

PETROLEUM PIPELINES.

No. 112 of 1969.

AN ACT relating to the construction, operation and maintenance of pipelines for the conveyance of petroleum and for purposes connected therewith.

[Assented to 28th November, 1969.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Petroleum Pipelines Act, 1969.* Short title.
2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Arrangement.

3. This Act is divided into Parts, as follows—

PART I.—PRELIMINARY, ss. 1-5.

PART II.—LICENCES AND ACQUISITION OF LAND AND RIGHTS OVER LAND, ss. 6-32.

PART III.—CONSTRUCTION AND OPERATION OF PIPELINE, ss. 33-42.

PART IV.—REGISTRATION OF LICENCES AND RELATED INSTRUMENTS, ss. 43-56.

PART V.—MISCELLANEOUS, ss. 57-67.

Interpretation.

4. (1) In this Act, unless the contrary intention appears—

“inspector” means a person appointed an inspector under this Act;

“licence” means a current licence granted under this Act authorizing the construction and operation of a pipeline;

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

“licensee” means a person who is the registered holder of a licence;

“owner” in relation to—

(a) land other than Crown land or land owned by or vested in 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;

(ii) is a person to whom the Crown has lawfully contracted to grant the fee simple under the Land Act, 1933, or any other Act;

(iii) is entitled to receive, or is in receipt of, or if the land were let would be entitled to receive

the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;

- (b) Crown land and land owned by or vested in the Crown, means the Crown;
- (c) land owned by or vested in a public authority, means that public authority, and "owned" and like expressions have a corresponding meaning;

"Part" means Part of this Act.

"partly cancelled" in relation to a licence means cancelled as to part of the pipeline the subject of the licence;

"petroleum" means—

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

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

"pipeline" means a pipe or system of pipes used or intended to be used for the conveyance of petroleum; and includes all structures for protecting or supporting a pipeline and all loading terminals, works and buildings

and all fittings, pumps, tanks, appurtenances and appliances used in connection with a pipeline, but does not include—

- (a) a pipeline as defined in the Petroleum (Submerged Lands) Act, 1967;
- (b) a pipeline that is used—
 - (i) for the conveyance of petroleum from the well head to a tank or separator or for the collection of petroleum within the area in which it is produced or recovered;
 - (ii) for returning petroleum to a natural reservoir;
 - (iii) for the conveyance of petroleum for use for the purpose of petroleum exploration operations or operations for the recovery of petroleum;
 - (iv) for the conveyance of petroleum that is to be flared or vented;
- (c) a pipeline constructed or to be constructed under the authority of any Act, other than this Act or constructed before the coming into operation of this Act on special lease No. 31163628 granted under the Land Act, 1933;
- (d) a pipeline constructed or to be constructed by a public authority;
- (e) a pipeline constructed or to be constructed on land used for residential, business, agricultural, commercial or industrial purposes, designed for use solely for the residential, business, agricultural, commercial or industrial purposes carried on on that land and situated wholly within the boundaries of that land;

- (f) a pipeline or a pipeline of a class declared in an Order in Council made under section 5 not to be a pipeline for the purposes of this Act.

“Principal Registrar” means the person for the time being holding office, or acting as, the Principal Registrar in the Department of Mines at Perth in the State;

“public authority” means a Minister of the Crown acting in his official capacity under an Act, a State instrumentality, and any body established under an Act that administers or carries out any social service or public utility for the benefit of the State and which is declared for the time being to be a public authority by Order in Council made under section 5;

“register” means the register referred to in section 43;

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

“section” means a section of this Act;

“the relinquished area” means in relation to a licence that—

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

“Under Secretary” means the person for the time being holding office or acting as Under Secretary for Mines in the Department of Mines at Perth in the State;

“wholly cancelled” in relation to a licence means cancelled as to the whole of the pipeline the subject of the licence.

(2) In this Act, a reference—

- (a) to a pipeline on any land, includes a reference to a pipeline in, under, through, across or above the surface of the land;
- (b) to a pipeline, includes a reference to part of a pipeline;
- (c) to a licence, is a reference to a licence as varied under this Act.

Power of Governor to declare public authority and exclude certain pipelines from Act.

5. (1) The Governor may, by Order in Council published in the *Government Gazette*, declare—

- (a) such a body as is last referred to in the definition of “public authority” to be, for the purposes of this Act, a public authority;
- (b) a pipeline or a pipeline of a class specified in the Order in Council, not to be a pipeline for the purposes of this Act.

(2) The Governor may, in like manner, revoke any Order in Council made under subsection (1) of this section.

PART II.—LICENCES AND ACQUISITION OF LAND AND RIGHTS OVER LAND.

Construction etc. of pipelines.

6. (1) A person shall not—

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

except under and in pursuance of a licence.

(2) A person shall not operate a pipeline—

- (a) except under and in pursuance of a licence; and
- (b) unless he has obtained the consent of the Minister under section 36 to the commencement or resumption, as the case may be, of operations and commences or resumes

operations in accordance with the conditions, if any, specified in the instrument of consent.

