



ANNO QUARTO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 68 of 1965

An Act to Provide for the Regulation and Control of the Supply of Gases for Lighting, Heating, Motive and other Power, the Prices to be charged therefor, the Safe Handling thereof, the Standards of Heating Power, Purity and Pressure of such Gases, and for other purposes

[ASSENTED TO 24TH DECEMBER, 1965]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Gas Act of 1965.*"
- (2) **Commencement of Act.** This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

2. Act inapplicable in certain cases. (1) Save as is by this Act otherwise expressly prescribed, this Act does not apply to or in relation to—

- (a) any gas supplied for and used in metal working;
- (b) natural gas supplied by the producer thereof to a gas supplier;
- (c) refinery gas supplied by the refiner thereof to a gas supplier;
- (d) gas supplied or to be supplied to a consumer for a purpose other than the provision to any person of heating, lighting, motive or other power whether such person be the consumer to whom such gas is supplied or is to be supplied or a subsequent consumer;

except in relation to the safe handling and measurement thereof.

(2) This Act does not apply to or in relation to natural gas used in the operation of a natural gas or oil well.

3. Arrangement of Act. This Act is divided into Parts and Schedules as follows:—

PART I—PRELIMINARY;

PART II—ADMINISTRATION;

PART III—GRANTING OF FRANCHISES;

PART IV—GAS SUPPLIED THROUGH A GAS UNDERTAKING;

PART V—LIQUEFIED PETROLEUM GAS;

PART VI—NATURAL GAS;

PART VII—REGULATION OF PRICE FOR GAS;

PART VIII—MISCELLANEOUS AND GENERAL;

SCHEDULES.

4. Repeals and Savings. (1) Subject to the provisions of subsection (3) of this section the enactments set forth in Schedule I to this Act are repealed in the manner and to the extent therein set forth.

(2) A person who immediately prior to the date of commencement of this Act holds any office or position for the purposes of "*The Gas Acts, 1916 to 1964*," shall be deemed to hold such office or position or the corresponding office or position for the purposes of this Act and, until he vacates or is lawfully removed from such office or position, shall continue to hold such office or position under and for the purposes of this Act.

Judicial notice shall be taken of the notification in the *Gazette* of the appointment of such person to such office and of the appointment thereby notified.

(3) Any reference, hearing or appeal instituted under "*The Gas Acts, 1916 to 1964*," and not concluded at the date of commencement of this Act shall be continued and disposed of in accordance with the provisions of those Acts which, for this purpose, shall be deemed to continue in force.

(4) Any act or thing done or contract, arrangement or determination made under any of the Acts set forth in Schedule I to this Act shall not be invalidated, prejudiced or otherwise affected by the commencement of this Act.

(5) Unless the context thereof otherwise indicates, a reference in any Act to a gas company within the meaning of any Act other than this Act shall be deemed to include reference to a gas supplier within the meaning of this Act.

5. Meaning of terms. (1) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

- “Appliance”—Any device which uses gas to produce light, heat or power;
- “Approved”—Approved by the Minister;
- “Area”—A part of the State, in relation to which a gas supplier has been granted a franchise;
- “British Thermal Unit” or “B.T.U.”—The work done or energy expended in heating one pound of pure water from sixty degrees Fahrenheit to sixty-one degrees Fahrenheit at an invariable pressure of one atmosphere;
- “Bulk liquefied petroleum gas” or “Bulk L.P. gas”—In relation to a supply, consumption, carriage or other act done in respect of liquefied petroleum gas, such gas which is supplied from, in or into, consumed from, carried or, as the case may be, otherwise dealt with in containers of a greater water capacity than two hundred and forty pounds avoirdupois;
- “Calorific value”—The number of British Thermal Units produced by the combustion at constant pressure of one standard cubic foot of gas when the water vapour formed during combustion is condensed;
- “Carburetted water gas”—Inflammable gas produced by the interaction of steam and hot coke and which has had its heating power increased by the admixture of a gas;
- “Coal gas”—Includes all inflammable gases produced by the thermal treatment of coal;
- “Consumer”—A person supplied or desirous of being supplied with gas: the term includes a gas supplier supplied with gas by another gas supplier;
- “Cylinder”—A storage vessel in accordance with Australian Standard B 115-1958 issued by the Standards Association of Australia, as amended from time to time;
- “Dry basis”—Free from water vapour;
- “Dry type meter”—A device for measuring a supply of gas, other than a “wet type meter”, and which generally uses a principle of displacement of a diaphragm or other mechanical means;
- “Financial year”—The period of time commencing on the first day of July in a calendar year and concluding on the last day of June in the next ensuing calendar year: where the gas supplier concerned is accustomed to extracting its annual balance-sheet and profit and loss account in respect of some other period, the term means that other period;
- “Fittings”—Includes every appliance and everything used in connection with an appliance and everything used in or in connection with the supply, distribution or consumption of gas;
- “Franchise”—The right to establish and maintain a gas undertaking within or for an area granted under Part III of this Act;
- “Gas”—Includes carburetted water gas, coal gas, oil gas, producer gas, water gas, liquefied petroleum gas, tempered liquefied petroleum gas, reformed liquefied petroleum gas,

- natural gas, refinery gas, reformed refinery gas and any substance which the Governor in Council declares by notification published in the *Gazette* to be gas for the purposes of this Act, and a mixture of two or more of such gases;
- "Gas examiner"—The chief gas examiner, the senior gas examiner appointed for the purposes of this Act, or deemed so to be, and any person for the time being performing the whole or any part of the duties of a gas examiner;
- "Gas supplier"—A person supplying or desirous of supplying gas to premises within the State by way of sale: the term includes a Local Authority but does not include a person or authority acting on behalf of the Crown;
- "Gas undertaking"—The business of supplying or of producing and supplying gas through mains to consumers;
- "Gas works"—A place where gas is produced for supply to a consumer;
- "Ground"—Includes stones, soil, pavement or material of any footway, and the roadway of any street;
- "Industrial and commercial"—When used in relation to a consumer, storage or installation, means respectively a consumer, storage, or as the case may be, installation other than for domestic purposes;
- "Justice"—A justice of the peace for the State;
- "Liquefied petroleum gas"—A mixture composed substantially of C3 or C4 hydrocarbons or both of them either in a liquid or a gaseous state;
- "Local Authority"—A Local Authority constituted under "*The Local Government Acts, 1936 to 1965*," and, in relation to the City of Brisbane or any part thereof, includes the Brisbane City Council constituted under "*The City of Brisbane Acts, 1924 to 1960*";
- "Main"—A pipe conveying gas for supply to two or more consumers;
- "Measured gas"—Gas which has passed through a meter and the volume of which has been registered by that meter;
- "Meter"—An instrument to measure the volume of gas supplied through it;
- "Minister"—The Minister for Mines and Main Roads of Queensland or such other Minister of the Crown for the time being charged with the administration of this Act: the term includes any person temporarily performing the duties of the Minister for the time being charged with the administration of this Act;
- "Natural gas"—A gaseous material containing hydrocarbons and obtained from bore holes or from crude oil otherwise than by thermal or catalytic process;
- "Oil gas"—Gas manufactured from petroleum or other oil by thermal, catalytic or other process but not including liquefied petroleum gas;
- "Part"—Part of this Act;
- "Pipe"—Any main, service pipe, stopcock, watercock, syphon, plug, branch, apparatus or conduit;

- “ Place ”—Any land, building, house, shop, factory, vessel within any harbour, river or inland waters, caravan, vehicle, aeroplane or premises whatsoever;
- “ Pound avoirdupois ”—0.4535923 of the International Kilogramme;
- “ Premises ”—Any land or building, and where a building is subdivided, each subdivision thereof which is separately occupied;
- “ Prepayment meter ”—A meter or appliance whereby the quantity of gas supplied through it is regulated according to the amount of money inserted therein;
- “ Private purposes ”—Any purpose to which gas may from time to time be applied, not being a “ public purpose ” as herein defined;
- “ Private way ”—Any private way, private land, private building, private passage or private grounds;
- “ Producer gas ”—Gas manufactured by the action of air on hot coke;
- “ P.S.I.G. ”—Pounds per square inch gauge;
- “ Public purposes ”—The lighting with gas of any street or place under the control of a Local Authority or other authority charged with the control of streets, or of any church or other place of worship, or any building belonging to or subject to the control of the Crown, a Local Authority or public authority or of any theatre to which the public have access;
- “ Qualified person ”—A person who—
 - (a) is at the date of commencement of this Act, in charge of a gas works; or
 - (b) is—
 - (i) a graduate in science (with chemistry or physics as a major subject) or applied science or one of the branches of engineering of an approved university; or
 - (ii) a corporate member of the Institute of Engineers of Australia or the Royal Australian Chemical Institute; and
 - (iii) in any of the aforesaid cases, a person who has had at least twelve months’ experience in a technical position in a gas works; or
 - (c) is—
 - (i) a holder of a diploma in chemistry or engineering conferred by an approved technical college; or
 - (ii) a corporate member of the Institute of Gas Engineers of England; or
 - (iii) a holder of a certificate of competency as a gas engineer or as a manager of a gas trading undertaking under “ The Local Government Act of 1919 ” of the State of New South Wales; and
 - (iv) in any of the aforesaid cases, a person who has had at least two years’ experience in a technical position in a gas works;
- “ Refinery gas ”—The residual gas produced at a refinery and left over after all normally useable products (including liquefied petroleum gas) have been made or extracted from the crude or a feed stock;

- “Regulator”—A device for controlling and maintaining a uniform gas supply pressure;
- “Relief device”—A safety device designed to forestall the development of a dangerous condition, by relieving pressure, temperature or vacuum build-up in a cylinder, appliance or any part of an installation;
- “Service pipe”—A pipe which conveys gas from a main to the premises of a consumer;
- “Specific gravity”—Applied to a gas, the ratio of the weight of a given volume of that gas to the weight of the same volume of air both measured under the same conditions;
- “Standard”—Used in relation to a gas, the standard prescribed for the time being pursuant to this Act;
- “Standard cubic foot of gas”—The amount of gas which, at a temperature of sixty degrees Fahrenheit, under a barometric pressure of thirty inches of mercury, would occupy one cubic foot;
- “Standard cubic foot of gas (saturated)”—The amount of gas which, at a temperature of sixty degrees Fahrenheit, under a barometric pressure of thirty inches of mercury and saturated with water vapour, would occupy one cubic foot;
- “Station meter”—A meter or measuring device of a type approved by the chief gas examiner, used to measure the quantity of gas obtained or produced by a holder of a franchise and which has been tested and stamped as prescribed;
- “Street”—Any street, road, highway, lane, way, bridge, passage or other public place;
- “System”—An assembly of equipment consisting essentially of a container and major devices such as vaporizers, relief valves, excess flow valves, regulators, appliances and pipes connecting such devices;
- “Tempered liquefied petroleum gas”—Gas manufactured by mixing liquefied petroleum gas with air;
- “Testing place”—A testing place provided by a gas supplier or by the Minister under this Act for the purpose of carrying out the provisions of this Act in relation to testing of gas;
- “Unaccounted for gas”—The difference between the quantity of gas registered by the station meter of a gas supplier engaged in a gas undertaking on the one hand and the aggregate of the quantities of gas used in the gas works concerned in the business of the gas supplier and the quantities of gas registered by the meters at the premises of consumers supplied by the gas supplier on the other hand and may be expressed as a percentage of gas registered by the station meter;
- “Water gas”—Gas manufactured by the action of steam on hot coke;
- “Wet basis”—Saturated with water vapour;
- “Wet type meter”—A device for measuring a supply of gas using as its principle of measurement the position displacement of a liquid within a device such as a rotating subdivided cylindrical vessel or drum.

