

[This Bill was formerly Parts XXIV to XXVIII of, and the Sixteenth to Eighteenth Schedules to, the Energy Sector Reform Bill (No. 2) as reported from the Planning and Development Committee (114-2A).

[Pursuant to power granted to it by the House, the Planning and Development Committee divided the Energy Sector Reform Bill into 2 bills: the Energy Sector Reform Bill (114-2) and the Energy Sector Reform Bill (No. 2) (114-2A) (formerly clause 1, Parts X to XXIX of, and the Seventh to Eighteenth Schedules to, the Energy Sector Reform Bill as introduced). The Energy Sector Reform Bill was reported to the House on 7 May 1992.]

[AS REPORTED FROM THE PLANNING AND DEVELOPMENT COMMITTEE]

House of Representatives, 30 September 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 3 December 1992.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. John Luxton

GAS

No. 114—3D

Price Code: K

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A BILL INTITULED

An Act to make better provision for the regulation, supply, and use of gas in New Zealand, and to repeal the Gas Act 1982

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Gas Act 1992.

(2) Except as provided in subsection (3) of this section, this Act shall come into force on the 1st day of April 1993.

10 (3) Part XXIV, Part XXVII, and sections 322, 323, and 327A of this Act shall come into force on the day after the date on which this Act receives the Royal assent.

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15 [Parts I to IX of the Energy Sector Reform Bill omitted and new Parts I to VII, as amended, now enacted as Energy Companies Act 1992 (1992, No. 56).

20 [Parts X to XXIII of the Energy Sector Reform Bill (No. 2) (114-2A), as reported from the Planning and Development Committee, now form the Electricity Bill (114-3c), as reported from the Committee of the whole House.]

PART XXIV

Struck Out

GAS
Preliminary Provisions

25 *New*

PRELIMINARY PROVISIONS

282. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Authorised” means authorised by the Secretary:

“Biogas” means the mixture of gases that is produced by anaerobic microbial decomposition of organic matter and that principally comprises methane and carbon dioxide together with lesser amounts of hydrogen sulphide, water vapour, or other gases: 5

New

“Board” means the Plumbers, Gasfitters, and Drainlayers Board constituted under the Plumbers, Gasfitters, and Drainlayers Act 1976:

Struck Out

10

“Consumer” means any person (other than the Corporation or a gas distributor or a gas retailer) who is supplied, or who applies to be supplied, with gas; and, in relation to any place that is supplied, or in respect of which an application is made to be supplied, with gas, includes the owner or occupier of the place: 15

New

“Consumer”—
 (a) Means any person who is supplied, or who applies to be supplied, with gas; but 20
 (b) Does not include the Corporation or any gas distributor or any gas retailer, except where the Corporation or, as the case may be, the gas distributor or gas retailer is supplied, or applies to be supplied, with gas for its own consumption and not for the purposes of resupply to any other person: 25

“Container” does not include a pipe:
 “Corporation” means Natural Gas Corporation of New Zealand Limited: 30

Struck Out

5 “Distribution system” means all (*pipes, regulators, valves, and associated*) fittings, whether above or below ground, under the control of or used by a gas distributor to distribute gas from the boundary of the gasworks or gate station outlet flange supplying the gas distributor with gas, to the outlet of the (*metering*) gas measurement system of the place at which the gas is supplied to the consumer (or, where no such gas measurement system is provided, to the custody transfer point of the place at which the gas is supplied to the consumer); and, for the purposes of any regulations made under **section 322** of this Act relating to odourisation or the measurement of calorific value, includes a gas transmission system:

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15

New

“Distribution system” means all fittings, whether above or below ground, under the control of a gas distributor and used to distribute gas from—

20 (a) The boundary of the gasworks or gate station outlet flange supplying gas for distribution; or

(b) The outlet of the container in which gas for distribution is stored—

25 to the outlet of the gas measurement system of the place at which the gas is supplied to a consumer or gas refueller (or, where no such gas measurement system is provided, to the custody transfer point of the place at which the gas is supplied to a consumer or gas refueller); and, for the purposes of any regulations made under **section 322** of this Act relating to odourisation or the measurement of calorific value, includes a gas transmission system:

30

New

“Document” has the same meaning as in section 2 (1) of the Official Information Act 1982:

“Dwellinghouse” means any building or part of a building occupied as a separate dwelling; but does not include a meter box or gas measurement system located on the exterior of the building or the part of the building:

“Electric works” means any works within the meaning of the Electricity Act 1992:

Struck Out

“Energy measurement” means the measurement of the energy content of gas:

“Existing fittings” means any fittings installed before the 1st day of January (1992) 1993; and includes any fittings that were partly installed, or work on the installation of which commenced, before the 1st day of January (1992) 1993:

New

“Fire brigade” has the same meaning as in section 2 of the Fire Service Act 1975; and includes a defence fire brigade and an industrial fire brigade within the meaning of that Act:

“Fittings” means everything used, or designed or intended for use, in or in connection with the supply, distribution, compression, or use of gas:

“Gas” means any fuel that is supplied through pipes or in containers and is a gas at a temperature of 15°C and an absolute pressure of 101.325 kilopascals; and includes—

(a) Biogas, coal gas, liquefied petroleum gas, natural gas, oil gas, producer gas, refinery gas, reformed natural gas, and tempered (*lpg*) liquefied petroleum gas:

(b) Any gaseous substance that the Governor-General declares by Order in Council to be a gas for the purposes of this Act:

(c) Any mixture of gases:

5

New

“Gas appliance” means any appliance that uses, or is designed or intended to use, gas, whether or not it also uses, or is designed or intended to use, any other form of energy:

10

“Gas code of practice” or “code” means a gas code of practice issued pursuant to **section 310** of this Act:

“Gas distributor” means any person who supplies line function services to any other person or persons:

New

15

“Gas inspector” has the same meaning as in section 2 of the Plumbers, Gasfitters, and Drainlayers Act 1976:

Struck Out

20

“Gas installation” means an installation, including a gas appliance, that is connected or intended to be connected with any source from which gas is supplied; and includes all associated fittings; but does not include any part of a distribution system:

New

Struck Out

25

“Gas installation” means all fittings—
(a) That form part of a system for conveying gas; and
(b) That form part of such a system at any point from the outlet of the metering system of the place at

New

Struck Out

which the gas is supplied to a consumer (or, where no such gas measurement system is provided, from the custody transfer point of the place at which gas is supplied to a consumer) to any point from which gas conveyed through that system may be consumed: 5

New

“Gas installation” means an installation, including a gas appliance (other than a portable gas appliance that is designed to have within it, or attached to it, its own source of gas), that is connected or intended to be connected with any source (including any container) from which gas is supplied; and includes any associated fittings; but does not include any part of a distribution system: 10 15

“Gas measurement system” means a system for measuring the quantity of any gas or the energy content of any gas, whether by actual measurement or by estimation; and includes any equipment that forms part of, or is ancillary to, any such system: 20

“Gas operator” means—

(a) Any person that, immediately before the ~~((commencement of this section))~~ **1st day of April 1993**, was the holder, or was deemed to be the holder, of a franchise granted under Part II of the Gas Act 1982; and 25

(b) Any person declared by the Governor-General by Order in Council under **section 285** of this Act to be a gas operator for the purposes of this Act or any provision or provisions of this Act: 30

New

“Gas refueller” means a gas retailer that supplies gas in containers, or directly into containers:

5 “Gas retailer” means any person who supplies gas to another person or other persons for any purpose other than for resupply by the other person or persons:

10 “Gas transmission” means the (*provision*) supply of line function services by means of high pressure gas pipelines operated at a gauge pressure exceeding 2000 kilopascals:

New

“Gas wholesaler”—

(a) Means—

15 (i) The Corporation; and
 (ii) Any person who supplies gas to any other person or persons for the purpose of resupply by the other person or persons (whether or not the person who so supplies the gas is also a gas retailer); and

20 (b) Includes any person any subsidiary of which is a gas wholesaler:

“Gasfitting” has the same meaning as in section 2 of the Plumbers, Gasfitters, and Drainlayers Act 1976:

25 “Level crossing” has the (*meaning given to it by*) same meaning as in section 2 (1) of the New Zealand Railways Corporation Act 1981:

“Line function services” means —

30 (a) The provision and maintenance of pipelines for the ~~((supply))~~ conveyance of gas:

(b) The operation of such pipelines, including the assumption of responsibility for losses of gas:

Struck Out

“Local authority” (*means any local authority as defined in*)
 has the same meaning as in section 2 (1) of the Local
 Government Act 1974:

New

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“Local authority” means a territorial authority within the
 meaning of the Local Government Act 1974:

New

“Maintain” includes to repair; and “maintenance” has a
 corresponding meaning:

10

“Metal working” means the working of any metal by any
 process of flame cutting, welding, brazing, or silver
 soldering, involving the use of any gas:

Struck Out

“Meter” means an instrument that is designed to measure
 quantities of gas:

15

“Minister” means, subject to any enactment, the Minister
 of the Crown who, under the authority of any
 warrant or with the authority of the Prime Minister, is
 for the time being responsible for the administration
 of this Act:

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“Ministry” means, subject to any enactment, the
 department of State that, with the authority of the
 Prime Minister, is for the time being responsible for
 the administration of this Act:

25

Struck Out

“NGC Transmission” means that part of the Corporation
 that provides gas transmission services:

“Official standard”, in relation to a gas code of practice, means—

(a) A New Zealand Standard within the meaning of the Standards Act 1988; and

5 (b) A standard specification prescribed by any (association or body specified in the code) standards organisation within the meaning of that Act:

“Pipe” includes tubes, hoses, and associated fittings:

10 “Pipeline owner” means a person that owns pipelines for the conveyance of gas:

“Place” means—

(a) Any land, house, shop, factory, premises, building, or any part of a building that is separately occupied:

15 (b) Any vessel within any harbour or inland waters:

(c) Any aircraft, hovercraft, or vehicle:

New

“Pleasure vessel” has the same meaning as in section 2 (1) of the Shipping and Seamen Act 1952:

20 “Price” includes valuable consideration in any form, whether direct or indirect; and also includes any consideration that in effect relates to the acquisition of goods or services or the acquisition or disposition of any interest in land, although ostensibly relating to

25 any other matter or thing:

Struck Out

30 “Public notice” means a notice published twice in any newspaper circulating in the locality to which the act, matter, or thing required to be publicly notified relates or refers or in which it arises, with an interval of not less than 5 nor more than 10 days between each publication:

New

“Relocatable building” means any structure designed or adapted for human occupation that is designed to be relocatable; but does not include any tent:

“Road” has the same meaning as (*it has*) in section 315 of the Local Government Act 1974; and includes a road under the jurisdiction of any local authority; and also includes a State highway within the meaning of section 2 (1) of the Transit New Zealand Act 1989; but does not include—

- (a) A private road or footpath within the meaning of that section; or
- (b) A motorway within the meaning of the Transit New Zealand Act 1989; or
- (c) Any roadway laid out by order of the Maori Land Court under Part XXVII of the Maori Affairs Act 1953 or under any former Act, except where that order has been cancelled, or where the roadway has been declared under section 421 of that Act to be a road; or
- (d) Any level crossing:

New

“Roading structure” means any bridge, underpass, overpass, culvert, or tunnel:

“Secretary” means the chief executive of the Ministry; and includes any person for the time being authorised by delegation to exercise or perform any of the powers or functions of the Secretary under this Act:

New

“Subsidiary” has the same meaning as in section 158 of the Companies Act 1955:

“Telecommunications line” means any line within the meaning of the Telecommunications Act 1987:

New

“Worker” means any person who is employed or engaged (whether under a contract of service or a contract for services) to do any work for hire or reward:

- 5 “Working day” means any day of the week other than—
- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign’s birthday, and Waitangi Day; and
 - (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.
- 10 (2) For the purposes of this Act, any 2 persons are to be treated as interconnected if—
- 15 (a) One of them is a body corporate of which the other is a subsidiary (*within the meaning of section 158 of the Companies Act 1955*); or
 - (b) Both of them are subsidiaries (*within the meaning of that section*) of the same body corporate; or
 - 20 (c) Both of them are interconnected with bodies corporate that, in accordance with **paragraph (a) or paragraph (b)** of this subsection, are interconnected.
- (3) Any notice required or authorised by this Act to be served on any person shall be delivered to that person, and may be delivered either personally or by posting it to that person at the person’s last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the letter would in the ordinary course of post be delivered.

