

First print



New South Wales

Gas Industry Restructuring Amendment (Customer Contracts) Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Gas Industry Restructuring Act 1986* so as to provide for the transfer of certain gas supply contracts, supplies of gas and other related assets, rights and liabilities from AGL Gas Networks Limited to certain corporations holding gas supply authorisations under the *Gas Supply Act 1996*. These transfers are to be done for the purpose of achieving compliance with the "ring fencing" requirements of the Access Code that applies in relation to the operation of gas distribution networks.

Outline of provisions

Clause 1 specifies the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the *Gas Industry Restructuring Act 1986*.

Schedule 1

Schedule 1 inserts a new Part 5A into the Principal Act. The new Part contains the following provisions:

Proposed section 71, which defines certain words and expressions for the purposes of the proposed Part.

Proposed section 72, which empowers the Minister, by order published in the Gazette, to transfer certain gas supply contracts, supplies of gas and other related assets, rights and liabilities from AGL Gas Networks Limited (ACN 003 004 322) to certain corporations (AGL Retail Energy Limited (ACN 074 839 464), AGL Retail Energy (Contract Sales) Limited (ACN 076 092 067) and AGL Wholesale Energy Limited (ACN 074 821 720)), being corporations that hold gas supply authorisations under the *Gas Supply Act 1996*.

Proposed section 73, which gives effect to a transfer order made by the Minister under proposed section 72.

Proposed section 74, which provides that a transfer order takes effect on such day as is specified in the order.

Proposed section 75, which provides that the transfers effected by a transfer order, and any consequential transactions, are not chargeable with duty under the *Stamp Duties Act 1920*.

Proposed section 76, which provides that the Minister may, by order in writing, confirm the transfer of any particular gas supply contract, supply of gas or other asset, right or liability so as to remove any doubt as to whether or not it is included in the operation of a particular transfer order.

First print



New South Wales

Gas Industry Restructuring Amendment (Customer Contracts) Bill 1997

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New South Wales

Gas Industry Restructuring Amendment (Customer Contracts) Bill 1997

No. , 1997

A Bill for

An Act to amend the *Gas Industry Restructuring Act 1986* so as to provide for the transfer of certain gas supply contracts, supplies of gas and other related assets, rights and liabilities from AGL Gas Networks Limited to certain corporations holding gas supply authorisations under the *Gas Supply Act 1996*; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Gas Industry Restructuring Amendment (Customer Contracts) Act 1997*.

2 Commencement

5

This Act commences on the date of assent.

3 Amendment of Gas Industry Restructuring Act 1986 No 213

The *Gas Industry Restructuring Act 1986* is amended as set out in Schedule 1.

**Schedule 1 Amendment of Gas Industry
Restructuring Act 1986**

(Section 3)

Part 5A

Insert after Part 5:

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**Part 5A Transfer of rights and liabilities under
customer supply contracts**

71 Definitions

In this Part:

asset means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities choses in action and documents. 10

gas has the same meaning as in the *Gas Supply Act 1996*. 15

gas supply arrangement means a contract, agreement or other arrangement for the supply of gas.

liability means any liability, debt or obligation (whether present or future and whether vested or contingent).

right means any right, power, privilege or immunity (whether present or future and whether vested or contingent). 20

section 72 order means an order in force under section 72.

transferee company means AGL Retail Energy Limited (ACN 074 839 464), AGL Retail Energy (Contract Sales) Limited (ACN 076 092 067) or AGL Wholesale Energy Limited (ACN 074 821 720). 25

transferor company means AGL Gas Networks Limited (ACN 003 004 322). 30

72 Minister may direct transfer of gas supply arrangements

- (1) The Minister may, by order published in the Gazette, direct that:
- (a) any gas supply arrangement under which the transferor company supplies gas to any other person or body, and 5
 - (b) any gas owned by the transferor company, and
 - (c) any other asset, right or liability of the transferor company that, in the opinion of the Minister, is related to any such gas supply arrangement or gas, 10
- be transferred from the transferor company to such transferee company as is specified in the order.
- (2) Such an order:
- (a) may relate to:
 - (i) any particular gas supply arrangement, gas or other asset, right or liability, or 15
 - (ii) any particular class of gas supply arrangement, gas or other asset, right or liability, and
 - (b) may be made on such terms and conditions as are specified in the order. 20
- (3) This section expires on 1 July 1999.