(2) When, by this section, a meaning is assigned to any term any derivative of that term shall, in this Act, bear a corresponding meaning.

PART II—ADMINISTRATION

6. General administration of Act. This Act shall be administered by the Minister and, subject to the Minister, by the gas referee, (or referees, if there be more than one) the chief gas examiner, the senior gas examiner and such other gas examiners and other officers appointed for the purposes of this Act.

7. Appointment of officers. (1) For the purposes of this Act, the Governor in Council may, from time to time, appoint—

- (a) one or more gas referees;
- (b) a chief gas examiner;
- (c) a senior gas examiner; and
- (d) such other gas examiners and other officers as he considers necessary for the effectual administration of this Act.

Every such appointment, other than an appointment to a position of gas referee, shall be made subject to and in accordance with "*The Public Service Acts, 1922 to 1965*," and the appointee shall hold his position subject to those Acts.

A gas referee shall hold his appointment at the pleasure of the Governor in Council.

Every such appointment shall be notified in the *Gazette* and, upon such notification, judicial notice shall be taken of such notification and of the appointment thereby notified.

(2) A person who or whose spouse is—

- (a) a gas supplier; or
- (b) a partner or an employee of a firm which is a gas supplier; or
- (c) registered as owner of any share or shares in a company which is a gas supplier; or
- (d) a person for whose use any share or shares in such a company is or are held by another; or
- (e) an employee of such a company,

shall not be appointed nor hold the position of a gas referee or a gas examiner.

8. Powers of inspection, &c. (1) If it appears to the chief gas examiner or the senior gas examiner necessary or desirable so to do for the purposes of this Act, he or any gas examiner authorized in writing by him may—

- (a) enter any place which is used or which the gas examiner seeking entry reasonably believes to be used for the production, supply, storage or consumption of gas;
- (b) inspect such place and any works, machinery or thing in, on or about such place, test any substance which he reasonably believes to be gas, test any meter found therein and make such other tests as the gas examiner making such inspection considers necessary;
- (c) require any person who is or is apparently in charge of the place in question or of any works therein or thereon to do all things which, in the opinion of the examiner issuing such requisition, are necessary to render or maintain such place or works and all machinery and things in, on or about such place or works safe and, in the case of a place or works of a gas supplier which supplies gas pursuant to a franchise, efficient;

- (d) take (without payment) samples of any substance which the examiner so sampling reasonably believes to be gas for the purpose of examination and testing;
- (e) seize, remove and detain any substance which the examiner so seizing reasonably believes to be gas (and any container, vehicle or vessel in which it is contained or is being carried) and any container, vehicle or vessel if he reasonably believes that a contravention or non-compliance with any provision of this Act exists or has occurred in respect of such substance, container, vehicle or vessel.

As soon as practicable after a gas examiner has made a test pursuant to the provisions of this subsection he shall—

- (i) compile a report in writing of the results of such test;
- (ii) if he is other than the chief gas examiner, furnish such report to the chief gas examiner; and
- (iii) give to the occupier or person apparently in charge of the place wherein the substance or meter so tested was found a copy of such report.

(2) The chief gas examiner may, in writing,—

- (a) require any person to dig around and expose any pipe or fitting or require a gas supplier to take apart or dismantle any item of plant to assist or facilitate an inspection being made or about to be made for the purposes of this Act;
- (b) require a gas supplier to replace any of its meters and to deliver a meter so replaced to the chief gas examiner for inspection and testing.

(3) A person to whom a requisition is given pursuant to the provisions of subsection (1) or (2) of this section shall comply therewith forthwith or, where a period for compliance is therein limited within such period.

(4) **Certificate of gas examiner.** A gas examiner shall be furnished with a certificate of his appointment signed by the Minister and shall, if required by a person apparently in charge of premises to which he is seeking entry for the purposes of this Act, produce such certificate for the inspection of such person.

Such a certificate shall be *prima facie* evidence of the appointment to which it refers and to the identity of the person who produces such certificate with the appointee named therein.

9. Assistance to gas examiners. If it appears to a gas examiner necessary or desirable so to do, he may require any person to assist him or to furnish to him any facility or information for the purpose of the exercise or discharge by him of his powers or duties under this Act.

10. Obstruction of gas examiners. Any person who—

- (a) wilfully obstructs any gas examiner in the exercise or discharge by him of any of his powers or duties under this Act, or attempts so to do; or
- (b) fails to comply in all respects with a requisition of a gas examiner given under this Act; or
- (c) when required by a gas examiner under this Act to furnish information, furnishes information which to the knowledge of such person is false or misleading; or

- (d) threatens or uses any abusive or insulting language to a gas examiner in relation to any act or thing done, attempted to be done or desired to be done by such examiner under this Act; or
- (e) interferes with or damages any equipment, apparatus or thing being used by, or in the possession of, a gas examiner for the purpose of the exercise or discharge by him of any of his powers or duties under this Act,

commits an offence against this Act.

In the case of damage done to any equipment, apparatus or thing being used by, or in the possession of, a gas examiner for the purpose of the exercise or discharge of any of his powers or duties, under this Act the offender, whether or not any other penalty is imposed on him, shall be ordered to make restitution to the Minister to the value of any damage so done.

PART III—GRANTING OF FRANCHISES

11. Gas undertakings at commencement of Act. A person who, immediately prior to the date of commencement of this Act—

- (a) is conducting a gas undertaking within or for any part of the State; or
- (b) is about to conduct a gas undertaking within or for any part of the State,

and for whose benefit in that behalf an enabling Act subsists immediately prior to such date, shall be deemed to be the holder of a franchise in relation to an area comprised of that part of the State for which he is so enabled.

A person so deemed to be the holder of a franchise shall conduct his gas undertaking subject to the provisions of this Act.

12. Application for and grant of franchise. (1) A person who proposes to establish and maintain a gas undertaking within or for any part of the State shall—

- (a) make written application to the Minister for a franchise so to do; and
- (b) cause to be published in a newspaper circulating within the part of the State in respect of which application under this section has been made and, where such part is outside the City of Brisbane, in one of the principal newspapers circulating in and around Brisbane, as often as the Minister directs, a notice prescribed by subsection (2) of this section.

(2) A notice published pursuant to subsection (1) of this section shall—

- (a) be in an approved form signed by or on behalf of the applicant;
- (b) particularize—
 - (i) that an application has been made under subsection (1) of this section and the nature of such application;
 - (ii) the part of the State in respect of which such application has been made;
 - (iii) any other matters which the Minister may, in any case, direct; and
- (c) specify the date before which any objection to such application must be made to accord with the provisions of subsection (3) of this section.

(3) A person who desires to object to an application made under subsection (1) of this section shall within fourteen days after the date of last publication of the notice prescribed by such subsection, make an application in writing to the Minister for a franchise in relation to or including the same part of the State as that in respect of which the application objected to was made.

Save as the Minister may direct, an objector shall not be required to comply with the provisions of paragraph (b) of subsection (1) of this section.

(4) The Minister shall cause the merits of every application under this section to be investigated and thereupon shall recommend to the Governor in Council whether a franchise should be granted in relation to any part in question of the State and, if it should be granted, to which applicant.

The Governor in Council may refuse to grant any franchise or may grant a franchise as recommended by the Minister or otherwise, as he thinks fit.

(5) Subject to sections fifteen and twenty-two of this Act, as long as a franchise remains in force in relation to an area no other franchise shall be granted in relation to the same area or to any part thereof.

(6) The holder of a franchise may do all things which he is empowered by this Act to do or which he may otherwise lawfully do and which he considers to be necessary to the establishment or maintenance of a gas undertaking within or for the area in relation to which the franchise was granted, or any part thereof.

13. Offences in relation to gas undertakings. (1) A person shall not—

(a) establish or maintain a gas undertaking within or for any area; or

(b) supply gas through underground pipes to any consumer within an area,

unless he is the holder of a franchise in relation to that area.

(2) The provisions of subsection (1) of this section do not apply to a person who—

(a) establishes or maintains a gas undertaking for the exclusive purpose of supplying gas to the holders of franchises or who supplies gas to such a holder; or

(b) being authorized by the Governor in Council by Order in Council to supply a particular type of gas to a particular consumer within an area for a purpose specified in such Order in Council, supplies that type of gas to that consumer for that purpose during the continuance in force of such Order in Council.

(3) Any person who contravenes this section commits a continuing offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of fifty pounds for each day during which such contravention continues.

14. Authorization to supply gas in special case. When it appears to the Governor in Council that the holder of a franchise is unable or unwilling to supply a particular type of gas to a particular consumer

within the area of his franchise at a price which is reasonable and acceptable to that consumer the Governor in Council may, by Order in Council, authorize any person to supply that type of gas to that consumer for the purpose specified in such Order in Council.

15. Cancellation of franchise. (1) Should the holder of a franchise fail to make such progress in the establishment of a gas undertaking within or for the area in relation to which the franchise was granted or within or for any part of such area as, in the opinion of the Minister, is satisfactory, or where this Act otherwise permits cancellation of a franchise, the Minister may, by writing, call upon such holder to show cause within one month of the date of such notice why his franchise for such area or, as the case may be, part should not be cancelled.

(2) If, within the aforesaid period of one month, the holder of the franchise concerned does not show cause, to the satisfaction of the Minister, why his franchise for the area or part concerned should not be cancelled, the Minister may—

(a) by notice published in a newspaper circulating in the area in relation to which the franchise subsists and, where such area is outside the City of Brisbane, in one of the principal newspapers circulating in and around Brisbane, call for applicants desirous of establishing a gas undertaking within or for the area or part concerned;

(b) upon completion of all investigations (if any) which the case requires, recommend to the Governor in Council—

(i) whether the franchise subsisting in relation to the area or part concerned should be cancelled; and

(ii) if such franchise should be cancelled, to which applicant a franchise in relation to such area or part should be granted.

(3) Upon a recommendation made by the Minister pursuant to subsection (2) of this section, the Governor in Council—

(a) may grant a franchise in accordance with the Minister's recommendation, or otherwise, as he thinks fit, or may refuse to grant a franchise;

(b) if he grants a franchise pursuant to paragraph (a) of this subsection, shall cancel the franchise already subsisting in relation to the area or part concerned;

(c) if he does not grant a franchise pursuant to paragraph (a) of this subsection or if there be no applicant for the franchise in relation to the area or part concerned, may nevertheless cancel the franchise for such area or part.

16. Applications for franchise in lieu of cancelled franchise. (1) An applicant who desires to apply for a franchise consequent upon a notice published pursuant to the provisions of section fifteen of this Act, shall make application to the Minister in accordance with the provisions of section twelve of this Act.

(2) Such an application and every objection thereto shall take the same form as, and be treated in every respect as if it were, an application or, as the case may be, an objection, under section twelve of

this Act and shall be subject to the provisions of that section accordingly except that every such application and objection shall be in respect of or include the whole of the area or part of an area in respect of which the subsisting franchise is liable to be cancelled.

