



Western Australia

Petroleum Pipelines Act 1969

Reprinted as at 12 May 2000

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CONTENTS

Part I — Preliminary

1.	Short title	2
2.	Commencement	2
4.	Interpretation	2
5.	Power of Minister to make certain declarations for interpretation purposes	6

Part II — Licences and acquisition of land and rights over land

5A.	Restriction on operation of this Part	7
6.	Construction etc. of pipelines	7
7.	Power of Minister to authorise entry	8
8.	Application for a licence	9
9.	Refusal of licence	12
10.	Grant of licence	13
11.	Renewal of licence	14
12.	Conditions of licence	15
13.	Security	16
14.	Term and form of licence	17
15.	Variation of licence on application by licensee	18
16.	Power of Governor to grant easements etc. over Crown land	19
17.	Power of public authority to grant easements etc.	19

Contents

18.	Authority to make arrangements and agreements for easements	20
19.	Taking of land or easement over land for the purposes of or incidental to construction or operation of pipeline	20
20.	Application of s.195 of the <i>Land Administration Act 1997</i> to easements for pipelines etc.	22
21.	Directions as to the conveyance of petroleum	24
22.	Exemptions	25
23.	Surrender of licence	26
24.	Cancellation of licences for breach of conditions, the Act or regulations or non-payment of amounts due	28
25.	Change in position or route of pipeline	29
26.	Cancellation of licences not affected by other provisions	30
27.	Removal of property etc. by licensee	31
28.	Powers of Minister where direction not complied with	32
29.	Licence fees	34
30.	Penalty for late payment	35
31.	Fees and penalties debts due to the Crown	35
32.	Certain written laws not to apply to licensed pipelines	35
 Part III — Construction and operation of pipeline		
33.	Construction to be along authorised route	36
34.	Construction to be in accordance with prescribed standards etc.	36
35.	Ceasing to operate pipeline	36
36.	Consent to commencement or resumption of pipeline operations	37
36A.	Work practices	37
37.	Waste or escape of substances from pipeline	38
37A.	Conditions relating to insurance	38
38.	Marking route of pipeline and maintenance etc. of property	39
39.	Where pipeline crosses agricultural land	39
40.	Where route of pipeline crosses any water	40
41.	Directions	40
42.	Compliance with directions	42

Part IV — Registration of licences and related instruments

43.	Register of licences to be kept	44
44.	Approval and registration of transfers	45
45.	Entries in register on devolution of rights of registered holder	47
47.	Approval of dealings creating etc. interests etc. in existing licences	48
47A.	Approval of dealings in future interests etc.	53
48.	True consideration to be shown	54
49.	Minister not concerned with certain matters	54
50.	Power of Minister to require information as to proposed dealings	55
51.	Production and inspection of books, records and documents	55
52.	Inspection of register and documents	56
53.	Evidentiary provisions	56
53A.	Minister may make corrections to register	57
54.	Appeals	58
55.	Minister not liable to certain actions	58
56.	Offences	58

Part V — Miscellaneous

57.	Pipelines to remain property of owner	60
58.	Notices of grants etc. of licences to be published	60
59.	Judicial notice	60
60.	Address for service	61
60A.	Service of documents on 2 or more licensees	61
61.	Power of Minister to delegate powers and functions	62
62.	Inspectors	63
63.	Powers of inspectors	63
64.	Theft of petroleum from pipeline	64
65.	Damaging etc. pipelines	64
66.	Continuing offences	65
66A.	Persons concerned in commission of offences	65
66B.	Prosecution of offences	65

Contents

66C.	Orders for forfeiture in respect of certain offences	66
66D.	Disposal of forfeited goods	67
67.	Regulations	67

Notes

Defined Terms



Western Australia

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Petroleum Pipelines Act 1969

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

Part I — Preliminary

1. Short title

This Act may be cited as the *Petroleum Pipelines Act 1969*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

[3. *Repealed by No. 12 of 1990 s.120.*]

4. Interpretation

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

“**approved**” means approved by the Minister;

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

“**licence**” means a current licence granted under this Act authorising 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 transfer the land in fee simple under the *Land Administration Act 1997*, 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;

“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, storage tanks, appurtenances and appliances and any facility, or any facility of a class, which is declared for the time being under section 5 to be a pipeline facility

s. 4

for the purposes of this Act used in connection with a pipeline, but does not include —

- (a) a pipeline as defined in the *Petroleum (Submerged Lands) Act 1982*;
- (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;
- (d) a pipeline constructed or to be constructed by a public authority;
- (da) a pipeline that is part of a distribution system as defined in the *Energy Coordination Act 1994*;
- (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 for the time being under section 5 not to be a pipeline for the purposes of this Act;

“public authority” means —

- (a) a Minister of the Crown acting in his official capacity under an Act;
- (b) a State instrumentality; or
- (c) any body —
 - (i) which is established under an Act;
 - (ii) which administers or carries out any social service or public utility for the benefit of the State; and
 - (iii) which is declared for the time being under section 5 to be a public authority for the purposes of this Act;

“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;

“the Minister for Lands” means the Minister of the Crown to whom the Governor has for the time being committed the administration of the *Land Administration Act 1997*;

“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;

“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;

s. 5

- (c) to a licence, includes a reference to a licence as varied under this Act.

[Section 4 amended by No. 12 of 1990 s.121; No. 28 of 1994 s.64; No. 73 of 1994 s.4; No. 31 of 1997 ss.77(1) and 141; No. 20 of 1999 s.10(5).]

5. Power of Minister to make certain declarations for interpretation purposes

- (1) The Minister may by order —

- (a) declare —

- (i) a facility, or a facility of a class, specified in the order to be a pipeline facility;
- (ii) a pipeline, or a pipeline of a class, specified in the order not to be a pipeline; or
- (iii) a body which is referred to in paragraph (c) of the definition of “public authority” in section 4(1) and which is specified in the order to be a public authority,

for the purposes of this Act; or

- (b) repeal an order made under this subsection.

- (2) An order made under subsection (1) has legislative effect for the purposes of the definition of “**subsidiary legislation**” in section 5 of the *Interpretation Act 1984*.

- (3) A declaration of the kind referred to in subsection (1)(a)(i) may be made so as to have retrospective effect.

[Section 5 inserted by No. 12 of 1990² s.122.]

Part II — Licences and acquisition of land and rights over land

5A. Restriction on operation of this Part

This Part has effect subject to sections 90 and 92 of the *Gas Pipelines Access (Western Australia) Act 1998*.

[Section 5A inserted by No. 65 of 1998 s.89.]

6. Construction etc. of pipelines

- (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

s. 7

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

Penalty: \$50 000 or imprisonment for 5 years, or both.

[Section 6 amended by No. 12 of 1990 s.123.]

7. Power of Minister to authorise entry

- (1) The Minister may, on an application being made to him in that behalf by a person who proposes to apply for a licence, authorise in writing either specially or generally —
 - (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 authorised 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 authorised 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: \$1 000.

- (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.

[Section 7 amended by No. 12 of 1990 s.124.]

8. Application for a licence

- (1) An application for a licence —
- (a) shall be made in the approved form;
 - (b) shall be made in the approved 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;

s. 8

- (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);
- (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);
- (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);
 - (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 local government of each district in which 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.

s. 9

- (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.

