

[Act 1998 No 41]



New South Wales

# Gas Pipelines Access (New South Wales) Bill 1998

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to apply, as a law of New South Wales, the *Gas Pipelines Access Law* established by the *Gas Pipelines Access (South Australia) Act 1997* of South Australia (the *South Australian Act*), and
- (b) to apply, as regulations for the purposes of that Law, the regulations under Part 3 of the *South Australian Act*.

A copy of the *Gas Pipelines Access Law* is set out in a note at the end of this Bill.

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## Outline of provisions

### **Part 1 Preliminary**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** provides that the proposed Act, the *Gas Pipelines Access Law* established by the South Australian Act (the *Gas Pipelines Access (New South Wales) Law*) and the regulations under Part 3 of the South Australian Act (the *Gas Pipelines Access (New South Wales) Regulations*) bind the Crown.

**Clause 5** provides that the proposed Act, the *Gas Pipelines Access (New South Wales) Law* and the *Gas Pipelines Access (New South Wales) Regulations* apply in the coastal waters of New South Wales.

**Clause 6** states that it is the intention of Parliament that the proposed Act, the *Gas Pipelines Access (New South Wales) Law* and the *Gas Pipelines Access (New South Wales) Regulations* should, as far as possible, have extra-territorial operation.

### **Part 2 Gas Pipelines Access (New South Wales) Law and Gas Pipelines Access (New South Wales) Regulations**

**Clause 7** applies, as a law of New South Wales, the *Gas Pipelines Access Law* established by the South Australian Act. The applied Law is to be referred to as the *Gas Pipelines Access (New South Wales) Law*.

**Clause 8** applies, as regulations for the purposes of the *Gas Pipelines Access (New South Wales) Law*, the regulations in force under Part 3 of the South Australian Act. The applied regulations are to be referred to as the *Gas Pipelines Access (New South Wales) Regulations*.

**Clause 9** defines certain expressions that occur in the *Gas Pipelines Access (New South Wales) Law* and the *Gas Pipelines Access (New South Wales) Regulations* (being expressions whose meaning necessarily varies according to the jurisdiction within which they are being applied) for the purposes of their application within New South Wales.

## **Part 3 National administration and enforcement**

### **Division 1 Conferral of functions and powers**

**Clause 10** confers on certain Commonwealth authorities those functions that are expressed to be conferred on them by the *Gas Pipelines Access (New South Wales) Law*.

**Clause 11** confers on certain Commonwealth authorities power to exercise in New South Wales those functions that are to become exercisable by them under interstate legislation corresponding to the *Gas Pipelines Access (New South Wales) Law*.

**Clause 12** confers on certain interstate authorities power to exercise in New South Wales those functions that are to become exercisable by them under interstate legislation corresponding to the *Gas Pipelines Access (New South Wales) Law*.

**Clause 13** confers on the Code Registrar (an office created by the South Australian Act) those functions that are to become exercisable by the Code Registrar under the *Gas Pipelines Access (New South Wales) Law*.

**Clause 14** confers on certain New South Wales authorities power to exercise those functions that are to become exercisable by them under interstate legislation corresponding to the *Gas Pipelines Access (New South Wales) Law*.

**Clause 15** restricts the Independent Pricing and Regulatory Tribunal (which is to be the local Regulator for New South Wales) as to the functions it may exercise in its capacity as the local Regulator under the *Gas Pipelines Access (New South Wales) Law*, and provides that in its exercise of those functions it is to be free from control and direction by the Minister administering the *Independent Pricing and Regulatory Tribunal Act 1992*.

### **Division 2 Federal Court**

**Clause 16** confers both original and appellate jurisdiction on the Federal Court of Australia with respect to civil and criminal matters arising under the *Gas Pipelines Access (New South Wales) Law*.

**Clause 17** provides that proposed clause 16 does not affect the laws relating to cross-vesting of jurisdiction (that is, the laws that, in specified circumstances, enable certain New South Wales courts to deal with matters normally within the jurisdiction of Commonwealth or interstate courts and certain Commonwealth and interstate courts to deal with matters normally within the jurisdiction of New South Wales courts).

### **Division 3     Administrative decisions**

**Clause 18** applies the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth as a law of New South Wales in relation to certain matters arising under the *Gas Pipelines Access (New South Wales) Law*.

**Clause 19** applies the *Administrative Decisions (Judicial Review) Act 1977* of the Commonwealth as a law of New South Wales in relation to certain matters arising under interstate legislation corresponding to the *Gas Pipelines Access (New South Wales) Law*.

### **Part 4     Miscellaneous**

**Clause 20** provides for the exemption from New South Wales stamp duty and other taxes of certain transactions that are entered into for the purpose of enabling the owner of a gas pipeline to comply with the requirements of the *Gas Pipelines Access (New South Wales) Law* by which such an owner is prohibited from operating a pipeline while owning assets that are used for the supply of natural gas or while being associated with any other person who supplies natural gas.

**Clause 21** provides that anything done under the *Gas Pipelines Access (New South Wales) Law*, or under interstate legislation corresponding to the *Gas Pipelines Access (New South Wales) Law*, by an authority of one jurisdiction with respect to a pipeline that is situated in two or more jurisdictions is taken to have been done under the legislation of each other jurisdiction by the corresponding officer of that other jurisdiction.

**Clause 22** is a formal provision that gives effect to the Schedule of amendments to other Acts and instruments.

**Clause 23** is a formal provision that gives effect to the Schedule of savings, transitional and other provisions.

**Clause 24** provides for the review of the proposed Act at the end of 5 years after the date of assent to the proposed Act.

**Schedule 1** amends the following Acts and instruments:

- *Gas Pipelines Access (New South Wales) Act 1998*
- *Gas Supply Act 1996 No 38*
- *Gas Supply (General) Regulation 1997*

- *Interpretation Act 1987 No 15*
- *Pipelines Act 1967 No 90*
- *Search Warrants Act 1985 No 37*

The amendments to the proposed Act provide for:

- (a) the Minister administering the corresponding Commonwealth legislation to become the **local Minister** for distribution pipelines for the purposes of the *Gas Pipelines Access (New South Wales) Law* in place of the Minister administering the proposed Act, and
- (b) for the Australian Competition and Consumer Commission to become the **local Regulator** for distribution pipelines for the purposes of the *Gas Pipelines Access (New South Wales) Law* in place of the Independent Pricing and Regulatory Tribunal.

These amendments are intended to take effect some time after the main provisions of the proposed Act.

**Schedule 2** contains savings, transitional and other provisions, including a provision empowering the Governor to make regulations of a savings or transitional nature.