17. Effect of cancellation of franchise. (1) When a franchise is cancelled under section fifteen of this Act the person who theretofore was the holder thereof shall cease to be the holder of a franchise in relation to the area or part of the area in respect of which such franchise is cancelled.

(2) The person who was, immediately prior to such cancellation, the holder of such franchise shall be entitled to compensation to be paid by the person who is the holder of the franchise granted in lieu of the franchise so cancelled.

Compensation shall be payable in respect of the value of work done and any asset acquired in the course of and for the purpose of the establishment of the gas undertaking concerned prior to such cancellation which work or asset is made use of or taken over by the person to whom a franchise is granted in lieu of the franchise so cancelled and such value shall be assessed as at the date of such cancellation:

Provided that in no case shall the compensation payable for any such work or asset exceed the amount paid or agreed to be paid for the doing of such work or the acquisition of such asset by the person entitled to compensation or, as the case may be, by any previous holder of a franchise in relation to the area or part in question.

(3) If within six months after the date of cancellation of a franchise there is no agreement between the holder of the franchise granted in lieu of such cancelled franchise and the person who was the holder of the franchise so cancelled with respect to an amount of compensation payable under this section, the Minister may refer the question of such compensation to a gas referee whose determination in respect thereof shall be final and binding on such holder and such previous holder.

Every such determination shall be filed in the Supreme Court of Queensland and may be enforced as a judgment of that court.

18. Restriction on disposal of gas undertaking. The holder of a franchise shall not sell or otherwise dispose of such franchise or the gas undertaking established or maintained by him pursuant thereto or any part of such gas undertaking without the approval of the Governor in Council first had and obtained.

If the Governor in Council approves of a sale or other disposition of a franchise or a gas undertaking established or maintained pursuant thereto or any part of such gas undertaking then, upon completion of such sale or other disposition the person to whom such franchise or gas undertaking or part is sold or disposed of shall be deemed to be the holder of a franchise in relation to the area specified in such approval.

Any purported sale or other disposition of a franchise or gas undertaking or any part of a gas undertaking in contravention of this section shall be null and void and shall render the franchise concerned or pursuant to which such gas undertaking is maintained liable to be cancelled in accordance with this Act.

19. Surrender of franchise. (1) The holder of a franchise who desires to surrender that franchise in respect of the whole or any part of the area in relation to which it was granted shall—

- (a) notify the Minister, in writing, of his desire to surrender; and
- (b) cause to be published in a newspaper circulating within the area or part thereof in respect of which such holder desires to surrender his franchise, as often as the Minister directs, a notice of his desire to surrender specifying therein the area or part which will be affected by such surrender.

(2) Upon completion of all necessary investigations the Minister may—

- (a) recommend to the Governor in Council whether the surrender of the franchise concerned should be accepted in respect of the area or part so notified either absolutely or subject to such conditions as the Minister considers just; or
- (b) cause action to be taken to cancel the franchise concerned under section fifteen of this Act.

(3) Upon a recommendation made by the Minister under this section, the Governor in Council may—

- (a) accept the surrender of the franchise concerned in respect of the area or part thereof so notified;
- (b) if he accepts such surrender subject to conditions, specify such conditions;
- (c) reject the surrender.

(4) A surrender of a franchise shall be of no force and effect save to the extent it is accepted by the Governor in Council and, where he specifies conditions to which his acceptance is subject, unless such conditions are fulfilled.

20. (1) Provisions applicable to a gas undertaking. The provisions set forth in Schedule II to this Act shall apply in respect of the establishment and maintenance of a gas undertaking under this Act.

The provisions of clauses eight to ten (both inclusive) and thirteen to twenty-one (both inclusive) of Schedule II to this Act and such other clauses thereof as the Governor in Council may, by Order in Council prescribe (either generally or in a particular case) shall apply, with any necessary adaptations, with respect to a person authorized to supply gas pursuant to the provisions of section fourteen of this Act and in respect of the supply of gas thus supplied as if such person were a holder of a franchise in relation to the area wherein he is so authorized to supply gas.

(2) If he considers it necessary or desirable for the effectual establishment or maintenance of a particular gas undertaking, the Governor in Council may, by Order in Council, amend (by adding thereto or deleting therefrom) the provisions of Schedule II to this Act.

The Schedule as so amended for the time being shall, in respect of the particular gas undertaking concerned, become and be Schedule II to this Act.

The provisions of this subsection shall not be construed to authorize the substantial rescission of Schedule II to this Act and the substitution therefor of a substantially new schedule.

(3) **Special conditions on franchise.** Upon the grant of a franchise the Governor in Council may impose thereon such conditions not inconsistent with the provisions of this Act as he considers proper and, if he does so, shall cause such conditions to be specified in the Order in Council by which such grant is effected.

The establishment and maintenance of a gas undertaking pursuant to a franchise upon which the Governor in Council has imposed conditions shall be subject to such conditions in addition to the provisions of this Act.

(4) **Offence by franchise holder.** The holder of a franchise who contravenes or fails to comply with a condition imposed on such franchise under subsection (3) of this section commits an offence against this Act.

21. Mode of grant, &c., of franchise. The grant of a franchise, the cancellation of a franchise, the acceptance of a surrender of a franchise and an approval under section eighteen of this Act shall be effected by way of Order in Council.

22. Power to vary areas. (1) Subject to this section, the Governor in Council may, from time to time, by Order in Council vary an area in relation to which any person is the holder of a franchise—

(a) by excluding from such area any part thereof; or

(b) by including in such area any other part of the State not already in such area.

Upon publication of such an Order in Council in the *Gazette* the area as so varied shall be the area in relation to which the person concerned is the holder of a franchise.

(2) The Governor in Council shall not, pursuant to this section, include in or exclude from any area any part of the State without the prior consent in writing of the person who is the holder of the franchise in relation to the area in which or from which such part is to be included or, as the case may be, excluded.

PART IV—GAS SUPPLIED THROUGH A GAS UNDERTAKING

23. Application of this Part. This Part applies only with respect to gas suppliers which supply gas to consumers through a gas undertaking and with respect to the supply of gas through a gas undertaking.

24. Quality and pressure of gas. A gas supplier shall, at all times, supply gas which is of a quality and at a pressure for the time being prescribed.

25. Provision for insufficiency of supply. (1) Whenever it appears to the Governor in Council that the supply of gas available in or to any area or areas is, or is likely to become, less than sufficient for the reasonable requirements of that area or those areas, the Governor in Council may exercise all or any of the powers conferred upon him by this section and may do and perform all acts, matters and things necessary or expedient to ensure the sufficiency of the supply of gas to such area or areas and, in the meantime, to ensure the equitable and proper distribution and use of the supply of gas available to such area or areas.

The powers conferred by this subsection are in addition to any other powers which, apart from this subsection, may be exercised under this Act or otherwise.

(2) The Governor in Council may, from time to time, by Proclamation, declare that on and from the date of publication of such Proclamation or a later date specified therein, in respect of any area or areas defined in such Proclamation, it is necessary to exercise the powers conferred upon him by this section.

(3) For so long as such a Proclamation remains in force the Governor in Council may make regulations for or in respect of—

- (a) regulating or prohibiting the sale, supply, use or consumption of gas either generally or for any purpose specified in the regulation;
 - (b) providing for the appointment of any person or body of persons to exercise such functions as may be prescribed for the purpose of achieving the objects of this section;
 - (c) conferring or imposing upon such person or body of persons such functions, powers and duties as appear to him necessary or desirable to achieve the objects of this section;
 - (d) prescribing all such matters and things as are necessary or desirable to be prescribed for achieving the objects of this section.
- (4) A regulation made pursuant to subsection (3) of this section—
- (a) may be made to apply to the whole of, or to any area or areas within, Queensland;
 - (b) subject to subsection (5) of this section, may be made to be in force for any period or periods specified therein;
 - (c) may be made of general application throughout any area or of limited application within any area in relation to times, places, circumstances, conditions or restrictions specified therein;
 - (d) may constitute offences against any regulation and, in respect thereof, impose a penalty not exceeding five hundred pounds and in the case of a continuing offence, a further penalty not exceeding ten pounds for each day during which any such offence is continued.

(5) Unless it sooner expires or is revoked every regulation made pursuant to subsection (3) of this section shall continue in force (as amended from time to time) until the Proclamation, consequent upon which such regulation was made, is revoked.

The expiration or revocation of such a regulation shall not affect any liability incurred by any person on account of an offence against any provision of such regulation committed prior to such expiration or revocation and every investigation, proceeding, penalty or forfeiture in respect of such offence may be instituted, continued, imposed or enforced as if such regulation had not expired or been revoked.

(6) This section and the provisions of every regulation made pursuant to subsection (3) of this section shall—

- (a) have full force and effect notwithstanding any provision of this Act or of any other Act or law or any judgment or order of any court or any contract, agreement, deed, security, document or writing whatsoever;
- (b) bind the Crown.

(7) No claim or demand, action, suit or proceeding shall lie or be brought against Her Majesty or any Minister of the Crown or any person acting in the execution of his powers, duties or functions under this section or any regulation made pursuant to subsection (3) of this section for or in respect of any damage, loss or injury sustained, or alleged so to be, by reason of anything done or purporting to be done under this section or such regulation.

26. Penalty on gas supplier for insufficiency of supply. A gas supplier which maintains a gas undertaking in an area in respect of which a Proclamation is made under section twenty-five of this Act or is the holder of a franchise granted in relation to that area is liable to a penalty of one hundred pounds for every day during which such Proclamation remains in force with respect to that area.

A gas supplier shall not be penalized under this section if it be proved that the insufficiency in the supply of gas was caused by circumstances beyond its control.

27. Person in charge of gas works to be qualified. (1) A person shall not be in charge of a gas works unless he is—

- (a) a qualified person; or
- (b) authorized in writing by the Minister pursuant to this section to be in charge of the gas works in question and is so in charge in accordance with the conditions (if any) for the time being specified or notified by the Minister pursuant to this section.

(2) The Minister may authorize a person other than a qualified person to be in charge of a gas works for a period not exceeding three years subject to such conditions as he may specify in such authorization.

Upon written application by or on behalf of the gas supplier concerned, the Minister may, from time to time, renew such authorization for a period, in each case not exceeding three years, subject to such conditions as he may specify in such renewal.

(3) The Minister may, at any time—

- (a) vary the conditions specified in any authorization or renewal by written notice given to the gas supplier concerned;
- (b) cancel any authorization or renewal by written notice given to the gas supplier concerned.

(4) A gas supplier shall not—

- (a) permit a person who is neither a qualified person nor a person authorized under this section to be in charge of a gas works of that gas supplier; or
- (b) permit a person authorized under this section to be in charge of a gas works of that gas supplier otherwise than in accordance with the conditions for the time being specified or notified by the Minister.