Cf. 1982, No. 27, s. 2

- 30 **283. Application**—(1) Subject to **subsection (2)** of this section, and except as expressly provided elsewhere in this Act, or in any other Act, this Act shall apply to every gas distributor, every gas retailer, and every consumer.
- (2) Nothing in this Act applies to—
- 35 (a) Any gas in circumstances in which any of the following enactments, or any regulations made under any of those enactments, apply:
- (i) Part I of the Crown Minerals Act 1991:

Struck Out

(ii) The Boilers, Lifts, and Cranes Act 1950:

(iii) The Shipping and Seamen Act 1952:

(iv) The Transport Act 1962:

New

5

(ab) Any gas installation or class of gas installation that the Governor-General declares by Order in Council to be a gas installation or, as the case requires, a class of gas installation to which this Act does not apply:

New

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(ac) Any gas appliance or class of gas appliance that the Governor-General declares by Order in Council to be a gas appliance or, as the case requires, a class of gas appliance to which this Act does not apply:

(b) Any gas used as a feedstock, excluding any gas being reformed for use as a gaseous fuel:

15

(c) Any gas appliance used in metal working and fuelled exclusively by acetylene or any prescribed gas:

(d) Any gas appliance designed to be fuelled exclusively from a container not exceeding 120 millilitres in capacity:

20

Struck Out

(e) Any gas in containers:

(f) A pipeline (including any gate station) that is subject to the Resource Management Act 1991.

New

25

(e) Any container used, or designed or intended to be used, for the storage of gas:

New

(f) Any liquefied petroleum gas that is in a liquid form and is in a pipe.
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Cf. 1982, No. 27, s. 3

5 **284. Act to bind the Crown**—This Act binds the Crown.

PART XXV

GENERAL

Gas Operators

10 **285. Order in Council declaring person to be gas operator**—(1) Where the Minister is satisfied that a declaration is necessary to enable a person to commence or carry on a business as a gas distributor, the Minister shall make a recommendation under **subsection (2)** of this section.

15 (2) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister and published in the *Gazette*, declare a person to be a gas operator for the purposes of this Act or any provision or provisions of this Act.

20 (3) Where the Minister is satisfied that a gas operator has ceased to carry on a business as a gas distributor, the Minister shall make a recommendation under **subsection (4)** of this section.

25 (4) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister and published in the *Gazette*, revoke a declaration made under **subsection (2)** of this section.

Cf. 1987, No. 116, s. 2A; 1988, No. 164, s. 4; 1989, No. 25, s. 86 (2)

Functions and Powers of Secretary

30 **286. Functions of Secretary**—The functions of the Secretary under this Act are—

- (a) To carry out such enquiries, tests, audits or investigations that may be necessary to determine whether or not a person is complying with this Act:
- 35 (b) To take all such lawful steps as may be necessary to ensure the safe supply and use of gas:

- (c) To perform such other functions as are provided for under this Act.

Cf. 1982, No. 27, s. 5

Struck Out

- 287. Inspection of distribution systems and gas installations**—(1) For the purposes of performing any of the Secretary's functions under this Part or Part XXIV or Parts XXVI to XXVIII of this Act, the Secretary, or any employee of the Ministry authorised by the Secretary for the purpose, may at any reasonable time inspect the whole or any part of—
- (a) Any distribution system (including any associated works) or installation under the control of and used by any gas distributor or gas retailer for the supply of gas:
- (b) Any consumer's gas installation.
- (2) For the purpose of inspecting any distribution system (including any associated works) or installation in accordance with subsection (1) of this section, the Secretary or employee may enter and re-enter any place.
- (3) Before carrying out an inspection under this section, the Secretary or employee shall give to the gas distributor, gas retailer, or consumer, and to the occupier of the land affected, reasonable notice of the person's intention to carry out the inspection.
- (4) Where the Secretary or any employee of the Ministry has entered any place under subsection (2) of this section, he or she may—
- (a) Inspect any plant, equipment, or article forming part of the distribution system or gas installation:
- (b) Test any substance that he or she reasonably believes to be gas; test any meter; and carry out any other test that the person reasonably considers necessary or desirable for the purposes of this Part or Part XXIV or Parts XXVI to XXVIII of this Act:
- (c) Without limiting paragraph (b) of this subsection, take (without payment) samples of any substance that he or she reasonably believes to be gas, for the purposes of examination and testing:
- (d) For the purposes of examination and testing, remove any equipment or article or any part of any equipment or article:

Struck Out

- 5 (e) By notice in writing require any person whom he or she reasonably believes to be for the time being in charge of any place, or of any plant, equipment, or article in the place, to take any specified action in respect of that place, plant, equipment, or article that the Secretary or employee reasonably believes is necessary to render that place, plant, equipment, or article safe:
- 10 (f) Require the gas distributor, gas retailer, or consumer to produce any book, certificate, list, notice, record, or other document required by **this Part or Part XXIV or Parts XXVI to XXVIII** of this Act or by any regulations made under **section 322 or section 323** of this Act to be kept by that gas distributor, gas retailer, or consumer, and examine and make copies of or take extracts from any such document.
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New

- 20 **287. Inspection of distribution systems, etc.**—(1) For the purposes of performing any of the Secretary's functions under this Act, the Secretary may at any reasonable time inspect the whole or any part of any distribution system, gas installation, or gas appliance.
- 25 (2) For the purposes of carrying out an inspection under this section, the Secretary may enter and re-enter any place.
- (3) Before carrying out any inspection under this section, the Secretary shall give to the person who has control of or who is using the distribution system, gas installation, or gas appliance, and to the occupier of the land affected, reasonable notice of the Secretary's intention to carry out the inspection.
- 30 (4) Where the Secretary has entered any place under subsection (2) of this section, he or she may—
- (a) Inspect any fittings or gas appliance:
- 35 (b) Test any substance that he or she reasonably believes to be gas; test any gas measurement system; and carry out any other test that the person reasonably considers necessary or desirable for the purposes of this Act:

New

- (c) Without limiting paragraph (b) of this subsection, take (without payment) samples of any substance that he or she reasonably believes to be gas, for the purposes of examination and testing:

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Struck Out

- (d) For the purposes of examination and testing, remove any fittings unless the removal of those fittings would unreasonably interfere with the operation of any distribution system:

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New

- (d) For the purposes of examination and testing,—
 (i) Remove any fittings, unless the removal of those fittings would unreasonably interfere with the operation of any distribution system:
 (ii) Remove any gas appliance:

15

- (e) By notice in writing require any person whom the Secretary reasonably believes to be for the time being in charge of any place, or of any fittings or gas appliance in the place, to take any specified action in respect of that place or those fittings or that gas appliance that the Secretary reasonably believes is necessary to render that place or those fittings safe:

20

- (f) Require any person who has control of or who uses the distribution system, gas installation, or gas appliance to produce any document required by this Act or any regulations made under section 322 or section 323 of this Act to be kept by that person, and may examine and make copies of or take extracts from any such document.

25

- (5) This section shall apply notwithstanding anything to the contrary in section 52 of the Transit New Zealand Act 1989.

30

288. Report to be compiled on test—(1) Where any test is carried out under **section 287** of this Act, the person who carries out the test shall—

- 5 (a) Compile a written report of the results of the test; and
 (b) Give a copy of the report to—
- 10 (i) The person whom the person reasonably believed to be in charge of the place in which the test was carried out or from which any substance or ~~(article was)~~ fittings ((were)) or gas appliance was taken for testing; and
- (ii) The owner or occupier of that place (where that person is not the person referred to in **subparagraph (i)** of this paragraph); and
- 15 (iii) The ~~(gas distributor, gas retailer, or consumer concerned)~~ person who had control of or, as the case may be, who was using that substance or those fittings or that gas appliance (where that person is not the person referred to in **subparagraph (i)** or **subparagraph (ii)** of this paragraph).

20

New

(2) Where any inspection is carried out under **section 287** of this Act, the person who carries out the inspection shall—

- (a) Compile a written report of the results of the inspection; and
- 25 (b) Give a copy of the report to any person who is entitled to receive it and who requests such a copy.
- (3) Without limiting any other enactment, the following persons are entitled, on request, to be given a copy of a report compiled in respect of an inspection carried out under
- 30 **section 287** of this Act in any place:
- (a) The owner of that place;
- (b) The occupier of that place;
- 35 (c) The gas distributor, gas retailer, or consumer concerned (where that person is not the owner or occupier of that place).

289. Special powers of Secretary—*Struck Out*

(1) The Secretary may at any time, by notice in writing, require any gas distributor, gas retailer, or consumer to take apart or dismantle any item of plant or equipment to facilitate or assist an inspection for the purposes of ~~this Part or Part XXIV or Parts XXVI to XXVIII~~ of this Act. 5

(2) The Secretary may at any time, by notice in writing, require any gas distributor, gas retailer, or consumer to remove and replace any meter, and to deliver the replaced meter for inspection and testing. 10

New

(1) The Secretary may at any time, by notice in writing, require any person who has control of or who uses any distribution system, gas installation, or gas appliance to take apart or dismantle any fittings to facilitate or assist an inspection for the purposes of this Act. 15

(2) The Secretary may at any time, by notice in writing, require any gas wholesaler, gas distributor, gas retailer, or consumer—

(a) To replace any gas measurement system, or any part of any gas measurement system, that is owned by that gas wholesaler, gas distributor, gas retailer, or consumer and that is part of a distribution system or a gas installation; and 20

(b) To deliver the replaced gas measurement system or part for inspection and testing. 25

(3) Where the Secretary believes on reasonable grounds in respect of any place—

(a) That there is a danger or potential danger to the safety of any persons or property arising directly or indirectly from the presence or escape of any gas; or 30

(b) That, because of anything done or omitted to be done, or intended to be done or not to be done, by any person, there would be a danger or potential danger to any persons or property should any gas be present or escape,— 35

the Secretary may do all such things, and require any person to refrain from doing all such things, as the Secretary considers

necessary to remove or minimise the danger or potential danger.

New

5 (4) This section shall apply notwithstanding anything to the contrary in section 52 of the Transit New Zealand Act 1989.

Cf. 1982, No. 27, s. 10

10 **290. Objections to Secretary's requirements**—(1) Every person who is affected by any notice given under **section 287 (4) (e) or section 289 (1) or section 289 (2)** of this Act, or any requirement made under **section 289 (3)** of this Act, may, within 15 working days after receiving the notice or being made subject to the requirement, object to that notice or requirement.

15 (2) Every objection under **subsection (1)** of this section shall be made by lodging a written notice of objection with the Registrar of the District Court nearest to the place where the notice was given or the requirement made, or, with the consent of the Secretary, with the Registrar of any other District Court.

20 (3) Every notice of objection shall specify the grounds of the objection.

(4) The objector shall cause a copy of the notice of objection to be served on the Secretary, either before or immediately after it is lodged with the Registrar.

25 (5) The Registrar of the Court shall give notice of the time and place fixed for the hearing of the objection to the objector and the Secretary.

Cf. 1982, No. 27, s. 11 (2)-(4), (7)

30 **291. Effect of notice or requirement pending hearing**—Subject to **section 293** of this Act, where a notice of objection is lodged under **section 290** of this Act, the notice or requirement to which the notice of objection relates shall be suspended until an order is made by a District Court under **section 292 (2)** of this Act, or until the withdrawal of the objection or the withdrawal of the notice or requirement, whichever occurs first.

35 Cf. 1982, No. 27, s. 11 (7)

292. Procedure on hearing of objection—(1) On the hearing of an objection under **section 290** of this Act, both the objector and the Secretary, either personally or by their counsel, shall be entitled to be present and be heard.

