

PIPELINES (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 86, 1973.

An Act to make further provisions with respect to permits in relation to the construction of pipelines and licences to construct and operate pipelines; for this and other purposes to amend the Pipelines Act, 1967; and for purposes connected therewith. [Assented to, 20th December, 1973.]

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:—

1. This Act may be cited as the "Pipelines (Amendment) Act, 1973".

2.

Pipelines (Amendment).

No. 86, 1973
Commence-
ment.

2. This Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment
of Act No.
90, 1967.
Sec. 3.
(Interpre-
tation.)

3. The Pipelines Act, 1967, is amended—

(a) (i) by omitting from section 3 (1) the definition of “Crown lands” and by inserting instead the following definitions :—

“Crown lands” means lands that are subject to the Crown Lands Acts and are not—

- (a) the subject of an incomplete purchase;
- (b) held as a homestead selection or a homestead grant; or
- (c) held as a lease in perpetuity under the Crown Lands Acts,

and includes lands dedicated to a public purpose under the Crown Lands Acts, whether or not a grant has issued in respect thereof;

“Crown Lands Acts” means the Acts for the time being in force relating to Crown lands and includes the Returned Soldiers Settlement Act, 1916, the Closer Settlement Acts, the Prickly-pear Act, 1924, and the Western Lands Act, 1901, and any Act amending those Acts whether passed before or after the commencement of the Pipelines (Amendment) Act, 1973;

“incomplete purchase” means a conditional purchase or a purchase by auction or other purchase of the fee-simple from the Crown under the Crown Lands Acts in respect of which any of the purchase money remains unpaid;

(ii)

Pipelines (Amendment).

(ii) by omitting from section 3 (1) the definition No. 86, 1973 of "instrument of approval";

(iii) by omitting from section 3 (1) the definition of "land" and by inserting instead the following definition :—

"land" means—

- (a) land in fee-simple other than land referred to in paragraph (b) or (d);
- (b) Crown lands;
- (c) an incomplete purchase and a homestead selection, a homestead grant and a lease in perpetuity under the Crown Lands Acts; and
- (d) land (not being Crown lands) owned by or vested in a person on behalf of the Crown or a statutory body representing the Crown;

(iv) by omitting from section 3 (1) the definition of "owner" and by inserting instead the following definition :—

"owner"—

- (a) in relation to land other than Crown lands or lands owned by or vested in a person on behalf of 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 or is the

Pipelines (Amendment).

No. 86, 1973

the holder of a homestead selection or a homestead grant;

(ii) is the purchaser under an incomplete purchase, the holder of a lease in perpetuity under the Crown Lands Acts or a person (not being the purchaser under an incomplete purchase) to whom a person on behalf of the Crown, or a statutory body representing the Crown, has lawfully contracted to convey or transfer the fee-simple;

(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 (not being lands specified in a contract referred to in subparagraph (ii) of paragraph (a)) owned by or vested in a person on behalf of the Crown, means the Crown or that person; and

(c)

Pipelines (Amendment).

- (c) in relation to lands (not being lands specified in a contract referred to in subparagraph (ii) of paragraph (a)) owned by or vested in a statutory body representing the Crown, means that statutory body; No. 86, 1973
- (v) by inserting next after section 3 (7) the following new subsection :—
- (7A) In this Act, a reference to a permit includes a reference to the permit as varied for the time being under this Act.
- (vi) by omitting from section 3 (8) the word “is” and by inserting instead the word “includes”;
- (b) (i) by omitting from section 6 (1) the words “and carry out surveys of the lands on which he desires to construct the pipeline” and by inserting instead the words “lands for the purpose of determining the route of the proposed pipeline, the situation of any proposed apparatus or works and the lands (if any) to be used for the purpose of gaining access to the proposed pipeline and any proposed apparatus or works”; Sec. 6.
(Applica-
tions for
permits.)
- (ii) by omitting section 6 (2) (c) and by inserting instead the following paragraphs :—
- (c) shall specify, in the prescribed manner, the lands in respect of which the permit is applied for;
- (ci) shall be accompanied by the prescribed maps, showing the location on the lands referred to in paragraph (c) of—
- (i) the approximate route of the pipeline;
- (ii)

Pipelines (Amendment).

