

PIPELINES ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

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Act No. 90, 1967.

An Act relating to the construction, operation and maintenance of pipelines; and for purposes connected therewith. [Assented to, 18th December, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

- 1. (1) This Act may be cited as the "Pipelines Act, 1967".
- (2) Short title and commencement.

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**No. 90, 1967** (2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**Division into Parts.**

2. This Act is divided into Parts as follows :—

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—PERMITS—*ss.* 6–10.

PART III.—LICENCES—*ss.* 11–40.

PART IV.—REGISTRATION OF PERMITS AND LICENCES—*ss.* 41–54.

PART V.—MISCELLANEOUS—*ss.* 55–69.

**Interpretation.**

3. (1) In this Act, unless the context or subject-matter otherwise indicates or requires—

“apparatus or works” means—

- (a) structures for protecting or supporting a pipeline;
- (b) storage tanks, loading terminals and works and buildings used or to be used for purposes connected with or incidental to the operation of a pipeline; and
- (c) any fixed equipment or machinery used or to be used for purposes connected with or incidental to the operation of a pipeline or connected with or incidental to the use of any apparatus and works, as defined by paragraph (a) or (b) of this definition;

“Crown lands” means Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts;

“inspector” means inspector appointed under this Act;

“instrument of approval” means an instrument under subsection one of section fourteen of this Act;

“land”

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“land” means land in fee simple, Crown lands and land No. 90, 1967 owned by or vested in the Crown or a statutory body representing the Crown;

“licence” means a licence to construct and operate a pipeline and to construct, install and use apparatus or works granted by the Governor under Part III of this Act;

“licence area”, in relation to a licence, means the lands specified in the licence as being the licence area;

“licensee” means the registered holder of a licence;

“owner”—

- (a) in relation to land other than Crown lands or lands owned by or vested in the Crown or a statutory body representing the Crown, includes every person who jointly or severally, whether at law or in equity—
  - (i) is entitled to the land for an estate of freehold in possession;
  - (ii) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, or any other Act relating to the alienation of lands of the Crown; or
  - (iii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;
- (b) in relation to Crown lands and lands owned by or vested in the Crown, means the Crown; and

(c)

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(c) in relation to lands owned by or vested in a statutory body representing the Crown, means that statutory body;

and "owned" and similar expressions have a corresponding interpretation;

"partly cancelled", in relation to a licence, means cancelled as to part of the pipeline or some of the apparatus or works the subject of the licence;

"permit" means a permit to enter lands and carry out surveys granted by the Minister under Part II of this Act;

"permittee" means the registered holder of a permit;

"petroleum" means—

(a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or

(b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

(c) any naturally occurring mixture of one or more hydrocarbons, whether in a gaseous, liquid or solid state, and any one or more of the following, that is to say, hydrogen sulphide, nitrogen, helium and carbon dioxide,

and includes any petroleum as defined by paragraph (a), (b) or (c) of this definition that has been returned to a natural reservoir;

"pipeline" means a pipe or system of pipes for the conveyance of any substance, whether in a gaseous, liquid or solid state but does not include a pipe or system of pipes for the conveyance of petroleum within the adjacent area, as defined in the Petroleum (Submerged Lands) Act, 1967;

"prescribed" means prescribed by this Act or by regulations made under this Act;

"public

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“public authority” means any statutory body representing the Crown, the council of an area within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, and a county council within the meaning of that Act, as so amended; No. 90, 1967

“register” means the register referred to in section forty-one of this Act;

“registered holder”, in relation to a permit or a licence, means the person whose name is for the time being shown in the register as being the holder of the permit or licence;

“Registrar” means the person for the time being holding office, or acting, as the Registrar, Department of Mines, Sydney;

“statutory body representing the Crown” means the Metropolitan Water Sewerage and Drainage Board, the Hunter District Water Board, the Broken Hill Water Board, the Maritime Services Board of New South Wales, the Commissioner for Railways, the Commissioner for Main Roads, the Commissioner for Government Transport, the Water Conservation and Irrigation Commission, the Housing Commission of New South Wales, the Grain Elevators Board of New South Wales and any body declared for the time being to be a statutory body representing the Crown by a proclamation made under section four of this Act;

“the relinquished area” means—

- (a) in relation to a licence that has expired or been wholly cancelled—the licence area; and
- (b) in relation to a licence that has been partly cancelled—the part of the licence area in which is situated the part of the pipeline or the apparatus or works as to which the licence was partly cancelled;

“Under

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“Under Secretary” means the person for the time being holding office, or acting, as Under Secretary, Department of Mines, Sydney;

“wholly cancelled”, in relation to a licence, means cancelled as to the whole of the pipeline and all of the apparatus or works the subject of the licence.

(2) A reference in this Act to a pipeline on any land includes a reference to a pipeline in, under, through, across or above the surface of the land.

(3) In this Act, a reference to the term of a permit or licence is a reference to the period during which the permit or licence remains in force and a reference to the date of expiration of a permit or licence is a reference to the day on which the permit or licence ceases to be in force.

(4) In this Act, a reference to a year of the term of a permit or licence is a reference to a period of one year commencing on the day from and including which the permit or licence, as the case may be, comes into force or on any anniversary of that day.

(5) Unless the context or subject-matter otherwise indicates or requires, a reference in this Act to the renewal, or to the grant of a renewal, of a licence is a reference to the grant of a licence to commence on the day after the day on which the firstmentioned licence ceases to be in force or on the day after the day on which a licence granted upon a previous renewal of the firstmentioned licence ceases to be in force.

(6) In this Act, a reference to a pipeline includes a reference to part of a pipeline.

(7) Unless the context or subject-matter otherwise indicates or requires, a reference in this Act—

(a) to a pipeline includes a reference to any apparatus or works constructed, installed or used or to be constructed, installed or used for purposes connected with or incidental to the operation of the pipeline; and

(b)

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(b) to the construction of a pipeline includes a reference to the installation of any such apparatus or works. **No. 90, 1967**

(8) In this Act, a reference to a licence is a reference to the licence as varied for the time being under this Act.

(9) This Act shall be read and construed subject to the limits of the legislative powers of the State and so as not to exceed those powers, to the intent that, where any enactment thereof, but for this provision, would be construed as being in excess of those powers, it shall nevertheless be a valid enactment to the extent to which it is not in excess of those powers.

4. (1) The Governor may, by proclamation published in the Gazette, declare any body to be, for the purposes of this Act, a statutory body representing the Crown. Statutory bodies representing the Crown.

(2) The Governor may, in like manner, revoke any such proclamation.

5. (1) Nothing in this Act requires a person to hold a licence in respect of— Application of Act.

- (a) a pipeline constructed or to be constructed under, or under an authority granted under, any Act, other than this Act or the Inflammable Liquid Act, 1915, as amended by subsequent Acts;
- (b) a pipeline constructed or to be constructed by a public authority;
- (c) a pipeline constructed or to be constructed on land used for residential, business, commercial or industrial purposes, designed for use solely for the residential, business, commercial or industrial purposes carried on on that land and situated wholly within the boundaries of that land;
- (d) a pipeline constructed or to be constructed for the purpose of irrigating or draining any land;

(e)

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- (e) a pipeline of the prescribed class, constructed or to be constructed for the conveyance of inflammable liquid or dangerous goods, within the meaning of the Inflammable Liquid Act, 1915, as amended by subsequent Acts;
- (f) a pipeline constructed or to be constructed—
- (i) for returning petroleum to a natural reservoir;
  - (ii) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;
  - (iii) for conveying petroleum that is to be flared or vented;
- (g) a pipeline, or a pipeline belonging to a class, for the time being declared by a notification under subsection two of this section or by such a notification, as varied by a notification under subsection three of this section, to be a gathering line; or
- (h) a pipeline, or a pipeline belonging to a class, for the time being declared by a proclamation under subsection four of this section or by such a proclamation, as varied by a proclamation under subsection five of this section, to be a pipeline in respect of which a person is not required to hold a licence,

but nothing in this section prevents a person from making any application under this Act in respect of any such pipeline or apparatus or works or from being granted and holding a permit or licence in respect of the construction or operation of such a pipeline.

