

NATURAL GAS BILL, 2024

Arrangement of sections

section

PART I - PRELIMINARY	5
1. Short title and commencement.....	5
2. Interpretation.....	5
3. Application of Act.....	9
4. Objectives of Act.....	10
5. Natural gas sector policy and objectives.....	10
6. Guidelines for regulation and Government measures.....	11
PART II - ADMINISTRATION OF ACT	11
7. Designation of URCA as sector regulator.....	11
8. Functions and powers of URCA.	12
9. Duty to consult by URCA.....	14
10. Power of URCA to require information and documents.....	15
11. Restriction on disclosure of confidential information.....	16
12. Entry, inspection and gathering of information by URCA.....	18
13. URCA may direct a person to cease activities.....	18
14. Keeping of public register.	18
15. Duty to publish documents.....	19
16. URCA fees and payments.....	19
PART III – LICENSING OF NATURAL GAS SECTOR	21
17. Operation and activities requiring a licence under Act.....	21
18. Exemption.....	21
19. Licence for gas service worker.....	22
PROCEDURE FOR MAKING, PROCESSING AND DETERMINING APPLICATION FOR LICENCES	23
20. Application for licence.	23
21. Particulars to be supplied by applicant for consideration of a licence.....	24
22. Statement of Compliance.....	24
23. Notice of application for licence.....	25
24. Qualifications for applicant.....	25
25. Procedure for processing application.....	26
26. Factors to be considered in determining a licence.....	26
27. Procedure for determining an application.....	27
28. URCA may consult with international or local bodies in determining an application.....	27

29.	URCA may meet with applicant.....	28
30.	URCA may grant expedited approval to existing qualified operators.	28
	GRANT AND DURATION OF LICENCE	28
31.	Grant and types of licences.....	28
32.	Licence may be granted jointly to licensee and a subsidiary undertaking of a licensee.....	29
33.	Duration and renewal of licence.....	30
34.	Prohibition on transfer of licence without consent of URCA.....	30
	CONDITIONS OF LICENCES	30
35.	General conditions.....	30
36.	Conditions to import natural gas.....	32
37.	Conditions to operate a natural gas terminal.....	32
38.	Conditions to transport natural gas.....	33
39.	Conditions to retail natural gas.....	34
	MODIFICATION, VARIATION AND REVOCATION OF LICENCE	34
40.	Modification, variation and revocation of licence.....	34
41.	Procedure for determining a modification or variation.....	35
42.	Date of effect of modification or variation.	35
43.	Licensee may appeal modification or variation.....	35
	PART IV – RIGHTS AND DUTIES OF LICENSEES	36
	GENERAL RIGHTS AND DUTIES	36
44.	General right of licensees.....	36
45.	General obligations of licensees.....	36
46.	Licensee to operate and maintain facilities.....	36
47.	Licensee to avoid unreasonable interference with other activities.....	36
48.	Duty of licensee to protect surrounding areas.....	36
49.	Licensee to permit inspection by URCA.....	37
50.	Duty of licensee to share investment plans with URCA.....	37
51.	Duty to keep confidential information when needed and facilitate information to other companies.....	37
52.	Licensee to employ available nationals.....	38
53.	Licensee to prepare educational programmes.....	38
54.	Licensee to indemnify.....	38
55.	Licensee to comply to international treaties and agreements.....	38
56.	Licensee to keep and maintain records.....	38
57.	Licensee to adopt risk management and insurance policies.....	39
58.	Gas plant and gas fittings not to be subject to distress.....	39
59.	Obstructing gas licensee in performance of duties.....	39
	GAS TRANSPORTER	40
60.	General duties of gas transporter.....	40
61.	Duty of gas transporter to connect.....	40
62.	Access by third party to fixed transportation facility.....	41
63.	Power of gas transporter to require security.	42

64.	Power of gas transporter to reduce supply pressure.....	42
65.	Power to fell trees and vegetation.....	42
66.	Powers of gas transporters in carrying out works.....	43
67.	Gas transporter to provide convenient ways.....	44
68.	Gas transporter to maintain gas service pipes and gas installations.....	45
69.	Relocation of gas main or gas service pipe.....	46
70.	Removal of obstruction only to be carried out by a gas transporter.....	46
71.	Gas transporter to carry out earthworks within vicinity of gas plant or gas pipe.	47
72.	Savings of wayleaves or easements agreements with gas transporter.....	48
73.	URCA may make regulations for entry into premises by gas transporter.....	49
GAS RETAILER		49
74.	Rights of gas retailers.....	49
75.	Duties of gas retailers.....	49
76.	Right to disconnect or refuse to supply gas to a meter.....	50
77.	Right to disconnect gas to premises.....	50
78.	Pricing by gas retailers.....	51
79.	Power to recover gas charges.....	51
80.	Restoration of supply without consent.....	51
HEALTH AND SAFETY		52
81.	Licensee to comply with URCA instructions.....	52
82.	Licensee to take precautions to avoid gas escape.....	52
83.	Notified escapes of gas.....	53
84.	Suspected escapes of gas.	54
85.	Power to disconnect and interrupt supply of gas.....	54
TERMINATION OF FACILITIES AND ABANDONMENT		55
86.	Licensee to give notice.....	55
 PART V - PROHIBITION OF ANTI-COMPETITIVE AGREEMENTS AND PRACTICES		 56
87.	Anti-competitive agreements.....	56
88.	Abuse of dominant position.....	56
89.	Power to investigate competition matters.....	57
90.	Power when conducting competition investigations.....	57
91.	Decision following competition investigation.....	58
 PART VI - MERGER CONTROL BY URCA		 58
92.	URCA to approve a change of control in relation to licensees.....	58
93.	When a change in control takes place.....	59
94.	Questions to be determined by URCA in granting approval in a change of control.....	60
95.	Principles to be applied in appraising a change of control.....	60
96.	Procedures for appraisal of a change in control.....	61
97.	Timetable for appraisal for a change in control.....	62

PART VII - CONSUMER PROTECTION 63

98. Consumer protection.....63
99. Complaints.....64
100. URCA to conduct investigations into complaints.....65
101. Alternative dispute resolution.....65

PART VIII – INVESTIGATIONS AND ENFORCEMENT BY URCA 66

INVESTIGATIONS 66
102. URCA to conduct investigations generally.....66
103. Power to enter premises under warrant.....67
104. Privileged communications.....68
ENFORCEMENT 69
105. URCA enforcement orders.....69
106. Determinations by URCA.....70
107. Adjudications by URCA.....73

PART IX - APPEALS TO THE UTILITIES APPEAL TRIBUNAL 74

108. Jurisdiction of the Tribunal.....74
109. Appeals to the Tribunal.....74
110. Notice of appeal.....75

PART X – OFFENCES, FINES AND PENALTIES 76

111. General offences.....76
112. Making of false statements.....77
113. Damage to gas plant or gas pipe.....77
114. Unauthorized connection with gas pipeline network.....78
115. Supply of gas illegally taken.....79
116. Failure to notify connection or disconnection.....79
117. Unspecified penalties.....80
118. Regulatory fines, penalties and remedies.....80
119. Other requirements not affected.....81

PART XI - MISCELLANEOUS 81

120. National interest matters.....81
121. Transitional provisions.....83
122. Acts binds the crown.....83
123. Regulations.....83



NATURAL GAS BILL, 2024

A BILL FOR AN ACT TO TO REGULATE THE IMPORT, REGASIFICATION, STORAGE, TRANSPORT AND RETAIL OF NATURAL GAS, TO PROVIDE FOR THE LICENSING OF NATURAL GAS FACILITIES AND TERMINALS AND TO PROVIDE FOR SAFETY STANDARDS IN THE NATURAL GAS SECTOR AND FOR MATTERS CONNECTED THEREWITH

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Natural Gas Bill, 2024.
- (2) This Act shall come into force on the 1st day of June, 2024.

2. Interpretation.

“**authorised officer**” means any person authorised by URCA under section 8(2)(b);

“**code of practice**” means a code of practice issued or modified by URCA;

“**connect**” in relation to any premises, means connect to a gas main of a gas transporter, whether directly or by means of a gas service pipe, and “**disconnect**” and “**re-connect**” have corresponding meanings except that they also include discontinuing or restoring (as the case may be) the conveyance of gas to the premises;

“**consumer**” means a person —

- (a) to whose premises gas is shipped; or
- (b) whose premises are connected to a gas pipeline network for the purpose of obtaining a supply of gas;

“convey” means the transmission or distribution of gas by means of gas pipes, and **“conveying”**, **“conveyed”**, and **“conveyance”** are to be construed accordingly

“document” includes electronic records;

“earthworks” means —

- (a) any act of excavating earth, rock or other material (by whatever means);
- (b) any act done on, in or under the ground in connection with —
 - (i) any work for or relating to the construction, reconstruction, extension, renovation, alteration, demolition or repair of any building, road, railway, bridge, viaduct, flyover, sewer or sewerage works;
 - (ii) any work for or relating to the laying, inspecting, repairing or renewing of any main, pipe, cable, fitting or other apparatus;
 - (iii) any soil investigation work; or
 - (iv) such other works as are usually undertaken by a person carrying on business as a contractor in the construction industry or as a professional civil or structural engineer;
- (c) any act of boring, dredging, jacking, levelling, piling or tunnelling on or under any premises or street by any mechanical means; or
- (d) the driving or sinking of any bar, rod, pole, picket, casing or tube into the ground;

“facility” means an on-shore structure within The Bahamas and includes an off-shore structure located in Bahamian waters with the intent to receive, unladen, load, stow, gasify, liquefy or process natural gas;

“gas” means natural-gas;

“gas appliance” means any appliance in which gas is consumed, either for domestic requirements (including for cooking, heating or cooling purposes) or for industrial or commercial requirements (including for powering a gas engine or as feedstock in a chemical process);

“gas fitting” includes any pipe, valve, meter, regulator or other device for the control, measurement and use of gas;

“gas licence” means a licence granted under section 8(1)(a);

- “gas licensee”** means a person holding a gas licence;
- “gas main”** means any gas pipe used for the distribution of gas from a gas transmission pipeline to a consumer but does not include a gas service pipe or an internal pipe;
- “gas pipeline”** means a gas transmission pipeline, a gas main or a gas service pipe;
- “gas pipeline network”** means a person carrying on gas installation or gas appliance, in whole or in part, including any design, construction, installation, commissioning, erection, testing, repair, addition, alteration or maintenance work;
- “gas plant”** means any valve, regulator, plant, pipe, equipment or apparatus used for, or for purposes connected with, the production, processing, conveyance, storage or shipping of gas;
- “gas retailer”** means a person holding a gas retailer’s licence.
- “gas retailer’s licence”** means a licence granted under section 8(1)(a);
- “gas service isolation valve”** means a valve, located at or near the boundary line of any property or the apron of any building, used by a gas transporter to isolate the supply of gas to that property or building;
- “gas service pipe”** means a pipe or any part thereof, other than a gas main, used for the purpose of conveying gas from a gas main to a gas service isolation valve, and includes any pipe owned by, or under the management or control of, a gas transporter which is used for the purpose of conveying gas from the gas service isolation valve to the meter at a consumer’s premises;
- “gas service worker”** means any person engaged by a licensee for the purpose of handling, processing or monitoring of natural gas operations or installing, repair and maintenance of natural gas equipment in and around any natural gas plant;
- “gas shipper”** means a person holding a gas shipper’s licence;
- “gas supply system”** means all gas pipeline networks, gas plants and other related equipment owned by, or under the management or control of, all gas transporters for the purpose of supplying gas to consumers;
- “gas tightness”** means the freedom from leak when a gas pipeline network, gas installation or gas fitting is tested at the appropriate test pressure;
- “gas transmission pipeline”** means a bulk transmission pipeline or interconnected transmission pipeline, together with equipment (including pressure regulating and control valves) used for the conveyance of gas;

- “gas transporter”** means a person holding a gas transporter’s licence;
- “gas transporter’s licence”** means a licence granted under section 8(a);
- “import”** in relation to natural gas or LNG, means to bring or cause to be brought into The Bahamas by any means, the natural gas or LNG from any place outside The Bahamas;
- “information”** includes information contained in electronic records;
- “internal pipe”** means any pipe, not being a gas pipeline, used for the purpose of conveying gas from a gas service pipe to a gas appliance, including a gas fitting inserted therein but excluding a meter;
- “licensed gas business”** means the business of a gas licensee in carrying on the activity in respect of which it holds a gas licence;
- “LNG”** means liquefied natural-gas;
- “LNG terminal”** means an on-shore or offshore structure within The Bahamas (including The Bahamian waters) with the intent to receive, unload, load, store, gasify, liquefy or process natural gas;
- “meter”** means any device for computing the volume of gas supplied or amount of energy supplied, for charging purposes;
- “meter installation”** means any meter and its associated equipment and installation, including any associated pipework, filter, valve, pressure regulating equipment, seal, housing, mounting, telemetry equipment, gas chromatograph and flow computer;
- “Minister”** means the minister charged with responsibility for the energy sector;
- “natural gas”** means either natural gas unmixed, or any mixture of natural or hydrocarbon compounds (with the exception of liquefied petroleum gas), including compressed or liquefied natural gas, natural gas liquids and condensate recovered from natural gas;
- “occupier”** means the person in occupation of any premises and includes the person having the charge, management or control of the premises either on the person’s own account or as agent for another person, but does not include a lodger;
- “operate”** means the act or process of shipping, producing, transferring, regasifying or otherwise handling natural gas via plant or equipment designed for that purpose;
- “operator”** means a person holding a natural gas retailer’s operator licence;
- “premises”** means any building, structure or other place to which gas is, or is to be, conveyed;
- “production”** means the production of gas from a production well or a manufacturing plant;

“public safety” means the obviation of danger to the general public and to any public place or public property;

“relevant gas main” in relation to a gas transporter, means a gas main under the control of that gas transporter which is in the area specified in its gas transporter’s licence and is used for conveying gas to any premises;

“relevant gas retailer” means, in relation to a consumer, the gas retailer who supplies that consumer with gas conveyed to the premises of that consumer;

“retail” means the supply of gas to a consumer;

“shipping” in relation to gas, means arranging with a gas transporter for gas to be introduced into, conveyed by and taken out of a gas pipeline network owned by, or under the management or control of, the gas transporter for purposes connected with the supply of gas to any premises, and “ship” is to be construed accordingly;

“street” includes any road, highway, square, footway or passage, whether a thoroughfare or not, over which the public has a right of way, the way over any public bridge, and any road, footway or passage, open court or open alley, used or intended to be used as a means of access to two or more holdings, whether the public has a right of way thereover or not; and all channels, sewers, drains, tunnels, ditches and reserves at the side of any street are deemed to be part of the street;

“supply” in relation to gas, means the physical delivery of gas to a consumer’s premises;

“URCA” means The Utilities Regulation and Competition Authority established under section 3 of the Utilities Regulation and Competition Authority Act (*Ch. 306*);

“wholesaler” means a person holding a natural gas wholesaler licence.

3. Application of Act.

- (1) The provisions of this Act shall apply to —
 - (a) any person who imports, regasifies, transports, and retails natural gas in The Bahamas;
 - (b) any person who has responsibility to perform any functions for a person referred to in paragraph (a).
- (2) This Act applies to the entirety of The Bahamas, inclusive of the Port Area in the island of Grand Bahama.
- (3) For the avoidance of doubt, this Act applies to any gas sector supplier in the Port Area.

4. Objectives of Act.

- (1) The objectives of this Act are —
 - (a) to establish a legislative framework to regulate the importation, regasification, shipping, transportation, and retailing of natural gas to ensure these activities are performed in a safe efficient effective economic and environmental manner;
 - (b) to promote access to gas in an affordable and safe manner;
 - (c) to provide higher fuel efficiency to lower costs for consumers;
 - (d) to promote the global effort in reducing emissions that contribute to global climate change, thus serving to sustain the environment for future generations.

5. Natural gas sector policy and objectives.

- (1) The main goal of the natural gas sector policy shall be the creation of a regime for the supply of the safe, least cost, reliable, and environmentally friendlier gas throughout The Bahamas.
- (2) The principles and objectives governing the sector policy and gas supply regime in accordance with the aims and goals of the National Energy Policy shall be —
 - (a) to promote natural gas as an environmentally friendlier, secure, stable and economically efficient source of energy;
 - (b) the promotion of competition by liberalising entry into the industry; and
 - (c) adopting competitive and fair trade measures with due regard to public welfare and the financial viability of industry participants to protect the public from dangers arising from transport of gas through pipes or from the use of gas transmitted through pipes;
 - (d) to secure a diverse and viable long term gas supply;
 - (e) the advancement of The Bahamas' economic growth and development and international competitiveness;
 - (f) the introduction of a structure for the sector that is overseen by an independent regulator;
 - (g) the employment of practices and technology that are designed to protect the natural environment of The Bahamas;
 - (h) the promotion of private investment and innovation in the gas sector;
 - (i) the creation of incentives for sector participants in the gas sector to continuously improve performance in operations and customer service;

- (j) the provision of investments and investment opportunities for citizens of The Bahamas;
- (k) the provision of a regulatory structure that balances the interests of and affords opportunities and input from all stakeholders, honours contractual commitments and encourages investment.

