

NORTHERN TERRITORY OF AUSTRALIA

NATIONAL GAS (NORTHERN TERRITORY) ACT 2008

Act No. 16 of 2008

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 16 of 2008

An Act to establish a framework to enable third parties to gain access to certain natural gas pipelines services, to repeal the *Gas Pipelines Access (Northern Territory) Act 1998*, and for related purposes

[Assented to 24 June 2008]
[Second reading 7 May 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *National Gas (Northern Territory) Act 2008*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Interpretation

(1) In this Act:

National Gas (NT) Law means the provisions applying because of section 7.

National Gas (NT) Regulations means the provisions applying because of section 8.

South Australian Act means the *National Gas (South Australia) Act 2008* (SA).

- (2) Words and expressions used in the National Gas (NT) Law and in this Act have the same respective meanings in this Act as they have in that Law.
- (3) This section does not apply to the extent that the context or subject-matter otherwise indicates or requires.

4 Act binds Crown

This Act, the National Gas (NT) Law and the National Gas (NT) Regulations binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

5 Application to coastal waters

- (1) This Act, the National Gas (NT) Law and the National Gas (NT) Regulations apply in the coastal waters of the Territory as if the coastal waters were within the limits of the Territory.
- (2) In this section:

adjacent area in respect of the Territory means the adjacent area of this jurisdiction under the National Gas (NT) Law (as defined in section 9(1) of this Act).

coastal waters, in relation to the Territory, means any sea that is on the landward side of the adjacent area in respect of the Territory but is not within the limits of the Territory.

6 Extra-territorial operation

It is the intention of the Legislative Assembly that this Act, the National Gas (NT) Law and the National Gas (NT) Regulations should, so far as possible, operate to the full extent of the extra-territorial legislative power of the Territory.

Part 2 National Gas (NT) Law and National Gas (NT) Regulations

7 Application in Territory of National Gas Law

The National Gas Law set out in the Schedule to the South Australian Act, as in force for the time being:

- (a) applies as a law of the Territory; and

- (b) as so applying may be referred to as the National Gas (NT) Law.

Note

The South Australian Act is available at www.legislation.sa.gov.au/index.aspx

8 Application in Territory of regulations under National Gas Law

The regulations in force for the time being under Part 3 of the South Australian Act:

- (a) apply as regulations in force for the purposes of the National Gas (NT) Law; and
- (b) as so applying may be referred to as the National Gas (NT) Regulations.

9 Interpretation of expressions in National Gas (NT) Law and National Gas (NT) Regulations

- (1) In the National Gas (NT) Law and the National Gas (NT) Regulations:

adjacent area of another participating jurisdiction means the area that is identified in section 5A of the *Petroleum (Submerged Lands) Act 1967* (Cth) as being the adjacent area in respect of a State.

adjacent area of this jurisdiction means the area that is identified in section 5A of the *Petroleum (Submerged Lands) Act 1967* (Cth) as being the adjacent area in respect of the Territory.

Court means the Supreme Court.

designated minister means the Commonwealth Minister.

Legislature of this jurisdiction means the Legislative Assembly.

National Gas Law or ***this Law*** means the National Gas (NT) Law.

this jurisdiction means the Territory.

- (2) The *Acts Interpretation Act 1915* (SA) and other Acts of South Australia do not apply to:
- (a) the National Gas Law set out in the Schedule to the South Australian Act in its application as a law of the Territory; or

- (b) the regulations in force for the time being under Part 3 of the South Australian Act in their application as regulations in force for the purposes of the National Gas (NT) Law.

Part 3 Cross vesting of powers

10 Conferral of powers on Commonwealth Minister and Commonwealth bodies to act in Territory

- (1) The Commonwealth Minister and the Commonwealth bodies have power to do acts in or in relation to the Territory in the performance or exercise of a function or power expressed to be conferred on them respectively by the national gas legislation of another participating jurisdiction.
- (2) In this section:

Commonwealth bodies means any of the following:

- (a) AER;
- (b) NCC;
- (c) the Tribunal.

11 Conferral of powers on Ministers of participating States to act in Territory

The Minister of a participating jurisdiction has power to do acts in or in relation to the Territory in the performance or exercise of a function or power expressed to be conferred on the Minister by the national gas legislation of another participating jurisdiction.

12 Conferral of functions or powers on State Minister

If the national gas legislation of another participating jurisdiction confers a function or power on the Minister, the Minister:

- (a) may perform that function or exercise that power; and
- (b) may do all things necessary or convenient to be done in connection with the performance or exercise of that function or power.

Part 4 Miscellaneous matters

13 Exemption from taxes

- (1) Any duty or other tax imposed by or under a law of the Territory is not payable in relation to:
- (a) an exempt matter; or
 - (b) anything done (including, for example, a transaction entered into or an instrument or document made, executed, lodged or given) because of, or arising out of, an exempt matter.
- (2) In this section:

exempt matter means a transfer of assets or liabilities:

- (a) that is made for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas or processable gas in breach of any ring fencing requirements of the national gas legislation or for the purpose of the separation of certain businesses or business activities from other businesses or business activities of a person as required by an AER ring fencing determination; and
- (b) that the Treasurer declares from time to time by *Gazette* notice to be an exempt matter for the purposes of this section.

14 Actions in relation to cross boundary pipelines

- (1) If a pipeline is a cross boundary pipeline, any action taken under the national gas legislation of a participating jurisdiction in whose jurisdictional area a part of the pipeline is situated:
- (a) by, or in relation to, a relevant Minister; or
 - (b) by the Court within the meaning of that legislation in relation to action taken by, or in relation to, a relevant Minister;

is taken also to be taken under the national gas legislation of each participating jurisdiction in whose jurisdictional area a part of the pipeline is situated (**that other legislation**):

- (c) by, or in relation to, a relevant Minister within the meaning of that other legislation; or
- (d) by the Court within the meaning of that other legislation;

as the case requires.

- (2) Despite subsection (1), no proceeding for judicial review or for a declaration, injunction, writ, order or remedy may be brought before the Court to challenge or question any action, or purported action, of a relevant Minister taken, or purportedly taken, in relation to a cross boundary distribution pipeline unless this jurisdiction has been determined to be the participating jurisdiction with which the cross boundary distribution pipeline is most closely connected.
- (3) A reference in this section:
- (a) to an action that is taken includes a reference to:
 - (i) a decision or determination that is made; or
 - (ii) an omission that is made; and
 - (b) to a purported action that is purportedly taken includes a reference to a purported decision or determination that is purportedly made.
- (4) In this section:
- cross boundary pipeline*** means:
- (a) a cross boundary transmission pipeline; or
 - (b) a cross boundary distribution pipeline.

15 Conferral of functions and powers on Commonwealth bodies

- (1) Clause 2 of Schedule 2 to the National Gas (NT) Law has effect in relation to the operation of any provision of this Act, or any regulation forming part of the National Gas (NT) Regulations, as if the provision or regulation formed part of the National Gas (NT) Law.
- (2) Subsection (1) does not limit the effect that a provision or regulation would validly have apart from this subsection.

16 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) The regulations may contain provisions of a savings or transitional nature (a ***transitional regulation***) consequent on the enactment of this Act.
- (3) A transitional regulation may have retrospective operation to a date not earlier than the date of assent to this Act.

- (4) However, to the extent a transitional regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Territory or a Territory authority) by decreasing the person's rights or imposing liabilities on the person.

17 Amendment of Acts

The Schedule amends the Acts mentioned in it.

18 Repeal of *Gas Pipelines Access (Northern Territory) Act 1998*

The *Gas Pipelines Access (Northern Territory) Act 1998* is repealed.

19 Amendment of this Act when *Offshore Petroleum Act 2006 (Cth)* commences

On the commencement of section 7 of the *Offshore Petroleum Act 2006 (Cth)*, the definitions of ***adjacent area of another participating jurisdiction*** and ***adjacent area of this jurisdiction*** are omitted from section 9(1) of this Act and the following is substituted:

adjacent area of another participating jurisdiction means the offshore area of a State within the meaning of section 7 of the *Offshore Petroleum Act 2006 (Cth)*.

adjacent area of this jurisdiction means the offshore area of the Territory within the meaning of section 7 of the *Offshore Petroleum Act 2006 (Cth)*.

Schedule Amendment of Acts

section 17

Provision	Amendment	
	omit	substitute
<i>Energy Pipelines Act</i>		
section 42(1A)	Covered Pipeline within the meaning of the Gas Pipelines Access (Northern Territory) Law as defined in the <i>Gas Pipelines Access</i>	covered pipeline within the meaning of the National Gas (NT) Law as defined in the <i>National Gas</i>
<i>Petroleum (Submerged Lands) Act</i>		
section 73(2)	Covered Pipeline within the meaning of the Gas Pipelines Access (Northern Territory) Law as defined in the <i>Gas Pipelines Access</i>	covered pipeline within the meaning of the National Gas (NT) Law as defined in the <i>National Gas</i>
