

Version No. 045
Pipelines Act 1967
Act No. 7541/1967

Version incorporating amendments as at 5 April 2005

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Pipelines Act 1967

Act No. 7541/1967

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An Act to enable Ownership and Use and the Construction Maintenance and Operation of Pipelines in Victoria, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. Short title and commencement

This Act may be cited as the **Pipelines Act 1967**, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

* * * * *

S. 2
amended by
No. 9926
s. 8(1),
repealed by
No. 41/1987
s. 103(Sch. 4
item 50.1).

PART I—PRELIMINARY

3. Definitions

In this Act unless inconsistent with the context or subject-matter—

"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) grazing land pasture land or woodland;

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

"apparatus and works" means, in relation to being associated with a pipeline—

- (a) apparatus for inducing or facilitating the flow or movement of anything through the pipeline or any part thereof;
- (b) apparatus or structure for giving protection or support to the pipeline or any part thereof;
- (c) apparatus for transmitting information or instruction with regard to the operation of the pipeline or any part thereof;
- (d) valves valve chambers manholes inspection pits and other similar works annexed to or incorporated in the course of the pipeline;

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s. 3

- (e) storage tanks and loading terminals (other than bulk storages within the meaning of the **Inflammable Liquids Act 1963** or any re-enactment of that Act, and containers within the meaning of the regulations under the **Liquefied Petroleum Gas Act 1958**) and all ancillary installations required for the pipeline or used in connexion with, or incidental to, the pipeline;
- (f) prime movers for the operation of any apparatus or works mentioned in paragraphs (a), (d), (e);

"construction" includes, in relation to a pipeline, the placing of the pipeline, and "Construct" and "Constructed" shall have corresponding interpretations;

"Crown land" means land that is unalienated land of the Crown;

S. 3 def. of "Crown land" inserted by No. 92/1998 s. 7(1).

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

"licensee" means a person who has been issued a licence by the Minister under Part IV;

S. 3 def. of "licensee" amended by No. 9926 s. 2(1)(a).

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

S. 3 def. of "Native Title Act" inserted by No. 92/1998 s. 7(1).

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S. 3 def. of
"native title
land"
inserted by
No. 92/1998
s. 7(1).

"native title land" means land in which native title may exist;

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

"own and use" means, in relation to a pipeline, the owning and being entitled to convey an authorized thing through the pipeline;

S. 3 def. of
"owner"
inserted by
No. 92/1998
s. 7(1).

"owner", when used in relation to native title land, means the native title holder of the land;

"permittee" means a person who has been granted a permit by the Minister under Part II;

"pipeline" means a pipe or system of pipes for the conveyance of anything through the pipe or pipes, and includes all apparatus and works associated with the pipe or pipes, but does not include—

- (a) a drain or sewer;
- (b) a fixed hose;
- (c) 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 within the meaning of the **Labour and Industry Act 1958** and designed for use solely for the purposes of the factory;

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s. 3

- (iii) any premises used solely for education or research;
- (iv) an agricultural unit, and designed for use for agricultural purposes;
- (d) a pipeline or part thereof or a pipeline of a class of pipelines excluded from the provisions of this Act by Order of the Governor in Council published in the Government Gazette;

"prescribed" means prescribed by this Act or by the regulations;

"private land" means land that is not Crown land or native title land¹;

S. 3 def. of "private land" inserted by No. 76/1996 s. 4, substituted by No. 92/1998 s. 7(2).

"regulations" means regulations made under this Act;

* * * * *

S. 3 def. of "the Victorian Pipelines Commission" repealed by No. 9926 s. 2(1)(b).

"Tribunal" means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998**.

S. 3 def. of "Tribunal" inserted by No. 92/1998 s. 7(1).

s. 3A

3A. Expressions in Native Title Act²

S. 3A
inserted by
No. 76/1996
s. 5.

S. 3A(1)
amended by
No. 92/1998
s. 8(1).

- (1) In this Act, the expressions "**just terms**", "**native title**", "**native title holder**", "**native title rights and interests**", "**registered native title body corporate**" and "**registered native title claimant**" have the same respective meanings as they have in the Native Title Act 1993 of the Commonwealth.

S. 3A(2)
repealed by
No. 92/1998
s. 8(2).

* * * * *

4. Act not to apply to certain pipelines

- (1) This Act shall not apply to any pipeline—
- (a) constructed or proposed to be constructed for the purpose of any Act which is in operation immediately prior to the commencement of this Act; and
 - (b) which conveys only a thing other than a hydrocarbon.

S. 4(2)
repealed by
No. 8122
s. 6(2).

* * * * *

5. Pipelines in operation immediately prior to commencement of Act

- (1) Where a pipeline to which this Act applies is in operation immediately prior to the commencement of this Act it shall, notwithstanding anything in this Act, be lawful for the owner to operate the pipeline in the same manner for six months after such commencement, to enable the granting of a permit and the issue of a licence under this Act.

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Part I—Preliminary

s. 7

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- (2) In respect of an application for a permit under this Act relating to any such pipeline the provisions of Part II shall extend and apply to and with respect to the pipeline with such modifications as may be necessary, and in particular and without affecting the generality of the foregoing with the modifications that—
- (a) any reference in the Part to a proposed pipeline shall be construed as a reference to the pipeline;
 - (b) any reference in the Part to the proposed route of a pipeline shall be construed as a reference to the route of the pipeline; and
 - (c) the provisions of sub-section (3) of section 10 shall not apply to the applicant for such a permit.
- (3) Where the applicant for such a permit has complied with all the requirements under this Act in relation to his application he shall be entitled to the grant of a permit.

* * * * *

S. 6
amended by
No. 8953
s. 5(8)(a),
repealed by
No. 9926
s. 2(2).

7. Orders may be revoked varied or amended

Any Order made by the Governor in Council under this Act may in like manner be revoked varied or amended.

**PART II—PERMITS FOR THE OWNERSHIP AND USE OF
PIPELINES**

**8. Pipeline to be owned and used only with a permit
and along the authorized route**

No person shall own or use a pipeline unless—

- (a) the pipeline is constructed along the authorized route in respect of that pipeline; and
- (b) he holds a permit granted under this Part entitling him to own and use the pipeline.

**8A. Minister may consent to a person entering land to
make surveys or examinations**

- (1) A person proposing to apply for a permit to own and use a pipeline who—
 - (a) wishes to enter upon any Crown or other lands lying in the intended route of the pipeline to make surveys or examinations; and
 - (b) is unable to obtain the permission of the owner or occupier of the land so to do—may apply to the Minister for consent to enter the land.
- (2) An application for consent of the Minister must include the prescribed particulars.
- (3) A person who obtains the consent of the Minister may, subject to and in accordance with the regulations and the terms of the consent, enter the land.

S. 8A
inserted by
No. 26/1988
s. 4.

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s. 9

9. Permit to be applied for

- (1) A person may for the purposes of this Act apply to the Minister in the prescribed form for a permit to own and use a pipeline.

* * * * *

S. 9(2)
repealed by
No. 26/1988
s. 5.

10. Application

- (1) An application made pursuant to section 9 shall—
- (a) state the name and address of the applicant;
 - (b) state the proposed use to which the proposed pipeline will be placed;
 - (c) contain any other matters that are prescribed;
 - (d) be accompanied by a map of not less than the prescribed scale showing the proposed route of the pipeline; and
 - (e) be accompanied by the prescribed application fee.
- (2) The Minister may call for any further information which he feels necessary or expedient to enable him to consider and decide on the application.
- (3) At the time of making the application the applicant shall notify the municipality of each municipal district in which any part of the proposed pipeline is intended to be situated that the application has been made.

s. 11

11. Minister to publish notice in Government Gazette on receipt of application

- (1) The Minister at the expense of the applicant shall as soon as practicable publish—
- (a) in the Government Gazette;
 - (b) in at least one daily newspaper circulating generally in Victoria; and
 - (c) in such other newspapers as the Minister considers necessary which circulate in the local areas in which the proposed pipeline is intended to be situated—

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

- (2) The Minister shall not determine an application made pursuant to section 9 until—
- (a) at least thirty days after the last publication of the notice pursuant to sub-section (1);
 - (b) at least thirty days after the expiration of the time (if any) within which the Minister has directed notice of the application to be given or published under section 12D(1); or
 - (c) after the provisions of sections 12C and 12E(b) and (c) and, where applicable, sections 12D and 12E(a) have been complied with—

whichever is the later.

