

NORTHERN TERRITORY OF AUSTRALIA

ENERGY PIPELINES ACT  
No. 2 of 1982  
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# NORTHERN TERRITORY OF AUSTRALIA

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No. 2 of 1982

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## AN ACT

To make provision for the construction, operation and maintenance of pipelines for the conveyance of energy-producing hydro-carbons, and for related purposes

**B**E 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:

[Assented to 12 February 1982]

### PART I - PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the Energy Pipelines Act 1981.

#### 2. COMMENCEMENT

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

#### 3. INTERPRETATION

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

"apparatus or works" means -

- (a) structures for protecting or supporting a pipeline; or
- (b) storage tanks, loading terminals and works and buildings used or to be used for purposes connected with or incidental to the operation of a pipeline,

and fixed equipment or machinery used or to be used for purposes connected with or incidental to the operation or use thereof;

"council" means the council of a municipality constituted under the Local Government Act;

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"Crown lands" means all lands of the Territory, including -

- (a) the bed of the sea within the limits of the Territory;
- (b) an estate in fee simple held by the Territory; and
- (c) reserved or dedicated land,

but does not include land the subject of an incomplete purchase;

"energy-producing hydro-carbon" means -

- (a) a naturally occurring hydro-carbon, whether in a gaseous, liquid or solid state;
- (b) a naturally occurring mixture of hydro-carbons, whether in a gaseous, liquid or solid state; or
- (c) a naturally occurring mixture of one or more hydro-carbons, whether in a gaseous, liquid or solid state, and hydrogen sulphide, nitrogen, helium and carbon dioxide, or any combination of them,

and includes such a substance that has been returned to a natural reservoir;

"incomplete purchase", in relation to land, means a conditional purchase or a purchase by auction or otherwise of the fee simple from the Crown under the Crown Lands Act in respect of which any of the purchase money remains unpaid;

"inspector" means a person appointed as an inspector under section 63;

"land" means -

- (a) land held for an estate in fee simple other than land referred to in paragraph (b) or (d);
- (b) Crown land;
- (c) land the subject of an incomplete purchase;
- (d) a perpetual lease or perpetual pastoral lease under the Crown Lands Act; and
- (e) land, not being Crown land, owned by or vested in a person on behalf of the Crown or a public authority;

"licence" means a licence granted under Part III or section 43;

"licence area", in relation to a licence, means the land specified in the licence as being the licence area;

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"licensee" means the registered holder of a licence;

"owner" -

(a) in relation to land, other than Crown land or land owned by or vested in a person on behalf of the Crown or a public authority representing the Crown, includes every person who jointly or severally, whether at law or in equity -

(i) is entitled to the land for an estate in fee simple;

(ii) is the purchaser under an incomplete purchase, the holder of a perpetual lease or perpetual pastoral lease under the Crown Lands Act or a person (not being the purchaser under an incomplete purchase) to whom a person on behalf of the Crown, or a public authority, has lawfully contracted to convey or transfer the fee simple; or

(iii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits thereof, whether as beneficial owner, trustee, mortgagee in possession, or otherwise;

(b) in relation to Crown land and land (not being land specified in a contract referred to in paragraph (a)(ii)) owned by or vested in a person on behalf of the Crown, means the Crown or that person; and

(c) in relation to land (not being land specified in a contract referred to in paragraph (a)(ii)) owned by or vested in a public authority, means that public authority;

"partly cancelled", in relation to a licence, means cancelled as to part of the pipeline or some of the apparatus or works the subject of the licence;

"permit" means a permit granted under Part II;

"permittee" means the registered holder of a permit;

"pipeline" means a pipe or system of pipes used or intended to be used for the conveyance of an energy-producing hydrocarbon, and includes -

(a) all structures for protecting or supporting a pipeline; and

(b) all loading terminals, works and buildings and all fittings, pumps, tanks, appurtenances and appliances,

used in connection with a pipeline, but does not include -

(c) a pipeline as defined in the Petroleum (Submerged Lands) Act;

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- (d) a pipeline constructed or to be constructed by a public authority;
- (e) a pipeline constructed or to be constructed on land used for residential, business, agricultural, commercial or industrial purposes, designed for use solely for the residential, business, agricultural, commercial or industrial purposes carried on on that land and situated wholly within the boundaries of that land; or
- (f) a pipeline or a pipeline of a class declared under section 4(2) to be a pipeline in respect of which a licence is not required;

"public authority" means -

- (a) a minister of the Crown acting in his official capacity under an Act;
- (b) a statutory corporation;
- (c) a municipality within the meaning of the Local Government Act; or
- (d) a person or body declared under sub-section (3) to be a public authority;

"register" means the register kept under section 44;

"registered holder", in relation to a licence, means the person whose name is, for the time being, shown in the register as being the holder of the licence;

"Registrar" means the person for the time being appointed as the Petroleum Registrar under the Petroleum (Prospecting and Mining) Act;

"relinquished area", in relation to a licence -

- (a) that has expired or been wholly cancelled - means the licence area; and
- (b) that has been partly cancelled - means that part of the licence area on which is situated the part of the pipeline in respect of which the licence was partly cancelled;

"Secretary" has the same meaning as in the Mining Act;

"wholly cancelled", in relation to a licence, means cancelled as to the whole of the pipeline the subject of the licence.

(2) In this Act, a reference to -

- (a) a pipeline on land, includes a reference to a pipeline in, under, through, across or above the surface of the land;

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- (b) a pipeline, includes a reference to part of a pipeline; or
- (c) a licence, includes a reference to a licence as varied under this Act.

### 4. APPLICATION OF ACT

(1) Nothing in this Act requires a person to hold a licence in respect of -

- (a) a pipeline constructed or to be constructed under an Act, other than this Act or the Dangerous Goods Act;
- (b) a pipeline constructed or to be constructed by a public authority;
- (c) a pipeline constructed or to be constructed on land used for residential, business, commercial or industrial purposes, designed for use solely for the residential, business, commercial or industrial purposes carried on on that land and situated wholly within the boundaries of that land;
- (d) a pipeline of a class specified for the purpose of this paragraph by the Minister by notice in the Gazette, constructed or to be constructed for the conveyance of dangerous goods within the meaning of the Dangerous Goods Act; or
- (e) a pipeline constructed or to be constructed -
  - (i) for the conveyance of an energy-producing hydro-carbon from a well-head to a tank or a separator or for the collection of an energy-producing hydro-carbon within the area in which it is produced or recovered;
  - (ii) for returning an energy-producing hydro-carbon to a natural reservoir;
  - (iii) for conveying an energy-producing hydro-carbon for use for the purposes of exploration operations or operations for the recovery of an energy-producing hydro-carbon; or
  - (iv) for conveying an energy-producing hydro-carbon that is to be flared or vented,

but nothing in this section prevents a person from making an application under this Act in respect of such a pipeline or from being granted and holding a permit or licence in respect of the construction or operation of such a pipeline.

(2) The Minister may, by notice in the Gazette, declare a pipeline, or a pipeline of a class, specified in the notice, to be a pipeline or pipelines in respect of which a licence is not required.

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(3) This Act applies to and in relation to Aboriginal land, within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1976 of the Commonwealth, to the extent that it is capable of so applying.

### PART II - PERMITS

#### 5. APPLICATION FOR PERMIT

(1) Where a person desires to construct a pipeline, he may apply to the Minister for a permit to enter land for the purpose of determining the route of the proposed pipeline, the situation of proposed apparatus or works and the land, if any, to be used for the purpose of gaining access to the proposed pipeline and proposed apparatus or works.

