any seal or lock fastened by a gas licensee to or on any part of the meter or meter installation was damaged, removed or changed; or

(iv) any paint or other chemical compound applied by a gas licensee to or on any screw, component or mechanism of any part of the meter or meter installation was damaged or removed or altered in its chemical composition; and 15

(b) that the person had, at the time of the alleged conduct, custody or control of the meter or meter installation, 20

then the person is presumed, until the contrary is proved, to have so altered or tampered with the meter or meter installation.”.

Amendment of section 63A

8. Section 63A of the Gas Act is amended — 25

(a) by inserting, immediately after the definition of “arrangement” in subsection (1), the following definition:

““associate” has the meaning given to that expression in regulations made under section 63CA;”;

(b) by deleting the definition of “company” in subsection (1); 30

(c) by deleting the words “Authority, by notification in the *Gazette*,” in the definition of “designated business trust” in subsection (1) and substituting the word “Minister”;

5 (d) by deleting the definitions of “designated entity” and “designated gas licensee” in subsection (1) and substituting the following definitions:

““designated entity” means an entity, not being a gas licensee, that —

10 (a) owns a gas pipeline network (or any part of the network); and

(b) is declared by the Minister to be a designated entity for the purposes of this Part;

15 “designated gas licensee” means any of the following:

(a) a gas transporter;

(b) a gas transport agent;

(c) an LNG terminal operator;

20 (d) any other gas licensee declared by the Minister to be a designated gas licensee for the purposes of this Part;”;

(e) by deleting the definition of “equity interest” in subsection (1) and substituting the following definition:

25 ““equity interest” has the meaning given to that expression in regulations made under section 63CA;”;

30 (f) by deleting the definitions of “related corporation”, “share”, “substantial equity interest holder”, “substantial shareholder”, “treasury share”, “unit”, “unitholder”, “voting share” and “written law” in subsection (1); and

(g) by deleting subsections (2) to (5).

Amendment of section 63B

9. Section 63B of the Gas Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

“(1) A designated gas licensee, a designated entity 5
or the trustee-manager of a designated business trust
must each give notice in writing to the Authority if any
person acquires equity interest in the licensee, the
entity or the business trust (as the case may be)
whether through a series of transactions over a period 10
of time or otherwise, that would result in that person
holding 5% or more but less than 12% of the total
equity interest in the licensee, the entity or the
business trust, respectively.

(1A) The notice under subsection (1) must be given 15
within 5 days after the designated gas licensee, the
designated entity or the trustee-manager of the
designated business trust (as the case may be)
becomes aware of the acquisition mentioned in that
subsection. 20

(2) No person shall, whether through a series of
transactions over a period of time or otherwise,
become a 12% controller, a 30% controller or an
indirect controller of a designated gas licensee, a
designated entity or a designated business trust 25
without obtaining the prior written approval of the
Authority.”;

(b) by deleting the words “, whether or not he has obtained any
approval of the Authority under subsection (2) or is
exempted from subsection (2) under section 63D,” in 30
subsection (3); and

(c) by deleting subsections (4) and (5).

Amendment of section 63C

10. Section 63C(6) of the Gas Act is amended by deleting the word “any” and substituting the words “the provisions of any other”.

New section 63CA

5 11. The Gas Act is amended by inserting, immediately after section 63C, the following section:

“Regulations for carrying out sections 63B and 63C

10 **63CA.**—(1) The Authority may, with the approval of the Minister, make such regulations under section 96 as are necessary or expedient for carrying out the purposes of sections 63B and 63C.

(2) Without limiting subsection (1), the regulations may prescribe —

- 15 (a) the meaning of equity interest and the circumstances under which a person is treated as holding a percentage of the total equity interest in a designated gas licensee, a designated entity or a designated business trust;
- 20 (b) the circumstances under which a person is treated as being in a position to control a percentage of the voting power in a designated gas licensee, a designated entity or a designated business trust;
- 25 (c) the circumstances under which a person is treated as having acquired as a going concern a business mentioned in section 63B(3);
- (d) the circumstances under which a person is treated as being an associate for the purposes of sections 63A, 63E and 63G; and
- 30 (e) the manner in which any notice or application under section 63B must be given or made, and the person or persons who must give the notice or make the application.”.