28. Duty of gas supplier to supply consumers. Upon being required so to do by the owner or occupier of any premises situated along the route of or within twenty-five yards beyond the termination of any main of a gas supplier and within the area in relation to which such gas

supplier is the holder of a franchise such gas supplier shall, subject to this Act, give and continue to give a supply of gas for such premises and shall furnish and lay all pipes that may be necessary for such purpose:

Provided that a gas supplier shall not be obliged to give or continue a supply of gas to any premises in which the fittings do not comply with the Standard Gasfitting By-laws within the meaning of "*The Sewerage, Water Supply, and Gasfitting Acts, 1949 to 1960.*"

Such owner or, as the case may be, occupier, shall, upon demand therefor being made in writing by the gas supplier concerned, pay the cost of so much of any service pipe laid for the purpose of such supply in, upon or through land owned or occupied by him and the cost of so much of any service pipe in excess of a distance of sixty-five feet from any main of the gas supplier concerned laid for the purpose of such supply in, upon or through land other than land owned or occupied by him.

29. (1) Application for a supply of gas. An owner or occupier of premises which are by this Act entitled to a supply of gas from a gas supplier which is the holder of a franchise in relation to the area in which such premises are situated and who requires a supply of gas from that gas supplier for those premises shall give a written notice to the gas supplier concerned at its principal place of business wherein shall be specified—

- (a) the premises in respect of which such supply is required; and
- (b) a date upon which such supply is required to commence, which date shall be such as to allow the gas supplier a reasonable time after the giving of such notice in which to provide such supply.

(2) Security for supply and charges. If the gas supplier concerned treats the notice as a special application or as an application involving an extension of a main (which the gas supplier is hereby empowered to do) it may—

- (a) require such owner or occupier to enter into a written contract with the gas supplier to continue to take and pay for a supply of gas for at least twelve months commencing on the date specified in the notice as the date of commencement of supply;
- (b) require such owner or occupier to give security for the payment to it of all moneys which may become due and payable to it by such owner or occupier on account of such supply of gas or as the cost of any pipe to be laid by the gas supplier for the purpose of such supply and which cost is, by this Act, to be paid for by such owner or occupier.

The owner or, as the case may be, occupier shall comply as required by the gas supplier pursuant to this subsection.

(3) Where an owner or occupier of premises has given security under subsection (2) of this section, the gas supplier concerned shall, for so long as it holds such security, credit to the person who gave that security, at least once in each year, interest on the amount of that security at the rate of interest for the time being paid by the Commonwealth Savings Bank of Australia on deposits of a like amount by way of savings account.

Such interest shall be deducted from moneys due and payable by such person to the gas supplier concerned on account of gas supplied to the premises, but should there be no such moneys due and payable or to become due and payable within the ensuing six months such interest shall be paid to the person who gave such security.

Any amount whereby such interest exceeds the amount due and payable to the gas supplier concerned or to so become due and payable shall be paid to the person who gave such security.

(4) Discontinuance of supply. If—

- (a) damage is occasioned to the meter or fittings, the property of the gas supplier; or
- (b) the owner or, as the case may be, occupier of premises supplied with gas by a gas supplier fails to pay all moneys for the time being due and payable to the gas supplier on account of such supply, or for the hire of such meter or fittings,

the gas supplier concerned may discontinue a supply of gas to the premises concerned and may remove such meter and fittings.

The power conferred by this subsection is in addition to any other remedy afforded a gas supplier by law to secure payment for gas supplied by it to a consumer or for damage to any of its property.

(5) Penalty for unauthorized discontinuance of supply. A gas supplier which wilfully fails to give or continue a supply of gas of the quality and at the pressure prescribed to premises entitled thereto by this Act, the owner or occupier of which premises has complied with the provisions of this section, is liable to a penalty of five pounds for each day during which such failure continues unless such failure is authorized by the provisions of subsection (4) of this section.

30. Application to Minister to obtain a supply of gas. (1) Any twenty or more persons who are either owners or occupiers of premises situated within a part of the State defined in the application in this section referred to and within an area in relation to which a gas supplier is the holder of a franchise, and who require a supply of gas from that gas supplier for those premises may address an application in the prescribed form to the Minister whereby—

- (a) it is stated that such premises are not supplied with gas, could conveniently to such gas supplier be supplied with gas and ought reasonably to be supplied with gas by such gas supplier; and
- (b) each of such persons undertakes to be a consumer of a quantity of gas specified therein for at least twelve months commencing on the date a supply of gas to such premises commences.

The Minister may refer such application to a gas referee and, upon such reference, the gas referee shall hear and determine the matter in accordance with this Act.

(2) When the return from gross sales of gas supplied to such premises would not be less than twenty pounds per centum per annum on the outlay incurred by the gas supplier concerned in giving such supply, the gas referee may determine that the application be granted, either in whole or in part, and may order the gas supplier concerned, within a time to be fixed by such order, to lay such pipes (including the extension of any main) and to do all such other works and things necessary for the purpose of supplying gas to premises within the part of the State defined by him in such order.

(3) If, within the time limited therefor in the order, the gas supplier concerned has not complied with the order the Minister may cause such work and things to be done as are necessary to carry out the terms of the order.

All expense incurred by the Minister in carrying out the terms of the order shall be repaid to him by the gas supplier concerned.

A certificate under the hand of the Minister certifying the amount of such expense may be filed in the registry of a court which has jurisdiction in relation to a personal action arising otherwise than out of an accident in which a motor vehicle is involved in which the amount claimed is not more than the amount of such expense required by this Act to be paid by the gas supplier concerned.

Such certificate shall, at the time of its being so filed, be endorsed with or be accompanied by a statement of the amount of such expense which the gas supplier thereunto required by this Act has failed to pay and such endorsement or statement shall be verified as correct by the Minister.

Upon its being filed as aforesaid such certificate shall be of the same force and effect and all proceedings and remedies for the enforcement thereof with costs may be taken as if such certificate were a judgment of the court in the registry of which such certificate is filed ordering payment of the amount of such expense together with costs.

31. (1) Measurement of gas. A gas supplier shall cause all gas obtained or produced by it for the purpose of its gas undertaking to be measured by a station meter.

(2) Supply of gas through meters. A gas supplier shall not—

- (a) permit gas supplied by it to be supplied to a consumer through a meter by any person other than a gas supplier which supplies such gas to consumers through a gas undertaking;
- (b) subject to subsection (3) of this section, supply gas to a consumer otherwise than through a meter which—
 - (i) is the property of such gas supplier; and
 - (ii) has been tested and stamped by a gas examiner under and in accordance with this Act; or
- (c) supply gas to a consumer through a meter at any time after the expiration of the prescribed period after the date upon which such meter was last tested and stamped by a gas examiner under this Act.

(3) (a) In circumstances and under conditions approved by the chief gas examiner a meter tested and stamped by a gas examiner which is not the property of the gas supplier concerned, may be used to measure the quantity of gas supplied to a consumer.

(b) When one gas supplier supplies gas to another gas supplier the means of measuring the volume of gas so supplied shall be as approved by the chief gas examiner.

(4) (a) A gas supplier shall remove from premises every meter through which it supplies gas to such premises before the expiration of the prescribed period after the date—

- (i) upon which such meter was last tested and stamped by a gas examiner; or
- (ii) (where such meter has not previously been tested and stamped by a gas examiner) upon which such meter was installed in such premises,

and shall thereupon replace such meter with another meter which has been tested and stamped by a gas examiner within the prescribed period.

(b) A gas supplier shall deliver all meters required by this Act to be tested and stamped by a gas examiner to a gas examiner at an approved place and, after such meters have been so tested and stamped, shall remove the same without delay:

Provided that in circumstances approved by the chief gas examiner, a gas examiner may test a meter and, if he finds it correct, stamp the same without its removal from the premises of a consumer.

(5) This section applies, and shall be deemed always to have applied, in respect of every meter through which gas is supplied to a consumer immediately before the date of commencement of this Act and to a supply of gas through every such meter and any reference in this section to the prescribed period includes any such period which has expired before the date of commencement of this Act and any such period running partly before and partly after the date of commencement of this Act.

(6) Subject to subsection (7) of this section, a gas supplier which contravenes or fails to comply with any provision of this section commits a continuing offence against this Act and is liable to a penalty of one hundred pounds and, in addition, to a penalty of ten pounds for each day during which such offence continues.

(7) If a gas supplier satisfies the chief gas examiner that it is unable to comply with any provision of this section because of circumstances beyond its control, the chief gas examiner may, in writing, exempt such gas supplier from such provision for such period, and subject to such terms and conditions as he considers proper in the circumstances.

A gas supplier which has been exempted under this section and which contravenes or fails to comply with any term or condition of such exemption shall be deemed to commit an offence against this Act.

Upon a conviction of a gas supplier for an offence under this subsection the exemption granted to such gas supplier shall be revoked by the chief gas examiner by writing addressed to such gas supplier.

32. (1) Conservation and utilization of fuels. The Governor in Council may, by notification published in the *Gazette*, direct a gas supplier—

(a) to supply a particular type of gas;

(b) to use a particular type of feed stock for the purpose of supplying its gas,

in lieu of or in addition to any other gas or feed stock as the Governor in Council thinks fit.

The Governor in Council shall specify in such a direction a date before which or a period within which the act or thing directed to be done shall be done.

A copy of such notification shall be given to the gas supplier concerned.

A copy of the *Gazette* containing such a notification shall, upon its production in any proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein and that the direction so notified has been duly given.

The expression "feed stock" includes any gas and any substance from which gas can be produced.

(2) **Minister may direct with respect to undertaking.** The Minister may, in writing, direct a gas supplier to do any act or thing which, in the opinion of the Minister, is necessary for the maintenance by the gas supplier of a continuous supply of gas in accordance with the provisions of this Act to all consumers of gas supplied by it or to persons who are entitled, pursuant to this Act, to become such consumers and who have applied in that behalf.

The Minister shall specify in such a direction a date before which or a period within which the act or thing directed to be done shall be done.

(3) **Penalty for disobedience to direction.** A gas supplier which, having been directed by the Governor in Council or by the Minister pursuant to the provisions of this section, fails to comply with such direction before the date or within the period specified therein commits an offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable—

(a) in the case of a direction given by the Governor in Council, to a penalty of one hundred pounds; or

(b) in the case of a direction given by the Minister, to a penalty of ten pounds,

for each day after the said date or period during which its failure to comply continues.

33. Meters, pipes, &c., not subject to distress for rent, &c. The meters, pipes, fittings and other property of a gas supplier shall not be—

(a) subject to distress for rent of the premises where the same are for the purpose of being used by any consumer;

(b) taken in execution under any process of law against the consumer in whose possession the same may be for the time being;

(c) affected by any order for sequestration of the estate of any consumer or any order against his estate to a similar effect (including an order for the liquidation of a body corporate), subject to the *Bankruptcy Act* 1924–1960; or

(d) affected by the sale or other disposal of the premises occupied by any consumer.

PART V—LIQUEFIED PETROLEUM GAS

34. Application of this Part. This Part applies only with respect to suppliers of liquefied petroleum gas which supply such gas to consumers otherwise than through a gas undertaking and with respect to the supply of such gas otherwise than through a gas undertaking.

35. Standards of liquefied petroleum gas. Subject to this Part, every gas supplier which supplies liquefied petroleum gas shall supply such gas which is of such a quality and in and through such fittings as are, for the time being, prescribed.

36. Duty to supply liquefied petroleum gas. (1) Subject to this Part a person who holds himself out as a supplier of liquefied petroleum gas shall supply or cause to be supplied to any person who requires it and who is able and willing to pay the price therefor liquefied petroleum gas.