S. 11(2)
substituted by
No. 10104
s. 4(a).

S. 11(3)
repealed by
No. 10104
s. 4(b).

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s. 12

12. Granting of permit

(1) After he has determined in accordance with the provisions of this Part the application made pursuant to section 9, the Minister may—

S. 12(1)
amended by
No. 10104
s. 5(a).

(a) on payment of the prescribed fee grant to the applicant for such period as the Minister determines and states on the permit, a permit authorizing the applicant to own and use the pipeline along the authorized route (which may be the route as proposed in the application or with such variations or alterations as the Minister considers necessary); or

(b) refuse to grant a permit in respect of the proposed pipeline.

(2) A permit granted under sub-section (1) shall be subject to such terms and conditions as are prescribed and such further terms and conditions as are stated or included in the permit.

(2A) A permit shall not be granted under sub-section (1) until after any necessary amendment to any planning scheme has been made pursuant to section 12G.

S. 12(2A)
inserted by
No. 10104
s. 5(b) (as
amended by
No. 45/1987
s. 205(Sch.
item 101)).

* * * * *

S. 12(3)
repealed by
No. 26/1988
s. 6(1).

(4) A permittee may by instrument in writing apply to the Minister for an alteration to or variation of part of the route of a pipeline authorized under the permit and the Minister may, if he is satisfied that the alteration or variation is reasonably necessary or expedient and does not substantially affect the authorized route as specified in the permit or the rights or interests of any person and has at the

S. 12(4)
inserted by
No. 8131
s. 2(a).

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s. 12A

expense of the permittee published in a daily newspaper circulating generally in Victoria notice of the application, by notice published in the Government Gazette alter or vary as specified in the notice such part of the route of the pipeline as is so specified, subject to such terms and conditions (if any) as the Minister considers necessary.

S. 12A
inserted by
No. 9926
s. 3(1).

12A. Consolidation or variation of two or more permits

- (1) Where a person who is a permittee and a licensee in respect of two or more pipelines carries on or intends to carry on operations in which those pipelines, or parts of those pipelines, are connected or otherwise used in conjunction with each other, that person may make application to the Minister—
 - (a) for the consolidation of the whole or any part of the permit for one of those pipelines with the permit for another of those pipelines and, where it is necessary or expedient for the purposes of such a consolidation to extend the route of a pipeline, for variation of the last-mentioned permit by extending the authorized route of the pipeline by a distance not exceeding 100 metres, and for such other alteration or variation of the permit as may be necessary or expedient; or
 - (b) for a new permit to own and use a pipeline, being the pipelines or parts of the pipelines that are or are to be connected or otherwise used in conjunction with each other and for the cancellation or variation of the permits in respect of those pipelines so connected or used and where it is necessary or expedient for the purposes of the new permit, for the inclusion in the new permit of an additional

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s. 12A

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- authorized route, not exceeding 100 metres in length, for the pipeline.
- (2) An application under sub-section (1) shall be in the prescribed form and shall—
- (a) state the name and address of the applicant and particulars, sufficient to identify them, of the permits proposed to be consolidated or replaced;
 - (b) set out the reasons for the application;
 - (c) be accompanied by a map of not less than the prescribed scale showing the route and any proposed additional route of the pipeline; and
 - (d) be accompanied by the prescribed fee.
- (3) The Minister may call for such further information as he considers necessary or desirable to enable him to determine the application.
- (4) Where the Minister—
- (a) is satisfied that the consolidation or new permit to which the application relates is reasonably necessary or expedient and does not substantially affect the authorized route or routes of the permits proposed to be consolidated or replaced or the rights or interests of any other person; and
 - (b) has at the expense of the applicant, published in a daily newspaper circulating generally in Victoria notice of the application—
- the Minister, after consideration of any objections that may be made, may—
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s. 12A

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- (c) by notice published in the Government Gazette—
- (i) vary a permit for a pipeline in such manner as is necessary or expedient for the purpose of consolidating another permit for a pipeline with the first-mentioned permit;
 - (ii) for the purposes of effecting that consolidation, extend the authorized route of the first-mentioned pipeline by a distance not exceeding 100 metres; and
 - (iii) cancel a permit consolidated in another permit or, where part only of a pipeline is so consolidated, vary a permit accordingly;
- (d) by notice published in the Government Gazette—
- (i) grant, for such period as the Minister determines and states in the permit, a permit authorizing the applicant to own and use a pipeline along the authorized route being the route authorized under one or more other permits and such additional route (if any) not exceeding 100 metres in length as is necessary or expedient to effect the consolidation of the authorized routes under that other permit or those other permits; and
 - (ii) cancel or vary that other permit or those other permits; or
- (e) refuse to vary a permit or to grant a new permit or a consolidated permit.
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s. 12AB

- (5) A permit varied or granted under this section shall be subject to such terms and conditions or such additional terms and conditions as are stated or included in the instrument of variation or the permit.

12AB. Minister not to grant or vary permit unless certain requirements met³

S. 12AB
inserted by
No. 76/1996
s. 6,
substituted by
No. 92/1998
s. 9.

- (1) If the proposed route or authorised route of a pipeline to which an application under section 12 or 12A relates is on private land or native title land, the Minister must not grant the application, or vary or alter the proposed route or authorised route, unless satisfied that—
- (a) in the case of private land, any necessary interests have been acquired by agreement with the owner or are to be acquired compulsorily, in accordance with section 22;
 - (b) in the case of native title land, a relevant procedure⁴ under the Native Title Act has been followed.
- (2) Compensation, interest, charges and expenses incurred in acquiring interests, whether compulsorily or otherwise, or in following a relevant procedure referred to in sub-section (1) are payable by the applicant.

12B. Variation of permit

S. 12B
inserted by
No. 9926
s. 3(1).

- (1) The Minister may, by notice published in the Government Gazette, amend vary add to or revoke a term or condition stated or included in a permit or add a term or condition to a permit.
- (2) A permittee may, at any time, make an application to the Minister for the variation of the permit, not being a variation of the authorized route of the pipeline.

S. 12B(1)
amended by
No. 26/1988
s. 6(2).

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s. 12C

- (3) An application under sub-section (2)—
- (a) shall be in accordance with the prescribed form;
 - (b) shall be made in the prescribed manner;
 - (c) shall be accompanied by particulars of the proposed variation;
 - (d) shall specify the reasons for the proposed variation; and
 - (e) shall be accompanied by the prescribed fee.

S. 12C
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(a))).

12C. Copy of application to be sent to other Ministers

Where an application is made to the Minister under section 9(1), the Minister shall forthwith cause a copy of the application to be sent to the Minister administering the **Planning and Environment Act 1987** and, where applicable, to the Minister administering the **Environment Effects Act 1978**.

S. 12D
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(a))).

12D. Minister may direct additional notice of application to be given

- (1) The Minister may, after receiving an application under section 9(1)—
- (a) where the Minister is of the opinion that the grant of a permit may cause a substantial detriment to any person other than the applicant, cause notice in writing of the application to be given in such manner and within such time as the Minister specifies to such government departments, public authorities, municipal councils, persons or bodies of persons as are specified by the Minister or direct in writing the applicant to give such notice;

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- (b) cause notice of the application to be published in such manner (whether by means of affixing notice of the application to the land along the proposed route of the pipeline or otherwise) and within such time as the Minister specifies or direct in writing the applicant to publish such notice; or
 - (c) cause the things referred to in both paragraph (a) and paragraph (b) to be done or direct in writing the applicant to do both such things.
- (2) Every notice given or published pursuant to sub-section (1)—
- (a) shall be in the prescribed form;
 - (b) shall contain such matters as are prescribed; and
 - (c) shall state that until the end of such period as is specified in the notice all persons who may be affected by the grant of the application may send to the Minister any written submissions which they may wish to make with respect to the application and that any such submission may state that the person making the submission wishes to be heard with respect to the submission.
- (3) At any time during the period specified in the notice given or published pursuant to sub-section (1) any person may lodge with the Minister submissions in writing concerning the application.
- (4) The Minister shall consider all submissions made in accordance with this section and, if the Minister so desires, any other submissions in writing concerning the application and any matter that in the opinion of the Minister is relevant to the application and shall determine in respect of each such submission to do one of the following—
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s. 12D

