Pipelines Act 1967 No 90

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New South Wales

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Pipelines Act 1967 No 90

New South Wales

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Pipelines Act 1967 No 90

New South Wales

An Act relating to the construction, operation and maintenance of pipelines; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act and commencement

(1) This Act may be cited as the *Pipelines Act 1967*.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 (Repealed)

3 Definitions

(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 (including any associated fittings and structures) 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).

authority to survey means an authority to enter lands and carry out surveys granted by the Minister under Division 1 of Part 2.

Commonwealth Native Title Act or ***NTA*** means the *Native Title Act 1993* of the Commonwealth.

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 folio of the Register kept under the *Real Property Act 1900* has been created 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 and the *Western Lands Act 1901*.

Department means the Department of Energy, Utilities and Sustainability.

Director-General means the Director-General of the Department.

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.

inspector means inspector appointed under this Act.

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 public authority.

licence means a licence granted by the Minister under Part 3.

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 a person on behalf of the Crown or a public authority, 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 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 public authority, 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 paragraph (a) (ii)) owned by or vested in a person on behalf of the Crown, means the Crown or that person, and

(c) in relation to lands (not being lands specified in a contract referred to in paragraph (a) (ii)) owned by or vested in a public authority, means that authority, and

(d) means any native title holder within the meaning of the Commonwealth Native Title Act.

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.

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) 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 (Offshore) Act 1982*.

pipeline committee means a committee appointed under section 5C.

public authority means:

(a) the Hunter Water Corporation, New South Wales Land and Housing Corporation, Rail Corporation New South Wales, Rail Infrastructure Corporation, Roads and Traffic Authority, State Transit Authority, State Water Corporation, Sydney Water

Corporation, Transport Infrastructure Development Corporation or Water Administration Ministerial Corporation, or

(b) a council or county council within the meaning of the *Local Government Act 1993*, or

(c) any body declared by the Minister, by order published in the Gazette, to be a public authority for the purposes of this Act.

register means the register referred to in section 41.

registered holder means the person whose name is for the time being shown in the register as being the holder of a licence.

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.

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.

(1A) In this Act:

(a) a reference to a function includes a reference to a power, authority and duty, and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(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 licence is a reference to the period during which the licence remains in force and a reference to the date of expiration of a licence is a reference to the day on which the licence ceases to be in force.

(4), (5) (Repealed)

(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) to the construction of a pipeline includes a reference to the installation of any such apparatus or works.

(7A) (Repealed)

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

(9) Notes included in this Act are explanatory notes and do not form part of this Act.

4 Delegation of functions

(1) The Minister may delegate to the Director-General the Minister's functions under this Act other than:

(a) this power of delegation, and

(b) any of the Minister's functions under sections 5, 5A, 14, 15, 19, 21, 21A, 30, 32, 33, 33A and 58A.

(2) The Director-General may sub-delegate to an authorised person any of the functions delegated to the Director-General by the Minister under this section unless the Minister otherwise provides in the instrument of delegation to the Director-General.

(3) The Director-General may delegate to an authorised person any of the Director-General's functions under this Act, other than this power of delegation.

(4) In this section, ***authorised person*** means:

(a) a member of staff of a Department of the Public Service, or

(b) the holder of a particular statutory or public office.

4A (Repealed)

5 Application of Act

(1) Subject to section 5A, nothing in this Act requires a person to hold a licence in respect of:

(a) a pipeline constructed or to be constructed under, or under an approval or other authority granted under, any Act, other than this Act or the *Environmental Planning and Assessment Act 1979*,

(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 the supply of water (including for irrigation), the drainage of land or the conveyance of waste water, mine water, aqueous slurries of minerals, mineral concentrates or mineral tailings,

(e) a pipeline of the prescribed class, constructed or to be constructed for the conveyance of dangerous goods within the meaning of the *Dangerous Goods (Road and Rail Transport) Act 2008*,

(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 (2) or by such a notification, as varied by a notification under subsection (9), to be a gathering line, or

(h) a pipeline, or a pipeline belonging to a class, for the time being declared by a notification under subsection (4) or by such a notification, as varied by a notification under subsection (9), 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 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 or she 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) (Repealed)

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

(5) (Repealed)

(6) A reference in subsection (1) (a) or (b) to a pipeline does not include a reference to a pipeline constructed or used or to be constructed or used by a network operator, within the meaning of the *Gas Supply Act 1996*, 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 subsection (1) (e), ***a pipeline of the prescribed class*** means a pipeline of a length of less than 10 kilometres or of such other length as may, for the time being, be specified in the notification under subsection (8) or in such a notification, as varied by a notification under subsection (9).

(8) The Minister may, by a notification published in the Gazette, specify for the purposes of subsection (7) a length other than 10 kilometres.

(9) The Minister may vary or revoke a notification under this section by another notification published in the Gazette.

5A Minister may require certain pipelines to be licensed

(1) This section applies to:

(a) any prescribed pipeline, and

(b) any pipeline of a prescribed class,

being a pipeline of a kind referred to in section 5 (1) (a)–(h).

(2) The Minister may, by order published in the Gazette, declare that section 5 does not apply to such pipeline, being a pipeline to which this section applies, as may be specified in the order.

(3) An order under subsection (2) takes effect at the expiration of 12 months after the day on which it is published in the Gazette or, where a longer period is specified in the order in that regard, at the expiration of that longer period.

5B Information concerning unlicensed pipelines

(1) This section applies to:

(a) any prescribed pipeline, and

(b) any pipeline of a prescribed class,

being a pipeline of a kind referred to in section 5 (1) (a)–(h).

(2) The Minister may, by order in writing served on any person by whom a pipeline to which this section applies is operated, require the person to furnish the Minister with such information relating to the design, construction, operation and maintenance of the pipeline as may be specified in the order.

(3) A person on whom an order under subsection (2) is served shall not:

(a) fail to comply with the order, or

(b) in purported compliance with the order, furnish information that is false or misleading in a material particular.

Maximum penalty: 20 penalty units.

Part 1A Pipeline committees

5C Constitution of pipeline committees

(1) The Minister may appoint standing or special pipeline committees for the purpose of advising the Minister with respect to the administration of this Act.

(2) A pipeline committee is to consist of such members as the Minister appoints from time to time.

(3) The chairperson of a pipeline committee is to be appointed by the Minister from the members of the committee.

(4) Subject to any directions by the Minister, a pipeline committee may regulate its procedure in such manner as it thinks fit.

5D Functions of pipelines committees

The functions of a pipeline committee are:

(a) to investigate applications for licences that are referred to it by the Minister, and

(b) to provide advice to the Minister with respect to any other matter referred to it by the Minister.

Part 2 Authorities to survey

Division 1 Authorities to survey

5E Applications for authorities to survey

(1) A person who proposes to construct a pipeline may apply to the Minister for an authority to survey.

(2) An application under subsection (1):

(a) (Repealed)

(b) shall be made in the prescribed manner,

(c) shall specify, in the prescribed manner, the lands in respect of which the authority

is applied for,

(d) shall be accompanied by the prescribed maps showing the location of the lands referred to in paragraph (c),

(e) shall be accompanied by particulars of:

(i) the technical qualifications of the applicant and of the applicant's employees,

(ii) the technical advice available to the applicant, and

(iii) the financial resources available to the applicant,

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

(g) shall be accompanied by the prescribed fee.

