



Australian Capital Territory

Gas Pipelines Access Act 1998

A1998-15

Republication No 2

Effective: 25 August 2004 – 30 June 2008

Republication date: 25 August 2004

Last amendment made by A2004-42

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Gas Pipelines Access Act 1998* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 August 2004. It also includes any amendment, repeal or expiry affecting the republished law to 25 August 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Gas Pipelines Access Act 1998

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R2
25/08/04

Gas Pipelines Access Act 1998
Effective: 25/08/04-30/06/08

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Australian Capital Territory

Gas Pipelines Access Act 1998

An Act to make provision for the regulation of third-party access to natural gas pipeline systems, and for related purposes

R2
25/08/04

Gas Pipelines Access Act 1998
Effective: 25/08/04-30/06/08

contents 1

Preamble

The Council of Australian Governments agreed, in February 1994, to general principles of competition policy reform to enable third parties, in particular circumstances, to gain access to essential facilities.

The Council of Australian Governments, as part of that commitment to reform, agreed to more specific proposals for the development of free and fair trade in natural gas.

The Commonwealth, the States of New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania, the Northern Territory and the Australian Capital Territory agreed in November 1997 to the enactment of legislation in the Commonwealth and those States and Territories so that a uniform national framework applies for third party access to all gas pipelines that—

- (a) facilitates the development and operation of a national market for natural gas; and
- (b) prevents abuse of monopoly power; and
- (c) promotes a competitive market for natural gas in which customers may choose suppliers, including producers, retailers and traders; and
- (d) provides rights of access to natural gas pipelines on conditions that are fair and reasonable for the owners and operators of gas transmission and distribution pipelines and persons wishing to use the services of those pipelines; and
- (e) provides for resolution of disputes.

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Gas Pipelines Access Act 1998*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Terms used in Gas Pipelines Access (A.C.T.) Law

A term used in the Gas Pipelines Access (A.C.T.) Law has the same meaning in this Act.

5 Extraterritorial operation

- (1) The Legislative Assembly intends that the operation of this Act, the Gas Pipelines Access (A.C.T.) Law and the Gas Pipelines Access (A.C.T.) Regulations should, as far as possible, extend to the following:
- (a) things situated in or outside the ACT;
 - (b) acts, transactions and matters done, entered into or occurring in or outside the ACT;

- (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of a State, another Territory, the Commonwealth or a foreign country.
- (2) Nothing in subsection (1) has effect in relation to a pipeline to the extent that the pipeline is situated, or partly situated, beyond the jurisdictional areas of all the scheme participants.

Part 2 **Gas Pipelines Access (A.C.T.) Law and Gas Pipelines Access (A.C.T.) Regulations**

6 Application in ACT of Gas Pipelines Access Law

The Gas Pipelines Access Law applies as a Territory law and, as so applying, may be cited as the Gas Pipelines Access (A.C.T.) Law.

7 Application in ACT of Gas Pipelines Access Regulations

- (1) The Gas Pipelines Access Regulations apply as—
 - (a) regulations in force for the Gas Pipelines Access (A.C.T.) Law; and
 - (b) a Territory law.
- (2) The Gas Pipelines Access Regulations, as so applying, may be cited as the Gas Pipelines Access (A.C.T.) Regulations.

8 Interpretation of some expressions in Gas Pipelines Access (A.C.T.) Law and Gas Pipelines Access (A.C.T.) Regulations

- (1) Subject to subsection (2), in the Gas Pipelines Access (A.C.T.) Law and the Gas Pipelines Access (A.C.T.) Regulations:

code means the National Third Party Access Code for Natural Gas Pipeline Systems (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in the South Australian Act, schedule 2, or, if that code is amended in accordance with that Act, schedule 1, that code as so amended and in force for the time being, as it applies because of section 6 of this Act as a law of the Australian Capital Territory.

court means—

- (a) the Supreme Court; or
- (b) the Federal Court.

designated appeals body means the Australian Competition Tribunal.

designated Minister means the Commonwealth Minister.

Gas Pipelines Access Law or **this Law** means the Gas Pipelines Access (A.C.T.) Law.

legislature means the Legislative Assembly of the Australian Capital Territory.

local appeals body means the Australian Competition Tribunal.

local Minister means the Minister for the time being administering this Act.

local regulator means—

- (a) in relation to a transmission pipeline—the ACCC; or
- (b) in relation to a distribution pipeline—the independent competition and regulatory commission.

Supreme Court means the Supreme Court of the Australian Capital Territory.

this scheme participant means the Australian Capital Territory.

- (2) The Acts (including, in particular, the *Acts Interpretation Act 1915* (SA)) and other laws of South Australia do not apply to the Gas Pipelines Access (A.C.T.) Law or the Gas Pipelines Access (A.C.T.) Regulations.