No. 86, 1973

- (ii) the approximate situation of any apparatus or works; and
 - (iii) any lands which the applicant desires to enter to determine the lands to be used for the purpose of gaining access to the pipeline and any apparatus or works;
- (iii) by omitting section 6 (3) and by inserting instead the following subsection :—
- (3) The applicant shall, if required to do so by an instrument in writing served on him at any time by the Minister, furnish to the Minister and to each of the Ministers referred to in subsection (4), within the time specified in the instrument, further information in writing in connection with his proposal or application, as required by the instrument.
- (iv) by omitting from section 6 (4) the words “served or to be served by him on” and by inserting instead the words “submitted or furnished or to be submitted or furnished by him to”;
- (v) by omitting section 6 (5) (b) and by inserting instead the following paragraph :—
- (b) describing the lands which he desires to enter to carry out surveys for the purpose of determining the route of the pipeline, the situation of any apparatus or works and the lands (if any) to be used for the purpose of gaining access to the pipeline and any apparatus or works;

(vi)

Pipelines (Amendment).

- (vi) by omitting from section 6 (5) (c) the words **No. 86, 1973** “and the situation of the apparatus or works that he desires to construct or install” and by inserting instead the words “, the approximate situation of any apparatus or works that he desires to construct or install and, where no suitable means of gaining access to the proposed pipeline or any proposed apparatus or works exists, the approximate route of any desired means of gaining access”;
- (c) (i) by omitting from section 7 (a) the words “any part of the pipeline referred to in the application is to be constructed” and by inserting instead the words “any lands referred to in the application are situated”;
- (ii) by omitting from section 7 (b) the words “on which any part of the pipeline referred to in the application is to be constructed,” and by inserting instead the words “referred to in the application,”;
- (d) by inserting next after section 7 the following new **New sec. 7A.** section :—
- 7A. (1) The applicant for a permit may, before the permit is granted, apply to the Minister—
- (a) to include additional lands in;
- (b) to exclude lands from; or
- (c) to include additional lands in, and to exclude other lands from,
- the lands in respect of which the permit is applied for.
- (2) Such of the provisions of subsections (2), (3), (4) and (5) of section 6 and of section 7 as may be prescribed, with such modifications, if any, as may be prescribed, apply to and in respect

of

Sec. 7.
(Applicant for permit to serve notices on councils, owners and occupiers.)

Variation of application for permit.

*Pipelines (Amendment).***No. 86, 1973**

of an application under subsection (1) in the same way as those provisions apply to and in respect of an application in respect of any lands made under subsection (1) of section 6.

Sec. 8.
(Grant of
permit.)

- (e) (i) by omitting from section 8 (1) (a) the words “section seven of this Act” and by inserting instead the words “subsections (2), (3), (4) and (5) of section 6 and the provisions of section 7 in relation to the lands in respect of which the permit is applied for or that non-compliance with any of those provisions was not in a material respect”;
- (ii) by omitting from section 8 (1) (b) the words “that section” and by inserting instead the matter “section 7”;
- (iii) by inserting in section 8 (1) after the words “Local Government” the words “, the Minister for Public Works, the Minister for Planning and Environment”;
- (iv) by inserting in section 8 (1) after the word “application” the words “under subsection (1) of section 6 or, where an application is made under section 7A, in respect of—
- (c) such of the lands specified in the application under subsection (1) of section 6 as are not excluded lands, referred to in subsection (1) of section 7A; and
- (d) any additional lands referred to in the application under subsection (1) of section 7A,
- or such of those lands as he thinks fit”;

(v)

Pipelines (Amendment).

(v) by omitting section 8 (2) (b) and by inserting No. 86, 1973 instead the following paragraph :—

(b) would be unsuitable by reason of the pipeline or any apparatus or works being likely to interfere unnecessarily with—

(i) improvements or improved lands;

(ii) any flora, fauna, fish, fisheries and scenic attraction on or in the vicinity of the lands specified in the application; or

(iii) any features of architectural, archaeological, historical or geological interest on or in the vicinity of the lands specified in the application.

