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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

LIQUEFIED PETROLEUM GAS (GRANTS) AMENDMENT BILL 1982

EXPLANATORY MEMORANDUM

(Circulated by the Authority of the Minister Assisting  
the Minister for Industry and Commerce  
the Honourable Michael Hodgman MP)



## Liquefied Petroleum Gas (Grants) Amendment Bill 1982

### Purpose of the Bill

The purpose of this Bill is to amend the Liquefied Petroleum Gas (Grants) Act 1980 and to extend the period of the Act for a further 12 months until 28 March 1984. At the same time limitations are to be placed on the application of the \$80 per tonne LPG subsidy payable under the Act to the equivalent of 1,000 tonnes per annum in respect of certain industrial users.

This subsidy originally provided for \$80 per tonne to be paid on the use of LPG or reticulation gas by householders, non-profit residential-type institutions and schools. It is to expire on 28 March 1983.

The subsidy was extended, from 30 September 1980, to commercial and industrial consumers in areas where natural gas is not readily available for use.

Under the Act, grants are made to the States for payments to be made to registered distributors of LPG or reticulated gas conditional in all cases upon the benefit of the subsidy being passed on to the purchasers.

On 25 September 1981, the Minister for National Development and Energy announced that after an initial review of the subsidy and its application, the Government had decided to limit the application of the subsidy to industrial and commercial users to an eligible quantity equivalent to 1,000 tonnes per annum. Those consumers already using LPG at the time, or those already committed to take LPG in excess of 1,000 tonnes per annum would be allowed to continue to receive the subsidy for their established or committed volumes respectively. The date of effect of the limitation was to be 1 October 1981.

However implementation of the limitations on the subsidy was deferred pending the outcome of a review which culminated in the decision to extend the Act for a further 12 month period. Because of the delay in implementing the legislation relating to the limitations it has been decided that the date of effect should now be 1 October 1982.

The 12 month extension of the Act is being made to assist users dependent upon LPG to cope through a period of uncertain world LPG prices in the next year or so.

The proposed limitations are contained in proposed sub-section 7A(5) which is to be inserted into the Act by Clause 5 of the Bill.

In recognition that some industrial users are already using (or committed to use) LPG in excess of the equivalent of 1,000 tonnes per annum, proposed sub-section 7A(7) makes provision for the Minister to increase the eligible limit of a corporation if he is satisfied that the corporation had, before 25 September 1981, entered into a contract requiring a usage in excess of 1,000 tonnes per annum.

Proposed sub-sections 7A(9), 7A(10) 7A(11), 7A(12), 7A(14), 7A(15) and 7A(17) introduce penalties for offences against the new provisions. The penalty for the most serious offence, namely that of knowingly obtaining or attempting to obtain the benefit of a payment or payments to which a corporation is not entitled under sub-section 7A(12), is to be \$50,000.

Clause 1 - Citation of the Amending Act and identification of the Liquefied Petroleum Gas (Grants) Act 1980 as the Principal Act.

Clause 2 - Commencement to be the date of Royal Assent.

Clause 3 - (a) As a consequence of the change in administrative arrangements in May 1982 amends the title of the administering Department to Industry and Commerce.

(b) Has the effect of extending the period of the Principal Act for a further year.

Clause 4 - Amends paragraph 7(7)(b) of the Principal Act as a consequence of the extension of the Act for a further year.

Clause 5 - Inserts a new section 7A into the Principal Act to impose certain ceilings on the quantity of subsidised 'gas' that a corporation is entitled to receive during the period 1 October 1982 to 28 March 1984.

Proposed sub-section 7A(1)

defines a number of words and essential terms for the purposes of the new section 7A and in particular defines two consumption periods to be either the period of 12 months that commenced on 1 October 1982 or the period between 1 October 1983 and 28 March 1984.

Proposed sub-section 7A(2)

excludes from the operation of the new provisions any gas that is supplied to a corporation by decanting the gas into a prescribed cylinder as gas so supplied is normally used for residential and domestic applications and equivalent uses.