(2) An application under sub-section (1) -

(a) shall be made in a form and manner approved by the Minister;

(b) shall identify the points of commencement and termination of the pipeline and specify, by reference to its title number, the land which the applicant wishes to enter upon;

(c) shall be accompanied by the prescribed maps, showing the location on the land specified under paragraph (b) of -

(i) the approximate proposed route of the pipeline;

(ii) the approximate proposed situation of apparatus or works, if known; and

(iii) land which the applicant desires to enter to determine the land which might be used for the purpose of gaining access to the pipeline and apparatus or works;

(d) shall be accompanied by details of any agreement entered into, or proposed to be entered into, by the applicant relating to his entry onto the land specified under paragraph (b);

(e) may set out other matters, including details of his financial resources and technical competence, that the applicant wishes the Minister to consider; and

(f) shall be accompanied by the prescribed fee.

(3) An applicant for a permit shall, if required to do so by an instrument in writing served on him at any time by the Minister, furnish to the Minister within the time specified in the instrument, such further information in writing in connection with his application as is specified in the instrument.



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### 6. NOTICE OF APPLICATION

An applicant for a permit shall, within 90 days after making the application or within such further period, not exceeding 90 days, as the Minister, on application in writing served on him before the expiration of the first-mentioned 90 days allows, cause to be served -

- (a) on each council within whose municipality any land referred to in the application is situated; and
- (b) on each owner and on each occupier, if any, of land referred to in the application,

a notice in or to the effect of the prescribed form setting out such particulars relating to the application as are provided for in the form.

### 7. VARIATION OF APPLICATION

(1) An applicant for a permit may, before the permit is granted, apply to the Minister to -

- (a) include additional land in;
- (b) exclude land from; or
- (c) include additional land in, and to exclude other land from,

the land in respect of which the original application was made.

(2) Such of the provisions of sections 5(2) and (3) and 6 as are prescribed apply to and in relation to an application under subsection (1) as if the application were an application made under section 5(1).

### 8. GRANT OF PERMIT

- (1) Where the Minister is satisfied -
  - (a) that the applicant for a permit has complied with the requirements of section 5; and
  - (b) that 28 days have elapsed since the date on which the last of the notices required to be served by section 6 was served,

he may, after taking into consideration representations in writing made by a council or person referred to in section 6, grant to the applicant a permit, in the prescribed form, in respect of the land specified in the application under section 5(1) or, where an application is made under section 7, in respect of -

- (c) such of the land specified in the application under section 5(1) as is not excluded land referred to in section 7(1); and

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- (d) any additional land referred to in the application under section 7(1),

as he thinks fit.

(2) The Minister shall, in considering an application for a permit, take into consideration whether the carrying on of survey works on the land specified in the application would interfere or be likely to interfere unnecessarily with -

- (a) improvements on the land;
- (b) flora, fauna, fish, fisheries and scenic attractions on or in the vicinity of the land; or
- (c) features of architectural, archaeological, historical or geological interest on or in the vicinity of the land.

### 9. TERMS AND CONDITIONS OF PERMIT

- (1) A permit -

- (a) comes into force on the day specified in the permit;
- (b) subject to sub-section (3), remains in force for a period of 12 months commencing on the day referred to in paragraph (a) and for any period for which the permit is extended under sub-section (2); and
- (c) may be granted subject to such conditions as the Minister thinks fit and specifies in the permit.

(2) The Minister may, on application in writing made by the permittee and served on the Minister before the date of expiration of the permit, extend the permit for such period as he thinks fit and specifies in an instrument in writing served on the permittee.

(3) The Minister may, for reasons that he thinks sufficient, by instrument in writing served on a permittee, cancel a permit as to the land in respect of which it is in force.

(4) A permit shall not be cancelled under sub-section (3) unless the Minister has -

- (a) by instrument in writing served on the permittee, given not less than 28 days notice of his intention to cancel the permit and the grounds for his so doing;
- (b) served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) in the instrument, specified a date on or before which the permittee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister,

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submit any matter that he wishes the Minister to consider in connection with the cancellation of the permit;

- (d) caused to be published in such newspapers as he thinks fit, notice of his intention to cancel the permit and the ground for his so doing and has, in that notice, specified a date on or before which a person having an interest in land in the area may submit any matter that he wishes the Minister to consider in connection with the cancellation of the permit; and
- (e) taken into account -
  - (i) any action taken by the permittee to remove the grounds for cancellation of his permit or to prevent the recurrence of similar grounds; and
  - (ii) particulars of matters submitted under paragraph (c) or (d) on or before the date specified under the relevant paragraph.

### 10. VARIATION OF PERMIT

(1) A permittee may apply to the Minister for a variation of the permit held by him so that it applies to additional land.

(2) Sections 5(2) and (3) and 6 apply to and in relation to an application under sub-section (1), in respect of the additional land referred to in that sub-section, in the same way as those sections apply to and in relation to an application made under section 5(1).

(3) Where, in respect of an application under sub-section (1), the Minister is satisfied as to the matters referred to in section 8(1) and has taken into consideration the matters referred to in section 8(2), he may, by instrument in writing, vary the permit in respect of which the application was made so that it applies to -

- (a) the additional land specified in that application; or
- (b) such, if any, of that additional land as the Minister thinks fit.

(4) In varying a permit under this section, the Minister may, as he thinks fit and specifies in the instrument referred to in sub-section (3), add to or vary the conditions subject to which the permit was granted.

(5) Land specified in an instrument referred to in sub-section (3) shall, for the purposes of this Act, be deemed to be land specified in the permit to which that instrument relates as land in respect of which the holder of the permit may exercise the rights conferred thereby.

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(6) Where, under sub-section (4), conditions are added to the conditions subject to which a permit was granted or conditions subject to which a permit was granted are varied, the additional conditions or the conditions as so varied shall be conditions subject to which the permit was granted.

### 11. RIGHTS CONFERRED BY PERMIT

(1) A permit, while it remains in force, authorizes the permittee, in accordance with the conditions subject to which it was granted, to enter with such vehicles, equipment and personnel as are necessary for the purpose, the land specified in the permit and to carry out on that land such surveys as the permittee considers necessary for the purpose of determining -

- (a) the proposed route of the pipeline, and the proposed situation of apparatus or works, referred to in the application for the permit; and
- (b) the land, if any, to be used for the purpose of gaining access to the pipeline and the apparatus or works.

(2) A permittee may, subject to the conditions on which the permit was granted, take from the land specified in the permit samples for examination and testing.

### PART III - LICENCES

#### 12. CONSTRUCTION, &c., OF PIPELINES

- (1) A person shall not -
  - (a) commence, or continue, the construction of a pipeline; or
  - (b) alter or reconstruct a pipeline,

except under and in pursuance of a licence.

Penalty: \$5,000.

- (2) A person shall not operate a pipeline -
  - (a) except under and in pursuance of a licence; and
  - (b) unless he has obtained the consent under section 43 of the Minister to the commencement or resumption, as the case may be, of the operations and commences or resumes the operations, and thereafter operates the pipeline, in accordance with the conditions, if any, to which the instrument of consent is for the time being subject.

Penalty: \$5,000.

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- (3) It is not an offence against this section -
- (a) if, in an emergency in which there is a likelihood of loss or injury, or for the purpose of maintaining a pipeline in good order or repair, a person does an act to avoid the loss or injury or to maintain the pipeline in good order and repair and -
- (i) as soon as practicable thereafter notifies the Minister of the act done; and
  - (ii) complies with any directions given to him by the Minister; or
- (b) if a person does an act in compliance with a direction under this Act.