(f) by inserting next after section 9 the following new ^{New sec.} section :— **9A.**

9A. (1) A permittee may apply to the Minister ^{Variation} for a variation of the permit held by him so that it ^{of permit.} applies to additional lands.

(2) The provisions of subsection (2), (paragraph (e) excepted) and subsections (3), (4) and (5) of section 6 and the provisions of section 7 apply to and in respect of an application under subsection (1) in respect of the additional lands referred to in that subsection in the same way as those provisions apply to and in respect of an application in respect of any lands made under subsection (1) of section 6.

(3) Where, in respect of an application under subsection (1), the Minister is satisfied as to such of the matters referred to in paragraphs (a) and (b) of subsection (1) of section 8 as are **applicable**

Pipelines (Amendment).

No. 86, 1973

applicable and has taken into consideration the matters referred to in subsection (2) of that section, he may, by instrument in writing, vary the permit in respect of which that application was made so that it applies—

- (a) to the additional lands specified in that application; or
- (b) to such of those additional lands as the Minister thinks fit.

(4) In varying a permit pursuant to this section, the Minister may add to or vary the conditions subject to which the permit was granted as he thinks fit and may specify in the instrument referred to in subsection (3).

(5) Any lands specified in an instrument referred to in subsection (3) shall, for the purposes of this Act, be deemed to be lands specified in the permit to which that instrument relates as lands in respect of which the holder of the permit may exercise the rights conferred thereby.

(6) Where, pursuant to subsection (4), any conditions are added to the conditions subject to which a permit was granted or any conditions subject to which a permit was granted are varied, the additional conditions or the conditions as so varied shall be deemed to be conditions subject to which the permit was granted.

Sec. 10.
(Rights
conferred
by permit.)

- (g) (i) by inserting in section 10 after the words “so referred to” the words “and the lands (if any) to be used for the purpose of gaining access to the pipeline and any such apparatus or works”;

(ii)

Pipelines (Amendment).

(ii) by inserting at the end of section 10 the No. 86, 1973 following new subsection : —

(2) A permittee may, subject to any conditions subject to which the permit was issued, take from the lands specified in the permit samples for examination and testing.

(h) (i) by inserting in section 11 (2) (b) after the word “operations” where secondly occurring the words “and thereafter operates the pipeline”; **Sec. 11.** (Construction, etc., of pipelines.)

(ii) by omitting from section 11 (2) (b) the words “specified in the instrument of consent” and by inserting instead the words “to which the instrument of consent is for the time being subject”;

(i) (i) by omitting from section 13 (1) (d) (i) the words “, 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” and by inserting instead the words “the location on lands in respect of which the applicant is, or has been, as mentioned in subsection (1) of section 12, the holder of a permit of”; **Sec. 13.** (Manner of making applications for licences.)

(ii) by omitting from section 13 (1) (f) the words “, 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” and by inserting instead the words “, and particulars of the lands, and of easements over lands, in respect of which no agreement for acquisition by the applicant has been reached”;

(iii)

Pipelines (Amendment).

No. 86, 1973

(iii) by omitting section 13 (2) and by inserting instead the following subsection :—

(2) The applicant shall, if required to do so by an instrument in writing served on him at any time by the Minister, furnish to the Minister and to each of the Ministers referred to in subsection (4), within the time specified in the instrument, further information in writing in connection with his application, as required by the instrument.

Sec. 14.
(Grant of
licence.)

(j) (i) by omitting section 14 (1) and by inserting instead the following subsections :—

(1) Where the Minister has certified to the Governor—

(a) that an application was made and submitted in compliance with section 12 and subsections (1) and (4) of section 13 and that the applicant complied with subsection (2), where applicable, and with subsection (3) of section 13 (except, in the case of subsection (1), or, where applicable, subsection (2), of section 13, in so far as the Minister is satisfied that any non-compliance was not in a material respect) ;

(b) that the lands, or the easements over lands, specified in the application for a licence—

- (i) are vested in the applicant; or
- (ii) are available, in accordance with section 22, for compulsory acquisition; and

(c)

Pipelines (Amendment).

