

# Schedule 1 — Access to, and pricing for, gas transmission capacity

[s. 47]

## 1. Definitions

In this Schedule —

“**DBNGP access manual**” means the DBNGP access manual approved under clause 3 or that manual as for the time being amended or substituted in accordance with that clause;

“**developable capacity**” means any increase in firm capacity which would arise from any enhancement to or expansion of the privatized DBNGP system;

“**firm capacity**” means, subject to any provision made by the regulations, the largest portion of gas transmission capacity which the DBNGP owner can make available at a probability of reliability established in accordance with standard gas industry practices, whether or not that capacity is committed to existing shippers;

“**non-firm capacity**” means that portion of gas transmission capacity which is not firm capacity, whether or not that portion of gas transmission capacity is committed to existing shippers;

“**spare capacity**” means any portion of firm capacity or non-firm capacity not committed to existing shippers;

“**spot access**” means access to unutilized capacity or spare capacity that is made available for a day or part of a day;

“**unutilized capacity**” means any portion of firm capacity or non-firm capacity that is committed to existing shippers but is not required to be made available to them on a particular day or part of a day.

## 2. Provision of access

- (1) The DBNGP owner must, to the extent prescribed under section 48, make available contractual rights to access to spare capacity and, subject to subclause (4), developable capacity on a non-discriminatory basis and on a first come first served basis to any existing or prospective shipper seeking access to either or both of those capacities, and is not to otherwise make access to spare capacity or developable capacity available.
- (2) The Coordinator may direct the DBNGP owner to make available access to spare capacity or developable capacity even though it would otherwise be prevented by subclause (1), or it would not be in accordance with the principles described in that subclause, if the Coordinator thinks that in the particular case the public interest requires it, and effect is to be given to the direction.

- (3) Subclause (1) does not apply to spot access, and spot access is to be made available to existing shippers on a non-discriminatory basis in such circumstances and on such terms and conditions, if any, as are prescribed in the regulations.
- (4) The DBNGP owner is not obliged to provide or make available access to developable capacity to the extent that it would require a material geographic extension of the privatized DBNGP system.
- (5) The regulations may make provision for —
  - (a) the duration of any access contract;
  - (b) the nature of the services to be provided by the DBNGP owner to the shipper, including without limitation the further subclassification of firm capacity and non-firm capacity;
  - (c) the nature of circumstances beyond the DBNGP owner's control or to be deemed to be beyond its control, and the extent to which those circumstances relieve the DBNGP owner of its obligations under this Act, the regulations and any contract between the DBNGP owner and a shipper;
  - (d) the circumstances in which access to spare capacity which is non-firm capacity is to be made available;
  - (e) maximum prices, including without limitation —
    - (i) different maximum prices for subclassifications of gas transmission capacity;
    - (ii) different maximum components of prices and the classes of shippers to which those components apply;
  - (f) secondary markets in gas transmission capacity;
  - (g) capacity reservation arrangements;
  - (h) nomination procedures;
  - (i) rights and title to gas, including without limitation —
    - (i) provisions resulting in, or to do with, the transfer, extinguishment, or conferral, of rights or title to gas;
    - (ii) provisions giving protection from liability arising from anything referred to in subparagraph (i);
  - (j) permissible inlet and outlet points;
  - (k) gas quality, temperature and pressure requirements at inlet and outlet points;
  - (l) rights to restrict or stop flow;
  - (m) metering;
  - (n) balancing of gas supply and gas demand;
  - (o) treatment of gas losses from the privatized DBNGP system;
  - (p) gas exchange;
  - (q) backup gas supply;

- (r) emergencies and maintenance;
  - (s) security for financial obligations, the manner of calculation of financial obligations, and payment arrangements;
  - (t) capital investment and other costs payable by shippers in addition to prices, including without limitation investment in inlet and outlet facilities;
  - (u) the provision, or limitations on the provision, by the DBNGP owner of reports, forecasts, and other information.
- (6) Without limiting subclause (5) (l), the regulations may include provisions to do with restricting or stopping flow that discriminate between shippers on such basis as is fair and reasonable or is in the public interest.
- (7) The regulations may require things to be done in accordance with, or otherwise prescribe things by reference to, the DBNGP access manual as from time to time amended or substituted.