5F Grant of authority

Where the Minister is satisfied that the applicant for an authority to survey has complied with the provisions of section 5E (2) in relation to the lands in respect of which the authority is applied for or that non-compliance with any of those provisions was not in a material respect, the Minister may grant to the applicant an authority to survey in respect of the lands specified in the application under section 5E (1) or in respect of such of those lands as the Minister thinks fit.

5G Term and conditions of authority

(1) An authority to survey:

(a) comes into force on the day specified for the purpose in the authority and, subject to subsection (3), remains in force for such period commencing on that day as may be specified in the authority and for any period for which the authority is extended under subsection (2), and

(b) may be granted subject to such conditions as the Minister thinks fit and specifies in the authority.

(2) The Minister may, on application in writing made by the holder of an authority to survey and served on the Minister before the date of expiration of the authority, extend the authority for such period as the Minister thinks fit and specifies in a notice served on the holder of the authority.

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

5H Rights conferred by authority to survey

While an authority to survey is in force it authorises the holder, subject to any conditions of the authority:

(a) to enter the lands specified in the authority, and

(b) to carry out surveys to investigate possible routes for the proposed pipeline and determine the pipeline route, the situation of any associated apparatus or works and of any lands to be used to get access to the pipeline, apparatus or works, and

(c) to take samples from the lands for examination and testing.

Division 2

6–10 (Repealed)

Part 3 Licences

11 Construction and operation of pipelines

(1) A person shall not:

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

(b) alter or reconstruct a pipeline,

unless the person is, or is acting on behalf of, the registered holder of a licence and the activity is in pursuance of the licence.

(2) A person shall not operate a pipeline:

(a) unless the person is, or is acting on behalf of, the registered holder of a licence and the operation is in pursuance of the licence, and

(b) unless he or she has obtained the consent of the Minister under section 25 to the commencement or resumption, as the case may be, of the operations and commences or resumes the operations and thereafter operates the pipeline in accordance with the conditions, if any, to which the instrument of consent is for the time being subject.

(2A) Without limiting subsection (2), a person must not operate a pipeline whose construction is commenced or completed under, or under an authority granted under, an Act of the Commonwealth unless the person is, or is acting on behalf of, the registered holder of a licence under this Act and the operation is in pursuance of that licence.

(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 or her by the Minister, or

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

Maximum penalty: 40 penalty units for each day on which the offence occurs.

12 Application for licence

Any person who proposes to construct a pipeline may apply to the Minister for a licence.

13 Manner of making applications for licences

(1) An application under section 12:

(a) is to be in a form approved by the Minister,

(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 or her employees,

(vi) the technical advice available to the applicant,

(vii) the financial resources available to the applicant,

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

(i) showing the location of:

(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),

(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 or her of, or of easements over, the lands shown in the plan referred to in paragraph (d),

(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, and particulars of the lands, and of easements over lands, in respect of which no agreement for acquisition by the applicant has been reached, 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 (3),

(ga) must be accompanied by evidence that the applicant has complied with any requirement on the applicant under subsection (4) to serve a copy of a notification on a public authority,

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

(i) shall be accompanied by the prescribed fee.

(1A) (Repealed)

(2) The applicant must, if required to do so by notice in writing served on the applicant by the Minister, furnish:

(a) to the Minister, and

(b) to each public authority (if any) on which the applicant was required, under subsection (4), to serve a copy of a notification under subsection (3),

within the time specified in the notice, further information in writing in connection with the application, as required by the notice.

(3) Not less than seven days before a person makes an application under section 12, he or she shall cause to be published in two daily newspapers circulating throughout New South Wales a notification setting out particulars of the proposed application.

(4) If the regulations so require, a copy of the notification under subsection (3) must be served by the applicant on such public authorities as may be prescribed within such period as may be prescribed.

13A Amendment of application for licence by inclusion or exclusion of lands

(1) In this section, ***minor variation***, in relation to an area in respect of which an application for a licence is pending, means a variation of that area by including in that area 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 proposed pipeline,

(b) the situation of any proposed apparatus or works, or

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

(2) Where an application made under section 12 is pending, the applicant may, by instrument in writing served on the Minister, make to the Minister an application (in this section referred to as a ***further application***) to amend the application for the licence by varying the area in respect of which that application was made so as:

(a) to include additional lands in that area,

(b) to exclude lands from that area, or

(c) both to include additional lands in and to exclude lands from that area.

(3) A further application shall:

(a) be in a form approved by the Minister,

(b) include particulars of the proposed variation,

(c) specify the reasons for the proposed variation, and

(d) be accompanied by the prescribed fee (if any).

(4) Where a further application is for a variation (not being a minor variation) of the area in respect of which an application for a licence has been made by including additional lands in the area, the further application, in addition to complying with the requirements of subsection (3):

(a) shall be accompanied by a plan, drawn in the prescribed manner, which shows the locations of:

(i) any proposed variation of the route of the proposed pipeline,

(ii) any proposed variation of the situation of any proposed apparatus or works, and

(iii) any proposed variation of the lands proposed to be used for the purpose of gaining access to the proposed pipeline or any proposed apparatus or works,

and on which there 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 or her 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,

(d) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with subsection (7),

(da) must be accompanied by evidence that the applicant has complied with any requirement on the applicant under subsection (8) to serve a copy of a notification on a public authority, and

(e) may set out any other matters that the applicant wishes the Minister to consider.

(5) Where a further application is for a minor variation of the area in respect of which the application was made, the further application, in addition to complying with the requirements of subsection (3):

(a) shall be accompanied by a plan, drawn in the prescribed manner, which shows the locations on the additional lands of:

(i) any proposed variation of the route of the proposed pipeline,

(ii) any proposed variation of the situation of any proposed apparatus or works, and

(iii) any proposed variation of the lands proposed to be used for the purpose of gaining access to the proposed pipeline or any proposed apparatus or works,

and on which there shall be identified the lands, or easements over lands, referred to in paragraph (c),

(b) shall be accompanied by particulars of any agreement entered into, or proposed to be entered into, by the applicant for the acquisition by him or her 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 a further application is for the variation of the area in respect of which the application was made by excluding lands from that area, the further application, in addition to complying with the requirements of subsection (3), shall be accompanied by a plan, drawn in the prescribed manner, which shows the location on the lands within the area of the lands proposed to be excluded.

(7) The applicant shall, not less than 7 days before he or she makes a further application for a variation (not being a minor variation) of the area in respect of which the application was made by including in that area additional lands, cause to be published in 2 daily newspapers circulating throughout New South Wales a notification setting out particulars of the proposed further application.

(8) If the regulations so require, a copy of a notification under subsection (7) must be served by the applicant on such public authorities as may be prescribed within such period as may be prescribed.

(9) The applicant must, if required to do so by notice in writing served on the applicant by the Minister, furnish:

(a) to the Minister, and

(b) to each public authority (if any) on which the applicant was required, by subsection (8), to serve a copy of a notification under subsection (7),

within the time specified in the notice, further information in writing in connection with the application, as required by the notice.