Part 3 National administration and enforcement

Division 3.1 Conferral of functions and powers

9 Conferral of functions on Commonwealth Minister and Commonwealth bodies

- (1) The Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal have the functions and powers given or expressed to be given to them respectively by or under the Gas Pipelines Access (A.C.T.) Law.
- (2) In addition to the powers mentioned in subsection (1), the Commonwealth Minister and the bodies referred to in that subsection have power to do all things necessary or convenient to be done in connection with the exercise of the functions and powers referred to in that subsection.

10 Conferral of power on Commonwealth Minister and Commonwealth bodies to do acts in the ACT

The Commonwealth Minister, the ACCC, the NCC and the Australian Competition Tribunal have power to do acts in or in relation to the ACT in the exercise of a function or power expressed to be given to them respectively by the gas pipelines access legislation of another scheme participant.

11 Conferral of power on Ministers, regulators and appeals bodies of other scheme participants

The local Minister, the local regulator and the local appeals body, within the respective meanings of the gas pipelines access legislation of another scheme participant, have power to do acts in or in relation to the ACT in the exercise of a function or power

expressed to be given to them respectively by the gas pipelines access legislation of that other scheme participant.

12 Conferral of functions on code registrar

- (1) The code registrar—
 - (a) has the functions and powers given or expressed to be given to the code registrar by or under the Gas Pipelines Access (A.C.T.) Law or under the National Gas Agreement; and
 - (b) has any other functions and powers given to the code registrar by unanimous resolution of the relevant Ministers of the scheme participants.
- (2) The code registrar may delegate those functions to any person.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.
- (3) The code registrar or a delegate has power to do all things necessary or convenient to be done in connection with the exercise of—
 - (a) for the code registrar—the functions and powers referred to in subsection (1); or
 - (b) for a delegate—the functions and powers delegated under subsection (2) to him or her.

13 Functions and powers given to the Minister, regulator or appeals body

- (1) If the gas pipelines access legislation of another scheme participant gives a function or power to the local Minister, the local regulator or the local appeals body, as the case requires—
 - (a) may exercise that function or power; and
 - (b) may do all things necessary or convenient to be done in connection with the exercise of that function or power.

- (2) In subsection (1), **local Minister**, **local regulator** and **local appeals body** have the respective meanings given by section 8 (1), as amended from time to time.

**14 Independent competition and regulatory commission—
powers and functions as local regulator**

In its capacity as the local regulator in relation to a distribution pipeline, the independent competition and regulatory commission—

- (a) may exercise a function or power if, and only if, the function or power is given to it by—
 - (i) the Gas Pipelines Access (A.C.T.) Law; or
 - (ii) the gas pipelines access legislation of another scheme participant; and
- (b) in so doing, is not subject to control or direction by a Minister.

Division 3.2 Federal Court

15 Jurisdiction of Federal Court

Jurisdiction is conferred on the Federal Court with respect to civil and criminal matters arising under the Gas Pipelines Access (A.C.T.) Law.

16 Conferral of jurisdiction on Federal Court not to affect cross-vesting

Section 15 does not affect the operation of any law relating to cross-vesting of jurisdiction.

Part 4 General

19 Exemption from taxes

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

exempt matter means a transfer of assets or liabilities that the Minister and the Treasurer are satisfied is made—

- (a) for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas in breach of the code; or
- (b) for the purpose of the separation of certain activities from other activities of a person as required by the code;

and for no other purpose.

20 Actions in relation to cross-boundary pipelines

- (1) If a pipeline is a cross-boundary pipeline, any action taken under the gas pipelines access legislation of a scheme participant in whose jurisdictional area a part of the pipeline is situated—
 - (a) by, or in relation to, a relevant Minister, or a relevant regulator, within the meaning of that legislation; or
 - (b) by, or in relation to, an arbitrator appointed by a relevant regulator within the meaning of that legislation; or

- (c) by the Supreme Court, or the relevant appeals body, within the meaning of that legislation, in relation to the action taken by, or in relation to, a person or body referred to in paragraph (a) or (b);

is taken also to be action taken under the gas pipelines access legislation of each other scheme participant in whose jurisdiction area a part of the pipeline is situated *that other legislation*—

- (d) by, or in relation to, a relevant Minister, or relevant regulator, within the meaning of that other legislation; or
- (e) by, or in relation to, an arbitrator appointed by a relevant regulator within the meaning of that other legislation; or
- (f) by the Supreme Court, or relevant appeals body, within the respective meanings of that other legislation;

as the case requires.

- (2) However, the Supreme Court does not have jurisdiction to make a declaration or order about the validity, or affecting the operation, of a decision of a relevant Minister, relevant regulator or arbitrator in relation to a cross-boundary pipeline that is a distribution pipeline unless the Territory has been determined to be the scheme participant most closely connected to the pipeline.

- (3) In this section:

cross-boundary pipeline means a transmission pipeline, or a distribution pipeline, that is, or is to be, situated in the jurisdictional areas of 2 or more scheme participants.