[Section 8 amended by No. 12 of 1990 s.125; No. 28 of 1994 s.77; No. 14 of 1996 s.4.]

9. Refusal of licence

- (1) The Minister may refuse an application made under section 8(1), but such an application shall not be refused unless —
 - (a) the Minister has, by instrument in writing served on the applicant, given not less than 90 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) repealed]

[Section 9 amended by No. 28 of 1994 s.65.]

10. Grant of licence

(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 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 28 days has elapsed since the date on which the last of the notifications required to be given by section 8(3) 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), 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

s. 11

- (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.

[Section 10 amended by No. 28 of 1994 s.66.]

[10A. Repealed by No. 52 of 1995 s.43.]

11. Renewal of licence

- (1) A licensee may from time to time make an application for the renewal of the licence.
- (2) An application for the renewal of a licence —
- (a) shall, subject to subsection (3), be made not less than 6 months before the day the licence ceases to be in force;
 - (b) shall be made in the approved form;
 - (c) shall be made in the approved 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 6 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 90 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) repealed]

- (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.

[Section 11 amended by No. 28 of 1994 ss.67 and 77.]

12. Conditions of licence

- (1) A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.
- (2) The conditions referred to in subsection (1) may include a condition that the licensee shall complete the construction of, and commence to operate, the pipeline within the period specified in the licence.

s. 13

- (3) Subject to subsection (4), 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.
- (4) Where the Minister is satisfied that the licensee has acquired any such easement and is unable to register it, through circumstances beyond his control, the licensee, with the prior consent in writing of the Minister, may, pending the registration of the easement, commence or cause to be commenced the construction of the proposed pipeline over the land to which the easement relates, on such terms and conditions relating to the registration of the easement as the Minister thinks fit and specifies in the instrument of consent.

[Section 12 amended by No. 42 of 1970 s.2; No. 10 of 1983 s.3; No. 12 of 1990 s.126; No. 28 of 1994 s.68.]

13. Security

- (1) A security referred to in section 10 —
- (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 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 noncompliance 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 noncompliance with a condition; or
 - (c) any failure to bring suit against the subscriber upon the occurrence of a previous noncompliance 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 section 10 may be sued on if the subscriber fails to make any payment referred to in section 10(1).

[Section 13 amended by No. 28 of 1994 s.69.]

14. Term and form of licence

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

s. 15

and subject to this Act, remains in force for such period commencing on that day and not exceeding 21 years as may be specified in the licence.

- (2) A licence shall be in the form approved.

[Section 14 amended by No. 28 of 1994 s.77.]

15. Variation of licence on application by licensee

- (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.

- (2) An application under this section —

- (a) shall be in the approved 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), the Minister may vary the licence to such extent as he thinks necessary or may refuse to vary the licence.

[Section 15 amended by No. 28 of 1994 s.77.]

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

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.

17. Power of public authority to grant easements etc.

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. Authority to make arrangements and agreements for easements

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

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

- (1) Subject to subsection (2), for the purpose of carrying out any function authorised 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 Part 9 of the *Land Administration Act 1997*, as if for a public work within the meaning of the *Public Works Act 1902*, any land or any easement over any land whether for the time being subsisting or not.
- (2) Subsection (1) 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 Part 9 of the *Land Administration Act 1997* 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 Parts 9 and 10 of the *Land Administration Act 1997*, 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 administering that Act 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* or *Land Administration Act 1997*, be sent by the licensee to the Registrar of Titles, who shall duly record on the document of title relating to the land a statement or entry thereof; or
 - (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.

[Section 19 amended by No. 31 of 1997 ss.77(2)-(4) and 142.]

s. 20

20. Application of s.195 of the *Land Administration Act 1997* to easements for pipelines etc.

- (1) The provisions of section 195 of the *Land Administration Act 1997* 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), 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,the Minister shall notify in writing forthwith the Registrar of Titles or the Registrar of Deeds 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* or the *Land Administration Act 1997*; or
 - (e) is alienated from the Crown but is not under the operation of the *Transfer of Land Act 1893*.
- (4) On receipt of the notification pursuant to subsection (3), the Registrar of Titles or Registrar of Deeds, 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 section 19(4) 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 Minister shall notify forthwith in writing the Registrar of Titles or Registrar of Deeds.
- (b) Upon receipt of such notification the Registrar of Titles or Registrar of Deeds 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 section 19(4) 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) is registered shall, upon receiving notice from the Registrar of Titles or Registrar of Deeds, 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: \$500.

[Section 20 amended by No. 12 of 1990 s.127; No. 31 of 1997 s.77(5)-(8).]

21. Directions as to the conveyance of petroleum

(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 3 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 approved form;
- (b) shall be made in the approved 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) 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), 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) shall comply with the direction.
Penalty: \$10 000.
- (7) This section does not apply to a Code pipeline within the meaning of the Gas Pipelines Access (Western Australia) Law for which there is an approved Access Arrangement under that Law.

[Section 21 amended by No. 12 of 1990 s.128; No. 28 of 1994 s.77; No. 65 of 1998 s.89.]

22. Exemptions

- (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;

s. 23

- (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.

- (1a) Subsection (1)(c) does not apply to the licensee under a licence in respect of a Code pipeline within the meaning of the Gas Pipelines Access (Western Australia) Law for which there is an approved Access Arrangement under that Law.
- (2) Nothing in subsection (1) empowers the Minister to alter the term of a licence.

[Section 22 amended by No. 65 of 1998 s.89.]

23. Surrender of licence

- (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.
- (2) Subject to subsection (3), a consent, under subsection (1), to the surrender of a licence shall not be given unless the licensee —
 - (a) has paid all amounts payable by him 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 authorised by the licence, or has made arrangements that are satisfactory to the Minister for the removal or disposal of that property.
- (3) Where a licensee has not complied with the conditions to which the licence is subject and with the provisions of this Act and of the regulations, the Minister may give his consent to the surrender of a licence under subsection (1) 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), the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.

s. 24

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

- (1) Where a licensee —
- (a) has not complied with a condition to which the licence is subject;
 - (b) has not complied with a provision of this Act or of the regulations; or
 - (c) has not paid any amount payable by him under this Act within a period of 3 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), 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) on or before the date specified under that paragraph or under paragraph (d) on or before the date specified under that paragraph.

25. Change in position or route of pipeline

- (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),

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) shall comply with the direction.

Penalty: \$50 000 or imprisonment for 5 years, or both.

- (3) Where the Minister gives a direction under subsection (1) and the licensee to whom the direction is given complies with the

s. 26

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.

[Section 25 amended by No. 12 of 1990 s.129.]