73 Vesting of gas supply arrangements in transferee

- (1) When any gas supply arrangement, gas or other asset, right or liability is transferred by a section 72 order, the following provisions have effect: 25
- (a) any such gas or other asset vests in the transferee company by virtue of this section and without the need for any conveyance, transfer, assignment or assurance, 30
 - (b) any such right or liability, and any right or liability of the transferor company under or in connection with:

-
- (i) any such gas supply arrangement, or
(ii) any such gas, or
(iii) any such other asset,
becomes, by virtue of this section, the right or liability of the transferee company, 5
- (c) all proceedings relating to:
(i) any such gas supply arrangement, or
(ii) any such gas, or
(iii) any such other asset, right or liability,
that were commenced before the transfer by or against the transferor company or a predecessor of the transferor company and pending immediately before the transfer are taken to be proceedings pending by or against the transferee company, 10
- (d) any act, matter or thing that was done or omitted to be done in relation to: 15
(i) any such gas supply arrangement, or
(ii) any such gas, or
(iii) any such other asset, right or liability,
before the transfer by, to or in respect of the transferor company is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee company. 20
- (2) The operation of this section is not to be regarded: 25
(a) as a breach of contract or confidence or otherwise as a civil wrong, or
(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of: 30
(i) any gas supply arrangement, or
(ii) any gas, or
(iii) any other asset, right or liability, or

- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of:
 - (i) any gas supply arrangement, or 5
 - (ii) any gas, or
 - (iii) any other asset, right or liability.
- (3) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (4) A transfer is subject to the terms and conditions of the section 72 order by which it is effected. 10
- (5) No compensation is payable to any person or body in connection with a transfer effected by a section 72 order except to the extent (if any) to which the order so provides. 15

74 Date of vesting

A section 72 order takes effect on the date specified in the order.

75 Stamp duty

Stamp duty is not chargeable for or in respect of: 20

- (a) a transfer effected by a section 72 order, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer.

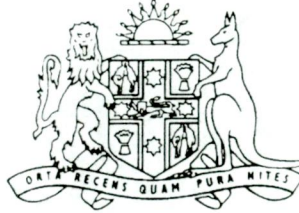
76 Confirmation of vesting

- (1) The Minister may, by notice in writing, confirm a transfer of: 25
 - (a) a particular gas supply arrangement or a particular class of gas supply arrangement, or
 - (b) particular gas or a particular class of gas, or

(c) a particular asset, right or liability or a particular class of asset, right or liability,

by operation of this Part.

(2) Such a notice is conclusive evidence of that transfer.

