

Authorised Version No. 016

Pipelines Act 2005

No. 61 of 2005

Authorised Version incorporating amendments as at
1 September 2015

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Pipelines Act 2005

No. 61 of 2005

Authorised Version incorporating amendments as at
1 September 2015

The Parliament of Victoria enacts as follows:

Part 1—Preliminary

1 Purpose

The main purpose of this Act is to re-enact with amendments the laws relating to the construction and operation of pipelines in Victoria.

2 Commencement

- (1) This Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 July 2007, it comes into operation on that day.

3 Objectives

The objectives of this Act are—

- (a) to facilitate the development of pipelines for the benefit of Victoria;
- (b) to create an effective, efficient and flexible regulatory system for the construction and operation of pipelines;
- (c) to establish sound consultative processes relating to the construction and operation of pipelines;
- (d) to establish processes to determine the most efficient and suitable route for each pipeline;

- (e) to protect the public from environmental, health and safety risks resulting from the construction and operation of pipelines;
- (f) to ensure that pipelines are constructed and operated in a way that minimises adverse environmental impacts and has regard for the need for sustainable development.

4 Principles of sustainable development

- (1) It is the intention of Parliament that in the administration of this Act regard should be given to the principles of sustainable development.
- (2) For the purposes of this Act the principles of sustainable development are—
 - (a) individual and community wellbeing and welfare should be enhanced by following a path of economic development that safeguards the welfare of future generations;
 - (b) there should be equity within and between generations;
 - (c) biological diversity should be protected and ecological integrity maintained;
 - (d) there should be recognition of the need to develop a strong, growing, diversified and internationally competitive economy that can enhance the capacity for environment protection;
 - (e) measures to be adopted should be cost effective and flexible, not disproportionate to the issues being addressed, including improved valuation, pricing and incentive mechanisms;
 - (f) both long and short term economic, environmental, social and equity considerations should be effectively integrated into decision-making;

- (g) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- (h) decision-making should be guided by—
 - (i) a careful evaluation to avoid serious or irreversible damage to the environment wherever practicable; and
 - (ii) an assessment of the risk-weighted consequences of various options;
- (i) development should make a positive contribution to regional development and respect the aspirations of the community and of Indigenous peoples;
- (j) decisions and actions should provide for community involvement in issues that affect them.

5 Definitions

In this Act—

amend in relation to the conditions of a licence, includes adding conditions to, and removing conditions from, the licence;

apparatus and works in relation to a pipe or system of pipes, includes—

- (a) apparatus for inducing or facilitating the flow or movement of anything through the pipe or system of pipes;
- (b) apparatus or structures for giving protection or support to the pipe or system of pipes;

- (c) apparatus for transmitting information or instruction with regard to the operation of the pipe or system of pipes;
- (d) apparatus and facilities required to maintain the pipe or system of pipes;
- (e) apparatus or facilities permitting the addition of anything to or removal of anything from the pipe or system of pipes to facilitate flow;
- (f) apparatus and facilities required for the inspection or safe operation of the pipe or system of pipes;
- (g) prime movers for the operation of any apparatus or works mentioned in paragraph (a) or (e);

S. 5 def. of *applicant* inserted by No. 68/2014 s. 72(a).

applicant means a person who has lodged an application for a licence to construct and operate a pipeline;

S. 5 def. of *approved consultation information* substituted by No. 68/2014 s. 72(b).

approved consultation information—

- (a) in relation to a proposed pipeline, means the information to be provided to owners and occupiers that is included in an approved consultation plan for that pipeline;
- (b) in relation to a proposed significant alteration of the route of a pipeline, means the information to be provided to owners and occupiers that is included in an approved consultation plan for that alteration;

approved consultation plan means a consultation plan approved under Division 1 of Part 4 or Division 6 of Part 5;

S. 5 def. of *approved consultation plan* substituted by No. 68/2014 s. 72(c).

construction, in relation to a pipeline, includes the placing or testing of the pipeline;

Crown land means land that is, or that is by any Act deemed to be, unalienated land of the Crown, and includes—

- (a) land of the Crown that is reserved permanently or temporarily by or under any Act; and
- (b) land of the Crown that is occupied by a person under a lease, licence or other right under this or any other Act—

but does not include land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**;

Crown Land Minister, in relation to Crown land, means the Minister for the time being responsible for the Act under which the land is controlled or managed;

Department means the Department of State Development, Business and Innovation;

S. 5 def. of *Department* amended by No. 70/2013 s. 4(Sch. 2 item 35).

Energy Safe Victoria means Energy Safe Victoria established under the **Energy Safe Victoria Act 2005**;

Environment Effects Minister means the Minister for the time being administering the **Environment Effects Act 1978**;

hydrocarbon means a compound of hydrogen and carbon in the liquid or gaseous state, or a mixture consisting mainly of such compounds;

improvement notice means an improvement notice issued under section 180;

inspector means a person authorised by the Minister under section 157;

licence means a licence issued by the Minister under Part 5;

licensee, in relation to a pipeline, means a person who is the holder of a licence issued under Part 5 for the construction and operation of that pipeline;

Native Title Act means the Native Title Act 1993 of the Commonwealth;

native title holder has the same meaning as in the Native Title Act;

occupier means a lessee or licensee of land;

operation, in relation to a pipeline, includes testing, maintenance, alteration, decommissioning and removal of the pipeline;

owner—

- (a) in relation to Crown land, includes the native title holder of the land; and
- (b) in relation to private land under the **Transfer of Land Act 1958** (other than land in an identified folio under that Act), means the person who is

S. 5 def. of ***operation*** amended by No. 68/2014 s. 72(d).

S. 5 def. of ***owner*** substituted by No. 68/2014 s. 72(e).

registered or entitled to be registered as the proprietor of the land; and

- (c) in relation to other private land, means—
- (i) if the land is mortgaged, the mortgagor; and
 - (ii) if the land is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**, the licensee, under that Part, of the land; and
 - (iii) in any other case, the person who has the fee in the land;

petroleum has the meaning set out in section 7;

pipe or system of pipes includes—

- (a) all apparatus and works associated with the pipe or system of pipes; and
- (b) a part of the pipe or system of pipes;

pipeline means a pipe or system of pipes for the conveyance of anything through the pipe or system of pipes;

Note

Part 2 identifies the pipelines to which this Act applies.

pipeline corridor means a corridor of land within which a pipeline is proposed to be constructed;

S. 5 def. of ***pipeline corridor*** inserted by No. 68/2014 s. 72(a).

pipeline operation means the construction or operation of a pipeline;

Planning Minister means the Minister for the time being administering the **Planning and Environment Act 1987**;

private land means land that is not Crown land;

prohibition notice means a notice issued under section 181;

S. 5 def. of ***proponent*** amended by No. 68/2014 s. 72(f).

proponent means a person who proposes to apply for a licence to construct and operate a pipeline;

S. 5 def. of ***proposed pipeline corridor*** repealed by No. 68/2014 s. 72(g).

* * * * *

S. 5 def. of ***public authority*** substituted by No. 68/2014 s. 72(h).

public authority means a body established for a public purpose by or under any Act;

rehabilitation bond has the meaning set out in section 140;

responsible authority means responsible authority under the **Planning and Environment Act 1987**;

retention period means a period of 60 days after the seizure of a thing under this Act;

Secretary means Secretary to the Department;

survey includes examination;

Victorian Rail Track has the same meaning as it has in section 3 of the **Transport Integration Act 2010**;

S. 5 def. of *Victorian Rail Track* substituted by No. 6/2010 s. 203(1) (Sch. 6 item 34) (as amended by No. 45/2010 s. 22).

Water Minister means the Minister for the time being administering the **Water Act 1989**;

wilderness Crown land means land that is—

- (a) a reference area under the **Reference Areas Act 1978**; or
- (b) a wilderness zone or wilderness park under the **National Parks Act 1975**.

6 Reference provisions

- (1) A reference in this Act to a pipeline area is a reference to any area in the authorised route of a pipeline.
- (2) A reference in this Act to this Act includes a reference to the regulations.
- (3) For the purposes of this Act, a person carries out a pipeline operation by starting, or continuing to carry on, that operation.

7 Meaning of *petroleum*

- (1) For the purposes of this Act, petroleum is—
 - (a) any naturally occurring or processed hydrocarbon; or
 - (b) any naturally occurring or processed mixture of hydrocarbons; or
 - (c) any naturally occurring or processed mixture of one or more hydrocarbons and one or more of the following: hydrogen sulphide, nitrogen, helium, carbon dioxide or water.

- (2) For the purposes of this Act petroleum includes any petroleum as defined by subsection (1)(a), (1)(b) or (1)(c) and any petroleum product specified by the regulations for the purposes of this section that has been returned to a reservoir in Victoria.
- (3) For the purposes of this Act petroleum does not include any naturally occurring hydrocarbon, or mixture of hydrocarbons, within a deposit of coal or oil shale.

8 Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2—Application of Act

9 To which pipelines does this Act apply?

This Act applies to—

- (a) a pipeline for the conveyance of petroleum, oxygen, carbon dioxide, hydrogen, nitrogen, compressed air, sulphuric acid or methanol through the pipeline; and
- (b) any pipeline declared under section 11 to be a pipeline to which this Act applies.

10 Certain pipelines exempt

Despite section 9, this Act does not apply to—

- (a) a pipeline specified in Schedule 1; or
- (b) a pipeline declared under section 12 to be a pipeline to which this Act does not apply.

11 Minister may declare pipelines to which this Act is to apply

- (1) The Minister may by order published in the Government Gazette declare any pipeline or proposed pipeline to be a pipeline to which this Act applies.
- (2) The Minister may make a declaration under subsection (1) if the Minister considers that—
 - (a) it is necessary to regulate the pipeline under this Act for safety or environmental reasons; or
 - (b) it is in the public interest for the pipeline to be regulated under this Act; or
 - (c) it is otherwise appropriate to do so.

12 Minister may declare pipelines to which this Act is not to apply

- (1) The Minister may by order published in the Government Gazette declare any pipeline or proposed pipeline to be a pipeline to which this Act does not apply.
- (2) The Minister may make a declaration under subsection (1) if the Minister considers that—
 - (a) the pipeline is safe and it is appropriate to exclude it; or
 - (b) there is a minimal risk that the pipeline will have a substantial adverse environmental impact; or
 - (c) it is otherwise appropriate to do so.

S. 13
(Heading)
amended by
No. 43/2012
s. 3(Sch.
item 38).
S. 13
amended by
No. 10/2010
s. 800(Sch. 6
item 12.1).

13 Application of Act in connection with offshore area

Subject to section 52, this Act applies to all land in Victoria, other than land that is within the area defined as the offshore area in the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**.

Part 3—Control of pipelines

14 Offence to construct pipeline without a licence

A person must not construct a pipeline unless a licence to construct and operate that pipeline has been issued under this Act.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

S. 14
amended by
No. 25/2008
s. 17(1).

15 Offence to operate pipeline without a licence

A person must not operate a pipeline unless a licence to construct and operate that pipeline has been issued under this Act.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

S. 15
amended by
No. 25/2008
s. 17(2).

Part 4—Pre-licence process

Division 1—Consultation plans

16 When must a consultation plan be prepared?

S. 16(1)
amended by
No. 68/2014
s. 73.

- (1) A proponent for a pipeline must prepare a consultation plan for the proposed pipeline, and obtain the Minister's approval of the plan under section 18, before the proponent does the first of the following in relation to that pipeline—
 - (a) gives a notice of intention to enter land under Division 2; or
 - (b) gives a notice of a pipeline corridor under Division 3.
- (2) The purpose of the consultation plan is to show how the proponent will consult with owners and occupiers of land about the proposed pipeline.

17 Requirements for consultation plan

- (1) A consultation plan must—
 - (a) be prepared in accordance with the regulations; and
 - (b) set out the information that the proponent is to provide to owners and occupiers of land to whom notice must be given under Division 2 or 3.
- (2) The information to be provided to owners and occupiers of land must include—
 - (a) general information about the types of activities to be undertaken by the proponent for the purpose of any survey under Division 2 or the construction and operation of the pipeline;

- (b) information about how potential adverse impacts of the construction and operation of the pipeline on land, health, safety and the environment are to be managed;
- (c) details of the procedures that are to be followed under this Act and any other Act to permit the construction and operation of the pipeline including the procedures for any compulsory acquisition of land;
- (d) a statement—
 - (i) advising that owners and occupiers of land may seek independent advice on the pipeline proposal; and
 - (ii) setting out current contact information for the Department.

18 Plan to be submitted to Minister for approval

- (1) The proponent must submit a consultation plan to the Minister for approval.
- (2) The Minister must within 21 days after receiving a consultation plan—
 - (a) decide whether or not to approve the consultation plan; and
 - (b) advise the proponent of that decision.
- (3) If the Minister decides not to approve a consultation plan, the proponent may—
 - (a) submit a new consultation plan to the Minister for approval; or
 - (b) submit amendments to the consultation plan to the Minister for approval.

- (4) If a new consultation plan or amendments to a consultation plan are submitted to the Minister under subsection (3), the Minister must within 21 days after receiving the plan or amendments—
- (a) decide whether or not to approve the new consultation plan or the consultation plan as amended; and
 - (b) advise the proponent of that decision.

S. 18A
inserted by
No. 64/2012
s. 69.

18A Compliance with approved consultation plan

The proponent must comply with an approved consultation plan.

Penalty: 20 penalty units.

Division 2—Pre-licence surveys

19 Notice of intention to enter land for survey

- (1) A proponent for a pipeline must give written notice to each owner and each occupier of land and, if the land is Crown land, the Crown Land Minister of the proponent's intention to enter that land for the purpose of any survey for the purpose of the proposed pipeline.
- (2) A notice under this section must contain the prescribed information and be accompanied by the approved consultation information.

20 Proponent must seek agreement or consent to entry for survey

A proponent for a pipeline must take all reasonable steps to reach agreement with each owner and each occupier of land in relation to the entry by the proponent onto the land for the purpose of a survey for the proposed pipeline.

21 Consent to entry onto Crown land

- (1) A proponent must seek the consent of—
- (a) the Crown Land Minister to the entry by the proponent onto Crown land; or
 - (b) the public authority in which Crown land is vested to the entry by the proponent onto that Crown land—

S. 21(1)
substituted by
No. 64/2012
s. 70(1).

for the purpose of a survey for the proposed pipeline.

- (2) If an application is made under this section for consent, the Crown Land Minister or the public authority may consent to that entry despite anything to the contrary in any other Act.
- (3) A consent under this section must be in writing and may be given subject to any conditions that the Crown Land Minister or the public authority considers appropriate.
- (4) The Crown Land Minister must not give a consent under this section in respect of wilderness Crown land.

S. 21(2)
amended by
No. 64/2012
s. 70(2).

S. 21(3)
amended by
No. 64/2012
s. 70(3).

22 Application where agreement for entry to land cannot be reached

- (1) A proponent for a pipeline may apply to the Minister for consent to enter land if—
- (a) the proponent wishes to enter the land for the purpose of a survey for the proposed pipeline; and
 - (b) the proponent has been unable to obtain the agreement of an owner or occupier of the land to do so within 14 days after notice of intention to enter the land was given to that owner or occupier under section 19.

- (2) An application must be in writing and contain the following information—
- (a) evidence of the efforts made by the proponent to reach agreement with the owner or occupier; and
 - (b) details of the proposed survey activity; and
 - (c) details of any possible adverse impact of the survey on safety or the environment or the use of the land and any measures to be taken by the proponent to address that impact.
- (3) An application cannot be made under this section for consent to enter Crown land where the proponent has been unable to obtain the agreement of the occupier, unless the consent of the Crown Land Minister has first been obtained under section 21.

S. 22(3)
amended by
No. 68/2014
s. 74.

23 Notice to owners and occupiers of application

The proponent must—

- (a) give a copy of an application under section 22 to each owner and occupier of the land to which the application relates; and
- (b) advise the owner or occupier of their right under section 24 to advise the Minister of their reasons for refusing entry.