(2) Where the Minister is satisfied that any pipeline is, or any pipelines belonging to a class are, constructed or to be constructed for conveying petroleum from a well to another pipeline that is used or to be used for conveying petroleum from another well or other wells, he may, by a notification published in the Gazette, declare that pipeline to be a gathering line or pipelines belonging to that class to be gathering lines.

(3)

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(3) The Minister may, in like manner, vary or revoke No. 90, 1967 any such notification.

(4) The Governor may, by proclamation published in the Gazette, declare any pipeline, or any pipeline of a class, specified in the proclamation to be a pipeline in respect of which a person is not required to hold a licence.

(5) The Governor may, in like manner, vary or revoke any such proclamation.

(6) A reference in paragraph (a) or (b) of subsection one of this section to a pipeline does not include a reference to a pipeline constructed or used or to be constructed or used by a gas company, as defined in the Gas and Electricity Act, 1935, as amended by subsequent Acts, where the pipeline is or is to be used principally for the conveyance of gas otherwise than for the purpose of reticulating it directly to consumers.

(7) In paragraph (e) of subsection one of this section, "a pipeline of the prescribed class" means a pipeline of a length of less than five miles or of such other length as may, for the time being, be specified in the notification under subsection eight of this section or in such a notification, as varied by a notification under subsection nine of this section.

(8) The Minister may, by a notification published in the Gazette, specify for the purposes of subsection seven of this section a length other than five miles.

(9) The Minister may, in like manner, vary or revoke any such notification.

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**PART II.**

**PERMITS.**

6. (1) Where a person desires to construct a pipeline, he may submit to the Minister a proposal for the construction of the pipeline and apply to the Minister for a permit to enter and carry out surveys of the lands on which he desires to construct the pipeline. <sup>Applications for permits.</sup>

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(2) An application under subsection one of this section—

- (a) shall be in or to the effect of the prescribed form;
- (b) shall be made in the prescribed manner;
- (c) shall be accompanied by a plan, drawn in the prescribed manner, showing the approximate route of the pipeline and the approximate situation of any apparatus or works and shall specify in the prescribed manner the lands in respect of which the permit is applied for;
- (d) shall specify the dates on which the applicant served the Minister for Transport, the Minister for Local Government, the Minister for Public Works and the Minister for Highways in accordance with the provisions of subsection four of this section copies of the proposal for the construction of the pipeline, the application and other documents referred to in that subsection;
- (e) shall be accompanied by particulars of—
  - (i) the technical qualifications of the applicant and of his employees;
  - (ii) the technical advice available to the applicant; and
  - (iii) the financial resources available to the applicant;
- (f) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with the provisions of subsection five of this section;
- (g) may set out any other matters that the applicant wishes the Minister to consider; and
- (h) shall be accompanied by the prescribed fee.

(3) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish to the Minister and to each of the Ministers referred to in subsection

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subsection four of this section, within the time specified in **No. 90, 1967** the instrument, further information in writing in connection with his proposal or application.

(4) Before, or at the same time as, he makes an application under subsection one of this section, the applicant shall cause a copy of the proposal for the construction of the pipeline, of the application and of all documents served or to be served by him on the Minister to be served on the Minister for Transport, the Minister for Local Government, the Minister for Public Works and the Minister for Highways.

(5) Not less than seven days before a person makes an application under subsection one of this section, he shall cause to be published in two daily newspapers circulating throughout New South Wales a notification—

- (a) stating his intention to make the application;
- (b) describing the lands on which he desires to construct a pipeline or which he desires to use for any apparatus or works;
- (c) containing a plan, drawn to the prescribed scale, showing the approximate route of the pipeline that he desires to construct and the situation of the apparatus or works that he desires to construct or install.

7. An applicant for a permit shall, within a period of ninety days after making the application for the permit, or within such further period not exceeding ninety days as the Minister, on application in writing served on him before the expiration of the firstmentioned period of ninety days, allows, cause to be served—

- (a) on each council, within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, and on each county council, within the meaning

**Applicant for permit to serve notices on councils, owners and occupiers.**

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meaning of that Act, as so amended, in whose area or district any part of the pipeline referred to in the application is to be constructed; and

- (b) on each owner and on each occupier, if any, of lands on which any part of the pipeline referred to in the application is to be constructed,

a notice in or to the effect of the prescribed form setting forth such particulars relating to the application as are provided for in the form.

**Grant of  
permit.**

**8. (1) Where the Minister is satisfied—**

- (a) that the applicant for a permit has complied with the provisions of section seven of this Act; and
- (b) that a period of twenty-eight days has elapsed since the date on which the last of the notices required to be served by that section was served,

he may, after taking into consideration any representations in writing made by a council, county council, owner or occupier referred to in paragraph (a) or (b) of section seven of this Act and if the Minister for Transport, the Minister for Local Government and the Minister for Highways concur in his so doing, grant to the applicant a permit in respect of the lands specified in the application.

(2) The Minister shall, in considering an application for a permit, take into consideration whether the construction of a pipeline on the lands specified in the application—

- (a) would contravene the provisions of any town and country planning scheme referred to in Part XIIA of the Local Government Act, 1919, as amended by subsequent Acts; or
- (b) would be unsuitable by reason of the pipeline being likely to interfere unnecessarily with improvements, improved land, flora, fauna or scenic attractions or for any other reason that the Minister thinks sufficient.

**9.**

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## 9. (1) A permit—

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- (a) comes into force on the day specified for the purpose in the permit and, subject to subsection three of this section, remains in force for such period commencing on that day as may be specified in the permit and for any period for which the permit is extended under subsection two of this section; and
- (b) may be granted subject to such conditions as the Minister thinks fit and specifies in the permit.

Term and conditions of permit.

(2) The Minister may, on application in writing made by the permittee and served on him before the date of expiration of the permit, extend the permit for such period as he thinks fit and specifies in a notice served on the permittee.

(3) The Minister may, for reasons that he thinks sufficient, by an instrument in writing served on a permittee, cancel the permit as to all or any of the lands in respect of which it is in force.

10. A permit, while it remains in force, authorises the permittee, subject to any conditions subject to which the permit was granted, to enter the lands specified in the permit and to carry out on the lands so specified such surveys as the permittee considers necessary for the purpose of determining the route of the pipeline referred to in the application for the permit and the situation of any apparatus or works so referred to.

Rights conferred by permit.

## PART III.

## LICENCES.

## 11. (1) A person shall not—

- (a) commence, or continue, the construction of a pipeline; or

Construction, etc., of pipelines.

(b)

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**No. 90, 1967** (b) alter or reconstruct a pipeline,  
except under and in pursuance of a licence.

(2) A person shall not operate a pipeline—

(a) except under and in pursuance of a licence; and

(b) unless he has obtained the consent of the Minister under section twenty-five of this Act to the commencement or resumption, as the case may be, of the operations and commences or resumes the operations in accordance with the conditions, if any, specified in the instrument of consent.

(3) It is not an offence against this section—

(a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline in good order and repair and—

(i) as soon as practicable notifies the Minister of the act done; and

(ii) complies with any directions given to him by the Minister; or

(b) if a person does an act in compliance with a direction under this Act or the regulations.

Penalty : Two thousand dollars for each day on which the offence occurs.

**Application  
for licence.**

**12.** (1) An application for a licence, not being a renewal of a licence, may be made by a person—

(a) who, at the time of the making of the application, is; or

(b) who—

(i) within a period of six months; or

(ii)

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(ii) within such extended period as the Minister **No. 90, 1967** may allow under subsection two of this section,

before the making of the application, has been,  
the holder of a permit.

(2) The Minister may, on application in writing served on him by a person who is or has been a permittee, extend the period within which that person may make an application under subsection one of this section for such period as the Minister thinks fit and specifies in a notice served on that person, whether or not the firstmentioned period has expired.

**13.** (1) An application under subsection one of section twelve of this Act—

(a) shall be in or to the effect of the prescribed form;

(b) shall be made in the prescribed manner;

(c) shall be accompanied by particulars of—

(i) the design and construction of the proposed pipeline;

(ii) the size and capacity of the proposed pipeline;

(iii) the substance intended to be conveyed through the proposed pipeline;

(iv) the proposals of the applicant for work and expenditure in respect of the construction of the proposed pipeline;

(v) the technical qualifications of the applicant and of his employees;

(vi) the technical advice available to the applicant;

(vii) the financial resources available to the applicant;

(d)

Manner of  
making  
applications  
for licences.

