



New South Wales

Energy Amendment (Pipelines and Gas Safety) Bill 2024

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are—

- (a) to amend the *Gas Supply Act 1996*, including as follows—
 - (i) to increase the maximum penalties for particular offences and provide for continuing offences,
 - (ii) to expand and clarify the powers of government inspectors, in a way that is consistent with the powers of inspectors under the *Pipelines Act 1967*,
 - (iii) to make it an offence for a person to damage gas works,
 - (iv) to provide for requirements to give information to government inspectors and answer questions from government inspectors,
 - (v) to allow the regulations to prescribe requirements for network operators to give the Minister for Energy (the **Minister**) or the Secretary of the Department of Climate Change, Energy, the Environment and Water (the **Secretary**) specified information, including information about accidents and incidents,
 - (vi) to increase the maximum penalties the Local Court may impose in proceedings for offences under the *Gas Supply Act 1996*,
 - (vii) to enable government inspectors to issue penalty notices for certain offences under the *Gas Supply Act 1996*, and
- (b) to amend the *Pipelines Act 1967*, including as follows—
 - (i) to increase the maximum penalties for particular offences and provide for continuing offences,

- (ii) to expand and clarify the powers of inspectors, in a way that is consistent with the powers of government inspectors under the *Gas Supply Act 1996*,
 - (iii) to update offences relating to the theft of substances being conveyed by a pipeline and the damage of, or interference with the operation of, a pipeline,
 - (iv) to provide for requirements to give information to inspectors and answer questions from inspectors,
 - (v) to increase the maximum penalties the Local Court may impose in proceedings for offences under the *Pipelines Act 1967*, and
- (c) to make consequential amendments to the *Criminal Procedure Act 1986*.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Gas Supply Act 1996 No 38

Schedule 1[1] provides that the offence of operating a distribution pipeline without an authority is a continuing offence.

Schedule 1[2] provides that the offence of operating a distribution system for liquefied petroleum gas or certain other gases without an authority is a continuing offence.

Schedule 1[3] gives government inspectors the following powers—

- (a) the power to direct a network operator to take reasonable steps to disconnect premises from the gas network, discontinue gas supply to premises, reconnect premises to the gas network or continue gas supply to premises if necessary to ensure compliance with the *Gas Supply Act 1996* and the regulations,
- (b) the power to disconnect premises from the gas network or discontinue gas supply to premises if necessary to ensure the safety of the gas network.

Schedule 1[5] gives government inspectors the power to enter premises for the purposes of preventing or mitigating harm from a hazardous event relating to the supply of gas.

Schedule 1[6]–[10] clarify certain requirements that apply to government inspectors and gas industry inspectors, including in relation to giving notice to owners and occupiers of land and the use of reasonable force, when the inspectors enter land.

Schedule 1[11] and [12] provide that the Secretary has the obligation to fence and secure, and to fill or level a pit, trench, hole or bore made by a government inspector in certain circumstances.

Schedule 1[19] requires a person to return the person's certificate of authority to the Secretary or relevant network operator as soon as practicable after ceasing to be an inspector.

Schedule 1[20] provides that a government inspector may exercise a power to enter residential premises without a warrant for the sole purpose of accessing a consumer service.

Schedule 1[21] gives government inspectors the following powers—

- (a) powers in relation to seizing things, dealing with seized things, carrying out tests, and examining, inspecting, copying and removing records or documents,
- (b) the power to direct network operators to carry out specified activities or take specified actions to ensure the safe supply of gas by the network operator, prevent damage to gas works or ensure compliance with the *Gas Supply Act 1996* and the regulations,
- (c) the power to direct persons to stop carrying out an activity if the activity is damaging, or is likely to damage, gas works or the activity is threatening the safe supply of gas or stopping the activity is necessary to ensure compliance with the *Gas Supply Act 1996* and the regulations,

- (d) the power to direct a person, or persons generally, to not enter, or to leave, a place by a particular time or for a particular period—
 - (i) to enable the proper investigation of a hazardous event or compliance with the *Gas Supply Act 1996* and the regulations, or
 - (ii) because of a potential risk to the safety of persons at the place.