Amendment of section 63F

12. Section 63F of the Gas Act is amended by deleting the words “notwithstanding any” in subsections (1) and (2) and substituting in each case the words “notwithstanding the provisions of any other”.

Amendment of section 63G

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13. Section 63G of the Gas Act is amended —

- (a) by deleting subsection (2);
- (b) by deleting the words “described in section 63A(5)(a) in the designated gas licensee, designated entity or designated business trust” in subsection (4)(a); and
- (c) by deleting the words “subsections (2), (3) and (4)” in subsection (5) and substituting the words “subsections (3) and (4)”.

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New Part VIIIA

14. The Gas Act is amended by inserting, immediately after section 68, the following Part:

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“PART VIIIA

SEVERE GAS SHORTAGE

Meaning of “severe gas shortage situation”

68A. A severe gas shortage situation is a situation in which —

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- (a) there is a shortage of natural gas imported into Singapore resulting in any gas importer providing less of such gas to any of its customers than is required under its arrangement with that customer (without taking into consideration any such gas to be provided on a reasonable endeavours basis under that arrangement); and
- (b) given the extent, and the likely period or the uncertainty of the period, of the shortage, the shortage will or is likely to —

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- (i) threaten the security or stability of the supply of gas or electricity in Singapore; or
- (ii) result in a severe loss of output from any industry sector that uses natural gas as feedstock or fuel stock.

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Directions by Authority

68B.—(1) Where the Authority considers that there is an imminent or actual severe gas shortage situation, the Authority may, with the approval of the Minister, give to any person or persons such directions specified in subsection (2) as the Authority considers necessary.

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(2) The directions for the purpose of subsection (1) are for the purpose of addressing or alleviating the severe gas shortage situation, or preventing the severe gas shortage situation from occurring or continuing, and may be issued at any one or more times before the severe gas shortage situation occurs or during the severe gas shortage situation.

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(3) For the purposes of subsection (2), a direction may require any person to whom the direction is given to do or not to do any thing, including a direction to —

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- (a) enter into or modify any agreement between the person directed and any other person;
- (b) terminate any agreement between the person directed and any other person;
- (c) give any consent or withhold the giving of any consent required under any agreement between the person directed and any other person; or
- (d) provide security for any compensation that the person directed may be liable to pay pursuant to section 68D.

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(4) A direction under this section remains in force until revoked by the Authority.

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(5) Any person to whom a direction is given under this section who fails to comply with the direction shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$1 million; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part of a day during which the offence continues after conviction,

and section 19 does not apply to the direction.

(6) Any person who does any act which the person knows or ought reasonably to know is or is likely to obstruct, hinder or otherwise prevent a person to whom a direction is given under this section from complying with the direction shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$1 million; and

(b) in the case of a continuing offence, to a further fine not exceeding \$100,000 for every day or part of a day during which the offence continues after conviction.

(7) No action, suit or other legal proceedings shall lie against any party to a contract or arrangement made before the date of commencement of section 14 of the Gas (Amendment) Act 2018, or in relation to, any breach of that contract or arrangement, where such breach is solely attributable to, or occasioned by, the compliance by that party with any direction of the Authority issued under this Part.

Requests for information, etc.

68C.—(1) For the purpose of making a determination on any matter under this Part (including whether or not a direction should be given under this Part), the Authority or the Minister may, by notice in writing, request for such information and document from such person (including a person likely to be affected by a direction issued under this Part) as the Authority or the Minister considers necessary.

(2) Any person who, upon a request mentioned in subsection (1) —

- (a) fails to comply with the request;
- (b) intentionally alters, suppresses or destroys any information or document required by the request; or
- (c) provides to the Authority or the Minister, as the case may be, any information or document that is false, misleading or inaccurate in a material particular, or recklessly provides any such information or document,

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

(3) Section 5 applies (with the necessary modifications) to information and documents provided under this section to the Authority or the Minister as it applies to information and documents provided to the Authority under section 4.