24 Advice to Minister from owners and occupiers of land

- (1) An owner or occupier of land to which an application under section 22 relates may advise the Minister of their reasons for refusing to agree to the entry of the proponent onto the land for survey purposes.

- (2) An advice under subsection (1) must be in writing and must be made within 7 days after the owner or occupier receives the copy of the application under section 23.

25 Minister may consent to entry onto land

- (1) Within 28 days after receiving an application under section 22, the Minister must—
- (a) consent to the entry onto the land; or
 - (b) refuse to consent to that entry.
- (2) In making a decision under this section, the Minister must take into account—
- (a) the information provided by the proponent; and
 - (b) any advice received from an owner or occupier under section 24; and
 - (c) any other matters the Minister thinks fit.
- (3) The Minister must not give a consent under this section unless the Minister is satisfied—
- (a) with the adequacy of the measures to be taken by the proponent to address any adverse impact of the survey on safety or the environment or the use of land; and
 - (b) that the notice and approved consultation information were given to each owner and occupier of the land under section 19; and
 - (c) in the case of Crown land, that the Crown Land Minister has consented to the entry.
- (4) The Minister must not give a consent under this section in respect of wilderness Crown land.
- (5) A consent under this section must be in writing and—

- (a) may be given subject to any conditions that the Minister considers appropriate; and
 - (b) in the case of Crown land, must be given subject to any conditions imposed in the consent given by the Crown Land Minister.
- (6) The Minister must notify the proponent in writing if the Minister refuses consent.

26 Effect of consent

- (1) A consent under section 21 or 25 remains in force for 1 year after the day on which the consent is granted.
- (2) A proponent who obtains a consent under section 25 may, while the consent is in force, enter the land to which the consent applies.
- (3) Subject to subsection (4), a proponent who obtains a consent under section 21 may, while the consent is in force, enter the land to which the consent applies.
- (4) If there is a native title holder or occupier or both of Crown land to which a consent under section 21 applies, a proponent may only enter the land under this section if either—
 - (a) each native title holder and each occupier has agreed to that entry under section 20; or
 - (b) a consent under section 25 is in force permitting that entry.

S. 26(4)
amended by
No. 68/2014
s. 75(a).

S. 26(4)(a)
amended by
No. 68/2014
s. 75(b).

(5) The proponent must produce the relevant consent to the owner or occupier of the land before first entering the land under that consent.

Penalty: In the case of a natural person,
10 penalty units;
In the case of a body corporate,
60 penalty units.

(6) An entry under this section is subject to—
(a) the conditions of the consent; and
(b) the regulations.

Division 3—Notice of pipeline corridor

27 Proponent to give notice to owners and occupiers of land in pipeline corridor

(1) Before applying for a licence to construct and operate a pipeline, the proponent must give notice of the proposed pipeline to each owner and each occupier of land in the pipeline corridor.

S. 27(1)
amended by
No. 68/2014
s. 76.

(2) The notice must—

(a) be in the prescribed form; and
(b) set out the pipeline corridor; and

S. 27(2)(b)
amended by
No. 68/2014
s. 76.

(c) be accompanied by the approved consultation information for the pipeline unless this has already been provided to the owner or occupier under Division 2.

(3) A notice under this section lapses after 12 months, unless the Minister, in writing, extends that period.

Part 5—Pipeline licence process

Division 1—Licence application

28 Who may apply for a licence?

- (1) A person may apply to the Minister for a licence to construct and operate a pipeline.
- (2) An application cannot be made for a licence to construct and operate a pipeline unless an approved consultation plan exists for that pipeline.
- (3) Subsection (2) and Part 4 do not apply in respect of an application relating to an existing pipeline if a permit or licence was not required under the **Pipelines Act 1967** or this Act for the construction of the pipeline.

29 How must an application be made?

An application for a licence must be made in writing.

30 What must the application contain?

An application for a licence must—

S. 30(a)
amended by
No. 68/2014
s. 77(a).

- (a) state the name and address of the applicant;
and
- (b) state what the proposed pipeline will be used for; and
- (c) contain any other matters that are prescribed;
and
- (d) be accompanied by a map of not less than the prescribed scale showing the pipeline corridor; and
- (e) be accompanied by the prescribed application fee.

S. 30(d)
amended by
No. 68/2014
s. 77(b).

31 Minister may ask for more information

The Minister may ask the applicant for any further information that the Minister considers necessary or expedient to enable the Minister to consider and decide on the application.

S. 31
amended by
No. 68/2014
s. 78.

32 Notice of application

(1) The applicant must give notice of the application for a licence to—

S. 32(1)
amended by
No. 68/2014
s. 79(1)(a).

(a) all owners and occupiers of land directly affected by the proposed pipeline; and

(b) the Planning Minister; and

(ba) the Water Minister; and

S. 32(1)(ba)
inserted by
No. 68/2014
s. 79(1)(b).

(c) any relevant Crown Land Minister for Crown land affected by the pipeline; and

(d) each responsible authority for an area affected by the pipeline; and

(e) any Department Head of a Government department, public authority, person or body specified by the Minister.

(2) The notice under subsection (1) must—

(a) contain the prescribed information; and

(b) specify a date determined by the Minister as the submission date for the application (the **submission date**); and

(c) state that until the submission date any person who may be affected by the grant of the licence may make a written submission to the Minister about the application.

(3) The notice under subsection (1) to an owner or occupier of land must specify where the owner or occupier may inspect a copy of the licence

application and the information that accompanied that application.

S. 32(4)
amended by
No. 68/2014
s. 79(2).

- (4) The applicant must cause a copy of the notice to be published in a newspaper circulating generally in Victoria.
- (5) Subject to this section, notice of an application must be given in the manner and within the time specified by the Minister in relation to that application.
- (6) The Secretary must make a copy of the application and all information accompanying the application available for inspection by the public in a place and form approved by the Minister.

33 Co-ordination of notices and notice periods

S. 33(1)
amended by
No. 68/2014
s. 80.

- (1) This section applies if a applicant is required to prepare an Environment Effects Statement in respect of the proposed pipeline.
- (2) The notice of the application for the licence required to be given or published under section 32 may be combined with any notice relating to the same proposal that is required to be given under the **Environment Effects Act 1978**.
- (3) The period during which notice of the application for the licence is required to be given or published under section 32, must coincide, so far as practicable, with the period, if any, during which public comments are sought under the **Environment Effects Act 1978** in respect of the environmental effects of the proposed pipeline.

34 Submissions

- (1) Any person who may be affected by the grant of a licence may make a written submission to the Minister about the application for the licence.

- (2) A submission relating to an application must be made on or before the submission date for the application.

35 Copies of submissions to be given to applicant

S. 35
amended by
No. 68/2014
s. 80.

The Minister must—

- (a) provide a copy of each submission to the applicant; and
- (b) give the applicant the opportunity to address the matters raised in the submissions.

36 Amendment of application

- (1) An applicant may, at any time before a request is made under section 37 in respect of an application, submit to the Minister an amendment to the application.
- (2) The Minister may determine what, if any, additional notice of the amended application is required.

37 Request for decision on application

- (1) After the submission date for the application, the applicant may ask the Minister to determine whether or not to grant the licence.
- (2) The Minister may request the applicant to provide details of how the applicant has addressed or proposes to address any matter raised in the submissions.

S. 37(1)
amended by
No. 68/2014
s. 81(1).

S. 37(2)
substituted by
No. 68/2014
s. 81(2).

38 Determination whether to refer submissions to panel

S. 38
substituted by
No. 68/2014
s. 82.

- (1) The Minister must determine whether—
- (a) to refer the submissions to a panel; or
- (b) to proceed to determine the application under Division 3.

- (2) A determination under subsection (1) must be made—
- (a) within 28 days after the receipt of the request under section 37(1); or
 - (b) if the Minister has requested further details under section 37(2), within 28 days after the receipt of those details.

39 Referral of submissions to panel

- (1) The Minister must determine to refer the submissions to a panel if the Minister considers that the proposed pipeline raises significant environmental, social or safety risks.
- (2) Subsection (1) does not apply to submissions considered in an Environment Effects Statement under the **Environment Effects Act 1978**.

S. 39(2)
substituted by
No. 64/2012
s. 71.

Division 2—Panel to consider submissions

40 Appointment of panel

The Minister must appoint a panel to consider all submissions referred to a panel by the Minister under Division 1.

41 Composition of panel

A panel may consist of one or more persons.

42 Chairperson

If a panel consists of more than one member, the Minister must appoint one of the members to be chairperson.

43 Fees and allowances

Each member of a panel is entitled to receive any fees and allowances fixed by the Minister in respect of that member unless the person is employed by or on behalf of the Crown.

44 Procedure of panel

The following provisions apply to panels with more than one member—

- (a) in the case of a panel of 2 members, the chairperson constitutes a quorum;
- (b) in the case of a panel of more than 2 members, a quorum is half the number of members constituting the panel, and, if this is not a whole number, the next highest whole number;
- (c) the members of a panel of more than 2 members may appoint a member to act as chairperson at a meeting of the panel if the chairperson is unable to attend;
- (d) the chairperson has an additional or casting vote if there is an equality of votes at a meeting of the panel;
- (e) if there is a quorum, the panel may act despite a vacancy in its membership;
- (f) the Minister may appoint another member to a panel if there is a vacancy.

45 Hearings

- (1) A panel must give a reasonable opportunity to be heard by it to the applicant and any person who has stated in a submission that is referred to the panel that the person wishes to be heard with respect to that submission.
- (2) Schedule 2 applies to a hearing by a panel under this Division.

S. 45(1)
amended by
No. 68/2014
s. 83(a).

46 Costs of panel

The applicant is liable to pay all the costs of a panel in hearing, considering and reporting on the submissions on the applicant's application.

S. 46
amended by
No. 68/2014
s. 83(b).

47 Report of panel

- (1) After conducting hearings in accordance with this Division and considering the submissions referred to it by the Minister, the panel must—
 - (a) report to the Minister on the submissions; and
 - (b) make a recommendation to the Minister as to the action that it believes should be taken with respect to the application.
- (2) The report of a panel and its recommendation must be forwarded to the Minister—
 - (a) within 60 days after the submissions were referred to the panel; or
 - (b) within such other period as the Minister may specify when referring the submissions to the panel.

Division 3—Decision on application

48 When must an application be determined?

- (1) Subject to subsection (2), the Minister must determine an application for a licence within 28 days after the last of the following to occur—
 - (a) the receipt of a request under section 37(1);
 - (ab) the receipt of any further details requested under section 37(2);
 - (b) the receipt of the report of the panel under Division 2, if the submissions on the application have been referred to a panel;

S. 48(1)(a)
amended by
No. 68/2014
s. 84(a).

S. 48(1)(ab)
inserted by
No. 68/2014
s. 84(b).

- (c) the receipt of the assessment of the Environment Effects Minister in respect of the proposed pipeline, if an Environment Effects Statement is required to be prepared;
 - (d) the completion of any relevant procedure under the Native Title Act in relation to the proposed pipeline.
- (2) The Minister may extend the period set out in subsection (1) in order to request and consider further information from the applicant.

S. 48(2)
amended by
No. 68/2014
s. 84(c).

49 What matters must the Minister consider?

In determining an application for a licence, the Minister must consider the following—

- (a) the potential environmental, social, economic and safety impacts of the proposed pipeline;
- (b) the potential impact of the proposed pipeline on cultural heritage (including Indigenous cultural heritage);
- (c) the benefit of the proposed pipeline to Victoria relative to its potential impacts;
- (d) the submissions received under section 34 in relation to the application;
- (e) the report of the panel (if any) on the submissions received in relation to the application;
- (f) the assessment of the Environment Effects Minister in relation to the proposed pipeline, if an assessment has been made;
- (g) any written comments received from the Planning Minister or the relevant responsible authority on the effect of the proposed pipeline on the planning of the area through which it is to pass;

- (h) any written comments received from the Water Minister and from the relevant Crown Land Minister on the impact of the proposed pipeline.

50 Licence not to be granted for pipeline on wilderness Crown land

A licence must not be granted for the construction or operation of a pipeline on or under wilderness Crown land.

51 Consent required for grant of licence for pipeline in parks

- (1) The Minister must not grant a licence for the construction or operation of a pipeline on or under land that is part of a park within the meaning of the **National Parks Act 1975** or land that is managed under that Act unless the relevant Crown Land Minister has consented to the pipeline crossing that land.
- (2) A consent under this section may be given subject to conditions.

52 Licence may permit construction in offshore area

- (1) Despite anything to the contrary in the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, a licence may permit the construction of a pipeline in the area defined as the offshore area in that Act if that construction is part of a single directional drilling operation commencing on land in Victoria that is outside the offshore area.
- (2) Despite anything to the contrary in the **Offshore Petroleum and Greenhouse Gas Storage Act 2010**, a licence is not required under that Act for the construction in the offshore area of any part of

S. 51
(Heading)
amended by
No. 55/2010
s. 81.

S. 52
(Heading)
amended by
No. 43/2012
s. 3(Sch.
item 38).

S. 52(1)
amended by
No. 10/2010
s. 800(Sch. 6
item 12.2).

S. 52(2)
amended by
No. 10/2010
s. 800(Sch. 6
item 12.3).

a pipeline that is permitted to be constructed under a licence under this Act.

53 Decision on application

- (1) Subject to this Division, the Minister, after considering the matters set out in section 49, may—
 - (a) grant a licence to the applicant, authorising the applicant to construct and operate a pipeline along a route authorised in the licence; or
 - (b) refuse to grant a licence in respect of the proposed pipeline.
- (2) A licence must authorise the proposed route of the pipeline, whether the route is the same as that in the application for the licence or as varied by the Minister in granting the licence.

S. 53(1)(a)
amended by
No. 68/2014
s. 85.

54 Conditions of licence

- (1) A licence is granted subject to—
 - (a) any terms and conditions that are prescribed; and
 - (b) any conditions that are imposed on a consent under section 51; and
 - (c) a condition that a licensee hold any insurance required under section 144; and
 - (d) any further terms and conditions that are stated or included in the licence.
- (2) The conditions on a licence may include conditions—
 - (a) relating to the pipeline operations to be carried out under the licence;
 - (b) concerning the protection of cultural heritage (including Indigenous cultural heritage);

- (c) concerning the protection of the environment;
- (d) concerning the maintenance of land in the pipeline area and the control of noxious weeds and pest animals on that land;
- (e) relating to matters of public safety; and
- (f) requiring the licensee to provide specified information (or information of a specified kind) to the Minister at a time or times specified by the Minister.

55 Minister may impose pre-conditions

S. 55(1)
amended by
No. 68/2014
s. 85.

- (1) The Minister may require the applicant to comply with any conditions that the Minister considers appropriate before the Minister will issue a licence to the applicant.
- (2) A requirement under this section must be made in writing specifying the conditions to be complied with.

56 Minister not to issue licence unless certain requirements met

- (1) If the proposed route of a pipeline is on private land, the Minister must not issue the licence for the construction of the pipeline unless the Minister is satisfied that any necessary interests have been acquired by agreement with the owner or are to be acquired compulsorily in accordance with Part 6.
- (2) If there is a native title holder in relation to land in the proposed route of a pipeline, the Minister must not issue the licence for the construction of the pipeline unless the Minister is satisfied that a relevant procedure under the Native Title Act has been followed.

- (3) The applicant is liable to pay any compensation, interest, charges and expenses—
- (a) incurred in acquiring interests referred to in subsection (1), whether compulsorily or otherwise; or
 - (b) incurred in following a relevant procedure referred to in subsection (2); or
 - (c) payable under the Native Title Act in respect of the grant of the licence.

S. 56(3)
amended by
No. 68/2014
s. 85.

57 Issue of licence

If a licence is granted under this Division, the Minister must issue the licence to the applicant if the Minister is satisfied that the applicant—

- (a) has complied with any condition or requirement imposed under sections 55 and 56; and
- (b) has paid the relevant prescribed fee for the licence.

S. 57
amended by
No. 68/2014
s. 85.

Division 4—Operation of licence

58 What does the licence authorise?

- (1) A licence authorises the construction of a pipeline along the route authorised in the licence, subject to the conditions of the licence.
- (2) A licence authorises the operation of the pipeline in accordance with the conditions of the licence.
- (3) For the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth, a licence is declared not to be personal property.