### 13. APPLICATION FOR LICENCE

- (1) An application for a licence may be made by a person who -
- (a) at the time of making the application holds, or within 6 months before making the application has held, a permit; or
- (b) is able to satisfy the Minister that, notwithstanding that he has never, or has not within the period of 6 months before making the application, held a permit, has obtained sufficient data relating to the route of the proposed pipeline to submit an application which complies with sub-section (3).
- (2) An application for a licence -
- (a) shall be made in a form and manner approved by the Minister;
- (b) shall be accompanied by particulars of -
- (i) the design and construction of the proposed pipeline;
  - (ii) the provisions for cathodic protection of the proposed pipeline;
  - (iii) the size and capacity of the proposed pipeline;
  - (iv) the substance intended to be conveyed through the proposed pipeline;
  - (v) the proposals of the applicant for work and expenditure in respect of the construction of the proposed pipeline;
  - (vi) the machinery and equipment that the applicant intends to use in the construction of the proposed pipeline;

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- (vii) the technical qualifications of the applicant and of his employees;
  - (viii) the technical advice available to the applicant; and
  - (ix) the financial resources available to the applicant;
- (c) shall be accompanied by a plan, drawn in the prescribed manner -
- (i) showing -
    - (A) the route of the proposed pipeline;
    - (B) the situation of proposed apparatus or works; and
    - (C) the land, if any, proposed to be used for the purpose of gaining access to the proposed pipeline and proposed apparatus or works; and
  - (ii) on which shall be identified the land, or easements over land, referred to in paragraph (e);
- (d) shall be accompanied by particulars of agreements entered into, or proposed to be entered into, by the applicant for the acquisition by him of, or of easements over, the land shown in the plan referred to in paragraph (c);
- (e) shall specify, in relation to each part of the proposed pipeline, the proposed route of which is on or across Aboriginal land, within the meaning of the Aboriginal Land Rights (Northern Territory) Act 1967 of the Commonwealth, or on or across land held by the Commonwealth, particulars of the land, or the easements over land acquired or agreed to be acquired for the purpose of constructing and operating the proposed pipeline or gaining access to the proposed pipeline;
- (f) shall be accompanied by copies of the notices which the applicant has served under sub-section (4);
- (g) may set out any other matters that the applicant wishes the Minister to consider; and
- (h) shall be accompanied by the prescribed fee.
- (3) The Minister may, at any time, by instrument in writing served on an applicant, require him to furnish to the Minister, within the time specified in the instrument, further information in writing in connection with his application.
- (4) At the time of making an application for a licence, the applicant shall serve notice on -
- (a) each council within whose municipality any part of the proposed pipeline is intended to be situated; and

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- (b) each owner and each occupier, if any, of land over which the pipeline referred to in the application is to be constructed,

that an application has been made.

(5) The Minister shall, as soon as practicable after receiving an application for a licence, and at the expense of the applicant, publish -

- (a) in the Gazette;
- (b) in a daily newspaper circulating generally in the Territory;  
and
- (c) in such other newspapers as the Minister thinks fit,

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

(6) The Minister may direct an applicant for a licence to inform such other persons as the Minister thinks fit that the application has been made.

### 14. REFUSAL OF LICENCE

(1) The Minister shall not refuse an application made under section 13 unless he has -

- (a) by instrument in writing served on the applicant, given not less than 90 days notice of his intention to refuse the application;
- (b) served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) in the instrument -
  - (i) given the reason for his intention to refuse the application; and
  - (ii) specified a date on or before which the applicant or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit matters that he wishes the Minister to consider; and
- (d) taken into account the matters submitted to him under paragraph (c)(ii) on or before the specified date.

(2) Where an application for a licence is refused, the whole, or such part as the Minister thinks fit, of the fee referred to in section 13(2)(h) shall be refunded to the applicant.

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### 15. GRANT OF LICENCE

(1) Where 28 days have elapsed since the date on which the last of the notices required by section 13(5) to be given was given, the Minister may, after taking into consideration all representations made to him in respect of the proposed pipeline and, in particular the matters referred to in sub-section (2), grant to the applicant a licence in respect of the proposed pipeline and shall cause to be published in the Gazette a notice that the licence has been granted.

(2) In considering an application for a licence the Minister shall have regard to -

- (a) the public interest;
- (b) the financial and technical ability of the applicant to construct, operate and maintain the proposed pipeline;
- (c) whether the construction of the proposed pipeline or any apparatus or works on the land specified in the application would contravene a planning instrument made under Part III of the Planning Act; and
- (d) whether the construction of the proposed pipeline or apparatus or works would be likely to interfere unnecessarily with -
  - (i) improvements on;
  - (ii) flora, fauna, fish, fisheries and scenic attractions on or in the vicinity of; or
  - (iii) any features of architectural, archaeological, historical or geological interest on or in the vicinity of,the land specified in the application.

### 16. RENEWAL OF LICENCE

(1) A licensee may, from time to time, make an application for the renewal of his licence.

- (2) An application under sub-section (1) -
  - (a) shall, subject to sub-section (3), be made not less than 6 months before the day the licence will otherwise cease to be in force;
  - (b) shall be made in a form and manner approved by the Minister;
  - (c) shall be accompanied by the prescribed fee; and



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(d) may, if the period for which the renewal is sought is less than 21 years, indicate that lesser period and give reasons for so doing.

(3) The Minister may, for reasons he thinks fit, receive an application for the renewal of a licence less than 6 months before it will otherwise cease to be in force, but not in any case after the day on which the licence ceases to be in force.

(4) The Minister shall not refuse an application for the renewal of a licence unless he has -

(a) by instrument in writing served on the licensee, given not less than 90 days notice of his intention to refuse the application;

(b) served a copy of the instrument on such other persons, if any, as he thinks fit;

(c) in the instrument -

(i) given the reason for his intention to refuse the application; and

(ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit matters that he wishes the Minister to consider; and

(d) taken into account the matters submitted to him under paragraph (c)(ii) on or before the specified date.

(5) Where an application for the renewal of a licence is refused, the whole, or such part as the Minister thinks fit, of the fee referred to in sub-section (2)(c) shall be refunded to the applicant.

(6) Where -

(a) an application for the renewal of a licence is made under this section; and

(b) the licence otherwise ceases to be in force before the application is granted or refused,

the licence shall be deemed to continue in force in all respects until the application is granted or refused.

### 17. CONDITIONS OF LICENCE

(1) A licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.

(2) Without limiting the generality of sub-section (1), the conditions referred to in that sub-section may include conditions that the licensee shall -

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- (a) within such time as is specified in an instrument in writing served on him by the Minister and before commencing the construction of the pipeline specified in the licence, lodge with the Minister security in such amount, not exceeding \$50,000 or such other amount as is prescribed, and in such manner and form, as is specified in the notice;
- (b) complete the construction of, and commence to operate, the pipeline within the period specified in the licence; and
- (c) take such measures as the Minister, by instrument in writing served on the licensee, requires to be taken within the time specified in the notice, with respect to the conservation and protection of the flora, fauna, fish, fisheries and scenic attractions, and features of architectural, archaeological, historical or geological interest and the reinstatement, levelling, regrassing, reforesting and contouring of any land which may be damaged or deleteriously affected by the licensee.

### 18. SECURITY

(1) A security referred to in section 17(2)(a) -

- (a) shall be given in a manner and form approved by the Minister; and
- (b) may, subject to the approval of the Minister, be by cash deposit or such other method as the Minister thinks fit or partly by cash deposit and partly by such other method as the Minister thinks fit.

(2) A security given in accordance with a form approved under sub-section (1) by the Minister, although it is not sealed, binds the person subscribing to it as if it were sealed.

(3) Whenever a security referred to in section 17 is put in suit, the production of the security entitles the Minister, without further proof, to judgment for the amount claimed, against the person appearing to have executed the security, unless that person proves -

- (a) compliance with conditions of the security;
- (b) that the security was not executed by him; or
- (c) release or satisfaction.

(4) If it appears to the court, in a suit referred to in sub-section (3), that non-compliance with a condition of a security given under this Act has occurred, the security shall not be discharged or invalidated, and the subscriber shall not be released or discharged from liability, by reason of -

- (a) an extension of time or other concession;

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- (b) consent to, or acquiescence in, a previous non-compliance with a condition; or
- (c) failure to bring suit against the subscriber upon the occurrence of a previous non-compliance with the condition.