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(d) shall be accompanied by a plan, drawn in the prescribed manner—

(i) showing, in relation to lands in respect of which the applicant is, or has been, the holder of a permit, as mentioned in subsection one of section twelve of this Act—

(a) the route of the proposed pipeline;

(b) the situation of any proposed apparatus or works; and

(c) the lands (if any) proposed to be used for the purpose of gaining access to the proposed pipeline or proposed apparatus or works; and

(ii) on which shall be identified the lands or easements over lands referred to in paragraph (f) of this subsection;

(e) shall be accompanied by particulars of any agreements entered into, or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the lands shown in the plan referred to in paragraph (d) of this subsection;

(f) shall specify, in relation to each part of the proposed pipeline, particulars of the lands, or the easements over lands, acquired or agreed to be acquired, or in respect of which the applicant desires the Governor to exercise his powers under subsections two and three of section fifteen of this Act, for the purpose of constructing and operating the proposed pipeline or gaining access to the proposed pipeline;

(g) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with the provisions of subsection three of this section;

(h) may set out any other matters that the applicant wishes the Minister to consider; and

(i) shall be accompanied by the prescribed fee.

(2)

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(2) The Minister may, at any time, by instrument No. 90, 1967 in writing served on the applicant, require him to furnish to the Minister and to each of the Ministers referred to in subsection four of this section, within the time specified in the instrument, further information in writing in connection with his application.

(3) Not less than seven days before a person makes an application under subsection one of section twelve of this Act, he shall cause to be published in two daily newspapers circulating throughout New South Wales a notification in or to the effect of the prescribed form setting forth the particulars provided for by that form in relation to the proposed application.

(4) An application and each of the documents accompanying it shall be submitted in quintuplicate, and the Minister shall serve a copy of the application and of those documents on the Minister for Transport, the Minister for Local Government, the Minister for Highways and the Minister for Public Works.

14. (1) The Governor may, on an application made under subsection one of section twelve of this Act, inform the applicant, by an instrument in writing, that he is prepared, upon the Minister certifying that the lands, or the easements, specified in the instrument as being necessary for the construction and operation of the pipeline in respect of which the licence is applied for, and identified in a plan annexed to the instrument—

- (a) are vested in the applicant; or
- (b) are available for compulsory acquisition under section eighteen of this Act,

to grant to the applicant a licence in relation to the lands specified in the instrument as being the licence area.

(2)

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**No. 90, 1967** (2) The Governor may refuse an application made under subsection one of section twelve of this Act but such an application shall not be refused unless—

- (a) the Minister has, by instrument in writing served on the applicant, given not less than one month's notice of the Governor's intention to refuse the application;
- (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) the Minister has, in the instrument—
  - (i) given particulars of the reasons for the intention; and
  - (ii) specified a date on or before which the applicant or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Governor to consider; and
- (d) the Governor has taken into account particulars, as submitted to him by the Minister, of any matters so submitted to the Minister on or before the specified date.

(3) Where an application for a licence is refused, the whole, or such part as the Minister determines, of the fee referred to in paragraph (i) of subsection one of section thirteen of this Act shall be refunded to the applicant.

**Grant of  
licence.**

**15. (1) Where—**

- (a) an applicant for a licence is the holder of an instrument of approval;
- (b) the Minister has, on application in writing made to him by the applicant for the licence, certified to the Governor that the lands, or the easements over lands, specified in the instrument—
  - (i) are vested in the applicant; or

(ii)

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- (ii) are available for compulsory acquisition No. 90, 1967 under section eighteen of this Act;
- (c) the Minister has certified that the applicant has made provision, or given security in addition to any other security required by this Act, to the satisfaction of the Minister for the payment—
- (i) of compensation and any interest payable in respect of any lands, or easements over any lands, that are available for compulsory acquisition as is referred to in the certificate referred to in paragraph (b) of this subsection;
  - (ii) of all charges and expenses necessary for or incidental to the compulsory acquisition of those lands or easements; and
  - (iii) of the charges and expenses referred to in paragraph (b) of subsection two of section seventeen of this Act; and
- (d) the Minister has certified that the plan referred to in subsection one of section seventeen of this Act has been registered, and that the instruments so referred to have been recorded, by the Registrar-General,

the applicant for the licence is entitled to be granted by the Governor the licence referred to in the instrument of approval in respect of the licence area specified in the instrument of approval held by the licensee and to have published in the Gazette a notification, referred to in subsection two of this section, in respect of the lands or easements specified in that instrument.

(2) The Governor may, by notification published in the Gazette, declare that any lands or easements, specified in the instrument of approval, are vested in the licensee according to the tenor of the notification.

(3)

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(3) Upon publication of a notification under subsection two of this section, any lands and easements specified in the notification, to the extent that they were not immediately before the date of the notification vested in the licensee, vest in the licensee according to the tenor of the notification.

Compensation.

16. (1) A person who has an estate or interest in any lands resumed or appropriated under this Act, or in any lands over which an easement is resumed or appropriated under this Act, or who, but for this Act, would have had such an estate or interest, is entitled to receive, in respect of the resumption or appropriation of those lands or easements, compensation from the licensee in whom the lands or easements are vested by this Act.

(2) For the purpose of assessing and dealing with any such compensation and for other purposes subsidiary thereto the provisions of section forty-five, sections fifty-three to seventy-nine, both inclusive, sections one hundred and two, one hundred and three, one hundred and six, and one hundred and twenty-four, sections one hundred and twenty-six to one hundred and thirty-one, both inclusive, sections one hundred and thirty-five and one hundred and thirty-six of the Public Works Act, 1912, as amended by subsequent Acts, shall, without limiting the provisions of section 157A of the Conveyancing Act, 1919, as amended by subsequent Acts, apply, *mutatis mutandis*, to the resumption or appropriation of lands or easements under this Act.

(3) Without prejudice to the generality of subsection one of this section, the Public Works Act, 1912, as amended by subsequent Acts, is, for the purposes of that subsection and not otherwise, deemed to be amended in the following manner :—

(a) by omitting from the sections specified in subsection two of this section other than sections one hundred and three and one hundred and twenty-four the words "Constructing Authority" wherever occurring and by inserting in lieu thereof the words "licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act";

(b)

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- (b) (i) by omitting from section fifty-three the words **No. 90, 1967** "so seised, possessed or entitled as aforesaid";
- (ii) by omitting from the same section the words "as in the preceding section mentioned" and by inserting in lieu thereof the words "and may claim compensation in respect of the land or easements resumed and agreed to, settle and determine with the licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, the amount of the compensation";
- (iii) by inserting in subsection three of the same section after the word "release" the words "and to claim, agree to, and settle and determine with the licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, the amount of compensation";
- (iv) by omitting subsection five of the same section;
- (c) (i) by omitting from section one hundred and two the words "and upon the Crown Solicitor";
- (ii) by inserting at the end of the same section the following new subsection :—
- (2) Upon receipt of that notice of claim the licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, shall obtain from his solicitor a report on the title of the land in respect of which the claim has been served upon him by the claimant.
- (d) by omitting from section one hundred and three the words "Crown Solicitor he shall forward the same, together with his report thereon to the Constructing Authority, who" and by inserting in lieu thereof the words "licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, he";

(e)

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- (e) by omitting section one hundred and twenty-four and by inserting in lieu thereof the following section :—

124. For the purpose of ascertaining the compensation to be paid regard shall in every case be had by the court not only to the value of any lands taken or lands over which the easements are taken but also to the damage (if any) caused by the severing of the lands taken from other lands in which the claimant has an estate or interest or by the exercise over any such lands of any rights by the licensee, under the Pipelines Act, 1967, liable to pay the compensation and the court shall assess the compensation according to what it finds to have been the value of any such lands, estate or interest at the time the notification was published in the Gazette and without being bound in any way by the amount of the valuation notified to such claimant, and without reference to any alteration in such value arising from the construction of any works upon the lands taken or the lands over which easements were taken.