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- (a) determine the application in a manner that is not inconsistent with anything requested in the submission; or
 - (b) refer the submission to a panel appointed under this section.
- (5) Notwithstanding sub-section (4), it shall not be necessary for the Minister to refer a submission to a panel where—
- (a) the Minister is notified by the person who made the submission that the matters in dispute between the maker of the submission and the applicant have been resolved by discussions between them;
 - (b) the submission is withdrawn by the person who made the submission; or
 - (c) the submission does not relate to any matter of a planning or environmental nature but relates solely to matters that, in the opinion of the Minister, do not warrant consideration by a panel.
- (6) The Minister shall appoint a panel to consider all submissions referred to a panel by the Minister pursuant to this section.
- (7) A panel shall consist of three members of whom—
- (a) one (who shall be the chairman) shall be a person nominated by the Minister;
 - (b) one shall be a person having experience in town and country planning and who is nominated by the Minister administering the **Planning and Environment Act 1987**; and
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s. 12D

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- (c) one shall be—
- (i) where the Minister considers it appropriate (having regard to the nature of the submissions to be considered by the panel) for the panel to have as a member a person having experience in environmental matters, a person having experience in environmental matters and who is nominated by the Minister administering the **Environment Effects Act 1978**; or
 - (ii) in any other case, a person nominated by the Minister.
- (8) The Minister may at any time terminate the appointment of a member of a panel.
 - (9) In the event of an equality of votes at any meeting of a panel the chairman shall have an additional or casting vote.
 - (10) Where there is a vacancy in the membership of a panel the Minister may appoint another member.
 - (11) Each member of a panel (not being a person employed by or on behalf of the Crown) shall be entitled to receive such fees and allowances (if any) as are from time to time fixed by the Minister in respect of that member.
 - (12) The panel shall give a reasonable opportunity of being heard by it to any person who has stated in a submission which is referred to the panel by the Minister that he wishes to be heard with respect thereto.
 - (13) All hearings of a panel shall be held in public unless any person making a submission objects to making that submission in public and the panel is satisfied that the submission is of a confidential nature.
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s. 12E

- (14) Subject to this section, a panel shall regulate its own proceedings.
- (15) After conducting hearings in accordance with this section and considering the submissions referred to it by the Minister, the panel shall report to the Minister on the submissions and make a recommendation to the Minister as to the action which it believes should be taken with respect to the application.
- (16) The report of a panel and its recommendation shall be forwarded to the Minister within sixty days after the relevant submissions have been referred to it or within such other period as the Minister may specify when referring the submissions to it.
- (17) A panel shall send a copy of its report and recommendation and of the submissions considered by it to the Minister administering the **Planning and Environment Act 1987** and, where applicable, to the Minister administering the **Environment Effects Act 1978** within the period of time within which its report and recommendation is to be forwarded to the Minister pursuant to sub-section (16).

S. 12E
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(a))).

12E. Matters to be taken into consideration by the Minister

In determining an application under section 9(1), the Minister shall take into consideration—

- (a) the report of the panel (if any) appointed under section 12D and the recommendation made by it;

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s. 12F

- (b) any written comments submitted to the Minister by the Minister administering the **Planning and Environment Act 1987** on the effect of the proposed pipeline on the planning of the area through which it is intended to pass; and
- (c) where applicable, the assessment of the Minister administering the **Environment Effects Act 1978** of the environmental effects of the proposed pipeline.

12F. Proposed authorized route of pipeline must be satisfactory to Minister for Planning and Environment

S. 12F
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(a))).

Where the Minister proposes to grant a permit under section 12(1), the Minister shall cause the Minister administering the **Planning and Environment Act 1987** to be notified in writing of the proposed authorized route of the pipeline and shall not take any action under section 12G(1) unless the Minister administering the **Planning and Environment Act 1987** advises the Minister in writing that the proposed authorized route of the pipeline (whether as originally proposed by the Minister or with such variations or alterations as the Minister and the Minister administering the **Planning and Environment Act 1987** jointly agree to) is satisfactory.

12G. Notification to and action by the Minister for Planning and Environment

S. 12G
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(b))).

- (1) If the Minister proposes to grant a permit under section 12(1), the Minister must send by post to the Minister administering the **Planning and Environment Act 1987** a notice containing the prescribed particulars of the permit.

s. 12H

- (2) On receipt of a notice under sub-section (1), the Minister administering the **Planning and Environment Act 1987** must prepare an amendment to any planning scheme which relates to the land through which the proposed pipeline is intended to pass for the purpose of making the construction and use of the proposed pipeline compatible with the scheme.
- (3) Sections 17, 18 and 19 of the **Planning and Environment Act 1987** do not apply to an amendment prepared under sub-section (2).

S. 12H
inserted by
No. 10104
s. 6 (as
amended by
No. 45/1987
s. 205(Sch.
item 102(c))).

12H. Permits under Planning and Environment Act 1987

Where pursuant to a planning scheme under the **Planning and Environment Act 1987** an applicant under section 9(1) of this Act would be required to apply for a permit under that scheme allowing the use or development of any land or the doing or carrying out of any matter or thing for the purpose of the pipeline, the applicant under section 9(1) of this Act shall, notwithstanding anything to the contrary in the **Planning and Environment Act 1987**, not be required to apply for a permit under that Act but the provisions of that Act and of any planning scheme under the Act shall be deemed to have been complied with by the applicant if the applicant complies with the provisions of this Part.

S. 12I
inserted by
No. 10104 s. 6.

12I. Environment Effects Statement

Where pursuant to the **Environment Effects Act 1978** an applicant under section 9(1) of this Act is required to prepare an Environment Effects Statement in relation to the application, the period (if any) during which public comments are sought under that Act on the environmental effect of the proposed works shall, notwithstanding anything in that Act, coincide, so far as is practicable, with the period during which pursuant to this Part notice of

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s. 13

the application is required to be given or published.

13. Renewal of permits

S. 13
substituted by
No. 26/1988
s. 7.

- (1) A permittee may, not more than 6 months and not less than 3 months before the expiry of a permit, or if the Minister otherwise approves in any particular case, apply to the Minister in the prescribed form for the renewal of the permit.
- (2) An application for renewal of a permit must be accompanied by the prescribed fee.
- (3) The Minister may require the permittee to provide any information which the Minister considers is necessary to enable him or her to determine whether or not to renew the permit.
- (4) Subject to sub-section (5), if a permittee shows that the pipeline is still in use, the Minister must renew the permit for a term which the Minister determines.
- (5) The Minister may refuse to renew a permit if the Minister is satisfied that the permittee—
 - (a) has not complied with the terms and conditions of the permit; or
 - (b) has not provided the information required by the Minister under sub-section (3); or
 - (c) has contravened this Act or the regulations.
- (6) The Minister may, on renewing a permit, amend, vary, add to or revoke a term or condition stated in the permit or add a term or condition to the permit.

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s. 14

S. 14
substituted by
No. 9926 s. 7.

14. Transfer of permit

The permittee shall not—

- (a) transfer his permit; or
- (b) create assign affect or deal with a legal or equitable interest in his permit, whether directly or indirectly—

without the written consent of the Minister.

S. 15
amended by
No. 9926
s. 12(a)(i)(ii).

15. Only authorized things to be conveyed through pipeline

A permittee shall not convey anything through a pipeline unless the pipeline is authorized for the conveyance of such thing.

Penalty: 20 penalty units.

Default penalty: 2 penalty units.

16. When pipeline may convey a thing other than the authorized thing

- (1) Where the permittee seeks authority to convey through the pipeline anything other than a thing authorized by the Minister he shall apply to the Minister for such authority.
- (2) The application shall—
 - (a) state the thing authorized to be conveyed;
 - (b) state the thing proposed to be conveyed;
 - (c) state whether such conveyance shall be in lieu of or in addition to the conveyance of anything already authorized; and
 - (d) be accompanied by the prescribed fee.
- (3) With the approval of the Governor in Council the Minister may, subject to such terms and conditions as he considers necessary, permit the use of such pipeline for the conveyance of such thing or may refuse the application.

S. 16(3)
amended by
Nos 8953
s. 5(8)(b), 9926
s. 2(3).

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17. Permittee may enter into agreement with any person to convey anything authorized belonging to that person

- (1) A permittee may enter into an agreement with any person for or in relation to the conveying by the permittee by means of the pipeline of anything belonging to that person which is authorized to be conveyed through the pipeline.
- (2) The terms of any agreement so entered into shall not contravene the provisions of this Act or the regulations or the terms of the permit granted or licence issued under this Act in respect of that pipeline.
- (3) Where—
 - (a) the person seeking the agreement is aggrieved by the failure of the permittee to agree on any matter concerning the conveyance by means of the pipeline of the said thing belonging to that person; or
 - (b) a person entitled to have anything conveyed through the pipeline pursuant to any previous agreement or any direction of the Minister under this section is aggrieved by the making of the agreement—

that person so aggrieved may on payment of the prescribed fee apply in writing to the Minister for a direction under this section.