S. 58(1)
amended by
No. 68/2014
s. 86(1).

S. 58(3)
inserted by
No. 68/2014
s. 86(2).

S. 59(1)(a)
amended by
No. 68/2014
s. 87.

59 Licence to remain in force indefinitely

- (1) A licence comes into force—
 - (a) on the day on which the pipeline licence is issued to the applicant; or
 - (b) if a later day is specified in the licence as being the day on which the licence is to come into force, on that later day.
- (2) Subject to this Part, a licence remains in force indefinitely.

60 When must construction commence?

- (1) Subject to this section, the construction of a pipeline under a licence must commence within 1 year after the issue of the licence unless a longer period is provided for in the licence.
- (2) The Minister may extend the period for commencement of construction of a pipeline by 1 year or more.
- (3) An application for an extension must be made before the period for construction to commence expires.
- (4) An extension under subsection (2) may be given more than once.
- (5) An extension under subsection (2) must be given in writing.

61 When must construction be completed?

- (1) Subject to this section, the construction of a pipeline under a licence must be completed within 2 years after the commencement of construction unless a longer period is provided for in the licence.
- (2) The Minister may extend the period for completion of construction of a pipeline by 1 year or more.

- (3) An application for an extension must be made before the period for construction to commence expires.
- (4) An extension under subsection (2) may be given more than once.
- (5) An extension under subsection (2) must be given in writing.

Division 5—Amendment of conditions

62 Minister may amend conditions without request

- (1) The Minister may amend the conditions imposed on a licence.
- (2) To do this, the Minister must—
 - (a) notify the licensee and any other person directly affected in writing of the amendment the Minister proposes to make; and
 - (b) invite the licensee or persons notified to make any submissions they may wish to make in respect of the proposal within the time specified by the Minister; and
 - (c) consider any submissions made by the licensee or those persons within the specified time.
- (3) The Minister must allow a period of at least 28 days for the purposes of subsection (2)(b).
- (4) If, after complying with subsection (2), the Minister decides to amend the conditions, he or she must give the licensee notice in writing of the decision.

63 Minister may amend conditions on request

- (1) A licensee may, at any time, apply to the Minister to amend the conditions of the licence.

- (2) An application under subsection (1)—
 - (a) must be in writing; and
 - (b) must be made in the prescribed manner; and
 - (c) must be accompanied by particulars of the proposed amendment; and
 - (d) must specify the reasons for the proposed amendment; and
 - (e) must be accompanied by the relevant prescribed fee.
- (3) The Minister must consider the application and may—
 - (a) amend the conditions as requested or in a manner determined by the Minister; or
 - (b) refuse to amend the conditions.
- (4) If the Minister amends the conditions of a licence under this section, the Minister may also make any necessary consequential amendments to any other conditions of the licence.
- (5) The Minister must not amend a condition imposed on a consent under section 51 without the consent of the relevant Crown Land Minister.

64 Right to seek review of decision to amend conditions

- (1) A licensee may apply to VCAT for a review of a decision under section 62 to amend the conditions of the licence.
- (2) An application for a review must be made within 28 days after the later of—
 - (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement

of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 6—Alteration of authorised route

65 Alteration of authorised route to be under this Division

- (1) The authorised route of a pipeline may only be altered in accordance with this Division.

* * * * *

S. 65(2)
repealed by
No. 68/2014
s. 88.

66 Application to alter authorised route—minor alterations

- (1) A licensee may apply to the Minister to make an alteration to the route of a pipeline authorised under the licence.
- (2) The application must—
- (a) be in writing; and
 - (b) be accompanied by a plan showing the proposed alteration to the route of the pipeline.
- (3) An application may only be made under this section if the alteration will not affect the rights or interests of any other person.

67 Decision on application under section 66

- (1) If an application is made under section 66, the Minister may—
- (a) grant the application; or
 - (b) grant the application subject to specified conditions; or
 - (c) refuse to grant the application.

- (2) The Minister must not grant the application unless the Minister is satisfied that the alteration—
 - (a) is reasonably necessary or expedient; and
 - (b) the alteration is of a minor nature and will not affect the rights or interests of any other person.
- (3) If the Minister grants the application, the Minister must publish a notice in the Government Gazette specifying the alterations made to the route of the pipeline.

68 Application to alter authorised route—significant alterations

- (1) A licensee may apply to the Minister to alter the route of a pipeline authorised under the licence.
- (2) The application must—
 - (a) be in writing; and
 - (b) be accompanied by a plan showing the proposed alteration to the route of the pipeline.
- (3) Before making the application, the licensee must—
 - (a) if required to do so by the Minister, prepare a consultation plan for the proposed alteration and obtain the Minister's approval of the plan under section 68B; and
 - (b) give notice of the proposed alteration to each owner and each occupier of land affected by the proposed alteration; and
 - (c) consult with each owner and each occupier of land, and each responsible authority for an area, affected by the proposed alteration; and

S. 68(3)
substituted by
No. 68/2014
s. 89.

(d) take all reasonable steps to reach agreement with those persons on the proposed alteration.

(3A) A notice under subsection (3)(b) must—

- (a) be in the prescribed form; and
- (b) set out the proposed alteration; and
- (c) be accompanied by the approved consultation information for the proposed alteration (if any).

S.68(3A)
inserted by
No. 68/2014
s.89.

(3B) A notice under subsection (3)(b) lapses after 12 months, unless the Minister, in writing, extends that period.

S.68(3B)
inserted by
No. 68/2014
s.89.

(4) The licensee must cause notice of the application to be published in a newspaper circulating generally in Victoria.

S. 68(4)
amended by
No. 64/2012
s. 72.

68A Requirements for consultation plan for proposed significant alteration

S. 68A
inserted by
No. 68/2014
s. 90.

(1) A consultation plan for a proposed alteration must—

- (a) be prepared in accordance with the regulations; and
- (b) set out the information that the licensee is to provide to owners and occupiers of land to whom notice must be given under section 68(3)(b).

(2) The information to be provided to owners and occupiers of land must include—

- (a) general information about the types of activities to be undertaken by the licensee for the purpose of any survey under this Division in relation to the construction and operation of the proposed alteration; and

- (b) information about how potential adverse impacts of the construction and operation of the proposed alteration on land, health, safety and the environment are to be managed; and
- (c) details of the procedures that are to be followed under this Act and any other Act to permit the construction and operation of the proposed alteration including the procedures for any compulsory acquisition of land; and
- (d) a statement—
 - (i) advising that owners and occupiers of land may seek independent advice on the proposed alteration; and
 - (ii) setting out current contact information for the Department.

S. 68B
inserted by
No. 68/2014
s. 90.

68B Approval of consultation plan for proposed significant alteration

- (1) If the Minister has required a licensee to prepare a consultation plan for a proposed alteration under section 68(3)(a), the licensee must submit the plan to the Minister for approval.
- (2) The Minister must within 21 days after receiving a consultation plan under subsection (1)—
 - (a) decide whether or not to approve the consultation plan; and
 - (b) advise the licensee of that decision.
- (3) If the Minister decides not to approve a consultation plan, the licensee may—
 - (a) submit a new consultation plan to the Minister for approval; or
 - (b) submit amendments to the consultation plan to the Minister for approval.

- (4) If a new consultation plan or amendments to a consultation plan are submitted to the Minister under subsection (3), the Minister must, within 21 days after receiving the plan or amendments—
- (a) decide whether or not to approve the new consultation plan or the consultation plan as amended; and
 - (b) advise the licensee of that decision.

68C Compliance with approved consultation plan for proposed significant alteration

S. 68C
inserted by
No. 68/2014
s. 90.

A licensee must comply with an approved consultation plan for a proposed alteration.

Penalty: 20 penalty units.

68D Notice of intention to enter land for survey

S. 68D
inserted by
No. 68/2014
s. 90.

- (1) If a licensee proposes to alter the authorised route of a pipeline under section 68, the licensee must give written notice to each owner and each occupier of land and, if the land is Crown land, the Crown Land Minister of the licensee's intention to enter that land for the purpose of any survey for the proposed alteration.
- (2) A notice under this section must contain the prescribed information and be accompanied by the approved consultation information (if required under section 68(3)(a)).

68E Licensee must seek agreement or consent to entry for survey

S. 68E
inserted by
No. 68/2014
s. 90.

If a licensee proposes to alter the authorised route of a pipeline under section 68, the licensee must take all reasonable steps to reach agreement with each owner and each occupier of land in relation to the entry by the licensee onto the land for the purpose of a survey for the proposed alteration.

S. 68F
inserted by
No. 68/2014
s. 90.

68F Consent to entry onto Crown land

- (1) If a licensee proposes to alter the authorised route of a pipeline under section 68, the licensee must seek the consent of—
 - (a) the Crown Land Minister to the entry by the licensee onto Crown land; or
 - (b) the public authority in which Crown land is vested to the entry by the licensee onto that Crown land—

for the purpose of a survey for the proposed alteration.

- (2) If an application is made under this section for consent, the Crown Land Minister or the public authority may consent to that entry despite anything to the contrary in any other Act.
- (3) A consent under this section must be in writing and may be given subject to any conditions that the Crown Land Minister or the public authority considers appropriate.
- (4) The Crown Land Minister must not give a consent under this section in respect of wilderness Crown land.

S. 68G
inserted by
No. 68/2014
s. 90.

68G Application where agreement for entry to land cannot be reached

- (1) A licensee may apply to the Minister for consent to enter land if—
 - (a) the licensee wishes to enter the land for the purpose of a survey for a proposed alteration under section 68; and
 - (b) the licensee has been unable to obtain the agreement of an owner or occupier of the land to do so within 14 days after notice of intention to enter the land was given to that owner or occupier under section 68D.

- (2) An application must be in writing and contain the following information—
- (a) evidence of the efforts made by the licensee to reach agreement with the owner or occupier;
 - (b) details of the proposed survey activity;
 - (c) details of any possible adverse impact of the survey on safety or the environment or the use of the land and any measures to be taken by the licensee to address that impact.
- (3) If the licensee has been unable to obtain the agreement of the occupier, an application cannot be made under this section for consent to enter Crown land unless the consent of the Crown Land Minister has first been obtained under section 68F.

68H Notice to owners and occupiers of application

S. 68H
inserted by
No. 68/2014
s. 90.

The licensee must—

- (a) give a copy of an application under section 68G to each owner and occupier of the land to which the application relates; and
- (b) advise the owner or occupier of their right under section 68I to advise the Minister of their reasons for refusing entry.

68I Advice to Minister from owners and occupiers of land

S. 68I
inserted by
No. 68/2014
s. 90.

- (1) An owner or occupier of land to which an application under section 68G relates may advise the Minister of their reasons for refusing to agree to the entry of the licensee onto the land for survey purposes.

- (2) An advice under subsection (1) must be in writing and must be made within 7 days after the owner or occupier receives the copy of the application under section 68H.

S. 68J
inserted by
No. 68/2014
s. 90.

68J Minister may consent to entry onto land

- (1) Within 28 days after receiving an application under section 68G, the Minister must—
- (a) consent to the entry onto the land; or
 - (b) refuse to consent to that entry.
- (2) In making a decision under this section, the Minister must take into account—
- (a) the information provided by the licensee; and
 - (b) any advice received from an owner or occupier under section 68I; and
 - (c) any other matters the Minister thinks fit.
- (3) The Minister must not give a consent under this section unless the Minister is satisfied—
- (a) with the adequacy of the measures to be taken by the licensee to address any adverse impact of the survey on safety or the environment or the use of land; and
 - (b) that the notice and approved consultation information (if required under section 68(3)(a)) were given to each owner and occupier of the land under section 68D; and
 - (c) in the case of Crown land, that the Crown Land Minister has consented to the entry.
- (4) The Minister must not give a consent under this section in respect of wilderness Crown land.

- (5) A consent under this section must be in writing and—
 - (a) may be given subject to any conditions that the Minister considers appropriate; and
 - (b) in the case of Crown land, must be given subject to any conditions imposed in the consent given by the Crown Land Minister.
- (6) The Minister must notify the licensee in writing if the Minister refuses consent.

68K Effect of consent

- (1) A consent under section 68F or 68J remains in force for 1 year after the day on which the consent is granted.
- (2) A licensee who obtains a consent under section 68J may, while the consent is in force, enter the land to which the consent applies.
- (3) Subject to subsection (4), a licensee who obtains a consent under section 68F may, while the consent is in force, enter the land to which the consent applies.
- (4) If there is a native title holder or occupier of Crown land to which a consent under section 68F applies, a licensee may only enter the land under this section if either—
 - (a) any native title holder or occupier has agreed to that entry under section 68E; or
 - (b) a consent under section 68J is in force permitting that entry.

S. 68K
inserted by
No. 68/2014
s. 90.

- (5) The licensee must produce the relevant consent to the owner or occupier of the land before first entering the land under that consent.

Penalty: In the case of a natural person,
10 penalty units;

In the case of a body corporate,
60 penalty units.

- (6) An entry under this section is subject to—
- (a) the conditions of the consent; and
 - (b) the regulations.

69 Minister not to alter authorised route unless certain requirements met

- (1) If the authorised route of a pipeline to which an application under section 68 relates is on private land, the Minister must not consider the application unless the Minister is satisfied that any necessary interests have been acquired by agreement with the owner or are to be acquired compulsorily in accordance with Part 6.
- (2) If there is a native title holder in relation to land in the authorised route of a pipeline to which an application under section 68 relates, the Minister must not consider the application unless the Minister is satisfied that a relevant procedure under the Native Title Act has been followed.
- (3) The licensee is liable to pay any compensation, interest, charges and expenses—
- (a) incurred in acquiring interests referred to in subsection (1), whether compulsorily or otherwise; or
 - (b) incurred in following a relevant procedure referred to in subsection (2); or
 - (c) payable under the Native Title Act in respect of the grant of the alteration.

70 Decision on application under section 68

- (1) In addition to section 69, the Minister must not consider an application under section 68 unless the Minister is satisfied that—
 - (a) the licensee has complied with section 68(3); and
 - (b) notice of the application has been published under section 68(4).
- (2) If the authorised route of the pipeline crosses Crown land, the Minister must not consider an application under section 68 unless the relevant Crown Land Minister has agreed to the alteration to the extent that the alteration affects Crown land.
- (3) The Minister may—
 - (a) grant the application; or
 - (b) refuse to grant the application.
- (4) The Minister must not grant the application unless the Minister is satisfied that the alteration—
 - (a) is reasonably necessary or expedient; and
 - (b) will not substantially affect the authorised route of the pipeline or the rights or interests of any other person.
- (5) If the Minister grants the application, the Minister may also amend the licence to—
 - (a) impose any conditions that the Minister considers necessary to provide for the protection of the rights or interests of any person affected by the alteration; and
 - (b) impose any standards, specifications or other conditions that the Minister considers necessary as a result of the alteration.

S. 70(2)
amended by
No. 53/2011
s. 15.

- (6) If the Minister grants the application, the Minister must publish a notice in the Government Gazette specifying the alterations made to the route of the pipeline.

71 Altered route becomes authorised route

If under this Division the authorised route of a pipeline is altered, the route of the pipeline as so altered is deemed to be the authorised route for the purposes of the licence.

Division 7—Consolidation of licences

72 Application of Division

This Division applies if a licensee—

- (a) is a licensee in respect of 2 or more pipelines; and
- (b) carries on or intends to carry on pipeline operations in which those pipelines, or parts of those pipelines, are connected or otherwise used in conjunction with each other.

73 Application to consolidate licences

The licensee may apply to the Minister to consolidate the licences in respect of each of the pipelines into one of those licences ("*the ongoing licence*") and to make any amendments to the ongoing licence that are necessary or expedient for the purposes of the consolidation.

74 Form of application

An application under section 73 must be in the prescribed form and must—

- (a) state the name and address of the applicant; and
- (b) provide details identifying the licences that are to be consolidated; and

S. 73
substituted by
No. 68/2014
s. 91.

- (c) set out the reasons for the application; and
- (d) be accompanied by the relevant prescribed fee.

75 Minister may ask for further information

The Minister may ask for any further information that the Minister considers necessary or desirable to determine an application.

76 Minister to be satisfied of certain matters

The Minister must not grant an application unless the Minister is satisfied that the consolidation to which the application relates—

- (a) is reasonably necessary or expedient; and
- (b) does not substantially affect the rights or interests of any other person.

77 Decision on application

- (1) If an application is made under section 73, the Minister may—
 - (a) grant the application and consolidate the licences into the ongoing licence; and
 - (b) make any amendments to the ongoing licence that are necessary or expedient for the purposes of the consolidation; and
 - (c) include any additional conditions in the ongoing licence that the Minister considers necessary as a result of the consolidation; and
 - (d) cancel any licence consolidated in the ongoing licence or, if only part of a pipeline is consolidated, amend a licence accordingly.
- (2) The Minister may refuse to consolidate one or more licences under this section.

S. 77
substituted by
No. 68/2014
s. 92.

S. 78
repealed by
No. 68/2014
s. 93.

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Division 8—Transfer, surrender and cancellation of licences

79 Transfer of licence

- (1) A licensee must not transfer the licence without the written consent of the Minister.
- (2) The Minister must not unreasonably refuse to give his or her consent under this section.
- (3) The Minister may impose conditions on a consent under this section.
- (4) A licensee must notify the Minister in writing within 14 days of any direct or indirect dealing with any legal or equitable interest in the licence.

80 Surrender of licence

- (1) A licensee may surrender a licence with the consent of the Minister.
- (2) The Minister must not give his or her consent to the surrender of a licence unless he or she is satisfied that the licensee—
 - (a) has complied with all the relevant requirements of this Act in relation to the licence; and
 - (b) has complied with all of the conditions that apply to the licence.
- (3) If the pipeline is to be decommissioned on the surrender of the licence, the Minister must not give his or her consent to the surrender of the licence unless—
 - (a) the licensee has lodged a plan to provide for the decommissioning of the pipeline; and

- (b) the Minister is satisfied with that plan; and
 - (c) the pipeline has been decommissioned in accordance with that plan.
- (4) A decommissioning plan must be prepared in accordance with the regulations and set out the prescribed information.
- (5) The Minister must not unreasonably refuse to give his or her consent under this section.
- (6) If the Minister is not satisfied as to any matter referred to in subsection (2)(a) or (2)(b), he or she may still consent to the surrender of the licence if he or she is satisfied that the failure to comply with the relevant requirement was the result of one or more events beyond the control of the licensee.

81 Cancellation of licence

The Minister may cancel a licence if—

- (a) the pipeline is no longer used as a pipeline to which this Act applies; or
- (b) the conditions of the licence or any of the provisions of this Act that apply to the licence have not been complied with; or
- (c) the construction or operation of the pipeline has caused an unexpected significant adverse impact on safety or the environment; or
- (d) the licensee no longer has the funds to construct or operate the pipeline; or
- (e) the licensee is wound up or commences to be wound up; or
- (f) the licensee has not paid any amount that is payable under this Act within 90 days after it was due and within 30 days after receiving a written notice from the Minister warning it

- of the Minister's power under this provision;
or
- (g) the construction of the pipeline has not commenced by the end of the required period under Division 4; or
 - (h) the construction of the pipeline has not been completed by the end of the required period under Division 4.

Pt 5 Div. 8A
(Heading)
inserted by
No. 53/2011
s. 16.

Division 8A—Decommissioning

82 Decommissioning plan before cancellation

- (1) If a pipeline is to be decommissioned on cancellation of a licence, the Minister, before cancelling the licence, may direct the licensee to prepare a plan for the decommissioning of the pipeline within the time specified in the direction.
- (2) A licensee to whom a direction is given under this section must prepare a decommissioning plan in accordance with the regulations and setting out the prescribed information and submit it to the Minister within the time specified in the direction.
- (3) If a decommissioning plan has been prepared for a pipeline, the Minister must not cancel the licence unless—
 - (a) the Minister is satisfied with that plan; and
 - (b) the licensee has decommissioned the pipeline in accordance with that plan.
- (4) A failure by the licensee to prepare a decommissioning plan does not prevent the Minister from cancelling the licence.

82A Decommissioning part of a pipeline

S. 82A
inserted by
No. 53/2011
s. 17.

- (1) A licensee may decommission part of a pipeline with the consent of the Minister.
- (2) The Minister may require the licensee to prepare a plan that provides for the decommissioning of that part of the pipeline (a *decommissioning plan*) before giving his or her consent.
- (3) If the Minister has required the licensee to prepare a decommissioning plan—
 - (a) the licensee must—
 - (i) prepare the plan in accordance with the regulations; and
 - (ii) include in the plan the prescribed information; and
 - (b) the Minister must not give his or her consent to the decommissioning of that part of the pipeline unless the Minister is satisfied with that plan.
- (4) Without limiting subsection (2), the Minister must not unreasonably refuse to give his or her consent.
- (5) The Minister may still give his or her consent to the decommissioning of that part of the pipeline even if he or she is not satisfied with the decommissioning plan that has been prepared if the failure of the licensee to prepare the plan to the satisfaction of the Minister was the result of one or more events beyond the control of the licensee.

Pt 5 Div. 8B
(Heading)
inserted by
No. 53/2011
s. 18.

Division 8B—Other matters

83 Right to seek review of decision to cancel

S. 83(1)
amended by
No. 53/2011
s. 19.

- (1) A person whose licence has been cancelled under this Part may apply to VCAT for a review of the decision to cancel the licence.
- (2) An application for a review must be made within 28 days after the later of—
 - (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

84 Revocation of pipeline easement

- (1) If a licence is surrendered or cancelled, the Minister may, by notice published in the Government Gazette, revoke the pipeline easement for the pipeline to which the licence applied.
- (2) The Minister must not revoke a pipeline easement under subsection (1) if another pipeline, electric line or other facility uses the easement.
- (3) On the publication of a notice under subsection (1), the easement specified in the notice is revoked.
- (4) On being requested to do so and on delivery of any relevant instrument or document, the Registrar of Titles must make any recordings in

the Register that are necessary because of the operation of this section.

- (5) Despite subsection (4), it is not necessary to produce a certificate of title for the purposes of a recording in the Register required under that subsection.
- (6) No compensation is payable on the revocation of an easement under this section.

Division 9—Application of planning laws

85 Application of planning laws

If a licence is issued under this Act for the construction and operation of a pipeline, nothing in a planning scheme under the **Planning and Environment Act 1987**—

- (a) requires a permit under that Act for the use or development of land or the doing or carrying out of any matter or thing for the purpose of the pipeline; or
- (b) prevents the use or development of land or the doing or carrying out of any matter or thing for the purpose of the pipeline.

Part 6—Access to land for pipeline

Division 1—Authorities over public land

86 Licence or authority over Crown land for pipeline

- (1) The relevant Crown Land Minister may grant to a licensee a licence or any other authority necessary or expedient to enable the licensee to carry out a pipeline operation on or under Crown land.
- (2) A licence or authority under subsection (1) may be granted on any terms and conditions that the relevant Crown Land Minister considers appropriate.
- (3) A licence or authority under subsection (1) may be granted subject to the payment of a fee determined by the relevant Crown Land Minister.
- (4) The Crown Land Minister must not grant a licence or authority under this section in respect of wilderness Crown land.
- (5) This section applies despite anything to the contrary in any Act or regulation or in any licence, proclamation, reservation, declaration or dedication of or with respect to unalienated Crown land.

87 Public authority may grant easements etc. for pipelines

- (1) A public authority may grant to a licensee a lease, easement, licence or other authority of or over any land vested in the public authority that is necessary or expedient to enable the licensee to carry out a pipeline operation on or under that land.

- (2) Subject to subsection (3), a lease, easement, licence or authority under subsection (1) may be granted on any terms and conditions agreed between the public authority and the licensee.
- (3) If the Minister so determines, a lease, easement, licence or authority under subsection (1) must be granted on any terms and conditions imposed by the Minister.
- (4) A lease, easement, licence or authority cannot be granted under this section in respect of—
 - (a) wilderness Crown land; or
 - (b) land that is part of a park within the meaning of the **National Parks Act 1975** or land that is managed under that Act; or
 - (c) land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**.
- (5) This section applies despite anything to the contrary in any other Act.

88 Minister may grant authority over public authority land

- (1) If a public authority has refused to grant a lease, easement, licence or authority to a licensee under section 87 in respect of land vested in the public authority, the licensee may apply to the Minister for the grant of an authority over that land under this section.
- (2) Before granting an authority under this section, the Minister must—
 - (a) be satisfied that the licensee has taken all reasonable steps to reach agreement with the public authority; and
 - (b) consult with the public authority and the Minister responsible for the public authority.

- (3) If the Minister thinks it is appropriate to do so, the Minister may grant to the licensee any authority over the land vested in the public authority that is necessary or expedient to enable the licensee to carry out a pipeline operation on or under that land.
- (4) An authority under subsection (3) may be granted on any terms and conditions determined by the Minister.
- (5) An authority cannot be granted under this section in respect of—
 - (a) wilderness Crown land; or
 - (b) land that is part of a park within the meaning of the **National Parks Act 1975** or land that is managed under that Act; or
 - (c) land that is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**.
- (6) This section applies despite anything to the contrary in any other Act.

Division 2—Purchase or acquisition of easements

89 Purchase of easement

S. 89
amended by
No. 68/2014
s. 94(a).

A proponent, an applicant or a licensee may enter into an agreement with the owner of any private land to purchase an easement over that land for the purposes of the pipeline.

90 Application for consent for compulsory acquisition of easement

S. 90(1)
amended by
No. 68/2014
s. 94(b)(i).

- (1) A proponent, an applicant or a licensee may apply to the Minister for consent to compulsorily acquire an easement over private land for the purposes of constructing and operating the pipeline.

- (2) The application must set out details of the proposed easement and the purpose for which it is required.
- (3) Subject to subsection (4), an application relating to land can only be made after the end of 6 months after the giving of notice to the owner of the land under Division 3 of Part 4 or Division 6 of Part 5.
- (4) The Minister may abridge the time within which an application can be made under this section if the Minister considers it appropriate to do so.
- (5) The Minister may ask the applicant for consent for further information in relation to the application.

S. 90(3)
amended by
No. 68/2014
s. 94(b)(ii).

S. 90(5)
amended by
No. 68/2014
s. 94(b)(iii).

91 Notice to owners and occupiers

- (1) The proponent, applicant or licensee must give a notice of an application under section 90 to any owner and any occupier of the private land to which the application relates.
- (2) The notice must—
 - (a) be accompanied by a copy of the application; and
 - (b) specify a date determined by the Minister as the submission date for the application (the **submission date**); and
 - (c) state that the owner or occupier may make a written submission to the Minister about the application on or before the submission date.
- (3) An owner or occupier of land may make a submission to the Minister about an application under section 90 on or before the submission date for the application.
- (4) A notice under this section lapses on the day after the day on which the Minister makes a decision on the application under section 95.

S. 91(1)
amended by
No. 68/2014
s. 94(c).

S. 92
(Heading)
amended by
No. 68/2014
s. 94(d).

92 Proponent, applicant or licensee to lodge notice with Registrar

S. 92(1)
amended by
No. 68/2014
s. 94(e)(i).

- (1) The proponent, applicant or licensee without delay after the giving of a notice to the owner of land under section 91 must—
 - (a) give the Registrar of Titles notice in the prescribed form of the notice given under that section; and
 - (b) pay the relevant prescribed fee to the Registrar.
- (2) If a notice is given in accordance with subsection (1), the Registrar of Titles must—
 - (a) make a recording of the notice in the Register; or
 - (b) if it is not practicable to make a recording, by displaying a map or other appropriate means, make the notice available for inspection.

S. 92(3)
amended by
No. 68/2014
s. 94(e)(ii).

- (3) If a notice lapses, the proponent, applicant or licensee must give the Registrar of Titles notice in writing of the lapse.
- (4) If notice is given under subsection (3), the Registrar of Titles must, as appropriate—
 - (a) delete from the Register any recordings of the notice;
 - (b) make a recording in the Register of the lapsing of the notice;
 - (c) remove any map or other document made available under subsection (2).

- (5) A person is not entitled to receive from the proponent, applicant or licensee any damages or compensation resulting from compliance by the proponent, applicant or licensee with this section or anything arising from that compliance.

S. 92(5)
amended by
No. 68/2014
s. 94(e)(iii).

93 Effect of notice under section 91

To avoid doubt, the giving of a notice under section 91 does not constitute an offer or a binding agreement to acquire the land to which the notice applies.

94 Restrictions on dealings with land

- (1) If a notice has been given to a person under section 91, that person must not, while the notice is in force, without the consent of the proponent, applicant or licensee—
- (a) enter into any sale, transaction or arrangement, or obtain or grant any licence or approval, with respect to the land; or
 - (b) make any improvements of a durable nature to the land.
- (2) On receipt of any document relating to any dealing with any land in respect of which a notice has been given to the Registrar of Titles under section 92, the Registrar must notify the proponent, applicant or licensee of this fact.
- (3) Nothing in this section prevents—
- (a) any person from discharging the land from any mortgage affecting the land; or
 - (b) a mortgagee from exercising a power of sale in respect of the land.

S. 94(1)
amended by
No. 68/2014
s. 94(f).

S. 94(2)
amended by
No. 68/2014
s. 94(f).

95 Decision of Minister

- (1) Before making a decision on an application under section 90, the Minister must—

Pipelines Act 2005
No. 61 of 2005
Part 6—Access to land for pipeline

S. 95(1)(a)
amended by
No. 68/2014
s. 95(1).

- (a) be satisfied that the proponent, applicant or licensee has taken all reasonable steps to reach agreement with the owners of the land in relation to the purchase of the easement; and
- (b) consider any submissions made under section 91.

S. 95(1A)
inserted by
No. 25/2008
s. 18,
amended by
No. 68/2014
s. 95(1)

- (1A) In considering whether the proponent, applicant or licensee has taken all reasonable steps for the purposes of subsection (1)(a), the Minister must consider whether the proponent, applicant or licensee has satisfied the requirements set out in an approved consultation plan.

S. 95(2)
substituted by
No. 68/2014
s. 95(2).

- (2) The Minister must not consent to a compulsory acquisition of an easement by an applicant unless the Minister has decided to grant the licence to construct and operate the pipeline.

S. 95(2)(a)
inserted by
No. 68/2014
s. 95(2).

- (2A) The Minister must not consent to a compulsory acquisition of an easement by a licensee for the purpose of the alteration of the route of a pipeline unless the Minister has decided to grant the application for the proposed alteration.
- (3) The Minister must within 28 days after the submission date for the application or the date of the decision to grant or refuse the licence (whichever is the later)—
 - (a) consent to the compulsory acquisition of the easement; or
 - (b) refuse to consent to the acquisition.

S. 95(3A)
inserted by
No. 68/2014
s. 95(3).

- (3A) The Minister must within 28 days after the submission date for the application or the date of the decision to approve or refuse the significant alteration (whichever is the later)—
 - (a) consent to the compulsory acquisition of the easement; or

(b) refuse to consent to the acquisition.

(4) A consent must be in writing.

96 Compulsory acquisition

(1) If the Minister has consented under section 95 to the compulsory acquisition of an easement, the licensee may acquire compulsorily that easement.

(2) Subject to subsection (3), the **Land Acquisition and Compensation Act 1986** applies to a compulsory acquisition referred to in subsection (1) and for that purpose—

(a) this Act is the special Act; and

(b) the licensee is the Authority.

(3) Divisions 2 and 3 of Part 2 and section 20 of the **Land Acquisition and Compensation Act 1986** do not apply to an acquisition under subsection (1).

97 Easement to be easement in gross

An easement purchased or acquired under this Division for the construction and operation of a pipeline is an easement in gross that does not depend on the existence of a dominant tenement.

Division 3—Emergency access to land

98 Emergency access to land

An employee of a licensee or any person authorised by a licensee may enter any private land or Crown land in an emergency to ensure public safety, to repair a pipeline or to repair damage to the environment as a result of any incident involving a pipeline.

Part 7—Construction of pipeline

Division 1—General requirements

S. 99
amended by
No. 68/2014
s. 96.

99 Construction to be along authorised route

A licensee must ensure that the pipeline to which the licence applies is constructed along the route authorised in the licence for that pipeline.

Penalty: In the case of a natural person,
120 penalty units;

In the case of a body corporate,
600 penalty units.

100 Construction to comply with standards and conditions

(1) A licensee must ensure that the pipeline to which the licence applies is constructed in accordance with—

(a) any standards, specifications and conditions that are prescribed; and

(b) any standards, specifications and conditions that are included in the licence.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

(2) This section applies despite any other requirement of this Part.

Division 2—Pipelines and infrastructure

101 Pipelines and railways

(1) If a pipeline runs along or crosses over or under a railway or any land reserved for railway purposes, the pipeline must, at the expense of the licensee, be constructed to the satisfaction of Victorian Rail

Track so that the safe use of the railway is not impeded or unnecessarily obstructed.

- (2) A licensee who fails to comply with this section is guilty of an offence and liable to a penalty not exceeding—
- (a) 240 penalty units in the case of a natural person; or
 - (b) 1200 penalty units in the case of a body corporate.

102 Pipelines, roads, bridges and road infrastructure

- (1) Subject to subsection (2), if a pipeline runs along or crosses over or under a road, bridge or tramway, the pipeline must, at the expense of the licensee, be constructed to the satisfaction of the relevant authority so that the safe use of the road, bridge or tramway is not impeded or unnecessarily obstructed.
- (2) If a pipeline runs along or crosses over or under road infrastructure within the meaning of the **Road Management Act 2004**, the pipeline must, at the expense of the licensee, be constructed subject to and in accordance with the **Road Management Act 2004**.
- (3) A licensee who fails to comply with this section is guilty of an offence and liable to a penalty not exceeding—
- (a) 240 penalty units in the case of a natural person; or
 - (b) 1200 penalty units in the case of a body corporate.

- (4) In this section *relevant authority* means—
- (a) if a public authority or municipal council is responsible for the maintenance of the road, bridge, tramway or road infrastructure, that public authority or municipal council; or
 - (b) in any other case, the Minister.

103 Pipelines and electrical apparatus and other pipelines

- (1) If a pipeline runs along or crosses over or under any electrical apparatus or other pipeline, the pipeline must, at the expense of the licensee, be constructed to the satisfaction of the relevant authority so that the safe use of the electrical apparatus or pipeline is not impeded or unnecessarily obstructed.
- (2) A licensee who fails to comply with this section is guilty of an offence and liable to a penalty not exceeding—
- (a) 240 penalty units in the case of a natural person; or
 - (b) 1200 penalty units in the case of a body corporate.
- (3) In this section *relevant authority* means—
- (a) if a public authority or municipal council is responsible for the maintenance of the electrical apparatus or pipeline, that public authority or municipal council; or
 - (b) in any other case, the Minister.

104 Licensee responsible for extra expense incurred by authorities

The licensee must reimburse any extra expense incurred at any time by Victorian Rail Track or the public authority, municipal council or Minister responsible for the maintenance of a railway, road,

bridge, tramway, road infrastructure, electrical apparatus or other pipeline because of the existence and operation of the pipeline.

105 Governor in Council to settle disputes

- (1) Any dispute in relation to any matter referred to in this Division between the licensee and Victorian Rail Track, a public authority, municipal council or Minister may be referred to the Governor in Council for determination.
- (2) A Minister, public authority, municipal council and licensee affected by a determination of the Governor in Council under this section must comply with the determination.

Division 3—Obstruction of construction

106 Offence to obstruct construction of pipeline

A person must not—

- (a) wilfully obstruct a person acting under the authority of a licensee in the lawful exercise of the licensee's powers in relation to the construction of a pipeline; or
- (b) without the authority of a licensee, interfere with any works relating to the construction of a pipeline by the licensee.

Penalty: In the case of a natural person,
60 penalty units;

In the case of a body corporate,
240 penalty units.

Part 8—Operation of pipeline

Division 1—General operation

107 Commencement or resumption of operation needs consent

- (1) A licensee whose pipeline has never been used to convey substances must not commence that operation without the written consent of the Minister.

Penalty: In the case of a natural person,
10 penalty units;

In the case of a body corporate,
60 penalty units.

- (2) A licensee who has, otherwise than in the course of the normal operating procedure of the pipeline, completely ceased to convey substances through the pipeline must not resume that operation without the written consent of the Minister.

Penalty: In the case of a natural person,
10 penalty units;

In the case of a body corporate,
60 penalty units.

- (3) An application under this section for consent must be in writing.

108 Decision to consent

- (1) The Minister may consent to an application under section 107 if the Minister is satisfied that the pipeline may be operated safely.
- (2) A consent may be given subject to such conditions, if any, as the Minister considers appropriate and specifies in the consent.
- (3) A consent must be served on the licensee.

109 Operation to comply with standards, specifications and conditions

A licensee must ensure that the pipeline to which the licence applies is operated in accordance with—

- (a) any standards, specifications and conditions that are prescribed; and
- (b) any standards, specifications and conditions that are included in the licence.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

110 Payment of annual fee

- (1) A licensee must not in any year operate a pipeline unless the prescribed pipeline operation fee for that pipeline has been paid in respect of that year.
- (2) The pipeline operation fee may be prescribed at a rate for each kilometre or part of a kilometre of pipeline operated under a licence.

111 Only authorised things to be conveyed through pipeline

A licensee must not convey anything through a pipeline unless—

- (a) the licence authorises the use of the pipeline for the conveyance of that thing; or
- (b) the Minister authorises the use of the pipeline to convey that thing under section 113.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

112 Licensee must consult before making an application

A licensee must consult with the owners and occupiers of land who the licensee believes on reasonable grounds will be directly affected by the proposed use of the pipeline before making an application for an authority under section 113.

113 Minister may authorise other use of pipeline

- (1) A licensee may apply to the Minister for authority to use the pipeline to convey a thing other than the thing authorised by the licence.
- (2) The application must—
 - (a) state the thing authorised to be conveyed; and
 - (b) state the thing proposed to be conveyed; and
 - (c) state whether the conveyance is to be instead of or in addition to the conveyance of the thing already authorised; and
 - (d) include an assessment in accordance with the regulations of the potential risks to safety and the environment of the proposal; and
 - (e) include details of the consultation carried out in relation to the application under section 112; and
 - (f) be accompanied by the prescribed fee.
- (3) The Minister may—
 - (a) authorise the use of the pipeline for the conveyance of the thing; or
 - (b) refuse the application.
- (4) An authority under this section may be given subject to any terms and conditions that the Minister considers necessary.

Division 2—Safety and environment requirements

114 Minister may impose requirements

- (1) The Minister may at any time by notice served on the licensee impose requirements under this section in respect of the pipeline that the Minister considers necessary or expedient in the interests of safety or the protection of the environment.
- (2) The requirements may be with respect to—
 - (a) the examination, repair, maintenance, adjustment or testing of the pipeline; or
 - (b) the modification, reinforcement or protection of the pipeline; or
 - (c) the inspection of the pipeline.
- (3) The licensee must comply with a requirement imposed under this section.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

- (4) A person must not obstruct or hinder the carrying out of a requirement imposed under this section.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

115 Minister may restrict use of pipeline

- (1) The Minister may serve a notice on a licensee under this section if the Minister considers it necessary to do so in the interests of safety or the protection of the environment.

- (2) The notice may—
 - (a) limit the pressure at which a substance may be conveyed through the pipeline to a pressure stated in the notice; or
 - (b) prohibit the use of the pipeline either absolutely or for the conveyance of any thing other than a thing specified in the notice.
- (3) The notice must specify the alterations, repairs or replacements required to be carried out to end the limitation or prohibition.
- (4) The Minister must end the limitation or prohibition if the alterations, repairs or replacements specified in the notice have been carried out to the Minister's satisfaction.
- (5) The licensee must comply with a limitation or prohibition in a notice served on the licensee under this section.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

116 Mandatory notice of incidents

A licensee must at all times ensure that in the event of the escape or ignition of anything in the pipeline efficient arrangements are made for immediate notice of the escape or ignition to be given—

- (a) to the nearest police station; and
- (b) to the relevant authorities for—
 - (i) the prevention or combating of fire, flooding or pollution; and

- (ii) the prevention of damage to sewers, sewerage works and the maintenance of the free flow of the contents of sewers; and
- (c) to any other authority that the Minister by notice served on the licensee declares to be a relevant authority for the purposes of this section.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

Division 3—Interference with operation

117 Offence to obstruct operation of pipelines

A person must not—

- (a) wilfully obstruct a person acting under the authority of a licensee in the lawful exercise of the licensee's powers in relation to the operation of a pipeline; or
- (b) without the authority of a licensee, interfere with any works relating to the operation of a pipeline by the licensee.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
240 penalty units.

118 Digging near pipelines

- (1) A person is guilty of an offence if the person carries out any excavation or bores or opens any ground within 3 metres of a pipeline without either obtaining the authority of the licensee or giving notice to the licensee in accordance with the regulations.

- (2) A person who is guilty of an offence under subsection (1) is liable to a penalty not exceeding 20 penalty units, in the case of a natural person, or 100 penalty units, in the case of a body corporate.
- (3) This section does not apply to—
 - (a) an owner or occupier of any land on or under which the pipeline is situated if the owner or occupier excavates or bores or opens ground to a depth of not more than 300 millimetres in that land; or
 - (b) a person who, on behalf of an owner or occupier of any land on or under which the pipeline is situated, excavates or bores or opens ground to a depth of not more than 300 millimetres in that land.

119 Interference with pipeline

- (1) A person must not knowingly, recklessly or negligently break, injure, open or tamper with any pipeline.

Penalty: In the case of a natural person,
40 penalty units;
In the case of a body corporate,
200 penalty units.
- (2) This section does not apply to any person lawfully carrying out work on behalf of the licensee in respect of the pipeline.

120 Restriction on building on land near pipeline

- (1) A person must not construct a building so that any part of it is situated less than 3 metres from a point on the surface of the land whose position is vertically above a part of a pipeline below the surface unless the Minister has first consented to that construction.

Penalty: In the case of a natural person,
20 penalty units;

In the case of a body corporate,
100 penalty units.

- (2) If a building is constructed in contravention of subsection (1), the Minister may hold a hearing to determine whether or not the building should be demolished.

- (3) The Minister must give notice to the owner of the building of the time and place of the hearing under subsection (2).

**S. 120(3)
amended by
No. 68/2014
s. 97(a).**

- (4) After considering any submission by the owner at the hearing, the Minister may, if he or she considers that the building may impede the working of or endanger the pipeline, direct the owner—

(a) to take within a specified time the steps specified in the direction to remove the impediment or danger; or

**S. 120(4)(a)
amended by
No. 68/2014
s. 97(b).**

(b) to demolish the building.

- (5) A person to whom a direction is given under subsection (4) must comply with that direction.

Penalty: In the case of a natural person,
10 penalty units;

In the case of a body corporate,
60 penalty units.

- (6) In this section *building* and *construct* have the meanings respectively that they have in the **Building Act 1993**.

Division 4—Third party access

121 Agreement to share use of pipeline

- (1) A licensee may enter into an agreement with any person for or in relation to the conveying by the licensee by means of the pipeline of anything belonging to that person that is authorised to be conveyed through the pipeline.
- (2) An agreement under this section must not be inconsistent with this Act or the licence for the pipeline.

122 Direction by Minister about shared use of pipeline

- (1) If a licensee fails to enter into an agreement under section 121, the person seeking that agreement may apply to the Minister for a direction under subsection (4).
- (2) If a licensee enters into an agreement under section 121, any person who is entitled to have anything conveyed through the pipeline pursuant to any previous agreement or any direction of the Minister under this section may apply to the Minister for a direction under subsection (7).
- (3) An application under this section must be in writing and be accompanied by the prescribed fee.
- (4) After considering an application under subsection (1) and any other matter that he or she considers relevant, the Minister may direct the licensee to convey by means of the pipeline the whole or a specific part of the thing sought to be conveyed.

- (5) The matters that the Minister may consider under subsection (4) may include—
- (a) the capacity of the pipeline; and
 - (b) the impact of the proposal on the safety of the pipeline; and
 - (c) any additional costs to the licensee of the proposal.
- (6) A direction under subsection (4) may require the conveyance to be on the terms and conditions (including the rate of payment) agreed by the licensee and the applicant or, in default of that agreement, as determined by the Minister.
- (7) After considering an application under subsection (2) and any other matter that he or she considers relevant, the Minister may direct the licensee not to convey the thing through the pipeline.
- (8) A licensee must comply with a direction under this section.
- Penalty: In the case of a natural person,
120 penalty units;
In the case of a body corporate,
600 penalty units.
- (9) This section does not apply in relation to the conveyance of gas through a pipeline if the National Gas (Victoria) Law applies in relation to third party access to that pipeline.

S. 122(9)
amended by
No. 30/2008
s. 43.

123 Third party access to easements

- (1) A person (other than the licensee) who seeks access to a pipeline easement for the construction and operation of another pipeline or of an electric line or other facility may apply to the Minister for approval of that access if the licensee does not agree to that access.

- (2) An application must be in writing and be accompanied by the prescribed fee.
- (3) The Minister must consult with the licensee and the owner and the occupier of the land over which the easement exists before granting an approval under this section.
- (4) The Minister may approve access by the applicant to the pipeline easement for the construction and operation of another pipeline or of an electric line or other facility if the Minister is satisfied that—
 - (a) the licensee does not intend to construct an additional pipeline on the easement in the foreseeable future; and
 - (b) the new pipeline, electric line or facility can be safely added to the easement; and
 - (c) the applicant has agreed to pay appropriate compensation to the licensee for the access, including compensation for costs incurred by the licensee for any alterations to its infrastructure that are required as a result of the additional pipeline, electric line or facility; and
 - (d) the applicant has agreed to pay compensation to the owner and the occupier of the land over which the easement exists for any loss or damage to the owner or occupier resulting from that access.
- (5) The Minister must give written notice to the licensee and the owner and the occupier of the land over which the easement exists of an approval under this section.
- (6) A licensee must permit access to a pipeline easement in accordance with an approval under this section.

Part 9—Management plans

Division 1—General duties of safety and environment protection

124 Duties of licensee for safety and environment protection

A licensee must manage any pipeline operation so as to minimise as far as is reasonably practicable—

- (a) hazards and risks to the safety of the public arising from the pipeline operation; and
- (b) hazards and risks to the environment arising from the pipeline operation.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

125 What is reasonably practicable?

For the purposes of this Division, regard must be had to the following matters in determining what is (or was at a particular time) reasonably practicable—

- (a) the likelihood of the hazard or risk concerned eventuating;
- (b) the degree of harm that would result if the hazard or risk eventuated;
- (c) what the person knows, or ought reasonably to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk;
- (d) the availability and suitability of ways to eliminate or reduce the hazard or risk;

- (e) the cost of eliminating or reducing the hazard or risk.

Division 2—Safety Management Plans

126 Safety Management Plan to be prepared

- (1) Before carrying out any pipeline operation, the licensee must give Energy Safe Victoria a Safety Management Plan—
 - (a) that identifies the risks to the safety of the public from the pipeline operation; and
 - (b) that specifies what the licensee will do to eliminate or minimise those risks; and
 - (c) that sets out any matter prescribed by the regulations.
- (2) A Safety Management Plan may be given to Energy Safe Victoria and accepted in stages.

127 No operation without accepted Plan

A licensee must not carry out a pipeline operation unless Energy Safe Victoria has accepted the Safety Management Plan for the pipeline operation in writing.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

128 Acceptance of Safety Management Plan

- (1) Energy Safe Victoria must not accept a Safety Management Plan unless it is satisfied that the licensee has, in preparing the Plan, consulted any person who owns, occupies or manages the land on which the pipeline operation is to be carried out.