- (f) (i) by inserting at the end of subsection two of section one hundred and twenty-six the following further proviso :—

Provided further that in every case where a claim is not served within ninety days from the publication in the Gazette of the notification of resumption or appropriation the compensation shall bear interest only from the date of service of the notice of claim.

- (ii) by omitting subsection three of the same section ;
- (g) (i) by omitting from subsection one of section one hundred and thirty-five the words "such conveyances" and by inserting in lieu thereof the words "conveyances or assurances of lands or easements taken" ;

(ii)

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- (ii) by omitting from subsection two of the same No. 90, 1967 section the words "incurred on the part as well of the vendor as of the purchaser,".

(4) If a licensee and a person claiming compensation under this section do not agree as to the amount of compensation, the claim may be heard and determined as provided in section nine of the Land and Valuation Court Act, 1920, as amended by subsequent Acts.

17. (1) Before the grant of a licence under subsection one of section fifteen of this Act and the appropriation or resumption, if any, of any lands or easements over lands pursuant to subsection three of that section, the Minister shall cause to be lodged with the Registrar-General a plan of the lands in respect of which the licence is proposed to be granted—

(a) showing—

- (i) the route of the proposed pipeline;
  - (ii) the situation of any proposed apparatus or works; and
  - (iii) the lands (if any) proposed to be used for the purpose of gaining access to the proposed pipeline or proposed apparatus or works; and
- (b) identifying, or accompanied by instruments identifying, in relation to those lands, any easements vested or to be vested in the applicant for the purposes of the proposed pipeline.

(2) Upon lodgment of the plan and any other instruments pursuant to subsection one of this section, the Registrar-General shall, if he is satisfied that the plan is suitable for registration—

- (a) register the plan and record the instruments in such manner as to him seems appropriate; and

(b)

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- No. 90, 1967** (b) inform the Minister, by instrument in writing, that he has done so and in the instrument specify the charges and expenses incurred by the Registrar-General in relation to the registration of the plan and the recording of the instruments.

(3) Where a request is made by a licensee under section fourteen of the Real Property (Amendment) Act, 1921, as amended by subsequent Acts, in relation to any lands, or easements over lands, that are declared by a notification published in the Gazette under subsection two of section fifteen of this Act to be vested in him, the Registrar-General may notify in the register-book that the lands are vested in the licensee according to the tenor of the notification, notwithstanding that any relevant certificate of title or Crown grant has not been produced to him and notwithstanding the provisions of section thirty-eight of the Real Property Act, 1900, as amended by subsequent Acts.

Availability  
of certain  
lands, etc.,  
for com-  
pulsory  
acquisition.

**18.** For the purposes of sections fourteen and fifteen of this Act, lands or easements over lands are available for compulsory acquisition—

- (a) in the case of lands or easements over lands that are vested in or under the control of a public authority, if—
- (i) at least three months before the Minister grants a certificate referred to in paragraph (b) of subsection one of section fifteen of this Act; and
  - (ii) the Premier has, after considering any representations made to the Minister by the public authority and such other matters as he thinks fit, approved of the application being referred to the Governor; or
- (b) in the case of lands or easements over lands over which the owner has the right of disposition to the extent applied for by the applicant, if the Minister is satisfied that the applicant for the licence has  
taken

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taken all reasonable and practicable steps to enter No. 90, 1967  
into an agreement for the acquisition of the land  
or easements.

**19.** (1) A licensee may, from time to time, make an application for the renewal of the licence. Renewal of  
licence.

(2) An application for the renewal of a licence—

- (a) shall, subject to subsection three of this section, be made not more than three years and not less than one year before the licence ceases to be in force;
- (b) shall be made in or to the effect of the prescribed form;
- (c) shall be made in the prescribed manner; and
- (d) shall be accompanied by the prescribed fee.

(3) The Minister may, for reasons that he thinks sufficient, receive an application for the renewal of a licence less than one year before, but not in any case after, the day on which the licence ceases to have effect.

(4) An application for the renewal of a licence shall be submitted in quintuplicate, and the Minister shall serve a copy of the application on the Minister for Transport, the Minister for Local Government, the Minister for Public Works and the Minister for Highways.

(5) The Governor may refuse an application for the renewal of a licence but such an application shall not be refused unless—

- (a) the Minister has, by instrument in writing served on the licensee, given not less than one month's notice of the Governor's intention to refuse the application;
- (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c)

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**No. 90, 1967** (c) the Minister has, in the instrument—

- (i) given particulars of the reasons for the intention; and
- (ii) specified a date on or before which the licensee or a person upon whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes the Governor to consider; and

(d) the Governor has taken into account particulars, as submitted to him by the Minister, of any matters so submitted to the Minister on or before the specified date.

(6) Where an application for the renewal of a licence is refused, the whole, or such part as the Minister determines, of the fee referred to in paragraph (d) of subsection two of this section shall be refunded to the applicant.

(7) Where—

- (a) an application for the renewal of a licence is made under this section; and
- (b) the licence expires before the application is granted or refused,

the licence shall be deemed to continue in force in all respects until the application is granted or refused.

Conditions  
of licence.

**20.** (1) A licence may be granted subject to such conditions as the Governor thinks fit and specifies in the licence.

(2) The conditions referred to in subsection one of this section may include conditions that the licensee shall—

- (a) within such time as may be specified in a notice in writing given to him by the Minister and before commencing the construction of the pipeline specified

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specified in the licence, lodge with the Minister No. 90, 1967 security in such amount, not exceeding twenty thousand dollars, and in such form as may be specified in the notice; and

- (b) complete the construction of, and commence to operate, the pipeline within the period specified in the licence.

**21. A licence—**

Term of licence.

- (a) not being a renewal of a licence, comes into force on the day specified for the purpose in the licence; and
- (b) being a renewal of a licence, comes into force on the day after the day on which the last previous licence in respect of the same pipeline ceases to be in force,

and subject to this Act, remains in force for such period commencing on that day and not exceeding twenty-one years as may be specified in the licence.

**22. (1)** A licensee may, at any time, by an application to the Governor made by an instrument in writing served on the Minister, apply for the variation of a licence other than a variation with respect to the licence area. Variation of licence on application by licensee.

**(2) An application under this section—**

- (a) shall be in accordance with the prescribed form;
- (b) shall be accompanied by particulars of the proposed variation;
- (c) shall specify the reasons for the proposed variation; and
- (d) shall be accompanied by the prescribed fee.

**(3)**

*Pipelines.*

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(3) The Minister may, at any time, by notice in writing served on a person who has made an application under this section, require him to furnish within a time specified in the notice further information in connection with his application.

(4) The Minister may—

- (a) give notice of an application under this section to such persons, if any, as he thinks fit; and
- (b) specify a period within which each person to whom notice is so given may submit to the Minister in writing any matters that he wishes to be considered in connection with the application.

(5) After considering particulars, as submitted to him by the Minister, of any matters submitted to him under subsection four of this section, the Governor may vary the licence to such extent as he thinks necessary or may refuse to vary the licence.

Directions  
as to the  
conveyance  
of sub-  
stances.

23. (1) Where—

- (a) a person, by instrument in writing served on a licensee, requests the licensee to enter into an agreement for the conveyance through the pipeline specified in that licensee's licence of a substance; and
- (b) that person and the licensee do not, within a period of three months after the instrument is served on the licensee, enter into such an agreement,

that person may apply to the Minister for a direction under this section.

(2) An application under this section—

- (a) shall be in or to the effect of the prescribed form;
- (b) shall be made in the prescribed manner;

(c)

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- (c) shall set out the matters that the applicant wishes the Minister to consider in relation to the application. No. 90, 1967

(3) The Minister—

- (a) shall serve notice of the application on the licensee;
- (b) may serve notice of the application on such other persons, if any, as he thinks fit; and
- (c) shall specify in any such notice a date on or before which the licensee or any other person on whom a notice is served may submit to the Minister in writing any matters that he wishes the Minister to consider in connection with the application.