Schedule 1[21] also gives government inspectors the power to require a person to give relevant information, including health information, or answer questions, including questions relating to health information. The amendment also provides that—

- (a) a person is not guilty of an offence for failing to comply with a requirement to give information or answer a question unless the person was warned on that occasion that a failure to comply with the requirement is an offence, and
- (b) a person is not excused from a requirement to give information or answer a question on the ground that the information or answer might incriminate the person or make the person liable to a penalty.

Schedule 1[22] enables a government inspector to apply for a warrant of entry to land, including a building used for residential purposes, if it is necessary for the government inspector to enter and inspect the land.

Schedule 1[23] increases the maximum penalties for offences in relation to carrying out excavation work without confirming whether there are underground gas pipelines in the vicinity of the proposed work, and carrying out excavation work other than in accordance with the regulations.

Schedule 1[24] increases the maximum penalties for the following offences—

- (a) the failure by a person who damages an underground gas pipeline to notify the relevant network operator of the damage,
- (b) interfering with a gas meter without the relevant network operator's authority,
- (c) interfering with a seal on a gas installation without the relevant network operator's authority,
- (d) connecting a gas installation to a distribution pipeline or distribution system without the relevant network operator's authority,
- (e) increasing the capacity of an existing connection to a network operator's distribution pipeline or distribution system without the relevant network operator's authority,
- (f) altering or adding to a gas installation that is connected to a network operator's distribution pipeline or distribution system to cause the supply of gas to be incorrectly metered without the relevant network operator's authority,
- (g) preventing, hindering or obstructing an inspector from exercising the inspector's functions or impersonating an inspector.

Schedule 1[25] increases the maximum penalty for the theft of gas from a distribution pipeline or distribution system and provides that the offence is a continuing offence.

Schedule 1[27] increases the maximum penalty for the offence of interfering with a network operator's gas works and makes it an offence for a person to damage gas works. **Schedule 1[26] and [28]** make consequential amendments.

Schedule 1[29] makes it an offence for a person to interfere with or move a thing seized by government inspectors or to enter or be at a place where a seized thing is being kept.

Schedule 1[30] increases the maximum penalty for individuals who fail to comply with a cyber security direction and provides that the offence is a continuing offence.

Schedule 1[31] enables the regulations to provide for requirements for network operators to give the Minister or Secretary specified information, including information about accidents and

incidents involving distribution pipelines and distribution systems, the operation of basic metering equipment and gas leakages.

Schedule 1[32] provides as follows—

- (a) directions or notices given by inspectors may be revoked or varied by later directions or notices,
- (b) if there is an inconsistency between a direction given by a government inspector and a direction given by a gas industry inspector, the direction of the government inspector prevails to the extent of the inconsistency.

Schedule 1[33] increases the maximum penalties the Local Court may impose in proceedings for an offence and ensures the provisions relating to proceedings for offences in the Supreme and Local Courts are consistent with similar provisions in the *Pipelines Act 1967*.

Schedule 1[34] inserts regulation-making powers in relation to—

- (a) the decommissioning of gas networks and the cessation of operation of gas networks, including decommissioning and abandonment planning and other requirements for network operators, and
- (b) the suspension of operation of gas networks, including suspension planning and other requirements for network operators.

Schedule 1[35] inserts provisions to enable—

- (a) the delegation of the functions of the Minister and the Secretary, and
- (b) certain offences to be continuing offences, and
- (c) government inspectors to issue penalty notices for certain offences.

Schedule 1[4] and [13]–[18] make minor, consequential amendments in relation to government inspectors and gas industry inspectors.

Schedule 1[36] makes consequential amendments to definitions used in the *Gas Supply Act 1996*.

Schedule 2 Amendment of Pipelines Act 1967 No 90

Schedule 2[2] and [3] make further provision for the delegation of the Minister's functions to the Secretary.

Schedule 2[4] increases the maximum penalties for the unlawful construction and operation of pipelines.