6. Guidelines for regulation and Government measures.

- (1) All policy documents, regulatory and other measures, decisions and laws to take effect in the sector in The Bahamas shall be taken or made with a view to implementing the main goal and governing principles and objectives of the sector policy and gas supply regime.
- (2) The policy documents, regulatory and other measures, decisions and laws referred to in subsection (1) shall comply with the following guidelines —
 - (a) market forces shall be relied on as much as possible as the means of achieving the main goal and objectives of the sector policy and gas supply regime;
 - (b) regulatory and other measures shall be introduced where, in the view of URCA, market forces are unlikely to achieve the main goal and objectives of the sector policy and gas supply regime within a reasonable time-frame;
 - (c) regulatory and other measures shall be efficient and proportionate to their purpose and introduced in a manner that is transparent, fair and non-discriminatory;
 - (d) regulatory and other measures that introduce or amend a significant government policy or regulatory measure, including but not limited to the national energy policy, shall —
 - (i) specify the gas sector policy objective that is advanced by the policy or measure; and
 - (ii) demonstrate compliance with the guidelines set out in paragraphs (a), (b) and (c).

PART II - ADMINISTRATION OF ACT

7. Designation of URCA as sector regulator.

- (1) Subject to this Act and the URCA Act, the Utilities Regulation and Competition Authority shall be charged with the general administration of this Act and shall be the independent regulator for the purposes of this Act.

- (2) URCA shall exercise and perform its functions and powers in accordance with this Act and the URCA Act.
- (3) URCA may authorise any person to assist it in the exercise of its functions and duties under this Act, either generally or in a particular case.

8. Functions and powers of URCA.

- (1) Notwithstanding the functions of URCA in any other law, URCA shall, in accordance with this Act —
 - (a) issue licences and collect fees for any natural gas sector activities URCA determines necessary;
 - (b) issue notices required under this Act, and, if necessary, take remedial action;
 - (c) consult with government departments and regulatory authorities locally and of other countries to promote and facilitate the construction, development and functioning of the natural gas system;
 - (d) monitor and approve, and, if necessary, regulate transmission tariffs and take appropriate action when necessary to ensure that they are applied in a non-discriminatory manner;
 - (e) expropriate land or any right in, over or in respect of such land as is necessary for the performance of a licensee's functions;
 - (f) oversee and monitor all activities and operations carried on in relation to natural gas to ensure compliance with the Act;
 - (g) protect the interests of consumers with regard to —
 - (i) the prices and other terms for the supply of gas;
 - (ii) the reliability, availability and continuity of the supply of gas; and
 - (iii) the quality of gas supply services provided;
 - (h) protect the public from any dangers arising from the import, regasification, transport, supply or use of gas;
 - (i) ensure that licensees provide an efficient service and maintain financial viability;
 - (j) promote the efficient use of gas by consumers and competition in the supply of gas;
 - (k) undertake investigations and inquiries into the activities and operations of licensees, its facilities and plants;
 - (l) ensure security of supply of gas to consumers and to arrange for the secure operation of gas transmission in accordance with any issued code of practice;

- (m) advise the Government on all matters relating to the import, regasification, shipping, transport, supply or use of gas;
 - (n) do such other things as are required under this Act and to take such steps as are necessary or expedient for the effective discharge of its functions and duties under this Act.
- (2) URCA may in the performance and exercise of its functions pursuant to subsection (1) —
- (a) do all things as may be incidental to or necessary or expedient for the fulfilment of such functions;
 - (b) authorise any person to assist it in the exercise of its functions and duties under this Act, either generally or in a particular case.
- (3) Without prejudice to the generality of subsection (2), and for the purpose of carrying into effect the sector policy objectives, URCA may issue regulatory and other measures, including without limitation —
- (a) making determinations and adjudications in accordance with sections 106 and 107 respectively;
 - (b) imposing conditions and penalties in accordance with the Act;
 - (c) issuing regulations, directions, decisions, statements, instructions and notifications;
 - (d) publishing and maintaining registers or lists;
 - (e) developing guidelines and frameworks;
 - (f) for the purpose of enforcing compliance with this Act, instituting prosecutions in accordance with this Act, section 7 of the URCA Act, or any other law;
 - (g) issuing, suspending, varying or revoking licences and exemptions under Part III;
 - (h) issuing technical rules and standards;
 - (i) conducting inquiries, investigations and oral hearings including in response to complaints from regulated entities and their customer;
 - (j) requiring any licensee to furnish such information and submit such returns in relation to its operations at such intervals as it may require;
 - (k) conducting market investigations and market reviews and publishing regular information and reports; and
 - (l) exercising any other power granted to URCA by this Act or any other law.
- (4) Any regulations issued by URCA under this Act shall have the force of law.
- (5) In performing its functions and exercising its powers, URCA must —

- (a) use its reasonable endeavours to apply principles and methodologies to licensees who conduct similar activities within a particular sector of the gas industry in a non-discriminatory manner; and
 - (b) act in a reasonable manner in all circumstances.
- (6) URCA may in administering this Act, consult with such other body, agency, ministry or department as is necessary to ensure that all appropriate steps have been taken and measures put in place, to ensure the efficient, effective, sustainable and orderly development and operation of gas import, regasification, shipping, transport, retail and use.

9. Duty to consult by URCA.

- (1) URCA shall follow the specific procedures set out in section 106 and 107 respectively when issuing determinations, adjudications and other regulatory measures referred to in those sections.
- (2) URCA shall, where no specific procedures are provided for in this Act —
 - (a) allow persons with sufficient interest a reasonable opportunity to comment on proposed regulatory and other measures which, in the opinion of URCA, are of public significance;
 - (b) accept as having sufficient interest for the purpose of paragraph (a), persons whose rights or interests may be materially adversely affected or prejudiced by the proposed regulatory and other measures; and
 - (c) give due consideration to the comments of persons having sufficient interest prior to introducing URCA and other measures concerned.
- (3) URCA shall, as soon as practicable after the date this Act comes into operation, publish its standard procedures for seeking comments including —
 - (a) how a notice of consultation requesting comments will be published;
 - (b) the minimum time for responding to a notice of consultation which shall, in ordinary circumstances, be not less than thirty calendar days commencing on the day after URCA publishes the notice of consultation;
 - (c) how URCA will publish comments or summaries of comments received pursuant to a notice of consultation; and
 - (d) guiding principles for determining when URCA may depart from the standard procedures.
- (4) Any consultation carried out pursuant to subsection (1), may seek to —

- (a) inform and educate the general public on the benefits and potential impacts of the activities authorized under this Act;
 - (b) address any concerns raised on any activities authorized under this Act;
 - (c) permit representations to be heard by interested parties and stakeholders.
- (5) A regulatory or other measure is likely to be of public significance where it relates to gas supply systems or services and can lead to one or more of the following —
- (a) a major change in the activities carried on by URCA under this Act;
 - (b) a significant impact on persons carrying on activities in areas regulated by URCA under this Act; and
 - (c) a significant impact on the general public in The Bahamas.
- (6) Without prejudice to any other regulatory or other measures being considered of public significance, regulations, technical rules and standards issued by URCA shall be considered regulatory or other measures of public significance for the purposes of this Act.

10. Power of URCA to require information and documents.

- (1) URCA or any authorised officer may by notice require any person to furnish, within a reasonable period specified in the notice, all information and documents relating to all such matters as may reasonably be required by URCA to carry out the functions or duties assigned to URCA by or under this Act which are within the knowledge of that person or in that person's custody or under that person's control.
- (2) The power to require a person to furnish any information or document under subsection (1) includes the power —
 - (a) to require that person, or any person who is or was an officer or employee of that person, to provide an explanation of the information or document;
 - (b) if the information or document is not furnished, to require that person to state, to the best of that person's knowledge and belief, where it is; and
 - (c) if the information is recorded otherwise than in legible form, to require the information to be made available to URCA in legible form.
- (3) Any person who, without reasonable excuse, fails to do anything required by a notice under subsection (1), commits an offence.
- (4) A person commits an offence if he —

- (a) intentionally alters, suppresses or destroys any information or document which the person has been required by any notice under subsection (1) to furnish; or
 - (b) furnishes any information or document required by any notice under subsection (1), makes any statement which the person knows to be false in a material particular or recklessly makes such a statement.
- (5) If any person fails to comply with a notice under subsection (1), the court may, on the application of URCA, make such order as the court thinks fit to secure compliance with such notice.
- (6) Any order referred to in subsection (5) may provide that all the costs and expenses of and incidental to the application are to be borne by such person or by any officer of a company or other association who is responsible for the failure.
- (7) URCA may, at any time after the expiry of the period specified in the notice referred to in subsection (1), enter any building or place where URCA has reason to believe that any information or document in respect of which it has given the notice may be found, and seize or take extracts or copies of any such information or document.
- (8) URCA is entitled without payment to keep any information or document, or any copy or extract thereof, furnished to it under subsection (1) or obtained under subsection (7).
- (9) Except in the performance of the person's functions or duties or when required to do so by any court or under any written law, no person shall disclose any information relating to the affairs of URCA or of any other person which has been obtained by him in the performance of his functions or duties.
- (10) Any person who contravenes subsection (9) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding twelve months or to both.

11. Restriction on disclosure of confidential information.

- (1) This section applies if—
 - (a) any information or document is given by a person to URCA under this Act (other than under section 10); and
 - (b) at the time such information or document is given, the person giving it notifies URCA in writing that it is of a confidential or commercially sensitive nature.
- (2) URCA must not disclose to any person the information or the contents of a document to which this section applies unless URCA—

- (a) is of the opinion that —
 - (i) the disclosure of the information or the contents of the document would not cause detriment to the person supplying it or to any other person who is aware of the information or document; or
 - (ii) although the disclosure of the information or the contents of the document would cause detriment to the person supplying it or to any other person who is aware of the information or the contents of the document, the public benefit in disclosing outweighs that detriment;
- (b) gives written notice —
 - (i) to the person who supplied the information or document; and
 - (ii) to any other person whom URCA is aware has supplied the information or document to the person referred to in subparagraph (i), where the identity of such other person is known to URCA, stating that URCA wishes to disclose the information or contents of the document, specifying the nature of the intended disclosure and detailed reasons why URCA wishes to make the disclosure and setting out a copy of this section; and
- (c) no appeal is made to the Utilities Appeal Tribunal under subsection (3) within seven calendar days of the date of the giving of the notice.
- (3) A person aggrieved by a notice under subsection (2)(b) may appeal to the Utilities Appeal Tribunal within seven calendar days of the date of the giving of the notice and shall forthwith serve the appeal on URCA.
- (4) Subsection (2) does not prevent URCA from disclosing any information or the contents of any document —
 - (a) to any member, officer or employee of URCA or any agent, consultant, committee or panel acting for or under the direction of URCA;
 - (b) to any government department or any agent, consultant, committee or panel acting for or under the direction of the department;
 - (c) when required to do so, by any court or under this Act or any other written law; or
 - (d) for the purposes of any criminal proceedings.
- (5) For the purposes of this section, the disclosure of any information or the contents of a document already in the public domain at the time URCA wishes to disclose it, cannot cause detriment to any person referred to in subsection (2)(a).

12. Entry, inspection and gathering of information by URCA.

- (1) For the purposes of this Act, any person authorised thereto in writing by URCA may, upon showing their authorisation in writing —
 - (a) at all reasonable times enter any property on which a licensed activity is taking place and inspect any facility, equipment, machinery, book, account or other document found thereat; and
 - (b) require any person to furnish URCA with such information as may be necessary to ensure compliance with this Act.
- (2) URCA may require a person referred to under subsection (1) to verify on oath or by way of a solemn declaration as to the accuracy of any information furnished thereunder.
- (3) No information obtained by URCA under this Act which is of a non-generic, confidential, personal, commercially sensitive or of a proprietary nature may be made public or otherwise disclosed to any other person without the permission of the person to whom that information relates, except in where such information is required by order of the Court.

13. URCA may direct a person to cease activities.

Where URCA decides that a person is engaged in any of the activities requiring a licence under this Act, URCA may direct such person who is not in possession of a licence, to cease such activity.

14. Keeping of public register.

- (1) URCA shall keep a register in electronic or paper form of all the names of licensees under this Act and publish the register in accordance with the procedure set out in section 15.
- (2) A register kept pursuant to subsection (1) shall contain —
 - (a) the provisions of every licence granted to any person under the Act;
 - (b) the details of every exemption granted under section 18;
 - (c) the details of every licence or exemption revoked;
 - (d) the details of every variation or suspension of a licence; and
 - (e) any other matters as URCA thinks fit.
- (3) The register must be available for inspection by the public during such hours and subject to the payment of such fee as may be specified by URCA.

15. Duty to publish documents.

- (1) URCA shall take proportional measures to make available to the public any regulatory and other measures which, in the determination of URCA, are of public significance and shall —
 - (a) as soon as practical after issuance, publish such regulatory and other measures on the URCA website;
 - (b) ensure that the URCA website —
 - (i) includes a notification system for registered users;
 - (ii) is regularly updated;
 - (iii) remains available to the public; and
 - (c) maintain copies of documents at URCA's principal office for inspection by the public, on request and without charge, during normal business hours.
- (2) URCA shall consider and decide whether it is additionally necessary or desirable to publish notice of regulatory and other measures of public significance in one or more newspapers of daily circulation in The Bahamas.

16. URCA fees and payments.

- (1) The provisions of this section, unless stated otherwise, apply notwithstanding any other fees and charges payable by a licensee in The Bahamas under —
 - (a) any other Part or section of this Act; or
 - (b) any other law.
- (2) URCA may by determination impose fees or charges upon licensees, including —
 - (a) charges for services rendered by URCA in the performance and exercise of its functions and powers under this Act;
 - (b) fees for the processing of any application to URCA required under this Act;
 - (c) fees for providing copies of documents;
 - (d) annual URCA fees, based on the licensee's relevant turnover for the year in question;
 - (e) fees for the processing of merger applications under section 92 and related adjudications and orders under section 107; and
 - (f) fees and charges for administration services rendered by URCA in the performance and exercise of URCA's functions and powers under this Act;

- (g) other fees which URCA may determine are necessary for the proper administration and regulation of the industry.
- (3) All fees and charges determined and levied by URCA under this section shall —
- (a) be set on an objective, non-discriminatory, transparent and proportionate basis;
 - (b) be published by URCA on its website and in any other form as URCA considers appropriate;
 - (c) seek only to cover a proportionate share of the relevant operating costs of URCA for the performance of its regulatory functions under this Act;
 - (d) in respect of the issuance or renewal of a licence, be proportionate and published in an appropriate and sufficiently detailed manner so as to be readily accessible;
 - (e) be set so as to —
 - (i) cover the annual budgeted costs of performing and exercising its functions and powers under this Act and the URCA Act;
 - (ii) exclude costs attributable to the performance of its functions under any legislation not pertaining to the regulation of the gas sector;
 - (iii) recover any deficit from previous years; and
 - (f) take account of any surplus in URCA's accounts carried over from the previous accounting year.
- (4) All fees and charges imposed under this section—
- (a) are payable as and when demanded by URCA; and
 - (b) where they remain unpaid, constitute a debt due to URCA which may be recovered in a court of summary jurisdiction regardless of the amount.
- (5) Interest shall accrue on overdue URCA fees daily at the lower of —
- (a) a rate of four percent per annum over the prime lending rate as published by the Central Bank of The Bahamas; and
 - (b) any maximum applicable rate specified in the Rate of Interest Act. (*Ch. 341*)
- (6) A licensee liable to pay fees to URCA under this Part commits an offence where such licensee —
- (a) without lawful excuse, commences or carries on an undertaking without paying the relevant fee;

- (b) in providing evidence for verification of relevant turnover and assessment of fees due by URCA, intentionally or recklessly makes a statement which is false in a material particular;
- (c) obstructs URCA in the exercise of its functions under this Part;
- (d) fails to submit payment within the relevant time period required by URCA; or
- (e) is knowingly concerned in, or takes steps with a view to, the fraudulent evasion by any person of a sum due to URCA in respect of fees and payments under this Part.

PART III – LICENSING OF NATURAL GAS SECTOR

17. Operation and activities requiring a licence under Act.

- (1) Subject to section 18, no person shall —
 - (a) import natural gas;
 - (b) build (including conversion of existing infrastructure) and operate LNG terminals and natural gas pipelines —
 - (c) ship natural gas;
 - (d) retail natural gas;
 - (e) perform any other activity in the natural gas sector that URCA considers requires a licence,unless the person is authorised to do so by a licence issued under this Act or is exempted under section 18.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding four hundred thousand dollars and, in the case of a continuing offence, to a further fine not exceeding fifteen thousand dollars for every day or part of a day during which the offence continues after conviction.

18. Exemption.

- (1) URCA may exempt any person or class of persons from complying with section 17(1) for any specified period —
 - (a) generally or to such an extent as may be specified in the exemption order; and
 - (b) unconditionally or subject to such conditions as may be specified in the exemption order.