- (2) Energy Safe Victoria may request a licensee to provide any further information that Energy Safe Victoria considers necessary to enable it to determine whether or not to accept the Safety Management Plan.
- (3) Energy Safe Victoria must accept a Safety Management Plan if Energy Safe Victoria is satisfied that the Plan is appropriate for the pipeline operation to which it applies and complies with this Act and the regulations relating to Safety Management Plans.
- (4) Energy Safe Victoria may accept a Safety Management Plan on conditions that relate or are incidental to the safety of the pipeline operation.

129 Plan must be observed in carrying out operation

In carrying out a pipeline operation, a licensee must ensure that the operation is carried out in accordance with the Safety Management Plan accepted by Energy Safe Victoria in relation to the pipeline operation.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

130 Energy Safe Victoria may permit amendment of Safety Management Plan

On the written application of a licensee, Energy Safe Victoria may permit the licensee to amend the Safety Management Plan that applies or is to apply to a pipeline operation of the licensee.

131 Energy Safe Victoria may require amendment of Safety Management Plan

- (1) Energy Safe Victoria may require the licensee to amend the Safety Management Plan that applies or is to apply to a pipeline operation of the licensee.
- (2) Energy Safe Victoria may only do this after consulting with the licensee.

132 Review of Safety Management Plan

A licensee must—

- (a) review its Safety Management Plan before the end of each period of 5 years after the date the Plan was accepted; and
- (b) report the results of each review to Energy Safe Victoria within 28 days after the completion of the review.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
240 penalty units.

S. 132A
inserted by
No. 60/2006
s. 6.

132A Funding

A licensee must pay to Energy Safe Victoria at such time or times as the Minister determines such annual amount (if any) as the Minister determines to be payable by that licensee in respect of the reasonable costs and expenses of Energy Safe Victoria.

Division 3—Environment Management Plans

133 Environment Management Plan to be prepared

- (1) Before carrying out any pipeline operation, the licensee must give the Minister an Environment Management Plan—

- (a) that identifies the risks to the environment arising from the pipeline operation; and
 - (b) that specifies what the licensee will do to eliminate or minimise those risks, including rehabilitation of land; and
 - (c) that sets out any matter prescribed by the regulations.
- (2) An Environment Management Plan may be given to the Minister and accepted in stages.

134 No operation without accepted Plan

A licensee must not carry out a pipeline operation unless the Minister has accepted the Environment Management Plan for the pipeline operation in writing.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

135 Acceptance of Environment Management Plan

- (1) The Minister must not accept an Environment Management Plan unless he or she is satisfied that the licensee has, in preparing the Plan, consulted any person who owns, occupies or manages the land on which the operation is to be carried out.
- (2) The Minister must consult with the Minister administering the **Gas Safety Act 1997** before accepting an Environment Management Plan.
- (3) The Minister may consult with any other Minister, public authority, person or body that the Minister considers to be affected by the Environment Management Plan before accepting the Environment Management Plan.

- (4) The Minister may request a licensee to provide any further information that the Minister considers necessary to enable him or her to determine whether or not to accept the Environment Management Plan.
- (5) The Minister must accept an Environment Management Plan if the Minister is satisfied that the Plan is appropriate for the pipeline operation to which it applies and complies with this Act and the regulations relating to Environment Management Plans.
- (6) The Minister may accept an Environment Management Plan on conditions that relate or are incidental to the impact on the environment of the pipeline operation.

Note to s. 135
inserted by
No. 62/2010
s. 145.

Note

The giving of acceptance of an Environment Management Plan under this Division may be a land use activity under the **Traditional Owner Settlement Act 2010** if it relates to public land to which a land use activity agreement under that Act applies.

136 Plan must be observed in carrying out operation

In carrying out a pipeline operation, a licensee must ensure that the operation is carried out in accordance with the Environment Management Plan accepted by the Minister in relation to the pipeline operation.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

137 Minister may permit amendment of Environment Management Plan

On the written application of a licensee, the Minister may permit the licensee to amend the Environment Management Plan that applies or is to apply to a pipeline operation of the licensee.

138 Minister may require amendment of Environment Management Plan

- (1) The Minister may require the licensee to amend the Environment Management Plan that applies or is to apply to a pipeline operation of the licensee.
- (2) The Minister may only do this after consulting with the licensee.

139 Review of Environment Management Plan

A licensee must—

- (a) review its Environment Management Plan before the end of each period of 5 years after the date the Plan was accepted; and
- (b) report the results of each review to the Minister within 28 days after the completion of the review.

Penalty: In the case of a natural person,
60 penalty units;
In the case of a body corporate,
240 penalty units.

Part 10—Rehabilitation and compensation

Division 1—Rehabilitation bond

140 What is a rehabilitation bond?

For the purposes of this Part a *rehabilitation bond* is an instrument securing the payment of a specified amount of money for any rehabilitation work, clean-up work or pollution prevention work that may be necessary as a result of—

- (a) the construction of a pipeline; or
- (b) the decommissioning or removal of a pipeline.

141 Requirement to take out rehabilitation bond

- (1) A licensee must not construct a pipeline unless the licensee has obtained a rehabilitation bond that is acceptable to the Minister and is for an amount specified by the Minister.

Penalty: In the case of a natural person,
120 penalty units;
In the case of a body corporate,
600 penalty units.

- (2) If required by the Minister, a licensee must provide to the Minister before the cancellation or surrender of the licence a rehabilitation bond that is acceptable to the Minister and is for an amount specified by the Minister.

Penalty: In the case of a natural person,
120 penalty units;
In the case of a body corporate,
600 penalty units.

142 Minister may require increased rehabilitation bond

- (1) This section applies if the Minister believes that the amount secured by a rehabilitation bond in relation to the construction, decommissioning or removal of a pipeline is insufficient.
- (2) The Minister may, by written notice, require the licensee to obtain an extension of the rehabilitation bond, or a further rehabilitation bond for an amount determined by the Minister.
- (3) The further rehabilitation bond must be acceptable to the Minister.
- (4) Before making a requirement under this section, the Minister must consult the licensee.
- (5) The licensee must comply with a notice imposing a requirement under this section within 30 days after being given the notice.

Penalty: In the case of a natural person,
120 penalty units;
In the case of a body corporate,
600 penalty units.

143 Return of bond if rehabilitation satisfactory

The Minister must discharge a rehabilitation bond, or return a rehabilitation bond to the licensee or a former licensee as soon as practicable once the Minister is satisfied—

- (a) that the relevant land has been rehabilitated as required by section 145, 146 or 147; and
- (b) that the rehabilitation is likely to be successful; and
- (c) that any other work in respect of which the bond was required has been satisfactorily completed.

Division 2—Insurance

144 Insurance must be held

A licensee must obtain and 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 a pipeline operation, or the doing of any other thing, under the licence, including the expenses of complying with directions with respect to the clean-up or other remedying of the effects of the escape of petroleum, or any other liquid or gaseous substance, from the pipeline.

Division 3—Rehabilitation

145 Rehabilitation by licensee after construction

- (1) A licensee must rehabilitate, at the licensee's own expense, any land on or under which a pipeline is situated as soon as practicable after the completion of construction of that part of the pipeline.
- (2) In rehabilitating the land, the licensee must restore it so as to enable it to be used—
 - (a) as far as practicable for the purposes for which it was used immediately before the construction of that part of the pipeline; or
 - (b) with the prior approval of the Minister, for any other purpose agreed between the owner and the occupier of the land and the licensee.

146 Rehabilitation on decommissioning of pipeline

If a decommissioning plan has been prepared for a pipeline under Division 8 of Part 5, the licensee must carry out any rehabilitation of land provided for in that plan.

147 Rehabilitation on cancellation or surrender of licence

- (1) If a licence is surrendered or cancelled, the Minister may, in writing, direct the person who held that licence—
 - (a) to remove the pipeline; and
 - (b) to rehabilitate the land from which the pipeline was removed to a standard determined by the Minister.
- (2) If a licence is surrendered or cancelled, the Minister may, in writing, direct the person who held that licence to remove all equipment brought on to land under that licence.
- (3) The Minister must consult with the owner and the occupier of the land to which a direction relates before giving a direction about the standard of rehabilitation of that land.
- (4) A person to whom a direction is given under this section must comply with that direction within 60 days after it is given or within any longer time that is specified by the Minister in the direction.

Penalty: In the case of a natural person,
120 penalty units;

In the case of a body corporate,
600 penalty units.

148 Rehabilitation by owner

- (1) If a licensee fails to rehabilitate land as required by this Division, the owner of the land may—
 - (a) rehabilitate the land; and
 - (b) recover from the licensee, in any court of competent jurisdiction, the expenses reasonably incurred in carrying out that rehabilitation.

- (2) Any expenses recovered under this section do not affect any right to compensation that a person may have under this Act in respect of that land.

149 Rehabilitation by Minister

- (1) The Minister may do anything necessary to rehabilitate land on or under which a pipeline is or was situated if he or she—
- (a) is not satisfied that the land has been rehabilitated as required by this Division; or
 - (b) is satisfied that further rehabilitation of the land is necessary; or
 - (c) is asked to do so by the owner of the land.
- (2) The Minister may only do this if he or she has asked the licensee to rehabilitate the land and the licensee has failed to do so within a reasonable period after the request.
- (3) The Minister may recover as a debt due to the Crown in any court of competent jurisdiction any amount incurred under subsection (1) that cannot be recovered from the rehabilitation bond that applies in respect of the land.
- (4) If the Minister refuses to act on a request under subsection (1)(c), he or she must inform the owner of the land of the reasons for that refusal.

150 Minister may remove pipeline or equipment

- (1) If a person fails to remove a pipeline or equipment in accordance with a direction under this Division, the Minister may cause the pipeline or equipment to be removed and may dispose of the pipeline or equipment.

- (2) The Minister may recover any cost involved in doing this from the rehabilitation bond that applies in respect of the removal of the pipeline and from any proceeds that result from the disposal of the pipeline or equipment.
- (3) If the cost of removing or disposing of any pipeline or equipment is greater than the amount that can be recovered under subsection (2) in relation to that pipeline or equipment, the person who failed to comply with the direction must pay the difference to the Minister.
- (4) The Minister may recover as a debt due to the Crown in a court of competent jurisdiction any amount payable under subsection (3).

Division 4—Compensation

151 Owner's and occupier's right to compensation

- (1) The owner and the occupier of land are each entitled to compensation from—
 - (a) a proponent who enters the land in accordance with Division 2 of Part 4 to carry out any survey;
 - (b) a licensee who carries out a pipeline operation;
 - (c) a licensee in respect of any emergency access to the land under Division 3 of Part 6.
- (2) The compensation is to cover—
 - (a) deprivation or impairment of the use and enjoyment of the land; and
 - (b) damage to the land (not including damage that has been made good by the proponent or licensee); and

- (c) damage to, or disturbance of, any business or other activity lawfully conducted on the land; and
 - (d) consequential loss.
- (3) The compensation may be determined by agreement.

152 Compensation for third party access

An owner and an occupier of land (other than a licensee) is entitled to be paid compensation by a person to whom approval for third party access to an easement over the land is given under section 123 for any additional loss or damage incurred by the owner or occupier as a result of that access.

153 When must a claim for compensation be brought?

A claim for compensation under this Division for loss or damage for which no agreement has been reached must be made within 3 years after the loss or damage occurred.

154 Determination of compensation by VCAT

- (1) An owner or occupier of land may in accordance with Part 10 of the **Land Acquisition and Compensation Act 1986**—
- (a) apply to VCAT for the determination of a disputed claim for compensation under this Division; or
 - (b) refer a disputed claim for compensation under this Division to the Supreme Court for determination.

- (2) Part 10 of the **Land Acquisition and Compensation Act 1986** applies for the purposes of subsection (1) as if—
- (a) the claim were a claim for compensation under that Act; and
 - (b) the licensee or proponent were the Authority referred to in that Part.
- (3) This section does not apply to a claim for just terms compensation under section 53(1) of the Native Title Act.
- (4) In assessing compensation, any other compensation which the owner may have received, or to which the owner may be entitled, is to be taken into account.

Part 11—Enforcement

Division 1—Directions of Minister

155 Power of Minister to give directions

If the Minister considers that is necessary to do so in an emergency, the Minister may, in writing, direct any person—

- (a) to cease to operate a pipeline, if the Minister considers it is necessary to do so for safety reasons; or
- (b) to do any thing the Minister considers necessary to make a pipeline safe; or
- (c) to do or cease to do any other thing in relation to a pipeline operation that the Minister considers necessary for the protection or rehabilitation of the environment or for the health or safety of the public.

156 Offence to fail to comply with direction

A person must not, without lawful excuse, fail to comply with a direction under section 155 that applies to that person.

Penalty: In the case of a natural person,
240 penalty units or 2 years
imprisonment or both;

In the case of a body corporate,
1200 penalty units.

Division 2—Inspection powers

157 Authorisation of inspectors

- (1) The Minister may authorise an inspector appointed under the **Gas Safety Act 1997** or any other person to carry out inspections for the purposes of this Act.
- (2) The Minister must not authorise a person under this section unless the Minister is satisfied that the person is appropriately qualified or has successfully completed appropriate training.

158 Identity cards

- (1) The Minister must give each authorised person an identity card that identifies the person by name as an inspector under this Act and that contains a photograph of the person.
- (2) If a person's authorisation as an inspector is revoked or expires, he or she must immediately return his or her identity card to the Minister.

Penalty: 5 penalty units.

159 Production of identity card

An inspector must produce his or her identity card for inspection—

- (a) before exercising a power under this Division, other than a requirement made by post; and
- (b) at any time during the exercise of a power under this Division, if asked to do so.

Penalty: 10 penalty units.

160 Monitoring compliance with this Act

- (1) An inspector may enter any premises that the inspector believes have been, are being, or are to be, used in connection with a pipeline operation at any reasonable hour in the daytime and at any time that the premises are open for business and may—
 - (a) inspect the premises and any thing on the premises;
 - (b) make copies of, or take extracts from, any document kept on the premises;
 - (c) seize any thing on the premises if the inspector believes on reasonable grounds that it is necessary to seize the thing in order to prevent its concealment, loss or destruction;
 - (d) test any equipment on the premises;
 - (e) take any photographs or make any audio or visual recordings that the inspector considers necessary;
 - (f) use any assistants the inspector considers necessary to exercise the powers conferred by this section.
- (2) Without limiting subsection (1), an inspector may at all reasonable times and with any assistants, vehicles and equipment he or she considers necessary—
 - (a) carry out any inspections and tests of a pipeline; and
 - (b) take samples of anything in the pipeline and of any soil, water, flora, fauna (whether alive or dead) or air in the vicinity of the pipeline that he or she considers necessary or expedient; and

- (c) cross any land adjacent to the pipeline in order to reach or return from the pipeline.
- (3) An inspector may exercise powers under this section only to the extent that it is reasonably necessary to do so for the purpose of determining compliance with this Act or in connection with the issue of a prohibition notice.
- (4) An inspector may not continue to exercise any powers under this section if he or she fails to produce, on request, his or her identity card for inspection by the occupier of the land.
- (5) An inspector may not, under this section, enter a residence for the purpose of determining compliance with this Act unless the occupier of the residence has consented in writing to the entry and the carrying out of a search.

161 Emergencies

- (1) If an inspector reasonably believes that it is necessary to do so because of the existence, on any premises that the inspector believes have been, are being, or are to be, used in connection with a pipeline operation, of an immediate serious risk to health, safety or the environment from the pipeline operation, the inspector may at any time enter the premises and exercise any power conferred by section 160(1).
- (2) An inspector may not continue to exercise any powers under this section if he or she fails to produce, on request, his or her identity card for inspection by the occupier of the premises.

- (3) If an inspector exercises a power of entry under this section without the owner or occupier being present, the inspector must, on leaving the premises, leave a notice setting out—
- (a) the time of entry; and
 - (b) the purpose of entry; and
 - (c) a description of all things done while on the premises; and
 - (d) the time of departure; and
 - (e) the procedure for contacting the Department for further details of the entry.