(10) The Minister:

(a) shall give notice of a further application for a minor variation of the area in respect of which the application was made to any person who is the owner or occupier of any land that may be affected by the further application,

(b) may give to such persons, if any, as he or she thinks fit notice of a further application for a minor variation of the area in respect of which the application was made or for a variation of that area by excluding lands from it, 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 any matters that he or she wishes to be considered in connection with the further application.

(11) Where, with respect to a further application which is for the variation of the area in respect of which an application for a licence has been made by including in that area additional lands, the Minister is satisfied that the further application was made and submitted in compliance with such of the provisions of this section as are applicable to

the further application (except so far as he or she is satisfied that any non-compliance with such of the provisions of subsections (3), (4), (5) and (9) as are applicable to the further application is not materially significant), he or she shall cause:

(a) the application for the licence to be amended in the manner applied for,

(b) in the case of an application under section 12, the plan which accompanied the application for the licence in accordance with section 13 (1) (d) to be amended in such manner as may be indicated or warranted by reference to the plan accompanying the further application in accordance with subsection (4) (a) or (5) (a) or, if the case so requires, to be replaced by that plan, and

(c) such amendments to be made to the other documents accompanying the application for the licence in accordance with section 13 as may be necessary or appropriate having regard to the further application and the documents accompanying it in accordance with this section,

and thereupon the lands specified in the application shall, for the purposes of this Act, be deemed to include the additional lands to which the further application relates.

(12) Where, with respect to a further application which is for the variation of the area in respect of which an application for a licence has been made by excluding lands from that area, the Minister is satisfied that the further application was made and submitted in compliance with such of the provisions of this section as are applicable to the further application (except so far as he or she is satisfied that any non-compliance with such of the provisions of subsections (3), (6) and (9) as are applicable to the further application is not materially significant), he or she shall cause:

(a) the application for the licence to be amended in the manner applied for,

(b) in the case of an application under section 12, the plan which accompanied the application for the licence in accordance with section 13 (1) (d) to be amended in such manner as may be indicated or warranted by reference to the plan accompanying the further application in accordance with subsection (6) or, if the case so requires to be replaced by that plan, and

(c) such amendments to be made to the other documents accompanying the application for the licence in accordance with section 13 as may be necessary or appropriate having regard to the further application,

and thereupon the lands specified in the application shall, for the purposes of this Act, be deemed not to include the lands to which the further application relates.

(13) Where a further application is for the variation of the area in respect of which an application for a licence has been made for the purpose of both including additional lands in, and excluding lands from, that area:

(a) such of the provisions of this section as are applicable to an application for the variation of an area in respect of which an application has been made for the purpose of including additional lands in that area shall apply to and in respect of so much of the further application as relates to the variation of the area for the purpose of including additional lands in that area, and

(b) such of the provisions of this section as are applicable to an application for the variation of an area in respect of which an application has been made for the purpose of excluding lands from that area shall apply to and in respect of so much of the further application as relates to the variation of the area for the purpose of excluding lands from that area.

(14) Where the Minister is not satisfied as referred to in subsection (11) or (12), he or she shall refuse the further application and shall thereupon notify the applicant of that refusal and of the reasons for it.

(15) Where a further application is refused, the whole of the fee (if any) referred to in subsection (3) (d), or such part of it as the Minister determines, shall be refunded to the applicant.

13B Amendment of application for licence in other cases

(1) Where an application made under section 12 is pending, the applicant may, by instrument in writing served on the Minister:

(a) amend any of the particulars referred to in paragraph (c) of section 13 (1) which accompanied the application pursuant to that paragraph, or substitute for any of those particulars new particulars,

(b) alter:

(i) the route of the proposed pipeline, or

(ii) the situation of any proposed apparatus or works,

but only if the area in respect of which the application is made is not proposed to be varied by the inclusion of additional lands in, or the exclusion of lands from, that area,

(c) where particulars of any agreement referred to in paragraph (e) of section 13 (1) accompanied the application pursuant to that paragraph and that agreement has been varied or rescinded, or has been superseded by another agreement, amend those particulars by providing particulars of the variation, rescission or other agreement, as the case may be, or

(d) amend any matter set out in the application pursuant to section 13 (1) (h) or substitute for that matter any new matter.

(2) An instrument in writing relating to the alteration of the route of a proposed pipeline or of the situation of any proposed apparatus or works shall be accompanied by a plan showing the route or situation as altered, and on the service of that plan on the Minister, he or she shall cause the plan which accompanied the application in accordance with section 13 (1) (d) to be amended in such manner as may be indicated or warranted by reference to the first-mentioned plan or, if the case so requires, to be replaced by that first-mentioned plan.

(3) If the regulations so require, a copy of an instrument served on the Minister under subsection (1) must be served by the applicant on such public authorities as may be prescribed within such period as may be prescribed.

(4) The applicant must, if required to do so by notice in writing served on the applicant by the Minister, furnish:

(a) to the Minister, and

(b) to each public authority (if any) on which the applicant was required, by subsection (3), to serve a copy of an instrument under subsection (1),

within the time specified in the notice, further information in writing in connection with the application, as required by the notice.

14 Grant of licence

(1) If the Minister is satisfied that:

(a) an application for a licence has been made in compliance with section 13 (or if there was a non-compliance, it was in respect of a requirement of section 13 (1) or (2) and was not material), and

(b) if that application was amended, the application for the amendment was made in compliance with section 13A (or if there was a non-compliance, it was in respect of a requirement of section 13A (3), (4), (5) or (9) and was not material), and

(c) if an instrument has been served on the Minister under section 13B, the instrument complied with section 13B, and

(d) the lands, or the easements, specified in the application for the licence:

(i) are vested in the applicant, or

(ii) are available, in accordance with section 22, for compulsory acquisition, and

(e) the applicant has made provision, or given security in addition to any other security required by this Act, for the payment:

(i) of compensation and any interest payable in respect of any lands, or easements, 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 Minister may grant a licence in relation to the lands, including those the subject of easements, specified in the application or such of those lands as he or she thinks fit.

(2) The Minister may refuse an application for a licence, but only if the Minister has:

(a) given the applicant at least one month's written notice of his or her intention to refuse the application, and

(b) served a copy of the notice on such other persons, if any, as he or she thinks fit, and

(c) in the notice:

(i) given particulars of the reasons for the intention, and

(ii) specified a period within which the applicant or a person on whom a copy of the notice is served may make written submissions to the Minister with respect to the application, and

(d) taken into account any written submissions made to the Minister within the specified period.

(3) If an application for a licence is refused, the whole, or such part as the Minister determines, of the fee referred to in section 13 (1) (i) is to be refunded to the applicant.

15 Conditions of licence

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

(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 or her 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 section 11 (2) (b), 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 section 20 (2) (b),

(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.

16 (Repealed)

17 Duration, review and effect of licence

(1) A licence comes into force on the day specified for the purpose in the licence and remains in force until it is cancelled or surrendered.

(1A) The Minister may review a licence at intervals of not less than 21 years, with the first review of a licence commencing after the twenty-first anniversary of the issue of 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 or her estate or interest in those lands permits him or her 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 subsection (2) (c) affects the operation of section 11 (2) (b).