(4) After considering any matters submitted to him under subsection three of this section on or before the specified date and having regard to the nature of the substance for the conveyance of which the pipeline is being and is capable of being used and is suitable and to such other matters as he thinks relevant, the Minister, by an instrument in writing served on the licensee and the applicant—

- (a) may give to the licensee, to the applicant and to any other person lawfully entitled to use the pipeline such directions as he thinks appropriate for or in relation to the use of the pipeline by the licensee, the applicant and any such other person; or
- (b) may refuse the application.

(5) Without limiting the generality of subsection four of this section, directions under paragraph (a) of that subsection may include directions as to the amounts to be paid to the licensee by the applicant and any other person lawfully entitled to use the pipeline for the use of the pipeline.

(6) A person to whom a direction is given under subsection four of this section shall comply with the direction.

Penalty : One hundred dollars for each day on which the offence occurs.

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**No. 90, 1967** **24.** (1) Except with the consent in writing of the Minister and subject to compliance with such conditions, if any, as are specified in the instrument of consent, a licensee shall operate continuously the pipeline specified in his licence.

—  
Ceasing to  
operate  
pipeline.

Penalty : Two thousand dollars.

(2) It is not an offence against subsection one of this section if the failure of the licensee to operate the pipeline continuously—

- (a) was in the ordinary course of operating the pipeline ;
- (b) was for the purpose of repairing or maintaining the pipeline ; or
- (c) was in an emergency in which there was a likelihood of loss or injury.

Consent  
to com-  
mencement  
or resump-  
tion of  
pipeline  
operations.

**25.** (1) The Minister, on application in writing served on him—

- (a) by a licensee whose pipeline has not previously been in operation ; or
- (b) by a licensee who has ceased to operate the pipeline specified in his licence,

may, if he is of the opinion that the pipeline may be operated with safety, by instrument in writing served on the licensee, consent to the commencement or resumption, as the case may be, of operations.

(2) A consent under subsection one of this section may be given subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument of consent.

Waste or  
escape of  
substances  
from  
pipelines.

**26.** A licensee shall not permit or suffer the waste or escape of any substance from the pipeline or any part thereof.

Penalty : Two thousand dollars for each day on which the offence occurs.

**27.**

**Pipelines.****27. A licensee—****No. 90, 1967**

- (a) shall mark, and keep marked, in such manner as may be prescribed, the route of the pipeline in respect of which he holds the licence;
- (b) shall maintain the pipeline in good condition and repair; and
- (c) shall remove from the licence area all structures, equipment and other property that are not either used or to be used in connection with the operation of the pipeline.

Marking of  
route of  
pipeline  
and main-  
tenance,  
etc., of  
property.

Penalty : Two thousand dollars for each day on which the offence occurs.

**28. (1)** The Minister may, by instrument in writing served on a licensee, give to the licensee directions as to any matter with respect to which regulations may be made under subsection one of section sixty-nine of this Act.

Directions.

(2) A direction under subsection one of this section has effect and shall be complied with notwithstanding anything in the regulations, and, to the extent to which the regulations are inconsistent with the direction, the licensee to whom the direction is given is not obliged to comply with the regulations.

(3) A licensee to whom a direction is given under subsection one of this section shall comply with the direction.

Penalty : Two thousand dollars.

**29. (1)** Where a person does not comply with a direction given to him under this Act or under the regulations, the Minister may do all or any of the things required by the direction to be done.

Compliance  
with  
directions.

(2) Costs and expenses incurred by the Minister under subsection one of this section in relation to a direction are a debt due by the person to whom the direction was given to the Crown and are recoverable in a court of competent jurisdiction.

(3)

**No. 90, 1967** (3) It is a defence if a person charged with failure to comply with a direction given to him under this Act or under the regulations or if a defendant in an action under subsection two of this section proves that he took all reasonable steps to comply with the direction.

**Exemptions. 30. (1) Where—**

- (a) a licence is, under this Act, to be deemed to continue in force until the Governor grants, or refuses to grant, the renewal of the licence;
- (b) a licence is varied under section twenty-two of this Act;
- (c) a licensee enters into an agreement referred to in section twenty-three of this Act;
- (d) a licence is cancelled as to part of the pipeline in respect of which it is in force;
- (e) a licensee applies to the Governor, by an instrument in writing served on the Minister, for a variation or suspension of, or exemption from compliance with, any of the conditions to which the licence is subject; or
- (f) the Minister, under this Act or the regulations, gives a direction or consent to a licensee,

the Governor may, at any time, by instrument in writing served on the licensee, vary or suspend, or exempt the licensee from compliance with, any of the conditions to which the licence is subject, upon such conditions, if any, as the Minister determines and specifies in the instrument.

(2) Nothing in subsection one of this section empowers the Governor to alter the term of a licence.

**31.**

*Pipelines.*

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**31.** (1) A licensee may, at any time, by an application to the Governor made by an instrument in writing served on the Minister, apply for consent to surrender his licence as to the whole or a part of the pipeline in respect of which it is in force.

**No. 90, 1967**  
Surrender of  
licences.

(2) Subject to subsection three of this section, a consent, under subsection one of this section, to the surrender of a licence shall not be given unless the licensee—

- (a) has paid all amounts payable by him under this Act or has made arrangements which are satisfactory to the Minister for the payment of those amounts;
- (b) has complied with the conditions to which the licence is subject and with the provisions of this Act and of the regulations;
- (c) has, where the Minister, by an instrument in writing served on the licensee, has required him to do so, caused to be published in such newspapers as may be specified in the instrument notice of the licensee's intention to apply for consent to surrender the licence as to the whole or a part of the pipeline in respect of which it is in force and has in that notice specified a date, not being earlier than one month after publication of the notice, on or before which any person having an interest in any land in the licence area may, by instrument in writing served on the Minister, submit any matters that he wishes to be considered in connection with the application for the consent; and
- (d) has, to the extent that he is required to do so by the Minister and to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates property brought into that area by any person engaged or concerned in the operations authorised by the licence, or has made arrangements that are satisfactory to the Minister for the removal or disposal of that property.

(3)

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(3) Where a licensee has not complied with the conditions to which the licence is subject and with the provisions of this Act and of the regulations, the Governor may give his consent to the surrender of a licence under subsection one of this section if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(4) Where the Governor consents to an application under subsection one of this section, the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.

Cancellation of licences for breach of conditions, the Act or regulations or non-payment of amounts due.

32. (1) Where a licensee—

- (a) has not complied with a condition to which the licence is subject;
- (b) has not complied with a provision of this Act or of the regulations; or
- (c) has not paid any amount payable by him under this Act within a period of three months after the day on which the amount became payable,

the Governor may, on that ground, by instrument in writing served on the licensee, cancel the licence as to the whole or a part of the pipeline in respect of which it is in force.

(2) A licence shall not, under subsection one of this section, be cancelled as mentioned in that subsection on a ground referred to in that subsection unless—

- (a) the Minister has, by instrument in writing served on the licensee, given not less than one month's notice of the Governor's intention so to cancel the licence on that ground;
- (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) the Minister has, in the instrument, specified a date on or before which the licensee or any person on whom a copy of the instrument is served may, by instrument

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instrument in writing served on the Minister, submit No. 90, 1967  
 any matters that he wishes to be considered in  
 connection with the cancellation of the licence;

- (d) the Minister has caused to be published in such newspapers as he thinks fit notice of the Governor's intention so to cancel the licence on that ground and has, in that notice, specified a date on or before which any person having an interest in any land in the licence area may submit any matters that he wishes to be considered in connection with the cancellation of the licence; and
- (e) the Governor has taken into account—
  - (i) any action taken by the licensee to remove that ground or to prevent the recurrence of similar grounds; and
  - (ii) particulars, as submitted to him by the Minister, of any matters submitted to the Minister under paragraph (c) of this subsection on or before the date specified under that paragraph or under paragraph (d) of this subsection on or before the date specified under that paragraph.

**33.** (1) The Governor may—

- (a) at the request of—
  - (i) a Minister or a Minister of State of the Commonwealth; or
  - (ii) a body established by a law of the State or of the Commonwealth; and
- (b) if, in his opinion, it is in the public interest so to do and the Minister or body making the request has given security, to the satisfaction of the Minister, for the payment of any amount payable to a licensee under subsection six of this section,

Cancellation of licence in public interest.

by

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No. 90, 1967 by instrument in writing served on the licensee, cancel, on and from such day as may be specified in the instrument, the licence of that licensee as to the whole or a part of the pipeline in respect of which it is in force.