- (3) It is not an offence against this section—
- (a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline in good order and repair, a person does an act to avoid the loss or injury or to maintain the pipeline in good order and repair and—
- (i) as soon as practicable notifies the Minister of the act done; and
- (ii) complies with any directions given to him by the Minister; or
- (b) if a person does an act in compliance with a direction under this Act or the regulations.

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

7. (1) The Minister may, on an application being made to him in that behalf by a person who proposes to apply for a licence, authorize in writing either specially or generally—

Power of
Minister to
authorize
entry.

- (a) that person to enter, from time to time, during the day time, upon any land within an area specified in the authority; and
- (b) that person to so enter with such assistants and such equipment and materials as he thinks fit,

for the purpose of making surveys and preliminary investigations in respect of the construction of the pipeline to which the licence for which he proposes to apply will relate.

(2) Any person so authorized may do all things that he considers necessary for the purpose of the survey and investigation, including the drilling or digging of holes and the affixing and setting up of such pegs, marks or poles as may be required.

(3) Before entry on any land is made for the purposes of this section any person authorized in that behalf under this section, shall, if practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon and shall, if required by the owner or occupier, produce the authority under which he claims to enter or has entered on the land.

(4) Any damage to the land caused by any such person shall be repaired as soon as practicable and the land restored, so far as possible, to its former condition.

(5) A person who—

- (a) without lawful authority removes, destroys or alters any peg, mark, pole, or other thing used for the purpose of any survey or investigation made or in the course of being made under this section;
- (b) wilfully damages or destroys or otherwise interferes with any such peg, mark, pole or other thing; or
- (c) wilfully obstructs or interferes with any person lawfully engaged in connection with any such survey or investigation,

commits an offence against this Act.

Penalty: Two hundred dollars.

(6) Every person having any estate or interest in land entered upon under the authority of this section and injuriously affected or suffering any damage thereby, is entitled to full compensation, the amount thereof to be as agreed between the person making the entry and the person claiming compensation, or, failing agreement, to be determined by a court of competent jurisdiction.

8. (1) An application for a pipeline licence—
(a) shall be made in the prescribed form;

- (b) shall be made in the prescribed manner;
- (c) shall be accompanied by particulars of—
 - (i) the design and construction of the proposed pipeline;
 - (ii) the provisions for cathodic protection of the proposed pipeline;
 - (iii) the size and capacity of the proposed pipeline;
 - (iv) the proposals of the applicant for work and expenditure in respect of the construction of the proposed pipeline;
 - (v) the technical qualifications of the applicant and of his employees;
 - (vi) the technical advice available to the applicant;
 - (vii) the financial resources available to the applicant;
- (d) shall be accompanied by a plan, drawn to an approved scale—
 - (i) showing the route of the proposed pipeline;
 - (ii) showing the situation of any proposed pumping and compression stations, terminal facilities and other permanent appurtenances of a substantial nature intended to be used in connection with the operation of the proposed pipeline;
 - (iii) showing the lands, if any proposed to be used for the purposes of gaining access to the proposed pipeline; and
 - (iv) on which shall be identified the lands or easements over lands referred to in paragraph (f) of this subsection;
- (e) shall be accompanied by particulars of any agreements entered into or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the lands shown in the plan, referred to in paragraph (d) of this subsection;

- (f) shall specify, in relation to each part of the proposed pipeline, particulars of the lands, or the easements over lands, acquired or agreed to be acquired, or in respect of which the applicant will need to acquire for the purpose of constructing and operating the proposed pipeline or gaining access thereto;
- (g) shall be accompanied by any agreements entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the proposed pipeline;
- (h) shall be accompanied by copies of the notifications caused to be served in accordance with the provisions of subsection (3) of this section;
- (i) may set out any other matter that the applicant wishes the Minister to consider; and
- (j) shall be accompanied by the prescribed application fee.

(2) The Minister may, at any time, by instrument in writing served on the applicant, require him to furnish to the Minister, within the time specified in the instrument, further information in writing in connection with his application.

(3) At the time of making the application the applicant—

- (a) shall notify the council of each municipality in whose district any part of the proposed pipeline is intended to be situated, that an application has been made; and
- (b) shall notify each owner and each occupier, if any, of any land over which any part of the pipeline referred to in the application is to be constructed, that an application has been made.

(4) The Minister, at the expense of the applicant, shall, as soon as practicable, publish—

- (a) in the *Government Gazette*;

- (b) in a daily newspaper circulating generally in the State; and
- (c) in such other newspapers as the Minister considers necessary which circulate in the districts in which the proposed pipeline is intended to be situated,

a notice that he has received the application and that a map showing the proposed route of the pipeline may be examined at the place or places and at the times specified in the notice.

(5) The Minister may direct the applicant to inform such other persons as the Minister considers necessary that the application has been made.

(6) An application and each of the documents accompanying it shall be submitted in quadruplicate.

9. (1) The Minister may refuse an application made under subsection (1) of section 8, but such an application shall not be refused unless—

Refusal of
licence.

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

(2) Where an application for a license is refused, the whole or such part of the prescribed fee that accompanied the application, as the Minister determines, shall be refunded to the applicant.