(5) If there are several subscribers to a security referred to in section 17, they are bound, unless the security otherwise provides, jointly and severally and for the full amount of the security.

(6) A security referred to in section 17 may be sued on for non-compliance with the conditions of the licence to which the security relates.

### 19. TERM AND FORM OF LICENCE

- (1) A licence -
  - (a) not being a renewal of a licence, comes into force on the day specified for the purpose in the licence; and
  - (b) being a renewal of a licence, comes into force on the day after the day on which the last previous licence in respect of the same pipeline ceases to be in force,

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

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

### 20. VARIATION OF LICENCE ON APPLICATION BY LICENSEE

(1) A licensee may, at any time, by instrument in writing served on the Minister, apply for the variation of a licence other than a variation of the licence area.

- (2) An application under this section -
  - (a) shall be made in a form and manner approved by the Minister;
  - (b) shall be accompanied by particulars of the proposed variation;
  - (c) shall specify the reasons for the proposed variation; and
  - (d) shall be accompanied by the prescribed fee.

(3) The Minister may, at any time, by instrument in writing served on an applicant under this section, require him to furnish, within a time specified in the instrument, further information in connection with his application.

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(4) The Minister may -

- (a) give notice of an application under this section to such persons, if any, as he thinks fit; and
- (b) specify a date on or before which each person to whom notice is given under paragraph (a) may, by instrument in writing served on the Minister, submit matters that he wishes the Minister to consider in connection with the application.

(5) After considering the matters submitted to him under sub-section (4), the Minister may vary the licence to such extent as he thinks fit or may refuse to vary the licence.

### 21. VARIATION OF LICENCE BY MINISTER

The Minister may, where a licensee is required to vary the route of a proposed pipeline as the result of an Act or instrument of a legislative or administrative character, including an Act or instrument of the Commonwealth, after giving such notice and taking such steps as he thinks fit, vary the licence to the extent required to enable the licensee to comply with that Act or instrument.

### 22. EASEMENTS OVER CROWN LANDS

Notwithstanding anything to the contrary in an Act or in a licence or an instrument of a legislative or administrative character relating to unalienated Crown lands, the Administrator, on the recommendation of the Minister for the time being responsible for the Crown Lands Act may, upon such terms and conditions, and subject to the payment of such fee, as the Administrator thinks fit, grant to a licensee a lease, easement, licence or other authority necessary or expedient to enable the licensee -

- (a) to construct the pipeline specified in the licensee's licence over Crown lands; and
- (b) to operate, inspect, maintain and repair that pipeline.

### 23. EXEMPTIONS, &c.

- (1) Subject to sub-section (2), where -
  - (a) a licence is, under this Act, to be deemed to continue in force until the Minister grants, or refuses to grant, the renewal of the licence;
  - (b) a licence is varied under section 20;
  - (c) a licence is cancelled as to part of the pipeline in respect of which it is in force;

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- (d) a licensee applies, by instrument in writing served on the Minister, for a variation or suspension of, or exemption from compliance with, a condition to which the licence is subject; or
- (e) the Minister, under this Act, gives a direction or consent to a licensee,

the Minister may, on application by the licensee, by instrument in writing served on the licensee, vary or suspend, or exempt the licensee from complying with, a condition to which the licence is subject, upon such conditions, if any, as the Minister thinks fit and specifies in the instrument.

(2) Nothing in sub-section (1) empowers the Minister to alter the term of a licence.

### 24. SURRENDER OF LICENCE

(1) A licensee may, at any time, by instrument in writing served on the Minister, apply for consent to surrender his licence as to the whole or a part of the pipeline in respect of which it is in force.

(2) Subject to sub-section (3), the Minister shall not give his consent to the surrender of a licence unless the licensee -

- (a) has paid all amounts payable by him under this Act or has made arrangements which are satisfactory to the Minister for the payment of those amounts;
- (b) has complied with the conditions to which the licence is subject and with the provisions of this Act and the Regulations;
- (c) has, where the Minister, by instrument in writing served on the licensee, required him to do so, caused to be published in such newspapers as are specified in the instrument, notice of the licensee's intention to apply for consent to surrender the licence as to the whole or a part of the pipeline in respect of which it is in force and has, in that notice, specified a date, not being earlier than 28 days after publication of the notice, on or before which any person having an interest in land in the licence area may, by instrument in writing served on the Minister, submit any matter that he wishes the Minister to consider in connection with the application for the consent; and
- (d) has, to the extent that he is required to do so by, and to the satisfaction of, the Minister, removed or caused to be removed from the area to which the proposed surrender relates, property brought into that area by any person engaged or concerned in the operations authorized by the licence, or has made arrangements that are satisfactory to the Minister for the removal or disposal of that property.

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(3) Where a licensee has not complied with the conditions to which his licence is subject and with the provisions of this Act and the Regulations, the Minister may consent to an application under sub-section (1) if he is satisfied that, although the licensee has not so complied, special circumstances exist that justify his consent to the application.

(4) Where the Minister consents to an application under sub-section (1), the applicant may, by instrument in writing served on the Minister, surrender the licence accordingly.

### 25. CANCELLATION OF LICENCE FOR BREACH OF CONDITION

(1) Subject to sub-section (2), where a licensee -

- (a) has not complied with a condition to which the licence is subject;
- (b) has not complied with a provision of this Act or the Regulations; or
- (c) has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable,

the Minister may, on that ground, by instrument in writing served on the licensee, cancel the licence as to the whole or a part of the pipeline in respect of which it is in force.

(2) A licence shall not be cancelled under sub-section (1) unless the Minister has -

- (a) by instrument in writing served on the licensee, given not less than 28 days notice of his intention to cancel the licence and the grounds for his so doing;
- (b) served a copy of the instrument on such other persons, if any, as he thinks fit;
- (c) in the instrument, specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument in writing served on the Minister, submit any matter that he wishes the Minister to consider in connection with the cancellation of the licence;
- (d) caused to be published in such newspapers as he thinks fit, notice of his intention to cancel the licence and the ground for his so doing and has, in that notice, specified a date on or before which a person having an interest in land in the licence area may submit any matter that he wishes the Minister to consider in connection with the cancellation of the licence; and

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(e) taken into account -

- (i) any action taken by the licensee to remove the grounds for cancellation of his licence or to prevent the recurrence of similar grounds; and
- (ii) particulars of matters submitted under paragraph (c) or (d) on or before the date specified under the relevant paragraph.

### 26. VARIATION OF LICENCE IN PUBLIC INTEREST

(1) The Minister may -

(a) at the request of -

- (i) a minister or a Minister of State of the Commonwealth; or
- (ii) a body established by a law of the Territory or of the Commonwealth; and

(b) if, in his opinion, it is in the public interest so to do and the minister or body making the request has given security, to the satisfaction of the Minister, for the payment of any amount payable under sub-section (5) to a licensee,

by instrument in writing served on the licensee, direct the licensee to make such changes in the route or position of the licensee's pipeline, and within such times, as are specified in the instrument.

(2) A licensee to whom a direction under sub-section (1) is given shall comply with the direction.

Penalty: \$5,000.

(3) Where the Minister gives a direction under sub-section (1) and the licensee to whom the direction is given complies with the direction, the licensee may bring an action in the Supreme Court against the minister or body making the request for compensation of the expenses incurred by him in complying with the direction.

(4) The Supreme Court shall hear the action referred to in sub-section (3) and shall determine whether it is just that the whole or a portion of the reasonable cost of complying with the direction ought to be paid to the plaintiff by the defendant.

(5) If the Supreme Court determines that compensation referred to in sub-section (4) ought to be made, it shall determine the amount of the compensation and give judgment accordingly.