(2) The cancellation of a licence under subsection one of this section shall take effect on and from the day specified for the purpose in the instrument referred to in that subsection.

(3) In determining the day on and from which the cancellation of a licence under subsection one of this section is to take effect—

- (a) the reasons for which the request referred to in paragraph (a) of that subsection was made;
- (b) the period, having regard to the public interest, within which it is desirable for that request to be complied with; and
- (c) the probable time that it would take for the licensee to replace the pipeline or part of the pipeline as to which the licence is cancelled,

shall be taken into consideration.

(4) Where a licence is cancelled under subsection one of this section, the licensee may bring an action in the Supreme Court against the Minister or body making the request.

(5) The Supreme Court shall hear the action and shall determine whether it is just that compensation ought to be paid to the plaintiff by the defendant by reason of the cancellation.

(6) If the Supreme Court determines that it is just that such a payment ought to be made, the Supreme Court shall determine the amount of the payment and give judgment accordingly.

(7)

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(7) The jurisdiction of the Supreme Court under **No. 90, 1967** this section may be exercised by a Judge of that Court sitting alone.

**34.** (1) A licence may be wholly cancelled or partly cancelled on the ground that the licensee has not complied with a provision of this Act or of the regulations notwithstanding that he has been convicted of an offence by reason of his failure to comply with the provision. Cancellation of licences not affected by other provisions.

(2) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the ground that he has not complied with a provision of this Act or of the regulations may be convicted of an offence by reason of his failure to comply with the provision notwithstanding that the licence has been so cancelled.

(3) A licence may be wholly cancelled or partly cancelled on the ground that the licensee has not paid an amount payable by him under this Act within a period of three months after the day on which the amount became payable notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.

(4) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the ground that he has not paid an amount payable by him under this Act within a period of three months after the day on which the amount became payable continues to be liable to pay that amount, together with any additional amount payable by reason of late payment of that amount, notwithstanding that the licence has been so cancelled.

**35.**

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No. 90, 1967  
 Removal of  
 property,  
 etc., by  
 licensee.

35. (1) Where a licence has been wholly cancelled or partly cancelled, or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the licensee, direct that person to do either or both of the following things :—

- (a) remove or cause to be removed from the relinquished area all property, or any property specified in the instrument, that was brought into that area by any person engaged or concerned in the operations authorised by the licence or make arrangements that are satisfactory to the Minister for the removal or disposal of that property and to make good, to the satisfaction of the Minister, any damage to the relinquished area caused by the removal of the property; and
- (b) make good, to the satisfaction of the Minister, any damage to the relinquished area caused by any person engaged or concerned in those operations or caused by the removal of any property, pursuant to a direction referred to in paragraph (a) of this subsection, otherwise than in the manner specified in the direction.

(2) The Minister may, by instrument in writing served on a licensee, direct him to do either or both of the following things :—

- (a) remove or cause to be removed from the licence area all property, or any property specified in the instrument, that was brought into that area by any person engaged or concerned in the operations authorised by the licence or make arrangements that are satisfactory to the Minister for the removal or disposal of that property and to make good, to the satisfaction of the Minister, any damage to the licence area caused by the removal of the property; and
- (b) make good, to the satisfaction of the Minister, any damage to the licence area caused by any person engaged or concerned in those operations or caused  
 by

*Pipelines.*

by the removal of any property, pursuant to a direction referred to in paragraph (a) of this subsection, otherwise than in the manner specified in the direction. No. 90, 1967

(3) A direction under paragraph (a) of subsection one or two of this section may specify the manner in which the property, or any of the property specified in the direction, shall be removed.

(4) A person to whom a direction is given under either subsection one or two of this section shall comply with the direction—

- (a) in the case of a direction given under subsection one of this section—within the period specified in the instrument by which the direction was given; or
- (b) in the case of a direction given under subsection two of this section—on or before the date of expiration of the licence.

**Penalty :** Two thousand dollars.

**36.** (1) Where a licence has been wholly cancelled or partly cancelled, or has expired, and—

- (a) a direction referred to in paragraph (a) of subsection one, or of subsection two, of section thirty-five of this Act for the removal of property from the relinquished area has not been complied with, the Minister may, by instrument published in the Gazette, direct that the owner or owners of the property shall remove it from that area within the period specified in the instrument and shall serve a copy of the instrument on each person whom he believes to be an owner of that property or part of that property;
- (b) a direction referred to in paragraph (a) of subsection one, or of subsection two, of section thirty-five of this Act for the removal of property from the relinquished

Powers of Minister where direction under section 35 not complied with.

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relinquished area has been complied with, but any damage to the relinquished area or to the licence area, as the case may be, caused by the removal of the property has not been made good to the satisfaction of the Minister, the Minister may make good the damage in such manner as he thinks fit; or

- (c) a direction referred to in paragraph (b) of subsection one, or of subsection two, of section thirty-five of this Act has not been complied with, the Minister may do all or any of the things required by the direction to be done.

(2) Where any property has not been removed from the relinquished area in accordance with a direction under paragraph (a) of subsection one of this section, the Minister may do all or any of the following things :—

- (a) remove, in such manner as he thinks fit, all or any of that property from the relinquished area concerned;
- (b) dispose of, in such manner as he thinks fit, all or any of that property; and
- (c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be the owner of that property or part of that property, sell, by public auction or otherwise, as he thinks fit, all or any part of that property that belongs, or that he believes to belong, to that person.

(3) The Minister may deduct from the proceeds of a sale under subsection two of this section of property that belongs, or that he believes to belong, to a particular person—

- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
- (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required

by

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by a direction under paragraph (b) of subsection No. 90, 1967 one, or of subsection two, of section thirty-five of this Act to be done by that person;

- (c) all or any part of any fees or amounts due and payable under this Act by that person.

(4) Costs and expenses incurred by the Minister under subsection two of this section—

- (a) if incurred in relation to the removal, disposal or sale of property or the making good of damage caused by the removal of property, are a debt due by the owner of the property to the Crown; or
- (b) if incurred in relation to the doing of any thing required by a direction under paragraph (b) of subsection one, or of subsection two, of section thirty-five of this Act, are a debt due by the person to whom the direction was given to the Crown,

and, to the extent to which they are not recovered under subsection three of this section, are recoverable in a court of competent jurisdiction.

(5) Subject to subsection four of this section, no action lies in respect of the removal, disposal or sale of property under this section.

**37.** (1) There is payable to the Under Secretary by a licensee, in respect of each year of the term of a licence, such fee, not exceeding twenty dollars in respect of each mile or portion of a mile of the length of the pipeline on the first day of that year, as the Minister may in each case determine and specify in an instrument in writing served on the licensee.

(2) A fee referred to in subsection one of this section is payable within one month after—

- (a) in the case of the first year of the term of the licence—the day on which that term commenced; and

(b)

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(b) in the case of a year of the term of a licence other than the first—the anniversary of that day.

Penalty for late payment.

38. Where the liability of a licensee to pay a fee referred to in section thirty-seven of this Act is not discharged at or before the time when the fee is payable, there is payable to the Under Secretary by the licensee an additional amount calculated at the rate of one-third of one per centum per day upon the amount of the fee from time to time remaining unpaid, to be computed from the time when the fee became payable until it is paid.

Fees and penalties debts due to the Crown.

39. A fee under section thirty-seven of this Act, or an amount payable under section thirty-eight of this Act, is a debt due by the licensee to the Crown and is recoverable in a court of competent jurisdiction.

Section 171 and Parts XI and XIIA of Local Government Act not to apply to pipelines, etc.

40. The provisions of—

- (a) section one hundred and seventy-one of the Local Government Act, 1919, as amended by subsequent Acts, do not apply to or in respect of a pipeline; and
- (b) Parts XI and XIIA of that Act, as so amended, do not apply to the construction or operation of a pipeline (not including apparatus or works),

the construction or operation of which is authorised by a licence.

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PART IV.