Grant of
licence.

10. (1) Where—

(a) a person makes an application in accordance with section 8 and the Minister is satisfied that the applicant has made provision or given security in addition to any other security required by this Act to the satisfaction of the Minister for the payment—

(i) of all compensation payable in respect of any land or easement over any land to be taken by compulsory acquisition;

(ii) of all charges and expenses necessary for or incidental to the compulsory acquisition of that land or easement; and

(b) a period of twenty-eight days has elapsed since the date on which the last of the notifications required to be given by subsection (3) of section 8 was given,

the Minister may, after taking into consideration any representations made to him with respect to the proposed pipeline, and in particular the matters referred to in subsection (2) of this section, grant to the applicant a licence in respect of the proposed pipeline and cause to be published in the *Government Gazette* a notice that the license has been granted.

(2) In considering any such application the Minister shall generally have regard to—

(a) the public interest;

(b) the financial ability of the applicant to construct, operate and maintain the proposed pipeline;

- (c) whether the construction of the proposed pipeline on the lands specified in the application would contravene any town planning scheme under the Town Planning and Development Act, 1928 or the Metropolitan Region Scheme under the Metropolitan Region Town Planning Scheme Act, 1959; and
- (d) whether the construction and operation of the proposed pipeline on the lands specified in the application would be unsuitable by reason of the proposed pipeline being likely to interfere unnecessarily with improvements, improved land, flora, fauna or scenic attractions or for any other reason that the Minister thinks sufficient.

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

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

- (a) shall, subject to subsection (3) of this section, be made not less than six months before the day the licence ceases to be in force;
- (b) shall be made in the prescribed form;
- (c) shall be made in the prescribed manner; and
- (d) shall be accompanied by the prescribed fee.

(3) The Minister may, for reasons he thinks sufficient, receive an application for the renewal of a licence less than six months before it ceases to be in force, but not in any case after, the day on which the licence ceases to be in force.

(4) An application for the renewal of a licence shall be submitted in quadruplicate.

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

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

(6) Where the application for the renewal of a licence is refused, the whole or such part of the prescribed fee that accompanied the application, as the Minister determines, shall be refunded to the applicant.

(7) Where—

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

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

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

(2) The conditions referred to in subsection (1) of this section may include conditions that the licensee shall—

- (a) within such time as may be specified in a notice in writing given to him by the Minister and before commencing the construction of the pipeline, specified in the licence, lodge with the Minister security in such amount, not exceeding twenty thousand dollars, and in such form as may be specified in the notice; and
- (b) complete the construction of, and commence to operate, the pipeline within the period specified in the licence.

(3) The licence is subject to a condition that the licensee shall not commence or cause to be commenced the construction of the proposed pipeline specified therein over any part of the licence area unless he has first acquired all the lands in that part of the licence area or a lease, licence or other authority over the lands and acquired and registered all such easements over those lands as are necessary for him to lawfully construct that pipeline over those lands or part thereof and to have the right of access thereto.

13. (1) A security referred to in section 10 or section 12— Security.

- (a) shall be given in such manner and form as are approved by the Minister; and
- (b) may, subject to that approval, be by cash deposit or other such method as the Minister allows or partly by cash deposit and partly by such other method as the Minister allows.

(2) A security given in accordance with a form approved by the Minister, although it is not sealed, binds the person subscribing to it as if it were sealed.

(3) Whenever a security referred to in section 10 or section 12 is put in suit, the production of the security without further proof entitles the Minister to judgment against the person appearing to have executed the security, for the amount of his stated liability or for such lesser amount as is claimed, unless that person proves compliance with the conditions of the security or that the security was not executed by him or release or satisfaction.

(4) If it appears to the Court that a non-compliance with a condition of a security under this Act has occurred, the security shall not be deemed to have been discharged or invalidated and the subscriber shall not be deemed to have been released or discharged from liability, by reason of—

- (a) any extension of time or other concession;
- (b) any consent to, or acquiescence in, a previous non-compliance with a condition;
- or
- (c) any failure to bring suit against the subscriber upon the occurrence of a previous non-compliance with the condition.

(5) If there are several subscribers to the security, they are bound, unless the security otherwise provides, jointly and severally and for the full amount.

(6) A security referred to in—

- (a) section 10 may be sued on if the subscriber fails to make any payment referred to in subsection (1) of that section;
- (b) section 12 may be sued on for non-compliance with the conditions of the licence to which the security relates.

14. (1) A licence—

Term and
form of
licence.

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

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

(2) A licence shall be in the form prescribed.

15. (1) A licensee may, at any time, by instrument in writing served on the Minister, apply for the variation of a licence other than a variation with respect to the licence area.

Variation of
licence on
application
by licensee.

(2) An application under this section—

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

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

(4) The Minister may—

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

(5) After considering particulars of any matters submitted to him under subsection (4) of this section, the Minister may vary the licence to such extent as he thinks necessary or may refuse to vary the licence.

Power of
Governor to
grant
easements
etc. over
Crown land.