- (2) Without limiting subsection (1)(b), the conditions of an exemption may require any person carrying on any activity in pursuance of the exemption —
 - (a) to comply with any direction given by URCA as to such matters as are specified in the exemption order or are of a description so specified;
 - (b) to do or not to do such things as are specified in the exemption order or are of a description so specified, except insofar as URCA consents to the person's doing or not doing them; and
 - (c) to refer for determination by URCA such questions arising under the exemption as are specified in the exemption order or are of a description so specified.
- (3) If any condition of an exemption granted to a class of persons is not complied with by any person of that class, URCA may give to that person a direction declaring that the exemption is revoked insofar as it relates to that person, to such extent and from such date as may be specified in the direction.
- (4) An exemption order continues in force, unless it is revoked, for such period as may be specified in the order.
- (5) In granting an exemption under this section, URCA must act in a manner so as not to discriminate between members of a particular class.

19. Licence for gas service worker.

- (1) Any person who wishes to be a gas service worker shall apply to URCA.
- (2) An application under subsection (1) must be made in such manner or form as URCA may determine and must be accompanied by the prescribed fee and such documents and particulars as URCA may determine.
- (3) URCA may, in its discretion, license a service worker either unconditionally or subject to such conditions as it thinks fit, or may refuse to license him.
- (4) URCA may at any time vary or revoke any of the existing conditions of a service worker licence or impose new conditions or suspend or cancel such licence.
- (5) URCA may license a gas service worker under different classes for different types of service work.

PROCEDURE FOR MAKING, PROCESSING AND DETERMINING APPLICATION FOR LICENCES

20. Application for licence.

- (1) Pursuant to section 17 or 18 of the Act, an application for a licence or an exemption under the Act, shall be —
 - (a) made in the form prescribed;
 - (b) accompanied by such information and documents as is prescribed and such additional information as may be determined by URCA; and
 - (c) accompanied by the prescribed fee.
- (2) An application for a licence shall be made at least ninety days in advance of the proposed activity, and shall specify such details as is prescribed —
 - (a) specify, where applicable—
 - (i) the name, company number (*if any*), evidence of good standing and principal place of business of the applicant;
 - (ii) particulars of the owners or shareholder of the applicant if the applicant is not a natural person, including evidence of the ultimate beneficial owners of the applicant;
 - (iii) documents demonstrating the administrative, financial and technical abilities of the applicant;
 - (iv) a description of the proposed facility to be constructed or operated, or the proposed trading to be conducted, including maps and diagrams where appropriate;
 - (v) a general description of the type of customers to be served and the tariff or gas price policies to be applied;
 - (vi) the plans and ability of the applicant to comply with all applicable labour, health, safety and environmental legislation;
 - (vii) a detailed specification of the gas that will be traded under the licence;
 - (viii) the identity of the supplier and seller of gas;
 - (ix) the name of the transport carrier or charter of the gas;
 - (x) the terms of the sale agreement(s);
 - (xi) such other particulars as may be prescribed;
 - (b) be accompanied by a Statement of Compliance and the prescribed application fee.

- (3) Notwithstanding subsection (2), a written request made pursuant to section 30, shall be made not less than least thirty calendar days prior to the proposed activity.

21. Particulars to be supplied by applicant for consideration of a licence.

Before considering an application for a licence under this Act, URCA —

- (a) shall, if it is of the view that the proposed construction of gas facilities or the proposed provision of gas services should be altered to provide access to third parties, at prices that could be regulated by URCA, inform the applicant of that view and request the applicant to supply reasons as to why the application should not be considered subject to the imposition of such condition;
- (b) may direct the applicant to alter the plans for the proposed construction of gas facilities or the proposed provision of gas services in order to comply with applicable health, safety or environmental legislation;
- (c) must furnish the applicant with all substantiated objections contemplated in section 23(2)(f) in order to allow the applicant to respond thereto;
- (d) may request such additional information as may be necessary to consider the application properly; and
- (e) must provide the applicant with the criteria contemplated in section 26, if applicable, and allow the applicant an opportunity to amend its application.

22. Statement of Compliance.

- (1) A Statement of Compliance which must confirm —
 - (a) that the applicant has complied with any requirements or obligations imposed under —
 - (i) any international conventions and regulations regulating maritime affairs;
 - (ii) any national laws that apply to the activities of the importer;
 - (iii) any national laws governing —
 - (aa) maritime affairs;
 - (bb) safety affairs; and
 - (cc) environmental affairs;
 - (b) that the applicant has taken steps to comply with any requirements under any laws governing —
 - (i) custom and immigration affairs; and

- (ii) the conduct of business activities.
- (2) The applicant may request confidential treatment of commercially sensitive information contained in an application and, subject to concurrence by URCA, such information may be withheld from publicly available copies of the application.

23. Notice of application for licence.

- (1) Pursuant to section 17, when application is made for a licence the applicant must publish a notice of the application in at least two newspapers circulating in The Bahamas for no less than one month.
- (2) The notice of the application must state —
 - (a) the name of the applicant;
 - (b) the object of the application;
 - (c) the place where the application will be available for inspection by any member of the public;
 - (d) the period within which any objections to the issue of the licence may be lodged with URCA;
 - (e) the address of URCA where any objections may be lodged; and
 - (f) that objections must be substantiated by way of an affidavit or solemn declaration.
- (3) Notwithstanding subsection (1), in the case of a written request made pursuant to section 30, the applicant shall publish notice of the request in at least two newspapers circulating in The Bahamas for not less than seven calendar days.

24. Qualifications for applicant.

An applicant for a licence must —

- (a) be a legal entity incorporated in The Bahamas;
- (b) conduct the administration and management of the business that is the subject of the licence application from premises in The Bahamas;
- (c) be a fit and proper person to establish, maintain and operate a natural gas service;
- (d) demonstrate to the satisfaction of URCA that the applicant has sufficient intention, financial strength and resources to meet obligations under this Act and to provide gas services in an effective manner consistent with the natural gas sector policy objectives;
- (e) meet any other requirements, including but not limited to the provision of information and data, that URCA may require; and

- (f) show proof to URCA of satisfactory compliance with any applicable law in force in The Bahamas regulating, but not limited to —
 - (i) the environment;
 - (ii) trade and investment;
 - (iii) maritime affairs;
 - (iv) financial services;
 - (v) employment and immigration.

25. Procedure for processing application.

- (1) URCA shall review an application for a licence and within thirty calendar days of receipt of an application—
 - (a) approve the application and grant a licence or licences;
 - (b) reject the application, specifying the reasons for the rejection; or
 - (c) request further information necessary or desirable to evaluate the application.
- (2) Where URCA requests further information pursuant to subsection 1(c), URCA shall have a further thirty calendar days from the date of receipt of the information to evaluate the licence application.

26. Factors to be considered in determining a licence.

- (1) In determining whether to grant or renew a licence to, or for, a particular person, URCA must consider —
 - (a) the ability of that person to finance the carrying on of the particular activity;
 - (b) the experience of that person in carrying on the activity, and that person's ability to perform the duties which would be imposed on that person under this Act and the licence;
 - (c) in the case of a licence for retail —
 - (i) the quantities of gas available, or which are anticipated to be available, to that person for retailer's purposes; and
 - (ii) the sufficiency of rights held, or which are anticipated to be held, by that person to ship natural gas to premises for retail purposes;
 - (d) in the case of a licence for import, in relation to that person, the quantity of natural gas available, or which are anticipated to be available, to that person for import;
 - (e) whether or not that person is related to a licensee or any person exempted under section 18;

- (f) land use and location of the undertaking;
 - (g) the need to protect the environment and conserve the natural resources in accordance with environmental laws, maritime laws, and international maritime treaties ratified by The Bahamas;
 - (h) the ability of the applicant to operate in a manner designed to protect the health and safety of users of the service for which the licence is required and other members of the public who would be affected by the provision of those services;
 - (i) the economic and financial benefits to the country or area of supply of the intended licence; and
 - (j) the functions and powers of URCA under section 8.
- (2) URCA's decision in relation to an application shall be based upon and reflect —
- (a) the national growth and interest;
 - (b) the sector policy and objective; and
 - (c) any other social objective.

27. Procedure for determining an application.

- (1) An application for a licence made pursuant to section 17, shall be made ninety calendar days in advance and shall state the particulars and accompanying documents as may be prescribed.
- (2) URCA must determine an application within ninety calendar days of receipt thereof.
- (3) Notwithstanding subsection (1), where URCA decides that an application is not complete, URCA may require the applicant to produce such additional information as is required to complete the application process and in such instance, the time period referred to in subsection (2) shall pause and shall continue to run from the date of the submission of the additional information requested.
- (4) URCA shall provide the applicant with a copy of its determination supported by the reasons on which the decision was based.

28. URCA may consult with international or local bodies in determining an application.

URCA may consult with any international or local department, agency, ministry or other similar body as is necessary to ensure that —

- (a) the applicant meets the requirements and standards to operate such a facility or terminal;
- (b) any applicable international or national law, rule or regulation has been complied with.

29. URCA may meet with applicant.

- (1) URCA may meet with —
 - (a) an individual, prior to the submission of an application, to discuss a potential application; or
 - (b) an applicant, at any stage of the application process to discuss and address any concerns URCA may have.
- (2) Nothing discussed in a meeting held pursuant to subsection (1) shall prejudice or limit any decision of URCA.

30. URCA may grant expedited approval to existing qualified operators.

- (1) Where a company —
 - (a) has been engaged in natural gas operations in a jurisdiction outside of The Bahamas for a period of not less than five years; and
 - (b) operates under regulatory standards within a jurisdiction approved by URCA,

URCA may, if satisfied that the company is in good standing, grant expedited approval, within twenty-one calendar days of a written request, to conduct natural gas activities in The Bahamas on such terms and conditions as URCA determines.

- (2) An approval granted pursuant to this section must be —
 - (a) made within twelve months from the date of the commencement of this Act;
 - (b) accompanied by documentary evidence of the requirements in subsection (1); and
 - (c) accompanied by the prescribed fee.
- (3) An expedited approval granted under this section shall be valid for one year and shall at the expiration thereof, be subject to the provisions outlined in Part III, as determined by URCA.

GRANT AND DURATION OF LICENCE

31. Grant and types of licences.

- (1) URCA may grant a licence for —
 - (a) the import of natural gas;
 - (b) the construction (including conversion of existing infrastructure) and operation of LNG terminals and natural gas pipelines;
 - (c) the shipping of natural gas;
 - (d) the retailing of natural gas; and

- (e) any activity as URCA determines necessary.
- (2) A licence granted by URCA shall be in writing and continue in force, unless revoked or suspended in accordance with this Act, for such period as may be specified in the licence.
- (3) Where an applicant applies for more than once licence, URCA shall issue separate licences in respect of each activity.
- (4) The holder of a licence may carry out such activity as is specified in the licence subject to such conditions as may be imposed thereon or prescribed.

32. Licence may be granted jointly to licensee and a subsidiary undertaking of a licensee.

- (1) URCA may grant a licence jointly to a named licensee and any subsidiary undertaking of the named licensee included in the application for a licence or notified to URCA from time to time.
- (2) For the purposes of subsection (1), a notification shall —
 - (a) be in writing;
 - (b) identify the location of the operations of the subsidiary undertaking;
 - (c) be given to URCA where a subsidiary undertaking carries on an activity referred to in section 31(1); and
 - (d) unless rejected by URCA, have effect thirty calendar days after the date it is received by URCA.
- (3) URCA may refuse to grant an applicant a licence on the grounds that a company of which the applicant is a subsidiary undertaking —
 - (a) has a licence;
 - (b) requires or has applied for a licence; or
 - (c) has repeatedly contravened, or failed to cure a material contravention of, this Act, a regulatory measure or a condition of a licence.
- (4) A licensee who notifies URCA of a subsidiary undertaking to be included in the licence must submit the licence to URCA for the name of the subsidiary undertaking to be endorsed thereon or the licence to be reissued jointly in both names.
- (5) Notwithstanding the inclusion of its name in a licence, a subsidiary undertaking shall cease to be licensed for the purposes of subsection (1) —
 - (a) fourteen calendar days after URCA receives notice in writing from the named licensee or the relevant subsidiary undertaking excluding the subsidiary undertaking from the licence; or

- (b) immediately subsequent to a determination by URCA excluding the subsidiary undertaking from the licence.

33. Duration and renewal of licence.

- (1) An application for renewal of a licence —
 - (a) may be made no later than two years prior to the end of the term of the licence;
 - (b) shall be accompanied by the prescribed fee.
- (3) URCA may —
 - (a) renew a licence and amend any terms and conditions thereunder, in order to conform such licence to the requirements of this Act and any regulatory and other measures issued by URCA;
 - (b) refuse to renew a licence, where a licensee has repeatedly contravened, or failed to cure a material contravention, of this Act, or a regulatory measure, or a condition of the licence.

34. Prohibition on transfer of licence without consent of URCA.

- (1) No licence issued under this Act may be assigned or transferred to another person without the prior written consent of URCA.
- (2) Any purported transfer of a licence contrary to this section is void.

CONDITIONS OF LICENCES

35. General conditions.

- (1) A licence may include such restrictions or conditions (whether or not relating to the activities authorised by the licence) as appear to URCA to be requisite or expedient having regard to the functions and duties of URCA under section 8.
- (2) Without prejudice to the generality of subsection (1), a licence may include conditions —
 - (a) restricting the activities which the licensee is permitted to carry out;
 - (b) requiring the licensee to furnish —
 - (i) to specified persons or URCA in such manner and at such times as may be specified with such information as appears to URCA to be requisite or expedient for the purpose of facilitating the exercise by those persons or URCA of the functions or duties assigned to them or as may be reasonably required for that purpose;

- (ii) to URCA financial information including regulatory accounts in respect of such period and on such basis as may be specified;
- (c) controlling, limiting or restricting —
 - (i) the ownership or control, directly or indirectly, of the gas licensee;
 - (ii) the creation, holding or disposal of any interest in shares in the gas licensee or in any person holding shares in the gas licensee; or
 - (iii) any other interest in the licensed gas business or undertaking of the gas licensee or any part thereof;
- (d) requiring the licensee —
 - (i) to comply with —
 - (aa) any direction, determination, order or decision of URCA as to such matters specified in its gas licence or are of a description so specified;
 - (bb) any code of practice and standard of performance issued or modified by URCA applicable to the gas licensee;
 - (ii) to do or not to do such things as are specified in its licence or are of a description so specified, except insofar as URCA consents to its doing or not doing them, as the case may be;
- (e) providing for the determination by URCA of such questions arising under the gas licence, or under any document specified or described in the gas licence;
- (f) imposing requirements by reference to designation, acceptance or approval by URCA;
- (g) providing for references in the conditions of the gas licence to any document specified or described in the gas licence to operate as references to that document as revised or reissued from time to time;
- (h) providing that the conditions of the gas licence have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions requiring the gas licensee to provide a performance bond, guarantee or any other form of security on such terms and conditions as URCA may determine;
- (i) in the case of vertically integrated companies, to manage separate accounts and data with no cross-subsidisation, with respect to the activities regulated by this Act;

- (j) that maximum prices for retailers and all classes of consumers must be approved by URCA where there is inadequate competition and regulation is not leading to efficient cost-reflective outcomes;
 - (k) an advisory service with regard to the safe and efficient use, handling and storage of gas must be provided to customers by the trading licensee;
 - (l) that the licensee must maintain their facility in a fully operative condition;
 - (m) that the time period within which gas facilities will become operational must be fixed;
 - (n) that the licensee must provide information necessary for URCA to perform its functions; and
 - (o) that the licensee dismantles or decommissions some or all the facilities it has built.
- (3) Any person aggrieved by a condition imposed by URCA under subsection (1) may in writing apply to URCA to have the condition reviewed.
- (4) If the aggrieved person is not the licensee, URCA must inform the licensee regarding the application for review.
- (5) Whenever there is an application for review under subsection (3), URCA may conduct an investigation and may for that purpose summon witnesses to appear before it.

36. Conditions to import natural gas.

Without limiting section 35(1), a licence to import natural gas may include a condition controlling the quantities of natural gas to be imported.

37. Conditions to operate a natural gas terminal.

Without limiting section 35(1), a licence to operate a natural gas terminal may include a condition —

- (a) pertaining to —
 - (i) the type, specifications and use of the natural gas terminal;
 - (ii) the quantities of natural gas which may be received, stored or processed at the natural gas terminal;
- (b) requiring the operator of a natural gas terminal to —
 - (i) have in place procedures for compliance by the operator in the event of a public emergency; and
 - (ii) have emergency response capabilities;

- (iii) appoint, at such intervals and on such terms as URCA may direct, an independent technical auditor for the purposes specified in any such condition;
- (c) regulating the terms and conditions of any service provided at the natural gas terminal.