162 Offence-related searches and seizures

- (1) An inspector may only exercise powers under this section if he or she has reasonable grounds for suspecting that there is on any premises a particular thing that may be evidence of the commission of an offence under this Act.
- (2) The inspector, with any assistants he or she considers necessary, may with the consent in writing of the occupier of the premises, enter the premises and search for the thing without applying for a search warrant.
- (3) An inspector must not enter and search any premises with the consent of the occupier unless, before the occupier consents to that entry, the inspector has—
- (a) produced his or her identity card for inspection; and

- (b) informed the occupier—
 - (i) of the purpose of the search; and
 - (ii) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
 - (iii) that the occupier may refuse to consent to the taking of any sample of goods or any copy or extract from a document found on the premises during the search; and
 - (iv) that anything seized or taken during the search with the consent of the occupier may be used in evidence in proceedings.
- (4) If the thing is found during a search under subsection (2), the inspector may—
 - (a) inspect the thing on the premises;
 - (b) inspect, and make copies of, or take extracts from, the thing;
 - (c) seize the thing if the inspector believes on reasonable grounds that it is necessary to seize it in order to prevent its concealment, loss or destruction.

163 Occupier to be given copy of consent

- (1) An occupier who consents in writing to the entry and search of their premises or residence under section 160 or 162 must be given a copy of the signed consent immediately.
- (2) If, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search.

164 Search warrant

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to particular premises if the inspector believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act.
- (2) If a magistrate is satisfied that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be evidence of the commission of an offence under this Act, the magistrate may issue a search warrant authorising an inspector named in the warrant and any assistants the inspector considers necessary—
 - (a) to enter the premises, or the part of the premises, named or described in the warrant; and
 - (b) to search for and seize any thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
 - (a) the offence suspected; and
 - (b) the premises to be searched; and
 - (c) a description of the thing for which the search is to be made; and
 - (d) any conditions to which the warrant is subject; and
 - (e) whether entry is authorised to be made at any time or during stated hours; and
 - (f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and must be in the form set out in the regulations under that Act.
- (5) Section 78(1)(b)(iii) of the **Magistrates' Court Act 1989** does not apply to a search warrant issued under this section.
- (6) Subject to any provision to the contrary in this Act, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

165 Announcement before entry

- (1) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must announce that he or she is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.
- (2) The inspector or a person assisting the inspector need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

166 Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at the premises when a search warrant is being executed, the inspector must—

- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and

- (b) give to that person a copy of the execution copy of the warrant.

167 Receipt must be given for any thing seized

- (1) An inspector may not seize a thing, apparently in the possession or custody of a person, unless he or she makes out and tenders to the person a receipt for the thing seized that—
 - (a) identifies the thing; and
 - (b) states the name of the inspector and the reason why the thing is being seized.
- (2) If an inspector is unable to discover the identity of the owner or custodian of any thing seized, the inspector must leave the receipt with, or post it to, the owner of the premises from which the thing was seized.

168 Copies of certain seized things to be given

- (1) If an inspector seizes—
 - (a) a document; or
 - (b) a thing that can be readily copied; or
 - (c) a storage device the information in which can be readily copied—the inspector must give a copy of the thing or information to the owner or custodian of the document, thing or device as soon as practicable after the seizure.
- (2) Subsection (1) does not apply—
 - (a) to any document, thing or device moved under section 169(2); or
 - (b) if the inspector is unable to discover the identity of the owner or custodian of any document, thing or device seized.

169 Use of equipment to examine or process things

- (1) An inspector may bring on to a premises any equipment reasonably necessary for the examination or processing of things found at the premises in order to determine whether they are things that may be seized.
- (2) If—
 - (a) it is not practicable to examine or process the things at the premises; or
 - (b) the occupier of the premises consents in writing—

the things may be moved to another place so that the examination or processing can be carried out in order to determine whether they are things that may be seized.
- (3) The inspector, or a person assisting the inspector, may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized, if the inspector or person assisting the inspector believes on reasonable grounds that—
 - (a) the equipment is suitable for the examination or processing; and
 - (b) the examination or processing can be carried out without damage to the equipment or the thing.

170 Use or seizure of electronic equipment at premises

- (1) If—
 - (a) a thing found at a premises is, or includes, a disk, tape or other device for the storage of information; and

- (b) equipment at the premises may be used with the disk, tape or other storage device; and
- (c) the inspector believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to determine whether this Act has been contravened—

the inspector or a person assisting the inspector may operate, or may require the occupier or an employee of the occupier to operate, the equipment to access the information.

- (2) If the inspector or a person assisting the inspector finds that a disk, tape or other storage device at the premises contains information of the kind referred to in subsection (1)(c), he or she may—
 - (a) put the information in documentary form and seize the documents so produced; or
 - (b) copy the information to another disk, tape or other storage device and remove that storage device from the premises; or
 - (c) if it is not practicable to put the information in documentary form or to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.
- (3) An inspector or a person assisting an inspector must not operate or seize equipment for the purpose mentioned in this section unless the inspector or person assisting believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

171 Taking samples

- (1) If an inspector proposes to take a sample in exercise of a power under this Division, the inspector must advise the person in possession of the sample of the reason why the sample is being taken.
- (2) The inspector, at the request of the person from whom the sample was taken, must give part of the sample taken to that person.
- (3) If an inspector takes a sample in the exercise of a power under this Division, the inspector must return the sample to the person from whom it was taken within 28 days, if the sample is not required for the purposes of proceedings under this Act.

172 Compensation for damage

- (1) The Minister must pay compensation for any damage caused by an inspector, or a person assisting an inspector, in exercising (or purporting to exercise) any power conferred by this Act.
- (2) However, the Minister is not liable to pay compensation for any damage caused during any inspection that reveals that there has been a contravention of this Act.
- (3) In determining the amount of compensation payable in relation to any damage caused to electronic equipment, regard is to be had to whether the occupier of the premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

173 Return of seized things

- (1) If an inspector seizes a thing under this Act, the inspector must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of the retention period, the inspector must take reasonable steps to return it unless—
 - (a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or
 - (b) the Magistrates' Court makes an order under section 174 extending the retention period.

174 Magistrates' Court may extend period

- (1) An inspector may apply to the Magistrates' Court within the retention period or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order the extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether an offence has been committed; or
 - (b) to enable evidence of an offence to be obtained for the purposes of a prosecution.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

175 Requirement to assist inspector during entry

- (1) To the extent that is reasonably necessary to determine compliance with this Act or whether there exists a risk of a kind referred to in section 161(1), an inspector exercising a power of entry under this Division who produces his or her

identity card for inspection by a person, may require that person—

- (a) to give information to the inspector, orally or in writing; and
 - (b) to produce documents to the inspector; and
 - (c) to give reasonable assistance to the inspector.
- (2) An inspector must notify a person of the provisions of section 177 before requiring the person to give information to the inspector or to produce documents to the inspector.

176 Refusal or failure to comply with requirement

A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an inspector under this Division.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

177 Protection against self-incrimination

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Act, if the giving of the information or the doing of that other thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Act, if the production of the document would tend to incriminate the person.

178 Offence to give false or misleading information

A person must not—

- (a) give information to an inspector under this Division in relation to a pipeline operation that the person knows to be false or misleading in a material detail; or
- (b) produce a document to an inspector under this Division in relation to a pipeline operation that the person knows to be false or misleading in a material detail without indicating the respect in which it is false or misleading and, if practicable, providing correct information.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

179 Offence to obstruct inspector

A person must not—

- (a) obstruct or hinder; or
- (b) refuse admission to any premises to—

an inspector, or any person necessarily assisting an inspector, while the inspector is exercising a power given to the inspector by this Act in accordance with this Act.

Penalty: In the case of a natural person,
240 penalty units;

In the case of a body corporate,
1200 penalty units.

Division 3—Improvement and prohibition notices

180 Improvement notice

- (1) This section applies if an inspector reasonably believes that a licensee—
 - (a) is contravening this Act; or
 - (b) has contravened this Act in circumstances that make it likely that the contravention will occur again; or
 - (c) is not complying with a condition of the licence; or
 - (d) has failed to comply with a condition of the licence in circumstances that make it likely that the failure will occur again.
- (2) The inspector may issue to the licensee an improvement notice requiring the licensee to take specified action within a specified period to stop the contravention, or failure to comply, from continuing or occurring again.
- (3) The licensee must comply with the notice.

Penalty: In the case of a natural person,
240 penalty units;
In the case of a body corporate,
1200 penalty units.

181 Prohibition notice

- (1) This section applies if an activity or event is occurring, or is likely to occur, in, or in the vicinity of, a pipeline area that an inspector reasonably believes creates an immediate serious risk to health, safety or the environment.

- (2) The inspector may issue to the licensee a prohibition notice prohibiting the licensee—
- (a) from carrying out, or continuing to carry out, any pipeline operation, or any activity relating to a pipeline operation, in, or in the vicinity of, the pipeline area; or
 - (b) from taking any specified action in the pipeline area—
- until the inspector certifies in writing that any direction included in the prohibition notice has been complied with, or until the expiry of a specified period.
- (3) The inspector—
- (a) may include in the notice directions as to measures to be taken to remove or reduce the risk to which the notice relates; and
 - (b) must specify in the notice the time from when the prohibition is to take effect.
- (4) The licensee must comply with the notice.
- Penalty: In the case of a natural person,
600 penalty units;
- In the case of a body corporate,
3000 penalty units.
- (5) If the licensee fails to comply with a notice given to it under this section, the licensee is guilty of an offence for each day the failure to comply in respect of which the notice was given continues after the relevant prohibition takes effect.
- (6) A licensee who is guilty of an offence under subsection (5) is liable to a penalty of 10 penalty units for each day the offence continues after the prohibition takes effect.

182 Right to review

- (1) A person may apply to VCAT for a review of a decision by an inspector to issue an improvement notice or prohibition notice.
- (2) An application for a review must be made within 28 days after the later of—
 - (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) Despite section 180(3), a licensee who applies for a review of the issue of an improvement notice need not comply with the notice until—
 - (a) VCAT affirms the notice; or
 - (b) the licensee abandons the application for the review or it receives written notice that VCAT has dismissed the application.

183 Defences to charge of failing to comply with a notice

- (1) In a proceeding for an offence of failing to comply with an improvement notice, it is a defence to the charge for the accused to prove that the accused did not contravene this Act, or fail to comply with a condition of a licence, in the manner set out in the improvement notice.
- (2) In a proceeding for an offence of failing to comply with an improvement notice or prohibition notice, it is a defence to the charge for the accused to prove that the accused took all reasonable steps to comply with the notice.

Pt 11 Div. 4
(Heading and
s. 183A)
inserted by
No. 68/2014
s. 98.

Division 4—Infringements

183A Infringements

- (1) An inspector who has reason to believe that a person has committed an offence against this Act or the regulations that is prescribed as an infringement offence may serve an infringement notice on that person.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) The infringement penalty in respect of an offence referred to in subsection (1) is the prescribed infringement penalty in respect of that offence.

Part 12—Administrative matters

Division 1—Delegation

184 Delegation by Minister

A Minister may by instrument delegate any of his or her powers or functions under this Act (other than a power under section 53 or section 95 or this power of delegation) to—

- (a) any person employed in the public service;
or
- (b) the holder for the time being of any office or position in the public service; or
- (c) any employee of Energy Safe Victoria.

185 Delegation by the Secretary

The Secretary may by instrument delegate any of the Secretary's powers or functions under this Act (other than this power of delegation) to—

- (a) any person employed in the public service;
or
- (b) the holder for the time being of any office or position in the public service.

Division 2—Pipelines Register

186 Pipelines Register

- (1) The Secretary must establish and maintain a Pipelines Register.
- (2) The Secretary must record the following in the Pipelines Register—
 - (a) licences; and
 - (b) instruments of surrender of licences; and

S. 186(2)(c)
substituted by
No. 55/2010
s. 82.

(c) instruments of amendment, consolidation,
transfer or cancellation of licences; and

S. 186(2)(ca)
inserted by
No. 68/2014
s. 99(a).

(ca) instruments for creating, assigning or
affecting interests in, or conferred by,
licences (including mortgages); and

S. 186(2)(d)
inserted by
No. 55/2010
s. 82,
substituted by
No. 68/2014
s. 99(b).

(d) instruments of alteration of the authorised
route of a pipeline; and

S. 186(2)(e)
inserted by
No. 55/2010
s. 82.

(e) any other document that is required to be
registered under section 186A.

(3) The Pipelines Register may be kept in electronic
form.

S. 186A
inserted by
No. 55/2010
s. 83.

186A Other documents to be registered

The Minister, by notice published in the
Government Gazette, may require that a document
of a specified kind relating to a licence be
registered.

S. 186B
inserted by
No. 68/2014
s. 100.

186B Effect of registration

- (1) A document referred to in section 186(2) that is
created on or after the commencement of this
section (other than one referred to in paragraph
(a), (ca) or (e)) has no effect until it is registered.
- (2) A document referred to in section 186(2)(ca) that
is created on or after the commencement of this
section is ineffective for creating, assigning or
affecting any interest in or conferred by a licence,
or for the devolution of a licence or any interest in
or conferred by a licence, until it is registered.

187 Correction of Pipelines Register

- (1) If the Secretary considers that a correction to the Pipelines Register is necessary, the Secretary may correct any error or omission in the Pipelines Register by—
 - (a) inserting an entry; or
 - (b) amending an entry; or
 - (c) omitting an entry.
- (2) The Secretary may make the correction on the Secretary's initiative or on the application of any person.
- (3) The Secretary must notify the licensee of any correction made under this section that affects the licence.

188 Disclosure of registered information

- (1) Subject to this section, the Secretary must—
 - (a) at all reasonable times, allow access to the Pipelines Register; and
 - (b) provide information from the Pipelines Register—to any person who pays the prescribed fee.
- (2) The Secretary must not allow access to the Pipelines Register or disclose any information from the Pipelines Register if the Secretary considers that the information is confidential or of a commercially sensitive nature.

189 Offences

A person must not knowingly make, or cause or allow to be made, a false or unauthorised entry in the Pipelines Register.

Penalty: In the case of a natural person,
120 penalty units;
In the case of a body corporate,
600 penalty units.

Part 13—Regulations

190 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing which by this Act is required or permitted to be prescribed or which is necessary to be prescribed for carrying out the purposes of this Act.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—
 - (a) the granting and issuing of licences;
 - (b) pipeline operations including matters relating to health, safety and the environment;
 - (c) consultation plans for proposed pipelines;
 - (d) Safety Management Plans and Environment Management Plans, specifying the requirements and standards with which a Plan must comply;
 - (e) decommissioning plans for pipelines;
 - (f) entry onto land;
 - (g) fees and forms for the purposes of this Act.
- (3) The regulations—
 - (a) may be of general or of specially limited application; and
 - (b) may differ according to differences in time, place or circumstance; and

- (c) may require a matter affected by the regulations to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
 - (iii) as specified in both subparagraphs (i) and (ii); and
- (d) may apply, adopt or incorporate any matter contained in any document whether—
 - (i) wholly or partially or as amended by the regulations; or
 - (ii) as in force at a particular time or as in force from time to time; and
- (e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
- (f) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations.

Part 14—Transitional provisions

191 Definition

In this Part—

commencement day means the date of commencement of section 213;

new Act licence has the meaning given by section 194;

old Act means the **Pipelines Act 1967**.

192 General transitional provisions

This Part does not affect or take away from the **Interpretation of Legislation Act 1984**.

193 Superseded references

- (1) On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind a reference to the old Act is (so far as it relates to any period after that commencement and unless the context otherwise requires) deemed to be a reference to this Act.
- (2) On and from the commencement day, in any Act (other than this Act) or in any instrument made under any Act or in any other document of any kind a reference to a permit or licence under the old Act is (so far as it relates to any period after that commencement and unless the context otherwise requires) deemed to be a reference to a licence under this Act.