16. Notwithstanding anything to the contrary contained in any Act or in any licence, proclamation, reservation, declaration or dedication of or with respect to any unalienated Crown land, the Governor, on the recommendation of the Minister for Lands, may, upon such terms and conditions, and subject to the payment of such fee as the Governor thinks fit, grant to a licensee any lease, easement, licence or other authority necessary or expedient to enable the licensee—

- (a) to construct the pipeline specified in the licensee's licence over any such Crown land; and
- (b) to operate, inspect, maintain and repair that pipeline.

Power of
public
authority to
grant
easements,
etc.

17. Notwithstanding anything contained to the contrary in any Act or rule of law or its constitution, any public authority may, upon such terms and conditions as are agreed upon by such authority and a licensee, and if the Governor so determines shall, upon such terms and conditions as the Governor may impose, grant to the licensee a lease, easement, licence or other authority of the kind referred to in section 16 of or over—

- (a) any land vested in or owned by the public authority; or
- (b) any land under the care and management of the public authority,

necessary or expedient to enable the licensee—

- (c) to construct the pipeline specified in the licensee's licence; and
- (d) to operate, inspect, maintain and repair that pipeline.

18. (1) For the purposes of exercising the authority conferred on him by a licence, the licensee may—

Authority to make arrangements and agreements for easements.

- (a) make such arrangements and enter into such contracts not inconsistent with this Act or with the licence as he considers necessary;
- (b) agree with the owner of an estate or interest in land for the purchase or other acquisition of any right, interest or easement in or upon the land, and the terms upon which any such right or interest may be used or exercised or any such easement enjoyed.

(2) Notwithstanding any Act or rule of law to the contrary, any company, body or authority has power to enter into and carry out any arrangement, contract or agreement referred to in subsection (1) of this section.

19. (1) Subject to subsection (2) of this section, for the purpose of carrying out any function authorized by a licence or any other function necessary for the efficient operation of the pipeline in respect of which the licence is granted or necessarily incidental to the operation of the pipeline, the Minister may, on the application of the licensee and at his expense in all things, take under the Public Works Act, 1902, as if for a public work within the meaning of that Act, any land or any easement over any land whether for the time being subsisting or not.

Taking of land or easement over land for the purposes of or incidental to construction or operation of pipeline.

(2) Subsection (1) of this section does not apply unless the Minister is satisfied that the licensee, after making reasonable attempts to do so, has been unable to acquire the land or easement over the land by agreement with the owner thereof.

(3) For the purposes of giving effect to this section—

- (a) the word "land" in the Public Works Act, 1902 shall be construed as including an easement over land;

- (b) on the taking of the land or easement over the land under this section, the land or easement, as the case may be, shall vest in the licensee and all proceedings subsequent thereto in respect of compensation, or otherwise for the purpose of complying with the Public Works Act, 1902, shall be taken against the licensee, who shall be deemed to be the respondent and shall be liable in respect of the taking to the same extent as the Minister for Works would have been liable if the taking had been for the purpose of a public work.

(4) Where an easement is acquired or taken over any land pursuant to this Act a description of the easement and a notification that it has been so taken, together with a plan showing the location of the easement over that land, shall, if the easement is over land—

- (a) that is under the operation of the Transfer of Land Act, 1893, be sent by the licensee to the Registrar of Titles under that Act, who shall duly record on the document of title relating to the land a statement or entry thereof;
- (b) that is not under the operation of that Act, be sent by the licensee to the Registrar of Deeds, who shall, by memorial in the Register of Deeds, duly record the notification of the easement;
- (c) that is subject to the Land Act, 1933, excepting such land as is under the operation of the Transfer of Land Act, 1893, be sent by the licensee to the Minister for Lands, who shall cause to be made in the appropriate register relating to the land a record of the notification of the easement.

Application
of s. 33A of
Public Works
Act, 1902 to
easements for
pipelines,
etc.

20. (1) The provisions of section 33A of the Public Works Act, 1902 apply to and in respect of easements in favour of a licensee acquired under any of the provisions of this Act for the purpose of the construction, maintenance and use of

pipelines, for any purpose incidental to any such purpose, and for the purpose of access to pipelines in the same manner as they apply to easements in favour of the Crown.

(2) For the purposes of subsection (1) of this section, an instrument does not create an easement in favour of, or operate to transfer an easement to, a licensee unless—

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

(3) Where a licence—

- (a) expires;
- (b) is surrendered as to the whole or a part of the pipeline in respect of which it is in force;
- (c) is cancelled as to the whole or a part of the pipeline in respect of which it is in force,

Easement where licence expires, is surrendered or cancelled or is transferred.

the Principal Registrar shall notify in writing forthwith the Registrar of Titles, the Registrar of Deeds and the Minister for Lands of the fact, according to whether the licence area or the part thereof on which is situated the whole or part of the pipeline as to which the licence has expired or was wholly or partly surrendered or cancelled,

- (d) is under the operation of the Transfer of Land Act, 1893;
- (e) is not under the operation of the Transfer of Land Act, 1893; or
- (f) is subject to the Land Act, 1933 but is not under the operation of the Transfer of Land Act, 1893.