### **3. DBNGP access manual**

- (1) The Coordinator is to approve a DBNGP access manual.
- (2) The DBNGP owner may, with the approval of the Coordinator, amend or substitute the DBNGP access manual.
- (3) Terms and conditions set out in the DBNGP access manual at the time that access is granted and that are expressed to be terms and conditions to which this subclause applies form part of the access contract, but may be varied, supplemented, or excluded by agreement between the parties to the contract.
- (4) The DBNGP access manual may also contain provisions of the kind contemplated by clause 2 (7).
- (5) The DBNGP owner must, upon request, make available to the Coordinator or any shipper or prospective shipper a copy of the DBNGP access manual as from time to time amended or substituted up to —
  - (a) the time of the request; or
  - (b) such earlier time as may be specified in the request.

### **4. Obligation to provide details of system**

The DBNGP owner must, whenever required by the Coordinator to do so, prepare a schedule identifying in detail the privatized DBNGP system, and must provide to any person a copy of that schedule upon payment to the DBNGP owner by that person of the prescribed fee.

**5. Obligation to meet capacity needs**

- (1) The DBNGP owner must incur costs and make capital investment to —
- (a) maintain gas transmission capacity; and
  - (b) subject to clause 2 (4), provide developable capacity within a reasonable time if requested by any existing or prospective shipper,

if it would be technically and economically feasible to do so.

- (2) Regulations may be made as to whether, for the purposes of subclause (1), it would be technically and economically feasible to do anything referred to in that subclause.

**6. Transparency of accounts**

The DBNGP owner must —

- (a) identify, for the purposes of paragraphs (b) and (c) —
  - (i) all income, expenditure, assets and liabilities relating to the privatized DBNGP system; and
  - (ii) where necessary, any item of income, expenditure, assets or liabilities relating only in part to the privatized DBNGP system;
- (b) ensure that its accounts and records are in such form as to enable —
  - (i) all income, expenditure, assets and liabilities relating to the privatized DBNGP system to be properly recorded and distinguished from the DBNGP owner's other income, expenditure, assets and liabilities; and
  - (ii) where necessary, any item of income, expenditure, assets or liabilities relating only in part to the privatized DBNGP system to be appropriately apportioned to the privatized DBNGP system;
- (c) prepare annually from those accounts and records audited financial statements in accordance with the regulations and any standards identified in the regulations; and
- (d) provide to the Coordinator a copy of the audited statements, together with the auditor's report, within 90 days after the end of the year to which they relate.

**7. Exception**

This Schedule does not apply to anything defined by section 20 (5) to be an exempt contract but —

- (a) the DBNGP owner must take an exempt contract into account for the purposes of fulfilling its obligations under clauses 5 and 6 and under regulations referred to in clause 2 (5) (u); and
- (b) regulations referred to in clause 5 (2) may prescribe the extent, if any, to which an exempt contract must be taken into account when assessing whether, for the purposes of clause 5 (1), it would be technically and economically feasible to do anything referred to in that provision; and
- (c) regulations referred to in clause 2 (5) (u), are to oblige a person complying with them to do so in a way that does not involve a breach of any confidentiality provision of an exempt contract.

## Schedule 2 — Compensation if land injuriously affected

[s. 42]

### 1. Definitions

In this Schedule —

“**affected land**” means land a right, title, or interest in which is injuriously affected as described in section 42.

### 2. Claiming compensation

- (1) A claim for compensation under section 42 is made by submitting the claim to the DBNGP Land Access Minister within the time prescribed by, and otherwise in accordance with, the regulations.
- (2) The claim for compensation may extend not only to land in the DBNGP corridor but also to any other affected land of the claimant.

### 3. Doubt about whether claimant is a land holder

If there is a question as to whether the claimant is a land holder, the claim is to be received and dealing with it under this Schedule may be postponed while issues that are relevant to the question of whether the claimant is a land holder are being resolved.

### 4. Disposing of claim by purchase or other acquisition

- (1) If a claim is made in accordance with this Schedule for compensation, the DBNGP Land Access Minister may —
  - (a) purchase by agreement the affected land or any estate or interest of the claimant in the affected land; or
  - (b) if the DBNGP Land Access Minister gives written notice within 3 months of the receipt of the claim that the DBNGP Land Access Minister intends to do so, compulsorily take under Part 9 of the *Land Administration Act 1997* the whole or part of the affected land.
- (2) Compensation under section 42 and this Schedule is to be given for injurious affection only in respect of land, or an estate or interest in land, that has not been purchased or taken in accordance with this clause.