38. Conditions to transport natural gas.

Without limiting section 35(1), a licence to transport natural gas may include conditions —

- (a) requiring the transporter —
 - (i) to have in place procedures to be followed in the event of a public emergency and requiring it to maintain a national gas emergency service for the gas supply system;
 - (ii) to appoint, at such intervals and on such terms as URCA may direct, an independent technical auditor for the purposes specified in any such condition;
 - (iii) to interconnect one or more gas pipelines or gas pipeline networks or to convert a gas pipeline network to allow for the conveyance of natural gas through that gas pipeline network;
 - (iv) to enter into an arrangement with any person for —
 - (aa) the conveyance of gas through a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter; and
 - (bb) such other purposes as may be specified in the gas transporter's licence, on such terms as may be approved by URCA;
- (b) identifying specified agreements or classes of agreements which the transporter may only enter into on such terms as may be approved by URCA;
- (c) pertaining to —
 - (i) the transmission of gas;
 - (ii) the duty of the gas transporter to connect and provide access to its network to third parties;
 - (ii) the prices to be charged by the transporter for use of a gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter and the methods by which such charges are to be determined.

39. Conditions to retail natural gas.

Without limiting section 35(1), a licence to retail natural gas may include conditions requiring the retailer —

- (a) to secure such rights for the conveyance of gas through a gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter as are necessary for the purposes of complying with obligations owed by the gas retailer to consumers connected to such gas pipeline or gas pipeline network;
- (b) to act as a retailer of last resort in the event of the failure or default of another gas retailer;
- (c) to allow for the conveyance of natural gas through a gas pipeline network as it pertains to converting a gas pipeline network.
- (d) that gas must be supplied by a licensed retailer to any person connected to the transport network on request, if such service is economically viable and such person meets the requirements included in this Act or subsidiary regulation.

MODIFICATION, VARIATION AND REVOCATION OF LICENCE**40. Modification, variation and revocation of licence.**

(1) Subject to subsection (1), URCA may by determination, on its own motion or on the written application of the relevant licensee, modify, vary, restrict the conditions of, or revoke, a licence granted to a licensee where —

- (a) the licensee has requested URCA to modify, vary or revoke the licence;
- (b) it is necessary to comply with or conform to international treaties, commitments or standards or the laws of The Bahamas;
- (c) it is necessary to further the gas sector policy and national energy policy goals, objectives and principles and there is justification for the causing of any hardship that may result to that licensee;
- (d) the licensee has repeatedly contravened, or failed to cure a material contravention of, this Act or any other regulatory measure, including any condition of its licence;
- (e) the licensee made a statement or omitted to make a statement resulting in a material misrepresentation in its licence application;
- (f) the licensee has entered into receivership or liquidation, takes any action for its voluntary winding-up or dissolution, or is the subject of an order by a competent court or tribunal for its compulsory winding-up or dissolution;

- (g) the licensee is not providing the gas service authorised by and specified in its licence and URCA is satisfied that the licensee does not have the intention or the financial strength and resources to provide such service;
 - (h) it is in accordance with the procedure specified in section 105; or
 - (i) it is in accordance with the terms of the licence.
- (2) Where any issue of national security may arise as a result of a determination made by URCA under this section, URCA shall, prior to making such determination, consult with the Minister responsible for National Security.

41. Procedure for determining a modification or variation.

- (1) An application for a modification or variation of a licence made pursuant to section 40, shall be made ninety days in advance and shall state the particulars and accompanying documents as may be prescribed.
- (2) URCA must determine an application within ninety days of receipt thereof.
- (3) Notwithstanding subsection (1), where URCA decides that an application is not complete, URCA may require the applicant to produce such additional information as is required to complete the application process and in such instance, the time period referred to in subsection (2) shall pause and shall continue to run from the date of the submission of the additional information requested.
- (4) URCA shall provide the applicant with a copy of its determination supported by the reasons on which the decision was based.

42. Date of effect of modification or variation.

Subject to a determination being suspended pursuant to section 106(12), a determination made by URCA to modify, vary, restrict or revoke a licence shall take effect on the date specified and such date shall be given to a licensee affected by such determination.

43. Licensee may appeal modification or variation.

A licensee may, before the date specified in the notice given, appeal to the Tribunal against such modification, variation, restriction or revocation.

PART IV – RIGHTS AND DUTIES OF LICENSEES

GENERAL RIGHTS AND DUTIES

44. General right of licensees.

A licensee is entitled to require that the facilities connected to a facility owned by the licensee meets the established technical and safety conditions.

45. General obligations of licensees.

- (1) A licensee shall —
 - (a) perform such general obligations as may be specified in the conditions of his licence and shall have regard at all times in the conduct of operations to the public interest and to the rights and interests of The Bahamas;
 - (b) carry out his operations with due diligence and act in accordance with sound industry practice in the conduct of all operations.
- (2) Every person engaged as a gas service worker by a licensee shall perform his functions with due diligence and act in accordance with sound industry practice.

46. Licensee to operate and maintain facilities.

The operator of a facility shall ensure that all installations, apparatus, boreholes and wells are maintained in good condition.

47. Licensee to avoid unreasonable interference with other activities.

The operator of a facility shall ensure that the operations do not unreasonably interfere with other activities in the area and, in the case of operations in submarine areas, care shall be taken to avoid pollution of the seas, beaches or tidal rivers to ensure that navigation, agriculture, fishing, authorised scientific researches, and conservation of the living resources of the sea are not unjustifiably hindered, and likewise that no damage is caused to submarine cables and pipelines.

48. Duty of licensee to protect surrounding areas.

- (1) A licensee shall—
 - (a) in land areas, erect forthwith and at his own expense, and at all times maintain in repair visible boundary marks and pillars according to the description of the licensed area;

- (b) exercise all possible care in order to avoid causing any unnecessary damage to the surface of the licensed area or to trees, crops, buildings, structures and property thereon.
- (2) A licensee shall pay reasonable compensation for any loss, damage or injury which may be caused by him, or by his agents or servants, to any other person in respect of such person's rights of any description.

49. Licensee to permit inspection by URCA.

- (1) Every licensee shall enable an authorised representative of URCA at all reasonable times to inspect the operations carried out under the licence and to execute any works which URCA may be entitled to execute in accordance with the provisions of the licence.
- (2) An authorised person referred to in subsection (1) may make abstracts or copies of any records, maps, accounts and other documents which the licensee is required to keep in accordance with the provisions of his licence.
- (3) An inspection shall not be carried out in such manner as to unduly hinder or affect adversely the operations being conducted by the licensee.

50. Duty of licensee to share investment plans with URCA.

- (1) A licensee shall prepare an investment plan every three years from the date on which the licence was issued.
- (2) A plan referred to in subsection (1) shall —
 - (a) detail any investments for the next three years;
 - (b) be shared with URCA.
- (3) URCA may request modification of the investment plan, where it deems necessary.

51. Duty to keep confidential information when needed and facilitate information to other companies.

- (1) A licensee may share confidential information to other companies when necessary for the safe and effective use of the system.
- (2) A licensee shall —
 - (a) uphold confidentiality standards regarding proprietary information disclosed to them under a licensing agreement;
 - (b) ensure that such information is protected from unauthorized disclosure or use.

52. Licensee to employ available nationals.

- (1) A licensee shall seek to employ available nationals of The Bahamas having the necessary qualifications and experience, thus minimising the employment of foreign personnel and ensure that such employees are engaged only in positions for which the operator cannot, after reasonable advertisement in at least one daily newspaper circulating in The Bahamas, find.
- (2) A licensee shall determine the rules of employment including salary scales in such manner as to ensure that all employees in the same category enjoy equal conditions irrespective of nationality.

53. Licensee to prepare educational programmes.

Every licensee shall prepare, in consultation with URCA, programmes for industrial and technical education and training, including the grant of scholarships, and carry such programmes out diligently with a view to training nationals of The Bahamas to replace foreign personnel as soon as reasonably practicable and to affording nationals of The Bahamas every possible opportunity for occupying senior positions in the operations of the licensee.

54. Licensee to indemnify.

Every licensee shall keep URCA indemnified at all times against any action, claim or demands of whatever nature which may be brought against URCA by any third party in relation to any matter arising out of the exercise of the rights granted by the licence.

55. Licensee to comply to international treaties and agreements.

Notwithstanding the provisions of this Act, every licensee shall take steps to ensure compliance with any international treaty or conventions in force to which The Bahamas is a party that governs any function or activity of the licensee that is granted a licence under the Act.

56. Licensee to keep and maintain records.

Every licensee shall maintain appropriate and proper records containing full data of all operations and in so doing shall maintain correct and intelligible books and accounts in a form from time to time approved by URCA of —

- (a) the quantities of natural gas won and saved from the licensed area;
- (b) the quantity of natural gas acquired;
- (c) the disposal of natural gas, including—
 - (i) gas used for the purposes of carrying on drilling and production operations and pumping to field storage within the licensed area;

- (ii) gas exported with the name and address of the buyer, the quantity supplied to each buyer, the price or other consideration and the destination thereof;
 - (iii) gas delivered to each local refinery and the price therefor;
 - (iv) gas delivered to natural gas plants and the products recovered therefrom;
 - (v) gas otherwise disposed of and the manner of its disposal;
 - (vi) the methods and results of tests made on natural gas;
 - (d) such other particulars as URCA may from time to time direct.
- (2) For the purposes of this section, “**natural gas won and saved**” means natural gas that is produced, with the exception of natural gas that is proved to the satisfaction of URCA to have been used by the licensee within the licensed area for the carrying out of natural gas operations, including gas injection and other approved field operations.

57. Licensee to adopt risk management and insurance policies.

A licensee shall adopt and implement reasonable and prudent policies in relation to the management and insurance (including self-insurance) of risks associated with the licensee's business.

58. Gas plant and gas fittings not to be subject to distress.

Any gas fitting which is connected to a gas service pipe, and any gas plant in a consumer’s premises which is owned by a gas licensee and is marked or impressed with a sufficient mark, plate or brand indicating its owner —

- (a) continues to remain the property of its owner and is deemed not to be a fixture, notwithstanding that it may be fixed or fastened to any part of the premises in which it may be situated; and
- (b) is not to be subject to distress or be liable to be taken under or pursuant to an enforcement order of any court or any proceedings in bankruptcy against the person in whose possession it may be.

59. Obstructing gas licensee in performance of duties.

Any person who at any time molests, or without cause, hinders or obstructs, any employee, agent or contractor of a gas licensee in the performance of the duties of the employee, agent or contractor or anything which the employee, agent or contractor is respectively authorised, empowered or required to do under this Act commits an offence.

GAS TRANSPORTER

60. General duties of gas transporter.

Every gas transporter shall —

- (a) develop and maintain a safe, efficient, reliable and economical gas pipeline or gas pipeline network for the conveyance of gas;
- (b) subject to paragraph (a), to comply, so far as it is economical to do so, with any reasonable request to connect to that gas pipeline or gas pipeline network, and convey gas by means of that gas pipeline or gas pipeline network to, any premises; and
- (c) avoid undue preference or undue discrimination —
 - (i) in the terms on which it undertakes the conveyance of gas by any gas pipeline or gas pipeline network owned by, or under the management or control of, the gas transporter; or
 - (ii) in the connection of premises to such a gas pipeline or gas pipeline network;
- (d) have as their sole corporate purpose the activity of transportation and shall not conduct import, regasification or retail activities.

61. Duty of gas transporter to connect.

- (1) Subject to the provisions of this Act, a gas transporter shall, on the request of the owner or occupier of any premises —
 - (a) provide and install a gas service isolation valve;
 - (b) provide and lay a gas service pipe from the relevant gas main to the gas service isolation valve; and
 - (c) connect such premises to the relevant gas main.
- (2) Where any connection is made under subsection (1), the costs of such shall only be recovered by the gas transporter from the owner or occupier of the premises, as the case may be, to the extent that the costs have not been previously recovered from any other person.
- (3) Where any premises have been connected to a relevant gas main under —
 - (a) this Act; or
 - (b) any arrangement entered into by the owner or occupier of the premises prior to the date of commencement of this Act,the gas transporter shall maintain the connection until such time as it is no longer required by the owner or occupier of the premises at that time.
- (4) Nothing in subsection (1) or (3) shall require the gas transporter to connect, or maintain a connection of, a relevant gas main to any premises, if —

- (a) the gas transporter is unable to do so by circumstances beyond its control; or
 - (b) there exist circumstances, which by reason of the gas transporter doing so, would involve a danger to the public.
- (5) If the connection, or the maintenance of the connection, of any premises to a relevant gas main under this section —
- (a) will result in a new or an increased supply of gas to those premises; and
 - (b) the new or increased supply of gas cannot be made without the laying of a new, or the enlargement of an existing, gas main or the undertaking of other works related to the conveyance of gas to those premises, the gas transporter may refuse to make or maintain the connection until such time as the owner or occupier of those premises when the new or increased supply is being required enters into an agreement with the gas transporter for the payment of a reasonable amount to the gas transporter having regard to —
 - (i) the costs to be incurred by the gas transporter in laying or enlarging the relevant gas main or undertaking other works related to the conveyance of gas to those premises; and
 - (ii) the extent to which such costs can be recovered from other persons.
- (6) The owner or occupier of any premises shall grant the gas transporter rights of access to lay, install, maintain, repair, alter or remove any gas service isolation valve, meter or gas service pipe in his premises.

62. Access by third party to fixed transportation facility.

- (1) The owner of a pipeline transportation facility shall—
 - (a) upon request, allow a third party access to the facility in keeping with a non-discriminatory and transparent process;
 - (b) notify URCA of the requests, and provide all relevant details required by URCA within thirty days of the request.
- (3) URCA may establish the procedure for the notification of any conflict that may arise —
 - (a) in the negotiation of a contract;
 - (b) in a request for access to a transport facility.
- (4) URCA shall resolve within three months any dispute relating to access by a third party to a transport facility.

63. Power of gas transporter to require security.

- (1) Where any person requires a connection to be made, a gas transporter may require the person to give it reasonable security for the payment to it of all costs which may become due to it in respect of the services.
- (2) If the person fails to give such security, or the security given has become invalid or insufficient, the gas transporter may refuse to provide gas installation services.

64. Power of gas transporter to reduce supply pressure.

A gas transporter may, for operational reasons without incurring any liability for so doing, reduce as it thinks fit the pressure of gas supplied in any case, if at any time it is of the opinion that its gas supply pressure is insufficient for the purposes of maintaining a normal supply of gas, and such pressure must be restored as soon as reasonably practicable.

65. Power to fell trees and vegetation.

- (1) Where, in the opinion of a gas transporter any tree or vegetation near any part of a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of the gas transporter causes or is likely to cause damage to such pipeline, pipeline network, plant or pipe, the gas transporter may cause the tree or vegetation to be felled, lopped, cleared or dealt with in such manner as will, in its opinion, prevent the damage.
- (2) The owner or occupier of any land shall, before felling, lopping or clearing any tree or vegetation adjacent to a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter, give the gas transporter fourteen days' notice in writing of his intention to do so and shall take such reasonable precautions as the gas transporter may require for the protection of such pipeline, pipeline network or plant.
- (3) If any such owner or occupier fails to give notice under subsection (2), or having given notice fails to take any such reasonable precautions as the gas transporter may have required, the owner or occupier shall be liable to pay the gas transporter the reasonable cost and expense incurred by the gas transporter in respect of any damage caused to any such gas pipeline, gas pipeline network or gas plant, subject to URCA's approval as to the amount of the cost or expense in the case of any dispute.
- (4) If any tree or vegetation is felled, lopped or cleared upon any land adjacent to a gas pipeline, gas pipeline network or gas plant owned by, or under the management or control of, a gas transporter, it shall be presumed until the contrary is proved that the tree or vegetation was

felled, lopped or cleared by the owner or occupier of the land or by his employees or agents acting as such.

66. Powers of gas transporters in carrying out works.

- (1) Subject to the provisions of this Act, a gas transporter may, in order to carry out the activities which it is authorised by its gas transporter's licence to —
 - (a) install in, on, over, under, upon, along or across any land, premises, street or waters and inspect, maintain, adjust, repair, alter, restore, replace or remove any gas pipeline, gas plant or gas fitting which is or is to be part of its gas pipeline network; and
 - (b) carry out such activities as are necessary or incidental to the activities falling within subsection (1)(a), including —
 - (i) excavating any land, street or drain;
 - (ii) tunnelling or boring under any land, street, sewer or drain;
 - (iii) removing or using all earth and materials in or under any land, street, sewer or drain;
 - (iv) erecting or placing any gas plant in or under any land or street; and
 - (v) any other action that may be necessary to render all such pipes, plant and apparatus safe and efficient, and must pay to any person who has suffered damage or loss of value to the person's property that may be caused by such activity such sum as may be agreed by between the gas transporter and the person by way of compensation.
- (2) Any compensation payable under subsection (1) may include an annual payment for land or any immovable property used for the gas transporter's purpose.
- (3) All works referred to in subsection (1), including the upper surface or covering, must be constructed of such materials and must be maintained by the gas transporter in such a manner as not to be a source of danger, whether by reason of inequality of surface or otherwise.
- (4) A gas transporter does not acquire any right other than that of a user only in respect of any land or premises in, on, over, under, upon, along or across which the gas transporter places any gas pipeline, gas pipeline network or gas plant under this section.
- (5) Except in the case of an emergency arising from any fault in any gas main, gas service pipe or gas plant, no works referred to in subsection (1) may be executed without the giving of fourteen days' notice to the owner or occupier of the land stating as fully and accurately as possible the nature and extent of the acts intended to be done.