(4) On receipt of the notification pursuant to subsection (3) of this section, the Registrar of Titles, the Registrar of Deeds or Minister for Lands, as the

case may be, shall duly record the notification or cause it to be recorded; and thereupon any easement that has been recorded under subsection (4) of section 19 over the licence area or the part thereof to which the notification relates, is, by force of this Act, extinguished and no compensation is payable in respect thereof.

(5) (a) Where a transfer of a licence is registered under section 44, the Principal Registrar shall notify forthwith in writing the Registrar of Titles, the Registrar of Deeds or the Minister for Lands.

(b) Upon receipt of such notification the Registrar of Titles, the Registrar of Deeds or the Minister for Lands shall duly record on the document of title, in the Register of Deeds or in the appropriate register, as the case requires, that any easement that has been recorded under subsection (4) of section 19 thereon or therein over the licence area or part thereof, has been transferred to the registered holder and thereupon, by force of this Act, the easement vests in the registered holder.

(6) (a) Any person in possession of any deed, certificate or other instrument evidencing the title to any land over which any such easement as is referred to in subsection (4) of this section is registered shall, upon receiving notice from the Registrar of Titles, the Registrar of Deeds or the Minister for Lands, deliver up to him such deed, certificate or instrument for the purpose of recording the extinguishment of the easement or the vesting of it in the registered holder, pursuant to this section, as the case may require.

(b) A person who fails to so deliver up any such deed, certificate or instrument after receiving a notice to do so is guilty of an offence against this Act.

Penalty: One hundred dollars.

21. (1) Where—

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

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

(2) An application under this section—

- (a) shall be in the prescribed form;
- (b) shall be made in the prescribed manner; and
- (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 thinks fit; and
- (c) shall specify in any such notice a date on or before which the licensee or any other person on whom a notice is served may submit to the Minister in writing any matters that he wishes the Minister to consider in connection with the application.

(4) After considering any matters submitted to him under subsection (3) of this section on or before the specified date and such matters as he thinks relevant, the Minister, by an instrument in writing served on the licensee and the applicant—

- (a) may give to the licensee, to the applicant and to any other person lawfully entitled to use the pipeline, such directions as he

thinks appropriate for or in relation to the use of the pipeline by the licensee, the applicant and any such other person; or

(b) may refuse the application.

(5) Without limiting the generality of subsection (4) of this section, directions under paragraph (a) of that subsection may include directions as to the amounts to be paid to the licensee by the applicant and any other person lawfully entitled to use the pipeline but any such direction shall be subject to the licensee's right to convey its own petroleum through the pipeline in priority to any other petroleum to be so conveyed.

(6) A person to whom a direction is given under subsection (4) of this section shall comply with the direction.

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

Exemptions.

22. (1) Where—

- (a) a licence is, under this Act, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the licence;
- (b) a licence is varied under section 15;
- (c) a licensee enters into an agreement referred to in section 21;
- (d) a licence is cancelled as to part of the pipeline in respect of which it is in force;
- (e) a licensee applies by instrument in writing served on the Minister, for a variation or suspension of, or exemption from compliance with, any of the conditions to which the licence is subject; or
- (f) the Minister, under this Act or the regulations, gives a direction or consent to a licensee,

the 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 determines and specifies in the instrument.

(2) Nothing in subsection (1) of this section empowers the Minister to alter the term of a licence.

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

Surrender of
licence.

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

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

any matters that he wishes to be considered in connection with the application for the consent; and

- (d) has, to the extent that he is required to do so by the Minister and to the satisfaction of the Minister, removed or caused to be removed from the area to which the surrender relates, property brought into that area by any person engaged or concerned in the operations authorized 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 consent to the surrender of a licence under subsection (1) of this section if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(4) Where the Minister consents to an application under subsection (1) of this section, the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.

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

24. (1) Where a licensee—

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

the 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) A licence shall not, under subsection (1) of this section, be cancelled as mentioned in that subsection on a ground referred to in that subsection unless—

- (a) the Minister has, by instrument in writing served on the licensee, given not less than one month's notice of his intention so to cancel the licence on that ground;
- (b) the Minister has served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) the Minister has, in the instrument, specified a date on or before which the licensee or any person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matters that he wishes to be considered in connection with the cancellation of the licence;
- (d) the Minister has caused to be published in such newspapers as he thinks fit, notice of his intention so to cancel the licence on that ground and has, in that notice, specified a date on or before which any person having an interest in any land in the licence area may submit any matters that he wishes to be considered in connection with the cancellation of the licence;

and

- (e) the Minister has taken into account—
 - (i) any action taken by the licensee to remove that ground or to prevent the recurrence of similar grounds; and
 - (ii) particulars of any matters submitted under paragraph (c) of this subsection on or before the date specified under that paragraph or under paragraph (d) of this subsection on or before the date specified under that paragraph.

Cancellation
of licence in
public
interest.