(2) On hearing the objection, the Court may by order confirm, reverse, or modify the notice or requirement.

Struck Out

(3) Every order made under **subsection (2)** of this section shall be final and binding on all parties.

5

New

(3) Subject to **section 292A** of this Act, every order made under **subsection (2)** of this section shall be final.

Cf. 1982, No. 27, s. 11 (5), (6)

New

10

292A. Appeal on question of law—(1) Where any party to an objection under **section 290** of this Act is dissatisfied with the decision of a District Court on that objection as being erroneous in point of law, that party may appeal to the High Court by way of case stated for the opinion of that Court on the question of law only.

15

(2) Subject to **subsection (3)** of this section, every appeal under this section shall be heard and determined in accordance with rules of Court.

(3) The provisions of Part IV of the Summary Proceedings Act 1957 (including the other provisions of that Act that are applied in that Part), so far as they ~~((refer))~~ relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable and with all necessary modifications, to every appeal under this section.

25

(4) Subject to **section 293** of this Act, where a notice of appeal is filed pursuant to this section, the notice or requirement to which the notice of appeal relates shall be suspended until the appeal has been determined, or until a District Court Judge certifies that the appeal has not been prosecuted, or the Registrar of the High Court has certified that the appeal has been dismissed for non-prosecution, whichever occurs first.

30

293. Secretary may require immediate compliance—

(1) Notwithstanding **section 291** or **section 292A (4)** of this Act, where a notice of objection is lodged under **section 290** of this

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Act by any person in respect of any notice or requirement, the Secretary may advise the objector that the Secretary considers the situation to be one involving immediate danger to life or property, and on being so advised the objector shall
 5 immediately take active steps to comply with that notice or requirement.

(2) Every person commits an offence who fails to comply immediately with any notice or requirement to which **subsection (1)** of this section applies, and every such person shall be liable
 10 on summary conviction to a fine not exceeding ~~(\$500)~~ \$1,000 for every day or part of a day that such failure continues.

(3) Without limiting the liability of any person to be convicted of an offence against **subsection (2)** of this section, *(the High Court has)* both the High Court and any District Court shall
 15 each have jurisdiction to restrain any contravention or threatened contravention of **subsection (1)** of this section by injunction on the application of the Secretary, and to make such order in the matter as to costs and otherwise as it thinks fit.

(4) No person shall be precluded by any contract or agreement from doing or refraining from doing any such acts as may be necessary to comply with the provisions of this section, or be liable under any contract or agreement to any penalty or forfeiture for doing or refraining from doing any
 20 such act.
 25

Cf. 1982, No. 27, s. 11 (8)-(11)

New

293A. Appeal against decision on application for injunction—(1) Any party to any proceedings before a
 30 District Court on an application under **section 293 (3)** of this Act who is dissatisfied with the whole or any part of any decision of the District Court relating to that application may, within 28 days after the making of the decision or within such further time as the Court may allow in accordance with section 73 (1)
 35 of the District Courts Act 1947, appeal to the High Court in accordance with the provisions of Part V of that Act (except subsections (1), (3), and (5) of section 71A), and those provisions shall apply with any necessary modifications.

(2) The Court appealed from may, on the *ex parte* application
 40 of the appellants, order that security under section 73 (2) of the

New

District Courts Act 1947 shall not be required to be given under that section.

(3) A party to any appeal under **subsection (1)** of this section may, with the leave of the Court of Appeal, appeal to the Court of Appeal against any determination of the High Court on a question of law arising in an appeal under that subsection. 5

(4) On an appeal to the Court of Appeal under this section, the Court of Appeal shall have the same power to adjudicate on the proceeding as the High Court had. 10

(5) The decision of the Court of Appeal on an appeal to that Court under this section, and on an application to it under this section for leave to appeal, shall be final.

(6) Subject to **subsections (3) to (5)** of this section, the decision of the High Court on an appeal to that Court under this section shall be final. 15

294. Assessors—(1) Where any objection has been lodged under **section 290** of this Act, the Secretary or the objector may ask for the objection to be heard with the assistance of 2 assessors, one to be appointed by the Secretary and the other by the objector. 20

(2) No person shall be appointed to act as an assessor unless he or she has special skill or knowledge relevant to the particular matter to be considered by the Court.

(3) There shall be paid, out of public money appropriated by Parliament for the purpose, to any assessors appointed under this section remuneration by way of fees, salary, or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the assessors were members of a statutory Board within the meaning of that Act. 25 30

Cf. 1982, No. 27, s. 12; 1989, No. 44, s. 86 (1)

295. Notification and investigation of accidents—

Struck Out

(1) This section applies in respect of every accident that— 35

Struck Out

- (a) Is caused wholly or partly by, or involves or affects, any gas, or involves or affects the production, supply, or distribution of any gas; and
- 5 (b) Results in—
- (i) Serious injury to or the death of any person; or
 - (ii) Damage to any place that renders that place unusable for the purpose for which it was used or designed to be used before that accident.

10

New

- (1) This section applies in respect of any accident—
- (a) That involves the production, supply, distribution, or use of gas; and
 - 15 (b) That results in—
 - (i) Serious injury to, or the death of, any person; or
 - (ii) Significant damage to any property (whether real or personal).
- (2) For the purposes of **subsection (1)** of this section, the expression “serious injury” means any injury that is likely to incapacitate the person suffering the injury for 48 hours or more.
- (3) Where any accident to which this section applies occurs in any place, the appropriate person shall notify the Secretary of the particulars of the accident forthwith on becoming aware of the accident.
- 25 (4) For the purposes of **subsection (3)** of this section, the appropriate person is as follows:
- 30 (a) In the case of an accident involving (*or affecting*) gas supplied by a gas distributor or gas retailer, that gas distributor or gas retailer;
 - (b) Where the accident is discovered by any person who is a registered gasfitter or a craftsman gasfitter or a registered gas inspector within the meaning of the Plumbers, Gasfitters, and Drainlayers Act 1976, or who is working under an employer licence issued under that Act, that person;
 - 35 (c) In all other cases, the occupier of the place where the accident occurred.

Struck Out

(5) No person shall interfere in any way with the scene of any accident to which this section applies without the permission of the Secretary or an officer acting under delegated authority from the Secretary, or if such a person is not present, a member of the Police, except to the extent that that person believes is necessary to avoid or minimise further injury or damage or to restore the safe supply of gas. 5

(6) Where any person does interfere in any way with the scene of any accident to which this section applies, the person shall as soon as practicable notify the Secretary of the action the person has taken. 10

(7) The Secretary may conduct an inquiry into any accident to which this section applies to establish the cause of the accident, and shall make copies of the report available on request to interested parties. 15

(8) Subject to **section 298** of this Act, the Secretary may, for the purpose of any inquiry under this section, require any person to supply to the Secretary all such information as that person may have of relevance to the inquiry. 20

New

(5) Every notice under this section shall be in the prescribed form (if any) and shall contain ~~((the prescribed particulars))~~ such particulars as are prescribed (if any).

Cf. 1982, No. 27, s. 14

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New

295A. Interference with scene of accident—(1) No person shall interfere in any way with the scene of any accident to which **section 295** of this Act applies without the permission of the Secretary, or if the Secretary is not present, a member of the Police or a member of a fire brigade, except to the extent that the person believes is necessary to avoid or minimise further injury or damage or to restore the safe supply of gas. 30

(2) Where any person does interfere in any way with the scene of any accident to which **section 295** of this Act applies, the 35

New

person shall as soon as practicable notify the Secretary of the action the person has taken.

5 (3) Nothing in subsection (1) of this section applies in respect of any person who is investigating the accident pursuant to the Health and Safety in Employment Act 1992.

Cf. 1982, No. 27, s. 14 (4), (5)

10 **295b. Inquiries into accidents**—(1) The Secretary may conduct an inquiry into any accident to which section 295 of this Act applies to establish the cause of the accident.

(2) Where the Secretary believes, on reasonable grounds, that any occurrence may be an accident to which section 295 of this Act applies, the Secretary may conduct a preliminary inquiry in order to establish whether or not the occurrence is such an
15 accident.

(3) Subject to section 298 of this Act, the Secretary may, for the purpose of any inquiry or preliminary inquiry under this section, require any person to supply to the Secretary all such information as that person may have of relevance to the
20 inquiry or preliminary inquiry.

(4) Where the Secretary conducts an inquiry under this section, the Secretary shall prepare a written report of the findings of the inquiry, and shall make copies of that report available on request to interested parties.

25 Cf. 1982, No. 27, s. 14 (6), (7)

Struck Out

30 **296. Assistance to Secretary**—Where the Secretary is performing any duty or exercising any power in respect of any place, or any plant, equipment, or article in any place, the gas distributor or other owner or occupier of the place, and any other person who is for the time being in charge of the place, shall provide all such facilities and assistance as the Secretary may reasonably require.

New

296. Assistance to Secretary—Where the Secretary is performing any duty or exercising any power in respect of any place, or any fittings or gas appliance in any place, the owner or occupier of the place, and any other person who is for the time being in charge of the place or the fittings or the gas appliance, shall provide all such facilities and assistance as the Secretary may reasonably require. 5

Cf. 1982, No. 27, s. 15

297. Obstructing Secretary—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who— 10

(a) Intentionally obstructs the Secretary (*or any officer acting under delegated authority from the Secretary who*) when the Secretary is lawfully carrying out duties under this Part of this Act: 15

(b) Refuses or fails without reasonable excuse—

(i) To produce any (*book, certificate, list, notice, record or other*) document when required to do so by the Secretary for the purposes of this Act; or 20

(ii) To allow the Secretary to examine or make copies of or take extracts from any such document; or

(iii) To supply any information required of the person by the Secretary under this Act; or 25

(iv) To comply with any other lawful order or requisition given or made by the Secretary:

Struck Out

(c) Intentionally damages or interferes with any equipment, apparatus, or article used by, or supplied for the use or in the possession of, the Secretary or any officer acting under delegated authority from the Secretary for the purposes of this Part and Part XXIV and Parts XXVI to XXVIII of this Act: 30

(d) Fails without reasonable excuse to report any accident to which section 295 of this Act applies when required to do so by subsection (3) of that section, or interferes in any way with the scene of any such accident 35

Struck Out

5 otherwise than in accordance with subsection (5) of that section, or, having interfered in any such scene in accordance with that subsection, fails without reasonable excuse to notify the Secretary of the steps he or she has taken as required by subsection (6) of that section.

New

10 (c) Intentionally damages or interferes with any property used by, or supplied for the use or in the possession of, the Secretary for the purposes of this Act:

15 (d) Fails without reasonable excuse to report any accident to which section 295 of this Act applies when required to do so by subsection (3) of that section, or interferes in any way with the scene of any such accident otherwise than in accordance with section 295A(1) of this Act, or, having interfered in any such scene in accordance with section 295A(1) of this Act, fails without reasonable excuse to notify the Secretary of the steps he or she has taken as required by section 295A(2) of this Act.

20

Cf. 1982, No. 27, s. 16

25 **298. Privilege against self-incrimination**—No person shall be required, pursuant to any provision of this Part of this Act, to reply to any question if the answer might tend to incriminate him or her.

PART XXVI

POWERS AND DUTIES OF GAS OPERATORS AND OTHER OWNERS
OF GAS FITTINGS

30 *Struck Out*

299. Protection of existing works—Any existing fittings, fixed to or installed over or under any land that is not owned by the gas operator that owns the fittings, shall be deemed to be lawfully fixed or installed and shall continue to be fixed or

Struck Out

installed until the gas operator otherwise decides, and no person other than the gas operator shall have any interest in any such fittings by reason only of having an interest in the land.

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New

299. Protection of existing fittings—Any existing fittings, lawfully fixed to or lawfully installed over or under any land that is not owned by the person that owns the fittings, shall continue to be fixed or installed until the owner of the fittings otherwise decides, and no person other than the owner of the fittings shall have any interest in any such fittings by reason only of having an interest in the land.