### 5. Giving compensation

- (1) If the DBNGP Land Access Minister and the claimant agree on compensation that is sufficient to compensate the claimant, the DBNGP Land Access Minister is to compensate the claimant as agreed.
- (2) The compensation to be given is to be assessed on the basis of values applying at the time at which the claim for compensation is made in

accordance with this Schedule, and, subject to subclause (4), is to include interest computed from 60 days after the day on which the claim was made on the balance of compensation outstanding from time to time at the rate determined under section 142 of the *Supreme Court Act 1935* in respect of judgment debts that applies at the time at which the claim for compensation is made.

- (3) If a claim for compensation has been made under this Schedule and compensation is to be given, the DBNGP Land Access Minister may offer and give to the claimant, an advance on account of the compensation due, and the advance may be received and retained by the claimant without prejudice to any rights under section 42 and this Schedule.
- (4) If an offer is made to the claimant under subclause (3) and the offer is not accepted by the claimant within 30 days of the day on which the offer was made, no interest is thereafter payable under subclause (2) to the extent of the amount or value of what was offered.

## **6. Adjudication on claims**

- (1) If the DBNGP Land Access Minister and the claimant do not agree upon any question as to —
  - (a) whether, or for what, the claimant is entitled to compensation; or
  - (b) the amount or manner of the compensation to be given,either party may cause the question to be determined in the same manner as if it were a question required to be determined under Part 10 of the *Land Administration Act 1997* as to compensation payable.
- (2) Except as otherwise stated in section 42 or this Schedule, Part 10 of the *Land Administration Act 1997* applies for the purposes of the determination of the question, with such modifications as the circumstances require.
- (3) In proceedings under this clause for the determination of a question each party is to bear their own costs but this subclause does not prevent the court from making an order as to the payment of fees payable to the court or a member of it.

## **7. Matters affecting assessment of compensation**

- (1) If land is developed after it becomes subject to restrictions under section 41, whether or not approval is given to the land being developed, the development is to be disregarded in dealing with any claim for compensation under section 42 and this Schedule.
- (2) A person is not entitled to be compensated in respect of any matter or thing under section 42 and this Schedule if compensation in respect of

it has been awarded under another enactment or a Commonwealth law, and any compensation given under section 42 and this Schedule is to be brought into account in awarding compensation in respect of the same matter or thing under another enactment.

- (3) If compensation has previously been given under section 42 and this Schedule to any person in respect of any land, or any estate or interest in land, no further compensation is to be given under section 42 and this Schedule to that or any other person in respect of injurious affection to the same estate or interest in that land except to the extent that further injurious affection results that is of a kind or degree not taken into account in assessing the previous compensation.

*[Schedule 2 amended by No. 53 of 1997 s.52.]*



## Schedule 3 — Supply system emergencies

[s. 43]

### 1. Interpretation

(1) In this Schedule —

“**DBNGP corridor**” has the meaning given by section 27;

“**emergency**” means —

- (a) any event or circumstance in relation to a supply system by reason of which the supply of gas from it is, or in the opinion of the Coordinator may reasonably be expected to be, seriously affected; or
- (b) any event or circumstance in relation to any act, matter or thing by reason of which the supply of gas from a supply system is, or in the opinion of the Coordinator may reasonably be expected to be, seriously affected,

that, in the opinion of the operator of the supply system, requires the immediate exercise of powers given by clause 2 or, in the opinion of the Coordinator, requires the exercise of powers given by clause 3 (1) or 4;

“**emergency order**” means an order under clause 3 (1);

“**seriously affected**” means affected to the extent that —

- (a) any life or property is or may be endangered; or
- (b) the supply of gas to tariff customers of the corporation or to any other significant proportion of the users of gas delivered either directly or indirectly by the supply system is, may be, or should be, reduced or terminated;

“**supply system**” means the privatized DBNGP system or any other gas transmission system operated within the DBNGP corridor.

- (2) For the purposes of the definition of “emergency” the supply of gas from a supply system is to be regarded as being affected if the obtaining or manner of delivery of gas from it is affected.
- (3) A state of emergency exists if an emergency arises or is reasonably expected to arise.