26. Cancellation of licences not affected by other provisions

- (1) A licence may be wholly cancelled or partly cancelled on the ground that the licensee has not complied with a provision of this Act or of the regulations notwithstanding that he has been convicted of an offence by reason of his failure to comply with the provision.
- (2) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the ground that he 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 3 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 3 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. Removal of property etc. by licensee

- (1) Where a licence has been wholly cancelled or partly cancelled, or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the licensee, direct that person to do either or both of the following things —
 - (a) remove or cause to be removed from the relinquished area all property, or any property specified in the instrument, that was brought into that area by any person engaged or concerned in the operations authorised by the licence or make arrangements that are satisfactory to the Minister for the removal or disposal of that property and to make good, to the satisfaction of the Minister, any damage to the relinquished area caused by the removal of the property; and
 - (b) make good, to the satisfaction of the Minister, any damage to the relinquished area caused by any person engaged or concerned in those operations or caused by the removal of any property, pursuant to a direction referred to in paragraph (a), otherwise than in the manner specified in the direction.
- (2) The Minister may, by instrument in writing served on a licensee, direct him to do either or both of the following things —
 - (a) remove or cause to be removed from the licence area all property or any property specified in the instrument, that was brought into that area by any person engaged or concerned in the operations authorised by the licence or make arrangements that are satisfactory to the Minister for the removal or disposal of that property and to make

s. 28

good, to the satisfaction of the Minister, any damage to the licence area caused by the removal of the property; and

- (b) make good, to the satisfaction of the Minister, any damage to the licence area caused by any person engaged or concerned in those operations or caused by the removal of any property, pursuant to a direction referred to in paragraph (a), otherwise than in the manner specified in the direction.
- (3) A direction under subsection (1)(a) or (2)(a) may specify the manner in which the property, or any of the property specified in the direction, shall be removed.
 - (4) A person to whom a direction is given under either subsection (1) or (2) shall comply with the direction —
 - (a) in the case of a direction given under subsection (1) — within the period specified in the instrument by which the direction was given; or
 - (b) in the case of a direction given under subsection (2) — on or before the date of expiration of the licence.

Penalty: \$10 000.

[Section 27 amended by No. 12 of 1990 s.130.]

28. Powers of Minister where direction not complied with

- (1) Where a licence has been wholly cancelled or partly cancelled, or has expired, and —
 - (a) a direction referred to in section 27(1)(a) or (2)(a) for the removal of property from the relinquished area has not been complied with, the Minister may, by instrument published in the *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 section 27(1)(a) or (2)(a) for the removal of property from the relinquished area has been complied with, but any damage to the relinquished area or to the licence area, as the case may be, caused by the removal of the property has not been made good to the satisfaction of the Minister, the Minister may make good the damage in such manner as he thinks fit; or
 - (c) a direction referred to in section 27(1)(b) or (2)(b) has not been complied with, the Minister may do all or any of the things required by the direction to be done.
- (2) Where any property has not been removed from the relinquished area in accordance with a direction under subsection (1)(a), the Minister may do all or any of the following things —
- (a) remove, in such manner as he 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 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 section 27(1)(b) or (2)(b) to be done by that person;

s. 29

- (c) all or any part of any fees or amounts due and payable under this Act by that person.
- (4) Costs and expenses incurred by the Minister under subsection (2) —
 - (a) if incurred in relation to the removal, disposal or sale of property or the making good of damage caused by the removal of property, are a debt due by the owner of the property to the Crown; or
 - (b) if incurred in relation to the doing of any thing required by a direction under section 27(1)(b) or (2)(b), are a debt due by the person to whom the direction was given to the Crown,

and, to the extent to which they are not recovered under subsection (3), are recoverable in a court of competent jurisdiction.

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

29. Licence fees

- (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 the prescribed amount in respect of each kilometre or portion of a kilometre of the length of the pipeline on the first day of that year.
- (2) A fee referred to in subsection (1) is payable within one month after —
 - (a) in the case of the first year of the term of the licence the day on which that term commenced; and
 - (b) in the case of a year of the term of a licence other than the first — the anniversary of that day.

[Section 29 amended by No. 94 of 1972 s.4 (as amended by No. 42 of 1975); No. 10 of 1983 s.4; No. 12 of 1990 s.131.]

30. Penalty for late payment

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 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.

31. Fees and penalties debts due to the Crown

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.

32. Certain written laws not to apply to licensed pipelines

The provisions of —

- (a) local laws made under the *Local Government Act 1995* in relation to —
 - (i) the keeping, carrying, handling and storage of dangerous things; or
 - (ii) the use, management and maintenance of thoroughfares;
- (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 authorised by a licence.

[Section 32 inserted by No. 12 of 1990 s.132; amended by No. 14 of 1996 s.4.]

[Part IIA (sections 32A-32H) repealed by No. 52 of 1995 s.44.]

Part III — Construction and operation of pipeline

33. Construction to be along authorised route

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

34. Construction to be in accordance with prescribed standards etc.

- (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. Ceasing to operate pipeline

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

Penalty: \$50 000 or imprisonment for 5 years, or both.

- (2) It is not an offence against subsection (1) if the failure of the licensee to operate the pipeline continuously —
 - (a) was in the ordinary course of operating the pipeline;
 - (b) was for the purpose of repairing or maintaining the pipeline; or

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

[Section 35 amended by No. 12 of 1990 s.133.]

36. Consent to commencement or resumption of pipeline operations

- (1) The Minister, on application in writing served on him —
 - (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) may be given subject to such conditions, if any, as the Minister thinks fit and specifies in the instrument of consent.

36A. Work practices

A licensee shall operate the pipeline specified in the licence of which he is the registered holder in a proper and workmanlike manner and shall secure the safety, health and welfare of persons engaged in operations in connection with the pipeline.

Penalty: \$10 000.

[Section 36A inserted by No. 28 of 1994 s.70.]

s. 37

37. Waste or escape of substances from pipeline

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.

Penalty: \$10 000.

[Section 37 amended by No. 12 of 1990 s.134.]

37A. Conditions relating to insurance

(1) A licensee must maintain, as directed by the Minister from time to time, insurance against expenses or liabilities or specified things arising in connection with, or as a result of, the carrying out of work, or the doing of any other thing, under the licence, including expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum.

(2) Where —

- (a) a licence was in force immediately before the commencement of section 71 of the *Acts Amendment (Petroleum) Act 1994*;
- (b) the Minister has required the registered holder to maintain insurance under subsection (1); and
- (c) the Minister is satisfied that the required insurance is in effect,

the Minister shall issue a certificate to the effect that he is so satisfied.

(3) Where the Minister issues a certificate under subsection (2), any security in force in relation to the licence, being a security that was required under this Act before the commencement of section 71 of the *Acts Amendment (Petroleum) Act 1994*, is discharged.

- (4) The discharge of a security under subsection (3) has no effect on any liability arising under or in relation to the security before its discharge.

[Section 37A inserted by No. 28 of 1994 s.71.]

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

A licensee —

- (a) shall mark and keep marked in such manner as may be approved, 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: \$10 000.

[Section 38 amended by No. 12 of 1990 s.135; No. 28 of 1994 s.77.]

39. Where pipeline crosses agricultural land

- (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), 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.

s. 40

- (3) Any expenses so recovered do not affect any right to compensation that such person as is referred to in subsection (2) 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 route of pipeline crosses any water

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 —

- (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: \$10 000.

[Section 40 amended by No. 12 of 1990 s.136.]

41. Directions

- (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.
- (2) A direction given under this section to a licensee applies to the licensee and may also be expressed to apply to —
 - (a) a class of persons specified in the direction, being a class constituted by or included in one or both of the following classes of persons —
 - (i) servants or agents of, or persons acting on behalf of, the licensee;

(ii) persons performing work or services, whether directly or indirectly, for the licensee;

or

(b) any person (not being a person to whom the direction applies otherwise than in accordance with this paragraph) who is in the State for any reason touching, concerning, arising out of or connected with the construction, operation or maintenance of a pipeline, or is in, on, above, below or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property, that is in the State for a reason of that kind,

and, where a direction so expressed is given, the direction shall be deemed to apply to each person included in that specified class or to each person who is in the State as mentioned in paragraph (b), as the case may be.