25. (1) The Minister may—

(a) at the request of—

(i) a Minister or a Minister of State of the Commonwealth;

or

(ii) a body established by a law of the State or of the Commonwealth; and

(b) if, in his opinion, it is in the public interest so to do and the Minister or body making the request has given security, to the satisfaction of the Minister, for the payment of any amount payable to a licensee under subsection (5) of this section,

by instrument in writing served on the licensee, direct the licensee to make such changes in the route or position of the licensee's pipeline as are specified in the instrument.

(2) A person to whom a direction is given under subsection (1) of this section shall comply with the direction.

Penalty: Two thousand dollars.

(3) Where the Minister gives a direction under subsection (1) of this section and the licensee to whom the direction is given complies with the direction, the licensee may bring an action in the Supreme Court against the Minister or body making the request.

(4) The Supreme Court shall hear the action and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.

(5) 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.

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

Cancellation of licences. not affected by other provisions.

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

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

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

27. (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—

Removal of property, etc., by licensee.

- (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 authorized by the licence or make arrangements that are satisfactory to the Minister for the removal or disposal of that property and to make good, to the satisfaction of the Minister, any damage to the relinquished area caused by the removal of the property; and

- (b) make good, to the satisfaction of the Minister, any damage to the relinquished area caused by any person engaged or concerned in those operations or caused by the removal of any property, pursuant to a direction referred to in paragraph (a) of this subsection, otherwise than in the manner specified in the direction.

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

- (a) remove or cause to be removed from the licence area all property or any property specified in the instrument, that was brought into that area by any person engaged or concerned in the operations authorized 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) of this subsection, otherwise than in the manner specified in the direction.

(3) A direction under paragraph (a) of subsection (1) or (2) of this section may specify the manner in which the property, or any of the property specified in the direction, shall be removed.

(4) A person to whom a direction is given under either subsection (1) or (2) of this section shall comply with the direction—

- (a) in the case of a direction given under subsection (1) of this section—within the period specified in the instrument by which the direction was given; or
- (b) in the case of a direction given under subsection (2) of this section—on or before the date of expiration of the licence.

Penalty: Two thousand dollars.

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

Powers of Minister where direction not complied with.

- (a) a direction referred to in paragraph (a) of subsection (1), or of subsection (2) of section 27 for the removal of property from the relinquished area has not been complied with, the Minister may, by instrument published in the *Government Gazette*, direct that the owner or owners of the property shall remove it from that area within the period specified in the instrument and shall serve a copy of the instrument on each person whom he believes to be an owner of that property or part of that property;
- (b) a direction referred to in paragraph (a) of subsection (1), or of subsection (2) of section 27 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 thinks fit; or

- (c) a direction referred to in paragraph (b) of subsection (1) or of subsection (2) of section 27 has not been complied with, the Minister may do all or any of the things required by the direction to be done.

(2) Where any property has not been removed from the relinquished area in accordance with a direction under paragraph (a) of subsection (1) of this section, the Minister may do all or any of the following things—

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

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

- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property;
- (b) all or any part of any costs and expenses incurred by him in relation to the doing of any thing required by a direction under paragraph (b) of subsection (1) or of subsection (2) of section 27 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) of this section—

- (a) if incurred in relation to the removal, disposal or sale of property or the making good of damage caused by the removal of property, are a debt due by the owner of the property to the Crown; or
- (b) if incurred in relation to the doing of any thing required by a direction under paragraph (b) of subsection (1) or of subsection (2) of section 27, 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) of this section, are recoverable in a court of competent jurisdiction.

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

29. (1) There is payable to the Minister by a licensee, in respect of each year of the term of a licence, a licence fee of twenty dollars or such other sum as may be prescribed in respect of each mile or portion of a mile of the length of the pipeline on the first day of that year. Licence fees.

(2) A fee referred to in subsection (1) of this section is payable within one month after—

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

30. Where the liability of a licensee to pay a fee referred to in section 29 is not discharged at or before the time when the fee is payable, there is Penalty for late payment.

payable to the Minister by the licensee an additional amount calculated at the rate of one-third of one per centum per day upon the amount of the fee from time to time when the fee became payable until it is paid.

Fees and penalties debts due to the Crown.

31. A fee under section 29, or an amount payable under section 30, is a debt due by the licensee to the Crown and is recoverable in a court of competent jurisdiction.

Non-application of ss. 204 and 244 of the Local Government Act, 1960 and Explosives and Dangerous Goods Act, 1961.

32. The provisions of—

- (a) sections 204 and 244 of the Local Government Act, 1960; and
- (b) the Explosives and Dangerous Goods Act, 1961, do not apply to or in respect of a pipeline the construction or operation of which is authorized by a licence.

PART III.—CONSTRUCTION AND OPERATION OF PIPELINE.

Construction to be along authorized route.

33. A pipeline shall be constructed along the route authorized in the licence in respect of that pipeline, subject to deviation from that route within the limits of lateral deviation authorized by the Minister.

Construction to be in accordance with prescribed standards, etc.

34. (1) Notwithstanding any other requirements in this Part, a pipeline shall be constructed in accordance with such standards, specifications and conditions as are prescribed and such further standards, specifications and conditions as are stated or included in the licence in respect of that pipeline.