### 2. Immediate action by operator

If a state of emergency exists which by reason of the nature of the emergency does not reasonably allow reference to the Coordinator (which reference is in any event to be made as soon as practicable), the operator of the supply system concerned may take any immediate measures that seem appropriate to avoid or mitigate the emergency, or to ensure the continued transport of gas, in a manner that seems appropriate.

### **3. Emergency order**

- (1) If a state of emergency exists, the Coordinator may make any order that the Coordinator considers necessary and the circumstances reasonably allow, to provide for —
  - (a) the transport of gas and the control, regulation, imposition of restrictions upon, curtailment, interruption, prohibition, or termination, of the supply or use of gas, to or by any person or class of persons, or upon any premises or class of premises, within the whole or any portion of the State, or for any particular purpose or purposes, for any period or periods specified in the order;
  - (b) the exemption of any person or class of persons, or of any premises or class of premises, or of any place or institution or class of place or institution, from the operation of the whole or part of the order; and
  - (c) the delegation, either generally or specifically, to any person or body of any authority or discretion of the Coordinator under this Schedule.
- (2) An emergency order has effect —
  - (a) in the portion of the State specified in it; and
  - (b) on and from the time the order is made, or such later time as is specified in the order,

and it ceases to have effect 7 days after it first has effect, unless previously renewed or cancelled.

- (3) An emergency order is to be —
  - (a) published for general information in any portion of the State affected by the order as soon as practicable and in a manner that the Coordinator considers likely to be appropriate having regard to the circumstances and what may be practicable;
  - (b) confirmed thereafter by notice in the *Gazette* setting out —
    - (i) the time and date on which it was made; and
    - (ii) the time, date and manner of its original publication; and
  - (c) if the manner of publication under paragraph (a) was not by means of a notice in a newspaper, made known in that manner as soon as circumstances permit.
- (4) An emergency order may be renewed, cancelled or varied by the Coordinator by a subsequent order.

### **4. Emergency action by Coordinator**

If a state of emergency exists the Coordinator may take any measures considered appropriate in relation to the emergency, or in relation to

the consequences of that emergency, to diminish the effect of, or to terminate, that emergency including measures to discontinue supply to any person considered by the Coordinator to be contravening an emergency order.

**5. Liability to punishment continues**

The cancellation or variation of an emergency order does not affect —

- (a) any penalty or punishment incurred, imposed, or liable to be incurred or imposed, before the cancellation or variation; or
- (b) any investigation or legal proceedings in respect of such a penalty or punishment,

despite any other enactment.

**6. Protection**

Despite any obligation or duty that a person has to effect or continue any supply of gas, neither that person, the Coordinator, the Crown in right of the State, any Minister of the Crown, nor an officer or servant of any of them, is liable for —

- (a) any interruption, diminution, or termination of any supply that arises by reason of any act done in good faith in the exercise or in purported exercise of powers given by this Schedule; or
- (b) any loss or damage consequential upon an interruption, diminution, or termination of supply referred to in paragraph (a).

**7. Powers of entry**

- (1) While a state of emergency exists and for so long afterwards as the circumstances reasonably require, a person given powers by this Schedule may, without notice and without any warrant other than this subclause, immediately enter onto or into any land, premises or thing if it is necessary to do so to exercise any of those powers.
- (2) Any question as to what is a necessary entry may be determined by the person exercising the power of entry, and in any proceedings the question is to be presumed, in the absence of evidence to the contrary, to have been determined in good faith.
- (3) A person exercising the power of entry given by this clause is required, as soon as practicable, to —
  - (a) remove or cause to be removed any machinery, equipment or other thing that the person brought or caused to be brought onto or into the land, premises, or thing for the purpose for which entry was made; and

- (b) make good any physical damage caused in the course of exercising the powers for the purposes of which entry was made, or pay compensation or effect restoration, rehabilitation or restitution.
- (4) If entry is effected under this clause for the purpose of exercising powers under clause 3 or 4, the Coordinator may recover as a debt from the operator of the supply system concerned the costs of any expenses incurred in dealing with that emergency, including any expenses incurred in complying with obligations under subclause (3).
- (5) While an emergency order is in force, any person authorized by the Coordinator in writing to do so may, without prior notice, enter premises supplied with gas and there make any search or examination necessary to determine whether the order is, in respect of those premises, being contravened in any respect.