- (4) After considering the application and any other matter that he considers relevant the Minister may—
 - (a) direct the permittee to convey by means of the pipeline the whole or any specific part of the thing so sought to be conveyed upon such terms and conditions (including the rate of payment) as the permittee and the person seeking the conveyance of the thing may

S. 17(4)
amended by
Nos 8953
s. 5(8)(b), 9926
s. 2(4).

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s. 19

agree or, in default of such agreement, as the Minister determines; or

(b) direct the permittee not to convey the thing through the pipeline.

(5) Failure by the permittee to comply with any direction given under this section shall be an offence against this Act.

(6) Sub-sections (3) and (4) do not apply in relation to the conveyance of gas through a pipeline if the **Gas Industry Act 2001** applies in relation to third party access to that pipeline.

S. 17(6)
inserted by
No. 91/1997
s. 48,
amended by
No. 32/2001
s. 38.

S. 18
amended by
No. 8953
s. 5(8)(b),
repealed by
No. 9926
s. 2(5).

* * * * *

S. 19
amended by
No. 8953
s. 5(8)(b),
substituted by
No. 9926 s. 4.

19. Cancellation of permit

Where—

- (a) a permittee becomes bankrupt or is commenced to be wound up;
- (b) the Governor in Council decides that because of the seriousness of a contravention, or the number of contraventions, of this Act or the regulations a permit should be cancelled;
- (c) a permittee requests, by notice in writing given to the Minister, that a permit of which he is the holder be cancelled; or
- (d) a permittee has not complied with a condition to which the permit is subject or with a provision of this Act or the regulations and the Minister has given not less than one month's notice of his intention to cancel the permit on a specified date and

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has taken into account any action taken by the permittee to remove the ground for cancellation of the permit and any matters submitted to him on or before the specified date by the permittee—

the Governor in Council may, by Order published in the Government Gazette, cancel the permit.

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Part III—Acquisition of Rights Over Land

s. 20

PART III—ACQUISITION OF RIGHTS OVER LAND

20. Power to Governor in Council to grant easements etc. over Crown land for pipelines⁵

- (1) Notwithstanding anything to the contrary in any Act or in any licence proclamation reservation declaration or dedication of or with respect to any unalienated Crown land the Governor in Council on the recommendation of the Minister for the time being administering the **Conservation, Forests and Lands Act 1987** may, upon such terms and conditions and subject to the payment of such fee as the Governor in Council thinks fit, grant to the permittee any lease easement licence or other authority necessary or expedient to enable the permittee—
 - (a) to construct an authorized pipeline through or over any Crown land; and
 - (b) to operate inspect maintain and repair any part of the pipeline.
- (2) Sub-section (1) does not authorise the compulsory acquisition of native title rights and interests.
- (3) Sub-section (1) does not apply to land which is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**.

S. 20 amended by Nos 41/1987 s. 103(Sch. 4 item 50.2), 76/1996 s. 7(1).

S. 20(2) inserted by No. 76/1996 s. 7(2), substituted by No. 92/1998 s. 10.

S. 20(3) inserted by No. 35/1998 s. 20(1).

S. 21 amended by Nos 76/1996 s. 8, 35/1998 s. 20(2) (ILA s. 39B(1)).

21. Power to public statutory corporation to grant easements etc.⁶

- (1) Notwithstanding anything to the contrary in any Act any public statutory corporation may, upon such terms and conditions as are agreed upon by the said corporation and the permittee (and if the Governor in Council so determines shall, upon

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Part III—Acquisition of Rights Over Land

s. 22

such terms and conditions as the Governor in Council may impose) grant to the permittee a lease easement licence or other authority of the kind referred to in section 20 of or over any land vested in the corporation that is necessary or expedient to enable the permittee to construct any part of the authorised pipeline through or over the land and to operate, inspect, maintain and repair any part of the pipeline.

- (2) This section does not apply to land which is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**.

S. 21(2)
inserted by
No. 35/1998
s. 20(2).

22. Compulsory acquisition: private land⁷

- (1) The permittee may, with the written permission of the Minister, acquire compulsorily any easement over any private land.
- (2) The **Land Acquisition and Compensation Act 1986** applies to a compulsory acquisition referred to in sub-section (1) and for that purpose—
- (a) this Act is the special Act; and
- (b) the permittee is the Authority.

S. 22
amended by
No. 121/1986
s. 112,
substituted by
Nos 76/1996
s. 9, 92/1998
s. 11.

22A. Compulsory acquisition: native title land⁸

- (1) For the purposes of this Act, native title rights and interests in native title land may be compulsorily acquired by the Minister.
- (2) The **Land Acquisition and Compensation Act 1986** applies to a compulsory acquisition referred to in sub-section (1) and for that purpose—
- (a) this Act is the special Act; and
- (b) the Minister is the Authority.

S. 22A
inserted by
No. 76/1996
s. 9,
substituted by
No. 92/1998
s. 11.

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s. 22A

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- (3) For the purposes of the acquisition of native title rights and interests in native title land, the Minister is authorised to comply with any relevant procedure⁹ under the Native Title Act for a valid acquisition of those rights and interests.
 - (4) If the procedure under sub-section (6B) of 24MD of the Native Title Act applies and an objection is not made under paragraph (d) of that sub-section within 2 months after notice is given under that sub-section, the Minister may compulsorily acquire the native title rights and interests.
 - (5) For the purposes of the application of the procedure under section 24MD(6B) of the Native Title Act in relation to the compulsory acquisition, the Tribunal is the independent body for hearing an objection under section 24MD(6B)(f) and sections 22B and 22C apply.
 - (6) If an objection is made under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition of native title rights and interests and—
 - (a) all such objections are withdrawn; or
 - (b) within 5 months after notification under section 24MD(6B) of the Native Title Act of a proposed compulsory acquisition a request has not been made for the objection to be referred to the Tribunal—

the Minister may compulsorily acquire the native title rights and interests in the land.

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s. 22B

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- (7) If an objection made under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition is referred to the Tribunal and a determination made that proposed compulsory acquisition proceed, the Minister may, in accordance with the determination, subject to this Act, compulsorily acquire the native title rights and interests.
 - (8) If the Tribunal makes a determination that the proposed compulsory acquisition not proceed, or proceed subject to conditions, the Minister must comply with that determination except as permitted by sub-paragraphs (i), (ii) and (iii) of section 24MD(6B)(g) of the Native Title Act.

22B. Referral of objections to Tribunal¹⁰

- (1) A person or body that makes an objection under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition of native title rights and interests may request the Minister to refer the objection to the Tribunal.
- (2) A request must be made within 5 months after notification under section 24MD(6B) of the Native Title Act of the proposed compulsory acquisition.
- (3) If a request is made, the Minister must refer the objection to the Tribunal unless the Minister decides not to proceed with the compulsory acquisition.
- (4) The Minister is a party to a proceeding in the Tribunal in respect of an objection.

S. 22B
inserted by
No. 76/1996
s. 9,
substituted by
No. 92/1998
s. 11.

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Act No. 7541/1967

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s. 22C

S. 22C
inserted by
No. 76/1996
s. 9,
substituted by
No. 92/1998
s. 11.

22C. Determination of Tribunal on objection^{11, 12}

- (1) The Tribunal may make any of the following determinations in respect of an objection referred to it under section 22B—
 - (a) a determination that the proposed compulsory acquisition the subject of the objection proceed; or
 - (b) a determination that the proposed compulsory acquisition proceed subject to conditions; or
 - (c) a determination that the proposed compulsory acquisition not proceed.
- (2) In making a determination, the Tribunal must take into account—
 - (a) the likely impact of the proposed compulsory acquisition on the objector's registered native title rights and interests; and
 - (b) the measures proposed to be taken to minimise that impact.
- (3) For the avoidance of doubt, a determination is not an order of the Tribunal for the purposes of the **Victorian Civil and Administrative Tribunal Act 1998**.

S. 22D
inserted by
No. 92/1998
s. 11.

22D. Disputed claims for compensation: native title land

- (1) If native title rights and interests are compulsorily acquired under section 22A and a lease, easement, licence or other authority over the land granted to the permittee, the **Land Acquisition and Compensation Act 1986** applies to the determination and payment of compensation as if the grant were effected by a notice of acquisition under that Act and for that purpose—
 - (a) this Act is the special Act;
 - (b) the permittee is the Authority.