- (6) The owner or occupier of the land may, within fourteen days of the receipt of the notice referred to in subsection (5), lodge a written objection with URCA and URCA must specify a date to inquire into any such objection.
- (7) If no objection is lodged within the period specified in subsection (6), the gas transporter may on expiry of the period enter on the land and do all or any of the acts specified in the notice given under subsection (5).
- (8) If an objection is lodged and is not withdrawn before the date fixed for the inquiry referred to in subsection (6), URCA must hold the inquiry, giving each party an opportunity to be heard.
- (9) Subject to subsection (10), upon the conclusion of the inquiry, URCA may, either unconditionally or subject to such terms and conditions as it thinks fit, authorise any of the acts mentioned in the notice given under subsection (5) to be carried out.
- (10) Any person aggrieved by any decision of URCA under this section may, within fourteen days of the conclusion of the inquiry, appeal to the Utilities Appeal Tribunal whose decision is final.
- (11) A gas transporter must do as little damage as possible in the exercise of the powers conferred by subsection (1) and must make good any damage done in the exercise of those powers.
- (12) Where any dispute arises as to whether a gas transporter has sufficiently made good any damage done in the exercise of the powers conferred by subsection (1), the dispute —
 - (a) may be referred to URCA by either party; and
 - (b) must, on such a reference, be determined by URCA, whose decision is final and conclusive between the parties.
- (13) A gas transporter must exercise the powers conferred by subsection (1) in such manner as will secure that nothing which it installs or keeps installed in, on, over, under, upon, along or across any land, premises, street or waters becomes a source of danger to the public.
- (14) A gas transporter is not, when exercising the powers conferred by subsection (1), liable for or required to pay any person any fee, charge or expense for the right to enter or use any land or premises.
- (15) A gas transporter must not, without the prior written consent of a statutory board or Government authority, authorise any person to enter or use any land belonging to the statutory board or Government authority for the purpose of exercising the powers conferred by subsection (1).

67. Gas transporter to provide convenient ways.

- (1) A gas transporter shall, in executing any works under section 66, provide and make a sufficient number of convenient ways, watercourses, drains

and channels to replace those that are interrupted, damaged or rendered useless by reason of the execution of the works.

- (2) A gas transporter shall pay to any person who suffers damage or loss of value to the person's property as a result of the gas transporter's actions under subsection (1), such sum as may be agreed by between the gas transporter and the person by way of compensation.

68. Gas transporter to maintain gas service pipes and gas installations.

- (1) A gas transporter shall carry out any necessary work of maintenance, repair or renewal of —
 - (a) any part of a gas service pipe from a gas main up to a gas service isolation valve; and
 - (b) that gas service isolation valve, by which gas is conveyed to a consumer's premises, whether or not the gas service pipe was supplied and laid at the gas transporter's expense.
- (2) The cost of any work carried out under subsection (1) is to be paid as follows:
 - (a) in the case of work made necessary by any intentional or negligent act of the consumer, by the consumer if the gas transporter requires the consumer to pay;
 - (b) in any other case, by the gas transporter.
- (3) URCA may, from time to time, prescribe such person or class of persons to be responsible for the inspection, maintenance, repair or renewal of any part of a gas installation or any part of a gas service pipe linking a gas service isolation valve to the gas installation.
- (4) The gas transporter must —
 - (a) establish and implement a programme for the carrying out of regular and periodic inspections, by the gas transporter or the person prescribed under subsection (3) as being responsible for such inspections, of any part of a gas installation or any part of a gas service pipe linking a gas service isolation valve to the gas installation; and
 - (b) notify the person prescribed under subsection (3) as being responsible for the maintenance, repair or renewal of that part of the gas installation or that part of the gas service pipe linking the gas service isolation valve to the gas installation, if any such work of maintenance, repair or renewal is necessary following such inspections; and such work is to be carried out at the expense of that person.

69. Relocation of gas main or gas service pipe.

- (1) Where a gas main or gas service pipe has been laid in, on, over, under, upon, along or across any land by a gas transporter and the owner or occupier of the land desires to use the land in a manner which renders it necessary or convenient that such gas main or gas service pipe should be moved, the owner or occupier (as the case may be) may request the gas transporter to move the pipe accordingly.
- (2) A gas transporter shall, at the request of the owner or occupier under subsection (1), relocate the gas service pipe if it is satisfied that —
 - (a) such relocation is reasonable; and
 - (b) the owner or occupier complies with such terms and conditions as the gas transporter may impose, including terms and conditions relating to the payment by the owner or occupier of all reasonable costs and expenses necessary for the relocation.
- (3) Where a gas main or gas service pipe has been laid in, on, over, under, upon, along or across any land by a gas transporter and the gas main or gas service pipe is no longer in use by the occupier or any other person for the purposes of the supply of gas, or by the gas transporter for the conveyance of gas, the gas transporter —
 - (a) may of its own volition; or
 - (b) shall at the reasonable request of the owner, remove the gas main or gas service pipe from the land at its own expense.
- (4) For the purposes of subsection (3), “owner” includes any person having a leasehold interest with an unexpired term of not less than seven years.

70. Removal of obstruction only to be carried out by a gas transporter.

- (1) No person may build, erect or construct anything over any existing gas transmission pipeline, gas main or gas service pipe owned by, or under the management or control of, a gas transporter without the approval of the gas transporter.
- (2) Any owner or occupier whose premises are found to have any building or structure built, erected or constructed over an existing gas main or gas service pipe must have the gas main or gas service pipe relocated or diverted away by the gas transporter from under the building or structure.
- (3) The costs arising from such relocation or diversion is to be borne —
 - (a) by the owner or occupier to the extent that the owner or occupier benefits from such diversion or relocation, or where the building or structure was built, erected or constructed by the owner or occupier in contravention of subsection (1); and
 - (b) by the gas transporter in all other circumstances.

- (4) Any person who contravenes subsection (1) commits an offence

71. Gas transporter to carry out earthworks within vicinity of gas plant or gas pipe.

- (1) Subject to this section, no person other than a gas transporter may commence or carry out, or cause or permit the commencement or carrying out of, any earthworks within the vicinity of any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter, unless the person has —
- (a) given to the gas transporter not less than seven days' notice in writing of the date on which it is proposed to commence the earthworks;
 - (b) obtained from the gas transporter the necessary information on the location of the gas plant or gas pipe; and
 - (c) consulted the gas transporter on the steps to be taken to prevent the gas plant or gas pipe from being damaged while the earthworks are being carried out.
- (2) URCA may, if it thinks fit in any particular case, modify the period for which a notice under subsection (1)(a) is to be given to a gas transporter.
- (3) A person who commences or carries out, or causes or permits the commencement or carrying out of, any earthworks referred to in subsection (1) shall —
- (a) comply with all reasonable requirements of the gas transporter for the prevention of damage to the gas plant or gas pipe;
 - (b) ensure that reasonable precautions are taken when such earthworks are being carried out to prevent any damage to the gas plant or gas pipe; and
 - (c) allow the gas transporter reasonable access to the work site for the purpose of inspecting or taking any necessary measures to protect the gas plant or gas pipe.
- (4) The gas transporter to whom a notice under subsection (1)(a) has been given shall —
- (a) promptly inform the person giving the notice of the location of the gas plant or gas pipe, and to provide the person with such other information as may be necessary to enable the person to ascertain the exact location of the gas plant or gas pipe;
 - (b) advise the person on the precautions to be taken to prevent damage to the gas plant or gas pipe; and
 - (c) take all such measures at the work site as may be reasonable and necessary for the protection of the gas plant or gas pipe and, in so doing, the gas transporter must have regard to the potential risks

and dangers that can arise from any damage to the gas plant or gas pipe.

- (5) Nothing in subsection (1) prohibits a person from commencing or carrying out, or causing or permitting the commencement or carrying out of, any earthworks where the person has reasonable cause to believe that it is necessary to do so in the interest of public or private safety.
- (6) The person referred to in subsection (5) must, as soon as practicable but not more than twenty-four hours after the earthworks have been commenced or carried out, give to the gas transporter written notice stating the nature and extent of those earthworks.
- (7) Any person who contravenes subsection (1), (3) or (6) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years or to both.
- (8) Subject to subsection (9), in any proceedings for an offence under subsection (7), it is a defence for the person charged to prove, that the person took all reasonable —
 - (a) to discharge the person's duty under subsection (1) or (3), as the case may be; or
 - (b) precautions and exercised all due diligence to avoid the commission of the offence.
- (9) This section applies to any infrastructure (including valve chambers, pipe jacking sleeves, concrete casings and rock armour) housing or intended to house any gas transmission pipeline, as it applies to any gas plant or gas pipe in a gas pipeline network owned by, or under the management or control of, a gas transporter.

72. Savings of wayleaves or easements agreements with gas transporter.

Nothing in this Part affects —

- (a) the right of a gas transporter to enter into an agreement, commonly known as a wayleave agreement, or obtain a grant of an easement with or from the owner or occupier of any land for the purpose of laying, placing, carrying or erecting any gas pipeline or gas pipeline network or gas plant;
- (b) any such wayleave agreement or easement subsisting immediately before the date of commencement of this Act; or
- (c) the right of a gas transporter to negotiate the use of land or facilities belonging to the State or any other person.

73. URCA may make regulations for entry into premises by gas transporter.

URCA may make regulations to establish the conditions under which a gas transporter or any person authorised by the gas transporter may enter into premises for inspection purposes or for any other reason URCA considers necessary.

GAS RETAILER

74. Rights of gas retailers.

A gas retailer shall have the right to —

- (a) carry out gas acquisitions under the provision of this Act;
- (b) sell natural gas to consumers and other authorized suppliers under non-discriminatory, freely negotiated conditions;
- (c) receive the measurement of their customers' supplies;
- (d) require that users' measuring equipment meets the technical and conditions determined, and request verification of the proper functioning of supply measuring equipment;
- (e) invoice and collect for the supplies provided.

75. Duties of gas retailers.

Every gas retailer shall —

- (a) develop and maintain a safe, efficient, reliable and economical service for the retailing of gas;
- (b) carry on its licensed gas business at all times in such manner so as not to prevent, restrict or otherwise hinder the development of competition in any gas market in The Bahamas;
- (c) notify URCA of the commencement or cessation of the activity and comply with the regulatory requirements established;
- (d) coordinate their activity with the transporter and other gas sector licensee as needed for an efficient operation of the gas system;
- (e) procure the gas and sign the necessary access contracts to fulfil the contractual commitments with their clients;
- (f) provide the guarantees required for the access tariffs and charges contracted, and pay, within the deadlines established by legislation, the tariffs and access charges to the gas facilities corresponding to them;
- (g) send to URCA periodic information determined regarding the activity they carry out within the gas sector;

- (h) provide their clients with information and advice they may request regarding gas supply;
- (i) supply to end consumers, they must have a customer service to handle complaints, claims, information requests, or communications of any incidents regarding the contracted or offered service;
- (j) inform clients about the available extra judicial conflict resolution systems and how to access them.

76. Right to disconnect or refuse to supply gas to a meter.

- (1) A meter shall be used to receive gas from a retailer subject to any regulations issued under this Act.
- (2) Where a meter does not comply with any regulations made hereunder —
 - (a) the gas transporter may disconnect or refuse to connect the consumer’s premises;
 - (b) the relevant gas supplier may refuse to supply gas or authorise the supply of gas to the premises to be discontinued.
- (3) Subject to any regulations made hereunder, where a consumer is supplied with gas through a meter, the index of the meter is *prima facie* evidence of the quantity of gas supplied to the consumer.

77. Right to disconnect gas to premises.

- (1) The supply of gas to a consumer’s premises may be discontinued by a gas retailer or gas shipper, if applicable, where a consumer improperly uses or deals with the gas so as to interfere with the efficient conveyance or gas supply, whether to himself or to any other person.
- (2) Where the supply of gas to premises has been discontinued pursuant to subsection (1), the gas retailer or gas shipper, is not obligated to restore the supply of gas until the consumer —
 - (a) is no longer the owner or occupier of the premises; or
 - (b) has —
 - (i) made good the default, or remedied the matter, in consequence of which the supply of gas was discontinued; and
 - (ii) paid the reasonable expenses of discontinuing and restoring the supply of gas to the premises.

78. Pricing by gas retailers.

In establishing prices, a gas retailer may neither show undue preference as between persons or any class of persons, nor exercise undue discrimination as between persons or any class of persons.

79. Power to recover gas charges.

- (1) Where —
 - (a) a demand in writing is made by a gas retailer for the payment of any of the charges due to it from a consumer in respect of the supply of gas to the consumer's premises, and the consumer does not pay those charges within twenty-eight calendar days after the making of the demand; or
 - (b) a written request is made by a gas retailer for the provision of a deposit by way of reasonable security for the payment of the charges due to it from a consumer in respect of the supply of gas to the consumer's premises, and the consumer does not provide such a deposit within seven calendar days after the making of the request.
- (2) The gas supplier may, giving not less than seven calendar days' notice of its intention —
 - (a) discontinue the supply to the consumer's premises or any other premises occupied by the consumer; and
 - (b) recover any expenses incurred in so doing from the consumer.
- (3) The powers conferred by subsections (1) and (2) are not exercisable in respect of any charges or deposit, the amount of which is genuinely in dispute.

80. Restoration of supply without consent.

- (1) Where any premises have been disconnected by a gas transporter in exercise of the powers under this Act or pursuant to a valid and enforceable contractual right —
 - (a) any person who, without the consent of the gas transporter, re-connects the supply of gas to those premises commits an offence and shall be liable on conviction to a fine not exceeding eight thousand dollars or to imprisonment for a term not exceeding three years or to both; and
 - (b) the gas transporter may again disconnect the premises.
- (2) Where the supply of gas to any premises has been discontinued by a gas shipper or gas retailer in exercise of the powers under this Act or pursuant to a valid and enforceable contractual right —

- (a) any person who, without the consent of the gas shipper or gas retailer (as the case may be) restores the supply of gas to those premises commits an offence and shall be liable on conviction to a fine not exceeding eight thousand dollars or to imprisonment for a term not exceeding three years or to both; and
- (b) the gas transporter whose pipeline is connected to those premises (whether such pipeline is owned by, or under the management or control of, the gas transporter) may disconnect the premises.

HEALTH AND SAFETY

81. Licensee to comply with URCA instructions.

Every licensee shall comply with all instructions issued from time to time by URCA that are reasonably necessary for securing the health, safety and welfare of persons employed for the purpose of operations.

82. Licensee to take precautions to avoid gas escape.

- (1) Every licensee shall in carrying out work take adequate precautions to prevent the escape of gas.
- (2) No licensee may connect a gas installation to a source of gas without ensuring that every outlet is sealed with the appropriate gas fitting and the gas installation has been tested for gas tightness.
- (3) Where a licensee carries out any work in relation to a gas fitting which might affect the gas tightness of a gas installation, a gas pipeline or gas pipeline network, the licensee must immediately thereafter test the system for gas tightness.
- (4) Any licensee who disconnects a gas fitting must, with the appropriate fitting, seal off every outlet of every pipe to which it is connected.
- (5) No licensee carrying out work in relation to a gas fitting which involves exposing any part of the gas installation which contains or contained flammable gas may smoke or use any source of ignition unless the gas installation has been purged so as to remove all such gas or has otherwise been made safe from risk of fire or explosion.
- (6) No licensee searching for an escape of gas from a gas fitting may use any source of ignition unless the source of ignition is incorporated as part of an instrument designed for the detection of gas.
- (7) No licensee may use any naked flame or carry out any hot work in the vicinity where gas is known to be leaking.
- (8) Any licensee who contravenes any provision of this section, commits an offence and is liable on conviction to a fine not exceeding one hundred

thousand dollars or to imprisonment for a term not exceeding five years or to both and, in the case of a continuing offence, to a further fine not exceeding five hundred dollars for every day or part of a day during which the offence continues after conviction.

83. Notified escapes of gas.

- (1) Where any gas escapes from any gas pipeline owned by, or under the management or control of a gas transporter, or from any internal pipe, gas fitting or gas appliance used by a consumer to whose premises gas is conveyed by the gas transporter, the gas transporter must —
 - (a) immediately take steps necessary to prevent the gas from escaping (whether by disconnecting any premises or otherwise); and
 - (b) take any other steps necessary to avert danger to life or property.
- (2) A gas transporter who —
 - (a) fails within a reasonable time to effectively prevent the gas from escaping; or
 - (b) fails to comply with subsection (1)(b),commits an offence and is liable on conviction to a fine not exceeding seventy-five thousand dollars and, in the case of a continuing offence, to a further fine not exceeding eight thousand dollars for every day or part of a day during which the offence continues after conviction.
- (3) In any proceedings for an offence under subsection (2)(a), it is a defence for the gas transporter to prove that —
 - (a) it was not reasonably practicable for it to effectively prevent the gas from escaping; and
 - (b) it did effectively prevent the escape as soon as it was reasonably practicable for it to do so.
- (4) In any proceedings for an offence under subsection (2)(b), it is a defence for the gas transporter to prove that it took all such steps to avert danger to life or property as were reasonably practicable.
- (5) It is the duty of any gas service worker to take all steps necessary to ensure that, if it is informed by any person (the informant) or otherwise knows of an escape of gas (other than one, in the case of a gas transporter, that it is required by subsection (1) to prevent), it passes the information on, without avoidable delay —
 - (a) to a responsible person, that is to say, a person appearing to it —
 - (i) to be responsible (whether under this section or otherwise) for preventing the escape; or
 - (ii) to be the gas transporter from whose gas pipeline network the gas is escaping; or

- (b) to a person nominated by a responsible person to receive information on the responsible person's behalf about escaping of gas.
- (6) For the purposes of subsection (5)(b), there is sufficient compliance if the gas service worker is reasonably satisfied that the informant has passed on the information, without avoidable delay, to the nominated person.
- (7) For the purposes of subsections (5) and (6), references to the passing on of information to a nominated person are references to the passing on of information to that person in such manner (if any) as may be specified by the responsible person by whom that person was nominated.