10

Cf. 1987, No. 116, s. 20; 1988, No. 164, s. 17

300. Rights of entry in respect of existing works—

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Struck Out

(1) A gas operator may enter upon land for the purpose of gaining access to any existing fittings owned by the operator and may perform any act or operation necessary for the purpose of inspecting, maintaining, or repairing any such fittings.

20

New

(1) Any person that owns any existing fittings may enter upon land for the purpose of gaining access to those fittings and may perform any act or operation necessary for the purpose of—

25

(a) Inspecting, maintaining, or operating the fittings:

(b) In the case of fittings the construction, erection, or laying of which had not been completed before the 1st day of January 1993, completing the fittings.

30

(2) A certificate under the seal of *(a gas operator)* the owner of any existing fittings containing a statement that a specified fitting was installed (in whole or in part) before the 1st day of January (1992) 1993 under the authority of the Petroleum Act 1937 or the Gas Act 1982 (or any Act repealed by either of those Acts) or the Electric Power Boards Act 1925 or the Local Government Act 1974 or the Public Works Act 1981 or any local or private Act shall be admissible in evidence in any proceedings and shall, in the absence of proof to the contrary, constitute proof of that statement.

Cf. 1987, No. 116, s. 12; 1988, No. 164, s. 14

301. Construction or repairing of fittings on roads—

Struck Out

(1) Except as provided in subsection (2) of this section, a gas operator may from time to time construct, place, and maintain fittings in, on, along, over, across, or under any road; and for any of these purposes may—

(a) Open or break up any road, and alter the position thereunder of—

(i) Any pipe (not being a main) for the supply of water or gas;

(ii) Any telecommunications line;

(iii) Any electric line; and

(b) Alter, repair, or remove any fittings so constructed, placed, or maintained, or any part of any such fittings.

New

(1) Except as provided in subsection (2) of this section, a gas operator may from time to time construct, place, and maintain fittings in, on, along, over, across, or under any road, and for any of these purposes may—

(a) Open or break up any road;

(b) Alter the position of—

(i) Any pipe for the supply of gas; or

(ii) Any pipe (not being a main) for the supply of water; or

(iii) Any telecommunications line; or

New

(iv) Any electric works—

that are laid or placed in, on, along, over, across, or under that road:

- (c) Alter, repair, or remove any fittings so constructed, placed, or maintained, or any part of any such fittings. 5

(2) No gas operator shall exercise the powers contained in subsection (1) of this section otherwise than in accordance with such reasonable conditions as may be prescribed by— 10

- (a) The local authority or other body or person having jurisdiction over that road; and
 (b) The owner of the pipe, telecommunications line, or electric (*line*) works, as the case may be. 15

New

(2A) Without limiting the generality of subsection (2) of this section, a local authority or other body or person having jurisdiction over a road may impose under that subsection, in relation to any work undertaken by any gas operator, a condition requiring the gas operator to meet the reasonable costs and expenses of that local authority or other body or person— 20

- (a) In processing any notice given under section 302 (1) of this Act by the gas operator in relation to the work:
 (b) In supervising the carrying out of the work, where such supervision is necessary in the circumstances of the case. 25

(3) Nothing in subsection (1) of this section applies in respect of the construction of fittings for the purposes of gas transmission.

Cf. 1987, No. 116, s. 15; 1988, No. 164, s. 16 30

302. Notice to be given before alteration to fittings on road—

Struck Out

- 5 (1) Except as provided in **subsection (5)** of this section, before a gas operator proceeds to open or break up any road, the gas operator shall give notice of the intention to undertake the work to—
- 10 (a) The local authority or other body or person having jurisdiction over the road; and
- (b) The owner of any pipe, telecommunications line, or electric line that passes under the portion of the road that the gas operator intends to open or break up.

New

- 15 (1) Except as provided in **subsection (5)** of this section, before a gas operator proceeds to undertake any work pursuant to the powers contained in **section 301 (1)** of this Act, the gas operator shall give notice of its intention to undertake the work to—
- 20 (a) The local authority or other body or person having jurisdiction over the road to which the work relates; and
- (b) The owner of any pipe, telecommunications line, or electric works that are laid or placed in, on, along, over, across, or under that road and that will be
- 25 affected, or are likely to be affected, by the work.

(2) Every such notice shall be in writing, and shall specify the location of the proposed work, the nature of the work to be undertaken, and the reasons for it.

- 30 (3) Within 15 working days after the receipt of the written notice of the intention to undertake work, the persons who are given a notice pursuant to **subsection (1)** of this section shall notify the gas operator in writing of any conditions imposed pursuant to **section 301 (2)** of this Act.

- 35 (4) Where a person who is given a notice pursuant to **subsection (1)** of this section fails to notify the gas operator of the conditions imposed pursuant to **section 301 (2)** of this Act within the period referred to in **subsection (3)** of this section, no such

conditions may be imposed, and the gas operator may commence work.

(5) Where any such work is rendered urgent and necessary by any defective equipment, or other emergency, the gas operator shall be excused from complying with the requirements of **subsection (1)** of this section before commencing the work, but shall give the information required by **subsection (2)** of this section as soon as practicable thereafter. 5

Cf. 1987, No. 116, s. 15A; 1988, No. 164, s. 16

303. Offence—(1) Every gas operator commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who fails to comply with **section 301** or **section 302** of this Act. 10

(2) In addition to any fine imposed pursuant to **subsection (1)** of this section, the Court may make such order relating to compensation as it thinks fit. 15

Cf. 1987, No. 116, s. 15B; 1988, No. 164, s. 16

304. Appeals in relation to conditions imposed—(1) A gas operator shall have a right of appeal to a District Court against all or any of the conditions imposed pursuant to **section 301 (2)** of this Act by— 20

- (a) The local authority or other body or person having jurisdiction over the road; or
- (b) The owner of any pipe, telecommunications line, or electric (*line*) works. 25

(2) Every such appeal shall be made by giving notice of appeal within 40 working days after the date of notification of the conditions imposed, or within such further period as the Court may allow on application made to it for that purpose either before or after the expiration of those 40 working days. 30

Cf. 1987, No. 116, s. 15C; 1988, No. 164, s. 16

305. Determination of appeals—(1) In its determination of any appeal under **section 304** of this Act, a District Court may confirm or modify or cancel any or all of the conditions imposed. 35

(2) (The) Subject to section 305A of this Act, the decision of a District Court in the determination of an appeal under section 304 of this Act shall be final.

Cf. 1987, No. 116, s. 15D; 1988, No. 164, s. 16

New

5 **305A. Appeal on question of law**—(1) Where any party to any appeal under **section 304** of this Act is dissatisfied with the decision of the District Court as being erroneous in point of law, that party may appeal to the High Court by way of case stated for the opinion of that Court on the question of law only.

(2) Subject to **subsection (3)** of this section, every appeal under this section shall be heard and determined in accordance with rules of Court.

10 (3) The provisions of Part IV of the Summary Proceedings Act 1957 (including the other provisions of that Act that are applied in that Part), so far as they ~~((refer))~~ relate to appeals by way of case stated on questions of law only, shall apply, so far as they are applicable and with all necessary modifications, to
15 every appeal under this section.

306. Charging for access to road reserve—

(1) Notwithstanding anything in this Act or any other enactment, no local authority or other body or person having jurisdiction over any road shall require the payment, by or on
20 behalf of any gas operator, of any amount of or in the nature of rent in respect of any fittings constructed or placed in, on, along, over, across, or under that road.

(2) Nothing in **subsection (1)** of this section applies in respect of any rate or charge levied under the Rating Powers Act 1988.

25

New

(3) In this section, the term “road” has the meaning given to it in **section 282** of this Act, but also includes a motorway within the meaning of the Transit New Zealand Act 1989.

307. Rights of entry in respect of level crossings—

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Struck Out

(1) Where a gas operator wishes to enter upon any level crossing for the purpose of constructing, placing, or maintaining any fittings in, on, along, over, across, or under

Struck Out

that level crossing, the gas operator may, upon giving the owner and occupier of the level crossing not less than 10 working days' notice of its intention to do so, apply to a District Court for an order under this section.

5

New

(1) Where—

- (a) A gas operator wishes to enter upon any level crossing for the purpose of constructing, placing, or maintaining any fittings in, on, along, over, across, or under that level crossing; and 10
- (b) After taking all reasonable steps to do so, the gas operator has been unable to negotiate an agreement for entry,—

the gas operator may, upon giving the owner and occupier of the level crossing not less than 10 working days' notice of its intention to do so, apply to a District Court for an order under this section. 15

(2) On being satisfied that the construction, placing, or maintenance of any fittings is necessary for the purposes of distributing gas, and that the gas operator has taken all reasonable steps to negotiate an agreement for entry, and that, in relation to the construction or placing of any fittings, no practical alternative route or site exists, the Court may make an order authorising the gas operator to— 20

- (a) Enter and re-enter the level crossing at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for the construction, placing, or maintenance of any fittings: 25 30
- (b) Perform such work as may be reasonably necessary to construct, place, or maintain any fittings.

(3) Every order under this section shall specify—

- (a) How and when entry is to be made; and 35
- (b) The specific powers intended to be exercised; and
- (c) Such other conditions (including conditions relating to the payment of compensation) as the Court thinks fit to impose.

(4) Before exercising any powers authorised by an order made under this section, the gas operator shall serve the order on the owner and occupier of the level crossing to which the order relates.

5 (5) Every officer, employee, or agent of a gas operator acting in pursuance of an order made under this section shall have with him or her and shall produce on initial entry and, if requested, at any subsequent time, evidence of his or her authority and identity.

10 (6) Nothing in this section applies in respect of the construction, placing, or maintenance of fittings for the purposes of gas transmission.

Cf. 1987, No. 116, s. 11; 1988, No. 164, s. 13

Struck Out

15 **308. Local authority, etc., may require pipes to be moved—**

Struck Out

20 (1) Subject to **subsection (2)** of this section, any local authority or other body or person having jurisdiction over any road may at any time, by notice in writing, require a gas operator to raise, lower, or otherwise alter the position of any fitting (being a fitting to which **section 299** of this Act applies) that is owned by that gas operator and that is fixed to or installed over or under that road.

25 *New*

30 (1) Subject to **subsection (2)** of this section, where any fittings (being fittings to which **section 299** of this Act applies or fittings constructed or placed pursuant to **section 301** of this Act) are fixed to or installed over or under any road, the local authority or other body or person having jurisdiction over that road may at any time, by notice in writing, require the owner of the fittings to raise, lower, or otherwise alter the position of those fittings.

Struck Out

(2) ~~(A gas operator) The owner of any fittings~~ may not be required to do anything under **subsection (1)** of this section that would be likely to cause permanent damage to any ~~(fitting) fittings~~, or to prevent or impede the flow of gas as freely as before. 5

(3) ~~(The) Subject to subsection (3A) of this section, the reasonable cost of all work required to be done under subsection (1) of this section, and all reasonable compensation for damage caused to any property of the (gas operator) owner of the fittings~~ or of any other person, shall be paid by the person that required the work to be done. 10

New

(3A) Where any work is required to be done under **subsection (1)** of this section by reason that the fittings to which the work relates— 15

(a) Were laid or erected contrary to any provision of—

(i) **This Part or Part XXVIII** of this Act or any regulations made under **section 322** of this Act; or

(ii) The Gas Act 1982 (or any enactment repealed by that Act); or 20

(iii) The Electric Power Boards Act 1925; or

(iv) The Local Government Act 1974; or

(v) The Public Works Act 1981; or

(vi) Any local or private Act; or 25

(vii) Any regulations made under any enactment referred to in any of **subparagraphs (ii) to (vi)** of this paragraph; or

(b) Are in a dangerous or unsafe condition,— the reasonable cost of the work, and all reasonable compensation for damage caused to any property of any other person, shall be paid by the owner of the fittings. 30

(4) If the ~~(gas operator) owner of the fittings~~ refuses or fails within a reasonable time to do the work required under **subsection (1)** of this section, the person requiring the work to be done may, subject to **subsection (2)** of this section, after giving the ~~(gas operator) owner of the fittings~~ written notice of its intention to do so, do or have done the work itself. 35

Struck Out

(5) The notice required by **subsection (4)** of this section shall be given at least ~~(5)~~ 15 working days before the work commences.