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s. 22E

- (2) If the compensation payable to a person in respect of the compulsory acquisition of land, or interests in land, over which native title may exist and to which this section applies does not amount to compensation on just terms, the person is entitled to such additional compensation as is necessary to ensure that compensation is paid on just terms.
- (3) Compensation payable in respect of the compulsory acquisition of land or interests to which this section applies is payable by the permittee.

22E. Validity of pipeline permit

A finding that the requirements of this Act or the Native Title Act have not been complied with in relation to any part of the authorised route of a pipeline in respect of which a permit has been granted does not affect the validity of the permit in respect of any other part of the authorised route.

S. 22E
inserted by
No. 92/1998
s. 11.

23. Easements taken by permittee over lands held by Crown licensee or lessee

- (1) Where an easement compulsorily acquired by the permittee for any of the purposes of this Act is an easement over land held or occupied by any licensee or lessee of the Crown a description of the easement and a notification that the same has been so compulsorily acquired shall be forwarded forthwith by the permittee to the Department Head of the Department of Sustainability and Environment.

S. 23(1)
amended by
Nos 121/1986
s. 112, 41/1987
s. 103(Sch. 4
item 50.3) (as
amended by
No. 26/1988
s. 15), 76/1998
s. 26(1)(a),
56/2003
s. 11(Sch.
item 15.1).

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s. 23

S. 23(2)
amended by
Nos 121/1986
s. 112, 41/1987
s. 103(Sch. 4
item 50.4) (as
amended by
No. 26/1988
s. 15), 35/1998
s. 20(3),
46/1998
s. 7(Sch. 1),
76/1998
s. 26(1)(a),
56/2003
s. 11(Sch.
item 15.1).

S. 23(3)
repealed by
No. 121/1986
s. 112,
new s. 23(3)
inserted by
No. 35/1998
s. 20(4).

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- (2) Where any such easement is over land held or occupied under licence (other than a licence referred to in sub-section (3)) the description and notification shall be endorsed on the licence by the Department Head of the Department of Sustainability and Environment; and such endorsement shall be recorded in the Department of Sustainability and Environment.
- (3) If the easement is over land which is subject to a licence granted under Part 3A of the **Victorian Plantations Corporation Act 1993**—
- (a) a description of the easement and a notification that it has been acquired must be forwarded forthwith by the permittee to the licensee of that land and the registrar of the register of plantation licences under that Part; and
 - (b) the registrar must record the easement in the register.
- (4) Whenever a Crown grant is issued to any person of the land over which any such easement has been taken a grant shall be made subject to the easement.
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Part IV—Construction Operation and Inspection of Pipelines

s. 25

**PART IV—CONSTRUCTION OPERATION AND
INSPECTION OF PIPELINES**

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S. 24
amended by
No. 8953
s. 5(8)(b),
repealed by
No. 9926
s. 2(5).

Division 1—Licences

Pt 4 Div. 1
(Heading)
substituted by
No. 9926
s. 8(2).

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Pt 4 Div. 1
Subdiv. (1)
(Heading)
repealed by
No. 9926
s. 8(3).

25. Pipeline not to be constructed or operated without a licence

- (1) No person shall construct or operate a pipeline unless he holds a licence issued by the Minister under this Part entitling the person to construct and operate the pipeline.
- (2) No person other than a permittee shall be entitled to the issue of such a licence.

S. 25(1)
amended by
No. 8953
s. 5(8)(c).

26. Application

- (1) A permittee may for the purposes of this Act apply to the Minister in the prescribed form for a licence.
- (2) The application shall—
 - (a) state the name and address of the applicant;
 - (b) state the thing authorized to be conveyed through the pipeline;
 - (c) contain any matters that are prescribed;

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Part IV—Construction Operation and Inspection of Pipelines

s. 26A

- (d) be accompanied by a map of not less than the prescribed scale showing the authorized route of the pipeline;
- (e) be accompanied by proof of the receipt by the applicant of a permit under Part II;
- (f) be accompanied by full design plans and specifications of the pipeline (including all installations apparatus and works connected therewith); and
- (g) be accompanied by the prescribed fee.

S. 26(3)
amended by
No. 9926
s. 8(4)(a)(b).

- (3) A permittee who—
 - (a) complies with the provisions of sub-section (2); and
 - (b) supplies fully any further information that the Minister may require for the purpose of considering the issue of the licence—

S. 26(3)(c)
repealed by
No. 9926
s. 8(4)(b).

* * * * *

shall be entitled to the issue of the licence.

S. 26A
inserted by
No. 8131
s. 2(b).

26A. Alteration of authorized route of pipeline

- (1) Where under section 12 part of the authorized route of a pipeline is altered or varied the route of the pipeline as so altered or varied shall be deemed to be the authorized route for the purposes of the licence.
- (2) The Minister may by notice in writing given to the licensee make such amendments or additions to or variations of standards specifications or conditions stated or included in the licence as are in the opinion of the Minister required in connexion with the alteration or variation of the route of the pipeline.

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s. 27

27. Licence to be issued for same period as permit

- (1) Subject to the provisions of this Act a licence shall be issued to an applicant for the same period for which the permit has been granted.
- (2) Where a permit granted in respect of a pipeline is cancelled the licence issued in respect of the pipeline shall be deemed also to be cancelled.

S. 27(1)
amended by
Nos 9926 s. 5,
26/1988 s. 8.

27A. Consolidation or variation of permits

Where, under section 12A, a permit has been consolidated with another permit or a new permit has been granted—

S. 27A
inserted by
No. 9926
s. 3(2).

- (a) if a permit in respect of a pipeline has been cancelled, the licence issued in respect of that pipeline shall be deemed to have been cancelled;
- (b) if a permit in respect of a pipeline has been varied for the purpose of effecting the consolidation or grant, the licence issued in respect of that pipeline shall be deemed to have been varied in a similar manner;
- (c) if the authorized route under a permit in respect of a pipeline has been extended by a distance not exceeding 100 metres, that route as so extended shall be deemed to be the authorized route for the purposes of the licence issued in respect of that pipeline; and
- (d) if a permit in respect of a pipeline has been granted in lieu of another permit or other permits, the permittee is entitled to the issue of a licence in lieu of another licence or other licences for the construction and operation of that pipeline.

S. 27B
inserted by
No. 26/1988
s. 9.

27B. Renewal of licences

- (1) If a permit is renewed under section 13 and a licence is held by the holder of the permit, the Minister must consider the renewal of the licence and may require the licensee to provide any information which the Minister considers is necessary to enable him or her to determine whether or not to renew the licence.
- (2) Subject to sub-section (3), if—
 - (a) a permit is renewed; and
 - (b) the licensee pays the prescribed fee for renewal of the licence—the Minister must renew the licence for the term for which the permit is renewed.
- (3) The Minister may refuse to renew a licence if the Minister is satisfied that the licensee—
 - (a) has not complied with the terms and conditions of the licence; or
 - (b) has not provided the information required by the Minister under sub-section (1); or
 - (c) has contravened this Act or the regulations.
- (4) The Minister may, on renewing a licence, amend, vary, add to or revoke a term or condition stated in the licence or add a term or condition to the licence.

28. Licence for operation only where pipeline is already constructed

Where an application is made for the operation of a pipeline which has been constructed the Minister may on payment of the prescribed fee issue a licence for the operation of the pipeline subject to such modifications alterations and replacement to the pipeline and to such restrictions and conditions of operation as he thinks fit.

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s. 28A

28A. Variation of licence

S. 28A
inserted by
No. 9926
s. 6(1).

- (1) The Minister may, by notice published in the Government Gazette, amend, vary, add to or revoke a term or condition stated or included in a licence or add a term or condition to the licence.
- (2) A licensee may, at any time, make an application to the Minister for the variation of the licence, not being a variation of the authorized route of the pipeline.
- (3) An application under sub-section (2)—
 - (a) shall be in accordance with the prescribed form;
 - (b) shall be made in a prescribed manner;
 - (c) shall be accompanied by particulars of the proposed variation;
 - (d) shall specify the reasons for the prescribed variation; and
 - (e) shall be accompanied by the prescribed fee.
- (4) The Minister may, at any time, by instrument in writing served on a person who has made an application under sub-section (2), require him to furnish, within the period specified in the instrument, further information in writing in connexion with his application.
- (5) The Minister may vary the licence to such extent as he thinks necessary in accordance with the application or may refuse to vary the licence.

S. 28A(1)
amended by
No. 26/1988
s. 10.

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s. 28B

S. 28B
inserted by
No. 9926
s. 6(1).

28B. Transfer of licence

Where a person who is a permittee and a licensee transfers his permit in accordance with the consent of the Minister, he may, with the written consent of the Minister, transfer his licence.