(2) Where there is conflict between any standard or specification as prescribed and a standard or specification stated or included in the licence in respect of a pipeline, the latter prevails.

35. (1) Except with the consent in writing of the Minister and subject to compliance with such conditions, if any, as are specified in the instrument of consent, a licensee shall operate continuously the pipeline specified in his licence.

Ceasing to
operate
pipeline.

Penalty: Two thousand dollars.

(2) It is not an offence against subsection (1) of this section if the failure of the licensee to operate the pipeline continuously—

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

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

Consent to
commence-
ment or
resumption
of pipeline
operations.

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

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

(2) A consent under subsection (1) of this section may be given subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument of consent.

37. A licensee shall not permit or suffer the waste or escape of any substance from the pipeline specified in the licence of which he is the registered holder.

Waste or
escape of
substances
from
pipeline.

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

Marking
route of
pipeline and
maintenance,
etc. of
property.

38. A licensee—

- (a) shall mark and keep marked in such manner as may be prescribed, the route of the pipeline specified in the licence of which he is the registered holder;
- (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 neither being used nor will be used in connection with the operation of the pipeline.

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

Where
pipeline
crosses
agricultural
land.

39. (1) Where a pipeline enters or crosses agricultural land the licensee shall, at his expense, forthwith after the completion of the construction of that part of the pipeline that so enters or crosses, restore the land to enable it to be used as far as practicable for the purposes for which it was used immediately before that construction.

(2) Where the licensee fails to restore the land, as required by subsection (1) of this section, a person entitled to an interest in the land may restore the land and recover from the licensee in any court of competent jurisdiction the expenses reasonably incurred in carrying out that restoration.

(3) Any expenses so recovered do not affect any right to compensation that such person as is referred to in subsection (2) of this section or any other person may have under this Act, in respect of that land.

(4) The Minister may, at any time on the request of a person entitled to an interest in the land, include among the conditions of the licence such conditions as he considers necessary to ensure that the land is maintained in a suitable condition and that noxious weeds and vermin are controlled.

40. Where the route of a pipeline is such that the pipeline passes over or under any waters, the pipeline shall be constructed over or under those waters in such a manner—

Where route of pipeline crosses any water.

- (a) that the construction will not affect or impede anything or anyone reasonably using those waters; and
- (b) that all reasonable steps are taken to avoid pollution of those waters.

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

41. (1) The Minister may, by instrument in writing served on a licensee, give to the licensee direction as to any matter with respect to which regulations may be made under this Act.

Directions.

(2) A direction under subsection (1) of this section has effect and shall be complied with notwithstanding anything in the regulations, and, to the extent to which the regulations are inconsistent with the direction, the licensee to whom the direction is given is not obliged to comply with the regulations.

(3) A licensee to whom a direction is given under subsection (1) of this section shall comply with the direction.

Penalty: Two thousand dollars.

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

Compliance with directions.

(2) Costs and expenses incurred by the Minister under subsection (1) of this section in relation to a direction are a debt due by the person to whom the direction was given to the Crown and are recoverable in a court of competent jurisdiction.

(3) It is a defence if a person charged with failure to comply with a direction given to him under this Act or under the regulations or if a defendant in an action under subsection (2) of this section proves that he took all reasonable steps to comply with the direction.

PART IV.—REGISTRATION OF LICENCES AND
RELATED INSTRUMENTS.

Register of
licences to
be kept.

43. (1) For the purposes of this Part, the Principal Registrar shall keep a register of licences.

(2) The Principal Registrar shall enter or 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) setting out an accurate description (including a map) of the licence area, the route of the pipeline authorized by the licence and the situation of any fittings, pumps, tanks, appurtenances and appliances used or to be used in connection with the pipeline;
- (c) specifying the term of the licence;
- (d) setting out such other matters as are required by this Part to be entered in the register; and
- (e) setting out such further matters relating to the licensee or to the terms and conditions of the licence as the Under Secretary deems proper and expedient in the public interest and directs the Principal Registrar to enter in the register.

(3) The Principal Registrar 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) of this subsection; and

(c) of the expiration of a licence.

(4) It is a sufficient compliance with the requirements of subsection (2) or (3) of this section if the Principal Registrar 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, of this section, or a copy of the licence or instrument, has been entered in the register.

(6) The Principal Registrar shall endorse 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.

44. (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.

Approval and
registration
of transfers.

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

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

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

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

(6) Subject to subsection (5) of this section, the Minister may—

- (a) approve the application;
- (b) by instrument in writing served on the transferor, inform the transferor that he is prepared to approve the application if the transferee, within such time as may be specified in the instrument lodges with the Minister security in such amount, not exceeding twenty thousand dollars, and in such form as may be specified in the instrument; or
- (c) refuse the application.

(7) Where—

- (a) the Minister has, under subsection (6) of this section, informed the transferor that the transferee will be required to lodge a security; and
- (b) the transferee has lodged that security with the Minister within the specified time,

the Minister shall approve the application.

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

(9) Upon entry in the register of the memorandum of approval, the transferee becomes the registered holder of the 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 Principal Registrar and is subject to inspection in accordance with this Part.