## **8. Offences**

- (1) A person —
  - (a) obstructing a person in the exercise of a function under this Schedule; or
  - (b) contravening an emergency order,commits an offence.
- (2) The penalty for an offence under subclause (1) is —
  - (a) in the case of an individual, \$5 000;
  - (b) in the case of a body corporate, \$50 000.

# Schedule 4 — Amendments to, or modification of, certain Acts

[s.52]

## Division 1 — Amendments to this Act because of *Land Administration Act 1997*

### 1. Principal provisions

In this Division the provisions of this Act that come into operation on the day on which this Act receives the Royal Assent are referred to as the principal provisions.

### 2. Commencement day

The commencement day for this Division is the day fixed under section 2 (1) of the *Land Administration Act 1997*.

### 3. Section 22 (4) amended

Section 22 (4) of the principal provisions is amended in the definition of “relevant official” by deleting “Ministers respectively administering the Land Act 1933 and” and substituting the following —

“

Minister administering

”.

### 4. Section 29 (2) amended

Section 29 (2) (b) of the principal provisions is amended by deleting “under the *Land Acquisition and Public Works Act 1902*” and substituting the following —

“

under Part 9 of the *Land Administration Act 1997*

”.

### 5. Section 44 (3) amended

Section 44 (3) of the principal provisions is amended in the definition of “relevant official” —

- (a) by inserting “or” after paragraph (a);
- (b) by deleting “; or” at the end of paragraph (b) and substituting a comma; and
- (c) by deleting paragraph (c).

**6. Schedule 2, clause 4 (1) amended**

Schedule 2, clause 4 (1) (b), of the principal provisions is amended by deleting “under the *Land Acquisition and Public Works Act 1902*” and substituting the following —

“

under Part 9 of the *Land Administration Act 1997*

”.

**7. Schedule 2, clause 6 amended**

Schedule 2, clause 6, of the principal provisions is amended in each of subclauses (1) and (2) by deleting “Part III of the *Land Acquisition and Public Works Act 1902*” and substituting the following —

“

Part 10 of the *Land Administration Act 1997*

”.

**Division 2 — *Aboriginal Heritage Act 1972***

**8. Persons who are to be included as owners**

A person who —

- (a) is the holder of rights conferred under section 34 of this Act in respect of land or is the holder’s nominee approved under section 34 (3) of this Act; or
- (b) has authority under section 7 of the *Petroleum Pipelines Act 1969* to enter upon land,

is included as a person who is an owner of the land for the purposes of section 18 of the *Aboriginal Heritage Act 1972*.

**Division 3 — *Energy Corporations (Powers) Act 1979***

**9. Exclusion of certain statutory rights**

- (1) The rights, powers, and privileges given to the corporation by the *Energy Corporations (Powers) Act 1979* do not apply in relation to land in the DBNGP corridor as defined in section 27 of this Act.
- (2) Subclause (1) does not have the effect that anything referred to in section 43 of the *Energy Corporations (Powers) Act 1979* ceases to be the property of the corporation.

## Division 4 — *Gas Corporation Act 1994*

### 10. **Principal Act**

In this Division the *Gas Corporation Act 1994* is referred to as the principal Act.

### 11. **Commencement**

The commencement time for this Division, except clauses 16, 17 (1) and (2), 18, and 20, is the pipeline transfer time.

### 12. **Long title amended**

The long title to the principal Act is amended by deleting “**the corporation’s transmission and distribution systems**” and substituting the following —

“

**any transmission and distribution systems of the corporation**

”.

### 13. **Section 63 amended**

Section 63 of the principal Act is amended —

“

- (a) in subsection (1) (a) (ii), by inserting after “basis” the following —

**if the operations of the corporation are divided into segments under subsection (2) (a)**

”;

and

- (b) by deleting subsection (2) (a) and substituting the following paragraph —

“

(a) the operations of the corporation may be divided into such segments as are agreed between the corporation and the Minister and, if there is a gas transmission system, as defined in section 90, are to be divided into the following segments or such other segments as may be agreed between the corporation and the Minister —

- (i) the operations relating to that system; and  
(ii) the distribution and supply of gas;

”.

**14. Section 90 amended**

Section 90 of the principal Act is amended —

- (a) by deleting the definition of “gas transmission capacity” and substituting the following definition —

“**gas transmission capacity**” means, subject to any provision made by the regulations, the capacity of the gas transmission system to transport gas;

”;

- (b) by deleting the definition of “gas transmission system” and substituting the following definition —

“**gas transmission system**” means so much, if any, of the gas pipeline system or systems operated by the corporation, including all associated equipment, as is identified by the corporation in accordance with clause 3 (3) of Schedule 5;

”.