(2) The provisions of subsection (1) of this section shall not be construed to require that liquefied petroleum gas be supplied to any person where—

- (a) the supply of such gas or of proper fittings in or through which such gas should be supplied is insufficient to meet the requirements of that person;
- (b) that person has failed to sign a contract, if so required by the person called upon to supply such gas, in relation to the payment of deposit, rental or other charge in respect of fittings to be used in connection with the supply of such gas;
- (c) that person having been supplied with such gas, his account in respect of payment therefor is in arrear.

The burden of proof of any of the matters set forth in paragraph (a), (b) or (c) of this subsection shall be upon the person called upon to supply such gas.

37. Use of large containers of another without permission prohibited. A gas supplier shall not supply liquefied petroleum gas into a container which is of a greater water capacity than fifty pounds avoirdupois and is the property of another gas supplier without the permission of such other gas supplier first had and obtained.

38. (1) Authority to supply bulk liquefied petroleum gas. The Minister may authorize, in writing, a gas supplier to supply bulk liquefied petroleum gas within an area or within any part of an area and may from time to time renew an authority so granted.

Every such authority and every renewal thereof shall be in force for such period as is specified therein.

The Minister may impose upon such an authority or any renewal thereof such conditions as he considers reasonable and may from time to time vary the conditions for the time being applicable thereto.

The Minister shall cause every condition applicable to such an authority to be—

- (a) set forth in such authority or a renewal thereof where such condition is imposed upon the granting of such authority or, as the case may be, renewal; or
- (b) notified in writing to the holder of such authority where such condition is imposed at any other time.

(2) Cancellation of authority. Should the holder of an authority granted under subsection (1) of this section contravene or fail to comply with any condition applicable thereto the Minister may call upon him in writing to show cause why such authority should not be cancelled.

If within fourteen days after being so called upon the gas supplier concerned does not show such cause to the satisfaction of the Minister, the Minister may cancel such authority which shall thereupon cease to be of any force or effect.

(3) Offence by authorized gas supplier. The holder of an authority under subsection (1) of this section who contravenes or fails to comply with a condition applicable to his authority commits an offence against this Act.

39. Restriction on supply and use of liquefied petroleum gas. (1) Within a period of five years after the date of commencement of this Act or the date of the grant of a franchise in relation to the area concerned (whichever period is the later to expire),—

- (a) a gas supplier shall not supply within an area bulk liquefied petroleum gas to a consumer unless he is the holder of—
 - (i) a franchise granted in relation to such area; or
 - (ii) an authority granted pursuant to the provisions of this Act and supplies such gas in compliance with the terms of and conditions applicable to such authority; and
- (b) a person shall not consume within an area liquefied petroleum gas with which he has been supplied as bulk liquefied petroleum gas outside of such area.

(2) The provisions of subsection (1) of this section do not apply to or in relation to—

- (a) the supply to a gas supplier of bulk liquefied petroleum gas which is—
 - (i) intended to be supplied and is supplied by such gas supplier in accordance with law; or
 - (ii) intended to be supplied and is supplied by such gas supplier in containers of a water capacity of two hundred and forty pounds avoirdupois or less; or
- (b) the supply to a consumer of bulk liquefied petroleum gas which is intended to be used and is used by such consumer as a fuel for an internal combustion engine.

PART VI—NATURAL GAS

40. Priority of gas supplier to natural gas. (1) A gas supplier which is required by a contract to supply natural gas to another gas supplier—

- (a) shall give priority to a supply of such gas (not exceeding the quantity thereof stipulated by such contract) to such other gas supplier over a consumer who is not a gas supplier;
- (b) shall not enter into a contract for the supply of such gas to any other consumer unless the Governor in Council has approved of its entering into the contract in question.

(2) A gas supplier which contravenes or fails to comply with any provision of paragraph (a) of subsection (1) of this section commits an offence against this Act and, whether or not any other penalty is imposed in respect thereof, is liable to a penalty of two hundred and fifty pounds for each day during which its contravention or failure to comply continues.

If a gas supplier, in contravention of paragraph (b) of subsection (1) of this section, purports to enter into a contract for the supply of natural gas to any consumer such contract shall be void.

PART VII—REGULATION OF PRICE FOR GAS

41. Application of this Part. This Part applies only with respect to gas suppliers which supply gas to consumers pursuant to a franchise and with respect to the price of gas thus supplied.

42. Gas price to accord with this Part. A gas supplier shall not charge such a price or such prices for gas supplied by it as will return to it an amount in excess of that allowed by the provisions of this Part.

43. Charge related to assets. (1) A gas supplier may charge such a price or prices for gas supplied by it as, together with all other income derived from any business carried on by it in connection with its business of a gas supplier will return to such supplier, in respect of the financial year in which such charge is to be made, an amount which, when all expenses have been deducted, will yield a return which, expressed as a percentage of the value (as at the commencement of that financial year) of the assets, the property of such supplier, used and applied by it in or in connection with its business of a gas supplier, is equal, as nearly as may be, to three pounds per centum per annum above the effective annual rate of interest.

(2) The assets of a gas supplier the value of which may be taken into account in calculating the price to be charged for gas supplied by such gas supplier are set forth in Schedule III to this Act

For the purposes of this section, the amount of depreciation upon the assets of a gas supplier in respect of the financial year last preceding the financial year in which a charge for gas is to be made shall be an amount which is reasonable having regard to honest and prudent business practice in relation to a gas supply business of the type carried on by the gas supplier in question.

(3) Notwithstanding the provisions of subsection (1) of this section:—

- (a) If at any time the effective annual rate of interest is increased a gas supplier shall not increase the price of gas supplied by it so as to increase the percentage return referred to in subsection (1) of this section in respect of any one financial year by more than one-third of the increase in such rate;
- (b) If at any time the effective annual rate of interest is decreased a gas supplier which is, as a result of such decrease, required by subsection (1) of this section to reduce the price of gas supplied by it shall be deemed to comply with the provisions of that subsection if in respect of each financial year following such decrease, subject to any further variation in such rate, it reduces the price of such gas so as to decrease the percentage return referred to in subsection (1) of this section by at least one-third of the decrease in such rate until such percentage return is in accordance with the provisions of subsection (1) of this section.

(4) In this subsection—

(a) the term “expenses” means all outgoings incurred and appropriations made by the gas supplier in question in the financial year in question and which are of a type and amount usually or reasonably made in the honest and prudent conduct of a business similar to the business carried on by such gas supplier but does not include any outgoing incurred or appropriation made in respect of—

- (i) repayment of principal of any sum borrowed;
- (ii) payment of interest on any sum borrowed;
- (iii) payment to a reserve fund other than a reserve for maintenance or replacement of plant, equipment or premises used in or in connection with the business of such gas supplier;
- (iv) any item which, in the opinion of the chief gas examiner, notified in writing by him to such gas supplier is not necessary or reasonable for the efficient and economical conduct of the business of such gas supplier; and

(b) the expression “effective annual rate of interest” means the effective annual rate of interest payable in respect of the issue last preceding the commencement of the financial year in which a charge for gas is to be made of a cash or conversion loan issued by the Commonwealth, not being a loan for a term of less than ten years nor a compulsory loan nor a tax free loan, after making due allowance for any discount allowed or premium payable in respect of a subscription to such loan and any tax concession in excess of the rate of tax rebate applicable in respect of income derived from such loan at the date of commencement of this Act.

44. Dividend to accord with this Part. A gas supplier shall not pay a share dividend which is in excess of such dividend permitted by this Part.

45. Dividend restriction. (1) A gas supplier may, in respect of a financial year, pay a dividend—

- (a) on preference shares, of six pounds per centum per annum;
- (b) on ordinary shares, of three pounds per centum per annum above the effective annual rate of interest.

In this section the expression “effective annual rate of interest” has the same meaning as is assigned to that expression in section forty-three of this Act.

Where the Governor in Council is satisfied that—

(a) a particular gas supplier could pay a share dividend at a rate in excess of a rate prescribed by this subsection and it is just that, on account of the efficient conduct or the expansion of its gas supply business, such gas supplier be permitted so to do; and

(b) such payment is not likely to be met by an increase in the price or prices of gas supplied by such gas supplier to its consumers, he may, by Order in Council, permit such gas supplier to pay a share dividend in respect of the period specified in such Order in Council (not exceeding, in any case, a period of two financial years) at a rate in excess

of the rate prescribed by this subsection whereupon such gas supplier may, for such period or for so long as such Order in Council subsists (whichever is the shorter period), pay a share dividend at the rate so permitted.

(2) A gas supplier shall not make an issue of shares except with the consent of the Minister first had and obtained and any share issued by it shall not be issued for less than its nominal value.

(3) For the purposes of this section—

- (a) an amount paid by way of premium in respect of the issue of shares shall not be taken to form part of the paid-up capital of a gas supplier;
- (b) an issue of bonus shares shall be taken to be a distribution of dividend of an amount equal to the nominal value of such shares.

46. Maximum dividend not to be attained forthwith. Where the average of the five annual share dividends last paid by a gas supplier before the date of commencement of this Act has been less than the maximum share dividend permitted by this Part the gas supplier concerned shall not increase its share dividend in respect of any financial year by more than one-third of the difference between such average share dividend and such maximum share dividend.

47. (1) Appropriation of profit. Subject to the foregoing provisions of this Part, a gas supplier shall appropriate any profit earned by it in or in connection with its business of a gas supplier as follows:—

- (a) There shall be paid to an account to be kept by a gas supplier and called the “Dividend Reserve” so much of such profit as will maintain the credit of such account at a sum no greater than that required to pay one year’s share dividend at the maximum rate thereof permitted by this Part;
- (b) There shall be paid to an account to be kept by a gas supplier and called the “Consumers’ Price Adjustment Account” so much of such profit as is not appropriated pursuant to the provisions of paragraph (a) of this subsection.

(2) Application of existing gas reserve funds. A gas supplier shall, forthwith upon the commencement of this Act, transfer into the Dividend Reserve so much of the moneys standing to the credit of the reserve fund kept pursuant to the provisions of section fifteen of “*The Gas Acts, 1916 to 1964*,” at the date of commencement of this Act as he may lawfully so transfer consistently with the provisions of paragraph (a) of subsection (1) of this section and shall, forthwith upon such commencement, transfer any balance of such moneys to the Consumers’ Price Adjustment Account.

48. Application of moneys held pursuant to s. 47. (1) A gas supplier may apply moneys standing to the credit of the Dividend Reserve in or towards the payment of a lawful annual share dividend and for no other purpose.

(2) In each financial year a gas supplier shall apply moneys credited to the Consumers' Price Adjustment Account during the last preceding financial year—

- (a) when the Minister or the chief gas examiner has given a direction as to the manner in which or the time at which such moneys are to be applied, as so directed; or
- (b) in the absence of such a direction, in or towards the reduction in the price of gas supplied by it to consumers or otherwise for the benefit of such consumers.

49. Annual report by gas supplier. Within three months after the expiration of each financial year a gas supplier shall, in relation to that financial year, lodge with the chief gas examiner a balance-sheet of its affairs duly audited and certified, and a statement duly audited and certified of receipts and disbursements in respect of each account kept by it.