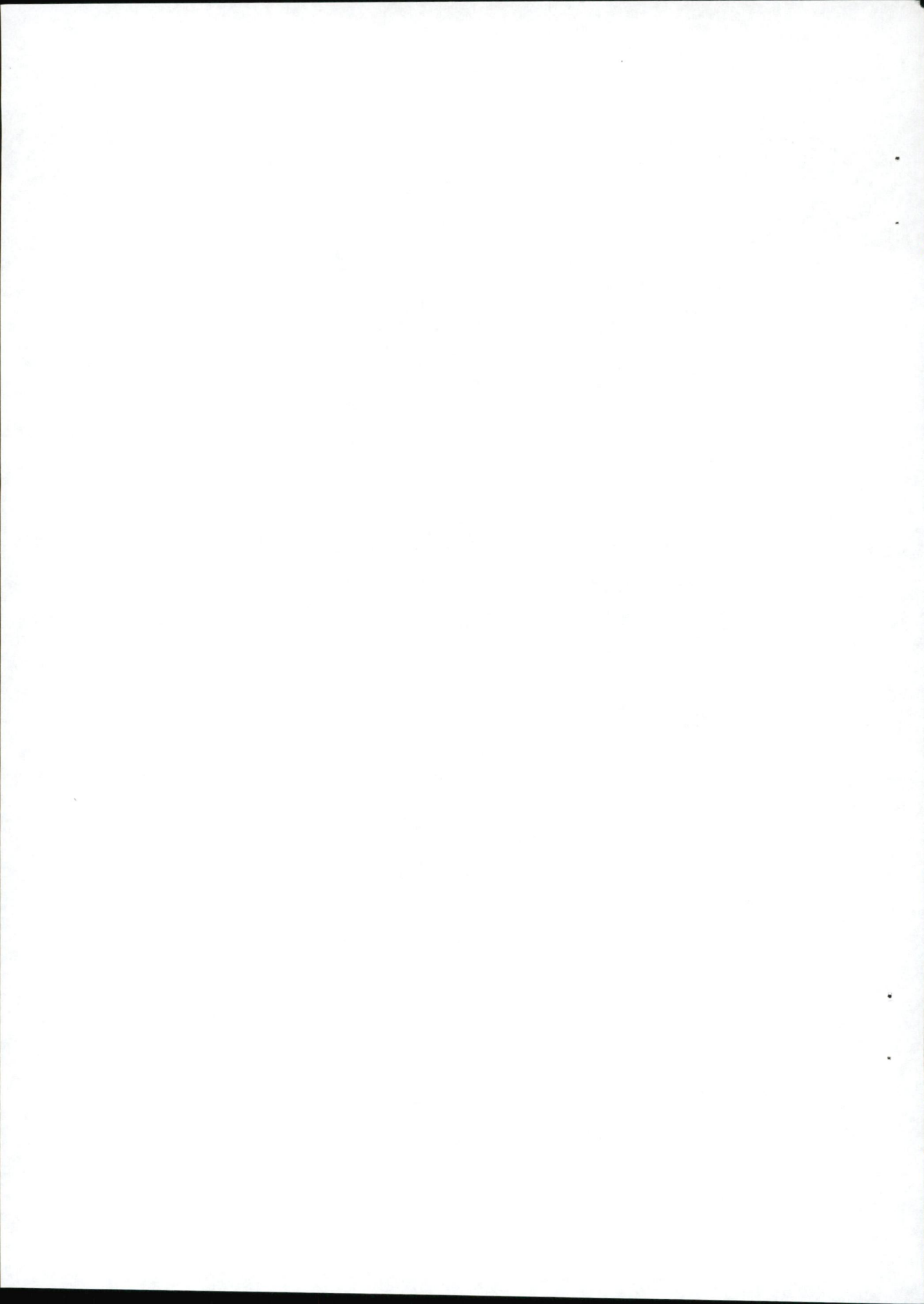


New South Wales

Gas Industry Restructuring Amendment (Customer Contracts) Act 1997 No 59

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New South Wales

Gas Industry Restructuring Amendment (Customer Contracts) Act 1997 No 59

Act No 59, 1997

An Act to amend the *Gas Industry Restructuring Act 1986* so as to provide for the transfer of certain gas supply contracts, supplies of gas and other related assets, rights and liabilities from AGL Gas Networks Limited to certain corporations holding gas supply authorisations under the *Gas Supply Act 1996*; and for other purposes. [Assented to 2 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Gas Industry Restructuring Amendment (Customer Contracts) Act 1997*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Gas Industry Restructuring Act 1986 No 213

The *Gas Industry Restructuring Act 1986* is amended as set out in Schedule 1.