18 Variation of licence area

(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) A licensee may, at any time, apply to the Minister in writing 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) (Repealed)

(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 of:

(a) any proposed variation of the route of the pipeline,

(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),

(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 or her 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,

(d) shall be accompanied by copies of the notification caused to be published by the applicant in accordance with the provisions of subsection (7),

(da) must be accompanied by evidence that the applicant has complied with any requirement on the applicant under subsection (8) to serve a copy of a notification

on a public authority, 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) 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 or her 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 area by including therein additional lands, he or she shall cause to be published in two daily newspapers circulating throughout New South Wales a notification setting out particulars of the proposed application.

(8) If the regulations so require, a copy of a notification under subsection (7) must be served on such public authorities as may be prescribed.

(9) The applicant must, if required to do so by notice in writing served on the applicant by

the Minister, furnish:

(a) to the Minister, and

(b) to each public authority (if any) on which the applicant was required, under subsection (8), to serve a copy of a notification under subsection (7),

within the time specified in the notice, further information in writing in connection with the application, as required by the notice.

(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 or she 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 any matters that he or she wishes to be considered in connection with the application.

19 Grant of application for variation

(1) If an application is made for a variation of a licence area by including additional lands and the Minister is satisfied that:

(a) the application was made in compliance with section 18 (or if there was a non-compliance, it was in respect of a requirement of section 18 (3), (4), (5) or (9) and was not material), and

(b) the lands, or the easements, specified in the application:

(i) are vested in the applicant, or

(ii) are available, in accordance with section 22, for compulsory acquisition, and

(c) the applicant has made provision, or given security in addition to any other security required by this Act, for the payment:

(i) of compensation and any interest payable in respect of any lands, or easements, 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 Minister may:

(d) where the application is for a variation (not being a minor variation, as defined in section 18 (1)) of the licence area, or

(e) where the application is for a minor variation, after taking into account any written submissions made under section 18 (10) (c),

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

(2) The Minister may refuse an application made under section 18 (4), but only if, before refusing the application, the Minister has:

(a) given the applicant at least one month's written notice of the intention to refuse the application, and

(b) served a copy of the notice on such other persons, if any, as he or she thinks fit, and

(c) in the notice:

(i) given particulars of the reasons for the intended refusal, and

(ii) specified a period within which the applicant or a person on whom a copy of the notice is served may make written submissions to the Minister with respect to the application, and

(d) taken into account any written submissions made to the Minister within the specified period.

(3) If an application is made for a variation of the licence area by excluding lands, the Minister may, after taking into account any written submissions made under section 18 (10) (c), grant the application to such extent as he or she thinks fit.

(4) If a licence area is varied:

(a) by including additional lands, the additional lands are, for the purposes of this Act, taken to be lands specified in the licence in respect of that licence area, or

(b) by excluding lands, the excluded lands are, for the purposes of this Act, taken not to be lands specified in the licence in respect of that licence area.

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

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

(7) Without limiting the generality of subsection (6), the conditions may include any of the kind referred to in section 15 (2).

(8) If an application is made for the variation of a licence area by both including additional lands and excluding lands, the provisions of section 18 that are applicable to an application for a variation:

(a) including additional lands, and the provisions of this section that are applicable to the granting of such an application, apply in respect of so much of the application and its granting as relates to the inclusion of additional lands, and

(b) excluding lands, and the provisions of this section that are applicable to the granting of such an application, apply in respect of so much of the application and its granting as relates to the exclusion of lands.

20 Plan to be lodged with Registrar-General

(1) At any time after the making of an application for 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 and before publication of the notification referred to in section 21, the Minister is to cause to be lodged with the Registrar-General a plan of the lands to which the application relates:

(a) showing the route of the proposed pipeline, the situation of any proposed apparatus or works, and the lands (if any) proposed to be used for the purpose of gaining access to the proposed pipeline or proposed apparatus or works, or, as the case may be, any proposed variation of the route of the pipeline, any proposed variation of the situation of any apparatus or works, and any proposed variation of the means of gaining access to the pipeline or any apparatus or works,

(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, and

(c) accompanied by instruments setting out, in relation to any easements vested or to be vested in the applicant for the purposes of the proposed pipeline, any restrictions as to user imposed or to be imposed in respect of the lands the subject of those easements.

(2) Upon lodgment of the plan and any other instruments pursuant to subsection (1), the Registrar-General shall, if he or she is satisfied that the plan is suitable for registration:

(a) register the plan and record the instruments in such manner as to him or her seems appropriate, and

(b) inform the Minister, by instrument in writing, that he or she 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.

21 Vesting of lands or easements in licensee

(1) The Minister shall, by notification published in the Gazette as soon as practicable after 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, declare that:

(a) such lands and easements as may be specified in the notification (being lands, including lands deemed to be specified therein by section 19 (4) (a), and easements specified in the licence) are vested in the licensee, and

(b) such restrictions as to user as may be specified in the notification have effect in respect of the lands the subject of the easements specified in the licence,

according to the tenor of the notification.

(2) Upon publication of a notification under subsection (1):

(a) the lands and easements specified in the notification, to the extent to which they were not vested in the licensee immediately before the date of the notification, vest in the licensee, and

(b) the restrictions as to user specified in the notification, to the extent to which they did not have effect immediately before the date of the notification, have effect,

according to the tenor of the notification.

(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 or her 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 or her.

Note—

If lands in relation to which native title rights and interests within the meaning of the Commonwealth Native Title Act exist are affected by the granting of a licence under section 14 or of an application under section 19 for the variation of a licence area by the inclusion of additional land, a relevant procedure under the NTA must be followed before a notification under section 21 is published in the Gazette. The relevant procedures include:

(a) the right to negotiate procedure under Subdivision P of Division 3 of Part 2,

(b) the procedure under section 24MD (6B),

(c) the procedure under an indigenous land use agreement.

21A Extinguishment of easements etc after variation of licence area

(1) The Minister shall, by notification published in the Gazette as soon as practicable after the granting of an application under section 18 for the variation of a licence area by excluding lands from the licence area, declare that:

(a) such easements as may be specified in the notification (being easements specified in the licence in respect of the excluded lands) are extinguished, and

(b) such restrictions as to user as may be specified in the notification (being restrictions that have effect pursuant to section 21 in respect of the lands the subject of the extinguished easements) shall cease to have effect,

according to the tenor of the notification.

(2) Upon publication of a notification under subsection (1):

(a) the easements specified in the notification, to the extent to which they subsisted immediately before the date of the notification, are extinguished, and

(b) the restrictions as to user specified in the notification, to the extent to which they had effect immediately before the date of the notification, shall cease to have effect,

according to the tenor of the notification.

(3) Where, by operation of subsection (2):

(a) any easement over land under the provisions of the *Real Property Act 1900* is extinguished, or

(b) any restriction as to user in respect of any such land ceases to have effect,

the licensee shall forthwith:

(c) notify the owner of the land of that fact, and

(d) request the Registrar-General to notify that fact on the relevant folio of the Register kept pursuant to that Act.

Maximum penalty: 10 penalty units.