**15. Section 91 repealed and a section substituted**

Section 91 of the principal Act is repealed and the following section is substituted —

“

**91. Access to, and pricing for, gas transmission capacity**

If there is a gas transmission system, Schedule 5 has effect with respect to access to, and pricing for, gas transmission capacity and, even if there is not a gas transmission system, clause 3 (3) of that Schedule has effect..

”.

**16. Section 95 amended**

Section 95 (3) of the principal Act is amended —

- (a) in paragraph (h), by inserting after subparagraph (ii) the following subparagraph —

“

(iia) the production of documents;

”.

- (b) in paragraph (i), by inserting after subparagraph (ii) the following subparagraph —

“

(iia) to order parties to a dispute to enter into a contract under clause 2 (4) of Schedule 5 or clause 2 (4) of



Schedule 6, as the case requires, on prescribed terms and conditions; and

”.

(c) by inserting after paragraph (i) the following paragraph —

“

(ia) the protection from liability of witnesses in proceedings before the referee;

”.

**17. Schedule 5 amended**

(1) Clause 2 (3) of Schedule 5 to the principal Act is amended by inserting after paragraph (h) the following paragraph —

“

(ha) rights and title to gas, including without limitation —

(i) provisions resulting in, or to do with, the transfer, extinguishment, or conferral, of rights or title to gas;

(ii) provisions giving protection from liability arising from anything referred to in subparagraph (i);

”.

(2) After clause 2 (3) of Schedule 5 to the principal Act the following subclause is inserted —

“

(3a) Without limiting subclause (3) (k), the regulations may include provisions to do with restricting or stopping flow that discriminate between shippers on such basis as is fair and reasonable or is in the public interest.

”.

(3) Clause 3(3) of the Schedule 5 to the principal Act is amended by inserting after “detail” the following —

“

what, if anything, the Minister has advised the corporation should, for the time being, be

”.

(4) Clause 6 (4) (a) of Schedule 5 to the principal Act is deleted and the following paragraph is substituted —

“

- (a) means a contract in respect of the transport of gas in a pipeline that —
  - (i) was made before the pipeline becomes part of the gas transmission system; and
  - (ii) is binding on the corporation;

”.

## 18. Schedule 6 amended

- (1) Clause 2 (3) of Schedule 6 to the principal Act is amended by inserting after paragraph (g) the following paragraph —

“

- (ga) rights and title to gas, including without limitation —
  - (i) provisions resulting in, or to do with, the transfer, extinguishment, or conferral, of rights or title to gas;
  - (ii) provisions giving protection from liability arising from anything referred to in subparagraph (i);

”.

- (2) After clause 2 (3) of Schedule 6 to the principal Act the following subclause is inserted —

“

- (3a) Without limiting subclause (3) (j), the regulations may include provisions to do with restricting or stopping flow that discriminate between users on such basis as is fair and reasonable or is in the public interest.

”.

## 19. Unsold parts of corporation’s DBNGP system

- (1) If some, but not all, of the pipelines that are part of the corporation’s DBNGP system are assigned under Part 3, any of them that are not assigned, and all associated equipment, become part of the gas distribution system defined in section 90 of the principal Act even though they may not yet be identified by the corporation in a schedule in accordance with clause 3 (2) of Schedule 6 to the principal Act.
- (2) As soon as is practicable after any part of the corporation’s DBNGP system becomes part of the gas distribution system under subclause (1), the corporation is to prepare another schedule in accordance with clause 3 (2) of Schedule 6 to the principal Act.
- (3) Nothing in this clause prevents anything that becomes part of the gas distribution system under subclause (1) from subsequently becoming

part of the gas transmission system as defined in section 90 of the principal Act.

**20. Validation**

A regulation purporting to have been made under the principal Act, and anything purporting to have been done under the Act or the regulations, is and always was as valid and effective as it would have been if the amendments made by clauses 16, 17 (1) and (2), and 18 had at all relevant times been made.

**Division 5 — *Land Acquisition and Public Works Act 1902***

**21. Principal Act**

In this Division the *Land Acquisition and Public Works Act 1902* \* is referred to as the principal Act.

