



ANNO VICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1974

No. 77 of 1974

An Act to amend the Gas Act, 1924-1974.

[Assented to 31st October, 1974]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Gas Act Amendment Act (No. 2), 1974".

(2) The Gas Act, 1924-1969, as amended by all other amendments, if any, amending the same prior to the commencement of this Act, is hereinafter referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Gas Act, 1924-1974".

Amendment of long title of principal Act.

2. The long title to the principal Act is amended by inserting after the passage "the price of gas," the passage "and to provide for the licensing of gas suppliers,".

**Amendment of principal Act, s. 5—
Interpretation.**

3. Section 5 of the principal Act is amended—

(a) by inserting immediately after the definition of "Director of Chemistry" the following definition:—

"financial year" means any period of twelve months ending on the thirtieth day of June:;

(b) by striking out the definition of "gas supplier" and inserting in lieu thereof the following definition:—

"gas supplier" means any person who supplies gas by retail to the public by means of pipes laid on to or connected with the premises of consumers:;

(c) by inserting immediately after the definition of "heating value" the following definitions:—

"licence" means a licence granted or renewed under section 5b of this Act:;

"licence period" means a financial year:;

and

(d) by inserting immediately after the definition of "prescribed" the following definition:—

"quarter day" in relation to a licence period, means each thirtieth day of September, thirty-first day of December, thirty-first day of March and thirtieth day of June, that occurs within that period:.

4. Section 5a of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of
s. 5a of
principal Act
and enactment
of ss. 5a, 5b,
5c, 5d and 5e
in its place—

Gas suppliers
to hold a
licence.

5a. (1) The Governor may, by proclamation, fix a day (in this section referred to as "the appointed day") to be the appointed day for the purposes of this section.

(2) On or after the appointed day a person shall not carry on business as a gas supplier unless he is the holder of a licence.

Penalty: Ten thousand dollars.

5b. (1) Subject to subsection (2) of this section, the Minister may, upon application being made to him in writing in a form approved by him, grant or renew a licence with respect to the licence period specified therein.

Grant or
renewal of
licence.

(2) A person who was a gas supplier immediately before the commencement of the Gas Act Amendment Act (No. 2), 1974, who makes application in accordance with subsection (1) of this section for the grant or renewal of a licence shall be entitled to that grant or renewal.

5c. A licence granted or renewed under section 5b of this Act shall, subject to this Act, be in force until the expiration of the licence period specified therein.

Duration of
licence.

5d. (1) A fee shall be payable to the Treasurer by the holder of a licence in respect of the grant or renewal thereof.

Licence fee.

(2) The amount of the fee payable pursuant to subsection (1) of this section shall be determined in the following manner:—

(a) in respect of a licence for the licence period ending on the thirtieth day of June, 1975, the fee shall be—

(i) an amount equal to five per centum of the total of the gross payments, as determined by the Auditor-General, received by the applicant for the licence during the financial year immediately preceding the licence period for the price of gas supplied at any time before the expiration of that financial year being gas supplied by retail to the public by means of pipes laid on to or connected with the premises of consumers;

or

(ii) where—

(A) no supply referred to in subparagraph (i) of this paragraph has taken place;

(B) the Auditor-General has given a certificate referred to in subsection (3) of this section;

or

(C) the particulars referred to in subsection (4) of this section were not furnished forthwith to the Treasurer,

an amount determined by the Treasurer in his discretion;

and

(b) in respect of a licence for any other licence period, the fee shall be—

(i) an amount equal to five per centum of the total of the gross payments, as determined by the Auditor-General, received by the applicant for the licence or renewal thereof during the financial year immediately preceding the licence period for the price of gas supplied at any time before the commencement of that licence period being gas supplied by retail to the public by means of pipes laid on to or connected with the premises of consumers;

or

(ii) where—

(A) no supply referred to in subparagraph (i) of this paragraph has taken place;

(B) the Auditor-General has given a certificate referred to in subsection (3) of this section;

or

(C) the particulars referred to in subsection (4) of this section were not furnished forthwith to the Treasurer,

an amount determined by the Treasurer in his discretion.

(3) An applicant for a licence or renewal thereof shall not fail, at the written request of the Auditor-General, to furnish forthwith the Auditor-General with such particulars in such manner and form as are specified in the request as are, in the opinion of the Auditor-General, necessary for him to make a determination under subsection (2) of this section and for the purposes of this Act a certificate given by the Auditor-General to the effect that the specified particulars have not been so furnished shall be conclusive evidence of that fact.