Pt 4 Div. 1
Subdiv. (2)
(Heading)
repealed by
No. 9926
s. 8(5).

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S. 29
repealed by
No. 9926
s. 8(5),
new s. 29
inserted by
No. 26/1988
s. 11.

29. Minister may recommend cancellation of licence

- (1) If the Minister considers that a licensee has not complied with a condition of the licence or with this Act or the regulations, the Minister may, by notice in writing given to the licensee, require the licensee to show cause, within one month after the notice is given, why the licence should not be cancelled.
- (2) If, after considering any submission made by the licensee, the Minister is satisfied that the licence ought to be cancelled, the Minister may make a recommendation to that effect to the Governor in Council.

S. 29A
inserted by
No. 26/1988
s. 11.

29A. Cancellation of licences

The Governor in Council may cancel a licence by Order published in the Government Gazette if—

- (a) the licensee becomes bankrupt or is commenced to be wound up; or
- (b) the Minister recommends to the Governor in Council that because of the seriousness of a contravention, or the number of contraventions, of this Act or the regulations by the licensee, the licence should be cancelled; or

- (c) the licensee requests, by notice in writing given to the Minister, that the licence be cancelled; or
- (d) the Minister makes a recommendation under section 29.

Division 2—Construction of Pipelines

30. Construction to be in accordance with prescribed standards specifications and conditions

- (1) Notwithstanding any other requirements in this Division a pipeline shall be constructed in accordance with such standards specifications and conditions as are prescribed and such further standards specifications and conditions as are stated or included in the licence in respect of that pipeline.
- (2) Where there is a conflict between any standard or specification as prescribed and a standard or specification stated or included in the licence in respect of a pipeline the latter shall prevail.

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S. 30(3)
repealed by
No. 9926
s. 6(2).

31. Construction to be along authorized route

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

32. Where pipelines cross railway lines etc.

(1) Where a pipeline runs along or crosses over or under—

- (a) a railway line or any land reserved for railway purposes;
- (b) a bridge road or tramway; or
- (c) any electrical apparatus or any other pipeline—

the pipeline shall at the expense of the licensee be constructed to the satisfaction of—

(i) in relation to any railway line or land mentioned in paragraph (a)—Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996**;

(ii) in relation to any bridge road tramway electrical apparatus or other pipeline mentioned in paragraphs (b) or (c)—
where the maintenance is carried out by an authority (including Victorian Rail Track established by Division 2 of Part 2 of the **Rail Corporations Act 1996**) established under any Act—the said authority;
where the maintenance is not carried out by such an authority—the Minister—

so that the safe use of the railway line railway land bridge road tramway electrical apparatus or other pipeline shall not be impeded or unnecessarily obstructed.

S. 32(1)(c)(i) amended by Nos 8353 s. 19(Sch.), 9921 s. 255 (Sch. 12), 44/1989 s. 41(Sch. 2 item 30), 104/1997 s. 54(1), 30/2000 s. 38(1).

S. 32(1)(c)(ii) amended by Nos 8353 s. 19(Sch.), 9921 s. 255(Sch. 12), 44/1989 s. 41(Sch. 2 item 30), 104/1997 s. 54(2), 30/2000 s. 38(1).

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s. 33

- (1A) Where a pipeline runs along or crosses over or under a bridge or road 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**. **S. 32(1A) inserted by No. 12/2004 s. 173.**
- (2) Any extra expense incurred at any time by Victorian Rail Track or the authority or person in charge of such maintenance because of the existence and operation of the pipeline shall be reimbursed by the licensee. **S. 32(2) amended by Nos 8353 s. 19(Sch.), 9921 s. 255 (Sch. 12), 44/1989 s. 41(Sch. 2 item 30), 104/1997 s. 54(3), 30/2000 s. 38(2).**
- (3) Any dispute in relation to any matter referred to in this section between the licensee and Victorian Rail Track, authority or person shall be determined by the Governor in Council, and the decision of the Governor in Council shall be final and conclusive and effect shall be given thereunto. **S. 32(3) amended by Nos 8353 s. 19(Sch.), 9921 s. 255 (Sch. 12), 44/1989 s. 41(Sch. 2 item 30), 104/1997 s. 54(4), 30/2000 s. 38(3).**
- (4) Failure to comply with the provisions of this section shall be an offence against this Act.

33. Where pipeline crosses agricultural land

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

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S. 33(4)
amended by
No. 52/1994
s. 97(Sch. 3
item 20).

- (2) Where the licensee fails to restore the land as required by sub-section (1) a person entitled to an interest in the land may restore the land and recover from the licensee in any court of competent jurisdiction the expenses reasonably incurred in carrying out that restoration.
- (3) Any expenses so recovered shall not affect any right to compensation that such person or any other person may have under this Act in respect of that land.
- (4) The Minister may at any time on the request of a person entitled to an interest in the land include among the conditions of the licence such conditions as he considers necessary to ensure that the land is maintained in a suitable condition and that noxious weeds and pest animals are controlled.

34. Where route crosses any waters

- (1) Where the route of a pipeline is such that the pipeline or any part thereof passes over or under any waters, the pipeline or part thereof shall not be constructed over or under such waters until the authority in control of those waters is satisfied—
 - (a) that the construction will not affect or impede anything or anyone reasonably using the waters; and
 - (b) that all reasonable steps are taken to avoid pollution of the waters.
- (2) Failure to comply with the provisions of this section shall be an offence against this Act.

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s. 35

Division 3—Operation of Pipelines

35. Operation of pipelines

(1) A licensee—

- (a) whose pipeline has never been in operation;
or
- (b) who has otherwise than in the course of the normal operating procedure of the pipeline completely ceased to operate his pipeline—

shall not commence or resume (as the case may be) operation of the pipeline without the written consent of the Minister.

Penalty: 20 penalty units.

S. 35(1)
substituted by
No. 9926 s. 9.

(1A) The Minister may, on application in writing served on him—

- (a) by a licensee whose pipeline has not previously been in operation; or
- (b) by a licensee who has otherwise than in the course of the normal operating procedures of the pipeline completely ceased to operate the pipeline—

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

S. 35(1A)
inserted by
No. 9926 s. 9.

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

S. 35(1B)
inserted by
No. 9926 s. 9.

(1C) A pipeline shall be operated and maintained in accordance with such standards, specifications and conditions as are prescribed or are stated or included in the licence in respect of that pipeline.

S. 35(1C)
inserted by
No. 9926 s. 9.

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S. 35(1D)
inserted by
No. 9926 s. 9.

(1D) Where there is an inconsistency between a standard or specification as prescribed and a standard or specification stated or included in the licence in respect of a pipeline the latter shall prevail.

S. 35(1E)
inserted by
No. 9926 s. 9,
substituted by
No. 26/1988
s. 12(1).

(1E) 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.

S. 35(2)
substituted by
Nos 9593 s. 2,
26/1988
s. 12(2).

(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.

S. 35(2A)–
35(8)
repealed.¹³

* * * * *

36. Examination and testing of pipeline

S. 36(1)
amended by
No. 9762
s. 2(1)(a).

(1) In respect of any pipeline the Minister may at any time by notice served on the licensee impose such requirements with regard to—

S. 36(1)(b)
substituted by
No. 9762
s. 2(1)(b).

- (a) the examination repair maintenance adjustment and testing of the pipeline;
- (b) the modification, reinforcement or protection of the pipeline; or

S. 36(1)(c)
inserted by
No. 9762
s. 2(1)(b).

(c) the inspection of the pipeline—

as the Minister considers necessary or expedient to impose in the interests of safety.

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- (2) Where such requirement so imposed is not carried out forthwith or any person carrying out such requirement is hindered or obstructed in any way the licensee and every person responsible for such failure hindrance or obstruction shall be guilty of an offence against this Act.

S. 36(2)
amended by
Nos 9762
s. 2(2), 9926
s. 12(c).

Penalty: 4 penalty units.

37. Minister may restrict use of pipeline

- (1) Where the Minister is of the opinion that in the interests of safety there should not be unrestricted use of a pipeline or any part thereof, he may by notice served on the licensee—

- (a) limit the pressure at which the pipeline or part thereof may be operated to a pressure stated in the notice; or
(b) prohibit the use of the pipeline or part thereof either absolutely or for the conveyance of anything other than a thing specified in the notice—

until such alterations repairs or replacements specified in the notice have been carried out to his satisfaction.

- (2) Failure to comply with any such limitation or prohibition shall be an offence against this Act.

S. 37(2)
amended by
No. 9926
s. 12(d)(i)(ii).

Penalty: 20 penalty units.