[\* Reprinted as at 3 June 1997.]

**22. Section 5A amended**

Section 5A of the principal Act is amended by inserting after paragraph (da) the following paragraph —

“

(db) the DBNGP Land Access Minister established by section 29 (1) of the *Dampier to Bunbury Pipeline Act 1997*;

”.

**23. Section 5B amended**

Section 5B (1) of the principal Act is amended by inserting after paragraph (ca) the following paragraph —

“

(cb) in the case of the DBNGP Land Access Minister established by section 29 (1) of the *Dampier to Bunbury Pipeline Act 1997*, to the chief executive officer of the department principally assisting the DBNGP Land Access Minister in the administration of Part 4 of that Act or to any other officer of that department;

”.

**24. Sections 29, 29A, and 29B not to apply**

Sections 29, 29A, and 29B of the principal Act do not apply to or in relation to land in the DBNGP corridor as defined in section 27 of this Act.

**25. Application of section 33A**

For the purposes of section 33A of the principal Act, the DBNGP Land Access Minister is a local authority.

**26. Section 33F not to apply**

Section 33F of the principal Act does not apply to or in relation to the taking of land for the purpose of a conferral of rights by the DBNGP Land Access Minister under section 34 of this Act.

**27. Section 45A not to apply**

Section 45A of the principal Act does not apply to or in relation to —

- (a) the taking of land for the purposes of this Act; or
- (b) the determination of a question arising upon a claim for compensation under section 42 of this Act.

**28. Taking of land to be as if for the conferral of rights**

When applying the principal Act, the taking of land for the purposes of Part 4 or Schedule 2 of this Act is to be regarded as being for the purpose of the conferral of rights under Part 4 of this Act, whether or not rights have already been conferred under that Part in respect of the land.

**Division 6 — *Land Administration Act 1997***

**29. Principal Act**

In this Division the *Land Administration Act 1997\** is referred to as the principal Act.

[\* Act No. 30 of 1997.]

**30. Commencement day**

The commencement day for this Division is the day fixed under section 2 (1) of the principal Act.

**31. Section 159 amended**

Section 159 of the principal Act is amended by inserting after paragraph (d) the following paragraph —

“

(da) the DBNGP Land Access Minister established by section 29 (1) of the *Dampier to Bunbury Pipeline Act 1997*;

”.

**32. Section 160 amended**

Section 160 (1) of the principal Act is amended by inserting after paragraph (d) the following paragraph —

“

(da) in the case of the DBNGP Land Access Minister established by section 29 (1) of the Dampier to Bunbury Pipeline Act 1997, to the chief executive officer of the department principally assisting the DBNGP Land Access Minister in the administration of Part 4 of that Act or to any other officer of that department;

”.

**33. Section 167 not to apply**

Section 167 of the principal Act does not apply to or in relation to the taking of land for the purpose of a conferral of rights by the DBNGP Land Access Minister under section 34 of this Act.

**34. Sections 187-191 not to apply**

Sections 187 to 191 of the principal Act do not apply to or in relation to land in the DBNGP corridor as defined in section 27 of this Act.

**35. Taking of land to be as if for the conferral of rights**

When applying the principal Act, the taking of land for the purposes of Part 4 or Schedule 2 of this Act is to be regarded as being for the purpose of, and the land is to be regarded as being required for the purpose of, the conferral of rights under Part 4 of this Act, whether or not rights have already been conferred under that Part in respect of the land.

**Division 7 — *Local Government Act 1995***

**36. Payment in place of local government rates**

- (1) The DBNGP Land Access Minister is not liable to pay rates in respect of land in the DBNGP corridor.
- (2) A holder of rights conferred under section 34 of this Act or the holder’s nominee approved under section 34 (3) of this Act is not, as the holder of those rights or the holder’s nominee, liable to pay rates.
- (3) The DBNGP Land Access Minister is to pay to each local government in the district of which there is any utilized corridor land an amount equivalent to the rates that would have been assessable in the hands of an owner holding the fee simple in the land whose rates were assessable on the basis of unimproved value.