84. Suspected escapes of gas.

- (1) Where a gas transporter has reasonable cause to suspect that gas conveyed by the gas transporter which has escaped, has entered, or may enter any premises, the gas transporter must take all steps necessary to avert danger to life or property.
- (2) If a gas transporter fails to comply with subsection (1), he commits an offence and is liable on conviction to a fine not exceeding seventy-five thousand dollars.
- (3) In any proceedings for an offence under subsection (2), it is a defence for the gas transporter to prove that it took all such steps to avert danger to life or property as were reasonably practicable.

85. Power to disconnect and interrupt supply of gas.

- (1) Where, on the occurrence of a fire or on the reasonable expectation or occurrence of an operational emergency, a gas transporter, a gas service worker or an authorised officer is of the opinion that immediate action is necessary —
 - (a) in the interests of public safety;
 - (b) in order to repair damaged gas pipelines;
 - (c) in order to avoid undue interference with the efficient conveyance of gas and shipping of gas to consumers;
 - (d) for the construction of any new work, alteration to or the maintenance of any existing work;
 - (e) for the installation, change or removal of any meter; or
 - (f) for the conservation of the supply of gas, the gas transporter or gas service worker or authorised officer (as the case may be) may immediately disconnect or divert the supply of gas to any premises and must immediately thereafter give written notice of the disconnection or diversion to the owner or occupier of the premises.

- (2) A gas service worker or authorised officer shall not be liable under this section in respect of any injury, loss or damage suffered by any person by reason of —
 - (a) any failure to provide or delay in providing any supply of gas or any associated gas fitting or gas appliance; or
 - (b) any failure, interruption, suspension or restriction of any supply of gas which has not been caused by the negligence of the gas transporter, gas service worker or authorised officer, as the case may be.

TERMINATION OF FACILITIES AND ABANDONMENT

86. Licensee to give notice.

- (1) Where a licensee is of the opinion that —
 - (a) the facility or activity is no longer required;
 - (b) the facility or activity is not economically justifiable; or
 - (c) another person is willing and able to assume the rights and obligations of the licensee concerned in accordance with the requirements and objectives of this Act,

the licensee must give URCA at least one year's notice where the licensee intends to abandon the facility or terminal.
- (2) Where URCA receives a notice pursuant to subsection (1), URCA may revoke the licence and —
 - (a) approve the transfer or rights and obligations to the interested person;
 - (b) take such steps as are necessary to identify an alternative person to manage or secure the facility;
 - (c) take such steps as are necessary to prevent damage to the environment or damage by others.
- (3) Where a licensee fails to give notice pursuant to subsection (2), and the licensee abandons the facility or terminal, URCA may take action as specified in subsection (2) and in such case, the licensee shall be liable on conviction to a fine of five hundred thousand dollars and to any other applicable fine.

PART V - PROHIBITION OF ANTI-COMPETITIVE AGREEMENTS AND PRACTICES

87. Anti-competitive agreements.

- (1) Subject to subsection (5), no person shall without the grant of an approval by URCA enter into a contract or arrangement or arrive at an understanding which —
 - (a) contains a provision that has the purpose, or has or is likely to have the effect, of substantially lessening competition in the gas market; or
 - (b) creates new monopoly situations in the generation, transmission or supply of natural gas in The Bahamas.
- (2) No person shall give effect to a provision of a contract, arrangement or understanding that has the purpose, or has or is likely to have anti-competitive effects.
- (3) Subsection (2) applies —
 - (a) where the contract, arrangement or understanding is, or is intended to be, implemented in The Bahamas; and
 - (b) to a contract, arrangement or understanding implemented on or after the date this Part comes into operation.
- (4) Subject to subsection (3), a contract, arrangement or understanding which is prohibited by subsection (1) is unenforceable and or void.
- (5) This section —
 - (a) is subject to the functions and powers of an approving authority under this Act;
 - (b) does not apply to or invalidate any practice or conduct that has been authorised under Part V or Part VI; and
 - (c) applies, but is not limited to, to such contracts, arrangements or understandings as may be specified by URCA in regulatory and other measures.

88. Abuse of dominant position.

- (1) A person that has a substantial degree of power in a natural gas market in The Bahamas shall not take advantage of such power for the purpose of —
 - (a) restricting the entry of a person into that or any other market;
 - (b) preventing or deterring a person from engaging in competitive conduct in that or any other market;
 - (c) eliminating a person from that or any other market; or

- (d) engaging in courses of conduct which are or may be detrimental to the interests of consumers of natural gas in The Bahamas including economic interests, or interests in respect of health, safety or other matters, which may affect natural gas services within The Bahamas.
- (2) The existence of a purpose referred to in subsection (1) may be inferred from the conduct of any relevant person or from the relevant circumstances.
- (3) For the purposes of this section, a reference to a person includes two or more persons that are interconnected.
- (4) This section applies, but is not limited to, such conduct constituting abuse of a dominant position as may be specified by URCA in regulatory and other measures.

89. Power to investigate competition matters.

URCA may conduct an investigation if there are reasonable grounds for suspecting that section 87 or 88 has been infringed.

90. Power when conducting competition investigations.

- (1) For the purposes of an investigation under section 89, URCA may, by notice in writing to any person, require that person to produce to URCA a specified document, or to provide URCA with specified information, which URCA considers relates to any matter relevant to the investigation.
- (2) A notice under subsection (1) shall indicate —
 - (a) the subject matter and purpose of the investigation;
 - (b) the nature of the offence(s) being investigated.
- (3) URCA may specify in the notice —
 - (a) the time and place at which any document is to be produced or any information is to be provided; and
 - (b) the manner and form in which it is to be produced or provided.
- (4) The power under this section to require a person to produce a document includes the power —
 - (a) if the document is produced —
 - (i) to take copies of it or extracts from it; and
 - (ii) to require such person, or any person who is a present or past officer of his, or is or was at any time employed by him, to provide an explanation of the document;
 - (b) if the document is not produced, to require such person to state, to the best of his knowledge and belief, where it is.

91. Decision following competition investigation.

Where, following an investigation conducted under section 89, URCA considers that section 87 or 88 has been infringed and URCA proposes to make a direction, URCA shall —

- (a) give written notice to the person likely to be affected by such direction; and
- (b) give such person an opportunity to make representations to URCA.

PART VI - MERGER CONTROL BY URCA**92. URCA to approve a change of control in relation to licensees.**

- (1) Without prejudice to any other law or existing obligations in a licence to notify URCA of changes in control, a person shall not implement a change in control of a licensee without obtaining the prior written approval of URCA in accordance with this Part.
- (2) Failure to obtain prior written approval of URCA makes the acquirer and the licensee liable to —
 - (a) prosecution for an offence under subsection (7);
 - (b) an adjudication by URCA and an order under section 105 for the acquirer to divest or procure the divestment of the licensee or any part of the licensee as a going concern to a purchaser on terms of sale approved by URCA; or
 - (c) both (a) and (b).
- (3) The acquirer or the licensee must apply for approval by notifying URCA within seven calendar days of concluding an agreement, or announcing a public bid, that would result in a change in control of a licensee.
- (4) The notification referred to in subsection (3) shall be in writing in such form and manner as may be specified by URCA and include —
 - (a) a description of the terms of the transaction;
 - (b) information about the acquirer and the licensee, each of their shareholders and any person being the beneficial owner or voting controller of more than fifteen percent of the voting shares of either, or both of the acquirer and the licensee;
 - (c) financial information of the persons involved in the transaction, including —
 - (i) annual revenues from the provision of natural gas services;
 - (ii) copies of the most recent annual and quarterly reports and financial statements; and

- (iii) a description of the gas market or markets in which the persons involved in the transaction operate.
- (5) URCA may, for the purpose of carrying out its functions under this Part, request in writing from a licensee or acquirer in a merger application all necessary information.
- (6) A request made by URCA under subsection (5) shall —
 - (a) state the legal basis and the purpose of the request;
 - (b) specify what information is required;
 - (c) state the time limit within which information is to be provided; and
 - (d) contain a warning that a failure to provide requested information within the time limit, or the supply of incorrect or misleading information, is an offence.
- (7) A person who —
 - (a) contravenes subsection (1); or
 - (b) on request made by URCA under subsection (5), fails to provide requested information within the time limit, or supplies incorrect or misleading information;commits an offence.
- (8) A person convicted of an offence under subsection (7) is liable to a fine not exceeding one hundred thousand dollars.
- (9) In this Part, an acquirer is a person who acquires, by whatever means, control of a licensee or part of the undertakings of a licensee.

93. When a change in control takes place.

- (1) A change in control occurs in relation to a licensee where a person, either alone or with an affiliated company —
 - (a) acquires control (including by the acquisition of voting shares), by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating the licensee or any other corporation or otherwise, to ensure that strategic decisions of the licensee are conducted in accordance with the wishes of that person;
 - (b) becomes the beneficial owner or voting controller of more than thirty percent of the voting shares in the licensee; or
 - (c) becomes the beneficial owner or voting controller of more than fifteen percent of the voting shares but not more than thirty percent of the voting shares in the licensee concerned unless that person, either alone or with any affiliated company —

- (i) is not, or does not concurrently become, the beneficial owner or voting controller of more than five percent of the voting shares in any other licensee; and
- (ii) does not have the power (including by the holding of voting shares), or does not concurrently acquire control (including by the acquisition of voting shares), by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating any other licensee or any other corporation or otherwise, to ensure that the affairs of such other licensee are conducted in accordance with the wishes of that person.

(2) In this Part —

“voting control” means the control of, or ability to control, directly or indirectly, the exercise of the right to vote attaching to one or more voting shares in a licensee —

- (a) by directing the exercise of, or directly exercising, as the case may be, the right to vote;
- (b) through an entitlement to exercise the right to vote;
- (c) through a nominee; or
- (d) through or by means of a trust, agreement, instrument, understanding or practice, whether or not having legal or equitable force or based on legal or equitable rights; and

“voting controller” means a person who exercises voting control.

94. Questions to be determined by URCA in granting approval in a change of control.

URCA, on receiving a notification given under section 92(3), shall review the application and form an opinion whether a proposed change of control of a licensee —

- (a) would have, or be likely to have, the effect of substantially lessening competition in a market in The Bahamas; and
- (b) whether the change of control would have an effect, or would be likely to have an effect, contrary to the public interest.

95. Principles to be applied in appraising a change of control.

(1) For the purposes of section 94(a) in determining whether to give its consent, URCA shall take into account in particular —

- (a) the promotion of sustainable competition for the market in the natural gas sector within The Bahamas or part of The Bahamas in view of, among other things, the structure of all the markets

- concerned and the actual or potential competition from undertakings located either within or outside The Bahamas; and
- (b) the market position of the licensee or licensees concerned and their economic and financial power, the alternatives available to suppliers and users, their access to supplies or markets, any legal or other barriers to entry, supply and demand trends for the relevant services, the interests of the intermediate and ultimate consumers, and the development of technical and economic progress provided that it is to consumers advantage and does not form an obstacle to competition.
- (2) To the extent that the creation of a joint venture or arrangement involving one or more licensees has as its object or effect the coordination of the competitive behaviour of licensees that remain independent, the creation of such joint venture shall be considered as though it were a change of control under this Part. In making this appraisal, URCA shall take into account in particular —
- (a) whether two or more parent companies retain, to a significant extent, activities in the same market as the joint venture or in a market which is downstream or upstream from that of the joint venture or in a neighbouring market closely related to this market; and
 - (b) whether the coordination which is the direct consequence of the creation of the joint venture affords the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products or services in question.

96. Procedures for appraisal of a change in control.

- (1) Where URCA, on receiving a notification given under section 92(3) —
- (a) forms an opinion that the proposed change of control would not have the adverse effects set out in section 94(a) or (b), URCA shall issue an adjudication giving consent to the merger; or
 - (b) forms an opinion that the proposed change would have the adverse effects set out in section 94(a) or (b), URCA shall by adjudication take one of the following actions —
 - (i) declare the merger incompatible with the adverse effects URCA has formed the opinion it would have and deny its consent;
 - (ii) give consent subject to an order that the acquirer or the licensee concerned takes the action that URCA considers necessary to eliminate or avoid any such effects; or
 - (iii) give consent without issuing an order under subparagraph (ii) if URCA is satisfied that any substantiated and likely

efficiencies put forward by the acquirer or the licensee are necessary and outweigh any potential harm to consumers and citizens.

- (2) URCA shall, within thirty calendar days of receiving a complete notification, and, before forming any opinion or issuing any adjudication under subsection (1) —
 - (a) give the acquirer, the licensee and any interested persons a reasonable opportunity to make representations; and
 - (b) consider the representations, if any, made under paragraph (a).
- (3) URCA shall, by notice in writing, inform the acquirer and the licensee of —
 - (a) the adjudication made under subsection (1); and
 - (b) where an adjudication is made under subsection (1)(b)(ii), the action that URCA orders the acquirer or the licensee to take.
- (4) The acquirer in an application for a change of control must —
 - (a) be a legal entity incorporated in The Bahamas;
 - (b) conduct the administration and management of the business which is the subject of the application from premises within The Bahamas;
 - (c) be a fit and proper person to establish, maintain and operate a natural gas service;
 - (d) demonstrate to the satisfaction of URCA that the applicant has sufficient intention, financial strength and resources to meet obligations under this Act and to provide gas services in an effective manner consistent with the sector policy objectives; and
 - (e) meet any other requirements of URCA, including but not limited to the provision of information and data.

97. Timetable for appraisal for a change in control.

- (1) URCA shall promptly review a complete notification under section 92(3) and shall within sixty calendar days of receiving representations pursuant to section 96(2) —
 - (a) issue its adjudication under section 96(1)(a) or 96(1)(b)(ii) or 61(1)(b)(iii); or
 - (b) inform the acquirer and relevant licensee or licensees that it is opening an in-depth investigation under subsection (2).
- (2) URCA may open an in-depth investigation where it considers that there is a significant prospect that the change of control is likely to have the adverse effects set out in section 94(a) or (b) and the parties have not volunteered any proposals to eliminate URCA's concerns.

- (3) Within ninety calendar days of opening an in depth investigation under subsection (2) URCA shall issue its adjudication under the provisions of section 96 as applicable.
- (4) The timetable in this section shall be paused if URCA requests further information from the acquirer or relevant licensee under section 92(5) and complete response is not provided to URCA within the time limit specified in the request.
- (5) From the date when URCA receives a complete response to its request, the timetable shall re-start from the stage that it was paused.

PART VII - CONSUMER PROTECTION

98. Consumer protection.

Every consumer shall have the right —

- (a) to make gas purchases under the terms established in the bilateral contracts.
- (b) to choose the supplier for the purchase of natural gas;
- (c) to request the verification of the proper operation of the metering equipment of their supply;
- (d) to have a telephone assistance service provided by the network operator to which their installations are connected, operating twenty-four hours a day, to which they can turn to in the event of possible safety incidents in their installations. This number must be clearly identified in the invoices and in any case it will be provided by the supplier to the consumer;
- (e) to have a contract with the supplier which specifies —
 - (i) the identity and address of the supplier;
 - (ii) the services provided, the quality level proposed and the term for the initial connection;
 - (iii) the type of maintenance service offered;
 - (iv) how to obtain up to date information on all applicable tariffs and maintenance charges;
 - (v) the duration of the contract, the conditions for renewal and termination of the services and of the contract and, where permitted, the withdrawal from the contract free of charge;
- (f) to compensation and refund arrangements applicable if contracted quality standards are not met, including incorrect and delayed billing;
- (g) to initiate a dispute resolution procedure in accordance;

- (h) to information on consumer rights, including information on the handling of complaints clearly communicated through bills or natural gas company websites;
- (i) to the terms and conditions shall be fair and shall be made known in advance;
- (j) to be duly notified in a transparent and comprehensible manner of any intention to modify the conditions of the contract and informed of their right to terminate the contract free of charge upon receipt of the notice;
- (k) to communications of price revisions shall include a comparison of the prices applied before and after the revision, as well as an estimate of the annual cost of supply for that consumer and its comparison with the previous annual cost;
- (l) to receive transparent information on prices, tariffs and general conditions applicable to access and use of gas services;
- (m) to freely choose the method of payment and for any prepayment systems to be fair and adequately reflect likely consumption;
- (n) to change a supplier free of charge;
- (o) to have procedures for the handling their complaints;
- (p) to be informed of their rights to be supplied, in accordance with the provisions of applicable national legislation, with natural gas of a specified quality at reasonable prices;
- (q) to have at their disposal their consumption data and to be able, by explicit agreement and free of charge, to give access to the metering data to any supply undertaking;
- (r) to be adequately informed of the actual gas consumption and the corresponding costs with the frequency established by the contractual terms; and
- (s) to receive a settlement of the account after any change of natural gas supplier, within a maximum period of six weeks from the date of the change of supplier.