- (4) A reference in this section to an action that is taken includes a reference to a decision that is made.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- Commonwealth
- give
- law
- State.

code body means any of the following bodies or persons:

- (a) the NCC;
- (b) the ACCC;
- (c) the Australian Competition Tribunal;
- (d) the local appeals body within the meaning given by section 8 (1), as amended from time to time;
- (e) the local Minister within the meaning given by section 8 (1), as amended from time to time;
- (f) the local regulator within the meaning given by section 8 (1), as amended from time to time;
- (g) an arbitrator appointed under the Gas Pipelines Access (A.C.T.) Law, part 4.

Gas Pipelines Access (A.C.T.) Law means the Gas Pipelines Access Law in its application as a law of the ACT because of section 6.

Gas Pipelines Access (A.C.T.) Regulations means the Gas Pipelines Access Regulations in their application as a law of the ACT because of section 7 (1).

Gas Pipelines Access Law means—

- (a) the South Australian Act, schedule 1—
 - (i) as enacted; or
 - (ii) if amended, as amended and in force for the time being; and
- (b) the National Third Party Access Code for Natural Gas Pipeline Systems (a copy of which, as agreed by the Council of Australian Governments on 7 November 1997, is set out in the South Australian Act, schedule 2) or, if that code is amended in accordance with that Act, schedule 1, that code as so amended and in force for the time being.

Gas Pipelines Access Regulations means the regulations in force for the time being under the South Australian Act, part 3.

South Australian Act means the *Gas Pipelines Access (South Australia) Act 1997* (SA).

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Gas Pipelines Access Act 1998 No 15

notified 30 June 1998 (Gaz 1998 No S180)
 s 1, s 2 commenced 30 June 1998 (s 2 (1))
 ss 3-7, 8 (1) and 9-20 commenced 1 July 1998 (s 2 (2) and Gaz 1998 No S174)
 s 8 (2) commenced 7 October 1998 (s 2 (2) and Gaz 1998 No 40)

as amended by

Independent Competition and Regulatory Commission Amendment Act 2000 No 8 sch 2

notified 23 March 2000 (Gaz 2000 No 12)
 commenced 23 March 2000 (s 2)

Jurisdiction of Courts Legislation Amendment Act 2001 No 71 sch 1 pt 2

notified LR 14 September 2001
 commenced 14 September 2001 (s 2)

Statute Law Amendment Act 2004 A2004-42 sch 3 pt 3.10

notified LR 11 August 2004
 s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
 sch 3 pt 3.10 commenced 25 August 2004 (s 2 (1))

4 Amendment history

Name of Act

s 1 sub 2001 No 71 amdt 1.9

Dictionary

s 2 sub 2001 No 71 amdt 1.9

Notes

s 3 defs reloc to dict 2001 No 71 amdt 1.10
 sub 2001 No 71 amdt 1.11; A2004-42 amdt 3.52

Terms used in Gas Pipelines Access (A.C.T.) Law

s 4 sub A2004-42 amdt 3.52

Interpretation of some expressions in Gas Pipelines Access (A.C.T.) Law and Gas Pipelines Access (A.C.T.) Regulations

s 8 am 2000 No 8 sch 2; A2004-42 amdt 3.53

Endnotes

4 Amendment history

Conferral of functions and powers

div 3.1 hdg (prev pt 3 div 1 hdg) renum R1 LA

Conferral of functions on code registrar

s 12 am A2004-42 amdt 3.54

Independent competition and regulatory commission—powers and functions as local regulator

s 14 hdg am 2000 No 8 sch 2

s 14 am 2000 No 8 sch 2

Federal Court

div 3.2 hdg (prev pt 3 div 2 hdg) renum R1 LA

Jurisdiction of Federal Court

s 15 sub 2001 No 71 amdt 1.12

Administrative decisions

pt 3 div 3 hdg om 2001 No 71 amdt 1.13

Application of the Commonwealth AD (JR) Act

s 17 om 2001 No 71 amdt 1.13

Application of the Commonwealth AD (JR) Act in relation to other scheme participants

s 18 om 2001 No 71 amdt 1.13

Actions in relation to cross-boundary pipelines

s 20 am 2001 No 71 amdt 1.14-1.19

Dictionary

dict ins 2001 No 71 amdt 1.20
am A2004-42 amdt 3.55
def **code body** reloc from s 3 (1) 2001 No 71 amdt 1.10
def **Gas Pipelines Access (A.C.T.) Law** reloc from s 3 (1)
2001 No 71 amdt 1.10
def **Gas Pipelines Access (A.C.T.) Regulations** reloc from
s 3 (1) 2001 No 71 amdt 1.10
def **Gas Pipelines Access Law** reloc from s 3 (1) 2001 No 71
amdt 1.10
def **Gas Pipelines Access Regulations** reloc from s 3 (1)
2001 No 71 amdt 1.10
def **South Australian Act** reloc from s 3 (1) 2001 No 71
amdt 1.10

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 21 Feb 2002	14 Sept 2001– 24 Aug 2004	A2001-71	new Act and amendments by A2000-8 and A2001-71

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