Schedule 2[8] inserts a regulation-making power, which relates to the compulsory acquisition of certain land on which pipelines may be constructed and operated.

Schedule 2[11] provides for offences relating to making or arranging false entries in the register of pipeline licences and producing or tendering false documents. The proposed provision also increases the maximum penalty.

Schedule 2[12] inserts requirements in relation to the carrying out of excavation work. **Schedule 2[26]** inserts a related regulation-making power. Schedule 2[12] also inserts a requirement to notify a licensee if the person damages the licensee's pipeline.

Schedule 2[13] enables the Minister and the Secretary to give directions in relation to pipeline suspension plans.

Schedule 2[14] requires a person whose appointment as an inspector ends to return the person's certificate of authority to the Minister, or a person nominated by the Minister, as soon as practicable after the end of the appointment or by an earlier day directed by the Minister or the Secretary. The amendment also increases the maximum penalty for failing to return the certificate and provides that the offence is a continuing offence.

Schedule 2[15] makes it an offence for a person to prevent, hinder or obstruct an inspector in the exercise of a function under the *Pipelines Act 1967* or to impersonate an inspector.

Schedule 2[16] gives inspectors the following powers—

- (a) the power to enter certain land at any reasonable time to exercise functions under the *Pipelines Act 1967*,
- (b) powers in relation to seizing things, dealing with seized things, carrying out tests, and examining, inspecting, copying and removing records or documents,
- (c) the power to direct licensees to carry out specified activities or take specified actions to ensure the safe conveyance of substances in a pipeline, prevent damage to a pipeline or ensure compliance with the *Pipelines Act 1967* and the regulations,
- (d) the power to direct persons to stop carrying out an activity if the activity is damaging, or is likely to damage, a pipeline or the activity is threatening the safe conveyance of substances in a pipeline or stopping the activity is necessary to ensure compliance with the *Pipelines Act 1967* and the regulations,
- (e) the power to direct a person, or persons generally, to not enter, or to leave, a place by a particular time or for a particular period to enable the proper investigation of a hazardous event or compliance with the *Pipelines Act 1967* and the regulations or because of a potential risk to the safety of persons at the place.

Schedule 2[16] also gives inspectors the power to require a person to give relevant information, including health information, or answer questions, including questions relating to health information. The amendment also provides that—

- (a) a person is not guilty of an offence for failing to comply with a requirement to give information or answer a question unless the person was warned on that occasion that a failure to comply with the requirement is an offence, and
- (b) a person is not excused from a requirement to give information or answer a question on the ground that the information or answer might incriminate the person or make the person liable to a penalty.

Schedule 2[16] also enables an inspector to apply for a warrant of entry to land, including a building used for residential purposes, if it is necessary for the inspector to enter and inspect the land.

Schedule 2[17]–[19] make consequential amendments in relation to the new power to give certain directions.

Schedule 2[20] makes it an offence for a person to interfere with or move a thing seized by inspectors or to enter or be at a place where a seized thing is being kept.

Schedule 2[21] updates the following offences—

- (a) the offence of abstracting, arranging to be wasted or diverted, consuming or using any substance being conveyed by a pipeline without lawful excuse,
- (b) the offence of damaging or interfering with the operation of a pipeline without lawful excuse.

Schedule 2[22] enables inspectors to issue penalty notices for certain offences.

Schedule 2[23] increases the maximum penalties that the Local Court may impose in proceedings for an offence and ensures the provisions relating to proceedings for offences in the Supreme and Local Courts are consistent with similar provisions in the *Gas Supply Act 1996*.

Schedule 2[24] and [25] insert regulation-making powers to—

- (a) enable the Minister to direct a licensee or former licensee to dispose of property brought onto land in connection with a pipeline, and

- (b) provide for the suspension of operation of pipelines, including suspension planning and other requirements for licensees.

Schedule 2[1], [5]–[7], [9] and [10] make law revision amendments and minor and consequential amendments.

**Schedule 3 Amendment of Criminal Procedure Act 1986 No
209**

Schedule 3[1]–[3] make amendments consequent on amendments in proposed Schedules 1 and 2.