(c) that the applicant has made provision, No. 86, 1973
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 that are available for compulsory acquisition; and
- (ii) of all charges and expenses necessary for or incidental to the compulsory acquisition of those lands or easements,

the Governor may grant to the applicant a licence in relation to the lands, and the lands the subject of easements, specified in the application or such of those lands as he thinks fit.

(1A) A licence may be granted under this section notwithstanding that the lands to be included in the licence area are lands, or part of lands, specified in more than one permit issued to the applicant.

(ii) by omitting from section 14 (2) (a) the words “the Governor’s intention to refuse the application” and by inserting instead the words “his intention to recommend to the Governor that the application be refused”;

(k) by omitting sections 15, 16, 17, 18, 19, 20, 21 and 22 and by inserting instead the following sections :—

Subst. secs.
15-22 and
new sec.
22A.

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

(2)

Pipelines (Amendment).

No. 86, 1973

(2) Without limiting the generality of subsection (1), the conditions referred to in that subsection 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 in the licence, lodge with the Minister security in such amount and in such form as may be specified in the notice;
- (b) complete the construction of, and, subject to paragraph (b) of subsection (2) of section 11, commence to operate, the pipeline within the period specified in the licence;
- (c) make provision for, or give security in addition to any other security required by this Act to the satisfaction of the Minister for, the payment of all charges and expenses referred to in paragraph (b) of subsection (2) of section 20;
- (d) take such measures as the Minister may, by notice in writing given to the licensee, require within the time specified in the notice with respect to the conservation and protection of the flora, fauna, fish, fisheries and scenic attractions, and features of architectural, archaeological, historical or geological interest and the reinstatement, levelling, regrassing, reforesting and contouring of any lands which may be damaged or deleteriously affected by the licensee; and
- (e) comply with any requirement the Registrar-General may, by notice in writing given to the licensee, make in respect of the registration of the plan, and the recording of any instrument, referred to in section 20.

Pipelines (Amendment).

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

No. 86, 1973
Renewal
of licence.

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

- (a) shall be made not more than three years and not less than one year before the licence ceases to be in force or where the term of the licence is one year or less, not less than one month 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) 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.

(4) 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 Minister's intention to recommend to the Governor that the application be refused;
- (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;

(c)

*Pipelines (Amendment).*No. 86, 1973

(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.

(5) 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 (2) shall be refunded to the applicant.

(6) 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.

Term and
effect of
licence.

17. (1) A licence—

- (a) not being a renewal of a licence, comes into force on the day specified for the purpose in the licence; and

(b)

Pipelines (Amendment).

- (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, No. 86, 1973

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.

(2) A licence, while it remains in force, authorises the licensee, subject to the conditions to which the licence was granted, to enter the lands specified in the licence and, in so far as his estate or interest in those lands permits him so to do—

- (a) to commence or continue the construction of a pipeline thereon;
- (b) to alter or reconstruct a pipeline thereon;
- (c) to operate a pipeline thereon; and
- (d) to inspect and maintain a pipeline thereon.

(3) Nothing in paragraph (c) of subsection (2) affects the operation of paragraph (b) of subsection (2) of section 11.

18. (1) In this section, “minor variation”, in relation to a licence area, means a variation of that licence area by including therein additional lands, being a variation which the Minister is satisfied is for the purpose only of making a minor variation of—

- (a) the route of the pipeline;
- (b) the situation of any apparatus or works; or
- (c) any means of gaining access to the pipeline or any apparatus or works.

(2)

Pipelines (Amendment).

No. 86, 1973

(2) A licensee may, at any time, by an application to the Governor made by instrument in writing served on the Minister, apply for a variation of the licence area—

- (a) by including therein additional lands;
- (b) by excluding lands therefrom; or
- (c) by including therein additional lands and by excluding lands therefrom.