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### 27. CANCELLATION OF LICENCES NOT AFFECTED BY OTHER PROVISIONS

(1) A licence may be wholly or partly cancelled on the grounds that the licensee has not complied with a provision of this Act or the Regulations, notwithstanding that he has been convicted of an offence by reason of his failure so to comply.

(2) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the grounds that he has not complied with a provision of this Act or of the Regulations, may be convicted of an offence by reason of his failure to comply with the provision, notwithstanding that the licence has been so cancelled.

(3) A licence may be wholly or partly cancelled on the grounds that the licensee has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable, notwithstanding that judgment for the amount has been obtained or that the amount, or any part of the amount, has been paid or recovered.

(4) A person who was the registered holder of a licence that has been wholly cancelled, or is the registered holder of a licence that has been partly cancelled, on the grounds that he has not paid an amount payable by him under this Act within 90 days after the day on which the amount became payable, continues to be liable to pay that amount together with any additional amounts payable by reason of late payment of that amount, notwithstanding that the licence has been so cancelled.

### 28. REMOVAL OF PROPERTY, &c., BY LICENSEE

(1) Where a licence has been wholly or partly cancelled, or has expired, the Minister may, by instrument in writing served on the person who was, or is, as the case may be, the licensee, direct that person to -

- (a) remove or cause to be removed from the relinquished area the property specified in the instrument, being property that was brought into that area by a person engaged or concerned in the operations authorized by the licence, or to make arrangements that are satisfactory to the Minister for the removal or disposal of that property; and
- (b) make good, to the satisfaction of the Minister, any damage to the relinquished area caused by a person engaged or concerned in the operations authorized by the licence or caused by the removal of property under a direction referred to in paragraph (a), whether or not it was removed in a manner specified in the direction.

(2) The Minister may, by instrument in writing served on a licensee, direct him to -



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- (a) remove or cause to be removed from the licence area the property specified in the instrument, being property that was brought into that area by a person engaged or concerned in the operations authorized by the licence, or to make arrangements that are satisfactory to the Minister for the removal or disposal of that property; and
  - (b) make good, to the satisfaction of the Minister, any damage to the licence area caused by a person engaged or concerned in the operations authorized by the licence or caused by the removal of property under a direction referred to in paragraph (a), whether or not it was removed in a manner specified in the direction.
- (3) A direction under sub-section (1)(a) or (2)(a) may specify the manner in which the property specified in the direction shall be removed.
- (4) A person to whom a direction under sub-section (1) or (2) is given shall comply with the direction -
- (a) in the case of a direction given under sub-section (1) - within the period specified in the instrument by which the direction was given; and
  - (b) in the case of a direction given under sub-section (2) - on or before the expiration of the licence.

Penalty: \$5,000.

### 29. POWERS OF MINISTER TO ENFORCE DIRECTION

- (1) Where a licence has been wholly or partly cancelled, or has expired, and -
- (a) a direction referred to in section 28(1)(a) or (2)(a) for the removal of property from the relinquished or licence area has not been complied with, the Minister may, by notice in the Gazette, direct that the owner or owners of the property shall remove it from that area within the period specified in the instrument and the Minister shall cause a copy of the instrument to be served on each person whom he believes to be an owner of that property or part of that property;
  - (b) a direction referred to in section 28(1)(a) or (2)(a) for the removal of property from the relinquished or licence area has been complied with, but damage to the area caused by the removal of the property has not been made good to the satisfaction of the Minister, the Minister may make good the damage in such manner as he thinks fit; or
  - (c) a direction referred to in section 28(1)(b) or (2)(b) has not been complied with, the Minister may do any of the things required by the direction to be done.

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(2) Where property has not been removed from the relinquished or licence area in accordance with a direction under sub-section (1)(a), the Minister may -

- (a) remove, in such manner as he thinks fit, that property from the area;
- (b) dispose of, in such a manner as he thinks fit, any of that property; and
- (c) if he has served a copy of the instrument by which the direction was given on a person whom he believed to be the owner of the property or part of the property, sell, by public auction or otherwise, as he thinks fit, any part of that property that belongs, or that he believes to belong, to that person.

(3) The Minister may deduct from the proceeds of a sale under sub-section (2) of property that belongs, or that he believes to belong, to a person, any part of -

- (a) the costs and expenses incurred by the Minister under that sub-section in relation to that property;
- (b) the costs and expenses incurred by the Minister in relation to the doing of any thing required by a direction under section 28(1) or (2) to be done by that person; and
- (c) the fees or amounts due and payable under this Act by that person.

(4) Costs and expenses incurred by the Minister under sub-section (2), if incurred in relation to -

- (a) the removal, disposal or sale of property or the making good of damage caused by the removal of property; or
- (b) the doing of a thing required by a direction under section 28(1)(b) or (2)(b),

are a debt due and payable by the person to whom the direction was given to the Territory and, to the extent to which they are not recovered under sub-section (3), are recoverable in a court of competent jurisdiction.

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

### 30. LICENCE FEES

(1) There is payable to the Secretary by a licensee, at the times specified in sub-section (2), a licence fee calculated in accordance with the formula -

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$$A = B \times C \times D,$$

where -

- A is the fee payable;
- B is the unit amount prescribed by the Regulations for the purposes of this section or, where no amount is prescribed, \$3;
- C is the diameter of the pipeline expressed in metres; and
- D is the length of the pipeline expressed in metres.

(2) The fee referred to in sub-section (1) is payable on the expiration of 28 days after -

- (a) in the case of the first year of the term of the licence - the day on which that term commences; and
- (b) in the case of each year of the term of a licence other than the first - the anniversary of the day on which that term commenced.

### 31. PENALTY FOR LATE PAYMENT

Where the liability of a licensee to pay a fee referred to in section 30 is not discharged at or before the time when the fee is payable, there is payable to the Secretary by the licensee an additional amount calculated at the rate of 0.33% per day upon the amount of the whole fee from the time when the fee became payable until it is paid.

### 32. FEES AND PENALTIES DEBTS DUE TO TERRITORY

A fee under section 30, or an amount payable under section 31, is a debt due and payable by the licensee to the Territory.

## PART IV - CONSTRUCTION AND OPERATION OF PIPELINE

### 33. CONSTRUCTION TO BE ALONG AUTHORIZED ROUTE

A pipeline shall not be constructed except along the route authorized in the licence in respect of that pipeline, subject to deviation from that route within the limits of lateral deviation authorized by the Minister.

### 34. CONSTRUCTION TO COMPLY WITH PRESCRIBED STANDARDS

(1) Subject to sub-section (2) but notwithstanding any other requirement of this Part, a pipeline shall be constructed in accordance with the prescribed standards, specifications and conditions and such other standards, specifications and conditions as are specified in the licence in respect of the pipeline.

(2) Where there is a conflict between a prescribed standard or specification and a standard or specification specified in the licence in respect of a pipeline, the latter shall prevail.

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### 35. RESTORATION OF AGRICULTURAL LAND AFTER CONSTRUCTION

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

(2) Where a licensee fails to restore 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 a court of competent jurisdiction, the expenses reasonably incurred by him in carrying out that restoration.

(3) The recovery of expenses under sub-section (2) does not affect any right to compensation in respect of that land that the person who restores land in accordance with that sub-section, or any other person, may have under this Act.

(4) The Minister may, at any time, on the request of a person entitled to an interest in land, include among the conditions of the licence affecting that land such conditions as he thinks fit to ensure that the land is maintained in a suitable condition and that noxious weeds and vermin are controlled.

### 36. PIPELINE CROSSING WATER

Where the route of a pipeline is such that the pipeline passes over or under water, the pipeline shall be constructed over or under that water in such a manner -

- (a) that the construction will not unreasonably affect or impede anything or anyone lawfully using that water; and
- (b) that all reasonable steps are taken to avoid pollution of that water.