5 (6) Where any person requires any work to be done under **subsection (1)** of this section, no claim by or against that person for betterment shall be allowed in respect of that work.

Cf. 1982, No. 27, s. 48

New

10 **308. Local authority, etc., may require fittings to be moved**—(1) Where any fittings (being fittings to which **section 299** of this Act applies or fittings constructed or placed pursuant to **section 301** of this Act) are fixed to or installed over or under any road, the local authority or other body or person having jurisdiction over that road may at any time, by notice in writing, require the owner of the fittings to raise, lower, or otherwise alter the position of those fittings.

15 (2) If the owner of the fittings refuses or fails within a reasonable time to do the work required under **subsection (1)** of this section, the person requiring the work to be done may, after giving the owner of the fittings written notice of that person's intention to do so, do the work or have the work done by some other person.

20 (3) The notice required by **subsection (2)** of this section shall be given at least 15 working days before the work commences.

25 Cf. 1982, No. 27, s. 48 (1), (4)

308A. Cost of work required under section 308—
(1) Subject to **subsection (2)** of this section, the reasonable cost of all work required to be done under **section 308 (1)** of this Act shall be paid by the person that requires the work to be done.

30 (2) Where any work is required to be done under **section 308 (1)** of this Act by reason that the fittings to which the work relates—

(a) Were laid or erected contrary to any provision of—

35 (i) This Act or any regulations made under **section 322** of this Act; or

New

(ii) The Gas Act 1982 (or any enactment repealed by that Act); or	
(iii) The Electric Power Boards Act 1925; or	
(iv) The Local Government Act 1974; or	5
(v) The Public Works Act 1981; or	
(vi) Any local or private Act; or	
(vii) Any regulations made under any enactment, or under any enactment of any of the classes of enactment, referred to in any of subparagraphs (ii) to (vi) of this paragraph; or	10
(b) Are in a dangerous or unsafe condition,— the cost of the work shall be paid by the owner of the fittings.	
(3) Where any person requires any work to be done under section 308 (1) of this Act, no claim by or against that person for betterment shall be allowed in respect of that work.	15
(4) Where a controlling authority within the meaning of section 54 (1) of the Transit New Zealand Act 1989 requires any work to be done under section 308 (1) of this Act in relation to any fittings, subsections (1) to (3) of this section shall apply subject to the following provisions:	20
(a) In all cases the cost of materials (being fittings) that are used in the carrying out of the required work (other than fittings used only during the course of construction) shall be paid by the owner of the fittings:	25
(b) Where—	
(i) As a consequence of the requirement, the owner of the fittings elects to fix fittings to, or install fittings over, under, or through, a roading structure that is being, or is to be, constructed or altered; and	30
(ii) The cost of that construction or those alterations is increased by reason that those fittings will be fixed to, or installed over, under, or through, that roading structure,—	35
an amount equal to the amount by which the cost, to the controlling authority, of that construction or those alterations, as the case requires, is so increased shall be paid to the controlling authority by the owner of the fittings:	40

New

- 5 (c) Where, as a consequence of the requirement, the owner of the fittings relocates the fittings and reconstructs them to specifications different from those of the original fittings, the owner of the fittings shall pay the difference between—
- 10 (i) What it would have cost to relocate and reconstruct the fittings as near as reasonably practicable to their original specifications (excluding any costs to which **paragraph (a)** of this subsection would have applied), taking into account—
- 15 (A) Any restrictions or conditions imposed by or under any enactment in relation to the relocation and reconstruction; and
- (B) The location of the original fittings and the alternatives reasonably available to the owner of the fittings; and
- 20 (ii) The actual cost of the relocation and reconstruction (excluding any costs to which **paragraph (a)** of this subsection applies),—
where the amount calculated in accordance with **subparagraph (i)** of this paragraph is less than the amount calculated in accordance with **subparagraph (ii)** of this paragraph.
- 25 (5) **Subsections (1) to (4)** of this section shall apply subject to any agreement between the person requiring the work to be done and the owner of the fittings to which that requirement relates.
- (6) The amount of any payment that is required to be made under this section shall be determined in each case—
- 30 (a) By agreement between the person liable for the payment and the person to whom it is payable; or
- (b) Failing such agreement, by arbitration under the Arbitration Act 1908, with one arbitrator to be appointed by each party and an umpire to be appointed by those arbitrators before entering upon
- 35 their reference.

Cf. 1982, No. 27, s. 48 (3), (5)

308B. Transit New Zealand Act 1989 not to apply—
Sections 308 and 308A of this Act shall apply notwithstanding

New

anything to the contrary in section 54 of the Transit New Zealand Act 1989.

309. Owners and occupiers of private land and buildings may move pipes—(1) *(The)* Subject to subsection (2) of this section, the owner or occupier of any private land or buildings into, through, or against which fittings to which section 299 of this Act applies have been laid down or placed may, at that person's own expense, on giving written notice to the *(gas operator)* person that owns the fittings, move such fittings and re-lay or replace them, subject to the work being lawfully carried out and to such conditions as the *(gas operator)* person that owns the fittings may reasonably impose. 5 10

(2) No fittings may be moved, re-laid, or replaced under subsection (1) of this section without the consent of the *(gas operator)* person that owns the fittings, but that consent shall not be unreasonably withheld. 15

(3) The notice required by subsection (1) of this section shall be given at least (5) 15 working days before work to move the fittings commences. 20

Struck Out

(4) The owner or occupier who moves or replaces any fittings under subsection (1) of this section shall be liable to pay reasonable compensation to the *(gas operator)* owner of the fittings for any damage done thereby or for any hindrance or obstruction that may be occasioned thereby to the supply of gas for use by other consumers. 25

PART XXVII

GAS CODES OF PRACTICE

310. Issue of gas code of practice—*Struck Out*

- 5 (1) The Secretary may
from time to time issue any instrument, order, or requirement
(in this Part and Parts XXIV, XXV, XXVI, XXVII, and XXVIII of this Act
referred to as a gas code of practice) for the purposes of, or
relating to,—
- 10 (a) The setting or endorsement of standards or specifications
concerning the design, construction, installation,
importation, or manufacture of gas equipment,
appliances, apparatus, materials, installations, or
systems, or energy measurement systems:
- 15 (b) The setting of standards in respect of gas that is to be
supplied to or used by gas retailers and consumers:
- (c) The operation or use of gas equipment, materials,
installations, or systems:
- 20 (d) The inspection or maintenance of gas equipment,
materials, installations, or systems:
- (e) The safety of persons or property associated with or using
gas equipment, materials, installations, or systems:
- 25 (f) The setting or endorsing of standards, controls, or
requirements for the whole or any part of any tree or
vegetation to prevent the interruption of the gas
supply system.

New

- 30 (1) The Secretary may
from time to time issue any instrument ~~((order, or requirement))~~
(in this Act referred to as a gas code of practice) for the
purposes of, or relating to,—
- (a) The setting or endorsing of standards or specifications
concerning the design, construction, installation,
importation, or manufacture of distribution systems,
gas installations, fittings, or gas appliances:
- 35 (b) The setting of standards in respect of gas that is to be
supplied to or used by gas retailers and consumers:

New

- | | |
|---|--|
| <p>(c) The operation or use of distribution systems, gas installations, fittings, or gas appliances:</p> <p>(d) The inspection or maintenance of distribution systems, gas installations, fittings, or gas appliances:</p> <p>(e) The safety of persons or property associated with or using distribution systems, gas installations, fittings, or gas appliances:</p> <p>(f) The setting or endorsing of standards or requirements relating to—</p> <p style="padding-left: 2em;">(i) The training required for any specified class or classes of workers for the purposes of establishing and maintaining safety standards in relation to the manufacture, extraction, storage, processing, treatment, distribution, supply, and application of gas:</p> <p style="padding-left: 2em;">(ii) The levels of technical or other qualifications necessary for the carrying out of any specified class or classes of gas work:</p> <p>(g) The setting or endorsing of standards, specifications, or requirements relating to or concerning the periodic examination of fittings <u>and gas appliances</u> installed in relocatable buildings or pleasure vessels, or both, and the issue of warrants of gas fitness in respect of such fittings <u>and gas appliances</u>:</p> <p>(h) The setting or endorsing of standards, controls, or requirements for the whole or any part of any tree or vegetation to prevent the interruption of the gas supply system.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> |
|---|--|
-
- (2) The Secretary may from time to time issue an amendment or revocation of any gas code of practice. 30
- (3) Every gas code of practice and every amendment or revocation of a gas code of practice shall show the date on which it was issued.
- Cf. 1968, No. 125, ss. 24A, 24B (1), (2); 1983, No. 123, s. 6 35
- 311. Code may incorporate official standards by reference**—(1) The Secretary may include in any gas code of practice a reference to—
- (a) An official standard or a specified part of an official standard; or 40

- (b) An official standard or a specified part of an official standard with such additions or variations as are specified in the code—
 if that official standard or, as the case may be, that part of that official standard relates to the subject-matter of the code.
- 5 (2) On the inclusion, in a code, of a reference to an official standard or part of an official standard, that official standard or, as the case may be, that part of that official standard (as it existed on the date of the inclusion but with such additions or variations (if any) as are specified in the code) shall be deemed to form part of the code.
- 10

312. Gas code of practice to be approved by Minister—

- (1) Subject to **subsection (5)** of this section, a gas code of practice, an amendment to such a code, and a revocation of such a code,
 15 shall not have any force or effect until it has been approved by the Minister.
- (2) Subject to **subsection (3)** of this section, the Minister shall not approve any code, or any amendment or revocation of a code, unless—
- 20 (a) Not less than one month has elapsed since the publication in the *Gazette* of a notice of the intention of the Secretary to apply for approval; and
- (b) The Minister has consulted such persons as will be affected by the code or amendment or revocation, or
 25 representatives of those persons, and they have had the opportunity to consider its possible effects and to comment on those effects to the Minister; and
- (c) The Minister has considered any comments made to the Minister concerning those effects.
- 30 (3) The Minister may approve a gas code of practice or any amendment or revocation of that code without complying with the requirements of **subsection (2) (a) or (b)** of this section if the Minister is satisfied that sufficient consultation has already taken place in respect of the matters in the code or amendment
 35 or revocation.
- (4) When the Minister approves a gas code of practice or an amendment or revocation of that code, the Minister shall—
- (a) Publish a notice of the approval in the *Gazette*; and
- 40 (b) Show the date of the approval on the code, amendment, or revocation and promulgate it in such manner as the Minister thinks fit.
- (5) The fact that the Minister has published in the *Gazette* a notice under **subsection (4) (a)** of this section shall be conclusive

proof that the requirements of this section have been complied with in respect of the approval specified in the notice.

Cf. 1968, No. 125, s. 24c; 1983, No. 123, s. 6

New

312A. Availability of gas codes of practice—(1) The Secretary shall ensure that copies of all gas codes of practice, and all amendments to such codes, that are for the time being in force are available—

(a) For inspection by members of the public free of charge; and

(b) For purchase by members of the public at a reasonable price.

(2) The notice of approval published in the *Gazette* pursuant to **section 312 (4) (a)** of this Act shall show, in relation to the code, or the amendment to a code, to which it relates, a place at which copies of the code or, as the case requires, the amendment are available for inspection free of charge and for purchase.

313. Emergency amendment of gas code of practice—

(1) If the Secretary considers it essential in the interests of safety or ensuring the continuity of the supply or distribution of gas to amend any gas code of practice forthwith, the Secretary may issue an emergency amendment to the code and promulgate it in such manner as the Secretary thinks fit.

(2) Every amendment issued under **subsection (1)** of this section shall be identified as an emergency amendment issued under this section, and show the date on which it was issued.