(3) An application under this section—

- (a) shall be in or to the effect of 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.

(4) Where an application under this section is an application for a variation (not being a minor variation) of the licence area by including therein additional lands, the application, in addition to complying with the requirements of subsection (3)—

- (a) shall be accompanied by a plan, drawn in the prescribed manner—
 - (i) showing the location on lands in respect of which the applicant is or has been, as mentioned in subsection (1) of section 12, the holder of a permit of—
 - (a) any proposed variation of the route of the pipeline;

(b)

Pipelines (Amendment).

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- (b) any proposed variation of the situation of any apparatus or works; and
 - (c) any proposed variation of the means of gaining access to the pipeline or any apparatus or works; and
 - (ii) on which shall be identified the lands or easements over lands referred to in paragraph (c) of this subsection;
 - (b) 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 additional lands shown in the plan referred to in paragraph (a) of this subsection;
 - (c) shall specify particulars of the additional lands, or of the easements over the additional lands, acquired or agreed to be acquired or in respect of which no agreement for acquisition by the applicant has been reached;
 - (d) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with the provisions of subsection (7); and
 - (e) may set out any other matters that the applicant wishes the Minister to consider.

(5) Where an application under this section is an application for a minor variation of the licence area, the application, in addition to complying with the requirements of subsection (3)—

- (a) shall be accompanied by a plan, drawn in the prescribed manner, showing the location on the additional lands of—
 - (i) any proposed variation of the route of the pipeline;

(ii)

Pipelines (Amendment).

No. 86, 1973

- (ii) any proposed variation of the situation of any apparatus or works; and
 - (iii) any proposed variation of the means of gaining access to the pipeline or any apparatus or works,
on which plan shall be identified the lands or easements over lands referred to in paragraph (c);
- (b) 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 additional lands shown in the plan referred to in paragraph (a);
 - (c) shall specify particulars of the additional lands, or of the easements over the additional lands, acquired or agreed to be acquired or in respect of which no agreement for acquisition by the applicant has been reached; and
 - (d) may set out any other matters that the applicant wishes the Minister to consider.

(6) Where an application under this section is an application for the variation of a licence area by excluding lands from the licence area, the application, in addition to complying with the requirements of subsection (3), shall be accompanied by a plan, drawn in the prescribed manner, showing the location on the lands within the licence area of the lands proposed to be excluded.

(7) Not less than seven days before a person makes an application under this section for a variation (not being a minor variation) of the
licence

Pipelines (Amendment).

licence area by including therein additional lands, No. 86, 1973 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.

(8) An application under this section and each of the documents, if any, 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 Public Works and the Minister for Highways.

(9) The applicant shall, if required to do so by an instrument in writing served on him at any time by the Minister, furnish to the Minister and to each of the Ministers referred to in subsection (8), within the time specified in the instrument, further information in writing in connection with his application, as required by the instrument.

(10) The Minister—

- (a) shall give notice of an application under this section for a minor variation of the licence area to any person who is the owner or occupier of any land that may be affected by the application;
- (b) may give to such persons, if any, as he thinks fit, notice of an application under this section for a minor variation of the licence area or for a variation of the licence area by excluding lands therefrom; and
- (c) shall specify in any such notice a period within which each person to whom notice is so given may submit to the Minister in writing

No. 86, 1973

writing any matters that he wishes to be considered in connection with the application.

Grant of application for variation.

19. (1) Where an application under section 18 is an application for a variation of the licence area by including therein additional lands and the Minister has certified to the Governor—

- (a) that the application was made and submitted in compliance with such of the provisions of section 18 as are applicable to the application (except in so far as non-compliance with such of the provisions of subsections (3), (4), (5) and (9) of that section as are applicable to the application was, in the opinion of the Minister, not in a material respect);
- (b) that the lands, or the easements over lands, specified in the application—
 - (i) are vested in the applicant; or
 - (ii) are available, in accordance with section 22, for compulsory acquisition; and
- (c) 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 lands, that are available for compulsory acquisition; and
 - (ii) of all charges and expenses necessary for or incidental to the compulsory acquisition of those lands or easements,

the

Pipelines (Amendment).