(4) Where no supply referred to in subparagraph (i) of paragraph (a) or subparagraph (i) of paragraph (b) of subsection (2) of this section has taken place and pursuant to that subsection a licence fee is to be determined by the Treasurer, the applicant for the licence in respect of which that fee is payable shall not fail at the written request of the Treasurer to furnish forthwith the Treasurer with such particulars as the Treasurer may require to estimate the probable extent of the gross payments that would have been received by the applicant, during the

financial year immediately preceding the licensing period with respect to which the licence is applied for, for the supply of gas during that preceding financial year by means of pipes laid on to or connected with the premises of consumers if such gas had been so supplied during that preceding financial year.

(5) Nothing in subsection (4) of this section shall be construed as affecting the exercise by the Treasurer of the discretion conferred on him by this section.

(6) A determination of the Auditor-General or of the Treasurer under this section shall be final and conclusive.

5e. (1) Except as is provided in subsection (2) of this section a licence fee payable under section 5d of this Act shall be paid in four equal instalments, each instalment being paid on or before the quarter days in the licensing period to which the licence relates.

Payment of
annual licence
fee.

(2) Where a licence is granted in respect of a licence period after one or more quarter days have occurred in that licence period the instalment or instalments that would, pursuant to subsection (1) of this section, have been payable if that licence had been in force on that quarter day or on those quarter days shall be payable on or before the quarter day that next follows the day on which the licence was granted.

(3) If an instalment of a licence fee is not paid as required by subsection (1) or subsection (2) of this section the Minister may revoke the licence in respect of which that fee is payable and upon that revocation that licence shall cease and determine.

(4) Notwithstanding anything in subsection (3) of this section, the Treasurer may sue for and recover, as a debt due to the Crown, any annual licence fee or any part thereof that is in arrear.

(5) In proceedings for the recovery of a debt referred to in subsection (4) of this section a certificate purporting to be under the hand of the Treasurer, stating that an amount specified therein is due and unpaid, shall be evidence that the amount so specified was due and unpaid at the time the certificate purported to have been given and that the amount continued to be due and unpaid up to the time that judgment is given in those proceedings.

5. Section 19 of the principal Act is amended by striking out subsection (2a).

Amendment of
principal Act,
s. 19—
All meters to
be tested and
stamped.

6. The following section is enacted and inserted in the principal Act immediately after section 25 thereof:—

Enactment of
s. 25a of
principal Act—

25a. (1) In addition to the power elsewhere in this Act providing for the making of regulations, the Governor may make regulations for or with respect to—

Additional
power to make
regulations.

(a) any matter or thing in connection with the making of application for a licence or a renewal thereof;

and

(b) the imposition on any gas supplier other than the Company of conditions or restrictions that are, in the opinion of the Governor, of the same kind as to subject matter and strictness as are contained in sections 27, 45 and 49 of this Act.

(2) Any regulations under this section may prescribe penalties of not more than fifty dollars for any breach thereof.

Amendment of principal Act, s. 29a—

Effect of Prices Act, 1948, as amended.

7. Section 29a of the principal Act is amended—

- (a) by striking out from subsection (1) the figures "1950" and inserting in lieu thereof the figures "1973"; and
- (b) by striking out from paragraph (a) of subsection (1) the passage "the company" and inserting in lieu thereof the passage "every gas supplier".

Amendment of principal Act, s. 42—

How fines, etc., to be shown in accounts and dealt with.

8. Section 42 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "the Company", first occurring, and inserting in lieu thereof the passage "a gas supplier";
- (b) by inserting in subsection (1) after the passage "or under" the passage "this Act or"; and
- (c) by striking out from subsection (1) the word "Company", being the last word in that subsection, and inserting in lieu thereof the passage "gas supplier".

Amendment of principal Act, s. 46—

Annual statement of accounts.

9. Section 46 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "The Company" and inserting in lieu thereof the passage "Every gas supplier";
- (b) by striking out from subsection (1) the word "Company" and inserting in lieu thereof the passage "gas supplier";
- (c) by striking out from subsection (2) the passage "The Company" and inserting in lieu thereof the passage "Every gas supplier"; and
- (d) by striking out from subsection (3) the passage "the Company" and inserting in lieu thereof the passage "a gas supplier".

Amendment of principal Act, s. 47—

Examination and audit of accounts.

10. Section 47 of the principal Act is amended—

- (a) by striking out from subsection (1) the passage "the Company", first occurring, and inserting in lieu thereof the passage "a gas supplier"; and
- (b) by striking out from subsection (1) the word "Company" and inserting in lieu thereof the passage "gas supplier".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor