

NORTHERN TERRITORY OF AUSTRALIA
ENERGY PIPELINES AMENDMENT ACT 1989

No. 32 of 1989

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NORTHERN TERRITORY OF AUSTRALIA

No. 32 of 1989

AN ACT

to amend the *Energy Pipelines Act* and the
Regulations made under that Act

[Assented to 28 June 1989]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Energy Pipelines Amendment Act 1989*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Energy Pipelines Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 3(1) of the Principal Act is amended -

- (a) by omitting the definition of "energy-producing hydro-carbon" and substituting the following:

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"energy-producing hydro-carbon" means a naturally occurring or refined hydro-carbon or mixture of hydro-carbons, whether in a liquid, solid or gaseous state, or such a hydro-carbon or mixture of hydro-carbons mixed with such other substances as may be present; and

(b) by omitting the definition of "Secretary".

5. NOTICE OF APPLICATION

Section 6 of the Principal Act is amended -

(a) by omitting from paragraph (a) "and";

(b) by omitting from paragraph (b) "application," and substituting "application and on any person who holds a right of way or other easement over a relevant part of the land; and"; and

(c) by inserting after paragraph (b) the following:

"(c) on each permittee or licensee who holds a current licence or permit in respect of any part of the land referred to in the application,".

6. GRANT OF PERMIT

Section 8(1) of the Principal Act is amended by omitting ", in the prescribed form,".

7. REFUSAL OF LICENCE

Section 14 of the Principal Act is amended by omitting subsection (2).

8. RENEWAL OF LICENCE

Section 16 of the Principal Act is amended by omitting subsection (5).

9. CONDITIONS OF LICENCE

Section 17(2)(a) of the Principal Act is amended by omitting "as is" (last occurring) and substituting "and from such persons, as approved by the Minister and".

10. NEW SECTION

The Principal Act is amended by inserting after section 17 the following:

"17A. MINISTER MAY EXTEND TIME LIMITS DURING CONSTRUCTION

"Notwithstanding anything else contained in this Act, the Minister may, during the construction of a pipeline, of his own motion and in his absolute discretion, vary a

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licence by extending a time limit for an action to be taken or thing done."

11. SECURITY

Section 18 of the Principal Act is amended -

- (a) by omitting subsection (1); and
- (b) by omitting from subsection (2) "sub-section (1)" and substituting "section 17(2)(a)".

12. TERM OF LICENCE

Section 19 of the Principal Act is amended by omitting subsection (2).

13. REPEAL AND SUBSTITUTION

Section 20 of the Principal Act is repealed and the following substituted:

"20. VARIATION, &c., OF CONDITIONS OF LICENCE ON APPLICATION BY LICENSEE

"(1) A licensee may apply to the Minister for the Minister to vary, suspend or waive a condition of the licensee's licence, other than a condition to which section 21A applies.

"(2) An application under subsection (1) shall be accompanied by a fee of \$500 or, where another amount is prescribed as the fee for the purposes of this section, that other amount.

"(3) The Minister may, by notice in writing, require the applicant to -

- (a) give notice of the application to such persons, if any, as the Minister thinks fit; and
- (b) furnish to the Minister within the time specified in the notice, such further information in connection with the application as the Minister requires to enable the Minister to determine the application.

"(4) The Minister may, by notice served on the licensee, determine an application under this section by varying, suspending or waiving a condition of the licence to such extent and subject to such conditions, if any, as the Minister thinks fit, or may refuse to vary, suspend or waive a condition."

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14. NEW SECTIONS

The Principal Act is amended by inserting after section 21 the following:

"21A. VARIATION OF ROUTE OR AREA ON APPLICATION

"(1) A licensee may apply to the Minister for the Minister to vary the route of the pipeline or the licence area specified in the licence.

"(2) An application under subsection (1) may be made before the construction of the pipeline has commenced, during its construction or after construction has been completed and, where the construction has been completed, whether or not the Minister's consent under section 38 to the commencement or resumption of operations or the testing of the pipeline has been given."

"21B. APPLICATION TO VARY ROUTE AND LICENCE

"(1) An application under section 21A before the completion of the pipeline or for a relocation of or alteration to an existing pipeline, shall be accompanied by -

- (a) details of the proposed variation;
- (b) the reasons for the proposed variation; and
- (c) a fee of \$1,000 or, where another amount is prescribed as the fee for the purposes of this paragraph, that other amount.

"(2) As soon as practicable after the making of an application referred to in subsection (1), the applicant shall serve notice on -

- (a) each council within whose municipality any land that would be affected by the granting of the variation is situated;
- (b) the owner and each occupier, if any, of any such land;
- (c) each person, if any, who holds a right of way or other easement over a relevant part of such land; and
- (d) each permittee or licensee, if any, who holds a permit or licence in respect of any part of such land,

that the application has been made.

"(3) A municipal council or person on whom a notice under subsection (2) is served may, within 7 days after the service of the notice on it or that person, or such

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longer period as the Minister allows, make written submissions to the Minister in relation to the proposed variation and the Minister shall not determine the application until the submissions have been considered.

"(4) Where an applicant satisfies the Minister that a municipal council and all other persons on whom a notice under subsection (2) is required to be served have consented to the variation sought, the Minister may determine the application forthwith.

"(5) The Minister shall not vary a licence as the result of an application referred to in subsection (1) unless satisfied that the variation is justified in the circumstances and reflects good pipeline construction and operating practice.