(3) Every such amendment shall remain in force for a period of 60 days after the date on which it was issued and may be continued in force by the Minister for such further period or periods as the Minister thinks fit, but the maximum period of time during which an emergency amendment may remain in force shall be 180 days.

(4) Subject to **subsection (5)** of this section, an emergency amendment issued under this section shall for all purposes, while it remains in force, be deemed to have been issued under **section 310** of this Act, and to have been approved, on the date of its issue, by the Minister under **section 312** of this Act.

(5) If any regulation made under **section 322** of this Act requires compliance with any gas code of practice that has

5 been amended under this section, that regulation shall, while the emergency amendment remains in force, be deemed to require compliance with the code as so amended notwithstanding the fact that the regulation was made before that amendment to the code came into force.

New

(6) Notwithstanding anything in section 41 of the State Sector Act 1988, the Secretary shall not delegate to any other person the power conferred on the Secretary by this section.

10 (7) In this section, the term "Secretary" means the chief executive of the Ministry, and includes any person who is authorised, pursuant to a direction given pursuant to section 40 of the State Sector Act 1988, to exercise the power conferred on the Secretary by this section.

15 Cf. 1968, No. 125, s. 24D; 1983, No. 123, s. 6

314. Citation of gas code of practice—In any regulations made under **section 322** of this Act, any gas code of practice or amendment of a gas code of practice may, without prejudice to any other method of citation, be cited by the title or reference
20 given to it by the Secretary and by its date of issue; and such citation shall be deemed, subject to **section 313 (5)** of this Act, to include and refer to the latest gas code of practice or amendment in force when the regulations were made.

Cf. 1968, No. 125, s. 24E; 1983, No. 123, s. 6

25 **315. Proof of gas code of practice**—(1) Without affecting any other method of proof, the production in any proceedings of a copy of any gas code of practice or amendment or revocation of a gas code of practice, purporting to have been issued by the Secretary and to have been approved by the
30 Minister shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of **section 310** of this Act and approved by the Minister, on the date shown on it as the date of approval, under **section 312** of this Act.

35 (2) Without affecting any other method of proof, the production in any proceedings of—

40 (a) A copy of an emergency amendment of a gas code of practice purporting to have been issued by the Secretary shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued

under the authority of **section 313** of this Act on the date shown on it as the date of issue:

- (b) A certificate under the hand of the Minister that the Minister has continued such an amendment in force until a date specified in the certificate shall, in the absence of proof to the contrary, be sufficient evidence that the amendment has been continued in force until that date under **section 313 (3)** of this Act. 5
- (3) In any proceedings for an offence against this Act or against any regulations made under **section 322** of this Act— 10
- (a) Any requirement or standard prescribed in any gas code of practice by reference to any official standard (not being a New Zealand Standard) may be proved by the production of a copy of such official standard certified to be correct by the Secretary: 15
- (b) Judicial notice shall be taken of the signature of the Secretary.

Struck Out

- (4) A certificate given by the Secretary under **subsection (3) (a)** of this section shall not be admissible in evidence if the Court, on application made by the defendant not less than 14 days before the hearing, orders that the Secretary ought to appear as a witness at the hearing. 20

Cf. 1968, No. 125, s. 24F; 1983, No. 123, s. 6

PART XXVIII 25

MISCELLANEOUS PROVISIONS

General

- 316. Gas suppliers**—(1) Every person who is supplying gas or providing line function services at the date of commencement of this section shall advise the Secretary within one month of that date of the place at which that person is carrying on business. 30
- (2) Every person who intends to commence supplying gas or providing line function services shall notify the Secretary of that person's intention at least one month before the commencement of the supply of gas or the provision of line function services, as the case may be, and state that person's place of business. 35
- (3) Every person who intends to change that person's place of business in relation to the supply of gas or the provision of line 40

New

(2) No person shall sell, or offer for sale, any gas appliance or fittings that have not been tested and certified in accordance with regulations made under **section 322** of this Act.

Struck Out

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(3) No gas distributor shall connect or permit to be connected to any gas supply system under its control any gas installation, or any part of any gas installation, unless it is satisfied that such inspection and certification as is required by regulations made under **section 322** of this Act has been carried out.

10

New

(3) No person (being a gas wholesaler or gas retailer) shall supply gas for passage through any gas installation unless that person is satisfied that such inspection and certification as is required in respect of that gas installation by regulations made under **section 322** of this Act has been carried out.

15

(4) Nothing in this section prevents the connection of a gas installation or a gas appliance to a gas supply or a gas supply system, or the supply of gas to a gas installation, where that connection or supply is solely for the purposes of carrying out any testing, inspection, or certification required by any regulations made under **section 322** of this Act.

20

Cf. 1979, No. 139, ss. 37, 38

318B. Power of entry—(1) For the purpose of ensuring that the requirements of **section 318A** of this Act are complied with in relation to any gasfitting, any person authorised by the Board for the purpose may, at any reasonable time, enter any premises (including a dwellinghouse) and—

25

(a) Inspect and test any gas installation or gas appliance on those premises that is, or is intended to be, connected to a gas supply:

30

New

(b) Make such inquiries as are necessary to determine whether or not any gasfitting on those premises has been properly certified.

5 (2) The power of entry conferred by subsection (1) of this section may be exercised whether or not there are any grounds to believe that any gasfitting has not been properly carried out.

(3) Every person shall give reasonable notice of that person's intention to enter any premises pursuant to subsection (1) of this section to both the owner and the occupier of the premises.

10 (4) Every person shall, on entering any premises pursuant to subsection (1) of this section, and when requested at any subsequent time, produce to the person in charge of the premises—

15 (a) Evidence of that person's authority to enter the premises; and

(b) Evidence of that person's identity.

Cf. 1979, No. 139, s. 39

318c. Power to require information—(1) Where any gasfitting has been done on any premises, any person (being a gas inspector or any other person authorised by or under this Act to inspect gasfitting) may from time to time require any person who was the occupier of the premises at the time the gasfitting was done to furnish, within such reasonable period as the inspector or authorised person may specify, any information or particulars at that person's disposal that are relevant for the purpose of identifying the person who did the gasfitting.

20 (2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who,—

30 (a) Without reasonable excuse, refuses or fails to comply with any requirement made under subsection (1) of this section; or

35 (b) Makes any statement knowing that it is both incorrect and material in any information or particulars furnished (whether in writing or not) under subsection (1) of this section.

(3) No person shall be excused from answering any question, or furnishing any information or particulars, when required to do so under subsection (1) of this section on the ground that compliance with that requirement could or would tend to

New

incriminate that person or subject that person to any penalty or forfeiture.

(4) No statement or disclosure furnished or made by any person in compliance or purported compliance with any requirement made under **subsection (1)** of this section shall be admissible against that person in any criminal or civil proceedings, other than proceedings for an offence against **subsection (2) (b)** of this section.

319. Conditions relating to power to enter land or premises—(1) Subject to **subsections (2) and (3)** of this section and to **(section 307) sections 307 and 318a** of this Act, but notwithstanding any other provision of this Act, any provision in this Act or in any regulations made under **section 322** of this Act giving any person the power to enter any land or premises without the consent of the owner or occupier shall be subject to the following conditions:

- (a) Entry to the land or premises shall only be made by the person specified in the relevant provision or any other person that the person so specified authorises in writing, either specifically or as a member of a class so authorised:
- (b) Reasonable notice of the intention to enter shall be given unless the giving of the notice would defeat the purpose of the entry:
- (c) Entry shall be made at reasonable times:
- (d) The person entering shall carry a warrant of authority or be working under the immediate control of a person holding such authority, which shall be produced on initial entry and, if requested, at any subsequent time:
- (e) Entry into a dwellinghouse shall be authorised by a warrant from a District Court Judge or Justice, or any Court Registrar (not being a constable), by written application on oath.

(2) The conditions specified in **subsection (1)** of this section shall not apply where the entry is necessary in circumstances of probable danger to life or property or where entry is necessary to maintain the continuity or safety of the supply and distribution of gas.

(3) Nothing in this section shall restrict rights of access in order to obtain consent to enter the land or premises for the authorised purpose in respect of which entry is required.

5 (4) Notwithstanding any other provision of this Act, no provision in this Act or in any regulations made under section 322 of this Act giving any person the power to enter any land or premises without the consent of the owner or occupier shall authorise any person to enter or search any restricted area within a defence area (within the meaning of the Defence Act 10 1990) unless the person entering has a security clearance approved by the person in charge of the area.

Struck Out

15 (5) In this section “dwellinghouse” means any building or part of a building occupied as a separate dwelling; but does not include a meter box located on the exterior of the building or the part of the building.

Cf. 1968, No. 125, s. 15A; 1983, No. 123, s. 4; 1987, No. 111, s. 5

20 **320. Compensation for damage**—(1) Every person having any right, title, estate, or interest in any land or property injuriously affected by the exercise from time to time of any powers conferred by this Act on the Secretary or a gas operator or any other owner of existing fittings shall be entitled to full compensation for all loss, injury, or damage suffered by that 25 person.

(2) In default of agreement between the parties, claims (or) for compensation under this section shall be made and determined within the time and in the manner provided by the Public Works Act 1981, and the provisions of that Act shall, as 30 far as they are applicable and with all necessary modifications, apply with respect to claims under this section.

35 (3) Notwithstanding the provisions of any enactment or any rule of law, the exercise of any power conferred by this Act on the Secretary shall not be curtailed, suspended, or delayed by reason of the fact that any claim for compensation under this section has been made but not determined.

Cf. 1968, No. 125, s. 16

40 **321. Penalty for obstructing officers**—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who (*wilfully*) intentionally

obstructs any person in the performance of any duty or in doing any work that that person has lawful authority to do under this Act.

Cf. 1982, No. 27, s. 63

New

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321A. Notices in relation to Maori land—(1) Where a notice or other document is to be given to the owner of land for the purposes of this Act, then, in the case of Maori land, the notice or other document may be served on the Registrar of the Maori Land Court in accordance with Part IX of the Maori Affairs Amendment Act 1974, and the provisions of that Part shall apply accordingly. 10

(2) In this section, the term “Maori land” has the same meaning as in section 2 of the Maori Affairs Act 1953.