(3) Where a direction under this section applies to a licensee and to a person referred in subsection (2)(a), the licensee shall cause a copy of the instrument by which the direction was given to be given to that other person or to be exhibited at a prominent position at a place in the State frequented by that other person.

Penalty: \$5 000.

(4) Where a direction under this section applies to a licensee and to a person referred to in subsection (2)(b), the licensee shall cause a copy of the instrument by which the direction was given to be exhibited at a prominent position at a place in the State.

Penalty: \$5 000.

(5) Where a direction under this section applies to a licensee and to a person referred to in subsection (2)(b), the Minister may, by notice in writing given to the licensee, require the licensee to cause to be displayed at such places in the State, and in such manner, as are specified in the notice, copies of the instrument by which the direction was given, and the licensee shall comply with that requirement.

Penalty: \$5 000.

s. 42

- (6) A direction under this section has effect and shall be complied with notwithstanding any previous direction under this section.
- (7) Section 67(1a) and (1b) applies in relation to directions made under this section in like manner as that section applies to the regulations.
- (8) A direction under this section has effect and shall be complied with notwithstanding anything in the regulations.
- (9) A person to whom a direction is given, or to whom a direction is expressed to apply, shall comply with the direction.

Penalty: \$10 000.

- (10) Where —
 - (a) a direction given under this section applies to a licensee and another person and that other person is prosecuted for an offence against subsection (9) in relation to that direction; and
 - (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person shall not be convicted of the offence unless the prosecutor proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

[Section 41 amended by No. 12 of 1990 s.137; No. 28 of 1994 s.72.]

42. Compliance with directions

- (1) Where a person does not comply with a direction given or applicable to the person under this Act or the regulations the Minister may do all or any of the things required by the direction to be done.
- (2) Costs and expenses incurred by the Minister under subsection (1) in relation to a direction are a debt due by the

person to whom the direction was given or was applicable to the State and are recoverable in a court of competent jurisdiction.

(3) Where —

- (a) a direction given under section 41 applies to a licensee and another person and an action under subsection (2) relating to the direction is brought against that other person; and
- (b) the person adduces evidence that the person did not know, and could not reasonably be expected to have known, of the existence of the direction,

the person is not liable under subsection (2) unless the plaintiff proves that the person knew, or could reasonably be expected to have known, of the existence of the direction.

(4) It is a defence if a person charged with failing to comply with a direction given or applicable to the person under this Act or under the regulations, or a defendant in an action under subsection (2), proves that that person took all reasonable steps to comply with the direction.

[Section 42 inserted by No. 28 of 1994 s.73.]

Part IV — Registration of licences and related instruments

43. Register of licences to be kept

- (1) For the purposes of this Part, the Minister shall keep a register of licences.
- (2) The Minister 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 authorised by the licence and the situation of any fittings, pumps, tanks, storage tanks, appurtenances and appliances and facilities referred to in the definition of “pipeline” in section 4(1) 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 Minister thinks proper and expedient in the public interest.
- (3) The Minister shall cause to be entered in the register a memorial —
 - (a) of any instrument varying, cancelling, surrendering or otherwise affecting a licence;
 - (b) of any instrument varying or revoking an instrument referred to in paragraph (a); and
 - (c) of the expiration of a licence.
- (4) It is a sufficient compliance with the requirements of subsection (2) or (3) if the Minister causes a copy of the licence or instrument to be entered in the register.

[(5) repealed]

- (6) The Minister 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.

[Section 43 amended by No. 12 of 1990 s.138.]

44. Approval and registration of transfers

- (1) A transfer of a licence is of no force until it has been approved by the Minister and an instrument of transfer is registered as provided by this section.
- (2) Where it is desired that a licence be transferred, one of the parties to the proposed transfer may make an application in writing to the Minister for approval of the transfer.
- (3) An application for approval of a transfer of a licence shall be accompanied by —
- (a) an instrument of transfer in the prescribed form executed by the registered holder or, if there are 2 or more registered holders, by each registered holder and by the transferee or, if there are 2 or more transferees, by each transferee;
 - (b) in a case where the transferee or one or more of the transferees is not a registered holder or are not registered holders of the licence, an instrument setting out —
 - (i) the technical qualifications of that transferee or those transferees;
 - (ii) details of the technical advice that is or will be available to that transferee or those transferees; and
 - (iii) details of the financial resources that are or will be available to that transferee or those transferees;

and

s. 44

- (c) one copy of the application and of the instrument referred to in paragraph (a).
- (4) The Minister shall not approve the transfer of a licence unless the application was lodged with the Minister within 3 months after the day on which the party who last executed the instrument of transfer so executed the instrument of transfer or within such longer period as the Minister, in special circumstances, allows.
- (5) Where an application for approval of a transfer is made in accordance with this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.
- (6) The Minister shall consider each application for approval of the transfer of a licence and determine whether to approve the transfer.
- (7) Where an application for approval of the transfer of a licence is made in accordance with this section, the Minister shall, by notice in writing served on the person who made the application, inform the person of the decision of the Minister.
- [(8) repealed]*
- (9) Where the Minister approves the transfer of a licence, the Minister shall forthwith endorse on the instrument of transfer and on one copy of the instrument a memorandum of approval and shall, on payment of the prescribed fee, enter in the register a memorandum of the transfer and the name of the transferee or of each transferee.
- (10) Upon the entry in the register of a memorandum of the transfer of a licence and of the name of the transferee or each transferee in accordance with subsection (9) —
 - (a) the transfer shall be deemed to be registered; and

- (b) the transferee becomes the registered holder, or the transferees become the registered holders, of the licence.
- (11) Where the Minister refuses to approve the transfer of a title, the Minister shall make a notation of the refusal in the register.
- (12) Where a transfer is registered —
 - (a) the copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Division; and
 - (b) the instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval of the transfer.
- (13) The mere execution of an instrument of transfer of a licence creates no interest in the licence.

[Section 44 inserted by No. 12 of 1990³ s.139; amended by No. 28 of 1994 s.74.]

45. Entries in register on devolution of rights of registered holder

- (1) A person upon whom the rights of a registered holder of a licence have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the licence.
- (2) Where the Minister is satisfied that the interests of the holder have devolved upon the applicant by operation of law, the Minister may, on payment of the prescribed fee, cause the name of the applicant to be entered in the register as the holder of the licence.
- (3) Where a company that is the registered holder of a particular licence has changed its name, it may apply in writing to the

s. 47

Minister to have its new name substituted for its previous name in the register in relation to that licence and, if —

- (a) the Minister is satisfied that the company has so changed its name; and
- (b) the company has paid the prescribed fee,

the Minister shall make the necessary alterations in the register.

[Section 45 amended by No. 10 of 1983 s.6; No. 12 of 1990 s.140.]

[46. Repealed by No. 12 of 1990 s.141.]

47. Approval of dealings creating etc. interests etc. in existing licences

- (1) This section applies to a dealing that would, but for subsection (2), have one or more of the following effects —
 - (a) the creation or assignment of an interest in an existing licence;
 - (b) the creation or assignment of a right (conditional or otherwise) to the assignment of an interest in an existing licence;
 - (c) the determining of the manner in which persons may exercise the rights conferred by, or comply with the obligations imposed by or the conditions of, an existing licence (including the exercise of those rights or the compliance with those obligations or conditions under cooperative arrangements for the recovery of petroleum);
 - (d) the creation or assignment of —
 - (i) an interest in relation to an existing licence, being an interest known as an overriding royalty interest, a production payment, a net profits interest or a carried interest; or

- (ii) any other interest that is similar to an interest referred to in subparagraph (i), being an interest relating to petroleum produced from operations authorised by an existing licence or relating to revenue derived as a result of the carrying out of operations of that kind;
- (e) the creation or assignment of an option (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
- (f) the creation or assignment of a right (conditional or otherwise) to enter into a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c) and (d);
- (g) the alteration or termination of a dealing, being a dealing that has one or more of the effects referred to in paragraphs (a), (b), (c), (d), (e) and (f),

but this section does not apply to a transfer to which section 44 applies.

- (2) A dealing to which this section applies is of no force in so far as the dealing would, but for this subsection, have an effect of a kind referred to in subsection (1) in relation to a particular licence until —
 - (a) the dealing, in so far as it relates to that licence, has been approved by the Minister; and
 - (b) an entry has been made in the register in relation to the dealing by the Minister in accordance with subsection (12).
- (3) A party to a dealing to which this section applies may lodge with the Minister —
 - (a) in a case where the dealing relates to only one licence, an application in writing for approval by the Minister of the dealing; or

s. 47

- (b) in any other case, a separate application in writing for approval by the Minister of the dealing in relation to each licence to which the dealing relates.
- (4) An application under subsection (3) for approval of a dealing —
 - (a) shall be accompanied by the instrument evidencing the dealing or, if that instrument has already been lodged with the Minister for the purposes of another application, a copy of that instrument; and
 - (b) may be accompanied by an instrument setting out such particulars (if any) as are prescribed for the purposes of an application for approval of a dealing of that kind.
- (4a) An application under subsection (3) for approval of a dealing shall be accompanied by 2 copies of —
 - (a) the application;
 - (b) the instrument referred to in subsection (4)(a); and
 - (c) any instrument lodged for the purposes of subsection (4)(b).
- (5) Subject to subsection (6), the Minister shall not approve a dealing unless the application for approval of the dealing is lodged with the Minister within 3 months after the day on which the party who last executed the instrument evidencing the dealing so executed the instrument or such longer period as the Minister, in special circumstances, allows.
- (6) Where a dealing relating to a licence was, immediately before the licence came into existence, a dealing referred to in section 47A(1), the Minister shall not approve the dealing unless —
 - (a) a provisional application for approval of the dealing was lodged in accordance with section 47A(1); or
 - (b) an application for approval of the dealing is lodged with the Minister in accordance with this section within 3 months after the day on which the licence came into

existence or such longer period as the Minister, in special circumstances, allows.

- (7) Where a dealing to which this section applies forms a part of the issue of a series of debentures, all of the dealings constituting the issue of that series of debentures shall, for the purposes of this section, be taken to be one dealing.
- (8) Where a dealing to which this section applies (including a dealing referred to in subsection (7)) creates a charge over some or all of the assets of a body corporate, the person lodging the application for approval of the dealing shall be deemed to have complied with subsection (4)(a), and with subsection (4a) in so far as that subsection requires 2 copies of the document referred to in paragraph (4)(a) to accompany the application, if the person lodges with the application 3 copies of each document required to be lodged with the National Companies and Securities Commission⁴ relating to the creation of that charge pursuant to section 201 of the *Companies (Western Australia) Code*⁵ or pursuant to the corresponding provision of a law of the Commonwealth or another State or a Territory.
- (9) On receipt of an application made under this section, the Minister shall enter a memorandum in the register of the date on which the application was lodged and may make such other notation in the register as the Minister considers appropriate.
- (10) The Minister may approve or refuse to approve a dealing to which this section applies in so far as the dealing relates to a particular licence.
- (11) The Minister shall, by notice in writing served on the person who made an application for approval of a dealing, inform the person of the decision of the Minister.
- (12) If the Minister approves a dealing, the Minister shall endorse on the original instrument evidencing the dealing and on one copy of that instrument or, if the original instrument was not lodged with the application, on 2 of the copies of that instrument a

s. 47

memorandum of approval and, on payment of the prescribed fee, make an entry of the approval of the dealing in the register on the memorial relating to, or on the copy of, the licence in respect of which the approval is sought.

- (13) Where an entry is made in the register in relation to a dealing in accordance with subsection (12) —
- (a) if the dealing was approved before the commencement of section 141 of the *Acts Amendment (Petroleum) Act 1990*¹ or the application for approval of the dealing was not accompanied by an instrument for the purpose of subsection (4)(b), one copy of the instrument evidencing the dealing endorsed with a memorandum of approval shall be retained by the Minister and made available for inspection in accordance with this Part;
 - (b) if the application for approval of the dealing was accompanied by an instrument for the purpose of subsection (4)(b), a copy of that instrument endorsed with a copy of the memorandum of approval of the dealing shall be retained by the Minister and made available for inspection in accordance with this Part but a copy of the instrument evidencing the dealing shall not be so made available; and
 - (c) the original instrument evidencing the dealing, or a copy of the original instrument, as the case requires, endorsed with a memorandum of approval and the instrument (if any) lodged for the purpose of subsection (4)(b) shall be returned to the person who made the application for approval.
- (13a) The approval of a dealing or the making of an entry in the register in relation to a dealing is not rendered ineffective by any failure to comply, in relation to the application for approval of the dealing, with the requirements of this section.
- (14) Where the Minister refuses to approve a dealing, the Minister shall make a notation of the refusal in the register.

- (15) In this section, “**charge**” and “**debenture**” have the same respective meanings as they have for the purposes of section 201 of the *Companies (Western Australia) Code*⁵.

[Section 47 inserted by No. 12 of 1990⁶ s.141.]

47A. Approval of dealings in future interests etc.

- (1) Where 2 or more persons enter into a dealing relating to a licence that may come into existence in the future and that dealing would, if the licence came into existence, become a dealing to which section 47 applies, a person who is a party to the dealing may, during the prescribed period in relation to the licence, lodge with the Minister —
- (a) in a case where the dealing relates to only one licence that may come into existence in the future, a provisional application in writing for approval by the Minister of the dealing; or
 - (b) in any other case, a separate provisional application in writing for approval by the Minister of the dealing in relation to each licence that may come into existence in the future and to which the dealing relates.
- (2) Section 47(4), (7) and (8) applies to a provisional application lodged under subsection (1) as if that provisional application were an application lodged under section 47(3).
- (3) Where —
- (a) the licence to which a dealing referred to in subsection (1) relates comes into existence; and
 - (b) upon that licence coming into existence, the dealing becomes a dealing to which section 47 applies,

the provisional application lodged under subsection (1) in relation to the dealing shall be treated as if it were an application lodged under section 47(3) on the day on which that licence came into existence.

s. 48

- (4) A reference in subsection (1) to the prescribed period, in relation to a licence, is a reference to the period —
- (a) commencing on the day of service of an instrument informing the applicant for the licence that the Minister is prepared to grant the licence; and
 - (b) ending on the day on which the licence comes into existence.

[Section 47A inserted by No. 12 of 1990⁶ s.141.]

48. True consideration to be shown

A person who is a party to a transfer referred to in section 44, a dealing to which section 47 applies or a dealing referred to in section 47A(1) shall not lodge with the Minister —

- (a) an instrument of transfer;
- (b) an instrument evidencing the dealing; or
- (c) an instrument of the kind referred to in section 47(4)(b),

that contains a statement relating to the consideration for the transfer or dealing, or to any other fact or circumstance affecting the amount of the fee payable in respect of the transfer or dealing under this Act, being a statement that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: \$10 000.

[Section 48 inserted by No. 12 of 1990 s.142.]

49. Minister not concerned with certain matters

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

[Section 49 amended by No. 12 of 1990 s.143.]

50. Power of Minister to require information as to proposed dealings

- (1) The Minister may require the person lodging an application for approval of a transfer or dealing or a provisional application for approval of a dealing under this Part to furnish to him in writing such information concerning the transfer or dealing as the Minister considers necessary or advisable.
- (1a) The Minister may require a person who is a party to a dealing approved by the Minister under section 47 to furnish to the Minister a statement in writing setting out such information concerning alterations in the interests or rights existing in relation to the licence to which the approved dealing relates as the Minister considers necessary or advisable.
- (1b) The Minister may require a person making an application under section 45(1) or (3) or 53A(2) to furnish to the Minister in writing such information concerning the matter to which the application relates as the Minister considers necessary or advisable.
- (1c) A person shall not fail or refuse to comply with a requirement given to the person under subsection (1), (1a) or (1b).
Penalty: \$5 000.
- (2) A person who is so required to furnish information shall not furnish information that is false or misleading in a material particular.
Penalty: \$5 000.

[Section 50 amended by No. 12 of 1990 s.144.]

51. Production and inspection of books, records and documents

- (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 first-mentioned person and relating to

s. 52

a transfer or dealing in relation to which approval is sought under this Part.

- (1a) The Minister may require any person to produce to the Minister or to make available for inspection by the Minister any documents in the possession or under the control of that person and relating to an application made to the Minister under section 45(1) or (3) or 53A(2).
- (2) A person shall not fail or refuse to comply with any requirement given to him under subsection (1) or (1a).

Penalty: \$5 000.

[Section 51 amended by No. 12 of 1990 s.145.]

52. Inspection of register and documents

- (1) The register and all instruments or copies of instruments subject to inspection under this Part shall at all convenient times be open for inspection by any person upon payment of the prescribed fee.

[(2) repealed]

[Section 52 amended by No. 12 of 1990 s.146.]

53. Evidentiary provisions

- (1) The register shall be received by all courts and tribunals as evidence of all matters required or authorised by this Part to be entered in the register.
- (2) The Minister may, on payment of the prescribed fee, supply copies of or extracts from the register or of or from any instrument lodged with him 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.

53A. Minister may make corrections to register

- (1) The Minister may alter the register for the purposes of correcting a clerical error or an obvious defect in the register.
- (2) Subject to subsection (3), the Minister may, on application being made in writing to the Minister by a person or of the Minister's own motion, make such entries in the register as the Minister considers appropriate for the purposes of ensuring that the register accurately records the interests and rights existing in relation to a licence.
- (3) Where the Minister proposes to make an entry in the register in accordance with subsection (2), the Minister shall cause to be published in the *Gazette* a notice —
 - (a) setting out the terms of the entry that the Minister proposes to make in the register; and
 - (b) inviting interested persons to give to the Minister, by such day as is specified in the notice, being a day not earlier than 45 days after the publication of the notice, submissions in writing relating to the making of the entry.
- (4) Where submissions are, in accordance with a notice under subsection (3), given to the Minister in relation to the proposed making of an entry in the register, the Minister shall —
 - (a) take those submissions into account before making an entry in the register; and
 - (b) after making an entry in the register, cause to be published in the *Gazette* a notice setting out the terms of the entry.

[Section 53A inserted by No. 12 of 1990 s.147.]

s. 54

54. Appeals

- (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. Minister not liable to certain actions

Subject to section 54, neither the Minister nor a person acting under the direction or authority of the Minister 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.

[Section 55 amended by No. 12 of 1990⁷ s.148.]

56. Offences

A person who wilfully —

- (a) makes, causes to be made or concurs in making a false entry in the register; or

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

commits an offence and is liable to a penalty of \$5 000.

[Section 56 amended by No. 12 of 1990 s.149.]

Part V — Miscellaneous

57. Pipelines to remain property of owner

- (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.
- (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.

58. Notices of grants etc. of licences to be published

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.

59. Judicial notice

- (1) All courts, tribunals and persons acting judicially shall take judicial notice of the signature of a person —
 - (a) who is, or has been, the Minister or a delegate of the Minister; or
 - (b) who has been the Under Secretary or the Principal Registrar⁸,

and of the fact that that person is, or has been, the Minister, a delegate of the Minister, the Under Secretary or the Principal Registrar⁸, as the case requires.

- (2) In subsection (1) —
“**Principal Registrar**”⁸ and “**Under Secretary**” have the same respective meanings as they had before the commencement of section 150 of the *Acts Amendment (Petroleum) Act 1990*¹.

[Section 59 inserted by No. 12 of 1990 s.150; amended by No. 28 of 1994 s.75.]

60. Address for service

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

60A. Service of documents on 2 or more licensees

- (1) Where there are 2 or more registered holders of a licence, those registered holders shall, by notice in writing signed by each of them and served on the Minister, nominate one of the registered holders as being the person on whom documents relating to the licence that are required or permitted by this Act to be served may be served.
- (2) Subject to subsections (3) and (4), where —
- (a) a document relating to a licence is required or permitted by this Act to be served on the registered holder;
 - (b) there are 2 or more registered holders of the licence; and
 - (c) the document is served on a person in respect of whom a nomination under subsection (1) is in force in relation to the licence,

the document shall be deemed to have been served on each of those registered holders.

- (3) Where —
- (a) a person has been nominated under subsection (1) in relation to a licence; and

s. 61

- (b) one of the registered holders of the licence, by notice in writing served on the Minister, revokes that nomination,

that nomination ceases to be in force and the registered holders of the licence shall forthwith make a fresh nomination under subsection (1) in relation to the licence.

- (4) Where —

- (a) a person has been nominated under subsection (1) in relation to a licence; and
- (b) the person so nominated ceases to be one of the registered holders of the licence,

that nomination ceases to be in force and, if 2 or more registered holders of the licence remain, those holders shall forthwith make a fresh nomination under subsection (1) in relation to the licence.

[Section 60A inserted by No. 12 of 1990 s.151.]

61. Power of Minister to delegate powers and functions

- (1) The Minister may —

- (a) delegate to any officer of the Department of Mines⁹ 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.
- (4) In subsection (1)(a) —
“the Department of Mines”⁹ means the department principally assisting the Minister in the administration of this Act.

[Section 61 amended by No. 12 of 1990 s.152.]