50. Inquiry by gas referee. (1) Whenever he is so directed by the Minister, a gas referee may inquire into any matter or matters touching—

- (a) the price being charged for a supply of gas;
- (b) the manner in which a gas supplier conducts its business of or connected with the supply of gas;
- (c) the practices of a gas supplier or any of its agents or servants in relation to its business of or connected with the supply of gas;
- (d) the business affairs generally of a gas supplier.

(2) For the purposes of such an inquiry the gas referee conducting the same shall have all the powers of a Commission of Inquiry under "*The Commissions of Inquiry Acts, 1950 to 1954*," save the powers conferred by those Acts upon a chairman of such a Commission who is a Judge of the Supreme Court and the provisions of those Acts shall apply in respect of every such inquiry.

(3) For the purposes of such an inquiry the gas referee conducting the same together with an officer of the Department of the Auditor-General or other person appointed by the Auditor-General and such other assistants as he may require may—

- (a) enter into and upon the premises of a gas supplier;
- (b) inspect and examine all works, plant and equipment used by a gas supplier in or in connection with its business of supplying gas;
- (c) observe and investigate the conduct of the business of a gas supplier in or in connection with supplying gas and the practice in relation thereto of the gas supplier, its servants and agents;
- (d) call for, examine, impound or take extracts from the books and records of a gas supplier relevant to its gas supply business;
- (e) audit the books and accounts of a gas supplier in relation to the business affairs generally of such supplier or to any part thereof.

(4) A person shall not obstruct or hinder a gas referee, an auditor or any assistant to a gas referee or auditor in the exercise of any power conferred by subsection (3) of this section.

51. Directions and price-fixing by gas referee upon inquiry. (1) In the course of or upon the completion of an inquiry made under section fifty of this Act the gas referee who is making or has made such inquiry may—

(a) give such directions as he thinks fit to a gas supplier with respect to the manner of conducting its business of or in connection with the supply of gas and any practice therein and any thing done in respect thereof;

(b) fix the price or prices to be charged for a supply of gas.

(2) A gas supplier which fails to comply with a direction of a gas referee given pursuant to the provisions of subsection (1) of this section forthwith or, where a period for compliance is therein limited, within such period commits an offence against this Act.

Penalty: Five hundred pounds for each period of seven days during which such failure to comply continues.

(3) When a gas referee has fixed the price to be charged for gas supplied by a gas supplier such supplier shall, for a period of six months commencing on the date on and from which the price-fixing order comes into operation, charge no more for a supply of such gas than the price so fixed as varied from time to time with the approval of a gas referee.

PART VIII—MISCELLANEOUS AND GENERAL

52. Supply of gas through meter restricted. A person shall not supply gas through a meter to a consumer in an area unless—

(a) he is the holder of a franchise granted in relation to such area; or

(b) he is authorized pursuant to this Act to supply gas within such area.

53. Use of meters, &c., restricted. Save as is prescribed by this Act, a gas supplier shall not install in any premises or use any measuring device to measure the volume of gas or any meter unless such measuring device or, as the case may be, meter is approved by the chief gas examiner and stamped in accordance with this Act.

54. Unauthorized interference with meters or fittings prohibited.

(1) A person shall not fraudulently—

(a) alter the index of a meter;

(b) prevent a meter from correctly registering the quantity of gas supplied to the premises whereon such meter is situated;

(c) interfere with a meter or a measuring device to measure the volume of gas or a seal or stamp affixed to any meter, measuring device or fitting; or

(d) abstract, cause to be wasted or diverted, or consume gas supplied by a gas supplier.

(2) A person convicted of a contravention of any provision of subsection (1) of this section, whether or not he is otherwise punished therefor, shall forfeit to the gas supplier concerned a sum not exceeding twenty-five pounds.

The provisions of this subsection shall not be construed to prejudice nor shall any action or order made pursuant thereto be taken to prejudice the right of a gas supplier to recover in full damage done to his property:

Provided that in no case shall a gas supplier recover twice in respect of the same damage.

(3) When an act has been done which act, if done fraudulently, would constitute a contravention of any provision of subsection (1) of this section, the existence under the control of the person who did that act, of means for causing the alteration, prevention, interference, abstraction, wastage, diversion, or consumption occasioned by that act, or any of them, shall be *prima facie* evidence that such alteration, prevention, interference, abstraction, wastage, diversion or consumption, as the case may be, was caused fraudulently by such person.

(4) When an act which constitutes a contravention of any provision of subsection (1) of this section has occurred in relation to any meter, measuring device or fitting the gas supplier concerned may discontinue the supply of gas theretofor supplied through or in connection with such meter, measuring device or, as the case may be, fitting until the act in question ceases or until every matter resulting from such act has been remedied, whichever is the later to occur.

55. Regulation of payment to gas supplier. A gas supplier shall not demand or accept payment for gas supplied by it through a meter (other than a prepayment meter) to a consumer—

- (a) unless, at or before such demand or, as the case may be, acceptance an account for such payment showing the prescribed particulars is given to such consumer;
- (b) of an amount in excess of the net amount shown as payable in the account given in accordance with the provisions of paragraph (a) of this section.

56. Prepayment meters. (1) A gas supplier shall not collect coins from a prepayment meter unless at the time of such collection he gives to the consumer who is party to the agreement under which the gas supplier supplied gas to the premises in question or to an agent of such consumer a receipt for the amount of money so collected.

A gas supplier who collects coins from a prepayment meter shall pay to such consumer or to such agent any amount of money in excess of the amount lawfully payable to such gas supplier in respect of gas supplied through such meter.

(2) Where gas is supplied through a prepayment meter to premises occupied, to the exclusion of the consumer who is party to the agreement under which such gas is supplied, by any lessee, tenant, licensee or other person holding from or in occupation by leave of such consumer the coins placed in such meter for a supply of gas through it shall be deemed to be the property of such consumer who shall be entitled to collect the same.

Such consumer shall be liable to pay to the gas supplier concerned the amount lawfully payable in respect of gas supplied through such meter and shall replace in such meter any amount of money in excess of such amount.

If the amount of money contained within such a meter is less than the amount lawfully payable to the gas supplier concerned in respect of gas supplied through such meter such consumer shall be liable to make good the amount of such deficit.

(3) A person shall not remove or attempt to remove money from a prepayment meter unless he is authorized by this Act or by the gas supplier whose property such meter is and he acts within the terms of his authority.

57. Hire of prepayment meter and fittings. A gas supplier may charge a consumer who is party to the agreement under which gas is supplied through a prepayment meter to any premises an annual sum not exceeding five per centum of the amount lawfully charged for gas supplied through such meter during the financial year in which such annual sum is to be charged for the hire of such meter and, where such gas supplier has installed the fittings to be used in association with such meter, for the hire of such fittings.

58. Accounts and audit. (1) A gas supplier shall keep its books and accounts pertaining to its business of or in connection with the supplying of gas separate and apart from its other books and accounts.

(2) The Minister may at any time authorize an officer of the Department of the Auditor-General or any person appointed by the Auditor-General in that behalf to examine and audit the books and accounts of a gas supplier and the person so authorized shall thereupon make such examination and audit and shall have and may exercise all powers and authorities necessary for that purpose.

(3) A person shall not obstruct or hinder any person authorized under subsection (2) of this section in the performance of his duty or in the exercise by him of any power or authority in aid thereof.

59. Returns. A gas supplier shall lodge with the chief gas examiner at the times prescribed and in or to the effect of the form prescribed or, in so far as such matters are not prescribed, as required by such examiner such statistics, information and returns as are prescribed or, in so far as they are not prescribed, as are required by such examiner.

60. Regulations. (1) The Governor in Council may from time to time make regulations not inconsistent with this Act providing for all or any matters and things which are necessary or desirable for the administration of this Act or for carrying this Act into effect.

Regulations may be made upon the passing of this Act.

(2) A regulation may be made to apply to the whole of Queensland or to any part or parts thereof or to any area or areas, and may be made to regulate the matter or thing, the subject of the regulation, either generally or in a particular case.

(3) Without limiting the generality of the power conferred by the provisions of subsections (1) and (2) of this section, regulations may be made for or in respect of all or any of the purposes set forth in Schedule IV to this Act.

(4) For the purposes of regulations made under any provision of this Act the power to regulate includes the power to prohibit.

61. Penalties. (1) A person who contravenes or fails to comply with any provision of this Act or with any order, direction or requisition lawfully given, made or issued pursuant to this Act commits an offence against this Act.

(2) A person who commits an offence against this Act shall, save where it is otherwise prescribed and the context does not indicate that this provision applies, be liable to a penalty of one hundred pounds.

(3) A prosecution for an offence against any provision of this Act shall be taken by way of summary proceeding under "*The Justices Acts, 1886 to 1965*," except that such proceeding may be instituted at any time within the time limited therefor by those Acts or within six months after the commission of the offence comes to the knowledge of the complainant whichever period shall be the later to expire.

A forfeiture under this Act shall be enforced and recovered by way of summary proceeding under "*The Justices Acts, 1886 to 1965*," or by way of action as for a debt due to the person in whose favour the forfeiture is prescribed in any court of competent jurisdiction:

Provided that where any forfeiture is prescribed to occur in consequence of the commission of an offence against any provision of this Act the Court by which the defendant is convicted of such offence may order the amount of such forfeiture to be paid in accordance with this Act.

(4) When a body corporate commits an offence against this Act every member of the governing body thereof shall be deemed to have committed that offence and to be liable to the prescribed penalty and to pay any forfeiture arising therefrom unless it be proved, in any particular case, that such member did not know, and had no reasonable means of knowing, of the commission of the offence.

62. Evidentiary provisions. In any proceeding in respect of an offence against this Act—

(a) an averment in the complaint that—

- (i) any person is a gas referee, the chief gas examiner, senior gas examiner or a gas examiner, a member of the governing body of a body corporate or a consumer of gas within a named area; or
- (ii) any place named in the complaint is within an area, or an area named in the complaint is an area within the meaning of this Act,

shall be *prima facie* evidence of the matter so averred and, in the absence of evidence to the contrary, shall be conclusive evidence thereof;

- (b) a certificate of analysis purporting to be signed by an analyst shall, upon its production in any proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of its contents unless the party against whom such certificate is to be tendered requires that the analyst concerned be called as a witness and gives notice thereof to the party proposing to tender such certificate at least three days before the date of the hearing of such proceeding.

63. Laying of complaint; service of analyst's certificate. (1) A complaint for an offence against this Act may be laid by the chief gas examiner, senior gas examiner, a gas examiner or by any person authorized in that behalf by the Minister.

(2) When it is proposed to tender an analyst's certificate on behalf of the complainant to a proceeding there shall be served on the defendant with the summons in that proceeding a copy of such certificate.

The endorsement of such certificate with an oath of service shall be *prima facie* evidence of such service.

(3) When it is proposed to tender an analyst's certificate on behalf of the defendant to a proceeding a copy of such certificate shall be given to the complainant at least seven days before the hearing.

If a copy of such certificate is not so given the court hearing the matter may adjourn the hearing on such terms as it thinks just.

64. Amendment to Schedules. (1) Subject to the provisions of this section, the Governor in Council may, by Order in Council, amend (by adding thereto or deleting therefrom) Schedules II and III to this Act and, in like manner, may revoke the said Schedules and substitute therefor a new schedule or schedules.

