



National Gas (Queensland) Act 2008

Current as at 1 July 2015

Reprint note

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

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

National Gas (Queensland) Act 2008

Contents

		Page
Part 1	Preliminary	
1	Short title	3
2	Commencement	3
3	Interpretation	3
4	Act binds the State	4
5	Application to coastal waters	4
6	Extra-territorial operation	4
Part 2	National Gas (Queensland) Law and National Gas (Queensland) Regulations	
7	Application in Queensland of National Gas Law	5
7A	Application of National Energy Retail Law amendments	5
8	Application in Queensland of regulations under National Gas Law	6
9	Interpretation of expressions in National Gas (Queensland) Law and National Gas (Queensland) Regulations	6
Part 3	Cross vesting of powers	
10	Conferral of powers on Commonwealth Minister and Commonwealth bodies to act in this State	7
11	Conferral of powers on Ministers of participating States and Territories to act in this State	7
12	Conferral of functions or powers on State Minister	8
Part 4	Miscellaneous	
13	Exemption from taxes	8
14	Actions in relation to cross boundary pipelines	9
15	Conferral of functions and powers on Commonwealth bodies	10
15A	Carpentaria Gas Pipeline	10
16	Regulation-making power for the National Gas (Queensland) Law	11
16A	Validation of instruments and decisions made by AER	11
16B	Authorisation of preparatory steps by AER	12

Contents

Part 5	Repeal and transitional provisions	
Division 1	Repeal of Gas Pipelines Access (Queensland) Act 1998	
17	Repeal	14
Division 2	Transitional provisions	
18	Transitional regulation-making power for particular pipelines . . .	14
19	References to Gas Pipelines Access (Queensland) Law	16
20	References to Gas Pipelines Access (Queensland) Regulations	16

National Gas (Queensland) Act 2008

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.

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, with the modifications stated in section 7A or prescribed by regulation under section 16; 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.

7A Application of National Energy Retail Law amendments

- (1) The amendments made to the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) start to apply in Queensland when the National Energy Retail Law (Queensland), part 2, commences.
- (2) In this section—

National Gas Law means the National Gas Law set out in the Schedule to the South Australian Act.

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*.

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*.
- (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 for the National Gas (Queensland) Law

- (1) The Governor in Council may make such regulations as are contemplated by the National Gas (Queensland) Law as being made under this Act as the application Act of this jurisdiction.
- (2) In addition, the Governor in Council may, by regulation, modify the National Gas Rules, to the extent they apply as part of the law of Queensland, to provide for a transitional arrangement for the provision of connection services by distributors.
- (3) Without limiting subsection (2), the transitional arrangement may, despite the commencement of Part 12A of the National Gas Rules, allow the connection services to be provided, for a stated period of not more than 1 year, under a model standing offer that has not been approved by the AER.
- (4) In subsections (2) and (3), the terms connection services, distributor and model standing offer have the same meaning as they have under Part 12A of the National Gas Rules.

16A Validation of instruments and decisions made by AER

- (1) This section applies to an instrument or a decision made by the AER if—
 - (a) the instrument or decision was made—
 - (i) at or after the time the amendments of the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) were enacted; but
 - (ii) before the time (the application time) the amendments started to apply under this Act as a law of Queensland; and
 - (b) had the amendments started so to apply, the making of the instrument or decision would have been authorised by 1 of the following laws (the authorising law)—
 - (i) the National Gas (Queensland) Law;

- (ii) the National Gas (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (c) if the making of the instrument or decision would be so authorised subject to the satisfaction of any conditions or other requirements (for example, consultation or publication requirements)—the AER has done anything that would, if the amendments had started so to apply, be required under the authorising law for the instrument or decision to be so authorised.
- (2) For the purposes of the authorising law—
- (a) the instrument or decision is taken to be valid; and
 - (b) the instrument or decision has effect from the application time—
 - (i) as varied, and unless revoked, by any other instrument or decision to which this section applies; and
 - (ii) subject to that law as so applying.
- (3) For this section—
- (a) guidelines are an example of an instrument; and
 - (b) the following are examples of decisions—
 - (i) appointments;
 - (ii) determinations;
 - (iii) approvals.
- (4) In this section—

National Gas Law means the National Gas Law set out in the Schedule to the South Australian Act.

16B Authorisation of preparatory steps by AER

- (1) This section applies if—

- (a) the AER is required to do something (a preparatory step) before making a decision or making an instrument under 1 of the following (the authorising law)—
 - (i) the National Gas (Queensland) Law;
 - (ii) the National Gas (Queensland) Regulations;
 - (iii) this Act;
 - (iv) a regulation under this Act; and
 - (b) the preparatory step would have been required under the authorising law if the amendments of the National Gas Law by the *Statutes Amendment (National Energy Retail Law) Act 2011* (SA) had started to apply under this Act as a law of Queensland; and
 - (c) the AER takes the preparatory step—
 - (i) at or after the time the amendments were enacted; but
 - (ii) before the time the amendments started to apply under this Act as a law of Queensland.
- (2) For the purposes of the authorising law, the AER is taken to have complied with the requirement to take the preparatory step.
- (3) In this section—
- National Gas Law*** means the National Gas Law set out in the Schedule to the South Australian 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;

-
- (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

[s 19]

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*.