99. Complaints.

- (1) URCA shall ensure that procedures are in place for the handling of complaints by —
 - (a) consumers; and
 - (b) gas service providers.
- (2) Any procedures put in place pursuant to subsection (1) shall —

- (a) allow for the fair and expeditious resolution of disputes within three months, and provide, where justified, for a system of reimbursement and compensation;
- (b) comply with any principles governed by the law of arbitration.
- (3) A person can file a complaint relating to —
 - (a) the supply of gas;
 - (b) unreasonable or excessive prices or tariffs imposed by a licensee; or
 - (c) unreasonable differences regarding the supply of natural gas services by licensees.

100. URCA to conduct investigations into complaints.

- (1) URCA shall conduct an investigation into every complaint by —
 - (a) any person relating to the supply of gas;
 - (b) any persons relating to unreasonable or excessive prices or tariffs imposed by a licensee;
 - (c) any person concerning unreasonable differences regarding the supply of natural gas services by licensees.
- (2) Notwithstanding subsection (1), URCA may not conduct investigations into disputes concerning breach of contract between a licensee and an eligible customer.
- (3) A complaint made under subsection (1) must be in writing and submitted within the prescribed period and be accompanied by —
 - (a) supporting documentation or information; and
 - (b) a statement of any efforts made to resolve the dispute before resorting to URCA.

101. Alternative dispute resolution.

- (1) URCA may, if requested by a party to a dispute, act as arbitrator in disputes between a licensee and a third party, in relation to any agreement related to the supply of or an aspect of a regulated service.
- (2) URCA may appoint a suitable person to act as arbitrator on its behalf and any action or decision by a person so appointed is deemed to be an action of URCA.
- (3) URCA may —
 - (a) exercise the powers and functions of an arbitrator under a contract;
or
 - (b) act as an arbitrator in any natural gas related contract.
- (4) The provisions of the Arbitration Act (*Ch. 180*) shall apply to any arbitral proceedings conducted pursuant to this section.

- (5) An appeal from an award or determination made by URCA shall lie to the Utilities Appeal Tribunal.

PART VIII – INVESTIGATIONS AND ENFORCEMENT BY URCA

INVESTIGATIONS

102. URCA to conduct investigations generally.

- (1) URCA may investigate one or more of the following —
- (a) any contravention;
 - (b) any alleged contravention; and
 - (c) any circumstance where it has grounds to suspect a contravention, of any provision of this Act and any regulatory or other measure issued under this Act, including any licence issued under this Act.
- (2) In conducting an investigation under subsection (1), URCA shall have the power —
- (a) to request in writing that any licensee and any undertaking subject to an investigation for a breach of the Act, provide the information and documents set out in the request within an amount of time specified by it; and
 - (b) to enter premises and inspect, copy and retain documents to the extent permitted under any search warrant obtained under subsection (3).
- (3) Where information provided by URCA (or other person) satisfies a magistrate that URCA has reason to believe that —
- (a) any person is contravening any part of this Act or any condition of any licence issued under it; and
 - (b) entry to specified premises is necessary for the enforcement of the provisions of this Act,
- the magistrate may issue a search warrant to a peace officer or an employee of URCA.
- (4) The peace officer to whom a warrant is issued may be accompanied by an authorised representative of URCA and may enter the specified premises, carry out search and inspection of those premises and test and seize any relevant apparatus, equipment or documents in accordance with the terms of the warrant.

- (5) Where under this section a person has the right to examine and test any equipment or apparatus on any premises it shall be the duty of any person who is on the premises, or is in charge of, or in attendance to give him such assistance as he may reasonably require in the examination or testing of the equipment or apparatus.

103. Power to enter premises under warrant.

- (1) URCA may apply to the Court for a warrant and the Court may issue such warrant if it is satisfied that —
 - (a) there are reasonable grounds for suspecting that there are on any premises documents which are required to be produced under section 102; or
 - (b) there are reasonable grounds for suspecting that —
 - (i) there are on any premises documents which URCA has power under section 102 to require to be produced; and
 - (ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.
- (2) A warrant under this section shall authorise a named officer of URCA, and any other of its officers whom URCA has authorised in writing to accompany the named officer —
 - (a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;
 - (b) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application under subsection (1) was granted (“the relevant kind”);
 - (c) to take possession of any document appearing to be of the relevant kind if —
 - (i) such action appears to be necessary for preserving the document or preventing interference with it; or
 - (ii) it is not reasonably practicable to take copies of the document on the premises;
 - (d) to take any other steps which appear to be necessary for the purpose mentioned in paragraph (c)(i);
 - (e) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found; and
 - (f) to require any information which is held in a computer and is accessible from the premises and which the named officer considers relates to any matter relevant to the investigation, to be produced in

a form in which it can be taken away; and in which it is visible and legible.

- (3) If, in the case of a warrant issued under subsection (1)(b), the Court is satisfied that it is reasonable to suspect that there are also on the premises other documents relating to the investigation concerned, the warrant shall also authorize the action mentioned in subsection (2) to be taken in relation to any such document.
- (4) If there is no one at the premises when the named officer proposes to execute such a warrant, he must, before executing it —
 - (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and
 - (b) if the occupier is so informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.
- (5) If the named officer is unable to inform the occupier of the intended entry, he must, when executing the warrant, leave a copy of it in a prominent place on the premises.
- (6) On leaving any premises which he has entered by virtue of a warrant under this section, the named officer must, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.
- (7) A warrant under this section continues in force until the end of the period of one month beginning from the day on which it is issued.
- (8) Any document of which possession is taken under subsection (2)(c) may be retained for a period of three months.
- (9) For the purposes of this section —
 - “**named officer**” means the officer named in the warrant;
 - “**occupier**” in relation to any premises, means a person whom the named officer reasonably believes is the occupier of those premises.

104. Privileged communications.

A person shall not be required, under any provision of this Part, to produce or disclose a communication —

- (a) between a professional legal adviser and his client; or
- (b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which in proceedings in a court would be protected from disclosure on grounds of privilege.

ENFORCEMENT

105. URCA enforcement orders.

- (1) URCA may issue an order to enforce a determination or an adjudication made by URCA under this Act.
- (2) An enforcement order pursuant to subsection (1) may be issued concurrently with the determination or adjudication and may —
 - (a) require a licensee or any person that contravenes a provision of this Act, regulatory or other measures, or a licence condition, to do or to refrain from doing such things as are specified in the order to remedy, prevent or rectify the breach or anticipated breach which is the subject matter of the determination or adjudication; and
 - (b) impose an objectively justified and non-discriminatory regulatory penalty on a licensee and notify the licensee that the licence may be revoked if the licensee fails to comply with the determination or pay URCA a penalty or both.
- (3) Where a licensee fails to comply with an order or part of an order within the time determined by URCA, URCA may —
 - (a) impose a penalty or additional penalties for a continuous breach of the order; and
 - (b) suspend or revoke the licence with immediate effect, where the licensee was notified in the order that non-compliance could result in a penalty or licence revocation or both.
- (4) URCA may on its own initiative or at the request of an affected party issue an interim order in cases of urgency involving a risk of serious and irreparable damage.
- (5) An interim order shall —
 - (a) be limited to such reasonable period of time as URCA considers is required to complete its investigation;
 - (b) address only such actions or omissions that are likely to result in serious and irreparable damage; and
 - (c) be followed by a full investigation by URCA.
- (6) On completion of the investigation referred to in paragraph (c) of subsection (5), URCA shall issue a final order that confirms, amends or revokes the interim order.
- (7) Where URCA issues an interim or final order under this section —
 - (a) the order shall be in writing;

- (b) the order shall specify the contravention that the licensee or other person has committed and the penalty imposed by URCA;
- (c) a copy of the order shall be given to the licensee or the other person;
- (d) the payment of any penalty imposed by the order may be enforced at the instance of URCA in a court of summary jurisdiction regardless of the amount;
- (e) any steps taken by URCA to recover a penalty imposed by the order shall not preclude steps being taken to prosecute a person for an offence under this Act;
- (f) upon satisfaction by a licensee of the requirements of the order, the licensee is not liable to further investigation by URCA in respect of the contravention;
- (g) the order shall be legally binding on the parties to the order unless suspended by an order of the Tribunal; and
- (h) URCA shall promptly publish the order on the URCA website, taking into account any legitimate reasons of commercial confidentiality that may apply.

106. Determinations by URCA.

- (1) URCA may, upon application in writing by a person having an interest in the subject matter of the determination, or upon its own motion where URCA has reason to believe that a determination is necessary, make determinations relating to —
 - (a) a contravention of a provision of this Act, or an obligation on a licensee relating to the terms or conditions of a licence, including obligations in licence conditions, regulatory and other measures, standards or technical rules; and
 - (b) any matter in respect of which this Act provides for URCA to “determine” or to “make determinations”.
- (2) URCA shall not consider applications for a determination that —
 - (a) are vexatious or frivolous or where the applicant lacks standing;
 - (b) do not fall within URCA's functions of URCA under this Act;
 - (c) in the view of URCA, would involve resources disproportionate to the likely benefit ensuing from a determination; or
 - (d) are inappropriate because, in the view of URCA, a determination is not the most effective or efficient manner to resolve the subject matter of the application.
- (3) URCA shall, in making a determination —

- (a) consult persons with sufficient interest in the subject matter of the determination and provide reasons in writing for the determination; and
 - (b) take into account the urgency of the application or an investigation commenced on its own initiative and consider whether an interim determination is required.
- (4) URCA may issue an interim determination where —
 - (a) the application appears likely to succeed; or
 - (b) URCA is likely to find that a licensee has breached a provision of this Act, regulatory or other measures, or a licence condition and irreparable harm would result if an interim determination is not made.
- (5) URCA shall issue an interim determination for a specified period of time, renewable to the extent necessary and appropriate, and URCA shall in determining the period of time consider the —
 - (a) length of time required to complete its investigation of the application;
 - (b) extent of irreparable harm that would be caused if no interim determination were made; and
 - (c) financial, administrative or other burden on the licensee.
- (6) Subject to subsection (2), where a person applies to URCA for a determination URCA shall —
 - (a) acknowledge the application within five working days of receipt;
 - (b) expeditiously request from the applicant or other parties such additional information as URCA reasonably requires to make a determination; and
 - (c) use all reasonable efforts to make a determination no later than four months after receiving the application.
- (7) Prior to issuing a determination under subsection (1), URCA shall give a notice of preliminary determination to the proposed addressee or addressees specifying —
 - (a) the determination to be made;
 - (b) the obligations the compliance or contravention of which are the subject of the determination;
 - (c) in accordance with subsection (9), the period during which the addressees have an opportunity to —
 - (i) make representations about the matters in the preliminary determination;

- (ii) comply with the obligations referred to in the preliminary determination of which they are in contravention, where applicable; and
 - (iii) remedy the consequence of contraventions notified in the preliminary determination, where applicable.
- (8) URCA shall enclose with a notice of preliminary determination a copy of any order under section 105 that URCA proposes to issue with the final determination.
- (9) The period specified under subsection (7)(c) in a notice of preliminary determination —
 - (a) shall be no less than one month, commencing on the day after which notice of the preliminary determination was given; or
 - (b) may be a shorter period where the preliminary determination relates to a contravention and URCA has reasonable grounds for believing the contravention is a repeated contravention.
- (10) URCA shall —
 - (a) consider any representations or objections received from the addressees within the period specified in the notice of preliminary determination;
 - (b) within one month commencing on the day after the expiry of the period specified in the notice, issue a final determination —
 - (i) referring to the matters contained in the preliminary determination;
 - (ii) summarising the representations and objections received;
 - (iii) containing the response of URCA to representations and objections and URCA’s reasoning behind the determination in sufficient detail to enable it to be understood and the reasons for it to be known;
 - (iv) stating whether or not URCA intends to issue an order under section 105; and
 - (v) where URCA states that it intends to issue an order under section 105, enclosing such enforcement order;
 - (c) publish determinations promptly on the URCA website after taking into account legitimate reasons of commercial confidentiality that may apply.
- (11) Except in the case of repeated breaches, URCA shall not issue an order under section 105(2)(b) where in the opinion of URCA the relevant person has —
 - (a) complied with the obligations referred to in the preliminary determination of which they are in contravention; and

- (b) remedied the consequence of contraventions notified in the preliminary determination.
- (12) A determination is legally binding on the parties to the determination unless suspended by order of the Tribunal.

107. Adjudications by URCA.

- (1) URCA may, acting on receipt of a complaint or notification or upon its own initiative, make adjudications relating to any contravention of sections 105, 106, or 92.
- (2) An adjudication may impose behavioural or structural remedies which are proportionate to the infringement committed and necessary to bring the contravention to an end.
- (3) URCA acting on its own initiative may issue an interim adjudication —
 - (a) on the basis of a *prima facie* finding of contravention; and
 - (b) in cases of urgency involving risk of serious and irreparable damage to competition.
- (4) An interim adjudication under subsection (3) shall be for a specified period of time and may be renewed to the extent a renewal is necessary and appropriate.
- (5) URCA, in determining the period of time referred to in subsection (4), shall consider the—
 - (a) length of time required to complete its investigation;
 - (b) extent of irreparable harm that would be caused if an interim adjudication is not made; and
 - (c) financial, administrative or other burden on the licensee.
- (6) In making an adjudication, URCA shall —
 - (a) provide reasonable notice to a person who may be affected by the adjudication;
 - (b) allow an affected person an opportunity to be heard; and
 - (c) provide reasons in writing for the adjudication.
- (7) URCA shall establish procedures for conducting investigations for the purposes of sections 105 and 106 and for issuing adjudications under this section.
- (8) Prior to issuing an adjudication, URCA shall —
 - (a) notify each party against whom objections are raised of the objections raised against them by way of a written statement of objections; and

- (b) in the notification to the parties of the statement of objections, set a time-limit within which the parties may respond in writing to URCA to the objections raised.
- (9) The time-limit referred to in subsection (4) shall be no less than one month, commencing on the day after which the notification of the statement of objections was given.
- (10) The parties in their written statements in response —
 - (a) may set out all facts known to the parties which are relevant to their defence against the objections raised; and
 - (b) shall attach any relevant documents as proof of the facts set out in the statements.
- (11) Prior to issuing an adjudication, URCA may —
 - (a) conduct a public oral hearing, where requested to do so by the parties in their statements in response; and
 - (b) give the parties an opportunity to develop arguments in their defence to the objections raised in the statement of objections.
- (12) Where URCA states in a final adjudication that it intends to issue an order under section 105, URCA shall issue the order at the same time as the final adjudication.
- (13) URCA shall publish promptly its adjudications on the URCA website after taking into account legitimate reasons of commercial confidentiality that may apply.
- (14) An adjudication shall be legally binding on the parties to whom the adjudication is addressed unless suspended by order of the Tribunal.

PART IX - APPEALS TO THE UTILITIES APPEAL TRIBUNAL

108. Jurisdiction of the Tribunal.

The Utilities Appeal Tribunal has exclusive jurisdiction to hear and determine all appeals, matters and disputes referred to it, and to issue orders, in accordance with the provisions of this Act and the Utilities Appeal Tribunal Act (*Ch. 307*).

109. Appeals to the Tribunal.

- (1) An appeal to the Tribunal may be made against the following appealable decisions by URCA —
 - (a) an adjudication by URCA under section 107, and any order issued under section 105 attaching to such adjudication;

- (b) a determination by URCA under section 106 and any order issued under section 105 attaching to such determination;
 - (c) any decision by URCA for the modification or withdrawal of—
 - (i) an adjudication;
 - (ii) a determination;
 - (iii) an order attached to an adjudication;
 - (iv) an order attached to a determination; or
 - (d) any decision by URCA, which has an immediate effect on a person and, in particular, does not require a further act to be given effect;
- (2) The Tribunal shall decide an appeal under subsections (1)(a), (1)(d)(i) or (1)(d)(iii) on the merits and by reference to the grounds of appeal set out in the notice of appeal.
 - (3) The Tribunal shall decide an appeal under subsection (1)(b) by applying the same principles as would be applied by a court on an application for judicial review.
 - (4) The Tribunal shall decide all appeals, other than those appeals referred to in subsections (2) and (3), by drawing any inferences, not inconsistent with the findings of fact made by URCA, necessary for determining questions of law or jurisdiction.
 - (5) This section does not apply to —
 - (a) an act by URCA, to institute, bring or carry on a criminal prosecution;
 - (b) any preliminary step taken by URCA, for the purpose of enabling a criminal proceeding to be instituted.