Penalty: \$5,000.

### 37. CEASING TO OPERATE PIPELINE

(1) Subject to sub-section (2), except with the consent in writing of the Minister and subject to compliance with such conditions, if any, as are specified in the instrument of consent, a licensee shall operate continuously the pipeline specified in his licence.

Penalty: \$5,000.

(2) It is not an offence against sub-section (1) if the failure of the licensee to operate the pipeline continuously -

- (a) was in the ordinary course of operating the pipeline;

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- (b) was for the purpose of repairing or maintaining the pipeline;  
or
- (c) was in an emergency in which there was a likelihood of loss or injury.

### 38. CONSENT TO COMMENCEMENT OR RESUMPTION OF OPERATIONS

(1) The Minister, on application in writing served on him by a licensee -

- (a) whose pipeline has not previously been in operation; or
- (b) who has ceased, otherwise than for a reason referred to in section 37(2) to operate the pipeline specified in his licence,

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

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

(3) A person shall not operate a pipeline referred to in sub-section (1) (other than a pipeline that ceased to be operated for a reason referred to in section 37(2)) without a consent granted under that sub-section, and except in accordance with the conditions, if any, specified under sub-section (2).

Penalty: \$5,000.

### 39. DUTIES OF LICENSEE IN RELATION TO PIPELINE

A licensee shall -

- (a) mark and keep marked, in the prescribed manner, the route of the pipeline specified in his licence;
- (b) maintain the pipeline in good condition and repair;
- (c) not permit or suffer the waste or escape of any substance from the pipeline; and
- (d) remove from the licence area all structures, equipment and other property that are neither being used nor proposed to be used in connection with the operation of the pipeline.

Penalty: \$5,000.

### 40. DIRECTIONS

(1) The Minister may, by instrument in writing served on a licensee, give to the licensee directions as to any matter in respect of which regulations may be made under this Act.

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(2) A direction under sub-section (1) has effect and shall be complied with notwithstanding anything in the Regulations and, to the extent to which the Regulations are inconsistent with the direction, the licensee to whom the direction is given is not obliged to comply with the Regulations.

(3) A licensee to whom a direction under sub-section (1) is given shall comply with and not contravene the direction.

Penalty: \$5,000.

### 41. COMPLIANCE WITH DIRECTIONS

(1) Where a person does not comply with a direction given to him under this Act, the Minister may do all or any of the things required by the direction to be done.

(2) Costs and expenses incurred by the Minister under sub-section (1) in relation to a direction are a debt due and payable to the Territory by the person to whom the direction was given.

(3) It is a defence to a prosecution for an offence of failing to comply with a direction given to him under this Act or for the recovery of a debt under sub-section (2) if the person charged or against whom the recovery action is taken, as the case may be, proves that he took all reasonable steps to comply with the direction.

### 42. DIRECTIONS AS TO CONVEYANCE OF ENERGY-PRODUCING HYDRO-CARBONS

(1) Where -

(a) a person, by instrument in writing served on a licensee, requests the licensee to enter into an agreement for the conveyance of energy-producing hydro-carbons through the pipeline specified in the licensee's licence; and

(b) that person and the licensee do not, within 3 months after the instrument is served on the licensee, enter into such an agreement,

that person may apply to the Minister for a direction under this section.

(2) An application under this section -

(a) shall be made in a form and manner approved by the Minister; and

(b) shall set out the matters that the applicant wishes the Minister to consider in relation to the application.

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(3) The Minister -

- (a) shall serve notice of an application under sub-section (2) on the licensee concerned;
- (b) may serve notice of the application on such other persons as he thinks fit; and
- (c) shall specify in a notice served under this sub-section a date on or before which the licensee or other person, if any, on whom the notice is served may submit to the Minister in writing matters that he wishes the Minister to consider in connection with the application.

(4) After considering matters submitted to him under sub-section (3) on or before the specified date and such other matters as he thinks fit, the Minister, by instrument in writing served on the licensee and the applicant -

- (a) may give to the licensee and to the applicant, and may give to any other person lawfully entitled to use the pipeline, such directions as he thinks fit for or in relation to the use of the pipeline by the licensee, the applicant and such other person; or
- (b) may refuse the application.

(5) Without limiting the generality of sub-section (4), directions under sub-section (4)(a) may include a direction as to the amount to be paid to the licensee by the applicant and any other person lawfully entitled to use the pipeline.

(6) A person to whom a direction under sub-section (4) is given shall comply with and not contravene the direction.

Penalty: \$1,000 and \$1,000 for each day during which the offence continues.

### 43. POWER OF MINISTER TO ENSURE CONTINUED USE OF PIPELINE

(1) Where a licence has, after completion of the construction of the pipeline to which it relates -

- (a) expired and not been renewed;
- (b) been surrendered; or
- (c) been cancelled,

a person who wishes to operate the pipeline in the place of the former licensee may apply to the Minister for a licence so to do.

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(2) An application for a licence under this section shall -

(a) be made in a form and manner approved by the Minister; and

(b) be accompanied by particulars of -

(i) the pipeline which the applicant proposes to operate;

(ii) the financial resources of the applicant;

(iii) if the applicant is a corporation, each of the persons holding more than 5% of the issued shares in the corporation and of a corporation deemed by section 6(5) of the Companies Act to be a related corporation; and

(iv) any agreement made or proposed to be made with the former licensee for the acquisition or use of the pipeline.

(3) Where an applicant under sub-section (1) has entered into negotiations with the former licensee for the acquisition or use of the pipeline the subject of the application but has been unable to reach agreement on the terms upon which he shall acquire or use the pipeline, he shall inform the Minister of that fact when making the application and may, if there are to his knowledge no other persons engaged in negotiations with the former licensee for the operation of the pipeline, request the Minister to issue directions under this section and submit to the Minister in writing any matters which he wishes the Minister to consider in connection with the request.

(4) On receipt of a request under sub-section (3), the Minister -

(a) shall serve notice of the request on the former licensee;

(b) may serve notice of the request on such other persons as he thinks fit; and

(c) shall specify in the notice served under this sub-section a date on or before which the former licensee or other person, if any, on whom a notice is served may submit to the Minister, in writing, matters which he wishes the Minister to consider in connection with the request.

(5) Subject to sub-section (6), the Minister may, where an application under sub-section (2) does not include a request under sub-section (3), either -

(a) grant a licence; or

(b) refuse to grant a licence.

(6) A licence granted under this section may be subject to such conditions applicable to a licence granted under Part III as the Minister thinks fit and specifies in the licence.



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(7) Where an application under sub-section (2) includes a request under sub-section (3), the Minister, if satisfied that there are no other persons engaged in negotiations with the former licensee for the operation of the pipeline and, after considering matters submitted to him under sub-section (4)(c) on or before the specified date and such other matters as he thinks fit, may, by instrument in writing served on the applicant and the former licensee -

- (a) give notice to the applicant and the former licensee requiring them to continue their negotiations for such further period, not exceeding 3 months, as he specifies in the instrument; or
- (b) give to the applicant and to the former licensee such directions as he thinks fit for and in relation to the operation of the pipeline by the applicant,

and at the same time, or at the expiration of the period specified in paragraph (a), he may -

- (c) refuse to grant a licence; or
- (d) grant a licence.

(8) Where, at the expiration of 3 months after the expiry, surrender or cancellation of a licence, 2 or more persons have entered into negotiations with the former licensee for the acquisition or use of the pipeline but no agreement has been reached as to the terms upon which the pipeline may be used or acquired by any of them, the Minister may, by instrument in writing served on the former licensee, require the former licensee to submit to him such particulars of the negotiations as he specifies in the instrument and the Minister may, on receipt of the required particulars and after obtaining the comments of the other parties to those negotiations, issue to the former licensee and to all or any of the other parties to the negotiations, such directions in respect of the terms on which the pipeline may be acquired or used as the Minister thinks fit.