"21C. APPLICATION TO VARY LICENCE AREA

"(1) An application under section 21A for the Minister to vary the licence area made after construction of the pipeline had been completed shall be accompanied by -

- (a) details of the proposed variation describing the area it is proposed should remain subject to the licence; and
- (b) the prescribed fee, if any.

"(2) The Minister shall not vary a licence as a result of an application referred to in subsection (1) except to accurately reflect the route of the pipeline on completion of construction and to reduce the licence area but so that, except where the Minister is satisfied that the exigencies of the case so require, the licence area is not in any place narrower than 25 m having as its centreline an imaginary line connecting markers erected in accordance with section 39(a) or directions given under section 40.

"21D. DETERMINATION OF APPLICATION

"Subject to sections 21B and 21C, the Minister may, by notice served on the licensee, determine an application under section 21A by varying the route of the pipeline or the licence area to such extent and subject to such conditions, if any, as the Minister thinks fit, or may refuse to vary the licence."

15. REPEAL

Section 33 of the Principal Act is repealed.

16. CONSTRUCTION TO COMPLY WITH PRESCRIBED STANDARDS

Section 34 of the Principal Act is amended -

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(a) by omitting from subsection (1) "sub-section (2)" and substituting "subsections (2) and (3)"; and

(b) by adding at the end the following:

"(3) Where there is a conflict between a prescribed standard or specification, or a standard or specification specified in the licence in respect of the pipeline, and a direction given under section 40(1) to the licensee, the direction shall prevail."

17. CONSENT TO COMMENCEMENT OR RESUMPTION OF OPERATIONS OR TESTING OF PIPELINE

Section 38 of the Principal Act is amended -

(a) by omitting subsection (1) and substituting the following:

"(1) The Minister may, on application in writing served on the Minister by a licensee whose pipeline has not previously been in operation, if of the opinion that the pipeline is constructed to the required standards and may with safety have an energy-producing hydro-carbon introduced into it for the purpose of testing the pipeline, by instrument in writing served on the licensee, consent to the testing of the pipeline.

"(1A) The Minister may, on application in writing, served on the Minister by a licensee who has ceased, otherwise than for a reason referred to in section 37(2) to operate a pipeline specified in the licence or whose pipeline has not previously been in operation but has been tested in pursuance of section (1), if of the opinion that the pipeline has been maintained or repaired or tested, as the case may be, to the required standard and may safely be operated, by instrument in writing served on the licensee, consent to the commencement or resumption of operations, as the case may be.";

(b) by omitting from subsection (2) "sub-section (1)" and substituting "subsection (1) or (1A)";

(c) by inserting after subsection (2) the following:

"(2A) Without limiting the generality of subsection (2), the Minister may require the licensee to take out and maintain a policy of insurance of a kind approved by the Minister against claims resulting from any injury to a person or to land (including the licence area) or personal property as the result of anything done in pursuance or purported pursuance of the licence or a condition of the licence or a direction or other authority under this Act, and to insure and indemnify the Minister and the Territory against any such claims.";

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(d) by omitting from subsection (3) all words before "without a consent granted" and substituting "(3) A person shall not allow the introduction of an energy-producing hydro-carbon into a pipeline referred to in paragraph (1) or (1A) or operate a pipeline referred to in subsection (1A)"; and

(e) by adding at the end the following:

"(4) In this section 'operate' means deliver energy-producing hydro-carbons at the point of outlet for commercial use or further delivery or processing."

18. APPROVAL AND REGISTRATION OF TRANSFER

Section 46 of the Principal Act is amended -

(a) by omitting from subsections (1), (2), (3), (6) and (10) "permit or" (wherever occurring); and

(b) by omitting from subsection (7)(b) all words after "such amount" and substituting ", and in such form, as is specified in the instrument or takes out and maintains a policy of insurance of a kind approved by the Minister for the purposes referred to in section 38(2A), or both; or".

19. DEALING WITH INTERESTS TO BE IN WRITING

Section 48 of the Principal Act is amended by omitting "permit or".

20. APPROVAL AND REGISTRATION OF INSTRUMENT CREATING, &c., INTERESTS

Section 49 of the Principal Act is amended -

(a) by omitting from subsection (1) "affecting an existing or future permit or licence" and substituting "affecting a licence"; and

(b) by omitting from subsection (8) "permit or".

21. INSPECTION OF REGISTER AND DOCUMENTS

Section 54 of the Principal Act is amended by omitting subsection (2).

22. PIPELINE TO REMAIN PROPERTY OF OWNER

Section 59(2) of the Principal Act is amended by omitting "in maintaining or operating the pipeline" (twice occurring) and substituting "in constructing, testing, maintaining or operating the pipeline".

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23. THREAT TO PIPELINE

Section 66 of the Principal Act is amended by adding at the end the following:

"(2) A person who unlawfully damages, or interferes with the operation of, a pipeline is guilty of an offence.

Penalty: \$10,000 or imprisonment for 5 years."

24. FURTHER AMENDMENTS

The Principal Act is further amended by omitting from sections 30, 31, 45, 46(4), 49(5) and 63(2) and (3) "Secretary" (wherever occurring) and substituting "Minister".

25. AMENDMENTS OF REGULATIONS

The Energy Pipelines Regulations are amended -

(a) by omitting regulation 6 and substituting the following:

"6. FORM OF INSTRUMENT OF TRANSFER

"An instrument of transfer referred to in section 46(3) of the Act shall be in accordance with Form 4 in Schedule 2.";

(b) by omitting Schedule 1; and

(c) by omitting from Schedule 2 Form 2 and Form 3.