62. Inspectors

- (1) The Minister may, by instrument in writing, appoint a person to be an inspector for the purposes of this Act and the regulations.
- (2) The Minister may furnish to an inspector a certificate stating that he 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: \$500.

[Section 62 amended by No. 12 of 1990 s.153.]

63. Powers of inspectors

- (1) For the purposes of this Act and the regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 62 —
 - (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

s. 64

- (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: \$5 000.

[Section 63 amended by No. 12 of 1990 s.154.]

64. **Theft of petroleum from pipeline**

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.

65. **Damaging etc. pipelines**

A person who unlawfully damages a pipeline or interferes with the operation of a pipeline is guilty of an offence and is liable to a penalty of \$50 000 or imprisonment for 5 years, or both.

[Section 65 amended by No. 12 of 1990 s.155.]

66. Continuing offences

- (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), 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), shall be deemed to continue so long as that failure continues, notwithstanding that any period within which the act was required to be done has elapsed.
- (3) Where, under either subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, upon conviction for such an additional offence, to a fine not exceeding \$10 000.

[Section 66 amended by No. 12 of 1990 s.156.]

66A. Persons concerned in commission of offences

Without limiting section 7 of *The Criminal Code*, a person who by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under this Act or the regulations shall be deemed to have committed that offence and shall be punishable accordingly.

[Section 66A inserted by No. 12 of 1990 s.157.]

66B. Prosecution of offences

- (1) In this section “**prescribed offence**” means an offence against this Act the penalty in respect of which may include a term of imprisonment.

s. 66C

- (2) Except as provided by subsection (3), a prescribed offence is triable only on indictment.
- (3) A court of petty sessions may hear and determine proceedings for a prescribed offence if the court is satisfied that it is appropriate to do so, and the defendant and the prosecutor consent.
- (4) Where, in accordance with subsection (3), a court of petty sessions convicts a person of a prescribed offence, the penalty that the court may impose in respect of the offence is a fine not exceeding \$10 000 or imprisonment for a term not exceeding 2 years, or both.
- (5) An offence against this Act other than a prescribed offence is, unless the contrary intention appears, punishable summarily.

[Section 66B inserted by No. 12 of 1990 s.157.]

66C. Orders for forfeiture in respect of certain offences

- (1) Where a person is convicted by the Supreme Court of an offence against section 6 the Court may, in addition to imposing a penalty, make one or more of the following orders —
 - (a) an order for the forfeiture of specified equipment used in the commission of the offence; and
 - (b) an order —
 - (i) for the forfeiture of specified petroleum conveyed through a pipeline in the course of the commission of the offence;
 - (ii) for the payment by that person to the State of an amount equal to the proceeds of the sale of specified petroleum so conveyed; or
 - (iii) for the payment by that person to the State of an amount equal to the value at the well-head, assessed by the Court, of the quantity, so assessed, of petroleum so conveyed or for the

payment of such part of that amount as the Court, having regard to all the circumstances, thinks fit.

- (2) Where the Court is satisfied that an order made under subsection (1)(b)(i) cannot, for any reason, be enforced, the Court may, upon the application of the person by whom the proceedings were brought, set aside the order and make either of the orders referred to in subsection (1)(b)(ii) or (iii).
- (3) The Court may, before making an order under this section, require notice to be given to, and hear, such persons as the Court thinks fit.

[Section 66C inserted by No. 12 of 1990 s.157.]

66D. Disposal of forfeited goods

Goods in respect of which an order is made under section 66C shall be dealt with as the Attorney General directs and, pending his direction, may be detained in such custody as the Supreme Court directs.

[Section 66D inserted by No. 12 of 1990 s.157.]

67. Regulations

- (1) The Governor may make 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

s. 67

prescribed for carrying out or giving effect to this Act and for the due administration thereof.

- (1a) The regulations may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a code of practice or standard contained in an instrument (including an instrument issued or made outside Australia), as in force or existing at the time when the regulations take effect or as in force or existing from time to time, being a code of practice or standard that is relevant to that matter.
- (1b) The regulations may prohibit the doing of an act or thing either unconditionally or subject to conditions, including conditions requiring the grant, as prescribed by the regulations, of the consent or approval of a person specified in the regulations.
- (2) The regulations may provide, in respect of an offence against the regulations, for the imposition of —
 - (a) a fine not exceeding \$10 000; or
 - (b) a fine not exceeding that amount for each day on which the offence occurs.

[Section 67 amended by No. 12 of 1990 s.158; No. 28 of 1994 s.76.]



Notes

¹ This reprint is a compilation as at 12 May 2000 of the *Petroleum Pipelines Act 1969* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Petroleum Pipelines Act 1969</i>	112 of 1969	28 November 1969	Proclaimed 12 December 1969 (see section 2 and <i>Gazette</i> 12 December 1969 p.4002)	
<i>Petroleum Pipelines Act Amendment Act 1970</i>	42 of 1970	23 September 1970	23 September 1970	
<i>Metric Conversion Act 1972</i> (The Fourth Schedule was inserted by the <i>Metric Conversion Act Amendment Act 1975</i> (No. 42 of 1975))	94 of 1972	4 December 1972	The relevant amendments, as set out in the Fourth Schedule, took effect on 19 December 1975 (see section 4(2) and <i>Gazette</i> 19 December 1975 p.4577)	
<i>Petroleum Pipelines Amendment Act 1983</i>	10 of 1983	7 October 1983	Proclaimed 11 November 1983 (see section 2 and <i>Gazette</i> 11 November 1983 p.4503)	
<i>Acts Amendment (Petroleum) Act 1990</i>	12 of 1990	31 July 1990	Proclaimed 1 October 1990 (see section 2(1) and <i>Gazette</i> 28 September 1990 p.5099); section 132: deemed to operate from 12 December 1969 (see section 2(2))	Sections 122(2), 139(2), (3) and (4), 141(2)-(7) and 148(2): Transitional ^{2, 3, 6, 7}

Petroleum Pipelines Act 1969

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Land (Titles and Traditional Usage) Act 1993,</i> section 45	21 of 1993	2 December 1993	2 December 1993	Clause 3(2) of Part 5 of Schedule 1: Transitional ¹⁰
<i>Acts Amendment (Petroleum) Act 1994,</i> Part 4	28 of 1994	29 June 1994	Proclaimed 22 July 1994 (see section 2 and <i>Gazette</i> 22 July 1994 p.3728)	
<i>Statutes (Repeals and Minor Amendments) Act 1994,</i> section 4	73 of 1994	9 December 1994	9 December 1994	
<i>Acts Amendment and Repeal (Native Title) Act 1995,</i> Part 9	52 of 1995	24 November 1995	Proclaimed 9 December 1995 (see section 2 and <i>Gazette</i> 8 December 1995 p.5935)	
<i>Local Government (Consequential Amendments) Act 1996,</i> section 4	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Acts Amendment (Land Administration) Act 1997,</i> Part 50 and sections 141 and 142	31 of 1997	3 October 1997	30 March 1998 (see section 2 and <i>Gazette</i> 27 March 1998 p.1765)	
<i>Gas Pipelines Access (Western Australia) Act 1998,</i> section 89	65 of 1998	15 January 1999	Proclaimed 9 February 1999 (see section 2 and <i>Gazette</i> 8 February 1999 p.441)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Energy Coordination Amendment Act 1999, section 10(5)</i>	20 of 1999	24 June 1999	Proclaimed 16 October 1999 (see section 2 and <i>Gazette</i> 15 October 1999 p.4865)	

NB. The *Petroleum Pipelines Act 1969* is affected by the *Dampier to Bunbury Pipeline Act 1997* (No. 53 of 1997), Division 8 of Schedule 4 which reads as follows —

“

38. Act applies to DBNGP

- (1) Any pipeline in the privatised 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 privatised 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 authorise 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 privatised 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 authorised 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.