REGISTRATION OF PERMITS AND LICENCES.

Register of permits and licences to be kept.

41. (1) For the purposes of this Part, the Registrar shall keep a register of permits and licences.

(2)

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(2) The Registrar shall cause to be entered in the register a memorial in respect of each permit or licence—

- (a) specifying the name of the holder of the permit or licence;
- (b) in the case of a permit, setting out particulars of the lands in respect of which the permit is granted;
- (c) in the case of a licence, setting out an accurate description (including a map) of the licence area, the route of the pipeline authorised by the licence and the situation of any apparatus or works;
- (d) specifying the term of the permit or licence;
- (e) setting out such other matters as are required by this Part to be entered in the register; and
- (f) setting out such further matters relating to the permittee or licensee or to the terms and conditions of the permit or licence as the Under Secretary deems proper and expedient in the public interest and directs the Registrar to enter in the register.

(3) The Registrar shall cause to be entered in the register a memorial—

- (a) of any instrument varying, cancelling, surrendering or otherwise affecting a permit or a licence;
- (b) of any instrument varying or revoking an instrument referred to in paragraph (a) of this subsection; and
- (c) of the expiration of a permit or licence.

(4) It is a sufficient compliance with the requirements of subsection two or three of this section if the Registrar causes a copy of the permit, licence or instrument to be entered in the register.

(5) A permit, licence or instrument shall be deemed to be registered as soon as a memorial complying with subsection two or three, as the case may be, of this section, or a copy of the permit, licence or instrument, has been entered in the register.

(6)

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(6) The Registrar shall endorse on the memorial or copy of the permit, licence or instrument a memorandum of the date upon which the memorial or copy was entered in the register.

(7) An instrument a memorial of which is required by this section to be entered in the register is of no force until the memorial is so entered.

**Approval  
and regis-  
tration of  
transfers.**

**42.** (1) A transfer of a permit or a licence is of no effect until it has been approved by the Minister and registered as provided by this section.

(2) A registered holder who desires to transfer a permit or a licence to another person, or to himself and another person jointly, may lodge with the Minister an application for approval of the transfer of the permit or licence.

(3) The application shall be accompanied by an instrument of transfer of the permit or licence in or to the effect of the prescribed form duly executed by the transferor and transferee, together with a copy of that instrument.

(4) On receipt of the application, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was lodged with the Minister and shall make such other notations in the register as may be directed by the Under Secretary.

(5) The Minister shall not approve the transfer unless it is an absolute transfer of the whole of the transferor's interest in the permit or licence.

(6) Subject to subsection five of this section, the Minister may—

(a) approve the application;

(b)

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- (b) by instrument in writing served on the transferor **No. 90, 1967** inform the transferor that he is prepared to approve the application if the transferee, within such time as may be specified in the instrument, lodges with the Minister security in such amount, not exceeding twenty thousand dollars, and in such form as may be specified in the instrument; or
- (c) refuse the application.

(7) Where—

- (a) the Minister has, under subsection six of this section, informed the transferor that the transferee will be required to lodge a security; and
- (b) the transferee has lodged that security with the Minister within the specified time,

the Minister shall approve the application.

(8) If the Minister approves the application, the Registrar shall forthwith cause to be endorsed on the instrument of transfer and on the copy a memorandum of approval and, on payment of the prescribed fee, cause to be entered in the register a memorandum of the transfer and the name of the transferee.

(9) Upon entry in the register of the memorandum of approval, the transferee becomes the registered holder of the permit or licence to which the instrument of transfer relates.

(10) The copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Registrar and is subject to inspection in accordance with this Part.

(11) The instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application.

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Entries in register on devolution of rights of registered holder.

**43.** (1) A person upon whom the rights of a registered holder of a permit or a licence have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the permit or licence.

(2) Where the Minister is satisfied that the interests of the holder have devolved upon the applicant by operation of law, the Registrar may, on payment of a fee of ten dollars, cause the name of the applicant to be entered in the register as the holder of the permit or licence.

Interests not to be created, etc., except by instruments in writing.

**44.** A legal or equitable interest in or affecting an existing or future permit or licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument in writing.

Approval and registration of instruments creating, etc., interests.

**45.** (1) This section applies to an instrument by which a legal or equitable interest affecting an existing or future permit or licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section forty-two of this Act applies.

(2) An instrument to which this section refers is of no force until—

- (a) the instrument has been approved by the Minister; and
- (b) an entry of the approval of the instrument has been made in the register in accordance with subsection seven of this section.

(3) A party to an instrument to which this section applies, or a person having an interest in or in relation to a permit or licence by reason of such an instrument, may lodge with the Minister an application for approval of the instrument.

(4) The application shall be accompanied by the instrument and a copy of the instrument.

(5)

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(5) On receipt of the application, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was lodged with the Minister and shall make such other notations in the register as may be directed by the Under Secretary. No. 90, 1967

(6) The Minister may approve or refuse the application.

(7) If the Minister approves the application, the Registrar shall forthwith cause to be endorsed on the original instrument and on the copy a memorandum of approval and, on payment of the prescribed fee, cause an entry of the approval of the instrument to be made in the register on the memorial relating to, or a copy of, the permit or licence to which the instrument relates.

(8) The copy of the instrument endorsed with the memorandum of approval shall be retained by the Registrar and is subject to inspection in accordance with this Part.

(9) The original instrument endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval.

(10) If the Minister refuses the application, the Registrar shall cause a notation of the refusal to be made in the register.

46. A party to a transfer referred to in section forty-two of this Act or to an instrument to which section forty-five of this Act applies shall not, with intent to defraud, execute the transfer or instrument unless the transfer or instrument fully and truly sets forth the true consideration for the transfer or instrument and all other facts and circumstances, if any, affecting the amount of any stamp duty payable in respect of the transfer or instrument. True consideration to be shown.

Penalty : Two thousand dollars.

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Minister  
not  
concerned  
with certain  
matters.

**47.** Neither the Minister nor the Registrar nor a person acting under the direction or authority of the Minister or the Registrar is concerned with the effect in law of any instrument lodged with the Minister in pursuance of this Part nor does the approval of any instrument give to it any force, effect or validity that it would not have had if this Part had not been enacted.

Power of  
Minister to  
require  
information  
as to  
proposed  
dealings.

**48.** (1) The Minister may require the person lodging an instrument for approval under this Part to furnish to him in writing such information concerning the instrument, or the transaction to which the instrument relates, as the Minister considers necessary or advisable.

(2) A person who is so required to furnish information shall not furnish information that is false or misleading in a material particular.

Penalty : One thousand dollars.

Production  
and  
inspection  
of books,  
records and  
documents.

**49.** (1) The Minister may require any person to produce to him or make available for inspection by him or any person specified by him any books, records, documents, maps or plans in the possession or under the control of the first-mentioned person and relating to an instrument lodged with the Minister for approval under this Part or to the transaction to which any such instrument relates.

(2) A person shall not fail or refuse to comply with any requirement given to him under subsection one of this section.

Penalty : One thousand dollars.

Inspection  
of register  
and  
documents.

**50.** (1) Subject to subsection two of this section, the register and all instruments registered under this Part shall at all convenient times be open for inspection by any person upon payment of the prescribed fee.

(2)

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(2) The Minister may refuse to allow a memorial or copy of a permit or licence to be inspected without the written consent of the registered holder. No. 90, 1967

**51.** (1) The register shall be received by all courts and tribunals as evidence of all matters required or authorised by this Part to be entered in the register. Evidentiary provisions.

(2) The Minister may, on payment of the prescribed fee, supply copies of or extracts from the register or of or from any instrument lodged with him under this Part, certified by writing under his hand, and a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

(3) The Minister may, on payment of the prescribed fee, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Part to be made or done or not to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

**52.** (1) The Supreme Court may, on the application of a person aggrieved by—

- (a) the omission of an entry from the register;
- (b) an entry made in the register without sufficient cause;
- (c) an entry wrongly existing in the register; or
- (d) an error or defect in an entry in the register,

make such order as it thinks fit directing the rectification of the register.

(2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.

(3)

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(3) Notice of an application under this section shall be given to the Minister, who may appear and be heard and who shall appear if so directed by the Supreme Court.