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

45. (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 name entered in the register as the holder of the licence.

Entries in register on devolution of rights of registered holder.

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

46. 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.

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

47. (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 44 applies.

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

(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) of this section.

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

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

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

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

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

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

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

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

True consideration to be shown.

48. A party to a transfer referred to in section 44 or to an instrument to which section 47 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.

Penalty: Two thousand dollars.

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

Minister not concerned with certain matters.

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

Power of Minister to require information as to proposed dealings.

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

Penalty: One thousand dollars.

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

Production and inspection of books, records and documents.

(2) A person shall not fail or refuse to comply with any requirement given to him under subsection (1) of this section.

Penalty: One thousand dollars.

52. (1) Subject to subsection (2) of this section, the register and all instruments registered under this Part shall at all convenient times be open for

Inspection of register and documents.

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 without the written consent of the registered holder.

Evidentiary provisions.

53. (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 under this Part certified by writing under his hand, and a copy or extract so certified is admissible in writing in all courts and proceedings without further proof or production of the original.

(3) The Minister may, on payment of the prescribed fee by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Part to be made or done 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.

Appeals.

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

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

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

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

(3) 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.

55. Subject to section 54, neither the Minister, nor the Principal Registrar, nor a person acting under the direction or authority of either the Minister or the Principal Registrar, is liable to an action, suit or proceeding for or in respect of an act or matter in good faith done or omitted to be done in exercise or purported exercise of any power or authority conferred by this Part.

Minister not
liable to
certain
actions.

56. A person who wilfully—

Offences.

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

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

PART V.—MISCELLANEOUS.

57. (1) Notwithstanding any Act or rule of law to the contrary, any pipeline constructed under the authority of this Act shall remain the property of the licensee whether or not the pipeline is affixed to any land and whether or not the licence granted in respect of the pipeline has been wholly or partly cancelled.

Pipelines to
remain
property of
owner.

(2) The licensee, in maintaining or operating any pipeline in respect of which a licence is issued under this Act, shall do as little damage as is possible and shall make full compensation to the owner of, and any party having an interest in, land for any damage sustained by them in consequence of the exercise of any power by the licensee in maintaining or operating the pipeline, and the compensation shall in default of agreement between the licensee, the owner or other party, be determined by a court of competent jurisdiction.

Notices of grants etc. of licences to be published.

58. The Minister shall cause to be published in the *Government Gazette* such particulars as he thinks fit of the grant, grant of the renewal, variation, surrender or expiration of a licence.

Judicial notice.

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

Address for service.

60. Every licensee shall forward to the Minister an address for service of any notice, order or direction under this Act.

Power of Minister to delegate powers and functions.

61. (1) The Minister may—

- (a) delegate to the Under Secretary, the Principal Registrar or any officer of the Department of Mines at Perth in the State all or any of his powers and functions under this Act or the regulations, other than this power of delegation; and
- (b) vary or revoke a delegation given by him.

(2) A power or function delegated by the Minister may be exercised or performed by the delegate—

- (a) in accordance with the instrument of delegation; and

- (b) if the exercise of the power or the performance of the function is dependent upon the opinion, belief or state of mind of the Minister in relation to a matter—upon the opinion, belief or state of mind of the delegate in relation to that matter.

(3) A delegation under this section does not prevent the exercise of a power or the performance of the function by the Minister.

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

Inspectors.

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

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

Penalty: One hundred dollars.

63. (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 under section 62—

Powers of inspectors.

- (a) may enter any licence area;
- (b) may inspect and test any pipeline;
- (c) may take samples of any substance being conveyed by a pipeline; and
- (d) may require 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 to produce to

him those books, records, documents, maps or plans and may inspect, take extracts from and make copies of any of those books, records, documents, maps or plans.

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

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

Penalty: Five hundred dollars.

Theft of
petroleum
from
pipeline.

64. A person who maliciously or fraudulently—

- (a) abstracts;
- (b) causes to be wasted or diverted; or
- (c) consumes or uses,

any petroleum being conveyed by means of a pipeline, is guilty of stealing and punishable accordingly.

Damaging
etc.
pipelines.

65. A person who unlawfully damages a pipeline or interferes with the operation of a pipeline is guilty of an offence against this Act.

Penalty: One thousand dollars or imprisonment for one year or both the penalty and imprisonment.

Continuing
offences.

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

(2) Where an offence is committed by a person by reason of his failure to comply with a provision of this Act or the regulations, the offence, for the

purposes of subsection (3) of this section, shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the act was required to be done has elapsed.

(3) Where, under either subsection (1) or (2) of this section, an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding two thousand dollars.

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

- (a) the construction, maintenance and operation of pipelines and the safety measures to be taken in respect thereof;
- (b) the inspection of pipelines and the cost of any such inspection;
- (c) the keeping of registers under this Act;
- (d) the escape of substances from a pipeline;
- (e) providing for the marking of the location of pipelines;
- (f) the prevention of damage to any land used for the construction or operation of pipelines;
- (g) 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 and for the due administration thereof.

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

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