the Governor may, by instrument in writing— No. 86, 1973

- (d) where the application is an application for a variation (not being a minor variation, as defined in subsection (1) of section 18) of the licence area; or
- (e) where the application is an application for a minor variation, as defined in subsection (1) of section 18, after considering particulars as submitted to him by the Minister of any matters submitted to the Minister as referred to in paragraph (c) of subsection (10) of section 18,

grant the application in relation to the lands, and the lands the subject of easements, specified in the application, or such of those lands as he thinks fit or may refuse the application.

(2) The Governor may refuse an application made under subsection (4) of section 18 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 his intention to recommend to the Governor that the application be refused;
- (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 his 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

Pipelines (Amendment).

No. 86, 1973

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 under section 18 is an application for a variation of the licence area by excluding lands therefrom, the Governor may, after considering particulars as submitted to him by the Minister of any matters submitted to the Minister as referred to in paragraph (c) of subsection (10) of section 18, grant the application to such extent as he thinks fit.

(4) Where a licence area is varied—

- (a) by including additional lands therein, the additional lands shall, for the purposes of this Act, be deemed to be lands specified in the licence in respect of that licence area; or
- (b) by excluding lands therefrom, the lands so excluded shall, for the purposes of this Act, be deemed not to be lands specified in the licence in respect of that licence area.

(5) Where an application under section 18 is refused, the whole, or such part as the Minister determines of the fee referred to in paragraph (d) of subsection (3) of that section shall be refunded to the applicant.

(6) An application for the variation of a licence area by including therein additional lands may be granted subject to such conditions as the Governor thinks fit and specifies in the instrument by which he grants the application.

(7)

Pipelines (Amendment).

(7) Without limiting the generality of sub-section (6), the conditions referred to in that sub-section may include any conditions of the kind referred to in subsection (2) of section 15. **No. 86, 1973**

(8) Where an application is made for the variation of a licence area by including therein additional lands and by excluding lands therefrom, such of the provisions of section 18 as are applicable to an application for the variation of a licence area—

- (a) by including therein additional lands, and such of the provisions of this section as are applicable to the granting of such an application, apply to and in respect of so much of the application and the granting thereof as relates to the variation of the licence area by including therein additional lands; and
- (b) by excluding lands therefrom, and such of the provisions of this section as are applicable to the granting of such an application, apply to and in respect of so much of the application and the granting thereof as relates to the variation of the licence area by excluding lands therefrom.

20. (1) Upon the granting of a licence under section 14 or of an application under section 18 for the variation of a licence area by including additional lands in the licence area, the Minister shall cause to be lodged with the Registrar-General a plan of the lands in respect of which the licence or application is granted—

- (a) showing the matters referred to in paragraphs (a), (b) and (c) of subparagraph (i) of paragraph (d) of subsection (1) of section 13, in paragraphs (a), (b) and (c)

of

Pipelines (Amendment).

No. 86, 1973

- of subparagraph (i) of paragraph (a) of subsection (4) of section 18 or in subparagraphs (i), (ii) and (iii) of paragraph (a) of subsection (5) of section 18; and
- (b) identifying, or accompanied by instruments identifying, in relation to those lands, any lands or 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 (1), 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) 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.

Vesting of
lands or
easements
in licensee.

21. (1) The Governor shall, by notification published in the Gazette as soon as practicable after a licence is granted, declare that any lands or easements specified in the licence (including lands deemed to be specified therein by paragraph (a) of subsection (4) of section 19) are vested in the licensee according to the tenor of the notification.

(2) Upon publication of a notification under subsection (1), 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.

(3)

Pipelines (Amendment).

(3) Where, by the operation of subsection (2), any lands under the provisions of the Real Property Act, 1900, or easements over any such lands, become vested in a licensee, the licensee shall forthwith make a request to the Registrar-General under section 46c of the Real Property Act, 1900, in relation to those lands and easements.

