



National Gas (Queensland) Act 2008

Current as at 1 July 2011—revised version

Reprint note

The Attachment has been omitted from this reprint.
Now see the reprint of the National Gas (Queensland) Law.

Information about this reprint

This Act is reprinted as at 1 July 2011. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

National Gas (Queensland) Act 2008

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National Gas (Queensland) Act 2008

[as amended by all amendments that commenced on or before 1 July 2011]

An Act to establish a framework to enable third parties to gain access to certain natural gas pipeline services, to repeal the *Gas Pipelines Access (Queensland) Act 1998*, and to make particular amendments to Acts as set out in parts 6 and 7

Part 1 Preliminary

1 Short title

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

2 Commencement

- (1) This Act, other than part 6, commences on a day to be fixed by proclamation.
- (2) Part 6 commences when the *Offshore Petroleum Act 2006* (Cwlth), section 7 commences.

3 Interpretation

- (1) In this Act—

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

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

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

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

4 Act binds the State

This Act, the *National Gas (Queensland) Law* and the *National Gas (Queensland) Regulations* bind the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

5 Application to coastal waters

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

adjacent area in respect of the State means the adjacent area of this jurisdiction under the *National Gas (Queensland) Law* (as defined by section 9(1) of this Act).

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

6 Extra-territorial operation

It is the intention of the Parliament that this Act, the *National Gas (Queensland) Law* and the *National Gas (Queensland) Regulations* should, so far as possible, operate to the full extent of the extra-territorial legislative power of the State.

Part 2 **National Gas (Queensland) Law and National Gas (Queensland) Regulations**

7 **Application in Queensland of National Gas Law**

- (1) The National Gas Law set out in the Schedule to the South Australian Act, as in force for the time being (the *National Gas Law*)—
 - (a) applies as a law of Queensland; and
 - (b) as so applying may be referred to as the *National Gas (Queensland) Law*.
- (1A) The National Gas Law, chapter 2, part 6, division 2A as set out in the schedule to the South Australian Act applies to, and in relation to, the State.
- (2) Attached to this Act is a copy of the Bill for the South Australian Act.
- (3) The attachment is not part of this Act.
- (4) In any reprint of this Act, the attachment must be revised so that it is a copy of the South Australian Act most recently published under the *Legislation Revision and Publication Act 2002* (SA).
- (5) Subsections (2) to (4) do not affect the operation of subsection (1) or of section 8.

8 **Application in Queensland of regulations under National Gas Law**

The regulations in force for the time being under part 3 of the South Australian Act—

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

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

- (1) In the *National Gas (Queensland) Law* and the *National Gas (Queensland) Regulations*—

adjacent area of another participating jurisdiction means the offshore area of a State (other than this State) or the Northern Territory within the meaning given in the *Offshore Petroleum Act 2006* (Cwlth), section 7.

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

Court means the Supreme Court of Queensland.

designated Minister means the Commonwealth Minister.

Legislature of this jurisdiction means the Parliament of Queensland.

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

this jurisdiction means the State of Queensland.

- (2) The *Acts Interpretation Act 1915* (SA) and other Acts of South Australia do not apply to—
- (a) the National Gas Law set out in the Schedule to the South Australian Act in its application as a law of Queensland; or
 - (b) the regulations in force for the time being under Part 3 of the South Australian Act in their application as regulations in force for the purposes of the *National Gas (Queensland) Law*.

Part 3 Cross vesting of powers

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

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

(2) In this section—

Commonwealth bodies means any of the following—

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

11 Conferral of powers on Ministers of participating States and Territories to act in this State

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

12 Conferral of functions or powers on State Minister

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

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

Part 4 Miscellaneous

13 Exemption from taxes

- (1) Any tax, other than a duty under the *Duties Act 2001*, imposed by or under a law of this State 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 is made for the purpose of ensuring that a person does not carry on a business of producing, purchasing or selling natural gas or processable gas in breach of any ring fencing requirements of the national gas legislation or for the purpose of the separation of certain businesses or business activities from other businesses or business activities of a person as required by an AER ring fencing determination.