Proposed sub-section 7A(3)

excludes from the operation of the new provisions any gas that is determined by the Minister under sub-section 6(6A) or 7(6A) of the Principal Act to be gas sold otherwise than for eligible use and thus not entitled to receive the benefit of any subsidy payment. Such gas will not be taken into account in assessing whether a corporation has reached or exceeded its limit of subsidized gas.

Proposed sub-section 7A(4)

provides that the measure of one tonne of eligible reticulation gas, which is not measured in tonnes, shall be the amount of gas that produces 50,000 megajoules of heat which is approximately the amount of heat produced by one tonne of LPG.

Proposed sub-section 7A(5)

specifies the allowable quantities upon which payments of the subsidy will be made during the consumption periods pursuant to the proposed new provisions. The quantity is to be either 1,000 tonnes of gas in the consumption period 1 October 1982 to 30 September 1983, 500 tonnes of gas in the consumption period 1 October 1983 to 28 March 1984 or a quantity of gas as determined by the Minister pursuant to sub-section (7).

Proposed sub-section 7A(6)

provides for a corporation, within 28 days after the commencement of the amending Act, to give notice in writing to the Minister requesting the Minister to make a determination under sub-section (7) which will permit that corporation to purchase subsidised gas in excess of 1,000 tonnes during the period 1 October 1982 to 30 September 1983 or more than 500 tonnes of gas during the period 1 October 1983 to 28 March 1984, in circumstances where the corporation -

- (i) used more than 1,000 tonnes of gas during the period 1 October 1980 to 30 September 1981; or
- (ii) will use more than 1,000 tonne of gas during the period 1 October 1982 to 30 September 1983 or in excess of 500 tonnes during the period 1 October 1983 to 28 March 1984, by reason of the implementation of a contract entered into by the Corporation on or before 25 September 1981, being a contract relating to -
  - (a) the purchase of the gas; or
  - (b) the purchase, construction or modification of plant or the conversion of plant to gas.

This provision is proposed to be included in the Principal Act to give effect to the Governments decision announced on 25 September 1981 that users of the gas at that date who were committed to use, or had established use of, gas in excess of the

equivalent of 1,000 tonnes per annum would continue to receive the benefit of the subsidy for their committed or established volumes respectively.

Proposed sub-section 7A(7)

enables the Minister to make determination (if he has received a request by a corporation in accordance with sub-section (6)) before the 42nd day after the day on which the amending Act receives the Royal Assent (the relevant day) that the corporation is entitled to receive the benefit of the subsidy on a specified quantity of gas exceeding 1,000 tonnes during the period 1 October 1982 to 30 September 1983 or exceeding 500 tonnes during the period 1 October 1983 to 28 March 1984. Paragraph 7A(7)(b) will enable the Minister to refuse to make such a determination.

Proposed sub-section 7A(8)

requires the Minister to give notice in writing to the corporation, who made the request under sub-section (6), of the making of, or the refusal to make, a determination under sub-section (7). If such a determination is made the terms of the determination are to be set out in the notice.

Proposed sub-section 7A(9)

provides that where a corporation has, during the period that commenced on 1 October 1982 and ends on the 42nd day (the relevant day) after the amending Act receives the Royal Assent, purchased an amount of gas that equals or exceeds the allowable quantity and subsidy payments have been made in respect of that gas, the corporation shall, within certain specified periods, notify the Minister and, before purchasing any more gas for industrial use during the consumption period, notify the distributor that the corporation is not entitled to receive the benefit of subsidy payments for future purchases of gas. Failure to so notify will attract a penalty of \$2,000.

Proposed sub-section 7A(10)

contains similar notification provisions to those contained in the preceding proposed sub-section but only applying to those corporations not affected by the preceding provision but whose purchases of gas for industrial use during a consumption period will equal the allowable quantity determined in accordance with sub-section (5). A penalty of \$2,000 also applies in this case for failure to so notify.