Regulations—General

15

322. Regulations—(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

Struck Out

- (a) Providing for the removal of any fitting erected or used contrary to the provisions of this Part or Part XXIV or Part XXV or Part XXVI or Part XXVII of this Act or any regulations made under this section, and for the removal or alteration of any dangerous fitting, at the expense in all cases of the owner of the fitting: 20
- (b) Prescribing standards in respect of fittings, gas appliances, gas installations, meters, and gas that are or is to be supplied to or used by gas retailers and consumers: 25
- (c) Securing the protection of persons and property from injury or damage caused through gas, either directly or indirectly, by— 30
- (i) Authorising, controlling, and prescribing conditions in respect of the design, construction, installation, maintenance, use, management, inspection, and testing of fittings, installations, or works: 35

Struck Out

- 5 (ii) Authorising, controlling, and prescribing conditions in respect of the design, installation, manufacture, maintenance, use, inspection, importation, sale, and testing of materials, apparatus, accessories, devices, instruments, equipment, and appliances used or intended to be used in the application of gas:
- 10 (iii) Prohibiting the manufacture, importation, sale, and use of such materials, appliances, apparatus, accessories, devices, instruments, and equipment as do not satisfy any prescribed tests, standards, or safety criteria:
- 15 (iv) Requiring such types or categories of materials, appliances, apparatus, accessories, devices, instruments, and equipment as are specified in the regulations, or as are from time to time declared by the Secretary by public notice to be subject to the regulations, to be approved by the Secretary before being offered for sale in New Zealand; and providing for the giving of such approval, for the specifying by the Secretary of conditions subject to which such approval may be given, for the variation or withdrawal of any such approval, and for the revocation, variation, or addition of any condition of any such approval:
- 20
- 25
- 30 (v) Authorising, controlling, restricting, prescribing conditions in respect of, and, where necessary, prohibiting, the construction, installation, use, management, operation, maintenance, transportation, and movement of any structure, device, thing, or substance, whether fixed or movable and whether permanent or temporary, in the vicinity of any fitting or where any fitting may affect or be affected by the structure, device, thing, or substance:
- 35 (vi) Controlling the existence and location of the whole or any part of any tree or vegetation that is in the vicinity of, or may affect, any fitting:

New

- (a) Providing for the removal of any fittings or gas appliance erected or used contrary to the provisions of this Act or any regulations made under this section, and for the removal or alteration of any dangerous fittings or dangerous gas appliance, at the expense in all cases of the owner of the fittings or gas appliance: 5
- (b) Securing the protection of persons and property from injury or damage caused through gas, either directly or indirectly, by— 10
- (i) Authorising, controlling, and prescribing conditions in respect of, the design, construction, installation, maintenance, use, management, inspection, and testing of distribution systems (gas installations, gas appliances, or fittings) or gas installations: 15
- (ii) Authorising, controlling, and prescribing conditions in respect of, the design, installation, manufacture, maintenance, use, inspection, importation, sale, and testing of gas appliances or fittings used or intended to be used in the application of gas: 20
- (iii) Prohibiting the manufacture, importation, sale, and use of such gas appliances and fittings as do not satisfy any prescribed tests, standards, or safety criteria: 25
- (iv) Requiring such types or categories of gas appliances and fittings as are specified in the regulations, or as are from time to time declared by the Secretary by public notice to be subject to the regulations, to be approved by the Secretary before being offered for sale in New Zealand; providing for the giving of such approval, for the specifying by the Secretary of conditions subject to which such approval may be given, for the variation or withdrawal of any such approval, and for the revocation, variation, or addition of any condition of any such approval; and prescribing circumstances in which types or categories of gas appliances or fittings are deemed to be approved by the Secretary for the purposes of the regulations: 30 35 40

New

- 5 (v) Authorising, controlling, restricting, prescribing
conditions in respect of, and, where necessary,
prohibiting, the construction, installation, use,
management, operation, maintenance,
transportation, and movement of any structure,
device, thing, or substance, whether fixed or movable
and whether permanent or temporary, in the vicinity
10 of any fittings or where any fittings may affect or be
affected by the structure, device, thing, or substance:
- (vi) Controlling the existence and location of the
whole or any part of any tree or vegetation that is in
the vicinity of, or may affect, any fittings:
- 15 (c) Prescribing standards in respect of fittings, gas appliances,
gas installations, meters, and gas that are or is to be
supplied to or used by gas retailers and consumers:
- (ca) Providing for the periodic examination of fittings and gas
20 appliances installed in relocatable buildings or
pleasure vessels, or both, and the issue of warrants of
fitness by such persons or class or classes of persons
as are prescribed or as are authorised by the
Secretary; prescribing fees or maximum fees or
authorising the charging of reasonable fees in respect
25 of such examinations (and different fees may be
prescribed or provided for in respect of different
circumstances and different testing authorities);
prescribing the persons to whom any fees are to be
paid; and exempting specified relocatable buildings
30 or pleasure vessels, or classes of relocatable buildings
or pleasure vessels, from the provisions of the
regulations:
- (d) Prescribing, in relation to (*employees*) workers,—
- 35 (i) The training required for any specified class or
classes of (*employees*) workers for the purposes of
establishing and maintaining safety standards in
relation to the manufacture, extraction, storage,
processing, treatment, distribution, supply, and
application of gas:
- 40 (ii) The levels of technical or other qualifications
necessary for the carrying out of any specified class
or classes of gas work (*or for the holding of positions of
gas responsibility in any branch of the gas industry or in*

any specified undertakings concerned with the particular application of gas):

Provided that nothing in this paragraph shall authorise the making of any regulation in contradiction to the provisions of the Plumbers, Gasfitters, and Drainlayers Act 1976 or any regulations made under that Act: 5

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| (e) Regulating and controlling the distribution and supply of gas and the installation or use of fittings, gas installations, energy measurement systems, and meters used for or in connection with the supply or use of gas: | 10 |
| (f) Providing for the protection of gas pipes, gas installations, and other equipment: | 15 |

New

- | | |
|--|----|
| (e) Regulating and controlling— | |
| (i) The distribution and supply of gas: | |
| (ii) The installation, use, and maintenance, of gas measurement systems used for or in connection with the supply or use of gas: | 20 |
| (f) Providing for the protection of fittings: | |
| (fa) Requiring the keeping and retention of such records as are necessary for the purposes of establishing and maintaining safety standards in relation to the production, transmission, distribution, and application of gas, and prescribing the particulars that shall be included in such records: | 25 |
| (fb) Requiring gas wholesalers to supply to gas retailers and consumers such information on changes in gas composition or variation in gas supplied as is prescribed: | 30 |
| (fc) Providing for the testing, inspection, and certification of gasfitting: | |
| (g) Prescribing standards in respect of the quality, composition, physical properties, dew point, calorific value, purity, odourisation, and odour of gas supplied: | 35 |
| (h) Prescribing permissible pressure ranges in respect of the supply of gas: | |

Struck Out

- (i) Providing for the testing of energy measurement systems, meters, and calibration equipment:

New

- 5 (i) Providing for the testing and sealing of gas measurement systems and calibration equipment; prescribing the manner in which and the means by which such testing and sealing shall be done; and regulating the
10 manner in which and the means by which gas measurement systems and calibration equipment are reassembled in connection with such testing:

- (j) Authorising the Secretary—

- 15 (i) In cases of urgency to issue, in such manner as may be prescribed, instructions, orders, or requirements for securing the protection of persons from injuries caused, directly or indirectly, by gas:

- 20 Provided that any such instruction, order, or requirement shall remain in force for such period, not exceeding 6 months, as may be determined by the Secretary or until its earlier revocation by the Secretary:

Struck Out

- 25 (ii) To vary, amend, exclude, or exempt specific installations, persons, or things from requirements imposed by regulations made under this section, subject to such conditions as the Secretary thinks fit:

- 30 (iii) To obtain such information concerning the production, transmission, distribution, sale, consumption, application, and supply of gas as may be required for statistical purposes:

Struck Out

- (iv) To carry out tests on materials, fittings, installations, apparatus, and appliances:

New

- | | |
|---|---|
| <p>(iv) To carry out tests on distribution systems, gas installations, fittings, and gas appliances:</p> <p>(ja) Authorising—</p> <p style="padding-left: 2em;">(i) The Secretary; or</p> <p style="padding-left: 2em;">(ii) The Building Industry Authority under the Building Act 1991,—</p> <p style="padding-left: 2em;">or both, to exempt specific gas installations, gas appliances, fittings, persons, or things from requirements imposed by regulations made under this section, subject to such conditions as the Secretary or, as the case requires, the Building Industry Authority thinks fit:</p> <p>(jb) Exempting or providing for the exemption of distribution systems, gas installations, fittings, and gas appliances from the provisions of section 318 of this Act:</p> | <p>5</p> <p>10</p> <p>15</p> |
| <p>(k) Prescribing the matters in respect of which fees are payable under this Act; prescribing the amount of the fees or the method by which they are to be assessed; and providing for the remission or refund of any such fees:</p> <p>(l) Prescribing the forms of documents required under this Act, or authorising the Secretary to prescribe or approve such forms, and requiring the use of such forms:</p> <p>(m) Prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amount of the fine that may be imposed in respect of any such offence, which fine shall be an amount not exceeding (\$5,000) <u>\$10,000</u> and, where the offence is a continuing one, a further amount not exceeding (\$1,000) <u>\$2,000</u> for every day or part of a day during which the offence has continued:</p> <p>(n) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for their due administration.</p> <p>(2) Any regulations made under any of (paragraphs (c), (e), (f), or (g)) <u>paragraphs (b), (c), (ca), (d), (e), (f), (fa), (fb), (fc), (g), (h), or (i)</u> of subsection (1) of this section may—</p> <p style="padding-left: 2em;">(a) Require compliance with the whole or any part of any gas code of practice:</p> | <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> |

Struck Out

- 5 (b) Provide that proof of compliance with any such code of practice or any part of such a code shall be proof of compliance with such provisions of the regulations as are specified in the regulations.

New

- 10 (b) Provide that proof of compliance with—
 (i) Any gas code of practice or any part of such a code; or
 (ii) Any approved code of practice for the time being in force pursuant to **section 20** of the Health and Safety in Employment Act 1992 or any part of any such approved code of practice—
 shall be proof of compliance with such provisions of the regulations as are specified in the regulations.
- 15 (2A) Without limiting ~~((paragraph (c)))~~ paragraph (b) of subsection (1) of this section, regulations made under **subparagraph (iv)** of that paragraph may require types or categories of gas measurement systems to be approved by the Secretary before being offered
 20 for sale in New Zealand, notwithstanding that such approval is not required for the purposes of securing the protection of persons and property from injury or damage caused through gas, either directly or indirectly.

Struck Out

- 25 (3) Without limiting the Acts Interpretation Act 1924, no regulation made under this section shall be invalid because it leaves any matter to the discretion of the Secretary or any other person or because it authorises the Secretary or any other person to give any consent or approval or to set any standard
 30 on or subject to conditions to be imposed or approved by the Secretary or any other person.

New

(3) Without limiting the Acts Interpretation Act 1924, no regulation made under this section shall be invalid because it leaves any matter to the discretion of the Secretary or any other person or because it authorises the Secretary or any other person— 5

(a) To give any consent or approval on or subject to conditions to be imposed or approved by the Secretary or any other person; or

(b) To set any standard. 10

(4) Notwithstanding section 1(3) of this Act, and without limiting section 12 of the Acts Interpretation Act 1924, no regulation made under this section may be expressed to (*take effect*) come into force before the 1st day of April (1992) 1993.

Cf. 1968, No. 125, s. 55; 1982, No. 27, s. 67; 1983, No. 123, s. 8; 1987, No. 111, s. 13 15

*Regulations—Information Disclosure***323. Regulations relating to information disclosure—**

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 20

Struck Out

(a) Requiring the Corporation to publish in the prescribed manner information in relation to the supply of gas by the Corporation; and prescribing the information, including prices, terms, and conditions, that the Corporation shall make available: 25

New

(a) Requiring every gas wholesaler to publish in the prescribed manner information in relation to the supply of gas by that gas wholesaler (including gas supplied direct to a consumer); and prescribing the information, including (without limitation) prices, terms, and conditions, that the gas wholesaler shall make available: 30
35

- 5 (b) Requiring every person (being *(the Corporation)* a gas wholesaler, or a pipeline owner, or a gas retailer that is interconnected with a pipeline owner) to make publicly available prescribed financial statements that follow generally accepted accounting principles (including (without limitation) profit and loss statements and balance sheets and statements of accounting principles) in respect of that person, or any of that person's subsidiaries, or any part or division of the person as if the person or the subsidiary or a part or division of the person, as the case may be, were independent and unrelated companies:
- 10
- 15 (c) Requiring every pipeline owner to publish in the prescribed manner information in relation to the conveyance of gas by means of pipelines owned by that pipeline owner; and prescribing the information that the pipeline owner shall make available, which information shall include (without limitation)—
- 20 (i) Prices, terms, and conditions:
(ii) Pricing policies and methodologies:
(iii) Costs:
(iv) Cost allocation policies and methodologies:

Struck Out

- 25 (v) Performance measures, including information relating to the quality of service and supply:

New

- 30 (v) Performance measures, or information from which performance measures may be derived, or both:
(vi) The amount of gas conveyed:
(vii) The capacity of the pipeline owner's pipelines, and the methodology used to measure that capacity:
- 35 (d) Requiring every gas retailer to publish in the prescribed manner information in relation to gas and related services supplied by the gas retailer; and prescribing the information, including (without limitation) the prices, terms, and conditions, that every gas retailer shall make available:

- (e) Prescribing the form and manner in which the financial statements required by regulations made under **paragraph (b)** of this subsection shall be made available:
- (f) Prescribing the form of statutory declaration and by whom it shall be made for the purpose of **section 324** of this Act: 5

New

- (fa) Requiring, in respect of any statements or information required, by regulations made pursuant to this section, to be made available,— 10
- (i) The adoption, in the preparation or compilation of those statements or that information, of such methodology as is prescribed in the regulations or in any document published by or under the authority of the Secretary and referred to in the regulations: 15
- (ii) The disclosure, in the prescribed manner, of the methodology adopted in the preparation or compilation of those statements or that information:
- (fb) Requiring that any statements or information required, by regulations made pursuant to this section, to be made available, or information from which those statements or that information is derived (in whole or in part), be certified, in the prescribed form and manner, by persons belonging to any class of persons specified in that behalf in the regulations: 20 25

- (g) Prescribing the time limits within which the information disclosure required by any regulations made pursuant to this subsection shall be made to the public:
- (h) Requiring gas distributors and gas retailers, in charging for the conveyance of gas, or the supply of gas, or both, to disclose, in the prescribed manner, charges, or components of charges, or both: 30
- (i) Exempting or providing for the exemption of any person or class of persons from all or any of the requirements of any regulations made under this subsection. 35

(2) No regulations under this section shall require the making available of information relating to contracts made before the **1st day of August 1990** except to the extent that such contracts are modified after that date. 40

(3) Notwithstanding **section 1 (3)** of this Act, and without limiting section 12 of the Acts Interpretation Act 1924, no

regulation made under this section may be expressed to come into force before the 1st day of April (1992) 1993.