Schedule II and Schedule III as so amended or, as the case may be, substituted for the time being shall become and be Schedule II and Schedule III respectively to this Act.

(2) At least three months before the date on which he intends to exercise a power conferred by subsection (1) of this section the Governor in Council shall cause notice of his intention to be published in the *Gazette* and in such other manner as he considers desirable which notice shall particularize the respect in which he intends to exercise such power.

If, within twenty-one days after the date of the last publication of such notice sufficient cause is not shown to the Governor in Council by any gas supplier likely to be affected by such exercise of power or by at least twenty consumers likely to be so affected why such power should not be exercised the Governor in Council may proceed to exercise such power.

(3) If, at any time, the Governor in Council revokes Schedule II to this Act and substitutes therefor a new schedule—

- (a) the provisions of such new schedule shall apply with respect to the establishment and maintenance of every gas undertaking under this Act whether established before or after the date of such substitution and, with respect to a particular gas undertaking in relation to which the Governor in Council has exercised a power pursuant to subsection (2) of section twenty of this Act, shall so apply subject only to such modifications as the Governor in Council prescribes by Order in Council;
- (b) such provisions of such new schedule as the Governor in Council prescribes by Order in Council shall apply with respect to a supply of gas authorized pursuant to section fourteen of this Act in lieu of the provisions of Schedule II referred to in the last paragraph of subsection (1) of section twenty of this Act.

65. Publication of Proclamations, &c. (1) Every Proclamation, Order in Council and regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters therein contained;
- (c) take effect from the date of such publication unless some later date is therein specified for its taking effect in which event it shall take effect on and from such later date; and
- (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session and, if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing the same or any part thereof, that Proclamation, Order in Council or regulation or, as the case may be, part, shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the making of a further Proclamation, Order in Council or regulation.

SCHEDULE I

[s. 4]

ACTS REPEALED BY THIS ACT

Title of Act	Extent of Repeal
"The Gas Acts, 1916 to 1964"	The whole
"The Brisbane Gas Company Act of 1864" as subsequently amended	All sections except sections 5, 5A, 14, 15, 16, 18, 19 and 51
"The Brisbane Gas Company Act Amendment Act of 1924"	The whole
"The Brisbane Gas Company Acts Amendment Act of 1950"	The whole
"The Brisbane Gas Company Acts Amendment Act of 1952"	The whole
"The Brisbane Gas Company Acts Amendment Act of 1952 (No. 2)"	Sections 3, 4 and 5
"The Brisbane Gas Company Limited Acts Amendment Act of 1958"	The whole
"The Bundaberg Gas and Coke Company (Limited) Act of 1884"	The whole
"The Cairns Gas Company, Limited, Act of 1898"	All sections except sections 38, 39 and 43
"The Charters Towers Gas, Coke, Coal, and Light Company, Limited, Act of 1897"	All sections except sections 1, 2, 38 and 45
"The Charters Towers Gas, Coke, Coal and Light Company, Limited, Act Amendment Act of 1957"	The whole
"The Colonial Gas Association Limited Act of 1928" as subsequently amended	All sections except sections 1, 2, 44, 45 and 50
"The Colonial Gas Association Limited Act Amendment Act of 1958"	The whole
"The Gympie Gas Company (Limited) Act of 1884"	All sections except sections 38 and 40
"The Ipswich Gas and Coke Company (Limited) Act of 1877"	The whole
"Kyle Enterprises Pty. Ltd. Act of 1960"	The whole
"The Mackay Gas Company Limited Act of 1960"	All sections except sections 1, 3 and 4
"The Maryborough Gas and Coke Company (Limited) Act of 1878"	The whole
"The Mount Morgan Gas and Lighting Company, Limited, Act of 1899"	All sections except sections 26, 29 and 43
"The Rockhampton Gas and Coke Company (Limited) Act of 1874" as subsequently amended	The whole
"The Rockhampton Gas and Coke Company (Limited) Act of 1889"	The whole
"The South Brisbane Gas and Light Company (Limited) Act of 1885" as subsequently amended	All sections except sections 36 and 38
"The South Brisbane Gas and Light Company, Limited, Act of 1902"	The whole

SCHEDULE I—*continued*ACTS REPEALED BY THIS ACT—*continued*

Title of Act	Extent of Repeal
“ <i>The South Brisbane Gas and Light Company (Limited) Act Amendment Act of 1958</i> ”	The whole
“ <i>The Toowoomba Gas and Coke Company (Limited) Act of 1878</i> ”	The whole
“ <i>The Townsville Gas and Coke Company (Limited) Act of 1884</i> ”	All sections except sections 38 and 40
“ <i>The Warwick Gas, Light, Power, and Coal Company (Limited) Act of 1889</i> ”	All sections except sections 36 and 43
“ <i>The Wynnum and Manly Gas and Lighting Company, Limited, Act of 1912</i> ” as subsequently amended	All sections except sections 39, 40 and 45
“ <i>The Wynnum and Manly Gas and Lighting Company, Limited, Act Amendment Act of 1958</i> ”	The whole

SCHEDULE II

[s. 20]

Provisions Applicable to the Establishment and Maintenance of a Gas Undertaking

1. Meaning of term “holder”. In this Schedule the term “holder” means the holder for the time being of a franchise.

2. Power to produce gas. The holder may carry on the production of gas and such other materials as arise from the conversion and manufacture of the residuum occasioned by the production of gas, and the processes connected therewith, and from any substance that now is or may hereafter be used for such purposes, subject to the provisions of this Schedule.

3. Power of acquisition. The holder may, from time to time, acquire any estate or interest in such premises, works or fittings as he considers necessary for the purposes of his gas undertaking or for the purposes of this Act and may hold or dispose of any of the same subject,—

(a) in the case of a holder which is a body corporate, to the terms of its memorandum and articles of association; and

(b) in the case of a holder which is incorporated under an Act repealed in part by this Act, to the provisions of that Act which are not repealed by this Act.

4. Execution against holder's property restricted. Notwithstanding any rule of law, judgment, execution, distress or other process, the provisions of any covenant or any claim of right and, in the case of a holder which is a body corporate, notwithstanding the terms of its articles of association, a person shall not levy or seize in execution or attempt to recover any sum of money from the holder by taking or interfering with any fittings, the property of the holder which are laid in, under or through any street or place of which the holder is not the owner or occupier.

5. Power of salaried officers to hold shares in body corporate. In the case of a holder which is a body corporate, a salaried officer of the body corporate shall be competent to hold any share, estate or interest in the capital, stock, funds or property thereof, either solely or jointly with any other person or in trust for any other person or persons.

6. Authority to dispense with corporate seal. In the case of a holder which is a body corporate, it shall not be necessary to use the corporate seal in respect of any of the ordinary business of the holder, and any person duly authorized and empowered under the corporate seal may, without affixing such seal, execute any deed and do all other acts, matters, and things which may be required to be executed and done on behalf of the body corporate and in conformity with the provisions of this Act and with the articles of association of the body corporate.

7. Incorporated holder may act through agent. Where any act is required or permitted to be done or any document is required or permitted to be made by the holder which is a body corporate then, subject to the provisions of any other Act, the secretary or the authorized agent of such body corporate may do such act or make such document on behalf of such holder.

8. Powers of holder to erect structures and instal fittings. (1) Subject to the provisions of this Schedule the holder may, within the area of his franchise and from time to time—

- (a) erect such gas storage tanks, reservoirs, works and premises, instal such engines, machines and fittings, lay such pipes and make such drains, sewers and watercourses as he considers necessary for the proper conduct of his gas undertaking or for the purposes of this Act;
- (b) break up, cut into and remove the ground of any street and erect, instal or lay such fittings in, on or under any street or in or on any wall adjacent to a street or, with the consent of the owner thereof, do such like things in relation to any private way or other place as he considers necessary for the proper conduct of his gas undertaking or for the purposes of this Act;
- (c) maintain, repair and replace any thing erected, installed, laid or made pursuant to the provisions of this Act;
- (d) do all such acts and things as he considers necessary to secure and maintain a proper supply of gas to or for any street, private way or place or to improve or regulate such a supply or to carry this Act into effect.

(2) The holder—

- (a) shall pay just compensation in respect of any damage caused by his conduct of his gas undertaking or in his exercise of any power conferred on him by the provisions of subclause (1) of this clause;
- (b) shall not erect, replace, alter or add to any gas storage tank except on a site and in accordance with plans approved by the Local Authority or other authority charged with the control of the locality where such tank is or is to be erected;

(c) shall not break up, cut into or remove the ground of any street save in a part thereof approved by the Local Authority or other authority charged with the control of the street in question nor lay any fitting therein at a less depth than the prescribed minimum depth.

(3) For the purposes of the last preceding subclause the prescribed minimum depth shall be measured from the top of the fitting to the surface of the street in question and shall be two feet or such depth less than two feet as the Local Authority or other authority concerned approves (either generally or in a particular case) and where such Local Authority has fixed the permanent level of a street and has supplied to the holder information concerning the same the surface of such street shall be ascertained according to such permanent level.

9. Power of holder to enter and inspect any place. The holder may, within the area of his franchise by himself or his surveyor, agent or servant, at all reasonable times, and as often as he considers necessary, enter any place to which he supplies gas and inspect and examine all fittings in any place owned or occupied by any person with whom he has a contract for the supply of gas, and repair or replace any fittings as may be necessary, and ascertain the quantity of gas consumed and compare the amount so ascertained to be consumed with the tenor and nature of the contract in relation to such supply and consumption, and regulate the same in accordance therewith, and carry out any other lawful and reasonable purpose consistent with and relating to such contract.

10. Power to inspect fittings and to order removal thereof. The holder may, within the area of his franchise, by himself or his surveyor, agent or servant, at all reasonable times inspect all fittings which have been erected, installed or made by any person with whom the holder has a contract for the supply of gas.

If in the opinion of the holder, such fittings are incomplete or defective the holder shall not be obliged to give and such person shall not be entitled to obtain from the holder a supply of gas in fulfilment of such contract until such fittings are completed or such defect has been remedied to the satisfaction of the holder.

11. Power to contract for supply of gas. The holder may, contract with—

(a) a Local Authority or other authority charged with the control of any street within the area of his franchise for supplying such street with gas;

(b) any person for supplying with gas any premises, private way or place within the area of his franchise of which such person is owner or occupier or over which such person has control,

in such manner and on such conditions as the holder considers proper and as are consistent with the provisions of this Act.

12. Power to lay pipes from mains. Subject to the provisions of this Act and with the consent of the owner, occupier or other person having control of the private way or place in question, the holder may, within the area of his franchise instal and lay pipes from any main of the holder in or through any private way or place for the purpose of supplying gas.

13. (1) Notice of intention before breaking up ground. Subject to the provisions of subclause (3) of this clause, the holder shall not break up, cut into or remove the ground of any street unless he has first given notice of his intention so to do to the Local Authority or other authority charged with the control of the street in question.

Such a notice—

- (a) shall contain particulars of the street and the part thereof the ground of which is to be broken up, cut into or removed and the purpose of such breaking up, cutting into or removal;
- (b) shall be given to the clerk of such Local Authority or, as the case may be, the secretary to such other authority at least twenty-four hours before the date on which it is proposed to commence to break up, cut into or remove such ground.