14 Actions in relation to cross boundary pipelines

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

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

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

cross boundary pipeline means—

 - (a) a cross boundary transmission pipeline; or
 - (b) a cross boundary distribution pipeline.

15 **Conferral of functions and powers on Commonwealth bodies**

- (1) Clause 2 of schedule 2 to the *National Gas (Queensland) Law* has effect in relation to the operation of any provision of this Act, or any regulation forming part of the *National Gas (Queensland) Regulations*, as if the provision or regulation formed part of the *National Gas (Queensland) Law*.

[s 15A]

- (2) Subsection (1) does not limit the effect that a provision or regulation would validly have apart from the subsection.

15A Carpentaria Gas Pipeline

- (1) The arrangements stated in this section apply for the pipeline which—
- (a) is the subject of pipeline licence 41; and
 - (b) is known as the Carpentaria Gas Pipeline; and
 - (c) starts at Ballera and ends at Mt Isa.
- (2) From the commencement, the pipeline is taken to be a covered pipeline and a transmission pipeline.
- (3) For the period starting on the commencement and ending on 30 April 2023, the services provided by the pipeline—
- (a) are taken to be the subject of a light regulation determination; and
 - (b) can not be made the subject of a full access arrangement.
- (4) In this section—

commencement means the commencement of this section.

16 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 5 **Repeal and transitional provisions**

Division 1 **Repeal of Gas Pipelines Access (Queensland) Act 1998**

17 **Repeal**

The Gas Pipelines Access (Queensland) Act 1998, No. 28 is repealed.

Division 2 **Transitional provisions**

18 **Transitional regulation-making power for particular pipelines**

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of the repealed Act to the operation of this Act in relation to a transition pipeline.
- (2) Without limiting subsection (1), a transitional regulation may for example provide for any of the following—
 - (a) whether, and to what extent, an approved tariff arrangement for a transition pipeline may be taken to continue to apply to the pipeline;
 - (b) whether, and to what extent, a transition pipeline is taken to be a covered pipeline or a pipeline that is not a covered pipeline;
 - (c) whether an application may be made for a coverage determination in relation to a transition pipeline that, under the transitional regulation, is taken not to be a covered pipeline;

[s 18]

- (d) whether a transition pipeline that, under the transitional regulation, is taken to be a covered pipeline, is taken to be a distribution pipeline or a transmission pipeline;
 - (e) whether the services provided by means of a transition pipeline are taken to be the subject of a light regulation determination;
 - (f) the terms of any limited access arrangement that is taken to apply in relation to services that are taken to be the subject of a light regulation determination;
 - (g) whether services that are taken to be the subject of a light regulation determination can be made the subject of a full access arrangement.
- (3) A transitional regulation may be made to have effect in relation to a transition pipeline only for the period during which the approved tariff arrangement for the pipeline would, other than for the repeal of the repealed Act, have been in force.
- (4) A transitional regulation may have retrospective operation to a day not earlier than the commencement.
- (5) A transitional regulation must declare it is a transitional regulation.
- (6) A transitional regulation expires 3 years after the day the regulation commences.
- (7) The *Acts Interpretation Act 1954*, section 20A, as applied by the *Statutory Instruments Act 1992*, section 14, applies in relation to the expiry.
- (8) In this section—
- approved tariff arrangement***, for a transition pipeline, means the tariff arrangement approved for the pipeline, under the repealed *Gas Pipelines Access (Queensland) Act 1998*, section 58(2).

commencement means the commencement of this section.

repealed Act means the repealed *Gas Pipelines Access (Queensland) Act 1998*, and includes the repealed Gas

Pipelines Access (Queensland) Law and the repealed Gas Pipelines Access (Queensland) Regulations.

this Act includes the *National Gas (Queensland) Law* and the *National Gas (Queensland) Regulations*.

transition pipeline means a pipeline described in the following table—

Pipeline licence number	Common name of pipeline	Where pipeline starts and ends
24	South West Queensland Pipeline	Ballera to Wallumbilla
30	Queensland Gas Pipeline	Wallumbilla to Rockhampton
41	Carpentaria Gas Pipeline	Ballera to Mt Isa

19 References to Gas Pipelines Access (Queensland) Law

If a law or a document refers to the Gas Pipelines Access (Queensland) Law, if the context permits, the reference is taken to be a reference to the *National Gas (Queensland) Law*.