Cf. 1987, No. 116, s. 5c; 1990, No. 21, s. 3

5 **324. Information to be supplied to Secretary**—(1) Every person who is required by regulations made under section 323 of this Act to make available statements and information shall supply to the Secretary—

(a) A copy of all statements and information, made available to the public pursuant to regulations made under that section:

10 (b) Any further statements, reports, agreements, particulars, and other information requested in writing by the Secretary for the purpose of monitoring the person's compliance with those regulations (*within 30 days of receipt of such request*).

New

20 (1A) Every person to whom a request is made pursuant to subsection (1) (b) of this section shall comply with that request within 30 days after receiving the request or within such further period as the Secretary in any particular case may allow.

(2) All statements, reports, agreements, particulars, and information supplied to the Secretary under paragraph (a) or paragraph (b) of subsection (1) of this section shall be verified by statutory declaration in the form and by the persons prescribed by regulations made under section 323 (1) (f) of this Act.

Cf. 1987, No. 116, s. 5D; 1990, No. 21, s. 3

Miscellaneous Provisions

30 **325. Offences**—(1) Every person commits an offence against this section who—

(a) Fails, without reasonable excuse, to comply with any information disclosure requirements prescribed in regulations made under section 323 of this Act; or

35 (b) Fails, without reasonable excuse, to comply with the requirements of (paragraph (a) or paragraph (b) of section 324 (1)) section 324 (1) (a) or section 324 (1) (b) or section 324 (1A) or section 324 (2) of this Act.

(2) Every person commits an offence against this section who makes a false declaration when supplying any statement,

report, agreement, particulars, or information pursuant to section 324 of this Act.

(3) Every person who commits an offence against subsection (1) of this section is liable on summary conviction to a fine not exceeding \$200,000 and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued. 5

(4) Every person who commits an offence against subsection (2) of this section is liable on summary conviction to a fine not exceeding \$20,000. 10

Cf. 1987, No. 116, s. 5E; 1990, No. 21, s. 3

326. Repeals, revocations, and consequential amendments—(1) The enactments specified in the Sixteenth Schedule to this Act are hereby repealed.

(2) The enactments specified in the Seventeenth Schedule to this Act are hereby amended in the manner indicated in that Schedule. 15

(3) The regulations specified in the Eighteenth Schedule to this Act are hereby revoked.

(4) The Gas Meter Testing Fees Determination 1982 (S.R. 1982/130) is hereby revoked. 20

327. Savings—The repeal, by section 326 of this Act, of the Gas Act 1982 does not affect—

(a) The validity of anything validated by section 69 of that Act; and 25

(b) The amendments made by section 71 of that Act.

New

Amendment to Gas Act 1982

327A. Amendment to Gas Act 1982—Section 57 (1) of the Gas Act 1982 is hereby amended by omitting the words “(not being a territorial authority, or a regional council or united council within the meaning of the Local Government Act 1974)”. 30

[Part XXIX of the Energy Sector Reform Bill (No. 2) (114-2A), as reported from the Planning and Development Committee, now forms the Plumbers,

Gasfitters, and Drainlayers Amendment Bill (114-3E) as reported from the Committee of the whole House.

[Part XXIXA of the Energy Sector Reform Bill (No. 2) (114-2A), as reported, now forms the Building Amendment Bill (114-3F) as so reported.

[Part XXIXB of the Energy Sector Reform Bill (No. 2) (114-2A), as reported, now forms the Energy Companies Amendment Bill (114-3C) as so reported.

[Part XXX of, and the Nineteenth Schedule to, the Energy Sector Reform Bill, as amended, now enacted as State-Owned Enterprises Amendment Act (No. 2) 1992 (1992, No. 57).]

SCHEDULES

[First and Second Schedules to Energy Sector Reform Bill struck out (114-2).

[Third to Sixth Schedules to the Energy Sector Reform Bill, as amended, now enacted as part of Energy Companies Act 1992 (1992, No. 56).

[Seventh, Twelfth to Fifteenth Schedules, and Schedule 15A to the Energy Sector Reform Bill (No. 2) (114-2A), as reported by the Planning and Development Committee, now form the Schedules to the Electricity Bill (114-3c), as reported from the Committee of the whole House.

[Eighth to Eleventh Schedules to Energy Sector Reform Bill (No. 2) struck out (114-2A).]

Section 326 (1)

SIXTEENTH SCHEDULE

ENACTMENTS REPEALED

Auckland Provincial Act

1863, Sess. 15, No. 25—The Gas Company Lease Act 1863.

Other Acts

- 1870, No. 2 (Private)—The Christchurch Gas Act 1870.
 1870, No. 3 (Private)—The Wellington Gas Company's Act 1870.
 1871, No. 1 (Private)—The Auckland Gas Company Act 1871.
 1871, No. 2 (Private)—The Nelson City Gas Act 1871.
 1873, No. 3 (Private)—The Thames Gas Company's Act 1873.
 1875, No. 3 (Private)—The Napier Gas Company's Act 1875.
 1876, No. 1 (Private)—The Timaru Gas Act 1876.
 1877, No. 46 (Local)—The Hokitika Gas Company Act 1877.
 1879, No. 1 (Private)—The New Plymouth Gas Company Act 1879.
 1884, No. 3 (Private)—The Gisborne Gas Company Act 1884.
 1895, No. 1 (Private)—The Hamilton Gasworks Act 1895.
 1899, No. 28 (Local)—The Melrose Borough Gas Act 1899.
 1900, No. 1 (Private)—The Pahiatua Gasworks Act 1900.
 1900, No. 2 (Private)—The Paeroa Gasworks Act 1900.
 1907, No. 2 (Private)—The Dunedin Suburban Gas Company Empowering Act 1907.
 1916, No. 7 (Local)—The Gisborne Borough Gas Act 1916.
 1928, No. 7 (Local)—The Johnsonville and Makara Gas Supply Act 1928.
 1936, No. 6 (Private)—The Napier Gas Company Amendment and Enlargement Act 1936.
 1958, No. 3 (Private)—The Hastings Gas Company Act 1958.
 1963, No. 2 (Private)—The Auckland Gas Company Amendment Act 1963.
 1968, No. 8 (Private)—The Auckland Gas Company Amendment Act 1968.
 1969, No. 3 (Private)—The Auckland Gas Company Amendment Act 1969.
 1971, No. 1 (Private)—The Christchurch Gas Amendment Act 1971.
 1982, No. 27—The Gas Act 1982.
 1987, No. 31—The Gas Amendment Act 1987.
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SEVENTEENTH SCHEDULE

Section 326 (2)

ENACTMENTS AMENDED

Title of Act	Amendment
	<i>New</i>
1986, No. 127—The Environment Act 1986	By inserting in the Schedule, in its appropriate alphabetical order, the item "The Gas Act 1992".
1989, No. 44—The Public Finance Act 1989 1989, No. 140—The Ministry of Energy (Abolition) Act 1989	<p data-bbox="596 657 1068 711">By repealing so much of the First Schedule as relates to the Gas Act 1982.</p> <p data-bbox="803 733 861 762" style="text-align: center;"><i>New</i></p> <div data-bbox="596 778 1068 1685" style="border: 1px solid black; padding: 5px;"> <p data-bbox="596 798 1068 852">By repealing section 23, and substituting the following section:</p> <p data-bbox="619 852 1068 953">"23. Gas levies—(1) In this section, unless the context otherwise requires, expressions defined in the Gas Act 1992 shall have the meanings so defined.</p> <p data-bbox="619 953 1068 1054">"(2) Nothing in this section shall apply to gas sold for use as a feedstock or for the generation of electricity or to liquefied petroleum gas.</p> <p data-bbox="619 1054 1068 1135">"(3) Not later than 30 days after the last days of March, June, September, and December in each year—</p> <p data-bbox="646 1135 1068 1255">"(a) Every person or body who or which sells piped gas to a gas retailer (whether or not that gas retailer is also a gas wholesaler); and</p> <p data-bbox="646 1255 1068 1356">"(b) Every gas retailer who sells piped gas which is not subject to a levy pursuant to paragraph (a) of this subsection—</p> <p data-bbox="619 1356 1068 1588">shall supply the Secretary with true and accurate returns of the energy content of all such gas that has been so sold during the immediately preceding period of 3 months ended with the said last days of March, June, September, and December, respectively, together with the levy calculated in accordance with this section.</p> <p data-bbox="619 1588 1068 1679">"(4) Notwithstanding anything in subsection (3) of this section, any person or body who or which has sold, during any</p> </div>

SEVENTEENTH SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Title of Act	Amendment
1989, No. 140—The Ministry of Energy (Abolition) Act 1989— <i>continued</i>	<p style="text-align: center;"><i>New</i></p> <p>period referred to in that subsection in respect of which a levy would, apart from this subsection, be payable under this section by that person or body, less than 10,000 gigajoules of gas need not supply a return, nor pay any levy, in respect of that period.</p> <p>“(5) The levy payable on all piped gas that has been so sold during the said periods of 3 months shall be 2 cents for each complete gigajoule or such lesser amount for each complete gigajoule as may be prescribed.</p> <p>“(6) All gas measurements made for the purpose of supplying a return and calculating the levy payable under this section shall be made by the use of methods approved by the Secretary.”</p> <p style="text-align: center;">Cf. 1977, No. 33, s. 15k; 1987, No. 97, s. 3 (1); 1988, No. 134, s. 3</p>
1991, No. 60—The Judicature Amendment Act 1991	By repealing so much of the First Schedule as relates to the Gas Act 1982.
1991, No. 69—The Resource Management Act 1991	By repealing so much of the Schedule as relates to the Gas Act 1982.
1991, No. 69—The Resource Management Act 1991	By repealing so much of Part I of the Eighth Schedule as relates to the Gas Act 1982.
	<i>New</i>
1992, No. 56—The Energy Companies Act 1992	By omitting from the definition of the term “gas” in section 2 (1) the expression “section 2 of the Gas Act 1982”, and substituting the expression “section 282 of the Gas Act 1992”.

EIGHTEENTH SCHEDULE
REGULATIONS REVOKED

Section 326 (3)

Title	Statutory Regulations Serial Number
The Gas Industry Regulations 1984	1984/246
The Gas Industry Regulations 1984, Amendment No. 2	1987/347

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**[Nineteenth Schedule to the Energy Sector Reform Bill,
as amended, now enacted as the Schedule to the State-
Owned Enterprises Amendment Act (No. 2) 1992 (1992,
No. 57).]**