(4) Upon receipt of a request under section 46c of the Real Property Act, 1900, the Registrar-General may in accordance with that Act, notify in the Register kept by him pursuant to that Act, that the lands or easements over 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.

22. For the purposes of sections 14 and 19, lands or easements over lands are available for compulsory acquisition—

Availability of certain lands, etc., for compulsory acquisition.

(a) in the case of Crown lands or lands vested in a person on behalf of the Crown or in a public authority or in the case of easements over any such lands (not being Crown lands, or lands so vested, or easements over lands, referred to in paragraph (b)), if—

(i) at least three months before the Minister grants a certificate referred to in subsection (1) of section 14 or subsection (1) of section 19, the applicant has informed the public authority or person concerned or the Minister administering the provisions of the Crown Lands Acts applying to those lands of the application for the licence or variation of the licence area; and

(ii)

No. 86, 1973

- (ii) where the public authority or person or the Minister administering the provisions of the Crown Lands Acts applying to those lands has by instrument in writing addressed to the Minister objected to the granting of the application and has requested that the matter be referred to the Premier for decision, the Premier has, after considering any representations made to the Minister by the public authority, the person concerned and the Minister administering the provisions of the Crown Lands Acts applying to those lands and such other matters as he thinks fit, approved of the application being referred to the Governor;

- (b) in the case of Crown lands or lands vested in a person on behalf of the Crown (being Crown lands or lands so vested that are under the control of a public authority) or in the case of easements over any such lands, if—
 - (i) at least three months before the Minister grants a certificate referred to in subsection (1) of section 14 or subsection (1) of section 19, the applicant has informed the public authority concerned and the owner of the lands of the application for the licence or variation of the licence area; and
 - (ii) where the public authority concerned or the owner of the lands has by instrument in writing addressed to the Minister objected to the granting of the application
and

Pipelines (Amendment).

and has requested that the matter **No. 86, 1973** be referred to the Premier for decision, the Premier has, after considering any representations made to the Minister by the public authority or the owner and such other matters as he thinks fit, approved of the application being referred to the Governor;

- (c) in the case of lands that are held as an incomplete purchase, a homestead selection, a homestead grant or a lease in perpetuity under the Crown Lands Acts, or lands held in fee-simple over which the owner has no power of sale or power to grant an easement, or in the case of easements over any such lands, if the Minister is satisfied that not less than two months before the Minister grants a certificate referred to in subsection (1) of section 14 or subsection (1) of section 19, the applicant has given the owner and, where the lands are held as an incomplete purchase, a homestead selection, a homestead grant or a lease in perpetuity under the Crown Lands Acts, the Minister administering the provisions of the Crown Lands Acts applying to those lands, notice in writing that the lands, or an easement over the lands will, upon the grant of a licence, be compulsorily acquired; or
- (d) in the case of other lands, not being lands referred to in paragraph (a), (b) or (c), or easements over those other lands, if the Minister is satisfied—
- (i) that the applicant has entered into an agreement with the owner to acquire the lands or an easement over the lands; or

(ii)

No. 86, 1973

- (ii) that the applicant has taken all reasonable steps to enter into an agreement with the owner to acquire the lands or easements and those steps have not resulted in any such agreement.

Compensation.

22A. (1) A person who has an estate or interest in any lands vested in a licensee by section 21, or in any lands over which an easement is so vested by that section, or who, but for this Act, would have had such an estate or interest, is entitled to receive, in respect of the vesting of those lands or easements, compensation from the licensee in whom the lands or easements are vested by that section.

(2) For the purpose of assessing and dealing with any such compensation and for other purposes subsidiary thereto the provisions of section 45, sections 53 to 79, both inclusive, sections 102, 103, 106, and 124, sections 126 to 131, both inclusive, and sections 135 and 136 of the Public Works Act, 1912, shall, without limiting the provisions of section 157A of the Conveyancing Act, 1919, apply, mutatis mutandis, to the vesting of lands or easements under section 21 of this Act, subject to the amendments specified in subsection (3) of this section, as if the notification published under section 21 of this Act were a notification published under section 42 of the Public Works Act, 1912.