Proposed sub-section 7A(11)

contains similar notification provisions to those contained in the two preceeding proposed sub-sections but applying to those corporations not affected by those provisions but whose purchases of gas for industrial use during a consumption period have not yet equalled the allowable quantity but whose further purchases would result in that quantity being exceeded. A penalty of \$2,000 also applies in this case for non-compliance.

Proposed sub-section 7A(12)

creates a penalty of \$50,000 where a corporation has knowingly obtained, or has attempted to obtain, the benefit of a subsidy payment to which it is not entitled.

Proposed sub-section 7A(13)

provides that, where a corporation has received the benefit of a subsidy payment to which it is not entitled, the amount of that payment shall be a debt due to the Commonwealth and may be recovered in a court of competent jurisdiction.

Proposed sub-section 7A(14)

requires a corporation which receives the benefit of the subsidy to preserve the accounts, records, documents and papers of the corporation relating to the purchase and use of the gas, for a period of 2 years after the date of purchase. A penalty of \$2,000 applies for non compliance.

Proposed sub-section 7A(15)

provides that a corporation that has received the benefit of the subsidy shall permit an officer at all reasonable times to have, for the purposes of this section, full and free access to the records of the corporation that relate directly or indirectly to the purchase or use of gas by the corporation, whether the purchases were made before or after the commencement of this provision. The officer is to be permitted to make copies of, or take extracts from, any such records. A penalty of \$2,000 applies for non-compliance.

Proposed sub-section 7A(16)

requires a corporation, at the request of an officer, to furnish certain information about the purchase or use of gas by the corporation.

Proposed sub-section 7A(17)

creates a penalty of \$2,000 for contravention of sub-section (16).

Proposed sub-section 7A(18)

Provides that a corporation shall not, in making a request for a determination for a quantity of gas in excess of 500 or 1,000 tonnes or in supplying information about the purchase or use of the gas, make a statement or furnish information that is false or misleading. The penalty for contravention is to be \$2,000.

Proposed sub-section 7A(19)

provides that in proceedings for an offence against proposed sub-sections (12) or (18) in respect of conduct by a corporation, knowledge on the part of the corporation may be established by showing that a servant or agent of the corporation engaging in that conduct had that knowledge.

Proposed sub-section 7A(20)

provides that for the purposes of the offence created by proposed sub-sections (12) and (18) any conduct engaged in by an agent or servant of the corporation on behalf of the corporation is to be deemed to have been conduct engaged in by the corporation.

Proposed sub-section 7A(21)

makes an offence against sub-section (12) an indictable offence.

Proposed sub-section 7A(22)

enables a court of summary jurisdiction to hear and determine proceedings in respect of an offence against sub-section (12).

Proposed sub-section 7A(23)

provides that the penalty that a court of summary jurisdiction may impose is a maximum fine of \$2,000.

Proposed sub-section 7A(24)

contains a provision whereby the Minister, by writing signed by him, may delegate his powers or functions to an officer.

Proposed sub-section 7A(25)

provides that, where a delegated power or function has been exercised, that power or function shall be deemed to have been exercised by the Minister

Proposed sub-section 7A(26)

provides that a delegation made under proposed sub-section (24) does not prevent the exercise of a power or the performance of a function by the Minister.

Clause 6

Amends section 15 of the Principal Act to include further matters to be within the jurisdiction of the Administrative Appeals Tribunal.

Clause 7

Inserts a new provision in the Principal Act to accord with the current practice, that when notifying a decision under the Act to those persons whose interests are affected by the decision, the persons shall also be notified of their rights of appeal to the Administrative Appeals Tribunal.

Clause 9

Provides that the obligations imposed upon a distributor, by virtue of an agreement or undertaking, to pass on the benefit of any subsidy payments do not apply in respect of sales to a corporation for industrial use by the corporation of gas in excess of the allowable quantity.