Regulations for this Part, etc.

68D.—(1) The Minister may make regulations prescribing —

- (a) the circumstances in which any direction issued under section 68B may be modified;
- (b) the circumstances in which compensation is payable for any loss or damage suffered by any person as a result of a direction of the Authority given under section 68B, and for matters relating to the determination and payment of the compensation, including the following:
 - (i) the constitution and appointment of the members of a panel (called in this Part a Pricing Panel) to determine matters concerning the compensation (including the amount), the qualifications of any of the members, the period of tenure of any of the members, and the circumstance in which a member may be disqualified from so acting;

- (ii) the remuneration and allowances of members of the Pricing Panel;
- (iii) the procedure to be adopted by the Pricing Panel in its proceedings and the records to be kept by the Pricing Panel; 5
- (iv) compelling the attendance of witnesses to give evidence to the Pricing Panel and the examination of witnesses under oath, and compelling the production of documents;
- (v) the treatment and usage of confidential information and documents received by the Pricing Panel; 10
- (vi) matters which the Pricing Panel must —
 - (A) take into account in reckoning the compensation to be paid (including any quantifiable loss or damage suffered by any person as a result of any direction issued by the Authority under section 68B); or 15
 - (B) disregard in reckoning the compensation (including any quantifiable amount received or recoverable by any person who has suffered loss or damage mentioned in sub-paragraph (A), that has the effect of compensating the person, in whole or in part, for that loss or damage), 20
 - and to provide for such other principles as the Minister considers appropriate for the purpose of determining the compensation; 25
- (vii) the person or persons by whom the compensation (or any part of the compensation) is payable and the person or persons to whom the compensation (or any part of the compensation) is to be paid, and the 30

manner of payment, as determined by the Pricing Panel;

(viii) the circumstances in which the Pricing Panel may review its determination of the compensation;

(c) fees or charges for any thing done under this Part; and

(d) anything which is required to be prescribed under this Part or which is necessary or expedient to be prescribed for carrying out or giving effect to the provisions of this Part.

(2) The Minister may, in making regulations under this Part, provide that any person who contravenes any regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) Every member of a Pricing Panel, when and for so long as the member acts as such, is taken to be a public servant within the meaning of the Penal Code (Cap. 224), and enjoys the same judicial immunity as is enjoyed by a District Judge.

Appeals to High Court

68E.—(1) The person by whom and the person to whom compensation is payable under section 68D may appeal to the High Court against a decision of a Pricing Panel in relation to that compensation, upon any question of law or of mixed law and fact.

(2) The procedure governing and the costs of such appeal to the High Court are as provided for in the Rules of Court.

(3) The High Court may hear and determine any such appeal and may confirm, reduce, increase or annul the decision of the Pricing Panel, and make such further or other order on such appeal, whether as to costs or otherwise, as the High Court thinks fit.

(4) There shall be such further right of appeal from decisions of the High Court under this section as exists in the case of

decisions made by that Court in the exercise of its original civil jurisdiction.

Recovery of compensation

68F. Compensation determined by a Pricing Panel under section 68D as being payable by a person to another person, is a debt due from the person to the other person.”.

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New section 72A

15. The Gas Act is amended by inserting, immediately after section 72, the following section:

“Guidelines

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72A.—(1) The Authority may issue guidelines with a view to providing practical guidance or certainty in respect of any one or more of the provisions in this Part.

(2) The Authority may consult with such person as the Authority thinks fit for the purpose of preparing any guidelines under subsection (1).

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(3) Where, in any administrative proceedings commenced in connection with this Part, any provision in this Part to which any guideline issued under subsection (1) relates is alleged to have been contravened, then —

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(a) compliance with such guideline; or

(b) a contravention of or failure to comply with, whether by act or omission, such guideline,

may be relied upon by any party to those proceedings as tending to negative or establish the contravention which is in question in those proceedings.”.

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Amendment of section 83

16. Section 83 of the Gas Act is amended —

(a) by deleting the words “under subsection (3)” in subsection (2) and substituting the words “to consider and determine the appeal”; and

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(b) by deleting the words “establish by direction, within 30 days of the request, an Appeal Panel to consider an appeal made under this section” in subsection (3) and substituting the words “establish an Appeal Panel within 30 days after the request to consider and determine the appeal in question”.