(3) For the purposes of subsection (2) and not otherwise, the Public Works Act, 1912, is deemed to be amended—

- (a) by omitting from the sections specified in subsection (2) other than sections 103 and 124 the words "Constructing Authority" wherever occurring and by inserting instead the words "licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act";

(b)

Pipelines (Amendment).

- (b) (i) by omitting from section 53 the words "so seised, possessed or entitled as aforesaid";
- (ii) by omitting from section 53 the words "as in the preceding section mentioned" and by inserting instead the words "and may claim compensation in respect of the land or easements resumed and agree 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 section 53 (3) 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 section 53 (5);
- (c) (i) by omitting from section 102 the words "and upon the Crown Solicitor";
- (ii) by inserting at the end of section 102 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 103 the words "Crown Solicitor he shall forward the same, together with his report thereon to the
- Constructing

No. 86, 1973

Constructing Authority, who” and by inserting instead the words “licensee, under the Pipelines Act, 1967, liable to pay compensation under this Act, he”;

- (e) by omitting section 124 and by inserting instead 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 section 126 (2) 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 the vesting of the lands in the licensee the compensation shall bear interest only from the date of service of the notice of claim.

(ii)

Pipelines (Amendment).

(ii) by omitting section 126 (3);

No. 86, 1973

(g) (i) by omitting from section 135 (1) the words "such conveyances" and by inserting instead the words "conveyances or assurances of lands or easements taken";

(ii) by omitting from section 135 (2) 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 9 of the Land and Valuation Court Act, 1921, as if the licensee under this Act liable to pay compensation under this Act were a Constructing Authority within the meaning of that section.

(1) by inserting at the end of section 25 the following new subsections :—

Sec. 25.
(Consent to commencement or resumption of pipeline operations.)

(3) The Minister may, by instrument in writing, served upon a licensee, from time to time vary any conditions subject to which a consent under subsection (1) was given to that licensee or attach additional conditions to such a consent.

(4) Any conditions to which a consent given to a licensee under subsection (1) is from time to time subject shall, for the purposes of this Act, be deemed to be conditions to which the licence held by that licensee is subject.

(m) by omitting section 30 (1) (b) and by inserting instead the following paragraphs :—

Sec. 30.
(Exemptions.)

(b) a licence area or a licence is varied under section 19;

(b1) a licence is renewed under section 16;

(n)

Pipelines (Amendment).

No. 86, 1973

Sec. 42.

(Approval and registration of transfers.)

- (n) by omitting from section 42 (6) (b) the words “, not exceeding twenty thousand dollars,”;

Sec. 56.

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

- (o) by inserting in section 56 (b) after the word “licence” the words “or the variation of a licence area”;

Sec. 58.

(Service.)

- (p) (i) by omitting from section 58 the words “as a letter” wherever occurring;

- (ii) by omitting from section 58 (1) (c) the word “or”;

- (iii) by omitting from section 58 (1) (d) the word “age.” and by inserting instead the following words and new paragraph :—

age; or

- (e) where service cannot be effected in the manner specified in paragraph (a), (b), (c) or (d), by attaching the document to the place of residence of, or to some other conspicuous object on the land of which the person to be served is, the owner or occupier.

- (iv) by omitting from section 58 (4) the words “the letter” and by inserting instead the words “the document”;

Sec. 69.

(Regulations.)

- (q) by omitting section 69 (3) and (4) and by inserting instead the following subsections :—

(3) A regulation made under subsection (1) may make provisions which differ in their application according to such factors as are specified in the regulation.

(4)

(4) Section 41 of the Interpretation Act, 1897, No. 86, 1973
applies in respect of a regulation as if this Act had
been passed after the commencement of the
Interpretation (Amendment) Act, 1969.

4. An application for a permit or a licence made before *Saving.*
the commencement of this Act shall be as valid and effectual
as it would have been had this Act not been enacted but
shall be dealt with in accordance with the provisions of the
Pipelines Act, 1967, as amended by this Act.