(9) Without limiting the generality of sub-section (7) or (8), directions under sub-section (7)(b) may include a direction as to the amount to be paid to the former licensee for the use of the pipeline, but such a direction shall be subject to the former licensee's rights under section 64(1).

(10) A person to whom a direction under sub-section (7) or (8) is given shall comply with and not contravene the direction.

Penalty: \$1,000 and \$1,000 for each day during which the offence continues.

(11) If, in the circumstances referred to in sub-section (1) -

- (a) there is no applicant for a licence to operate the pipeline;

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- (b) the Minister refuses to issue a licence to an applicant to operate the pipeline, and there are no other applicants; or
- (c) an applicant, having made a request to the Minister under sub-section (3) for directions, is unable to comply with the directions of the Minister, and there are no other applicants,

the Minister may make such arrangements as he thinks fit for the operation of the pipeline by or on behalf of the Territory.

### PART V - REGISTRATION OF LICENCES AND RELATED INSTRUMENTS

#### 44. REGISTER OF LICENCES

(1) For the purposes of this Part, but subject to sub-section (7), the Registrar shall keep a register of permits and licences.

(2) Subject to sub-section (4), the Registrar shall enter or cause to be entered in the register a memorial in respect of each permit or licence -

- (a) specifying the name of the holder of the permit or licence;
- (b) in the case of a permit, setting out particulars of the land in respect of which the permit is granted;
- (c) setting out an accurate description (including a map) of the licence area, the route of the pipeline authorized by the licence and the situation of all fittings, pumps, tanks, appurtenances and appliances used or to be used in connection with each pipeline;
- (d) specifying the term of the permit or licence; and
- (e) setting out such other matters as are required by this Part to be entered in the register.

(3) Subject to sub-section (4), the Registrar shall cause to be entered in the register a memorial of -

- (a) all instruments varying, cancelling, surrendering or otherwise affecting a permit or licence;
- (b) all instruments varying or revoking an instrument referred to in paragraph (a); and
- (c) the expiration of a permit or licence.

(4) It is a sufficient compliance with the requirements of sub-section (2) or (3) if the Registrar causes a copy of the permit, licence or instrument to be entered in the register.

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(5) Subject to section 43(1), the registration of a permit, licence or instrument is effective as soon as a memorial complying with sub-section (2) or (3), as the case may be, or a copy of the permit, licence or instrument, has been entered in the register.

(6) The Registrar shall endorse on each memorial or copy of a registered permit, licence or instrument a memorandum of the date upon which the memorial or copy referred to in sub-section (5) was entered in the register.

(7) This section does not apply to or in relation to the transfer of a permit or licence.

### 45. SECRETARY MAY REQUIRE REGISTRATION OF INFORMATION

Where the Secretary is of the opinion that it is in the public interest so to do, he may direct the Registrar to enter in the register such information as the Secretary thinks fit in relation to a permittee or licensee as to the terms and conditions of the permit or licence, and the Registrar shall register that information accordingly.

### 46. APPROVAL AND REGISTRATION OF TRANSFERS

(1) A transfer of a permit or licence is of no effect until it has been approved by the Minister and is registered under this section.

(2) A registered holder who desires to transfer a permit or licence to another person, or to himself and another person jointly, may make an application for the Minister's approval of the transfer of the permit or licence.

(3) An application under this section shall be served on the Registrar and shall be accompanied by an instrument of transfer of the permit or licence in the prescribed form duly executed by the transferor and transferee, together with a copy of that instrument.

(4) On receipt of an application under this section, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was served on him and shall make such other notations in the register as the Secretary directs.

(5) As soon as practicable after the Registrar receives an application under this section he shall forward it to the Minister for the Minister's approval.

(6) The Minister shall not approve the transfer of a permit or licence unless it is an absolute transfer of the whole of the transferor's interest in the permit or licence.

(7) Subject to sub-section (6), the Minister may -

(a) approve an application under this section;

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(b) by instrument in writing served on the transferor, inform the transferor that he is prepared to approve the application if the transferee, within such time as is specified in the instrument, lodges with the Minister security in such amount, not exceeding \$50,000 or such other sum as is prescribed, and in such form, as is specified in the instrument; or

(c) refuse the application.

(8) Where -

(a) the Minister has, under sub-section (7)(b), informed the transferor that the transferee will be required to lodge a security; and

(b) the transferee has lodged that security with the Minister within the specified time,

the Minister shall approve the application.

(9) If the Minister approves an application under this section, the Registrar shall forthwith endorse on the instrument of transfer and on the copy a memorandum of approval and, on payment of the prescribed fee, shall enter in the register a memorandum of the transfer and the name of the transferee.

(10) Upon the entry in the register of a memorandum of approval referred to in sub-section (9), the transferee becomes the registered holder of the permit or licence to which the instrument of transfer relates.

(11) The copy of an instrument of transfer endorsed with the memorandum of approval referred to in sub-section (9) shall be retained by the Registrar and is subject to inspection in accordance with this Part.

(12) An instrument of transfer endorsed as required by sub-section (10) shall be returned to the person who lodged the application under sub-section (2).

### 47. ENTRIES IN REGISTER ON DEVOLUTION OF RIGHTS OF REGISTERED HOLDER

(1) A person upon whom the rights of a registered holder of a permit or licence have devolved by operation of law may apply in writing to the Minister to have his name entered in the register as the holder of the permit or licence.

(2) Where the Minister is satisfied that the interests of the holder of a permit or licence have devolved by operation of law upon a person who has made an application under sub-section (1), the Registrar may, on payment of a fee of \$25, cause the name of the applicant to be entered in the register as the holder of the permit or licence.

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### 48. DEALINGS WITH INTERESTS TO BE IN WRITING

A legal or equitable interest in or affecting an existing or future permit or licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument in writing.

### 49. APPROVAL AND REGISTRATION OF INSTRUMENTS CREATING, &c., INTERESTS

(1) This section applies to an instrument by which a legal or equitable interest affecting an existing or future permit or licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which section 46 applies.

(2) An instrument to which this section applies is of no force or effect until -

(a) the instrument has been approved by the Minister; and

(b) an entry of the approval of the instrument has been made in the register in accordance with sub-section (8).

(3) A party to an instrument to which this section applies, or a person having an interest in or in relation to a licence by reason of such an instrument, may make an application for the Minister's approval of the instrument.

(4) An application under this section shall be served on the Registrar and shall be accompanied by the instrument and a copy of the instrument.

(5) On receipt of an application under this section, the Registrar shall cause to be entered in the register a memorandum of the date on which the application was served on him and shall make such other notations in the register as the Secretary directs.

(6) As soon as practicable after the Registrar receives an application under this section he shall forward it to the Minister for the Minister's approval.

(7) The Minister may approve or refuse an application under this section.

(8) If the Minister approves an application under this section, the Registrar shall forthwith cause to be endorsed on the original instrument and on the copy a memorandum of approval and, on payment of the prescribed fee, cause an entry of the approval of the instrument to be made in the register on the memorial relating to, or a copy of, the permit or licence to which the instrument relates.

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(9) The copy of the instrument to which this section applies, endorsed with the memorandum of approval referred to in sub-section (8), shall be retained by the Registrar and is subject to inspection in accordance with this Part.

(10) The original of an instrument to which this section applies, endorsed as required by sub-section (8), shall be returned to the person who lodged the application under this section.

(11) If the Minister refuses an application under this section, the Registrar shall cause a notation of the refusal to be made in the register.