”

^{1a} As at the date of this reprint an item of Schedule 2 of the *Petroleum Safety Act 1999* (No. 19 of 1999) was not in operation. It reads as follows —

“

Petroleum Pipelines Act 1969 Section 36A is amended by deleting “and shall secure the safety, health and welfare of persons engaged in operations in connection with the pipeline”.

Section 67(1)(a) is amended by deleting “and the safety measures to be taken in respect thereof”.

”

Also at the date of this reprint Division 8 of Schedule 2 of the *Native Title (State Provisions) Act 1999* (No. 60 of 1999) was not in operation. It reads as follows —

“

Division 8 — *Petroleum Pipelines Act 1969*

58. The Act amended

The amendments in this Division are to the *Petroleum Pipelines Act 1969*.

59. Section 10A inserted

After section 10 the following section is inserted —

“

10A. Licence not to affect native title

- (1) A licence is not to be taken to authorise the licensee or any other person to do any act that affects native title.
- (2) In subsection (1) —
“affects” and “native title” have the meanings given to them respectively by sections 227 and 223 of the *Native Title Act 1993* of the Commonwealth.

”

60. Section 19 amended

After section 19(1) the following subsection is inserted —

“

- (1a) Where the taking of land or an easement in land under subsection (1) is a Part 2 act, a Part 3 act or Part 4 act within the meaning of the *Native Title (State Provisions) Act 1999*, the operation of that subsection is subject to section 2.6, 3.5 or 4.3, as the case may be, of that Act.

”

”

² Section 122(2) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) reads as follows —

“

- (2) A declaration made under —
- (a) section 5(1)(a) of the principal Act before its repeal and substitution by this section and in force immediately before the commencement of this section shall on that commencement be deemed to have been made under section 5(1)(a)(iii); or
 - (b) section 5(1)(b) of the principal Act before its repeal and substitution by this section and in force immediately before the commencement of this section shall on that commencement be deemed to have been made under section 5(1)(a)(ii),

of the principal Act as substituted by this section.

”

³ Section 139(2), (3) and (4) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) reads as follows —

“

- (2) Section 44 of the principal Act as amended by this Act applies in relation to applications for approval of transfers of licences lodged after the commencement of this section.
- (3) Notwithstanding the repeal of section 44 of the principal Act effected by subsection (1), that section continues to apply in relation to applications for approval of transfers of licences lodged before the commencement of this section.
- (4) A transfer approved and registered under section 44 of the principal Act shall be deemed to have been approved and registered under section 44 of the principal Act as amended by this Act.

”

⁴ In respect of matters arising after 1 January 1991, the Australian Securities Commission has the function conferred on the National Companies and Securities Commission by section 47(8) — see section 66(2) of the *Corporations (Western Australia) Act 1990*.

⁵ In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions of Division 2 of Part 13 of the *Corporations (Western Australia) Act 1990*.

⁶ Section 141(2), (3), (4), (5), (6) and (7) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) reads as follows —

“

- (2) Subject to this section, sections 47 and 47A of the principal Act as amended by this Act apply in relation to dealings evidenced by instruments executed after the commencement of this section.
- (3) A party to an instrument to which section 47 of the principal Act applied, being an instrument that had not been approved under that section of that Act, may, if the instrument evidences a dealing —
 - (a) to which section 47 of the principal Act as amended by this Act would, if the instrument had been executed after the commencement of this section, apply; and
 - (b) that relates to a licence that was in existence at the time of execution of the instrument,make an application in writing, within 12 months after the commencement of this section, to the Minister for approval of the dealing.
- (4) Where —
 - (a) before the commencement of this section, 2 or more persons entered into a dealing relating to a licence that was not in existence at the time of execution of the instrument evidencing the dealing;
 - (b) that dealing would, if the instrument evidencing the dealing had been executed after the commencement of this section, be a dealing referred to in subsection 47A(1) of the principal Act as amended by this Act; and
 - (c) that licence has come, or comes, into existence,a party to the dealing may make an application in writing within —
 - (d) in a case where that licence came into existence before the commencement of this section, 12 months after that commencement; or
 - (e) in any other case, 3 months after that licence comes into existence,to the Minister for approval of the dealing.
- (5) Section 47 of the principal Act as amended by this Act (other than subsections (5) and (6) of that section) applies to a dealing in respect of which an application is made under subsection (3) or (4) of this section.

- (6) If, when the first regulations made for the purposes of section 47(4)(b) of the principal Act, as amended by this Act, take effect, an application for approval of a dealing has been made but the Minister has neither approved nor refused to approve the dealing —
- (a) the Minister shall give to the applicant written notice that the applicant is entitled to lodge an instrument for the purpose of section 47(4)(b) in relation to the application;
 - (b) the applicant may lodge an instrument for the purpose of section 47(4)(b);
 - (c) the application shall not be dealt with by the Minister until after the end of 30 days after the day on which notice is given for the purpose of paragraph (a); and
 - (d) where the applicant lodges an instrument under paragraph (b), the applicant shall lodge with the instrument 2 copies of the instrument.
- (7) An instrument lodged under subsection (6) shall be taken, for the purposes of section 47(13) of the principal Act, as amended by this Act, to have accompanied the application when the application was lodged.

”

⁷ Section 148(2) of the *Acts Amendment (Petroleum) Act 1990* (No. 12 of 1990) reads as follows —

“

- (2) Notwithstanding the amendment of section 55 of the principal Act by this section, neither a person who was the Principal Registrar within the meaning of the principal Act before the commencement of this section nor a person who acted under the direction or authority of that Principal Registrar before that commencement 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 Part IV of the principal Act.

”

⁸ Now known as Director, Mining Registration Division.

⁹ Now known as Department of Minerals and Energy.

¹⁰ Clause 3(2) of Part 5 of Schedule 1 of the *Land (Titles and Traditional Usage) Act 1993* (No. 21 of 1993) reads as follows —

“

- (2) Part IIA inserted by subsection (1) does not apply to an application for a licence made before the commencement of this section.

”

Defined Terms

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
approved.....	4(1)
charge.....	47(15)
debenture.....	47(15)
inspector.....	4(1)
land.....	19(3)(a)
licence.....	4(1)
licence area.....	4(1)
licensee.....	4(1)
owned.....	4(1)
owner.....	4(1)
partly cancelled.....	4(1)
petroleum.....	4(1)
pipeline.....	4(1)
prescribed offence.....	66B(1)
Principal Registrar.....	59(2)
public authority.....	4(1)
register.....	4(1)
registered holder.....	4(1)
the Department of Mines.....	61(4)
the Minister for Lands.....	4(1)
the relinquished area.....	4(1)
Under Secretary.....	59(2)
wholly cancelled.....	4(1)