Default penalty: 2 penalty units.

38. Escape or ignition of anything in pipeline to be notified immediately

- (1) The licensee shall 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 such escape or ignition to be given—

S. 38(1)
amended by
No. 8131 s. 3.

- (a) to the nearest police station;

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- (b) to the relevant authority 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 which the Minister by notice served on the licensee declares to be a relevant authority for the purposes of this section.

S. 38(1)(c)
amended by
No. 8131 s. 3.

- (2) Failure to comply with any of the provisions of this section shall be an offence against this Act.

Division 4—Inspection of Pipelines

39. Inspectors

- (1) Any inspectors that it is necessary or expedient to employ to assist the Minister in carrying out his or her functions and duties in respect of this Act are to be employed under Part 3 of the **Public Administration Act 2004**.
- (2) The Minister shall issue to each inspector a document identifying the inspector as one employed under this Act.
- (3) An inspector shall, when carrying out his functions and duties under this Act, produce such document for inspection if so requested.

S. 39(1)
substituted by
No. 46/1998
s. 7(Sch. 1),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 154).

S. 39(2)
amended by
No. 46/1998
s. 7(Sch. 1).

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s. 40

40. Power of inspectors

(1) An inspector may—

- (a) at all reasonable times and with such assistants vehicles and equipment as he considers necessary carry out such inspections and tests of the whole or any part of the pipeline and take such samples of anything in the pipeline as he considers necessary or expedient;
- (b) require any employé of the licensee to assist him in carrying out such inspections and tests or taking such samples;
- (c) require the production of and inspect all or any documents relating to the pipeline construction or operation in the custody of the licensee or an employé of the licensee, and make such notes as he considers necessary or expedient; and
- (d) with the persons assisting him cross any land adjacent to any part of the pipeline in order to reach or return from the pipeline.

S. 40(1)(b)
amended by
No. 9926
s. 11(a).

S. 40(1)(c)
amended by
No. 9926
s. 11(b).

(2) A person who—

- (a) fails to comply with a reasonable requirement made under this section; or
- (b) hinders or obstructs an inspector or any person assisting an inspector in the execution of his function and duties—

S. 40(2)
amended by
No. 9926
s. 12(e).

shall be guilty of an offence against this Act.

Penalty: 5 penalty units.

PART V—MISCELLANEOUS

41. Demolition of buildings erected too close to pipeline

S. 41(1)
amended by
S.R. No.
93/1974 reg. 2,
No. 8953
s. 5(8)(c).

(1) Unless the consent of the Minister has first been obtained a person shall not erect or construct a building or structure so that any part of it is situated less than three metres from a point on the surface of the land whose position is vertically above a part of a pipeline below the surface.

S. 41(2)
amended by
Nos 8953
s. 5(8)(d)(i)(ii),
26/1988
s. 16(1),
76/1998
s. 26(1)(b),
56/2003
s. 11(Sch.
item 15.2).

(2) Where a person erects or constructs a building or structure in contravention of sub-section (1) the Department Head of the Department of Primary Industries may notify the owner of the building or structure that on the date and at the time and place mentioned in the notice the Minister will consider whether or not the building or structure should be demolished.

S. 41(3)
amended by
No. 8953
s. 5(8)(e).

(3) After considering any matters urged at the hearing by such owner the Minister may, if he considers that the building or structure may impede the working of or endanger the pipeline, direct the owner—

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

(b) to demolish the building or structure.

S. 41(4)
amended by
No. 9926
s. 12(f)(i)(ii).

(4) Failure to carry out such a direction shall be an offence against this Act.

Penalty: 10 penalty units.

Default penalty: 1 penalty unit.

42. Minister may delegate certain powers and functions

- (1) The Minister, by writing in his hand—
- (a) may delegate to another Minister all or any of his powers and functions under Part II or III of this Act in respect of a specified pipeline which is a pipeline for the conveyance of anything other than hydrocarbons; and
 - (b) in relation to any matter or class of matters may delegate to the Department Head of the Department of Primary Industries or an employee in that Department all or any of his powers and functions under Divisions 2, 3 or 4 of Part IV or any regulations made for the purposes of those Divisions (except this power of delegation or a power or function in respect of a specified pipeline delegated to another Minister under paragraph (a)).
- (2) Any act or thing done or suffered in the exercise of a power or the performance of a function by a person to whom that function or that power has been delegated by the Minister under sub-section (1) shall have the same force and effect as if it had been done or suffered by the Minister.
- (3) Where under this Act the performance of a function or the exercise of a power by the Minister is dependent upon the opinion, belief or state of mind of the Minister in relation to a matter and that function or power has been delegated under sub-section (1) that function or power may be performed or exercised by the delegate upon the opinion belief or state of mind of the delegate in relation to that matter.

S. 42 amended by No. 8953 s. 5(8)(f)(i)(ii)(g), substituted by No. 9926 s. 10 (as amended by No. 26/1988 s. 16(2)(a)(b)).

S. 42(1)(b) amended by Nos 46/1998 s. 7(Sch. 1), 76/1998 s. 26(2), 56/2003 s. 11(Sch. item 15.2).

- (4) A delegation under sub-section (1) may be made subject to such conditions or limitation as to the exercise or performance of any power or function delegated, or as to time or circumstance, as may be specified in the instrument of delegation.
- (5) A delegation under sub-section (1) shall not prevent the performance of a function or the exercise of a power by the Minister.
- (6) The Minister may by writing under his hand vary or revoke a delegation under sub-section (1).

S. 43
amended by
No. 121/1986
s. 112.

43. Compensation for damage

In the exercise of any powers under this Act a licensee shall do as little damage as is possible and shall, if so required within two years from the exercise of such powers, make full compensation to the owner of and all parties interested in any land for any damage sustained by them in consequence of the exercise of such powers, and such compensation shall be either a gross sum or a yearly rental as may be agreed, and in default of agreement shall be determined in the manner provided in the **Land Acquisition and Compensation Act 1986**.

S. 44
amended by
Nos 8953
s. 5(8)(h),
26/1988 s. 13.

44. On expiry or cancellation of licence the Minister may direct removal of parts of pipeline

When a licence in respect of a pipeline expires or is cancelled the person who was the licensee shall forthwith at his own expense remove such parts of the pipeline as the Minister may direct, and restore the area concerned to a condition satisfactory to the Minister.

45. Penalty

Any contravention or breach of or failure to comply with—

- (a) any provision of this Act or any regulation made under this Act; or
- (b) any term or condition of a permit or a licence or imposed on a permittee or licensee under or for the purposes of this Act or any regulation made under this Act—

shall be an offence against this Act.

Penalty where no specific penalty is provided:
2 penalty units.

S. 45
amended by
No. 9926
s. 12(g).

46. Default penalty

Where at the foot of any section or part of a section of this Act there appears the expression "Default penalty" it shall indicate that any person who is convicted of an offence against this Act in relation to that section or part shall be guilty of a further offence against this Act if the offence continues after he is so convicted and liable to an additional penalty for each day during which the offence so continues of not more than the amount expressed in the section or part as the amount of the default penalty.

47. 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 or expedient to be prescribed for carrying on the purposes of this Act, and without in any way affecting the generality of the foregoing may make regulations for or with respect to—

S. 47
amended by
No. 26/1988
s. 14(1)(a)(b)
(2).

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Part V—Miscellaneous

s. 47

S. 47(1)(a)
amended by
No. 26/1988
s. 14(1)(b).

- (a) the granting of permits and the issuing of licences and the renewing of permits and licences;
- (b) the construction use and operation of pipelines;
- (c) the inspection of pipelines;
- (d) the removal or other disposal of the whole or any part of a pipeline which is not in use;
- (e) safety;
- (f) fees and forms for the purposes of this Act.

S. 47(2)
inserted by
No. 26/1988
s. 14(2).

(2) Regulations—

- (a) may be of general or limited application; and
- (b) may differ according to differences in time, place or circumstances; and

S. 47(2)(c)
amended by
Nos 76/1998
s. 26(1)(c),
56/2003
s. 11(Sch.
item 15.2).

- (c) may leave any matter to be approved or determined by the Minister, a person authorised by the Minister for that purpose, the Department Head of the Department of Primary Industries or an Inspector appointed under section 39; and
- (d) may apply, adopt or incorporate by reference, with or without modification—
 - (i) any matter contained in a standard formulated or made as at the date of the regulations or as at any other time; or
 - (ii) any matter contained in an Act of the Commonwealth or in an instrument made under such an Act as in force at the date of the regulations or at any other time.