Amendment of section 84

17. Section 84 of the Gas Act is amended —

(a) by deleting the words “under section 83(3) or 93(4)” in subsection (1); and

(b) by deleting the words “in the direction establishing the Appeal Panel under section 83(3) or 93(4)” in subsection (2) and substituting the words “in establishing the Appeal Panel”.

Amendment of section 92

18. Section 92 of the Gas Act is amended by deleting subsection (3).

New section 92A

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

“Payment into Consolidated Fund

92A. All composition sums collected by the Authority under section 92 and all financial penalties collected by the Authority under this Act, must be paid into the Consolidated Fund.”.

Amendment of section 93

20. Section 93 of the Gas Act is amended —

(a) by deleting the words “, together with adequate details of the grounds for the appeal” in subsection (1);

(b) by deleting subsection (2);

- (c) by deleting the words “lodged under subsection (1)” in subsection (4) and substituting the words “made to the Minister”;
- (d) by deleting the words “lodged an appeal under subsection (1) shall” in subsection (5) and substituting the words “made an appeal to the Minister must”; and
- (e) by deleting subsection (7) and substituting the following subsection:

“(7) The Minister may make regulations prescribing —

- (a) the time and manner in which an appeal must be made under this section; and
- (b) the procedure to be adopted in determining any appeal by the Minister under this section.”.

Amendment of section 96

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

- (a) by deleting the words “belonging to” in paragraph (b) and substituting the words “owned by, or under the control or management of,”;
- (b) by deleting paragraph (g);
- (c) by deleting paragraph (o) and substituting the following paragraph:
 - “(o) 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 supply to such gas appliance, including —
 - (i) regulating the manner of the conversion;
 - (ii) the interconnection of gas pipeline networks;

(iii) conferring on any person authorised by a gas transporter or gas retailer —

(A) the power to obtain information and documents from any person necessary for the purposes of the conversion and interconnection; and

(B) the power to enter any premises to carry out any inspection or perform any work relating to such conversion and interconnection; and

(iv) the circumstances and the manner in which the supply of gas to any premises may be terminated (despite any agreement for such supply), if the conversion is not or if it appears that the conversion cannot be carried out successfully for the premises or any part of the premises;” and

(d) by deleting the full-stop at the end of paragraph (z) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs:

“(za) the prescribing of fees and charges and their method of payment for the purposes of this Act;

(zb) the prescribing of any service provided in connection with the performance of any function or duty of the Authority, for which the Authority may charge a price by way of agreement with the person to whom the service is provided (instead of prescribing the price).”.

Miscellaneous amendments

22. The Gas Act is amended —

- (a) by deleting the words “a gas transporter or an LNG terminal operator” in the following provisions and substituting in each case the words “a gas licensee”:

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Sections 33(1), 34(1), (5), (6)(a) and (d) and (7) and 35(2);

- (b) by deleting the words “the affairs, business and property of that gas transporter or LNG terminal operator” in section 33(1) and substituting the words “all or any of the affairs, business and property of that gas licensee”;

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- (c) by deleting the words “the gas transporter and relevant gas shippers, or of the LNG terminal operator, as the case may be” in section 33(1)(b) and substituting the words “that gas licensee”;

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- (d) by deleting paragraphs (a), (b) and (c) of section 33(2) and substituting the following paragraphs:

“(a) the security or reliability of the supply of gas to the public;

- (b) the survival of the gas licensee, or the whole or part of its business or undertaking for which it is authorised by its licence to carry on, as a going concern;

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- (c) the transfer to another company, or (with respect to different parts of the area to which the gas licensee’s licence relates, or different parts of its business or undertaking) to 2 or more different companies, as a going concern, of such of the gas licensee’s undertakings as is necessary to transfer in order to ensure that the functions and duties which have been vested in the gas licensee by virtue of its licence may be properly carried out; or”;

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(e) by deleting the words “gas transporter or LNG terminal operator” in the following provisions and substituting in each case the words “gas licensee”:

Sections 33(2)(d), 34(1)(a) and (2)(a) and 35(1) and (2);

5 (f) by deleting the words “any undertaking” in section 33(3) and substituting the words “the transfer of the gas licensee’s business or undertaking”;

(g) by deleting subsection (4) of section 33;

10 (h) by deleting paragraphs (b) and (c) of section 34(1) and substituting the following paragraphs:

“(b) an order requiring the gas licensee to immediately take any action or do or not do any act or thing in relation to that part of its business or undertaking to which its gas licence relates as the Minister may consider necessary;

15 (c) an order appointing a person to advise the gas licensee on the proper conduct of that part of its business or undertaking to which its gas licence relates.”;

20 (i) by deleting paragraph (c) of section 34(2) and substituting the following paragraph:

“(c) the Minister considers it in the interest of the security or reliability of the supply of gas to the public; or”;

25 (j) by inserting, immediately after subsection (3) of section 34, the following subsection:

“(3A) Any order made by the Minister under subsection (1) must be published in such manner as will secure adequate publicity.”;

30 (k) by deleting the words “a gas transporter or an LNG terminal operator” in section 34(6)(b) and substituting the words “a gas licensee without the consent of the Authority”; and

- (l) by deleting the words “a gas transporter’s or an LNG terminal operator’s property” in section 34(6)(c) and substituting the words “a gas licensee’s property”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Gas Act (Cap. 116A).

Clause 1 relates to the short title and commencement.

Clause 2(a) makes a technical amendment to the definition of “Appeal Panel” in section 2.

Clause 2(b) and (c) amends the definition of “earthworks” in section 2. Clause 2(b) makes it clear that “earthworks” relates to works carried out on, in or under the ground (and not only the act of excavation). Clause 2(c) extends the definition of “earthworks” to the driving or sinking of any bar, rod, pole, picket, casing or tube into the ground (and not only of any earth rod, casing or tube).

Clause 2(d) inserts a new definition of “meter installation” in section 2.

Clause 3 amends section 3(3) to expand the functions and duties of the Energy Market Authority of Singapore (the Authority) under the Act, to include —

- (a) protecting the public from danger to health associated with gas, and dangers arising from the import of gas; and
- (b) ensuring the security of the supply of gas and the secure operation of the gas transmission network.

Clause 4 amends section 32 to clarify that the prohibition concerning earthworks within the vicinity of any gas plant or gas pipe in a gas pipeline network in subsection (1) of that section, does not apply to a gas transporter in relation to any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, the gas transporter.

Clause 5 deletes subsections (1), (2) and (3) of section 32A and substitutes a new subsection (1). The offences in the current subsections (1), (2) and (3) in relation to certain gas plants and gas pipes are being rationalised, with removal, destruction and damage now under the new subsection (1)(a) and (b), and hindering of use, etc., now under the new subsection (1)(c). Under the former, an offence is committed by an individual who damages, etc., such gas plant or gas pipe, and any person that caused or permitted the individual to so damage, etc., such gas plant or gas pipe. With regard to the person causing or permitting the damage, etc., there is no longer a need for any particular type of relationship between the person who caused or permitted the damage, etc., and the individual that damaged, etc., such

gas plant or gas pipe — an offence is committed so long as the person caused or permitted the individual to damage, etc., such gas plant or gas pipe. The person can cause the individual to damage, etc., such gas plant or gas pipe by, for instance, giving to the individual instructions which, when followed, result in the damage, etc.. This is whether the instructions are given directly to the individual, or indirectly through one or more other parties. Each party involved in “passing on” the instructions (including, if applicable, the employer of the individual) is also guilty of the offence of causing the damage, etc..

Clause 6 inserts a new section 32B to provide for a new offence in relation to damage to submarine gas pipelines.

Clause 7 amends section 47 to include new offences of —

- (a) dishonestly or fraudulently diverting or causing the diversion of gas, and doing any thing that compromises or adversely affects the ability or proper operation of a meter or meter installation, in registering the quantity of gas supplied to a person or premises; and
- (b) causing or permitting another person to contravene section 47(1)(b), (c) or (d).