22 Availability of certain land etc for compulsory acquisition

(1) For the purposes of sections 14 and 19, lands or easements over lands are available

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 determines an application under section 14 or 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 and of any amendment to that application made in accordance with section 13A (11) or, as the case may be, the application for the variation of the licence area, and

(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 or she thinks fit, approved of the application being determined by the Minister,

(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 determines an application under section 14 or 19 (or, if the public authority and the owner have agreed that the land is available for acquisition, at any time before the Minister makes such a determination), the applicant has informed the public authority concerned and the owner of the lands of the application for the licence and of any amendment to that application made in accordance with section 13A (11) or, as the case may be, the application for the 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 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 or the owner and such other matters as he or she thinks fit, approved of the application being determined by the Minister,

(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 determines an application under section 14 or 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) 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.

(2) Lands in relation to which an owner has native title rights and interests within the meaning of the Commonwealth Native Title Act is, for the purpose of the acquisition of those rights and interests under this Act, land held in fee-simple over which the owner has no power of sale as referred to in subsection (1) (c).

(3) If lands referred to in subsection (2) are also held as an incomplete purchase, a homestead selection, a homestead grant or a lease in perpetuity under the Crown Lands Acts, the applicant must give the notice referred to in subsection (1) (c) to the Minister administering the provisions of the Crown Lands Acts applying to those lands as well as to the owner of the native title rights and interests.

Note—

In order to comply with any relevant procedure under the NTA, the notice periods under the NTA must be followed despite any different notice periods under section 22.

22A Compensation

(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) The *Land Acquisition (Just Terms Compensation) Act 1991* applies (with such modifications as may be prescribed by the regulations) to the payment of any such compensation as if the vesting of lands or easements under section 21 were effected by an acquisition notice under that Act.

(3) (Repealed)

(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 disposed of as provided by section 24 of the *Land and Environment Court Act 1979* as if the licensee under this Act liable to pay compensation under this Act were an authority within the meaning of that section.

23 Directions as to the conveyance of substances

(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) (Repealed)

(b) shall be made in the prescribed manner,

(c) shall set out the matters that the applicant wishes the Minister to consider in relation to the application.

(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 or she 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 or she wishes the Minister to consider in connection with the application.

(4) After considering any matters submitted to him or her under subsection (3) 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 or she 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 or she 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 (4), 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 (4) shall comply with the direction.

Maximum penalty: 2 penalty units for each day on which the offence occurs.

(7) This section does not apply to any pipeline that is a transmission pipeline or distribution pipeline within the meaning of the *National Gas (NSW) Law*.

24 Ceasing to operate pipeline

(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 or her licence.

Maximum penalty: 40 penalty units.

(2) It is not an offence against subsection (1) 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,

(c) was in an emergency in which there was a likelihood of loss or injury, or

(d) was in compliance with a direction given under section 28 (1).

25 Consent to commencement or resumption of pipeline operations

(1) The Minister, on application in writing served on him or her:

(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 or her licence,

may, if he or she 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 (1) may be given subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument of consent.

(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.

26 Waste or escape of substances from pipelines

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

Maximum penalty: 40 penalty units for each day on which the offence occurs.

27 Marking of route of pipeline and maintenance etc of property

A licensee:

(a) shall mark, and keep marked, in such manner as may be prescribed, the route of the pipeline in respect of which he or she 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.

Maximum penalty: 40 penalty units for each day on which the offence occurs.

28 Directions

(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 section 69 (1).

(2) A direction under subsection (1) 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 (1) shall comply with the direction.

Maximum penalty: 40 penalty units.

29 Compliance with directions

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

(2) Costs and expenses incurred by the Minister under subsection (1) 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) It is a defence if a person charged with failure to comply with a direction given to him or her under this Act or under the regulations or if a defendant in an action under subsection (2) proves that he or she took all reasonable steps to comply with the direction.

30 Variation of, and exemption from, licence conditions etc

Where:

(a) a licence area or a licence is varied under section 19, or

(b) a licensee enters into an agreement referred to in section 23, or

(c) a licence is cancelled as to part of the pipeline in respect of which it is in force, or

(d) a licensee applies to the Minister for a variation or suspension of, or exemption from compliance with, any of the conditions of the licence, or

(e) the Minister reviews a licence under this Act, or

(f) the Minister, under this Act or the regulations, gives a direction or consent to a licensee,

the Minister 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 specifies in the instrument.

31 Surrender of licences

(1) A licensee may, at any time, apply to the Minister in writing for consent to surrender his or her licence as to the whole or a part of the pipeline in respect of which it is in force.

(2) Subject to subsection (3), a consent, under subsection (1), to the surrender of a licence shall not be given unless the licensee:

(a) has paid all amounts payable by him or her 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 or her 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 or she wishes to be considered in connection with the application for the consent, and

(d) has, to the extent that he or she 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) 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 Minister may give his or her consent to the surrender of a licence under subsection (1) if he or she 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 Minister consents to an application under subsection (1), the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.

31A Inquiries into matters relating to pipelines

(1) An inquiry into any matter relating to the design, construction, operation or maintenance of a pipeline may, and if required by the Minister shall, be conducted by the Director-General.

(2) The Director-General may, by order in writing, authorise, subject to the terms of the authorisation, and with the approval of the Minister, any person or body to examine, and report to the Director-General on, any matter in connection with an inquiry (including an inquiry that the Minister has required to be conducted).

(3) Nothing in this section shall be construed as limiting the power of the Director-General to conduct an examination in connection with an inquiry under this section and the Director-General may conduct such an examination notwithstanding that the Director-General has authorised another body or person to do so.

31B Evidence at inquiry

(1) A body or person conducting an inquiry or examination under section 31A may, by notice in writing served on any person, require that person:

(a) within such reasonable time as may be specified in the notice, to furnish to that body or person such information and to produce to that body or person such books, documents or other papers in the person's possession or under the person's control as may be required for the purpose of the inquiry or examination, as the case may be, and as may be specified in the notice, whether generally or otherwise, or

(b) to attend at a time and place specified in the notice before that body or person and thereafter from time to time as required by that body or person to give evidence concerning any matter the subject of the inquiry or examination, as the case may be, and to produce all such books, documents or other papers in the person's possession or under the person's control as may be required for the purpose of the inquiry or examination and as may be specified in the notice, whether generally or otherwise.

(2) A body or person conducting an inquiry or examination under section 31A may, subject to section 13 of the *Oaths Act 1900*, require any evidence referred to in subsection (1) (b) to be given on oath and either in writing or orally, and for that purpose:

(a) where the inquiry or examination is being conducted by a body, the person presiding at the inquiry or examination, or

(b) where the inquiry or examination is being conducted by a person, that person,

may administer an oath.

(3) A person shall not neglect or refuse to comply with the requirements of a notice served on the person under this section.

Maximum penalty: 10 penalty units.

(4) A person shall not:

(a) furnish any information referred to in subsection (1) (a) required of the person pursuant to a notice served on the person under subsection (1) that is false or misleading in a material particular, or

(b) give any evidence referred to in subsection (1) (b) that is false or misleading in a material particular.

Maximum penalty: 10 penalty units.