Schedule 1 **Amendment of Gas Industry Restructuring Act 1986**

(Section 3)

Part 5A

Insert after Part 5:

Part 5A **Transfer of rights and liabilities under customer supply contracts**

71 Definitions

In this Part:

asset means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities choses in action and documents.

gas has the same meaning as in the *Gas Supply Act 1996*.

gas supply arrangement means a contract, agreement or other arrangement for the supply of gas.

liability means any liability, debt or obligation (whether present or future and whether vested or contingent).

right means any right, power, privilege or immunity (whether present or future and whether vested or contingent).

section 72 order means an order in force under section 72.

transferee company means AGL Retail Energy Limited (ACN 074 839 464), AGL Retail Energy (Contract Sales) Limited (ACN 076 092 067) or AGL Wholesale Energy Limited (ACN 074 821 720).

transferor company means AGL Gas Networks Limited (ACN 003 004 322).

72 Minister may direct transfer of gas supply arrangements

- (1) The Minister may, by order published in the Gazette, direct that:
 - (a) any gas supply arrangement under which the transferor company supplies gas to any other person or body, and
 - (b) any gas owned by the transferor company, and
 - (c) any other asset, right or liability of the transferor company that, in the opinion of the Minister, is related to any such gas supply arrangement or gas,be transferred from the transferor company to such transferee company as is specified in the order.
- (2) Such an order:
 - (a) may relate to:
 - (i) any particular gas supply arrangement, gas or other asset, right or liability, or
 - (ii) any particular class of gas supply arrangement, gas or other asset, right or liability, and
 - (b) may be made on such terms and conditions as are specified in the order.
- (3) This section expires on 1 July 1999.

73 Vesting of gas supply arrangements in transferee

- (1) When any gas supply arrangement, gas or other asset, right or liability is transferred by a section 72 order, the following provisions have effect:
 - (a) any such gas or other asset vests in the transferee company by virtue of this section and without the need for any conveyance, transfer, assignment or assurance,
 - (b) any such right or liability, and any right or liability of the transferor company under or in connection with:

- (i) any such gas supply arrangement, or
 - (ii) any such gas, or
 - (iii) any such other asset,becomes, by virtue of this section, the right or liability of the transferee company,
 - (c) all proceedings relating to:
 - (i) any such gas supply arrangement, or
 - (ii) any such gas, or
 - (iii) any such other asset, right or liability,that were commenced before the transfer by or against the transferor company or a predecessor of the transferor company and pending immediately before the transfer are taken to be proceedings pending by or against the transferee company,
 - (d) any act, matter or thing that was done or omitted to be done in relation to:
 - (i) any such gas supply arrangement, or
 - (ii) any such gas, or
 - (iii) any such other asset, right or liability,before the transfer by, to or in respect of the transferor company is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee company.
- (2) The operation of this section is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of:
 - (i) any gas supply arrangement, or
 - (ii) any gas, or
 - (iii) any other asset, right or liability, or

- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of:
 - (i) any gas supply arrangement, or
 - (ii) any gas, or
 - (iii) any other asset, right or liability.
- (3) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (4) A transfer is subject to the terms and conditions of the section 72 order by which it is effected.
- (5) No compensation is payable to any person or body in connection with a transfer effected by a section 72 order except to the extent (if any) to which the order so provides.

74 Date of vesting

A section 72 order takes effect on the date specified in the order.

75 Stamp duty

Stamp duty is not chargeable for or in respect of:

- (a) a transfer effected by a section 72 order, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer.

76 Confirmation of vesting

- (1) The Minister may, by notice in writing, confirm a transfer of:
 - (a) a particular gas supply arrangement or a particular class of gas supply arrangement, or
 - (b) particular gas or a particular class of gas, or

(c) a particular asset, right or liability or a particular class of asset, right or liability,

by operation of this Part.

(2) Such a notice is conclusive evidence of that transfer.

[Minister's second reading speech made in—
Legislative Assembly on 17 June 1997
Legislative Council on 26 June 1997]

BY AUTHORITY