(4) An office copy of an order made by the Supreme Court may be served on the Minister, and the Minister shall, upon receipt of the order, rectify the register accordingly.

(5) The jurisdiction conferred on the Supreme Court by this section may be exercised by a Judge of that Court sitting alone.

Minister not  
liable to  
certain  
actions.

53. Subject to section fifty-two of this Act, neither the Minister nor the Registrar nor a person acting under the direction or authority of the Minister or the Registrar is liable to an action, suit or proceeding for or in respect of an act or matter in good faith done or omitted to be done in exercise or purported exercise of any power or authority conferred by this Part.

Offences.

54. A person who wilfully—

- (a) makes, causes to be made or concurs in making a false entry in the register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the register or of or from an instrument lodged with the Minister under this Part,

is guilty of a misdemeanour and is liable on conviction on indictment to imprisonment for a period of two years.

## PART V.

## MISCELLANEOUS.

Forms of  
permits  
and  
licences.

55. (1) A permit shall be in such form as the Minister approves.

(2)

*Pipelines.*

(2) A licence shall be in such form as the Governor No. 90, 1967 approves.

56. The Minister shall cause to be published—

- (a) in the Gazette, a daily newspaper circulating throughout New South Wales and such other newspapers as he thinks fit, such particulars as he thinks fit of the grant, extension of the term or cancellation of a permit;
- (b) in the Gazette such particulars as he thinks fit of the grant, grant of the renewal, variation, surrender or expiration of a licence.

Notice of grants of permits, etc., to be publicised.

57. All courts and tribunals shall take judicial notice of the signature of a person who is, or has been, the Minister, the Under Secretary or the Registrar and of the fact that that person is, or has been, the Minister, the Under Secretary or the Registrar, as the case may be.

Judicial notice.

58. (1) A document required by this Act to be served on a person other than a Minister or a corporation shall be served—

Service.

- (a) by delivering the document to that person personally;
- (b) by prepaying and posting, by certified mail, the document as a letter addressed to that person at his last known place of abode or business or, if he is carrying on business at two or more places, at one of those places;
- (c) by leaving the document at the last known place of abode of that person with some person apparently an inmate of that place and apparently not less than sixteen years of age; or
- (d) by leaving it at the last known place of business of that person or, if he is carrying on business at two

or

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No. 90, 1967 or more places, at one of those places with some person apparently in the service of that person and apparently not less than sixteen years of age.

(2) A document required by this Act to be served on any Minister shall be served by prepaying and posting, by certified mail, the document as a letter addressed to that Minister at such place as the Minister, by an instrument published in the Gazette, specifies.

(3) A document required by this Act to be served on a person, being a corporation, shall be served—

(a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at two or more places, at one of those places; or

(b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than sixteen years of age.

(4) Where a document required by this Act to be served is posted as a letter in accordance with this section, service shall, unless the contrary is proved, be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

**Inspectors.** 59. (1) The Minister may, by instrument in writing, appoint a person to be an inspector for the purposes of this Act and the regulations.

(2) The Minister may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act and the regulations.

(3) Where the appointment of a person under this section expires or is revoked, that person shall forthwith surrender the certificate furnished to him under this section

to

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to the Minister or, if the Minister, by instrument in writing **No. 90, 1967** served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Penalty : One hundred dollars.

**60.** (1) For the purposes of this Act and the regulations, <sup>Powers of inspectors.</sup> an inspector, at all reasonable times and on production of the certificate furnished to him under section fifty-nine of this Act—

- (a) may enter any lands in respect of which a permit is in force or any licence area ;
- (b) may inspect and test any pipeline or any apparatus or works ;
- (c) may take samples of any substance being conveyed by a pipeline ; and
- (d) may require a permittee or licensee, or any other person who has the custody of any books, records, documents, maps or plans relating to a pipeline or proposed pipeline or to any apparatus or works or any proposed apparatus or works to produce to him those books, records, documents, maps or plans and may inspect, take extracts from and make copies of any of those books, records, documents, maps or plans.

(2) A person who is the occupier or person in charge of any building, structure or place shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this section.

(3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers under this section.

Penalty : Five hundred dollars.

**61.**

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Creation of easements in favour of permittees and licensees.

**61.** It shall be lawful to create in a form approved by the Minister, as an easement in favour of a permittee or licensee, rights in, on, over, across or through any land for the purpose of the construction and use of a pipeline or for any purpose incidental to any of those purposes.

Application of section 88A of Conveyancing Act to easements for pipelines, etc.

**62.** (1) The provisions of section 88A of the Conveyancing Act, 1919, as amended by subsequent Acts, apply to and in respect of easements in favour of a permittee or licensee for the purpose of the construction and use of pipelines, for any purpose incidental to any such purpose and for the purpose of access to pipelines or apparatus or works in the same manner as they apply to easements in favour of the Crown or of any public or local authority constituted by Act of Parliament.

(2) For the purposes of subsection one of this section, an instrument does not create an easement in favour of, or operate to transfer an easement to, a permittee or licensee unless—

- (a) it is expressed to create the easement in favour of, or to transfer the easement to, a permittee or a licensee; and
- (b) it bears a certificate by the Minister to that effect.

Theft of substances from pipeline.

**63.** A person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any substance being conveyed by means of a pipeline shall be guilty of simple larceny and punishable accordingly.

Damaging, etc., pipelines, etc.

**64.** A person who unlawfully damages a pipeline or interferes with the operation of a pipeline shall be liable—

- (a) upon conviction before a stipendiary magistrate sitting alone as a court of summary jurisdiction to a penalty not exceeding one thousand dollars or  
to

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to imprisonment for a period not exceeding one year or to both such penalty and imprisonment; or

- (b) upon conviction on indictment to imprisonment for a period not exceeding five years.

**65.** (1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the regulations, with the requirements specified in the direction, the offence, for the purposes of subsection three of this section, shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed. Continuing offences.

(2) Where an offence is committed by a person by reason of his failure to comply with a provision of this Act or the regulations, the offence, for the purposes of subsection three of this section, shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the act was required to be done has elapsed.

(3) Where, under either subsection one or two of this section, an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding two thousand dollars.

**66.** The penalty set out in, or at the foot of, any section or subsection of a section of this Act indicates that a contravention of the section or subsection respectively, whether by act or omission, is an offence against this Act punishable upon conviction by a penalty not exceeding the penalty so set out. Penalties.

**67.**

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**No. 90, 1967** **67.** Proceedings for offences against this Act or the regulations may be taken before a stipendiary magistrate sitting alone as a court of summary jurisdiction or, where the offence is an offence to which section sixty-eight of this Act applies, before such a stipendiary magistrate or before the Supreme Court in its summary jurisdiction.

**Prosecution of offences.** **68.** (1) The offences to which this section applies are offences against this Act—

- (a) punishable by a maximum fine exceeding one thousand dollars; or
- (b) punishable by a fine for each day on which the offence occurs.

(2) If proceedings in respect of an offence to which this section applies are brought in a court of summary jurisdiction, the maximum fine that the court may impose in respect of the offence is one thousand dollars.

(3) The Attorney-General or a person acting with his authority or consent may bring proceedings in the Supreme Court in its summary jurisdiction in respect of an offence to which this section applies.

(4) If proceedings in respect of an offence to which this section applies are brought in the Supreme Court in its summary jurisdiction, the Supreme Court may impose a fine not exceeding the maximum fine provided by this Act or the regulations in respect of the offence.

**Regulations.** **69.** (1) The Governor may make regulations for or with respect to—

- (a) the construction, maintenance and operation of pipelines;
- (b) the inspection of pipelines;
- (c) the keeping of registers under this Act;
- (d) the escape of substances from a pipeline;

(e)

*Pipelines.*

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- (e) the prevention of damage to any land used for the No. 90, 1967 construction or operation of pipelines;
- (f) all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations may provide, in respect of an offence against the regulations, for the imposition of—

- (a) a fine not exceeding five hundred dollars; or
- (b) a fine not exceeding that amount for each day on which the offence occurs.

(3) Regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication thereof if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution, of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House, disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

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PREVENTION