(5) It is a sufficient defence to a prosecution arising under subsection (4) if the defendant proves that the defendant believed the truth of the information or evidence given by the defendant and that it was given in good faith.

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

(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 or her under this Act within a period of three months after the day on which the amount became payable,

the Minister 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) The Minister is not to cancel a licence unless the Minister has:

(a) given the licensee at least one month’s written notice of the intention to cancel the licence and the grounds for that intention, and

(b) served a copy of the notice on such other persons, if any, as he or she thinks fit, and

(c) specified in the notice a period within which the licensee or any person on whom a copy of the notice is served may make written submissions to the Minister with respect to the intended cancellation, and

(d) published in such newspapers as the Minister thinks fit notice of the intended cancellation and grounds, specifying a period within which any person with an interest in land in the licence area may make written submissions to the Minister with respect to the intended cancellation, and

(e) taken into account:

(i) any action taken by the licensee to remove the grounds for the intended cancellation or to prevent the recurrence of similar grounds, and

(ii) any written submissions made to the Minister within the relevant specified period.

33 Cancellation of licence in public interest

(1) The Minister may, by written notice served on the licensee, cancel a licence if the Minister considers the cancellation to be in the public interest.

(2) The cancellation may be:

(a) of the Minister's own motion, or

(b) on the written recommendation of any State or Commonwealth Minister or any body established by a law of the State or of the Commonwealth, but only if the Minister or body has given security, to the satisfaction of the Minister, for the payment of any amount payable to the licensee under subsection (6).

(3) The cancellation:

(a) may be with respect to the whole or part of the pipeline in respect of which the licence is in force, and

(b) takes effect on and from the day specified in the notice of cancellation.

(3A) In determining when the cancellation is to take effect the Minister is to consider:

(a) if there was a recommendation for the cancellation, the reasons for the recommendation, and

(b) the public interest, and

(c) the time it would be likely to take the licensee to replace the pipeline or part of the pipeline as to which the licence is cancelled.

(4) If a licence is cancelled under subsection (1), the licensee may bring proceedings in the Supreme Court:

(a) where the cancellation was of the Minister's own motion, against the Minister, or

(b) where the cancellation was on a recommendation of a Minister or body, against the Minister or body concerned.

(5) The Supreme Court shall hear the proceedings 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) (Repealed)

33A Extinguishment of easements etc after surrender or cancellation of licence

(1) The Minister may, by notification published in the Gazette, declare that:

(a) such easements as may be specified in the notification (being easements over lands within a relinquished area) are extinguished, and

(b) such restrictions as to user as may be specified in the notification (being restrictions that have effect pursuant to section 21 in respect of the lands the subject of the extinguished easements) shall cease to have effect,

according to the tenor of the notification.

(2) Upon publication of a notification under subsection (1):

(a) the easements specified in the notification, to the extent to which they subsisted immediately before the date of the notification, are extinguished, and

(b) the restrictions as to user specified in the notification, to the extent to which they had effect immediately before the date of the notification, shall cease to have effect,

according to the tenor of the notification.

(3) Where, by operation of subsection (2):

(a) any easement over land under the provisions of the *Real Property Act 1900* is extinguished, or

(b) any restriction as to user in respect of any such land ceases to have effect,

the Minister may:

(c) notify the owner of the land of that fact, and

(d) request the Registrar-General to notify that fact on the relevant folio of the Register kept pursuant to that Act.

34 Cancellation of licences not affected by other provisions

(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 or she has been convicted of an offence by reason of his or her failure to comply with the provision.

(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 or she has not complied with a provision of this Act or of the regulations may be convicted of an offence by reason of his or her 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 or her 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 or she has not paid an amount payable by him or her 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 Removal of property etc by licensee

(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), otherwise than in the manner specified in the direction.

(2) The Minister may, by instrument in writing served on a licensee, direct him or her 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 the removal of any property, pursuant to a direction referred to in paragraph (a), otherwise than in the manner specified in the direction.

(3) A direction under subsection (1) (a) or (2) (a) 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 (1) or (2) shall comply with the direction:

(a) in the case of a direction given under subsection (1)—within the period specified in the instrument by which the direction was given, or

(b) in the case of a direction given under subsection (2)—on or before the date of expiration of the licence.

Maximum penalty: 40 penalty units.

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

(1) Where a licence has been wholly cancelled or partly cancelled, or has expired, and:

(a) a direction referred to in section 35 (1) (a) or (2) (a) 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 or she believes to be an owner of that property or part of that property,

(b) a direction referred to in section 35 (1) (a) or (2) (a) for the removal of property from the 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 or she thinks fit, or

(c) a direction referred to in section 35 (1) (b) or (2) (b) 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 subsection (1) (a), the Minister may do all or any of the following things:

(a) remove, in such manner as he or she thinks fit, all or any of that property from the relinquished area concerned,

(b) dispose of, in such manner as he or she thinks fit, all or any of that property, and

(c) if he or she has served a copy of the instrument by which the direction was given on a person whom he or she believed to be the owner of that property or part of that property, sell, by public auction or otherwise, as he or she thinks fit, all or any part of that property that belongs, or that he or she believes to belong, to that person.

(3) The Minister may deduct from the proceeds of a sale under subsection (2) of property that belongs, or that he or she believes to belong, to a particular person:

(a) all or any part of any costs and expenses incurred by him or her under that

subsection in relation to that property,

(b) all or any part of any costs and expenses incurred by him or her in relation to the doing of any thing required by a direction under section 35 (1) (b) or (2) (b) 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 (2):

(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 section 35 (1) (b) or (2) (b), 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 (3), are recoverable in a court of competent jurisdiction.

(5) Subject to subsection (4), no action lies in respect of the removal, disposal or sale of property under this section.

37 Licence fees

(1) There is payable by a licensee, in respect of each year of the term of a licence, such fee, not exceeding the prescribed amount in respect of each kilometre or portion of a kilometre 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 (1) 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) in the case of a year of the term of a licence other than the first—the anniversary of that day.

38 Penalty for late payment

Where the liability of a licensee to pay a fee referred to in section 37 is not discharged at or before the time when the fee is payable, there is payable by the licensee an additional amount calculated at the rate of one-third of one per cent 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.

39 Fees and penalties debts due to the Crown

A fee under section 37, or an amount payable under section 38, is a debt due by the licensee to the Crown and is recoverable in a court of competent jurisdiction.

40 Certain provisions of Local Government Act 1993 not to apply to pipelines

(1) Section 611 of the *Local Government Act 1993* does not apply to or in respect of a pipeline the construction or operation of which is authorised by a licence.

(1A) Part 1 of Chapter 7 of the *Local Government Act 1993*, and regulations made for the purposes of that Part, do not apply to the construction or operation of a pipeline (not including the apparatus or works of a prescribed class or description), the construction or operation of which is authorised by a licence.

(2) (Repealed)

Part 4 Registration of licences

41 Register of licences to be kept

(1) For the purposes of this Part, the Director-General shall keep a register of licences.

(2) The Director-General shall cause to be entered in the register a memorial in respect of each licence:

(a) specifying the name of the holder of the licence,

(b) (Repealed)

(c) 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 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 licensee or to the terms and conditions of the licence as the Director-General deems proper and expedient in the public interest.