To deter behaviour prohibited under section 47(1), the punishment for any offence under that provision will now have an additional fixed fine component that is equal to 3 times the value of the gas diverted, abstracted, used, consumed or supplied in contravention or as a result of a contravention of section 47(1). The value may be based on appropriate and available records of gas usage before, during and after the diversion, abstraction, use, consumption or supply.

Clauses 8 to 13 make various amendments to Part VIIB (Control of gas licensees and entities with interest in gas pipeline network) to bring the Part in alignment with Part IVA of the Electricity Act (Cap. 89A).

Further —

- (a) clause 8 amends the definitions of “designated entity” and “designated gas licensee” in section 63A to allow for the Minister to designate gas licensees other than the gas transporter and a gas transport agent as designated gas licensees, and to also provide that it is the Minister (rather than the Authority) that will make the necessary designations as designated entities and designated business trusts;
- (b) clauses 9(a) and 13 further provide for a duty on the part of a designated gas licensee, designated entity or trustee-manager of a designated business trust to give the necessary notification to the Authority required under section 63B(1) within 5 days after becoming aware of the acquisition in question, instead of it being a defence that the notice was given within 5 days after the licensee, entity or trustee-manager becoming so aware; and

- (c) clauses 9(c) and 11 enable matters relating to the giving of notices and making of applications under Part VIIB of the Act to be provided for in regulations.

Clause 14 inserts a new Part VIIIA to empower the Authority to give directions to persons in the event of a severe shortage of gas. A person must comply with any such direction given to the person, even if compliance will result in a person being in breach of any agreement already entered into by the person. Regulations may be made under the Part to allow any person that has suffered loss or damage as a result of any direction given by the Authority, to be compensated for the loss. The amount of compensation may be determined by a Pricing Panel appointed under the regulations made by the Minister. Decisions of a Pricing Panel are appealable to the High Court on any question of law or mixed question of law and fact, and from there to the Court of Appeal.

Clause 15 inserts a new section 72A to empower the Authority to issue guidelines to provide practical guidance and certainty in respect of provisions under Part IX (Competition), and to provide for the evidential value of the guidelines.

Clauses 16 and 17 amend sections 83 and 84, respectively, to clarify that an Appeal Panel established for the purposes of the Act is established under section 84.

Clause 18 makes a consequential amendment to section 92, following the new section 92A inserted under clause 19.

Clause 19 inserts a new section 92A to provide for various moneys collected by the Authority to be paid into the Consolidated Fund.

Clause 20(a), (b) and (f) amends section 93(1), deletes subsection (2) of section 93, and deletes and substitutes subsection (7) of section 93, to empower regulations to be made concerning the time (in addition to manner) in which appeals must be made to the Minister. The requirement of adequate details being provided in making any such appeal to ensure that the appeal is properly and adequately supported and justified from the outset, may be included in the regulations.

Clause 20(c), (d) and (e) makes technical amendments to section 93(4) and (5).

Clause 21(a) amends section 96(2)(b) to adopt wordings used elsewhere in the Act for consistency.

Clause 21(b) and (d) deletes paragraph (g) of, and inserts new paragraphs (za) and (zb) in, section 96(2), to empower regulations to be made concerning fees and charges, and to prescribe services provided by the Authority in connection with any function or duty of the Authority, for which the Authority may charge a price by way of agreement.

Clause 21(c) deletes and substitutes paragraph (o) of section 96(2) to broaden the scope of regulations that may be made to facilitate the conversion of a gas pipeline network and gas appliances for the conveyance and supply of natural gas.

Clause 22 makes various amendments to sections 33, 34 and 35 (relating to special administration orders, etc.) to apply the sections to all gas licensees (and not only gas transporters and LNG terminal operators). Clause 22(b) further amends section 33(1) to clarify that a special administration order may be made by the Minister concerning all or any of the affairs, business and property of a gas licensee, and clause 22(k) further amends section 34(6)(b) to permit a judicial management order to be made in respect of a gas licensee, if the Authority consents to the same.

EXPENDITURE OF PUBLIC MONEY

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