- (4) An amount payable under subclause (3) is to be treated for the purposes of Part 4 of this Act as a part of the cost of administering that Part.
- (5) In this clause —
  - “**DBNGP corridor**” and “**DBNGP Land Access Minister**” have the meanings given by section 27 of this Act;
  - “**rates**” means rates under the *Local Government Act 1995*;
  - “**utilized corridor land**” means land in the DBNGP corridor in respect of which rights under section 34 of this Act are held, regardless of whether rights are held by one holder or several holders.

### **Division 8 — *Petroleum Pipelines Act 1969***

#### **37. Principal Act**

In this Division the *Petroleum Pipelines Act 1969* \* is referred to as the principal Act.

[\* *Reprinted as at 19 February 1992.*  
*For subsequent amendments see 1996 Index to Legislation of Western Australia, Table 1, p.173.]*

#### **38. Act applies to DBNGP**

- (1) Any pipeline in the privatized DBNGP system is a pipeline for the purposes of the principal Act despite the exceptions to the definition of “pipeline” in that Act.
- (2) At the pipeline transfer time —
  - (a) the DBNGP owner, as defined in section 46 of this Act, becomes, and is to be registered as, the holder of a licence granted under the principal Act the term, conditions, and other details of which are as determined by the Minister responsible for the administration of the principal Act; and
  - (b) consent to the operation of the pipelines in the privatized DBNGP system is to be regarded as having been given under section 36 of the principal Act.
- (3) Subsection (2) (b) does not remove the requirement for consent under section 36 of the principal Act to be obtained in any other circumstance in which the principal Act requires it.

#### **39. Section 7 (power of Minister to authorize entry)**

The power given by section 7 (1) of the principal Act to the Minister referred to in that provision is not to be exercised in respect of land in the DBNGP corridor, as defined in section 27 of this Act, until the

DBNGP Land Access Minister, as defined in that section, has been consulted.

**40. Section 8 (application for licence)**

Obtaining rights under section 34 of this Act in respect of land or being approved under subsection (3) of that section as the nominee of the holder of those rights is to be regarded, for the purposes of section 8 (1) (f) of the principal Act, as acquiring the land.

**41. Section 12 (conditions of licence)**

For the purposes of section 12 (3) of the principal Act —

- (a) rights conferred under section 34 of this Act in respect of land are capable of being a sufficient authority over the land; and
- (b) becoming the holder of those rights or the holder's nominee approved under section 34 (3) of this Act is a sufficient acquisition of those rights.

**42. Section 21 (access provisions)**

Section 21 of the principal Act does not apply to the privatized DBNGP system.

**43. Section 27 (removal of property)**

- (1) For the purpose of enabling a direction to be given in an instrument under section 27 of the principal Act to a licence holder, property of the licence holder or a nominee of the licence holder approved under section 34 (3) of this Act that —
  - (a) was assigned under Part 3 of this Act to the property holder or a person through whom the property holder took the property; and
  - (b) is in the DBNGP corridor as defined in section 27 of this Act,may be specified in the instrument as if it had been brought there by a person engaged or concerned in the operations authorized by the licence.
- (2) In this clause —
  - “**licence holder**” means a person who is or was the holder of a licence under the principal Act;
  - “**property holder**” means the licence holder or a nominee of the licence holder approved under section 34 (3) of this Act.

**44. Section 34 (pipeline standards, specifications, and conditions)**

- (1) Any pipeline that was part of the corporation's DBNGP system is to be taken, for the purposes of the principal Act, to have been

constructed in accordance with any standards, specifications, and conditions prescribed under that Act.

- (2) A licence under the principal Act cannot impose any standards, specifications, or conditions in respect of a pipeline described in subclause (1) except to the extent that they relate to the operation or maintenance of the pipeline.

### **Division 9 — *Town Planning and Development Act 1928***

#### **45. Section 20**

Section 20 (1) of the *Town Planning and Development Act 1928* \* does not apply to the conferral of rights under section 34 of this Act.

[\* *Reprinted as at 21 February 1996.*

*For subsequent amendments see 1996 Index to Legislation of Western Australia, Table 1, p.231.]*

### **Division 10 — Zoning legislation**

#### **46. Operation of pipeline to be regarded as permissible use**

- (1) For the purposes of any written law under which restrictions are placed on the purposes for which land may be used, the operation of any pipeline in the DBNGP corridor as contemplated by this Act is to be regarded as being within the purposes for which land in the DBNGP corridor may be used.
- (2) In subclause (1) —  
“**DBNGP corridor**” has the meaning given to that term in section 27 of this Act.