(3) The Director-General shall cause to be entered in the register a memorial:

(a) of any instrument varying, cancelling, surrendering or otherwise affecting a licence,

(b) of any instrument varying or revoking an instrument referred to in paragraph (a), and

(c) of the expiration of a licence.

(4) It is a sufficient compliance with the requirements of subsection (2) or (3) if the Director-General causes a copy of the licence or instrument to be entered in the register.

(5) A licence or instrument shall be deemed to be registered as soon as a memorial complying with subsection (2) or (3), as the case may be, or a copy of the licence or instrument, has been entered in the register.

(6) The Director-General shall cause to be endorsed on the memorial or copy of the 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.

42 Approval and registration of transfers

(1) A transfer of 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 licence to another person, or to himself or herself and another person jointly, may lodge with the Minister an application for approval of the transfer of the licence.

(3) An application shall be accompanied by:

(a) an instrument of transfer of the licence:

(i) in a form approved by the Minister, and

(ii) duly executed by the transferor and the transferee,

together with a copy of the instrument, and

(b) particulars of:

(i) the technical qualifications of the applicant and of the applicant’s employees,

(ii) the technical advice available to the applicant, and

(iii) the financial resources available to the applicant.

(4) On receipt of the application, the Director-General 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 the Director-General thinks fit.

(5) The Minister shall not approve the transfer unless it is an absolute transfer of the

whole of the transferor's interest in the licence and unless satisfactory arrangements have been made for the acquisition by the transferee of the lands, or easements over the lands, within the licence area.

(6) Subject to subsection (5), the Minister may:

(a) approve the application,

(b) by instrument in writing served on the transferor inform the transferor that he or she 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 and in such form as may be specified in the instrument, or

(c) refuse the application.

(7) Where:

(a) the Minister has, under subsection (6), 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 Director-General 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 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 Director-General 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.

43 Entries in register on devolution of rights of registered holder

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

(2) Where the Minister is satisfied that the interests of the holder have devolved upon the applicant by operation of law, the Director-General may, on payment of the prescribed fee, cause the name of the applicant to be entered in the register as the holder of the licence.

44 Interests not to be created etc except by instruments in writing

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

45 Approval and registration of instruments creating etc interests

(1) This section applies to an instrument by which a legal or equitable interest affecting an existing or future licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section 42 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 (7).

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

(4) An application shall be accompanied by:

(a) the original instrument and a copy of the instrument, and

(b) in the case of a prescribed instrument or an instrument of a prescribed kind, particulars of:

(i) the technical qualifications of each of the persons having an interest in the licence by reason of the instrument,

(ii) the technical advice available to each of those persons, and

(iii) the financial resources available to each of those persons.

(5) On receipt of the application, the Director-General 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 the Director-General thinks fit.

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

(7) If the Minister approves the application, the Director-General 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

licence to which the instrument relates.

(8) The copy of the instrument endorsed with the memorandum of approval shall be retained by the Director-General 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 Director-General shall cause a notation of the refusal to be made in the register.

46 True consideration to be shown

A party to a transfer referred to in section 42 or to an instrument to which section 45 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.

Maximum penalty: 40 penalty units.

47 Minister not concerned with certain matters

Neither the Minister nor the Director-General nor a person acting under the direction or authority of the Minister or the Director-General 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.

48 Power of Minister to require information as to proposed dealings

(1) The Minister may require the person lodging an instrument for approval under this Part to furnish to him or her 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.

Maximum penalty: 20 penalty units.

49 Production and inspection of books, records and documents

(1) The Minister may require any person to produce to him or her or make available for inspection by him or her or any person specified by him or her any books, records, documents, maps or plans in the possession or under the control of the firstmentioned 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 or her under subsection (1).

Maximum penalty: 20 penalty units.

50 Inspection of register and documents

(1) Subject to subsection (2), 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) The Minister may refuse to allow a memorial or copy of a licence to be inspected if the person by whom inspection of the memorial or copy is sought does not have the written consent of the registered holder of the licence to inspect the memorial or copy.

50A Pipeline searches

(1) A person may apply to the Director-General for information concerning any application made or granted for a licence in respect of land specified in the application.

(2) An application under this section shall:

(a) be in a form approved by the Director-General, and

(b) be accompanied by the prescribed fee.

(3) (Repealed)

51 Evidentiary provisions

(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.

(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 or her under this Part, certified by writing under his or her 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 or her 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 Rectification of register

(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) (Repealed)

(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) (Repealed)

53 Minister not liable for certain actions

Subject to section 52, neither the Minister nor the Director-General nor a person acting under the direction or authority of the Minister or the Director-General 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.

54 Offences

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 an indictable offence and is liable on conviction on indictment to imprisonment for a period of two years.

Part 5 Miscellaneous

55 (Repealed)

56 Notice of grants of licences etc to be publicised

The Minister is to cause to be published in the Gazette such particulars as the Minister thinks fit of the grant, variation, surrender or expiration of a licence or the variation of a licence area.

57 Judicial notice

All courts and tribunals shall take judicial notice of the signature of a person who is, or has been, the Minister, or the Director-General and of the fact that that person is, or has been, the Minister or the Director-General, as the case may be.

58 Service

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

(a) by delivering the document to that person personally,

(b) by prepaying and posting, by certified mail, the document addressed to that person at his or her last known place of abode or business or, if he or she 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,

(d) by leaving it at the last known place of business of that person or, if he or she is carrying on business at two 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, 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.

(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 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 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 in accordance with this section, service shall, unless the contrary is proved, be deemed to have been effected at the time at which the document would have been delivered in the ordinary course

of post.

58A Directions by the Minister

(1) The Minister may direct a public authority or person having functions under this Act to exercise those functions at or within such times as are specified in the direction.

(2) A public authority or person to whom a direction is given under subsection (1) shall comply, and is hereby empowered to comply, with the direction in accordance with the terms of the direction.

(3) Before giving a direction under subsection (1), the Minister shall consult with the responsible Minister concerned.

59 Inspectors

(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 or she 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 or her under this section to the Minister or, if the Minister, by instrument in writing served on that person, specifies another person to whom the certificate is to be surrendered, to that other person.

Maximum penalty: 2 penalty units.

60 Powers of inspectors

(1) For the purposes of this Act and the regulations, an inspector, at all reasonable times and on production of the certificate furnished to him or her under section 59:

(a) may enter any lands in respect of which an authority to survey 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 holder of an authority to survey or a 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 or her 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 or her powers under this section.

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

Maximum penalty: 10 penalty units.

60A Stop notices

(1) Where an inspector believes, on reasonable grounds, that a person is carrying out or is about to carry out, within a licence area, an activity that is damaging or is likely to damage any pipeline or any apparatus or works, the inspector may, by notice in writing served on the person, prohibit the person from carrying out the activity.

(2) A notice served pursuant to subsection (1) shall cease to have effect after the expiration of 14 days from the date on which it was issued unless within that period the Director-General has, pursuant to subsection (3):

(a) confirmed or varied the terms of the notice, or

(b) revoked the notice.

(3) The Director-General may, at any time, by a further notice in writing served on the person on whom a notice has been served pursuant to subsection (1), confirm or vary the terms of, or revoke, the lastmentioned notice.