110. Notice of appeal.

- (1) A person affected by an appealable decision of URCA, may appeal the decision by filing a notice of appeal with the Tribunal in accordance with the Tribunal Rules, and within twenty-one calendar days of the receipt or publication of the appealable decision.
- (2) A notice of appeal shall set out the section of this Act under which the decision appealed against was taken and the grounds of appeal.
- (3) The grounds of appeal shall be set out in sufficient detail to indicate to what extent, if any, the appellant contends that the decision appealed against was based on an error of fact or was wrong in law or both.

PART X – OFFENCES, FINES AND PENALTIES

111. General offences.

- (1) A person who wilfully tampers with or adjusts an installation, or part of an installation, so as to cause or to be likely to cause —
 - (a) danger to human life or limb; or
 - (b) damage to any apparatus or other property,commits an offence and is liable on conviction for each such offence to imprisonment for a term not exceeding five years.
- (2) A person who, by any reckless or negligent act or omission in respect of an installation under his control, causes injury to any person or damage to property commits an offence and is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding fifty thousand dollars or to both such imprisonment and fine.
- (3) A person who in any manner dishonestly —
 - (a) abstracts gas;
 - (b) consumes gas;
 - (c) uses gas;
 - (d) alters the index of a meter or other instrument used in connection with an installation under the control of a licensee for recording the output or consumption of gas; or
 - (e) prevents a meter or instrument referred to in paragraph (d) from recording the output or consumption of gas,commits an offence and is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding fifty thousand dollars or to both such imprisonment and fine.
- (4) A person who, without the consent of the licensee and relevant Government agency approvals, affixes or causes to be affixed any advertisement, bill or notice or any paper against upon, or otherwise defaces, any building, post or bracket or other apparatus or the enclosure thereof used for or in connection with an installation under the control of the licensee commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars.
- (5) A person who wilfully or negligently —
 - (a) causes gas to be diverted from its proper course; or
 - (b) breaks, throws down, causes to fall or damages any supply line or any post, pole, or other apparatus connected with the supply of gas, commits an offence and is liable on conviction to imprisonment for

a term not exceeding six months or to a fine not exceeding fifty thousand dollars or to both such imprisonment and fine.

- (6) A person who —
- (a) obstructs or impedes an employee, officer or agent of a licensee in the exercise of the licensee's duties under this Act or any regulations made pursuant to this Act; or
 - (b) fails to comply with an order or request lawfully given under this Act or regulations made;
 - (c) wilfully obstructs an officer of URCA in the performance of his duties,
- commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars and, in the case of a continuing offence, to a fine not exceeding five hundred dollars for every day or part of a day during which the offence is continued after the first day of the conviction.
- (7) Where a person is summarily convicted of an offence under this Part, a magistrate may make an order for expenses and costs incurred in relation to the prosecution of the offence.

112. Making of false statements.

- (1) Any person who —
- (a) wilfully or fraudulently procures or attempts to procure for the person or for any other person any gas licence under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration verbally or in writing; or
 - (b) knowingly aids or assists therein, commits an offence.
- (2) Any person who seeks to obtain entry to any premises by falsely pretending to be an employee of URCA or a gas licensee commits an offence.

113. Damage to gas plant or gas pipe.

- (1) Any person who —
- (a) removes, destroys or damages any gas plant or gas pipe which is part of a gas pipeline network owned by, or under the management or control of, a gas licensee;
 - (b) causes or permits the removal, destruction or damage of such gas plant or gas pipe; or
 - (c) in any way other than by paragraph (a) or (b), wilfully or recklessly hinders or prevents such gas plant or gas pipe from being used or operated in the manner in which it is intended to be used or operated,

commits an offence and is liable on conviction to a fine not exceeding one million dollars or to imprisonment for a term not exceeding five years or to both.

- (2) In any proceedings for an offence under subsection (1)(a) or (b), it is a defence for the person charged to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (3) A person (A) may apprehend any other person (B) if B within A's view commits an offence under this section and must, on such apprehension, hand over B so apprehended to a police officer without unreasonable delay.
- (4) This section applies to any infrastructure (including valve chambers, pipe jacking sleeves, concrete casings and rock armour) housing or intended to house any gas transmission pipeline, as it applies to any gas plant or gas pipe which is part of a gas pipeline network owned by, or under the management or control of, a gas licensee.

114. Unauthorized connection with gas pipeline network.

- (1) Any person who —
 - (a) intentionally lays or causes to be laid a pipe or a gas fitting to connect with any gas pipeline or gas pipeline network owned by, or under the management or control of, a gas transporter without the consent of the gas transporter;
 - (b) dishonestly or fraudulently abstracts, uses, consumes or diverts any gas supplied by a gas licensee;
 - (c) alters or tampers with any part of any meter or meter installation for registering the quantity of gas supplied to any person or premises;
 - (d) does anything that compromises or adversely affects the ability or proper operation of any meter or meter installation in duly registering the quantity of gas supplied to any person or premises;
or
 - (e) causes or permits any other person to engage in conduct mentioned in paragraph (b), (c) or (d),commits an offence.
- (2) A person who is guilty of an offence under subsection (1)(a), (b), (c), (d) or (e) shall be liable on conviction to one or both of the following —
 - (a) a fine that is the total of —
 - (i) an amount not exceeding \$40,000; and
 - (ii) an amount equal to 3 times the value of gas —

- (A) diverted, abstracted, used or consumed in the commission of the offence under subsection (1)(a) or (b), or caused or permitted to be so diverted, abstracted, used or consumed in the commission of the offence under subsection (1)(e), as the case may be; or
 - (B) supplied as a result of the commission of the offence under subsection (1)(c), (d) or (e), as the case may be;
- (b) imprisonment for a term not exceeding two years, and
 - (c) and, in the case of a continuing offence, to a further fine not exceeding two hundred dollars for every day or part of a day during which the offence continues after conviction. The value of the gas diverted, abstracted, used, consumed or supplied as mentioned in subsection (2)(a)(ii), may be determined based on the amount of such gas fairly and reasonably estimated after comparing records (as are appropriate and available) of gas usage before, during and after the diversion, abstraction, use, consumption or supply.
- (3) In the case of any offence under subsection (1), the gas transporter may disconnect the premises of, or the relevant gas shipper or relevant gas retailer may discontinue the supply of gas to the premises of, the person referred to in that subsection.

115. Supply of gas illegally taken.

- (1) Where any person takes a supply of gas which is in the course of being conveyed by a gas transporter, the gas transporter is entitled to recover from that person the value of gas so taken.
- (2) Where —
 - (a) any person at premises which have been re-connected in contravention of section 114(1) takes a supply of gas which has been conveyed to those premises by the gas transporter; and
 - (b) the supply is taken otherwise than in pursuance of a contract,the gas transporter is entitled to recover from that person the value of the gas so taken.

116. Failure to notify connection or disconnection.

- (1) No person may connect or disconnect —
 - (a) any meter with a gas pipeline;
 - (b) any meter with an internal pipe connected to a gas pipeline; or
 - (c) any internal pipe to a gas pipeline through which gas is conveyed to any premises by a gas transporter; or

unless the person has given forty-eight hours' notice in the prescribed form of an intention to do so to the gas supplier or to the gas transporter.

- (2) A notice under subsection (1) must contain details of the time and place of the proposed connection or disconnection; and any other information that may be prescribed.
- (3) Insofar as it is not reasonably practicable for a notice under subsection (1) to contain any information required by subsection (2), it is a sufficient compliance with that requirement if the information is given to the relevant gas supplier or gas transporter (within forty-eight hours after the connection or disconnection is effected)
- (4) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding four thousand dollars.

117. Unspecified penalties.

- (1) A person convicted of an offence under this Part for which no penalty is specified shall be liable to a fine not exceeding twenty thousand dollars and, in the case of a continuing offence, to a fine not exceeding two thousand dollars for every day or part of a day during which the offence is continued after the first day of the conviction.
- (2) A person charged with an offence under this Part may be tried summarily on complaint made, as applicable, by URCA, or by a revenue officer or a peace officer in the name of the Minister or the Commissioner of Police, respectively.

118. Regulatory fines, penalties and remedies.

- (1) Subject to subsection (3) a licensee who contravenes a provision of this Act, or a licence condition, or regulatory and other measures, is liable to a regulatory fine or other penalty determined by URCA, not exceeding ten percent of the licensee's relevant turnover.
- (2) URCA may in respect of a contravention or breach of a provision of this Act, or a licence condition, or regulatory and other measures —
 - (a) issue a determination or adjudication;
 - (b) issue an enforcement order;
 - (c) amend, suspend or revoke the licence; or
 - (d) any combination of (a), (b) and (c).
- (3) An order issued by URCA imposing a regulatory fine or penalty —
 - (a) shall specify the date on which such regulatory fine or penalty becomes due and payable;
 - (b) where the order relates to the contravention of a licence condition, a code of practice, or regulatory and other measures, shall in

- specifying the date afford a reasonable period within which to remedy the relevant contravention;
- (c) except in the case of repeated contraventions, shall not be enforced in respect of the regulatory fine or penalty where the relevant contravention has been remedied by the date specified in the order; and
 - (d) may be enforced in the same manner as an order of a court.
- (4) In specifying a date for the purposes of subsection (3), URCA shall have regard to —
- (a) the seriousness of the contravention and the need for urgent remedy; and
 - (b) the conduct of the person liable to pay the regulatory fine or penalty, including any previous or repeated contravention of the same or any other licence condition, provision of the Act, regulatory or other measures, or provision of any code of practice.
- (5) A person who fails or refuses on or before the date specified for the purposes of subsection (3) —
- (a) to remedy a contravention; or
 - (b) to pay a regulatory fine or penalty,
- shall in respect of each failure or refusal be liable to pay an additional daily default regulatory fine not exceeding one hundredth of one percent (0.01%) of the licensee's relevant turnover.

119. Other requirements not affected.

- (1) Nothing in this Part shall be construed to allow a licensee to do any act in breach of any applicable provision of any law, any regulatory or other measure or to grant it rights not granted in the licence.
- (2) An exemption from licensing requirements shall not affect the requirement for persons to comply with all other applicable provisions of this Act, and any regulatory or other measure made or issued under this Act.

PART XI - MISCELLANEOUS

120. National interest matters.

- (1) During any period in which Article 29 of the Constitution applies and the Governor-General considers it necessary in the interests of defence, public safety and public order —

- (a) the Government shall have control over any and all natural gas supply systems or facilities; and
 - (b) the Governor-General may, for use by the Government, take possession of and assume control over, or direct other persons as the Governor-General thinks fit to assume control over, part or all of the gas supply system of any licensee or of any generating stations or facilities.
- (2) Notwithstanding any provision of this Act or any other law to the contrary, the Governor-General may, for the purpose of exercising the powers conferred by subsection (1), appoint and pay out of the Consolidated Fund temporary operative or engineering staff, for a period not exceeding six months, under such terms and conditions as the Governor-General may prescribe and determine.
- (3) The Minister may, where the Government declares or seeks to prevent a civil emergency, consult with and give directions as the Minister considers requisite or expedient to a licensee or person to whom this section applies for the purpose of—
 - (a) preserving the security of buildings or installations used for, or for purposes connected with, the regasification, transport, or the supply of the gas sector; or
 - (b) mitigating the effects of the civil emergency that occurs or may occur.
- (4) A direction under subsection (3) —
 - (a) shall be given after consultation with the licensee or person;
 - (b) may direct that the licensee or person do, or not do, a particular thing specified in the direction; and
 - (c) notwithstanding any other duty imposed on the licensee or person by or under this Act, shall be given effect to by the licensee or person.
- (5) The Minister shall lay before each House of Parliament a copy of every direction given under subsection (3) unless the Minister is of the opinion that disclosure of the direction is against the interests of national security or the commercial interests of any person.
- (6) A licensee or person under subsection (3) shall not disclose, or be required by virtue of any enactment or otherwise to disclose, anything done pursuant to a direction given by the Minister where the Minister has notified such licensee or person that in the Minister's opinion such disclosure is against the interests of national security or the commercial interests of some other person.

- (7) Subsection (3) applies to any licensee and to any person authorised by, or exempted from the requirement of, a licence to import, regasify, ship, transport or supply gas.
- (8) In this section, a civil emergency means any natural disaster or other emergency which, in the opinion of the Minister, is or may be likely to disrupt gas supplies.

121. Transitional provisions.

- (1) Any existing operator engaged in any of the activities stipulated by this Act as requiring a licence, shall within ninety day from the date of the commencement of this Act, apply for a licence or exemption pursuant to section 17 and 18.
- (2) Within four months from the date of the commencement of this Act, URCA shall prepare an amendment or addendum to its annual plan prepared pursuant to section 41 of the URCA Act, to enable URCA to address the plans for the natural gas sector in accordance with its functions under this Act.

122. Acts binds the crown.

This Act binds the Crown.

123. Regulations.

URCA may make regulations prescribing for any matter that is necessary for carrying out the objectives of this Act and in particular with respect to —

- (a) ensuring safety and compliance with good environmental practices along the whole value chain of natural gas;
- (b) setting out the rights and duties of licensees and consumers;
- (c) regulating matters relating to the import of gas, including the quantity of gas that may be imported and the mode of such import;
- (d) regulating the operation of gas transport by pipeline which governs the rights and duties of the persons involved in such operation
- (e) regulating the supply of gas, including gas quality, the installation and maintenance of fittings and appliances, and the connection and disconnection to the gas network
- (f) regulating gas retailers, including but not limited to requirements on gas contracts with customers, marketing practices, and the procedures to deal with complaints from clients
- (g) regulating gas meters, including but not limited to their installation, testing and data collection access.

OBJECTS AND REASONS

The Natural Gas Bill, 2024 seeks to provide The Bahamas with a regulatory framework to govern the importation, regasification, storage, transport and retail of natural gas.

Clause 3 of the Bill seeks to clarify to whom the Act applies.

By virtue of clause 4 of the Bill, the objectives are —

- (a) to establish a legislative framework to regulate the importation, regasification, shipping, transportation, and retailing of natural gas to ensure these activities are performed in a safe, efficient, effective, economic and environmental manner;
- (b) to promote access to gas in an affordable and safe manner;
- (c) to provide higher fuel efficiency to lower costs for consumers;
- (d) to promote the global effort in reducing emissions that contribute to global climate change, thus serving to sustain the environment for future generations.

Part II of the Bill (clauses 7- 16) seeks to provide for the administration of the Act, which includes designating URCA as the regulator of natural gas activities.

Clause 8 of the Bill seeks to provide for URCA to, inter alia, issue licences and collect fees, issue notices, consult with government departments and local and international regulatory authorities and to oversee and monitor all activities carried out in relation to the natural gas under this Act.

Clause 10 of the Bill seeks to ensure URCA provides a consultation process for persons with sufficient interest. Clause 10 of the Bill provides for URCA to issue a notice requiring any person to furnish information and documents as may be required.

Clause 13 of the Bill empowers URCA to determine whether a person engaged in any of the activities under this Act has a licence and if not, to cease operation of such activity.

Clause 14 of the Bill provides for URCA to maintain a public register of all licensees under this Act.

Part III of the Bill (clauses 17 – 43) seeks to provide for the licensing of the natural gas sector. The Bill also provides for the requirement for a licence for natural gas service workers.

Clause 18 of the Bill seek to ensure URCA has the power to exempt any person or class of persons from complying with the requirement for a licence.

Part IV of the Bill provides for the rights and duties of licensees. This includes specific requirements for duties of a gas transporter, a gas retailer, and health and safety requirements.

Part V of the Bill seeks to provide for prohibition of anti-competitive agreements and practices.

Part VI of the Bill seeks to provide for merger control by URCA. Clauses 95 and 96 of the Bill provides for the principles to be applied and the procedures for appraisal of a change in control. Clauses 92 –93 of the Bill seek to ensure URCA be notified of any change in control and no changes should be implemented without prior written approval of URCA.

Part VII of the Bill seeks to provide for consumer protection. Clause 98 - 101 provides for —

- (a) the rights of consumers;
- (b) the procedure and investigation of complaints; and
- (c) alternative dispute resolution.

Part VIII of the Bill seeks to provide for an investigations and enforcement framework by URCA. Clause 105 seeks to empower URCA to issue an order to enforce a determination or adjudication by URCA under this Act which shall be binding.

Part IX of the Bill seeks to provide for the procedure of appeals to the Utilities Appeal Tribunal. Clause 108 - 109 seeks to ensure that the Tribunal has jurisdiction to hear and determine all appeals, matters and disputes, and issue orders in accordance with this Act and the Utilities Appeal Tribunal Act (*Ch. 307*).

Part X of the Bill seeks to provide for offences, fines and penalties by outlining general offences, specific offences, unspecified penalties, regulatory fines, penalties and remedies.

Part XI of the Bill seeks to provide for national interest matters, transitional provisions, binding the Crown and provisions for URCA to make regulations which will prescribe *inter alia*, for any matters necessary to carry out objectives of this Act.