### 50. TRUE CONSIDERATION TO BE SHOWN

A party to a transfer referred to in section 46 or to an instrument to which section 49 applies, shall not execute the transfer or instrument unless the transfer or instrument fully and truly sets out the true consideration for the transfer or instrument and all other facts and circumstances, if any, affecting the amount of stamp duty payable under the Stamp Duty Act in respect of the transfer or instrument.

Penalty: \$5,000.

### 51. MINISTER NOT CONCERNED WITH CERTAIN MATTERS

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

### 52. POWER OF MINISTER TO REQUIRE INFORMATION AS TO PROPOSED DEALINGS

(1) The Minister may require a person lodging an instrument requiring approval under this Part to furnish to him in writing such information concerning the instrument, or the transaction to which the instrument relates, as the Minister thinks fit.

(2) A person who is required under sub-section (1) to furnish information shall not furnish information that is false or misleading in a material particular.

Penalty: \$2,000.

### 53. PRODUCTION AND INSPECTION OF BOOKS, RECORDS AND DOCUMENTS

(1) The Minister may require a person to produce to him or make available for inspection by him or a person authorized by him any books, records, documents, maps or plans in the possession or

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under the control of the first-mentioned person and relating to an instrument requiring approval under this Part or to the transaction to which such an instrument relates.

(2) A person shall not fail or refuse to comply with a requirement made of him under sub-section (1).

Penalty: \$2,000.

### 54. INSPECTION OF REGISTER AND DOCUMENTS

(1) Subject to sub-section (2), the register and all instruments registered under this Part shall, at all convenient times, be open for inspection by any person upon payment of the prescribed fee.

(2) The Minister may refuse to allow a memorial or copy of a permit or licence to be inspected without the written consent of the registered holder.

### 55. EVIDENTIARY PROVISIONS

(1) The register shall be received by all courts and tribunals as evidence of all matters required or authorized by this Part to be entered in the register.

(2) The Minister may, on payment of the prescribed fee, supply copies of, or extracts from, the register, or of or from an instrument lodged under this Part, certified by writing under his hand, and a copy or extract so certified is admissible as evidence in all courts and proceedings without further proof or production of the original.

(3) The Minister may, on payment of the prescribed fee, by instrument in writing under his hand, certify that an entry, matter or thing required or permitted by or under this Part to be made or done has or has not, as the case may be, been made or done and such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

### 56. RECTIFICATION OF REGISTER

(1) A person aggrieved by -

- (a) the omission of an entry from the register;
- (b) an entry made in the register without sufficient cause;
- (c) an entry wrongly existing in the register; or
- (d) an error or defect in an entry in the register,

may apply to the Supreme Court for an order directing the rectification of the register and the Supreme Court may make such order as it thinks fit.

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(2) The Supreme Court may, in proceedings under this section, decide any question that it is necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of an application under sub-section (1) shall be given to the Minister, who may appear and be heard, and who shall appear if so directed by the Supreme Court.

(4) An office copy of an order made under this section by the Supreme Court may be served on the Minister and the Minister shall, upon receipt of the order, cause the register to be rectified accordingly.

### 57. MINISTER NOT LIABLE TO CERTAIN ACTIONS

Subject to section 58, neither the Minister nor the Registrar, nor a person acting under the direction or authority of either the Minister or the Registrar, is liable to an action, suit or proceeding for or in respect of an act done or omission made in good faith in the exercise or purported exercise of a power or authority conferred by this Part.

### 58. OFFENCES

A person who wilfully -

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

is guilty of an offence.

Penalty: Imprisonment for 2 years.

## PART VI - MISCELLANEOUS

### 59. PIPELINES TO REMAIN PROPERTY OF OWNER

(1) Notwithstanding any Act or rule of law to the contrary, a pipeline constructed under the authority of this Act shall remain the property of the licensee or former licensee, as the case may be, or his assigns whether or not the pipeline is affixed to land and whether or not the licence granted in respect of the pipeline has been wholly or partly cancelled.

(2) A licensee, in maintaining or operating a pipeline in respect of which a licence is granted under this Act, shall do as little damage as is possible and shall make full compensation to the owner of and any party having an interest in land, for damage sustained by them



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in consequence of the exercise of a power by the licensee in maintaining or operating the pipeline, and the compensation shall, in default of agreement between the licensee, the owner or other party, be determined by a court of competent jurisdiction.

### 60. NOTICES OF GRANTS, &c., OF LICENCES TO BE PUBLISHED

The Minister shall cause to be published in the Gazette such particulars as he thinks fit of the grant, renewal, variation, surrender or expiration of a licence.

### 61. ADDRESS FOR SERVICE

Every licensee shall forward to the Minister an address for service of notices, orders and directions under this Act.

### 62. DELEGATIONS BY MINISTER

(1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

### 63. INSPECTORS

(1) The Minister may, by instrument in writing, appoint a person to be an inspector for the purposes of this Act.

(2) The Secretary may furnish to an inspector a certificate stating that he is an inspector for the purposes of this Act.

(3) Where the appointment of a person under sub-section (1) expires or is revoked, that person shall forthwith surrender to the Secretary the certificate furnished to him under sub-section (2).

Penalty: \$200.

### 64. POWERS OF INSPECTORS

(1) For the purposes of this Act and the Regulations, an inspector, at all reasonable times and on production of the certificate furnished to him under section 63(2) -

(a) may enter land in respect of which a permit is in force or a licence area;

(b) may inspect and test a pipeline or apparatus or works;

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(c) may take samples of a substance being conveyed by a pipeline; and

(d) may require a permittee, licensee or any other person who has the custody of any books, records, documents, maps or plans relating to a pipeline or proposed pipeline, to produce to him those books, records, documents, maps or plans and may inspect, take extracts from and make copies of any of those books, records, documents, maps or plans.

(2) A person who is the occupier or person in charge of a building, structure or place shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers.

(3) A person shall not, without reasonable excuse, obstruct or hinder an inspector in the exercise of his powers.

Penalty for an offence against this section: \$1,000.

### 65. THEFT FROM PIPELINE

A person who maliciously or fraudulently -

(a) abstracts;

(b) causes to be wasted or diverted; or

(c) consumes or uses,

any energy-producing hydro-carbon being conveyed by means of a pipeline, is guilty of an offence.

Penalty: Imprisonment for 10 years.

### 66. DAMAGE TO PIPELINE

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

Penalty: \$2,000 or imprisonment for 12 months.

### 67. CONTINUING OFFENCES

(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act or the Regulations, with the requirements specified in the direction, the offence, for the purposes of sub-section (3), shall be deemed to continue so long as any requirement specified in the direction remains not done, notwithstanding that the period has elapsed.

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(2) Where an offence is committed by a person by reason of his failure to comply with a provision of this Act or the Regulations, the offence, for the purposes of sub-section (3), shall be deemed to continue so long as that failure continues, notwithstanding that a period within which the act was required to be done has elapsed.

(3) Where, under sub-section (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act and the Regulations on each day during which the offence is deemed to continue and, subject to a contrary intention in the provision against which the offence was committed, is liable, upon conviction for such an additional offence, to a fine not exceeding \$5,000 for each day during which the offence continues.

### 68. REGULATIONS

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of sub-section (1), the Regulations may make provision for or in relation to -

- (a) the construction, maintenance and operation of pipelines and the safety measures to be taken in respect thereof;
- (b) the inspection of pipelines and the cost of such inspections;
- (c) the keeping of registers under this Act;
- (d) the escape of substances from a pipeline;
- (e) the unit amount for the purposes of calculating the licence fee under section 30;
- (f) the marking of the location of pipelines; and
- (g) the prevention of damage to land used in connection with the construction or operation of pipelines.

(3) The Regulations may provide, in respect of an offence against the Regulations, for the imposition of -

- (a) a fine not exceeding \$1,000; or
- (b) a fine not exceeding \$1,000 for each day during which an offence against the Regulations continues.