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Part V—Miscellaneous

s. 47

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- (3) Regulations made under sub-section (1) may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance of a regulation under sub-section (3) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.
- (5) If, under sub-section (3), either House of the Parliament disallows a regulation, no regulation, being the same in substance as the regulation so disallowed, shall be made within 6 months after the date of the disallowance unless the resolution to disallow the regulation has been rescinded by the House of Parliament by which it was passed.
- (6) Any regulation made in contravention of sub-section (5) is void.
- S. 47(3)
inserted by
No. 26/1988
s. 14(2).
- S. 47(4)
inserted by
No. 26/1988
s. 14(2).
- S. 47(5)
inserted by
No. 26/1988
s. 14(2).
- S. 47(6)
inserted by
No. 26/1988
s. 14(2).
-

Pt 6
(Heading
and s. 48)
inserted by
No. 92/1998
s. 12.

PART 6—TRANSITIONAL

S. 48
inserted by
No. 92/1998
s. 12.

48. Application of Act as amended

- (1) This Act as amended by the **Land Titles Validation (Amendment) Act 1998** applies—
 - (a) to an application made under this Act, whether before or after the commencement of section 12 of the **Land Titles Validation (Amendment) Act 1998**; and
 - (b) to the grant of a permit under this Act, whether the application for the permit was made before or after that commencement; and
 - (c) to the alteration or variation of the authorised route of a pipeline, whether the application for the alteration or variation was made before or after that commencement.
- (2) A notice under section 22 of this Act as in force before the commencement of section 12 of the **Land Titles Validation (Amendment) Act 1998** that was given by the Minister on a date before that commencement has effect as if it were a notice given under section 6 of the **Land Acquisition and Compensation Act 1986** on that date.

ENDNOTES

1. General Information

The **Pipelines Act 1967** was assented to on 17 March 1967 and came into operation on 1 September 1967: Government Gazette 23 August 1967 page 2592.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Pipelines Act 1967** by Acts and subordinate instruments.

Gas and Fuel Corporation (Pipelines) Act 1971, No. 8122/1971

Assent Date: 4.5.71
Commencement Date: 4.5.71: "Appointed day"—1.7.71: Government Gazette 2.6.71 p. 1841
Current State: All of Act in operation

Pipelines (Amendment) Act 1971, No. 8131/1971

Assent Date: 4.5.71
Commencement Date: 4.5.71
Current State: All of Act in operation

Railways (Amendment) Act 1972, No. 8353/1972

Assent Date: 13.12.72
Commencement Date: 8.5.73: Government Gazette 2.5.73 p. 946
Current State: All of Act in operation

Minerals and Energy Act 1976, No. 8953/1976

Assent Date: 16.12.76
Commencement Date: Ss 1–3, 5 on 1.9.77: Government Gazette 17.8.77 p. 2653; s. 6 on 11.5.83: Government Gazette 11.5.83 p. 1088; s. 4 never proclaimed, repealed by No. 9863
Current State: All of Act in operation

Pipelines (Fees) Act 1981, No. 9593/1981

Assent Date: 17.11.81
Commencement Date: 17.11.81
Current State: All of Act in operation

Pipelines (Amendment) Act 1982, No. 9762/1982

Assent Date: 13.7.82
Commencement Date: 13.7.82
Current State: All of Act in operation

Pipelines (Fees) Act 1982, No. 9797/1982

Assent Date: 23.11.82
Commencement Date: 1.7.82: s. 1(3)
Current State: All of Act in operation

Transport Act 1983, No. 9921/1983

Assent Date: 23.6.83
Commencement Date: S. 255(Sch. 12) on 1.7.83: s. 1(2)(c)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Pipelines (Amendment) Act 1983, No. 9926/1983 (as amended by No. 26/1988)

Assent Date: 23.6.83
Commencement Date: 30.6.88: Government Gazette 29.6.88 p. 1896
Current State: All of Act in operation

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Pipelines (Permits) Act 1984, No. 10104/1984 (as amended by No. 45/1987)

Assent Date: 18.9.84
Commencement Date: 30.6.88: Government Gazette 29.6.88 p. 1896
Current State: All of Act in operation

Land Acquisition and Compensation Act 1986, No. 121/1986

Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987 (as amended by No. 26/1988)

Assent Date: 19.5.87
Commencement Date: S. 103(Sch. 4 items 50.1–50.4) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Pipelines (Amendment) Act 1988, No. 26/1988

Assent Date: 17.5.88
Commencement Date: S. 15 on 1.7.87: s. 2(2); rest of Act on 30.6.88: Government Gazette 29.6.88 p. 1896
Current State: All of Act in operation

Transport (Amendment) Act 1989, No. 44/1989

Assent Date: 6.6.89
Commencement Date: S. 41(Sch. 2 item 30) on 1.7.89: s. 2(1)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: S. 97(Sch. 3 item 20) on 15.12.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Pipelines (Amendment) Act 1996, No. 76/1996

Assent Date: 17.12.96
Commencement Date: 17.12.96: s. 3
Current State: All of Act in operation

Gas Industry (Further Amendment) Act 1997, No. 91/1997

Assent Date: 9.12.97
Commencement Date: S. 48 on 11.12.97: Special Gazette (No. 155) 9.12.97 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Rail Corporations (Amendment) Act 1997, No. 104/1997

Assent Date: 16.12.97
Commencement Date: S. 54 on 31.3.98: Special Gazette (No. 23) 31.3.98 p. 1
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

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Victorian Plantations Corporation (Amendment) Act 1998, No. 35/1998

Assent Date: 19.5.98
Commencement Date: S. 20 on 26.6.98: Government Gazette 25.6.98 p. 1561
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Conservation, Forests and Lands (Miscellaneous Amendments) Act 1998, No. 76/1998

Assent Date: 10.11.98
Commencement Date: S. 26(2) on 1.7.98: s. 2(2); s. 26(1) on 15.12.98: s. 2(5)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Land Titles Validation (Amendment) Act 1998, No. 92/1998

Assent Date: 24.11.98
Commencement Date: Pt 3 (ss 6–12) on 24.11.98: Special Gazette (No. 136) 24.11.98 p. 4
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Transport (Amendment) Act 2000, No. 30/2000

Assent Date: 30.5.00
Commencement Date: 31.5.00: s. 2
Current State: All of Act in operation

Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 38 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.03
Commencement Date: S. 11(Sch. item 15) on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: S. 173 on 1.1.05: s. 2(4)
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

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Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 154) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Pipelines Act 1967**

Metric Conversion (Pipelines Act) Regulations 1974, S.R. No. 93/1974

Date of Making: 13.3.74
Date of Commencement: 1.4.74: reg. 1

3. Explanatory Details

¹ S. 3 def. of "private land": Section 10 of the **Pipelines (Amendment) Act 1996**, No. 76/1996 reads as follows:

10. Transitional

The Principal Act, as amended by this Act applies—

- (a) to an application made under the Principal Act, whether before or after the commencement of this section; and
- (b) to the grant of a permit under the Principal Act, whether the application for the permit was made before or after that commencement; and
- (c) to the alteration or variation of the authorised route of a pipeline, whether the application for the alteration or variation was made before or after that commencement.

² S. 3A: See note 1.

³ S. 12AB: See note 1.

⁴ S. 12AB(1)(b): The relevant procedures under the Native Title Act 1993 of the Commonwealth include—

- (a) the procedure under an indigenous land use agreement under that Act;
- (b) the procedure under section 24MD(6B) of that Act;
- (c) any other applicable procedure referred to in section 24AA of the Act.

⁵ S. 20: See note 1.

⁶ S. 21: See note 1.

⁷ S. 22: See note 1.

⁸ S. 22A: See note 1.

⁹ S. 22A(3): See note 4.

¹⁰ S. 22B: See note 1.

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¹¹ S. 22C: See note 1.

¹² S. 22C: Compare section 79 of the Native Title Act 1993 of the Commonwealth.

¹³ S. 35(2A)–35(8):

S. 35(2A) inserted by No. 9797 s. 2(a), repealed by No. 26/1988 s. 12(3).

S. 35(3) inserted by No. 9593 s. 2, amended by No. 9797 s. 2(b)(i)–(iii), repealed by No. 26/1988 s. 12(3).

S. 35(4)(5) inserted by No. 9593 s. 2, repealed by No. 26/1988 s. 12(3).

S. 35(5A) inserted by No. 9797 s. 2(c), repealed by No. 26/1988 s. 12(3).

S. 35(6)–(8) inserted by No. 9593 s. 2, repealed by No. 26/1988 s. 12(3).