20 References to Gas Pipelines Access (Queensland) Regulations

If a law or a document refers to the Gas Pipelines Access (Queensland) Regulations, if the context permits, the reference is taken to be a reference to the *National Gas (Queensland) Regulations*.

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2011. Future amendments of the

National Gas (Queensland) Act 2008

may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised version
num	= numbered	s	= section
o in c	= order in council	sch	= schedule

Key	Explanation	Key	Explanation
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2012
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnu	= unnumbered
		m	
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	2008 Act No. 27	1 July 2008	
2	—	1 July 2008	special reprint to update the Attachment
2A	2011 Act No. 16	19 May 2011	
2B	2011 Act No. 16	1 July 2011	

Current as at	Amendments included	Notes
1 July 2011 rv	—	Attachment omitted

5 List of legislation

National Gas (Queensland) Act 2008 No. 27

date of assent 9 May 2008

ss 1–2 commenced on date of assent

pt 6 commenced 1 July 2008 (see s 2(2) see also Offshore Petroleum Act 2006 No. 14 (Cwlth) and proc registered F2008L02273)

Endnotes

remaining provisions commenced 1 July 2008 (2008 SL No. 195 see also National Gas (South Australia) Act 2008 No. 19 (S.A.) and proc pubd South Australian gaz 26 June 2008 p 2561)

amending legislation—

National Gas (Queensland) Act 2008 No. 27 ss 1, 2(2), pt 6

date of assent 9 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (see s 2(2) see also Offshore Petroleum Act 2006 No. 14 (Cwlth) and proc registered F2008L02273)

Gas Security Amendment Act 2011 No. 16 ss 1–2(1), pt 3

date of assent 19 May 2011

s 9 commenced 1 July 2011 (see s 2(1))

remaining provisions commenced on date of assent

6 List of annotations

Application in Queensland of National Gas Law

s 7 and 2011 No. 16 s 8

Interpretation of expressions in National Gas (Queensland) Law and National Gas (Queensland) Regulations

s 9 def *adjacent area of another participating jurisdiction* sub 2008 No. 27 s 22

def *adjacent area of this jurisdiction* sub 2008 No. 27 s 22

Carpentaria Gas Pipeline

s 15A ins 2011 No. 16 s 9

PART 6—AMENDMENT OF THIS ACT WHEN OFFSHORE PETROLEUM ACT 2006 (CWLTH) COMMENCES

pt 6 (ss 21–22) om R1 (see RA ss 7(1)(k) and 40)

PART 7—AMENDMENT OF OTHER ACTS

pt hdg om R1 (see RA s 7(1)(k))

Division 1—Amendment of Acts Interpretation Act 1954

div 1 (ss 23–24) om R1 (see RA ss 7(1)(k) and 40)

Division 2—Amendment of Gas Supply Act 2003

div 2 (ss 25–26) om R1 (see RA ss 7(1)(k) and 40)

Division 3—Amendment of Petroleum (Submerged Lands) Act 1982

div 3 (ss 27–28) om R1 (see RA ss 7(1)(k) and 40)

Division 4—Amendment of Duties Act 2001

div 4 (ss 29–30) om R1 (see RA ss 7(1)(k) and 40)

Division 5—Amendment of Federal Courts (State Jurisdiction) Act 1999

div 5 (ss 31–32) om R1 (see RA ss 7(1)(k) and 40)

Division 6—Amendment of Petroleum Act 1923

div 6 (ss 33–34) om R1 (see RA ss 7(1)(k) and 40)

Division 7—Amendment of Energy Ombudsman Act 2006

div 7 (ss 35–36) om R1 (see RA ss 7(1)(k) and 40)

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