(4) A person on whom a notice has been served pursuant to subsection (1) shall not carry out any activity in contravention of the terms of the notice.

Maximum penalty: (subsection (4)): 40 penalty units in the case of a corporation and 20 penalty units in any other case.

60B Appeals to Land and Environment Court against stop notices

(1) Any person whose interests are affected by a notice under section 60A (1) that has been confirmed or varied pursuant to section 60A (3) may appeal to the Land and Environment Court against the notice.

(2) The Land and Environment Court shall hear and dispose of an appeal made to it under subsection (1).

60C Inspectors not liable for certain acts etc

An inspector is not personally liable for any act or omission done or omitted to be done by the inspector in good faith in the exercise of the powers conferred or imposed on the inspector by or under this Act.

61 Creation of easements in favour of licensees

(1) It shall be lawful to create in a form approved by the Minister, as an easement in favour of a 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.

(2) The provisions of section 88A of the *Conveyancing Act 1919* apply to and in respect of easements in favour of a licensee 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. Section 88A (1B) of the *Conveyancing Act 1919* does not apply to any such easement in favour of a licensee.

62 (Repealed)

63 Theft of substances from pipelines

A person who intentionally 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.

64 Damaging etc pipelines etc

A person who unlawfully damages a pipeline or interferes with the operation of a pipeline shall be liable:

(a) upon conviction before a Magistrate sitting alone as a court of summary jurisdiction to a penalty not exceeding 20 penalty units or 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 Continuing offences

(1) Where an offence is committed by a person by reason of his or her failure to comply, within the period specified in a direction given to him or her under this Act or the regulations, with the requirements specified in the direction, the offence, for the purposes of subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.

(2) Where an offence is committed by a person by reason of his or her failure to comply with a provision of this Act or the regulations, the offence, for the purposes of subsection (3), 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 (1) or (2), 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 40 penalty units.

66 (Repealed)

67 Proceedings for offences

Proceedings for offences against this Act or the regulations may be taken before a Magistrate sitting alone as a court of summary jurisdiction or, where the offence is an offence to which section 68 applies, before such a Magistrate or before the Supreme Court in its summary jurisdiction.

68 Prosecution of offences

(1) The offences to which this section applies are offences against this Act:

(a) punishable by a maximum fine exceeding 20 penalty units, 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 20 penalty units.

(3) The Attorney-General or a person acting with his or her 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.

69 Regulations

(1) The Governor may make regulations for or with respect to:

(a) the construction, maintenance and operation of pipelines (including the circumstances under which pipelines shall cease to be operated),

(b) the inspection of pipelines,

(c) the keeping of registers under this Act,

(d) the escape of substances from a pipeline,

(e) the prevention of damage to any land used for the construction or operation of pipelines,

(e1) the carrying out of surveys for the purposes of this Act,

(e2) particulars to be included in a notification under this Act,

(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 10 penalty units, or

(b) a fine not exceeding that amount for each day on which the offence occurs.

(3) A provision of a regulation may:

(a) apply generally or be limited in its application by reference to specified exceptions or factors,

(b) apply differently according to different factors of a specified kind,

(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body, or

(d) apply, adopt or incorporate any publication or provision of a publication of Standards Australia with respect to pipeline design, construction, operation, testing or maintenance, either as in force as at a particular day or as in force for the time being,

or may do any combination of those things.

(4) (Repealed)

70 Savings, transitional and other provisions

Schedule 1 has effect.

Schedule 1 Savings, transitional and other provisions

(Section 70)

Part 1 Preliminary

1 Regulations

(1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Energy Legislation (Miscellaneous Amendments) Act 1994

Pipelines Amendment Act 2006

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to that Act or from a later date.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication, or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of publication.

Part 1A Effect of repeal of Act

1A Repeal of Act does not affect operation of savings and transitional provisions

(1) Despite the repeal of the *Pipelines (Amendment) Act 1974*, section 2 of that Act continues to have effect and is taken to have been transferred to this Act.

(2) Section 2 of the *Pipelines (Amendment) Act 1974* is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

Part 2 Provisions consequent on enactment of Energy Legislation (Miscellaneous Amendments) Act 1994

2 Certain pipelines taken to satisfy requirements of this Act

A pipeline whose construction is commenced or completed under, or under an authority granted under, an Act (other than this Act) or an Act of the Commonwealth is taken to satisfy the requirements of this Act that must be satisfied before a licence can be granted.

3 Validation

Any licence granted before the commencement of section 12 (3), as inserted by the *Energy Legislation (Miscellaneous Amendments) Act 1994*, is taken to have been duly granted if it could have been granted had that provision been in force when it was granted.

Part 3 Provisions consequent on enactment of Pipelines Amendment

Act 2006

4 Definitions

In this Part:

amending Act means the *Pipelines Amendment Act 2006*.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Act approval means development consent or an approval under the EP&A Act.

relevant time means immediately before the repeal of Division 2 of Part 2 of this Act by the amending Act.

5 Permits and pending applications for or in respect of permits

Except as provided by the regulations, the provisions of this Act as in force at the relevant time continue to apply to and in respect of:

(a) a permit that is in force at the relevant time, and

(b) an application for or in respect of a permit that is pending at the relevant time.

6 Licence application in respect of lands to which permit applies

(1) Subject to subclause (2) and the regulations, the provisions of this Act as in force at the relevant time continue to apply in respect of an application for or in respect of a licence that is pending at, or made after, the relevant time if the application relates to lands in respect of which a permit under this Act has been granted.

(2) Any function conferred on the Governor by or under this Act as in force at the relevant time is taken to be conferred instead on the Minister in so far as an application to which subclause (1) applies is concerned.

7 Duration, review and effect of existing licences

(1) Subject to clause 6 and the regulations, an amendment made by the amending Act applies to and in respect of a licence in force immediately before the commencement of that amendment.

(2) Section 17 (1A) of this Act applies in respect of a licence that was renewed before the commencement of that subsection as if the date of the last renewal were the date on which the licence was issued.

8 Deemed EP&A Act approvals and assessment

(1) This clause applies to a development or an activity in respect of a pipeline that on the commencement of a provision of the amending Act (***the commencement***) becomes a development or an activity that requires EP&A Act approval (***the affected activity***).

(2) If:

(a) before the commencement, a permit is granted with respect to the affected activity, or

(b) at any time (including before the commencement), a licence is granted in respect of the affected activity and the licence relates to land in respect of which a permit has been granted,

any EP&A Act approval required in respect of the affected activity is taken to have been granted, and all associated assessment is taken to have been carried out, in accordance with the EP&A Act.

(3) The EP&A Act approval is taken to be subject to the same conditions as the licence or permit, as the case may be.

(4) The provisions of the EP&A Act apply, as appropriate, in respect of EP&A Act approvals that are taken, by subclause (2), to have been granted.

(5) This clause applies subject to the regulations.

9 Approved forms

A reference in a provision of this Act as amended by the amending Act to a form approved by the Minister is taken to be a reference to a form prescribed for the purposes of that provision immediately before the commencement of that amendment until a form is approved by the Minister for the purposes of that provision.