194 Existing permits and licences

S. 194(2)
amended by
No. 29/2006
s. 3(Sch. 1
item 27).

- (1) A person who on the commencement day is the holder of a permit and a licence in force under the old Act in respect of a pipeline is deemed on and from that commencement to be the holder of a licence issued under this Act to construct and operate that pipeline (the **new Act licence**).
- (2) Subject to this Part, the new Act licence is deemed to be issued on the same terms and conditions as those to which the permit and the licence under the old Act were subject.
- (3) Despite anything to the contrary in the permit or licence under the old Act but subject to Part 5, the new Act licence is to remain in force indefinitely.
- (4) The new Act licence for the pipeline is deemed for the purposes of section 60 to have been issued on the commencement day if—
 - (a) the construction of the pipeline for which the permit and licence was issued under the old Act had not commenced before the commencement day; and
 - (b) a time for commencement of that construction is not specified in the permit or licence under the old Act.
- (5) The construction of the pipeline under the new Act licence is deemed for the purposes of section 61 to have commenced on the commencement day if—
 - (a) the construction of the pipeline for which the permit and licence was issued under the old Act had commenced but was not completed before the commencement day; and

- (b) a time for completion of that construction is not specified in the permit or licence under the old Act.
- (6) If there is any inconsistency between the terms and conditions of the permit and licence under the old Act and a provision of this Act or the regulations under this Act, the provision of this Act or the regulations under this Act prevails.

195 Authorised route of existing pipeline

The authorised route of the pipeline under a new Act licence is deemed to be the authorised route for that pipeline existing under the old Act immediately before the commencement day.

196 Application for permit for new pipeline

- (1) An application for a permit made under section 9(1) of the old Act in respect of a new pipeline but not determined before the commencement day is deemed to be an application for a licence to construct and operate the pipeline under this Act (the **new pipeline application**).
- (2) This Act (except Divisions 1 and 3 of Part 4 and section 28) applies to the new pipeline application.
- (3) If an application for a licence had not been made before the commencement day in respect of the pipeline, the Minister may require the applicant for the permit to provide any further information that the Minister considers necessary or expedient to enable the Minister to consider and decide on the new pipeline application.

197 Existing application for permit for existing pipeline

- (1) An application made under section 9(1) or 28 of the old Act in respect of an existing pipeline but not determined before the commencement day is deemed to be an application for a licence to construct and operate the pipeline under this Act (the **existing pipeline application**).
- (2) This Act (except Part 4 and section 28) applies to the existing pipeline application.

198 New application for existing pipeline

Part 4 and section 28(2) of this Act do not apply to an application for a licence under this Act in respect of a pipeline existing on the commencement day.

199 Application to vary authorised route of pipeline

- (1) This section applies to an application made under section 12(4) of the old Act but not determined before the commencement day.
- (2) The Minister must determine in respect of each application whether it is an application for a minor alteration or an application for a significant alteration in the authorised route of the pipeline.
- (3) If the application is determined to be an application for a minor alteration, it is deemed to be an application under section 66 of this Act.
- (4) If the application is determined to be an application for a significant alteration, it is deemed to be an application under section 68 of this Act.

200 Application for consolidation of permits

An application made under section 12A of the old Act but not determined before the commencement day is deemed to be an application under Division 7 of Part 5 of this Act if it relates to a new Act licence.

201 Application for variation of permit or licence

An application made under section 12B or 28A of the old Act but not determined before the commencement day is deemed to be an application under section 63 of this Act if it relates to a new Act licence.

202 Application for consent to transfer permit or licence

An application made under section 14 or 28B of the old Act for consent to transfer a permit or licence but not determined before the commencement day is deemed to be an application under section 79 of this Act if it relates to a new Act licence.

203 Authorisation to convey thing through pipeline

- (1) An authorisation given in respect of a pipeline under section 16 of the old Act and existing on the commencement day is deemed to be an authorisation in respect of that pipeline under section 113 of this Act.
- (2) An application made under section 16 of the old Act but not determined before the commencement day is deemed to be an application under section 113 of this Act.

204 Direction to share use of pipeline

- (1) A direction given by the Minister under section 17 of the old Act and existing on the commencement day is deemed to be a direction of the Minister under section 122 of this Act.
- (2) An application made under section 17(3) of the old Act but not determined before the commencement day is deemed to be an application under section 122 of this Act.

205 Compulsory acquisition

- (1) If before the commencement day, the Minister had given permission under section 22 of the old Act to a compulsory acquisition of an easement over private land—
 - (a) section 22 of the old Act continues to apply to that acquisition and the acquisition may be completed as if that section had not been repealed; and
 - (b) Division 2 of Part 6 of this Act does not apply to that acquisition.
- (2) Sections 22A to 22D of the old Act and Part 15A of Schedule 1 of the **Victorian Civil and Administrative Tribunal Act 1998** continue to apply, despite their repeal, to any compulsory acquisition, relevant procedure, hearing or claim commenced under sections 22A to 22D but not determined or completed before the commencement day.

206 Consent of Minister for operation of pipeline

A consent of the Minister given under section 35 of the old Act in respect of a pipeline to which a new Act licence applies and existing on the commencement day is deemed to be a relevant consent under section 108 of this Act.

207 Continuation of hearing under section 41

A hearing by the Minister under section 41 of the old Act commenced but not completed before the commencement day may be continued and completed as if it were a hearing under section 120 of this Act.

208 Deemed Safety Management Plan—gas pipeline

- (1) This section applies in respect of a pipeline for the conveyance of gas—
 - (a) to which a new Act licence applies; and
 - (b) in respect of which a safety case accepted under section 40 of the **Gas Safety Act 1997** exists on the commencement day.
- (2) The accepted safety case is deemed for the purposes of this Act to be a Safety Management Plan accepted on the commencement day by Energy Safe Victoria under section 128 of this Act in respect of a pipeline operation that relates to the conveyance of gas through the pipeline.
- (3) In this section *gas* has the same meaning as it has in the **Gas Safety Act 1997**.

209 Deemed Safety Management Plan—Plans required by old regulations

- (1) This section applies in respect of a pipeline (other than a pipeline to which section 208 applies)—
 - (a) to which a new Act licence applies; and
 - (b) in respect of which both an approved Construction Safety Plan and an approved Safety and Operating Plan required by regulation 19 of the Pipelines Regulations 2000 exist on the commencement day.

- (2) The approved Construction Safety Plan and the approved Safety and Operating Plan are together deemed for the purposes of this Act to be a Safety Management Plan accepted on the commencement day by Energy Safe Victoria under section 128 of this Act in respect of any pipeline operation that relates to the pipeline.
- (3) In this section—

approved Construction Safety Plan means an approved Construction Safety Plan in accordance with Australian Standard AS 2885.1—1997: Pipelines—Gas and liquid petroleum, Part 1: Design and construction published by Standards Australia as amended from time to time;

approved Safety and Operating Plan means an approved Safety and Operating Plan in accordance with Australian Standard AS 2885.3—1997: Pipelines—Gas and liquid petroleum, Part 3: Operation and maintenance published by Standards Australia as amended from time to time.

210 Delayed operation of sections 126 and 127 for certain existing pipelines

- (1) This section applies in respect of a pipeline—
- (a) to which a new Act licence applies; and
 - (b) to which neither section 208 nor 209 applies.
- (2) Despite anything to the contrary in this Act, sections 126 and 127 do not apply to a pipeline operation in respect of the pipeline until the day that is the first anniversary of the commencement day.

211 Deemed Environment Management Plans—Plan required by existing licence

- (1) This section applies in respect of a pipeline—
 - (a) to which a new Act licence applies; and
 - (b) in respect of which all of the following plans were submitted and approved under a condition of the licence for the pipeline under the old Act before the commencement day—
 - (i) a Construction Safety Plan and an Environment Management Plan for the construction of the pipeline; and
 - (ii) a Safety and Environment Management Plan for the operation and maintenance of the pipeline.
- (2) The plans referred to in subsection (1) are together deemed for the purposes of this Act to be an Environment Management Plan accepted on the commencement day by the Minister under section 135 of this Act in respect of any pipeline operation that relates to the pipeline.

212 Delayed operation of sections 133 and 134 for certain existing pipelines

- (1) This section applies in respect of a pipeline—
 - (a) to which a new Act licence applies; and
 - (b) to which section 211 does not apply.
- (2) Despite anything to the contrary in this Act, sections 133 and 134 do not apply to a pipeline operation in respect of the pipeline until the day that is the first anniversary of the commencement day.

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Pt 15
(Heading and
ss 213–223)
repealed by
No. 29/2011
s. 3(Sch. 1
item 69).

* * * * *

Schedules

Schedule 1—Pipelines excluded from Act

Section 10

1 Definitions

In this Schedule—

agricultural purposes includes using any land for—

- (a) growing anything for consumable or decorative purposes;
- (b) dairy or poultry farming;
- (c) rearing any animal or bird;
- (d) rearing any fish within the meaning of the **Fisheries Act 1995**;
- (e) grazing land, pasture land or woodland;

agricultural unit means land which is occupied as a unit for agricultural purposes;

Specified Minimum Yield Stress means the minimum yield stress for a pipe material that is specified in the manufacturing standard with which the pipe complies.

2 Exclusions

This Act does not apply to the following pipelines—

- (a) a pipeline conveying hydrocarbons or other substances in a gaseous state where the pressure of the gas being conveyed through a pipe is not more than 1050 kPa and the circumferential stress does not exceed 20% of the Specified Minimum Yield Stress (SMYS);

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Sch. 1 cl. 2(b)
amended by
No. 45/2010
s. 53.

- (b) a pipeline entirely within a petroleum processing plant, refinery, factory, railway yard, airport or port (including any port within the meaning of the **Port Management Act 1995**);
- (c) a pipeline entirely on land the freehold of which is owned or leased by a licensee and which is controlled by that licensee;
- (d) a pipeline conveying hydrocarbons or other substances in a liquid state where—
 - (i) the length of any pipe situated outside the property to which the hydrocarbons are conveyed is not greater than 100 metres; or
 - (ii) the nominal internal diameter of any pipe is not greater than 100 millimetres in any place; or
 - (iii) the operating pressure, in respect of the pipe or system of pipes, is not greater than 345 kPa;
- (e) a pipeline situated wholly within—
 - (i) a residential property or premises used for business and designed for use solely for the purposes of that property or premises;
 - (ii) a factory and designed for use solely for the purposes of the factory;
 - (iii) any premises used solely for education or research;
 - (iv) an agricultural unit and designed for use for agricultural purposes;

Sch. 1
cl. 2(e)(ii)
amended by
No. 62/2008
s. 9.

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- (f) a pipeline for water supply, drainage or sewerage (not including a pipeline for the conveyance of geothermal water within the meaning of the **Geothermal Energy Resources Act 2005**);
- (g) a fixed hose.

Schedule 2—Panel hearings

Section 45

1 Directions about hearings

- (1) A panel may give directions about—
 - (a) the times and places of hearings; and
 - (b) matters preliminary to hearings; and
 - (c) the conduct of hearings.
- (2) A panel may refuse to hear any person who fails to comply with a direction of the panel.

2 Hearings to be in public

A panel must conduct its hearings in public unless any person making a submission objects to making the submission in public and the panel is satisfied that the submission is of a confidential nature.

3 General procedure for hearings

- (1) In hearing submissions, a panel—
 - (a) must act according to equity and good conscience without regard to technicalities or legal forms; and
 - (b) is bound by the rules of natural justice; and
 - (c) is not required to conduct the hearing in a formal manner; and
 - (d) is not bound by the rules or practice as to evidence but may inform itself on any matter—
 - (i) in any way it thinks fit; and
 - (ii) without notice to any person who has made a submission.

- (2) A panel may require the applicant or any other person or body to produce any documents relating to any matter being considered by the panel under this Act that it reasonably requires.
- (3) A panel may prohibit or regulate cross-examination in any hearing.
- (4) A panel may hear evidence and submissions from any person whom this Act requires it to hear.
- (5) Submissions and evidence may be given to a panel orally or in writing or partly orally and partly in writing.

Sch. 2 cl. 3(2)
amended by
No. 68/2014
s. 101.

4 Who may appear before a panel?

A person who has a right to be heard by a panel or who is called by a panel may—

- (a) appear and be heard in person; or
- (b) be represented by any other person.

5 Effect of failure to attend hearing

A panel may report and make recommendations on a submission without hearing the person who made the submission if the person is not present or represented at the time and place appointed for the hearing of the submission.

6 Panel may hear 2 or more submissions together

A panel may consider 2 or more submissions together if the submissions concern the same land or the same or a related matter.

7 Adjournment of hearings

A panel may from time to time adjourn a hearing to any times and places and for any purposes it thinks necessary and on any terms as to costs or otherwise that it thinks just in the circumstances.

8 Panel may regulate its own proceedings

A panel may regulate its own proceedings.

9 Panel may take into account any relevant matter

A panel may take into account any matter it thinks relevant in making its report and recommendations.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 11 August 2005

Legislative Council: 8 September 2005

The long title for the Bill for this Act was "to re-enact with amendments the laws relating to the construction and operation of pipelines in Victoria, to repeal the **Pipelines Act 1967** and for other purposes."

The **Pipelines Act 2005** was assented to on 20 September 2005 and came into operation on 1 April 2007: Government Gazette 29 March 2007 page 532.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the **Pipelines Act 2005** by Acts and subordinate instruments.

Statute Law (Further Revision) Act 2006, No. 29/2006

Assent Date: 6.6.06
Commencement Date: S. 3(Sch. 1 item 27) on 20.9.05: s. 2(2)(i)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Energy Legislation (Hardship, Metering and Other Matters) Act 2006, No. 60/2006

Assent Date: 29.8.06
Commencement Date: S. 6 on 1.4.07: Government Gazette 29.3.07 p. 532
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Energy and Resources Legislation Amendment Act 2008, No. 25/2008

Assent Date: 3.6.08
Commencement Date: Ss 17, 18 on 4.6.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

National Gas (Victoria) Act 2008, No. 30/2008

Assent Date: 17.6.08
Commencement Date: S. 43 on 1.7.08: Special Gazette (No. 184) 1.7.08 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Labour and Industry (Repeal) Act 2008, No. 62/2008

Assent Date: 5.11.08
Commencement Date: S. 9 on 6.11.08: s. 2
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Transport Integration Act 2010, No. 6/2010 (as amended by No. 45/2010)

Assent Date: 2.3.10
Commencement Date: S. 203(1)(Sch. 6 item 34) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Offshore Petroleum and Greenhouse Gas Storage Act 2010, No. 10/2010

Assent Date: 23.3.10
Commencement Date: S. 800(Sch. 6 item 12) on 1.1.12: s. 2(2)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

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Transport Legislation Amendment (Ports Integration) Act 2010, No. 45/2010

Assent Date: 17.8.10
Commencement Date: S. 53 on 1.9.10: Special Gazette (No. 337) 24.8.10 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Energy and Resources Legislation Amendment Act 2010, No. 55/2010

Assent Date: 14.9.10
Commencement Date: Ss 81–83 on 14.10.10: Government Gazette 14.10.10 p. 2404
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Traditional Owner Settlement Act 2010, No. 62/2010

Assent Date: 21.9.10
Commencement Date: S. 145 on 23.9.10: Special Gazette (No. 382) 22.9.10 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 69) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Resources Legislation Amendment Act 2011, No. 53/2011

Assent Date: 18.10.11
Commencement Date: Ss 15–19 on 1.7.12: Special Gazette (No. 194) 13.6.12 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Statute Law Revision Act 2012, No. 43/2012

Assent Date: 27.6.12
Commencement Date: S. 3(Sch. 1 item 38) on 28.6.12: s. 2(1)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Resources Legislation Amendment (General) Act 2012, No. 64/2012

Assent Date: 30.10.12
Commencement Date: Ss 69–72 on 1.12.12: Special Gazette (No. 399) 27.11.12 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 35) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Pipelines Act 2005**

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**Resources Legislation Amendment (BTEX Prohibition and Other Matters) Act
2014, No. 68/2014**

Assent Date: 23.9.14
Commencement Date: Ss 72–101 on 1.9.15: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Pipelines Act 2005**

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.