(2) Times of breaking up, &c., to be approved. Subject to the provisions of subclause (3) of this clause, the holder shall not break up, cut into or remove the ground of any street except on such days and at such times as the Local Authority or other authority charged with the control of the street in question directs.

(3) Breaking up, &c., in emergency. Where, due to any defect in a main, pipe or fitting or to other serious cause, an emergency has arisen in the opinion of the holder he shall proceed to break up, cut into or remove the ground of any street as soon as practicable for the purpose of remedying such defect or eliminating such other cause and shall continue in such work until such purpose is accomplished:

Provided that where a holder proceeds pursuant to the provisions of this subclause he shall give the notice prescribed by subclause (1) of this clause as soon as possible.

14. Duty of holder upon breaking up, &c., of street. (1) When the holder has broken up, cut into or removed the ground of any street he shall—

- (a) with all reasonable speed complete the work for which such ground was broken up, cut into or removed and make good and reinstate such ground to as good a condition as before it was so broken up, cut into or removed and carry away the rubbish or surplus earth occasioned by such work;
- (b) at all times while such ground is broken up, cut into or removed, cause the site of such work to be fenced and guarded and, throughout the hours of darkness, cause a light sufficient for the warning of traffic to be set up and maintained against or near the site of such work for so long as such ground is broken up, cut into or removed; and
- (c) keep that part of the street the ground whereof has been reinstated and made good pursuant to the provisions of paragraph (a) of this subclause in good repair for a period of three months thereafter and for any further period not exceeding nine months during which such ground continues to subside.

(2) If the holder makes default in performing his duties under subclause (1) of this clause the Local Authority or other authority charged with the control of the street in question may do all acts and things necessary or desirable to make good such default and the expenses incurred by such Local Authority or other authority in so doing shall be repaid to it by the holder.

Such expenses may be recovered by way of proceeding under "*The Justices Acts, 1886 to 1965.*" or by way of action as for a debt due to such Local Authority or other authority in any court of competent jurisdiction.

15. Local Authority, &c., to supply information as to levels. A Local Authority or other authority charged with the control of the street or streets concerned may at any time and shall within fourteen days after the receipt by it of a request in that behalf from the holder supply to the holder full information concerning the permanent level of any street or streets situated within the area of such holder.

Where a Local Authority or other authority, upon request by the holder has failed to comply with the provisions of the preceding paragraph and the holder has thereafter erected, installed or laid fittings in or under a street in respect of which such failure has occurred, if such Local Authority or other authority changes the permanent level of such street so as to raise, sink or otherwise alter the situation, line or direction of any of such fittings the holder may sink, raise, or otherwise alter the situation, line or direction of such fittings and the expenses incurred by him in so doing shall be repaid to him by the Local Authority or other authority concerned.

Such expenses may be recovered by way of proceeding under "*The Justices Acts, 1886 to 1965.*" or by way of action as for a debt due to such holder in any court of competent jurisdiction.

16. (1) Local Authority, &c., may give notice of intention to alter levels. The Local Authority or other authority charged with the control of any street may give to the holder notice of its intention to alter the permanent level of such street and may require the holder to vary the situation, line or direction of any of his fittings in or under such street so that it conforms to the requirements of this Schedule and, if the holder does not comply with such a requisition within the time specified therein the Local Authority or other authority may at its own expense cause to be varied the situation, line or direction of such fittings as the circumstances may require.

(2) Damage to fittings to be made good. If in the course of varying the situation, line or direction of any fittings pursuant to subclause (1) of this clause damage is done to any fittings of the holder the Local Authority or other authority which caused such variation to be made shall forfeit and pay to the holder the amount of such damage. ¹

17. (1) Fraudulent appropriation of gas. A person shall not—

- (a) lay a pipe to communicate with a fitting of the holder without the consent of the holder first had and obtained;
- (b) use an appliance of larger dimensions than those agreed upon with the holder;
- (c) consume more gas than he has contracted for with the holder;
- (d) supply any other person with gas supplied to him by the holder unless such firstmentioned person is a gas supplier and such gas has been supplied to him by the holder for the purpose of supply to another.

Penalty: Two pounds for every day or part thereof such pipe is so laid, such appliance is used, such gas is consumed or, as the case may be, such gas is supplied.

The amount of a penalty imposed in respect of a contravention of any provision of this subclause shall be payable to the holder.

(2) **Damage to fittings; waste of gas.** A person shall not—

- (a) wilfully or negligently damage any fittings of the holder;
- (b) alter, remove or interfere with any fittings of the holder;
- (c) waste or improperly use gas supplied to him by the holder.

Penalty: Five pounds and (whether or not any other penalty is imposed) three times the amount of damage done to the fitting concerned or loss occasioned to the holder.

The amount of a penalty imposed in respect of a contravention of any provision of this subclause and the amount of any damage or loss ordered to be paid shall be payable to the holder.

(3) **Satisfaction for damage.** A person who—

- (a) wilfully or negligently does any damage to any fitting of the holder or of any other person; or
- (b) wastes gas supplied to him by the holder; or
- (c) consumes gas for a period longer than that for which he has contracted with the holder,

shall, upon demand, forfeit and pay to the holder or, in the case referred to in paragraph (a), such other person, as the case may require, an amount by way of satisfaction for the damage done or the gas wasted or consumed.

(4) In this clause the term “negligently” means in such manner as would render the doer of the act in question liable in damages in a civil action brought in respect thereof.

18. Duty to prevent escape of gas. The holder, being the owner of any fitting erected, installed or laid in, on or under any street from which fitting gas is found to be escaping, shall forthwith upon learning of such escape take effectual measures to stop the escape of such gas.

The holder who, within forty-eight hours after learning of such an escape of gas, does not stop such escape commits an offence against this Act.

Penalty: Five pounds for each day or part thereof after the expiration of such period of forty-eight hours during which such gas continues to escape.

19. (1) Duty to prevent contamination of water. When water which is intended for the use of inhabitants of an area is contaminated or affected by gas of the holder he shall forthwith upon learning of such contamination or affection take effectual measures to prevent further such contamination or affection.

The holder who, within forty-eight hours after learning of such contamination or affection, does not prevent further such contamination or affection shall forfeit and pay to the Local Authority or other authority charged with the control of the supply of water concerned a sum not exceeding ten pounds for each day or part thereof during which contamination or affection is caused to such water after the expiration of such period of forty-eight hours.

(2) **Search for cause of contamination.** Should a question arise whether water referred to in subclause (1) of this clause is or is likely to be contaminated or affected by gas of the holder the Local Authority or other authority charged with the control of the supply of water concerned may by its servants and agents dig to and about the fittings of the holder wherever situated and may examine such fittings whether situated above or below the ground.

If it is established that gas of the holder is causing or is likely to cause such contamination or affection the holder shall forfeit and pay to the Local Authority or other authority concerned the expenses incurred in and in connection with such digging and examination and reinstatement of any ground necessitated thereby but otherwise such expenses shall be borne by such Local Authority or other authority which shall also forfeit and pay to the holder a sum in satisfaction for damage occasioned thereby to any fittings of the holder.

20. Holder may cut off supply of gas. When a person who has consumed gas of the holder in any place—

(a) pursuant to an agreement with the holder; or

(b) without lawful authority,

fails to pay to the holder the price of such gas within seven days after demand therefor has been made upon him by the holder, the holder may, subject, in the case referred to in provision (a), to the terms of the agreement, cut off the supply of gas to such place.

The provisions of this clause shall not be construed to prejudice any other right or remedy of the holder to recover the price of such gas.

21. Obstruction prohibited. A person shall not obstruct or hinder the holder or his servants or agents a Local Authority or other authority, its servants or agents in the exercise or performance by him, it or them of any power or duty conferred or imposed by this Schedule.

Penalty : Twenty pounds.

A person convicted of a contravention of the provisions of this clause shall, whether or not any other penalty is imposed upon him, forfeit and pay to the holder the Local Authority or, as the case may be, other authority the amount of any loss or damage occasioned to him or it by such contravention.

22. Power of court to assess forfeitures. Where by this Schedule it is prescribed that an indeterminate sum shall be forfeited and paid to any person it is implied that a court seised of a matter in issue giving rise to such forfeiture may assess the amount to be so forfeited and paid and may order the forfeiture and payment of the amount so assessed.

23. Holder's right to refuse to supply gas restricted. (1) The holder shall not refuse to supply gas to a person for the reason that such person is using or is contemplating the use of any other method of lighting, heating or power in substitution for or in combination with gas.

A person who alleges that a refusal of the holder to supply him with gas is in contravention of this clause may by way of summary proceeding under "*The Justices Acts, 1886 to 1965*," cause a Magistrates Court to enquire into the reason for such refusal and, if such court is satisfied that such refusal is in contravention of this clause, it shall order the holder to supply and to continue to supply such person with gas until lawful cause to discontinue such supply exists.

The holder who fails to comply with such an order within thirty days after the making thereof or, where a period for compliance is therein limited, within such period, commits an offence against this Act and is liable to a penalty of five pounds for each day thereafter during which he fails to supply such person.

(2) A proceeding for an enquiry under this clause shall be instituted in the Magistrates Court constituted for the district in which are situated the premises in respect of which a supply of gas has been refused.

24. Prohibition of differential terms. If the holder supplies gas to any consumer he shall supply it on the same terms as those on which any other consumer is entitled under similar circumstances to a similar supply of gas from such holder.

SCHEDULE III

[s. 43]

List of Assets to be utilized in the calculation of Price of Gas

Premises occupied by a gas supplier and used by it in or in connection with the conduct of its business of a gas supplier.

Office furniture, equipment and requisites used or held by a gas supplier for the purposes of its business of a gas supplier.

Plant, equipment, meters and fittings used or held by a gas supplier for the purposes of its business of a gas supplier.

Reserves of gas or gas producing stocks held by a gas supplier for the purposes of its business of a gas supplier.

All other material or things used or held by a gas supplier for the purposes of its business as a gas supplier.

SCHEDULE IV

[s. 60]

Purposes for which Regulations may be made

1. Providing for and regulating the powers, duties and authorities of a gas examiner.

2. Providing for and regulating the testing, examination and stamping of meters, the registration and regulation of meters and the installation of meters upon consumers' premises.

3. Providing for and regulating the installation of fittings.

4. Providing for and regulating the composition, characteristics and quality of gas and the pressure at which it is to be supplied.

5. Providing for and regulating the safe storage, handling and transport of gas and the maintenance of plant and fittings used in or in connection with the production, treatment, storage, handling and transport of gas.

6. Providing for and regulating the construction, marketing, and maintenance of fittings.

7. Providing for the places and methods for the testing of gas and the apparatus to be used therein.

8. Providing for the location, arrangement and requirements of installations to be used for the purpose of storing, distributing or filling containers with liquefied petroleum gas and the conditions upon which such gas may be supplied.

9. Providing for records to be kept by gas suppliers and the furnishing of information to the chief gas examiner in respect of meters used by such suppliers for the purpose of the supply and consumption of gas.

10. Providing for returns and information to be furnished to the chief gas examiner, forms to be used and fees to be paid for the purposes of this Act.

11. Providing for the fixing and variation of prices for gas.

12. Providing for and regulating the presentation to consumers of accounts for gas supplied by a gas supplier, the contents of such accounts and the payment thereof.